



**CHARTER TOWNSHIP OF CHOCOLAY**

**PLANNING COMMISSION AGENDA**

Monday, August 21, 2023 – 7:30 PM

**I. CALL TO ORDER**

**II. ROLL CALL**

Ryan Soucy (Chair)

George Meister (Vice Chair)

Donna Mullen-Campbell (Secretary)

Rebecca Sloan (Vice Secretary)

Don Rhein (Board Representative)

Stephanie Gencheff

Kendell Milton

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

**IV. MINUTES**

A. June 19, 2023 Meeting

B. July 17, 2023 Meeting

**V. PUBLIC COMMENT**

Limit of three minutes per person.

**VI. PRESENTATIONS**

None

**VII. UNFINISHED BUSINESS**

None

**VIII. NEW BUSINESS**

**A. Joint Meeting Debrief**

1. Commissioner discussion

**IX. PUBLIC COMMENT**

Any item of interest – limit 3 minutes per person

**X. COMMISSIONER'S COMMENTS**

**XI. DIRECTOR'S REPORT**

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

A. Township newsletter - July 2023

B. Marquette County Planning Commission minutes 08.02.23 draft

- C. City of Marquette Planning Commission minutes 06.20.23
- D. City of Marquette Planning Commission minutes 07.18.23
- E. Correspondence – Sanders
- F. Correspondence – James
- G. Correspondence – Mulcahey

### **XIII. ADJOURNMENT**

#### **Planning Commission Rules for Public Hearings and Public Comment**

1. Please wait for the Planning Commission Chair to acknowledge you before speaking. Individuals not following this rule are subject to dismissal from the meeting.
2. Individuals must state their name and address for the record. Individuals representing an organization must state their name and the organization they represent for the record.
3. Give your comments, opinion and / or question on the issue being addressed. Please stay on topic or you may be ruled out of order.
4. Due to a full agenda, and to ensure that everyone has time to speak, the Commissioners will limit comments to a timed limit per person. For the same reasons, please be as brief as possible and try not to repeat what has been said by others before you.
5. No person can grant his or her time to another speaker.
6. Please be as factual as possible and do not make comments on the character of people.
7. Planning Commissioners and Township staff members are not required nor expected to respond to comments, opinions and/or questions from the floor.



**CHOCOLAY TOWNSHIP  
PLANNING COMMISSION**

**Monday, June 19, 2023 Minutes**

**I. Meeting Call to Order**

Chair Ryan Soucy called the meeting to order at 6:00 PM.

**II. Roll Call**

Members present at roll call:

- Ryan Soucy (Chair)
- George Meister (Vice Chair)
- Donna Mullen-Campbell (Secretary)
- Don Rhein (Board)
- Stephanie Gencheff
- Kendall Milton

Members absent at roll call:

- Rebecca Sloan (Vice Secretary)

Staff present:

- Dale Throenle (Planning Director / Zoning Administrator)

**III. Additional Agenda Items / Approval of Agenda**

Soucy requested that the conditional use hearing be moved to the beginning of the agenda, and the rezoning be moved to the end of the agenda or until the applicant arrives at the meeting.

*Meister moved, Rhein seconded, to approve the agenda as changed.*

*Vote: Ayes: 6 Nays: 0 Motion carried*

**IV. Minutes**

**A. May 15, 2023 Meeting**

*Rhein moved, Mullen-Campbell seconded, to approve the May minutes as written.*

*Vote: Ayes: 6 Nays: 0 Motion carried*

**V. Public Comment**

Bill Sanders, 105 Country Lane

Spoke on his concerns with the proposals related to the proposed changes to the parcel sizes in the agriculture zoning district.

Deborah Mulcahey, 633 Lakewood Lane

Spoke about the size of acreage in the agriculture zoning district and the uses within the district. Mulcahey stated her opposition to the concept as well as the

need for more public review and comment, referencing FlashVote. Additionally, Mulcahey spoke on the conditional use agenda item, and the rezoning agenda item.

Frank Jeffries, 545 Mangum Road

Spoke on his concerns with the proposals related to the proposed changes to the parcel sizes in the agriculture zoning district. He added that no one knew about the meeting and the discussion concerning the agriculture properties.

Rich Reader, 333 Green Garden Road

Spoke on his concerns with the proposals related to the proposed changes to the parcel sizes in the agriculture zoning district. He also added that he did not know about the meeting, and asked for a better way for residents to find out about what is going on.

## **VI. Presentations**

None

## **VII. New Business**

### **A. Conditional Use Permit CU 23-19 – 6565 US 41 South**

#### **Staff Introduction**

Throenle stated the reason for the conditional use request was give the new property owners the ability to move into the existing house and make it their residence. He added that the primary reason the process had to happen was that the mortgage insurance company could not insure the property as it was. He added that the zoning ordinance had been updated to allow the conditional use to happen.

No written comments were received from the public regarding the conditional use. No comments opposing the conditional use were received during the meeting.

#### **Commissioner Discussion**

Soucy stated the following findings of fact for discussion:

“That the proposed special use is supported by the master plan’s vision of future land use and complies with the standards of the zoning ordinance and

The special land use would bring the property into conformity. There is nothing different about it than what currently exists and so the change would have no impact other than to reduce that non-conformity and provide relief to the non-conformity.”

Meister asked if the owner / applicant were in the right order to complete the conditional use. Throenle stated that the owner applied and that the conditional use would transfer to the new owner after purchase of the property was completed.

#### **Commissioner Decision**

*Mullen-Campbell moved, Rhein seconded, that after Commissioner and staff review and analysis in consideration of Conditional Use application CU 23-19, and the understanding that the proposed use is compliant with all terms of Section 16.2*

*Conditional Use Permits Basis of Determination and General Standards and the intent of the Township Zoning Ordinance, the Planning Commission approves Conditional Use Permit 23-19 as presented.*

Vote:      Ayes: 6      Nays: 0      Motion carried

## **VIII. Unfinished Business**

### **A. Proposed Zoning Ordinance Definitions**

#### **Staff Introduction**

Throenle stated that the definitions presented were the remaining definitions for consideration for the proposed zoning ordinance. He added that the definitions highlighted in yellow in the document were definitions that were for the same item but were found in two different places in the ordinance.

#### **Commissioner Discussion**

Gencheff asked why the State of Michigan requirements were removed from the day care definition. Throenle responded that it was an inadvertent removal from the language. Soucy added that he wanted to see the definition names changed to match the PA 116 Act of 1973 and to include the capacities in the definition.

Rhein suggested starting at the top of the definitions and going through the list. Throenle suggested looking at each group of definitions under each letter.

Meister stated that the second condominium definition could be removed; Soucy agreed.

Meister brought up questions regarding the fence definition and the height. He was concerned with the specified height for hedges or living bushes. He added that height should be clarified when the fence portion of the ordinance is discussed.

Gencheff asked about ground cover ratio. After a brief discussion, the Commissioners decided to leave the definition as is.

Meister recommended removing the second multi-family dwelling unit definition; Gencheff agreed.

Meister recommended removing "Subdivision" from the Rural Cluster Development Subdivision title.

Soucy requested that State licensed residential facility be removed as each are defined elsewhere in the definitions.

Commissioners decided to remove the word "literal" from the proposed variance definition.

Throenle emphasized to the public that the definitions would be draft only, and that they would not be officially adopted until the new ordinance was adopted.

## **B. Proposed Agriculture Zoning District Language**

### **Staff Introduction**

Throenle stated that in 2008 the agriculture district was changed to move all agriculture properties to a twenty acre minimum. He added that the reason for the establishment of the proposed agriculture districts was to return the sizes to the sizes established prior to the 2008 ordinance, and to reduce the current non-conformities in the current AF zoning district.

He also stated that the agenda was posted each month on the Township web site, and he apologized to those in attendance if they did not get the meeting notice prior to the meeting.

He added that Commissioners should look at each of the district's uses to determine what would be permitted and what would be conditional. He stated that the language developed will be considered draft language, and that there would be future town hall meetings with the public to review the language.

### **Commissioner Discussion**

Soucy stated that the Township attorney said that nothing could be completed until the public had a reasonable opportunity to respond to the changes. Throenle added that the intent was not to overdevelop the Township or to increase the tax base.

Meister added that the intent was to address the sizes of the existing parcels, especially those that were in the one and two acre sections. He added that changes may occur after reviewing the draft maps and public input. Throenle added that the review of the uses would determine what could happen in each of the smaller districts.

Commissioners reviewed the intent statements for each of the districts. Throenle explained the legend in the document that would be used during the discussion. Throenle requested that the Commissioners use the *Proposed Land Use Cross Reference* document that was provided in the packet to review the districts.

Commissioners reviewed each of the land uses found on the document, and provided suggested changes. Throenle explained that the uses highlighted in green were State-related, and he would provide further detail on those at the next meeting.

Commissioners reviewed the restrictions and prohibitions comparison included in the document. They removed "no animal farming or riding activity" from AG 1; removed "limit of one domestic animal per acre" from AG 2; and removed "Rural Residential Cluster permitted with 50% or more open space and detailed in the master deed" from AG 3.

Commissioners did not remove anything from the regulatory control comparison table. Soucy recommended adding the *Michigan Planning Enabling Act* and *Michigan Zoning Enabling Act*.

Commissioners did not add any additional items to the use table from the suggested added uses table as those items were covered in earlier discussions during the meeting.

## **C. Proposed Land Uses**

### **Commissioner Discussion**

Meister stated he was not sure he wanted the minimum acreage size to be ten acres for the agricultural district. Rhein asked Meister if Meister wanted the size to be fifteen acres. Meister stated he was concerned what the view would be and if it would still be “rural character” if the acreage was set to ten acres.

Commissioners discussed this change and decided to change the acreages to under three acres in AG 1, three to fifteen acres in AG 2, fifteen acre minimum in AG 3.

Commissioners discussed the lot size minimums and setbacks and accepted them as presented in the document.

Sanders requested to be able to give public comment; Soucy suggested that Sanders meet with him during the break.

Commissioners took a five minute break at 8:31 PM and started with the rezoning application (item VII.B) when they returned.

## **VII. New Business**

### **B. Rezoning Application 34 23-19 – 537 West Branch Road**

#### **Staff Introduction**

Throenle stated that the applicant, who is the owner of the parcel, had purchased the property from the State of Michigan. Throenle said that this presented a unique situation, as the land was shown on the Township zoning map as State Lands, but there was no corresponding section in the zoning ordinance that provided permitted or conditional uses for State lands. Because the applicant wanted to put a structure on the property, Throenle stated he could not sign a *Zoning Compliance* permit because there were no uses defined in the zoning ordinance. He added that the Township attorney had stated that because the lands were identified on the zoning map, they were considered zoned, and a rezoning of the property was required to get the issue properly resolved.

Throenle added that the applicant had already built a structure on the property without a permit, which further added to the complexity of the problem. He added that regardless of the type of structure, agricultural or otherwise, a zoning compliance permit was required for reasons of determining where the structure was located on the property.

#### **Public Hearing**

*Rhein moved, Meister seconded, to open the public hearing.*

*Vote: Ayes: 6 Nays: 0 Motion carried*

#### **Public Hearing Comment**

Kathy Aalto, 430 Foster Creek Drive

Gave a brief history on the parcel in question. She expressed concerns about the

structure being built without permits and owner hunting on the new property. Using the computer monitor available at the meeting, she showed the Commissioners the location of the property and the location of the new structure.

*Rhein moved, Meister seconded, to close the public hearing.*

*Vote: Ayes: 6 Nays: 0 Motion carried*

### **Commissioner Discussion**

Soucy asked Throenle what the options were regarding the rezoning and the violation on the property. Throenle responded that the State lands had to be rezoned according to the attorney direction. Meister stated he was not sure that the structure was an agriculture building. Throenle stated staff had looked at the same picture and had drawn the same conclusion; he added that the concern was rezoning the property with a newly added violation on the property.

Further discussion continued among the Commissioners regarding the rezoning. Commissioners decided to rezone the property, and to forward it to the Board for approval.

### **Commissioner Decision**

*Soucy moved, Milton seconded, that the zoning for the parcel known as 52-02-135-016-02 located at 537 West Branch Road be changed from State Lands to Agriculture / Forestry (AF), and the rezoning be sent to the Township Board for consideration, pending legal review.*

*Vote: Ayes: 6 Nays: 0 Motion carried*

Commissioners decided to continue with item VIII.C *Proposed Land Uses* in the agenda.

## **IX. Public Comment**

None

## **X. Commissioner's Comments**

Milton

Asked if the Shaw's property was considered a brownfield. Throenle responded that the County Treasurer was the owner of the property and that there were plans underway to have the County Land Bank take control of the property. Soucy asked if the property was identified by the land bank as a potential demolition project. Throenle responded that that was part of the discussion, and no decision had been made yet.

Gencheff

Expressed that she was trying to understand why there were no commercial districts within the Township. She asked if it was acceptable to put a house in the commercial district. Throenle responded that the intent of the mixed use overlay district was to allow property owners to work and live on the same property.

Mullen-Campbell

Felt that it was a good work session, and that everyone kept working to get things



completed.

Rhein

Expressed a “thanks” (along with Milton and Mullen-Campbell) to staff for the materials in the agenda packet.

Meister

Stated that it was good meeting, and that he was satisfied with the results of the meeting discussions.

Soucy

No comments.

## **XI. Director’s Report**

Planning / Zoning Administrator Throenle

Throenle thanked the Commissioners for their efforts during the meeting, especially regarding the amount of information that was reviewed.

Throenle gave an update on the FlashVote process and stated that the first survey would be released soon.

Throenle stated there was a Planning and Zoning training opportunity available that Commissioners could attend in Harris sponsored by the Michigan Township Association and that the details were available at the Commissioner’s table.

Throenle stated that FEMA has published a new method of applying for a Letter of Map Amendment (LOMA) for those that were concerned about their homes being in the flood zones on the proposed FEMA maps. He told the Commissioners that the details were provided to them at the Commissioner’s table, and that they would be available to the public.

Throenle indicated that there were 27 topics still to be covered for the proposed zoning ordinance.

He suggested that the items to be covered for the next meeting be a completion of the definitions, finish up the zoning districts and uses, and present a layout of the new zoning ordinance document. He suggested that the next discussion after that would be related to the accessory dwelling units.

Throenle reminded the Commissioners that the August meeting would be a joint meeting with the Board.

Commissioners agreed that the suggested agenda items be used for the July meeting.

Throenle again thanked the Commissioners for their extended participation.

**XII. Informational Items and Correspondence**

- A. Township Board minutes – 05.08.23
- B. Township Newsletter – May 2023
- C. Marquette County Planning Commission minutes 04.05.23
- D. Marquette County Planning Commission minutes 05.03.23
- E. City of Marquette Planning Commission minutes 05.02.23

**XIII. Adjournment**

*Rhein moved, Mullen-Campbell seconded, to adjourn the meeting.*

*Vote: Ayes: 6 Nays: 0 Motion carried*

Soucy adjourned the meeting at 9:30 PM

Submitted by:

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Planning Commission Secretary

Donna Mullen-Campbell

**CHOCOLAY TOWNSHIP  
PLANNING COMMISSION**

**Monday, July 17, 2023 Minutes**

**I. Meeting Call to Order**

Chair Ryan Soucy called the meeting to order at 6:00 PM.

**II. Roll Call**

Members present at roll call:

Ryan Soucy (Chair)  
George Meister (Vice Chair)  
Donna Mullen-Campbell (Secretary)  
Don Rhein (Board)  
Stephanie Gencheff  
Kendall Milton

Members absent at roll call:

Rebecca Sloan (Vice Secretary)

Staff present:

Richard Bohjanen (Township Supervisor), Dale Throenle (Planning Director / Zoning Administrator)

**III. Additional Agenda Items / Approval of Agenda**

*Rhein moved, Meister seconded, to approve the agenda as presented.*

*Vote: Ayes: 6 Nays: 0 Motion carried*

**IV. Minutes**

**A. June 19, 2023 Meeting**

Soucy expressed a concern received from Deboah Mulcahey that the minutes did not accurately reflect Mulcahey's comments. Commissioners discussed the comments and recommended that staff review the comments for the next meeting.

*Mullen-Campbell moved, Rhein seconded, to add to Ms. Mulcahey's comments.*

*Vote: Ayes: 6 Nays: 0 Motion carried*

**V. Public Comment**

Bill Sanders, 105 Country Lane

Read his email sent to the Commissioners on his concerns with the proposals related to the proposed changes to the parcel sizes in the agriculture zoning district in relation to the master plan.

Deborah Mulcahey, 633 Lakewood Lane

Agreed with Sander's comments, spoke on missing comments in minutes, the

importance of minutes, and the gathering of information from the public in regards to the agriculture discussion.

## **VI. Presentations**

None

## **VII. Unfinished Business**

### **A. Proposed Zoning Ordinance Definitions**

#### **Staff Introduction**

Throenle stated that the definitions were presented as a final draft. He stated that six definitions were added to cover State-mandated additions, and asked the Commissioners to review the state definitions to determine if the language was sufficient.

#### **Commissioner Discussion**

Soucy stated that he was in favor of leaving the State definitions as written. Gencheff asked if the definitions could be changed if they were state-mandated. Throenle responded that minor changes could be written to make the definition more readable.

Meister asked if the definitions could include a statement that said they were from the State so that if the definition changed the ordinance would not have to change.

Gencheff asked if the requirement was to include all the State-required facilities in the residential district; Throenle responded that was the case.

Soucy questioned the location of child care centers; he felt that the requirement was not in the language to require location in a residential district. After further discussion, Soucy requested that staff look into that to clear up the confusion.

Gencheff pointed out that there was a conflict in use for group child care home in the use table; the table showed conditional, where it should show permitted.

Meister asked about the note included above the definitions in the document. Throenle stated that it was designed for information only. Meister asked if the state definitions could be referenced in that section, instead of including the direct language in the ordinance. Soucy added that definitions should be included to establish a way to directly find the necessary definitions.

#### **Commissioner Decision**

*Rhein moved, Meister seconded, that after Commissioner review the proposed zoning ordinance definitions be approved as presented.*

*Vote: Ayes: 6 Nays: 0 Motion carried*

### **B. Proposed Agriculture Zoning District Language**

#### **Staff Introduction**

Throenle stated that the discussion was a continuation of previous meeting discussions.

### **Commissioner Discussion**

Gencheff asked about medium density in AG 1. She pointed out there was a discrepancy in density between two pages in the document. Throenle stated she was correct that medium density was the determination.

Commissioners discussed the differentiation of density across the three districts. Soucy added that the discussion was an exploration of the possibilities for each district, and that the Commissioners were developing a concept for the public to review.

Gencheff asked where the districts would be located, and how would they identified. Meister stated that the intent was not to make new small parcels, but to adjust the parcels to meet what already existed. He requested that maps be drafted to see where the different parcel sizes would be. Throenle added the intent was to review and adjust acreage for those parcels that were changed in 2008; he stated that it was not the intent to set parcels up for development.

Meister added that the smaller parcels should not be held to the same constraints as those that have larger acreage. He requested that staff come back with maps showing the relationship with the language the Commissioners are trying to develop.

Commissioners continued to discuss the mapping and locations of the proposed districts. Throenle added that staff could provide the requested maps.

Throenle asked if there were any changes requested for the proposed language. Gencheff asked if AG 1 should be changed to one to three acres; Throenle responded it would be better to state less than three acres to accommodate the smaller parcels with the understanding that the County Health Department would determine if there was adequate space for well and septic on the property prior to building.

Meister added a request to state that an AG 1 lot could not be divided into lots less than one acre. Soucy requested the language be considered a regulation; Throenle added the statement in the regulations section of the proposed document.

Meister stated he had a question about the examples under the medium processing, and whether any of those should be included in the agricultural districts. Throenle stated that they were listed as not permitted; Meister asked if that should be reconsidered. Commissioners decided to change the requirement to conditional in AG 2 and AG 3 for parcels of 20 acres or more.

Soucy asked that child care center be highlighted across the uses as well.

### **C. Proposed Zoning District Intent Statements and Land Uses**

#### **Staff Introduction**

Throenle stated that the use table covered all uses across all zoning districts. He requested Commissioners review the intent statements and the use table.

#### **Commissioner Discussion**

Gencheff pointed out that medium density should be added to the AG 1 intent

statement; Commissioners decided to change the density statement to low in AG 1 and AG 2 districts.

Commissioners discussed mobile home parks. Meister expressed that the intent was to provide multi-family units in higher density residential with mobile home parks set as a conditional use. Commissioners agreed on the change.

Commissioners discussed the proposed use cross reference table. Gencheff asked how many accessory dwelling units could be allowed on the property. Throenle and Rhein stated that the language regarding that would be decided later on when discussing the language within the ordinance.

Commissioners changed the accessory dwelling unit MU district to conditional use.

They changed accessory residential home occupation – tier 1 and tier 2 to conditional use in the I district and changed the daycare example to relative care.

Commissioners changed the CR district to conditional use for accessory structure.

Commissioners added sales to the title for agriculture – commercial soil modifications.

Commissioners changed the CR district to conditional use for auditorium and place for public assembly.

Commissioners changed the I district to conditional use for charitable or philanthropic organization sales.

Staff will research the child care center uses.

Commissioners changed the GP district to conditional use for commercial recreation – indoor and commercial recreation - outdoor.

Commissioners changed the MFR district to conditional use for culture center.

Commissioners changed the MFR and MU districts to conditional use for emergency services facility.

Commissioners changed the AG 2 and AG 3 districts to conditional for the food packaging and bottling works.

Commissioners changed the AG 2 and AG 3 districts to not permitted for the food truck or other mobile vendor as a principal use of a lot.

Commissioners changed the MU district to conditional use for funeral home.

Commissioners changed the CR district to conditional use 40 acres minimum for hunting or shooting preserve; staff will look at state requirements for a hunting or shooting preserve.

Commissioners added outdoor drive-in theatre with conditional use in the AG 1, AG 2, AG 3, I, and MU districts.

Commissioners split kennel into indoor and outdoor, with conditional for the indoor in the AG 1, AG 2, AG 3, I, and MU districts.

Commissioners changed the AG 1, AG 2, and AG 3 districts to conditional use for

light intensity processing with accessory storage.

Commissioners changed the AG 1, AG 2 and MFR districts to conditional use for medical clinic.

Commissioners changed the AG 2 and AG 3 districts to conditional 20 acres minimum use for medium intensity processing and handling.

Commissioners changed the MFR district to conditional use for mobile home park.

Commissioners removed funeral services and gas station from the examples for moderate regional commercial - moderate traffic intensity.

Commissioners changed the AG 1, AG 2 and AG 3 districts to conditional use for outdoor food and beverage service.

Commissioners changed the I, MFR, MU, R1, R2, and SR districts to conditional use for planned unit development.

Commissioners changed the AG 1, AG 2, and AG 3 districts to conditional use for private club.

Commissioners added not related to agriculture to retail food and drink.

Commissioners added not related to agriculture to retail sales.

Commissioners changed the AG 2 and AG 3 districts to permitted use 20 acres for riding stable or animal breeding facility accessory to a residence.

Commissioners changed the AG 2 and I districts to conditional use, and not permitted in GP for site condominiums.

Commissioners changed the MFR, MU, R1, R2 and SR districts to conditional use for solar energy system (SES) – accessory ground mounted

Staff will look at State law to see if large commercial arrays can be left out of an ordinance.

Commissioners changed the MFR district to conditional use for transportation – high impact.

Staff will look at the State mandates to determine if wind energy conservation systems must be included in the ordinance.

Commissioners changed the CR district to conditional use for wildlife management.

Commissioners changed the CR district to not permitted and the MU district to conditional use for wireless communication facility.

Throenle stated he would bring the revised chart to a future meeting.

## **VIII. New Business**

### **A. Proposed Zoning Ordinance Document Layout**

#### **Staff Introduction**

Throenle stated that he extracted the document layout from the master plan to

prepare for inclusion of language as it is written in the future, with a cross-reference to the current zoning ordinance. He added that a cross-reference document was included to show the relationship to the current zoning ordinance.

**Commissioner Discussion**

Soucy recommended that section 5.3 be changed to 5.1, and numbering would change within the section to match the change; Meister agreed.

Commissioners discussed the location of site plan review and conditional use, and decided to keep the sections where they are.

Throenle indicated that there were sections identified at the end of the document that were not referenced in the new format.

**Commissioner Decision**

*Meister moved, Rhein seconded, that the proposed zoning ordinance document be approved as revised.*

*Vote: Ayes: 6 Nays: 0 Motion carried*

**IX. Public Comment**

Bill Sanders, 105 Country Lane

Spoke on uses such as solar and wind that had to be included, and to do so as conditional uses. He added comments in support of the inclusion of a one-page summary of site plan review and conditional use, and spoke about the AF property sizes.

Richard Bohjanen, 140 Edgewood Drive

Added a humorous comment that “grow things” was not discussed in relation to uses in the agriculture district.

**X. Commissioner’s Comments**

Rhein

No comments.

Gencheff

Expressed that she was concerned about promoting sprawl.

Milton

Asked if the Parker property was going to be a contractor yard. Throenle responded that the equipment was being used for the properties within the development.

Mullen-Campbell

Felt that it was a good work session, and that everyone was asking good questions.

Soucy

Thanked the Commissioners for a good job.

Meister

Stated that it was good meeting, with the bonus of completing the agenda. He added



it would be good to continue to look at the solar and wind energy requirements.

## **XI. Director's Report**

Planning / Zoning Administrator Throenle

Throenle stated the next meeting on August 21 would be a joint meeting with the Board that starts at 6 PM, and the regular meeting would start at 7:30 PM.

He added that the Board had two agenda items; the first would be a presentation on where the Commissioners were on the AF topic, and the second would be a discussion on the minimum square footage requirement for a residential development; Rhein followed with additional information on the square footage topic.

Throenle stated that the agenda for the 7:30 meeting would be a discussion of the topics from the joint meeting, and that items discussed during tonight's meeting would be brought back in September.

Throenle again thanked the Commissioners for finishing off the definitions and the use table.

## **XII. Informational Items and Correspondence**

- A. Township Board minutes – 06.12.23
- B. Marquette County Planning Commission minutes 06.07.23 draft
- C. City of Marquette Planning Commission minutes 05.16.23
- D. City of Marquette Planning Commission minutes 06.06.23

## **XIII. Adjournment**

*Rhein moved, Meister seconded, to adjourn the meeting.*

*Vote: Ayes: 6 Nays: 0 Motion carried*

Soucy adjourned the meeting at 8:26 PM

Submitted by:

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Planning Commission Secretary

Donna Mullen-Campbell

CHOCOLAY TOWNSHIP NEWSLETTER

July 2023

DEPARTMENT REPORTS

Assessing

By John Gehres

There was a total of 9 petitions for the July Board of Review: 7 veterans exemptions and 1 exempting Habitat for Humanity. The reappraisal continues and I will be focusing more on follow up new construction. We had several partials for the 2023 roll that need re-inspections.

Clerk

By Lisa Perry

Staff continues to organize files and also prepare for 2024 election changes due to Proposal 22-2. Some of these changes will be nine days of early voting and a permanent ballot list. Once these changes are complete at the State level, the Clerk's office will have more information for the Chocolay Township voters.

Fire Department

By Lee Gould

July is parade and race month. The fire department participated in the 4th of July parade and firefighter races in Marquette, Negaunee Pioneer Days and the UP Firefighter Tournaments held in Negaunee. It's good to get out in the community in a non-emergency mode and interact with people. The firefighter races show off our firefighter skills against our neighboring departments in a fun atmosphere. It builds comradery and teamwork skills.

We continue to work on our tanker and brush truck replacement planning. Fire truck building is still a 36-month build time so planning is key to ensuring our fleet is maintained and ready. We hope to have a plan put together by September.

Our call volume has remained steady. We have responded to several water rescue calls this summer already. August typically brings more water and land rescue calls with the warmer weather and tourist season staying strong.

Public Works

By Brad Johnson

The televising is now complete on the sewer system, and I am currently reviewing the notes and videos. I am hoping to have a presentation for the Board by September's board meeting followed by recommendation on fixes.

The new welcome to Chocolay Township and park signs are ordered and as soon as they come in we will start installing them.

Been busy planning for next year's budget.

The board walk at the Rivers Access Park (Marina) has been removed. The work was performed by Great Lakes Climate Corp.

Planning / Zoning

By Dale Throenle

Planning Commission

The Planning Commissioners participated in a meeting held on July 17 in the Township Fire Hall.

There were four items on the agenda for the regularly scheduled meeting; three were



considered old business, and two were considered new business.

**Old Business**

- 1) Proposed Zoning Ordinance Definitions  
Commissioners finished reviewing definitions for the new zoning ordinance, with minor changes to the language. The Commissioners will review the language one final time during the September meeting.
- 2) Proposed Agriculture Zoning District Language  
Commissioners reviewed and modified proposed land uses for each district and made several minor changes to the language. The Commissioners will review the language as a final draft during the September meeting.
- 3) Proposed Zoning District Intent Statements and Land Uses  
Commissioners reviewed the proposed zoning districts and intent statements for each district and made a change to the language. The Commissioners will review the language as a final draft during the September meeting.

**New Business**

- 1) Proposed Zoning Ordinance Document Layout

The Commissioners reviewed the proposed layout for the new zoning ordinance. After discussion and some minor changes, the Commissioners decided to approve the layout for the ordinance.

**Zoning**

**New Flood Maps**

FEMA has released a preliminary set of flood plain maps for Marquette County. This new set of maps includes flood plain determinations for those living along Lake Superior.

Please review the maps and related information to determine if the data represented on the maps is accurate for your location. There is an appeal process that began on May 5 and will be open through August 3. Click [maps and information](#) to view the appeal process, the insurance study, and the proposed maps.

**Zoning Board of Appeals**

The Zoning Board of Appeals did not meet for its regular meeting in July and will not meet in August.

**Police**

By Liz Norris-Harr

**Prescription Drug Collection**

Prescription drug collection through the drop-off box at the Township Police Station.

Month 2019	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
Pounds To-Date	5.5	4	8.5	7	2.5	6.5	12					
<b>Pounds Year To-Date</b>	<b>5.5</b>	<b>9.5</b>	<b>18</b>	<b>25</b>	<b>27.5</b>	<b>34</b>	<b>46</b>					



## FOIA

REQ #	Date Rec	Res by Date	Invoice Sent	48 Days Invoice	10 day Ext Sent	10 day Ext	Response Date	Link to Documentation	Description
23-1	2/6/2023	2/10/2023					2/7/2023	<a href="#">23-1 Glendon</a>	Police Reports
23-2	2/15/2023	2/21/2023					2/15/2023	<a href="#">23-2 Dankin</a>	Police Reports
23-3	2/24/2023	3/3/2023					2/28/2023	<a href="#">23-3 Skyline Lein Search 02.24.23</a>	Property Information
23-4	3/6/2023	3/10/2023					3/10/2023	<a href="#">23-4 Hyde 03.06.23</a>	Police Reports
23-5	3/14/2023	3/20/2023					3/17/2023	<a href="#">23-5 Mulcahey 3-14-23</a>	Job descriptions
23-6	3/14/2023	3/20/2023					3/16/2023	<a href="#">23-6 McLaughlin 3-14-23</a>	Police Reports
23-7	3/17/2023	3/24/2023					3/21/2023	<a href="#">23-7 Rjoser Request 3-17-23</a>	Police Reports
23-8	3/20/2023	3/27/2023			03/24/2023	4/11/2023	4/5/2023	<a href="#">23-8 Mulcahey request 3-20-23</a>	Job descriptions
23-9	3/14/2023	3/21/2023			03/21/2023	4/4/2023	3/23/2023	<a href="#">23-9 Metropolitan request 3-14-23</a>	Fire Report
23-10	4/5/2023	4/12/2023					4/12/2023	<a href="#">23-10 Eric Riley-GFL Environmental</a>	Refuse/Recycle Information
23-11	4/12/2023	4/18/2023					4/18/2023	<a href="#">23-11 Carrie Vanlandshout 04-12-23</a>	Police Reports
23-12	4/14/2023	4/21/2023					4/18/2023	<a href="#">23-12 Tormis Request 4-14-23</a>	Contracts and accounts receivable
23-13	4/19/2023	4/25/2023					4/19/2023	<a href="#">23-13 Ryan Talbot-Flagstar Bank 4-19-23</a>	Police Reports
23-14	4/25/2023	5/2/2023	5/10/2023	6/27/2023	04/25/2023	5/16/2023	Expired	<a href="#">23-14 Miller request 4-25-23</a>	Election Materials
23-15	5/3/2023	5/9/2023					5/8/2023	<a href="#">23-15 Nicole Borzek-Curran &amp; Co 05.03.23</a>	Police Reports
23-16	5/4/2023	5/10/2023					5/8/2023	<a href="#">23-16 Lombard 05.04.23</a>	Police Reports
23-17	5/17/2023	5/24/2023					5/24/2023	<a href="#">23-17 Cass 05.17.23</a>	Police Reports
23-18	6/6/2023	6/13/2023					6/6/2023	<a href="#">23-18 Holm 6-6-23</a>	Police Reports dog bite
23-19	6/13/2023	6/19/2023					6/19/2023	<a href="#">23-19 Harry 6-13-23</a>	Police Reports
23-20	6/22/2023	6/28/2023					6/27/2023	<a href="#">23-20 Roose 6-22-23</a>	Police Reports
23-21	6/27/2023	7/3/2023	6/27/2023	8/11/2023				<a href="#">23-21 Miller 6-27-23</a>	Election Materials
23-22	7/13/2023	7/19/2023					7/14/2023	<a href="#">23-22 Johnson 7-13-23</a>	Police Reports
23-23	7/21/2023	7/27/2023					7/24/2023	<a href="#">23-23 Mulcahey 7-21-23</a>	Rental Registrations
23-24	7/24/2023	7/31/2023					7/27/2023	<a href="#">23-24 Barnes and Thornburg, LLP 7-24-23</a>	Fire Report

## Web Page Statistics

Year to date totals through July are shown in the table.

Month	Unique Visits	Number of Visits	Pages	Hits	Bandwidth (GB)
January	2,166	4,268	16,517	31,093	14.68
February	1,972	4,032	22,272	34,526	20.39
March	1,808	4,059	18,225	30,410	13.34
April	1,843	4,028	17,535	29,540	17.12
May	2,641	4,149	48,219	72,440	20.17
June	2,926	4,611	50,005	73,856	21.7
July	3,124	4,954	44,882	72,866	27.11
<b>Totals</b>	<b>16,480</b>	<b>30,101</b>	<b>217,655</b>	<b>344,731</b>	<b>134.51</b>
<b>Averages</b>	<b>4,120</b>	<b>7,525</b>	<b>54,414</b>	<b>86,183</b>	<b>33.63</b>

Highest hits per day in July for the Township web site occurred on Wednesday and the highest peak usage time was 11 PM to 12 AM.



## Downloads

There were 1267 downloaded documents in July. The top ten documents downloaded were:

Page	Number of Downloads
2023 Meeting Dates	177
2023 Surplus	147
2023 Notification Dates	134
Township history	117
Township Board agenda materials – 07.10.23	107
Township Board agenda– 07.10.23	95
Township Board minutes – 05.08.23	91
2023 Fireworks Schedule	85
Township Board minutes – 03.13.23	83
Township Board minutes – 04.10.23	77

## Page Visits

Top ten pages visited in July were:

Top ten pages visited in July were: Page	Number of Views
Recycling	893
Recreation listing	788
Directory email	712
Agendas and Minutes – Township Board	555
Agendas and Minutes – Planning Commission	482
Assessor	433
Contacts	418
Public Works	402
Information and Newsletters	398
Ordinances and Maps - Maps	397



## Zoning Permit Counts

Zoning permit counts through July, 2023:

2023 Reviewed Permits by Month		2023 Reviewed Permits by Type		
Month	Number of Permits	Permit Type	Approved Number	Denied Number
January	0	Addition	5	0
February	0	Alteration	0	0
March	6	Commercial Outbuilding	0	0
April	11	Conditional Use	2	0
May	11	Deck	2	0
June	9	Fence	11	0
July	14	Garage	5	0
		Grading	0	0
		Home	3	0
		Home / Garage	1	0
		Home Occupation	1	0
		New Commercial	0	0
		Outbuilding	13	0
		Pole Building	1	0
		Rezoning Application	1	0
		Sign	4	0
		Site Plan Review	2	0
		Zoning Variance Request	0	0
<b>Total</b>	<b>51</b>	<b>Total</b>	<b>51</b>	<b>0</b>



**MARQUETTE COUNTY PLANNING COMMISSION**  
**MEETING MINUTES**  
**August 2, 2023**

1. Call to Order: The meeting of the Marquette County Planning Commission was called to order by Commissioner Kaiser at 6:30 p.m.
2. Roll Call: Commissioners present: Mike Touchinski, Kathy Vermaat, Dave Slater, Charles Bergdahl, Bob Struck, Ken Kaiser, and Karen Alholm. Staff present: Amy Stephens and Katie Labyak. No public was present.
3. Approval of Minutes: Commissioner Touchinski motioned to approve the minutes of the July 12, 2023 meeting, supported by Commissioner Vermaat. The motion carried unanimously.
4. Public Comment: None.
5. Approval of Agenda: Commissioner Struck motioned to approve the agenda, supported by Commissioner Touchinski. Motion carried unanimously.
6. Public Hearing: None.
7. Communications: Commissioner Alholm made a motion to approve and file communications, supported by Commissioner Touchinski. Motion carried unanimously. Commissioner Vermaat noted the list of organizations at the bottom of the US-41 Corridor Minutes. She mentioned that the Planning Commission and CUPPAD are a part of that and questioned if they attended. Commissioner Kaiser added that Planning Staff attends at times. Commissioner Struck noted that there was only occasional presence in the past, but could be related to lack of staff. Staff will get back to them with the answer.
8. Monthly Reports: Commissioner Vermaat noted that there are extra pages in the reports. Commissioner Kaiser stated that there are two, first pages. Commissioner Touchinski made a motion to file the July monthly reports accordingly, supported by Commissioner Struck. The motion carried unanimously.
9. Old Business: None.
10. New Business:
  - a. Marquette Township Zoning Text Amendment: Ms. Stephens presented the Marquette Township Zoning Text Amendment including Principal Uses-Article 15, Accessory Uses-Article 16, and Continuity of Nonconformity-Article 23. The additions include definitions, specifying general standards, and revising zoning district permit requirements. Staff recommends that the Commission support the proposed text amendments and forward Staff and Commission comments to the Marquette Township Board and Planning Commission. The amendment aligns with the Marquette County Master Plan strategy to, “Adopt zoning practices or amend current policies to encourage renewable energy development”. Commissioner Kaiser commented he got confused with the different uses and ground mounted or roof mounted. It took a while to get there. Under definition #1 it’s ground mounted and under #2, its roof mounted. Does that mean those are only for accessory use? Everything else, he liked. Commissioner Slater questioned under #5 General Standards, item F- Removal. To him, it leaves the County hanging because, the 4<sup>th</sup> line from the bottom, it talks about if they violate or leave the property the County can go and seize the panels. There is more than just removing there is also, when the township takes over, they have no recorded authorization of removing the solar energy system. They are hazardous materials. Does our local County waste management facility accept solar panels and accommodate the hazardous waste? The 4<sup>th</sup> line up from the bottom should state to remove and dispose the solar energy system and should include the cost. Commissioner Alholm moved

to accept Staff recommendation together with Commissioner's recommendations to the townships, supported by Commissioner Touchinski. The motion carried unanimously.

b. Wells Township Master Plan: Ms. Stephens stated that Wells Township notified surrounding municipalities of their intent to update the Master Plan. They last updated their plan in 2016, so they are overdue. They usually do it every five years. She said she feels it's pretty good considering the size of the township and that they are following up with it, but not sure if they will be able to go through CUPPAD updates. Stephens said they had a Master Plan update with Negaunee and went through the main points: economy, environment, health and safety, housing, recreation, and transportation. Staff picked two strategies from their plan that were in line with the County Master Plan and also in line with the regional perspective and reasonable with the size of the township and capacity they have. It did highlight some things for the 2040 Master Plan that incorporates County wide and regional trends and planning efforts into the narrative of the plan and the goals and strategies. Goals include broadband access, recreation, collaboration, and zoning. Staff recommends the Commission support the Wells Township Master Plan Update and forward comments to the Wells Township Planning Commission and Board as well as to CUPPAD, who assisted in the update. Commissioner Struck moved to support Staff recommendation, supported by Commissioner Vermatt. The motion carried unanimously. Commissioner Struck asked if the plan was looked through because they do not have a lot of people that get involved. He hopes it includes communication with the two neighboring counties as well. Also is there any sort of communication with the planners? Stephens said, based on how it looked, we have to have staff look through it. She is not sure. Commissioner Kaiser added they probably do because they work with CUPPAD. There was further discussion about who was involved and meeting minutes for the public. Commissioner Slater added that he was pleased the township reached out to the local DNR to find the owners with the large pieces of land and be part of the cost.

11. Announcements: Commissioner Kaiser stated that he and Commissioner Vermaat will not be available for the September 6<sup>th</sup> meeting. He asked for it to be moved to September 13<sup>th</sup>. All members agreed to this meeting change. Ms. Stephens will make the notifications and check room availability. Commissioner Bergdahl mentioned the Governor will be at the State Fair on August 17<sup>th</sup> and it's \$30 per person. Commissioner Alholm mentioned a couple airport issues. We are not working with Boreal and had a quick change over because of the dissatisfaction of work not being done. We have a 3-month agreement that we are looking to extend. Also, within the next month the 13 buildings should be demolished. Commissioner Vermaat added they were hoping to get the contract awarded for the demolition in September and bids will be coming in by the end of next week. The money has to be spent by May of 2024 and Mead and Hunt still has environmental inspection to be done. There was further discussion between Commissioner Alholm and Commissioner Vermaat about what was discussed at the meeting. The Capital Improvements subcommittee reviewed the assessment form and made some changes to the scoring. Stephens announced the break wall will be starting repairs tomorrow (8/3/23). She will be taking photos and there will be a boat wash. Commissioner Vermaat also added the main point of CUPPAD last week was a discussion on the Materials Management Plan. Each county will have to send a notice of intent to the State of Michigan as to whether they will proceed as a group or individually to update the plan. She feels that all counties except Marquette can do it as a group. Commissioner Vermaat would like to see if someone can come to the Planning Commission meeting to talk more about it and answer questions. Commissioner Struck would like everyone to get information ahead of time, so questions can be thought about.

12. Public Comment: None.

13. Adjournment: Commissioner Touchinski motioned, seconded by Commissioner Bergdahl to adjourn the meeting. The motion carried unanimously. Commissioner Kaiser adjourned the meeting at 6:59 p.m.

Respectfully submitted,

Katie Labyak, R/M/D Support Staff



**OFFICIAL PROCEEDINGS OF THE  
MARQUETTE CITY PLANNING COMMISSION  
June 20, 2023**

A regular meeting of the Marquette City Planning Commission was duly called and held at 6:00 p.m. on Tuesday, June 20, 2023, in the Commission Chambers at City Hall.

## **ROLL CALL**

Planning Commission (PC) members present: W. Premeau, M. Rayner, S. Lawry, Vice-Chair N. Williams, K. Clegg.

PC members absent: D. Fetter, A. Andres, C. Gottlieb, Chair S. Mittlefehldt (all excused)

Staff present: Zoning Official A. Landers, City Planner & Zoning Administrator D. Stensaas

## **AGENDA**

*It was moved by K. Clegg, seconded by M. Rayner, and carried 8-0 to approve the agenda as presented.*

## **MINUTES**

*The minutes of 05-16-23 and 06-06-23 were approved with corrections annotated in the meeting.*

## **CONFLICT of INTEREST**

*No conflicts of interest were confirmed.*

## **PUBLIC HEARINGS**

### **A. 09-SPR-06-23 & 01-CSD-06-23 (PIN: 0510156) – Forestville Basin Trail: The Bluffs Site Condominiums request**

Zoning Official A. Landers stated: The Planning Commission is being asked to review an application for a Site Condominium proposal and provide a recommendation to the City Commission. She showed the application materials and site plans submitted by the applicant, as well as the Staff File Report and attachments, on the monitors in the room and explained each of the many items in that packet of materials that was included in the agenda packet.

Mr. Brain Savolainen, the representative for the applicant, stated:

I'm the civil engineer who prepared the roadway, the plans as part of the condominium. The road, right now, is an extension through a private road that goes through Marquette Township and then ends near the boundary of - Bruce Pesola is actually the owner of the project and the city had made some applications to the zoning. I think you guys have actually seen this once before. This is based on some of the new rules and regulations that were there. We met with city staff and went through several of the items. You don't technically have a roadway standard for this type of road. What we used was an AASHTO low-volume road where you're not seeing more than 100 vehicles a day, where it's basically like a dead-end situation like this. Though you don't have that in your ordinance, you do reference the AASHTO low-volume manual as an acceptable [guide] so that's why we chose that. The existing width of the roadway as it stands now is 20 ft. of gravel and we just maintain that through- we put a turning radius on it to handle ambulance, fire trucks, things like that, and we actually- the situation here is any fire or emergency thing, first responders actually work at the Township, so that's why you see correspondence from them in the packet. We also went through them, provided them with plans to review it. If this step is approved, then final condominium documents will be prepared, and Michael Mileski is a surveyor that will

be preparing those. He is also here for any questions should you have them, and I will be available for any other questions.

*N. Williams opened the public hearing and closed it after nobody came forward to comment.*

*It was moved by S. Lawry, seconded by K. Clegg, and carried 5-0 to suspend the rules for discussion.*

S. Lawry said that he had a question for staff, and asked how close is this property to the Longyear property that is in the 425-Agreement area – and are there other utilities in that area?

Mr. Savolainen stated:

The Longyear [property] actually is prior to the bridge crossing Forestville Road. This is past that location. We'll have no utilities and it'll all be well and septic. I believe there is power through the existing corridor, so that will basically be it for that. In terms of pickup, it's like a standard home pickup. I don't know which garbage contractor they have set up there, but there is an existing condominium just before our condominium and we have also been with them, and we made some minor modifications for the intersection of the road and how everything ties in, and that also went through the Township. So in regards to utilities, there really nothing more than power.

S. Lawry asked:

As far as the services then, there's a couple of homes out there that are actually existing homes within the city limits, correct?

Mr. Savolainen said yes, I believe there are a couple in the existing condominium.

A. Landers stated:

Let me clarify. The homes aren't in the city limits but part of the parcels are.

S. Lawry stated:

So that would explain why there hasn't been a demand for city services of any kind there, then.

A. Landers said yes, right.

S. Lawry stated:

Because I think this is going to present some issues, whether it be garbage collection or school transportation or road maintenance. Now it's private, but as far as that goes - I'm wondering why the fire protection, why Marquette Township would be the first responder. I believe on all structure fires right now, Chocolay Township, Marquette township and the city of Marquette are all responding.

Mr. Savolainen stated:

I guess they're not positive on who necessarily will be, but we're told also to contact the Township because of them currently handling that area, so I think it was a matter of both fire departments being onboard and your staff did also report [inaudible 00:13:27].

D. Stensaas said:

I think it's a mutual aid agreement.

S. Lawry stated:

I think it's been changed to require all three responses on a structure fire. It's automatic instead of requested mutually, and Marquette City has no tankers and obviously they need the tankers, which was a question - I didn't drive out there, it's probably been a year and a half, two years since I was out there, but at that time much of that Forestville Basin Trail was not wide enough for two tankers to pass.

Mr. Savolainen stated:

It's tight, it's 20 feet. The last time I drove out, there's a spot where there's a suction tube somewhere halfway down that road. I don't who officially put that in, but all we can do is make it what we can and continue it. We don't have any ability to change how the existing roadway is coming to that and so we tried to make it as clear as we did. Elevations where we are extremely flat, and that's the thing, too - we are very high above the Dead River in terms of being able to utilize the river on this site. For a place to do that, it really is not feasible [due to] the steep banks.

S. Lawry stated:

Yes, like 70 to 90 feet above the river, which leads to another question - if the lake elevation is lowered, or the reservoir is lowered for dam maintenance, do these people have water?

Mr. Savolainen stated:

All the water is well and septic, so that's going to be part of their own individual part of doing this, we're in process right now of doing the required evaluation of the site for septic and for well. We'll be digging test holes here soon and the soils are really good. It should pass without a problem, but if there's a water issue that will come up as part of the condominium requirements.

S. Lawry stated:

The water table could be at one level when the reservoir is full and quite a bit lower and they have to draw that down for some reason. And then also I was concerned with access - is there another way out of here if the bridge is not available - by going through the back to the Noquemanon Trails?

Mr. Savolainen stated:

It's actually a county road that comes off Forestville and heads into the old pit property. It is a designated county road and it's all been winding through there. I designed that years ago, and NTN has property back there, and Smith [Paving]. It's designated and ends up coming out just south of the Sugar Loaf, Partridge Trail area on CR 550.

S. Lawry stated I think it also may connect to the old Ash Haul Road.

Mr. Savolainen stated:

Yes, it does, but the Ash Haul Road - I don't know if that is designated "County" yet.

S. Lawry said the county has acquired it, but I don't know if they've opened it to traffic.

Mr. Savolainen stated:

Even if that hasn't happened yet you can still keep going north, and that's why I brought up through NTN's property and Smith and Lindberg, but it does technically have two accesses that way, and actually a third, if you want to go all the way into Negaunee township. It's not a fun road but I've taken it.

S. Lawry stated:

We hear horror stories from all over the country about people building at the wildland interface and this is I guess as much of a wildland interface as Marquette's got. And how municipalities haven't done their due diligence by letting people build out there. I guess one other point - I didn't see anything in the Public Works review comments about how they would provide typical city services to that area, because I believe the policy is still where residences are built on a private road, they have to bring their trash and everything out to the nearest public road. Public vehicles doing garbage collection I believe do not use private roads and so I think our standards call for a maximum link to a private road to be a quarter mile. I realize that doesn't apply here simply because you can't get there from a city public road. It poses some unique service delivery problems.

A. Landers stated:

My guess is if they didn't put that in there, he might have missed that. I don't think they qualify for it, so they would have to get their own trash removed.

M. Rayner stated:

That's what they do now on Forestville Basin Road I believe, they have to go get their mail up at the other end where it goes to a county road. You have to take that trash the same. And they hire out their plowing for that road.

Mr. Savolainen said all the mailboxes are all up at the end.

M. Rayner said that no services go down that road.

Mr. Savolainen stated:

That would be the same thing in this case that the mail would actually be in the township where it meets the road there.

S. Lawry stated:

I think that's the case with school bus routes as well. Having served on the Board of Review, people who buy these lots don't really understand that and why they're paying taxes if they can't get the same services. But it does come up regularly.

N. Williams stated:

The next step would be making the motions. My comment would be that I believe is the same case that came before the Board of Zoning Appeals, is that accurate, Andrea?

A. Landers said it is the same property.

N. Williams stated:

The same property and from that I remember of that case, what the Board of Zoning Appeals decided was basically that this needed to be a condominium in order for it to be viable and so I believe that's how the applicant came up with this arrangement.

S. Lawry said that he would be willing to make a motion.

*It was moved by S. Lawry, seconded by K. Clegg, and carried 5-0 that after review of the site plan and the supplemental documentation dated 05-23-23, and the Staff Report for 09-SPR-06-23 & 01-CSD-06-23, the Planning Commission finds substantial compliance with the City of Marquette Land Development Code Section 54.1405 and Section 54.503 and hereby recommends that the City Commission approve 09-SPR-06-23 & 01-CSD-06-23 with the following conditions:*

*1) the submittal of an amended plan is submitted to meet staff original and additional comments.  
2) that the Master Deed include language to the effect that limited City services are available to residents of these lots, and language to indicate that the provision of City infrastructure would be at the cost of abutting landowners and not at the general obligation of the City or its utility funds.*

## **B. 02-SUP-06-23 (PIN: 0181350) – 420 N. Third Street: Marihuana Retailer request**

A. Landers stated:

Staff has reviewed the special land use permit for a marihuana retailer located at 420 N. Third Street. She showed on the monitors in the room the application materials and site plans submitted by the applicant, the Staff File Report/Analysis, area and block maps, photos of the site, staff comments and responses and additional staff comments, and the site plan set. She also said that she did not receive any correspondence with this.

Mr. Erik Moin, the applicant, stated:

My name is Erik Moin. I live down state. Both my children live in Marquette. My plans here are for a multi-use building. It is not strictly a marihuana retail facility. The intention would be to have the ground floor be a marihuana retail, second floor office space supporting that regional operation in compliance with the Marihuana Regulatory Agency. There's also an apartment on the second floor and then the third floor has three studio apartments so those are what our intentions are for the facility and that's the scope of what our plans are.

Mr. Brain Bloch, of 908 N. Third Street, stated:

I'm very interested in the growth and development of 3rd Street. I've been watching it for 20 years. I bought my building there knowing that development in this city was going to be heading this way. I participated in the neighborhood charrette and the development or the transition of "The Village" into the 3rd Street corridor. I've been involved in real estate development since 1993 and I think this building is going to really look great where it's going, with Blackrocks, with the bagel shop and in short having watched many cities develop, this is the first property being developed to the highest and best use under the new corridor zoning plan that's been developed over the years and in my experience in the real estate development business it's like dominoes. Once somebody says hey, I'm just going to go for it. Instead of polishing a turd we tore it down and we're building something nice, and I think that's going to encourage other people to realize that the investment in 3rd Street is a good one and a lot of the redevelopment that will be happening on 3rd Street will be accelerated by people seeing this building coming into that standard.

*N. Williams opened the public hearing and closed it after nobody came forward to comment.*

*It was moved by M. Rayner, seconded by S. Lawry, and carried 5-0 to suspend the rules for discussion.*

K. Clegg stated:

I have some questions for the applicant. In the application they said no marihuana consumption on site, but since you're having apartments on site and you can't really guarantee that, I'm not sure with, is it LARA? If it's part of your licensure to ensure that that is required, if that means that apartments on site are contraindicated in your licensing, can you speak to that?

Mr. Bloch stated:

LARA's regulations would be specific to the four corners of the space that is licensed for marihuana. The upstairs apartments, not licensed. As the developers and owners of the property, we don't want people smoking in our units, regardless of what it would be. They're small apartments. Picture a strip mall. If you've got a strip mall and you've got a florist, a birdseed place and a coffee place, they're distinct and separate. If the florist is actually running a bookie operation out of it, the guy next door has nothing to do with it. So, as to your question, there will be no marihuana consumption in the store, in the offices, in the parking lot, and we will be enforcing that because that's the rules and this building is a very expensive investment on our part and we're certainly not going to screw up a good thing for some little thing like that. As a long-time attorney, I've done a lot of landlord-tenant work and I know how to write a lease and these apartments are going to be premium. If you look at those porches overlooking - they'll be facing Blackrocks from that height, amazing views. We don't intend to - I'm guessing they'll be pretty high end apartments and it just happens that when you rent to a higher socioeconomic class, you have a lot less problems as a landlord.

K. Clegg stated:

Can you comment on the parking spaces that are available? There are four units and they're one bedroom, correct?

Mr. Moin stated:

Four studios. The second floor is slightly larger than the third floor units.

K. Clegg asked:

If there's 9 parking spaces, how many are required per housing unit? Is it 1 or 2, or 1.5, according to our updated code?

A. Landers stated:

I'll check my notes, but I know it meets parking, but if you want specifics I'll have to look in my notes.

K. Clegg stated:

That's fine, I'll take your word for it if it meets all the parking requirements.

W. Premeau stated:

I have a question for Andrea. All that stuff was based on employees, right? You based it on a number of employees? It didn't say anything about the units.

A. Landers stated:

It meets the parking requirements. So, 3rd Street has its own parking requirements but I can go into the code if you want to see it.

D. Stensaas said that Commissioner Premeau is talking about parsing out the different uses. If the parking was allocated based on parsing out the retail and office, residential, etc.

A. Landers stated:

Third Street doesn't require it for certain uses and I can pull that up, like retail offices at a minimum. But it's the residential that they have to have parking for.

D. Stensaas said stated that's right, I think assembly uses and residential are the only required parking uses.

A. Landers said yes, due to the DDA parking study.

N. Williams asked Mr. Premeau if he had any other comments.

W. Premeau stated:

I just would say the plan itself, you should probably have someone review that closely. Many things in the plan that do not meet the code. I assume you're going to bring it up to the Michigan commercial building code. Lots of changes have to be made.

Mr. Moin stated:

We're aware of the number of them. We communicate with the architects on a regular basis and like everything else nothing goes as smoothly as we'd like it to, but we persevere.

Mr. Moin said we are also committed to adhering to the Land Development Code.

S. Lawry stated:

About 4 or 5 times in our standards that we're supposed to be comparing it against, it says it needs to comply with city ordinances, state and federal laws, and how can it comply with federal laws if it's selling marihuana?

D. Stensaas said that is with the state, the state has its own allowances under the federal law to do what it's doing.

Mr. Lawry stated:

What we're doing has some validity because if we're approving something that doesn't comply anyway, do we really give a permit?

D. Stensaas said we have the state's blessing to do this. If somebody's got a problem with the federal-state interaction, that's where they need to take the case to.

Mr. Lawry stated:

Having served on federal grand jury, I know they don't necessarily care what the state says.

N. Williams stated:

The Planning Commission will review the Special Land Use Standards one at a time to evaluate the proposal. The Planning Commission found that the proposal conforms with all 14 of the standards, as follows, with some of the relevant discussion:

1) Intent of the Zoning District (T5 subdistrict)

2) Use of Adjacent Lands

3) Physical Appearance of Structures

4) Landscaping

S. Lawry said that regarding the discussion about fitting new trees into the site in the staff and applicant's comments, are all those trees that currently are on the property line, are those over on the residential lot or are those on the Blackrocks lot? The existing tree structure that's there doesn't look like it will allow new planted trees to develop, I guess that is what I'm getting at. Are we requiring something that isn't necessary?

A. Landers stated:

We're requiring it on their property. I don't believe those trees are on their property, because they're not showing them being on their property.

D. Stensaas said that the LDC allows for existing trees to count toward landscaping and screening requirements if they meet the standards, and we want that and don't want to have people tearing trees up if they meet code requirements. So, they probably wouldn't have met the requirements.

S. Lawry said that part of the discussion was the you can't permit them to allow the canopy from their required trees to extend over the line, but if the existing tree canopy is already extending over their property, I wouldn't want to see us require them to cut all those branches off just so they can plant trees to meet our standard either, and they do have the right to cut them off if they are extending over onto their property.

A. Landers said that there are differing views among lawyers on that issue, but we advise people that trees are a civil issue.

5) Operations of Use

K. Clegg said that it should be noted that of the three businesses that would be there in line, this one would close the earliest by a wide margin.

S. Lawry said that a previous owner of the property, who had apartments there, was before this body several times trying to have us consider the effects of Blackrocks on those residential apartments. So, the effect could be the opposite of what we're discussing now, as the apartments may suffer some negative effects of the outdoor activities at Blackrocks.

K. Clegg said that any potential leaseholders of that property will know exactly what they're getting into.

N. Williams said that at least they're coming after Blackrocks existence .

6) Time of Use, Physical and Economic Relationship

K. Clegg said that we kind of covered that in the last one.

N. Williams stated there is residential nearby, not behind this space but the hours are to close earlier than other businesses nearby.

#### 7) Number of Persons or Employees

M. Rayner asked:

For delivery of products, is it going to be handled through the front of this dwelling then?

Mr. Moin said there is a back door, in the southeast corner.

M. Rayner stated:

With your parking – will it still work?

Mr. Moin stated:

It will. There's a walkway out to the farthest few spots. So, delivery is typically available from retailer and lab stores. If you look at the footprint of the building, there is a door on the southeast corner...and there's a walkway out. There's also significant screening. That's your corner where the trees are that Commissioner Lawry was addressing. That corner on the residential lot is heavily wooded right now. And there's some new trees going in per the requirements.

A. Landers stated:

And then here's the unloading zone [shown on-screen], and he's saying that they would walk here and go into this door here.

Mr. Bloch stated:

And marihuana delivery doesn't come in a semi-like food truck, there are vans.

#### 8) Vehicular and Pedestrian Circulation

N. Williams stated:

I think we all know traffic on 3rd Street can be bad at times but it does not seem like this use will significantly impact that.

D. Stensaas stated:

I do have a question, if you will allow it. On the site plan - the curb cut. Initially the applicant asked us for an administrative waiver. The curb cut and the curb return, that's not where it is now, right? Where it is now is a little farther to the north. And because there's a driveway basically right up against Blackrocks, on the south side of Blackrocks, I don't know why the site plan wasn't changed to reflect the fact that the applicant asked staff if we would allow that curb cut to remain where it is, because after talking to the City Engineer, we said yes. But this curb cut [shown in the site plans] is not where it is now. One way or another that needs to be noted here that if this gets approved, because this is going to be the approved site plan that you're showing us. This hasn't been changed, so that's an amendment to the site plan that would need to be requested and made.

Mr. Moin stated:

That was an oversight by the civil engineering team. If you look at the curb cut now, so this curb side here actually initiates on the southwest corner of the Blackrocks building, so this whole thing is already right here. This is an oversight from civil, and so we fully intend to not build this and we'll amend the drawings with plans, but this is a driveway. The current driveway is asphalt right now and goes out at about right here. It's very interesting, there's a seam down this asphalt area right now that basically represents the property line, so thank you David for pointing this out and this has been the subject of discussion. Currently, this whole piece is already in place for the existing driveway. So, there would be a new curb cut, of course this is a new parking lot. But this is incorrect, and the site plan will be amended, because we would just incorporate the existing curb cut and then only make the new one in the driveway.



N. Williams stated:

So, based on your question, would the entire thing just be shifted north or would it be extra wide, or is that permitted?

D. Stensaas stated:

I think what we've agreed on here is the existing cover cut will remain.

Mr. Moin stated

Yes, the north curb cut will remain.

M. Stensaas stated:

I brought this up because we need to address this in this meeting. That north curb cut here is not going to be made. It's going to exist as it is after this and that meets the city standard for the maximum width of a curb cut in this area. And it wouldn't serve any purpose to narrow that curb cut. It would actually be detrimental to everybody, especially to Blackrocks because that side of the building where you see that polygon with the door opening is - there's no polygon there, there's just a door.

A. Landers said it's a landing with steps.

M. Stensaas said that is an entrance to their side of their community room and stage area.

S. Lawry stated:

Talking about the driveway too, I mean this drawing depicts it still as an MDOT type-M opening in the comments, and even engineering indicated they have to change that to meet the city standard. It doesn't really interrupt the sidewalk with more ramps and curb returns, so in addition to moving it or showing two, they have to be shown as a different style.

M. Moin stated:

I believe we addressed that in our comments.

A. Landers stated:

Yes, he's just pointing it out to say that there were more comments about this. That's my understanding.

## 9) Physical Characteristics of the Site

S. Lawry stated:

The engineering comments made several suggestions about your runoff drainage and one of them was to consider tying into the storm sewer system because everything's falling toward the private residential lot at this point. I know your comments indicated you were trying to just slow and divert flows. But they were suggesting, I think detention and possible connection to the storm sewer, and if you are going to move your snow storage back there, as your comments indicated, I guess I'm wondering have you reviewed their comments and determined any change from what you originally proposed?

Mr. Moin stated:

We are accepting the civil engineer's comments on the drainage and the reduction in the flow speed. We didn't know those comments and particularly with the snow storage area, and so her response was to create it with a baffling - I don't think that's the exact word. But, there is a flow intended to go to the southeast corner as it is now, and as it was, so our intention is to get those adapt those baffling techniques to slow the flow and prevent erosion.

S. Lawry said okay, but it gets harder to connect to the sewer after the pavement is done.

## 10) Public Services

## 11) Environmental Factors

D. Stensaas stated:

The biggest issue might be odor, but I think our code has a pretty robust requirement for fans and filtration to prevent the marihuana smell from becoming an issue in the neighborhood.

Mr. Moin stated:

Carbon filter, negative air pressure and our air handling systems to adhere to that and of course the MRA is also very aware of those concerns in comments, and so we're very cognizant of that. Negative air pressure isn't particularly difficult to obtain. It's a very common practice. It started in healthcare.

M. Rayner stated:

Do you have another facility, so you're used to doing these?

Mr. Moin stated:

We're very familiar with the Marihuana Regulatory Agency within the Department of LARA. There's another facility about to open in Gaylord. There's open operations in full compliance with the MRA.

## 12) Site Area and Potential Expansion Areas

### 13) Additional Neighborhood Factors

### 14) Master Plan Conformance

N. Williams stated:

I would agree that this is generally met. Should we also go through the next section?

A. Landers stated:

Those being administrative standards, it depends on how we feel about that.

N. Williams stated:

Does anyone have any comments about 54.1402, which is the site plan review standards.

S. Lawry stated:

I guess I would just ask staff, since there's been a lot of back and forth on this and there appears to have been some difficulty I guess on getting a common understanding of regulations and what was required, are you at this point satisfied that all of your potential non-compliance issues have been met?

A. Landers stated:

I believe they understand what they need to submit to us now and I do believe they will get us an amended site plan to meet our comments and additional staff comments. I'd just ask for that to be a condition and then also per what dave had brought up, a condition about the curb cut, since that wasn't a comment, it should be a condition as well.

*It was moved by K. Clegg, seconded by N. Williams, and carried 5-0 that after holding a public hearing and review of the site plan set dated May 22, 2023, with supplemental documentation and the Staff Report/Analysis for 02-SUP-06-23, the Planning Commission finds that the request meets the intent and requirements of the Land Development Code Sections 54.1403, 54.1402, and 54.629, and hereby approves 02-SUP-06-23 with the following conditions:*

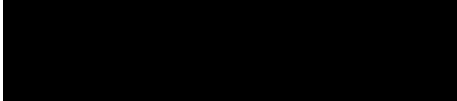
- 1. That an amended plan is submitted to meet all of staff comments, including the additional comments with special attention to the revision to the curb cut to show the existing layout for the north curb of the driveway opening as discussed today.*

## **COMMISSION AND STAFF COMMENTS**

M. Rayner stated that the Master Plan public workshops held last week were very well done.

## **ADJOURNMENT**

The meeting was adjourned by Vice-Chair N. Williams at 7:06 p.m.



Prepared by: kw/iMedat

Edited by D. Stensaas, City Planner and Zoning Administrator, Planning Commission Staff Liaison

## OFFICIAL PROCEEDINGS OF THE MARQUETTE CITY PLANNING COMMISSION July 18, 2023

A regular meeting of the Marquette City Planning Commission was duly called and held at 6:00 p.m. on Tuesday, July 18, 2023, in the Commission Chambers at City Hall.

### ROLL CALL

Planning Commission (PC) members present: W. Premeau, M. Rayner, S. Lawry, K. Clegg, Chair S. Mittlefehldt, Vice-Chair N. Williams, D. Fetter, C. Gottlieb, A. Andres

PC members absent: none

Staff present: Zoning Official A. Landers, City Planner & Zoning Administrator D. Stensaas

### AGENDA

*It was moved by C. Gottlieb, seconded by A. Andres, and carried 9-0 to approve the agenda as presented.*

### MINUTES

*The minutes of 06-20-23 were approved as presented, by consensus.*

### CONFLICT of INTEREST

*No conflicts of interest were confirmed.*

### PUBLIC HEARINGS

#### A. 03-SUP-07-23 - 424 N. Third St. & 143 W. Michigan St. (PIN: 0181310 & 0181380)

Zoning Official A. Landers stated: The Planning Commission is being asked to review an application for a Preliminary Planned Unit Development (PUD) approval. The Planning Commission qualified the project for a PUD on May 17, 2022. The Planning Commission will need to conduct a public hearing for a Preliminary Site Plan Review and draft recommendations to the City Commission, who will issue final approval or denial of the PUD. She described and showed on the monitors in the room the Staff File Report and attachments, the Site Plan Review application, the variance letter from the applicant, the staff and applicants' comments, a proof of the granting of an easement, the area map, the block map, the zoning map, photos of the site, and the Site Plan set. She also stated that there was no correspondence submitted.

Mr. Andy Langlois stated that he and Mr. Dave Manson (also present) are the applicants. He also stated: This project, we kind of need to do it. The last 10 years we've been brewing on a 3-barrel system and three barrels isn't really that much and what happens is we run out of it quite quickly, so we're able to put in a 7 to maybe 10-barrel system in the front for the building, and that will get us through summers much better. So, our footprint is pretty small. We've always kind of just grown from the very beginning and then one step at a time as we can do it, and so this is the next step, and I hate to say the last step, but it might be the last step. We're kind of land-locked at this point. But it does make sense on a few different areas, though. It's going to allow us to have the space we need to put in a bigger system and produce more beer there. We do lose the lower patio that's out front but at the same time we're going to gain that seating up on top, much like our existing rooftop deck. I think it's also going to create a pretty clean line going across, with windows across the front so you can see the tanks, and I was looking through the master plan from three years ago, you hired the experts to come it. I just want to see if we're in line with that and it seems like it's pretty much what we're going for. The Master Plan [Third St. Corridor Plan]

vision is to extend fencing around the corner of Blackrocks. We're basically bringing it out to Michigan Street, and increasing seating, so while we're not putting a fence there, we're putting a building there. Also, there was mention [in the Plan] of street walls and how "a vertical element in front of each lot creates a street wall, which like the walls of a room, street walls is what makes the street comfortable, safe, interesting to walk along, so high walls with windows or other openings and street trees recommended." So, that's essentially what we're trying to do is just kind of build a clean line with an existing brick building, bring it across and put some tanks in it. I think that's it.

C. Gottlieb stated:

I have some questions for the applicants. What would be the change in the amount of seating provided?

Mr. Langlois stated:

Currently there's already seating in this section [pointing to image on-screen] so we'd add a little bit, I mean, we're going bring up the same amount of seating as down below and bring it up. And then the only other section is here. This isn't seating right here. This is going to be like currently a new addition we did. He put some mechanical stuff that we needed up there and we fenced it in so this is all going to be fenced in, just to keep people out, keep the noise in, that sort of thing.

C. Gottlieb asked if there had been any noise complaints since the last addition was completed.

Mr. Langlois stated:

It's been quite a few years since we've had one. That was a whole other story, the history and learning and growing of the business and finding that if you're going to have music outside to be respectful and get it done by 9 o'clock.

C. Gottlieb asked if there would be any change in operating hours.

Mr. Langlois said no.

C. Gottlieb asked: Do you anticipate increasing or decreasing sound outside the building and area?

Mr. Langlois stated:

It should be similar. I know our neighbors have expressed some concern with the current set-up, saying that because people are on the roof they can hear them more clearly, so we're going to be putting some more people on the roof, but then again I don't know what to say. We're part of the downtown district and we're trying to run a business and I can totally empathize with their situation, too, and I'm not sure how bad that is.

K. Clegg asked how the increase in spent grain would be handled by the applicants.

Mr. Langlois stated:

Currently, we're raking it out into bins and then we load them up, bring them over to the production center and then it goes to the cows. So, it's going to be very similar in that way. We have some different ideas of how we're going to handle that. Maybe some sort of nurse trailer or maybe just being a truck.

Mr. Manson stated (to Mr. Langlois): That is what the new truck will be used for.

Mr. Langlois stated:

They will truck the spent grain to the farm.

K. Clegg stated:

And you say that the curb cut is absolutely necessary for that? My concern is that...right now you've got the Burger Bus and all of your food trucks parking in that spot where the curb cut is going to be, which will make it no longer legal space.

Mr. Langlois stated:

I think it's going to be the spot before the curb cut and two spots after the curb cut.

K. Clegg asked: Is that long enough for the bus?

Mr. Langlois stated: I think so, yeah.

Mr. Manson stated:

I wonder out loud if while it's not a legal parking spot, the only people that would complain of a violation of that parking spot would be people who need to have egress, right?

A. Landers stated:

Once you put a curb cut in, you won't be able to use that as an on-street parking spot. You'd lose it.

Mr. Langlois stated:

Going to back to your question – "is it necessary" – when we're handling tons of grain, its coming in and going out, if you back a truck up it becomes much more efficient to load and stock, as opposed to – especially during winter - going out to the street to get it.

K. Clegg asked about mechanical handling of the spent grain.

Mr. Langlois said that they would be using hand trucks or just grabbing the sacks.

S. Mittlefehldt asked where the bike parking would be relocated from the from the front area.

Mr. Langlois pointed out the proposed bike parking location on the site plan, shown on the monitors.

S. Lawry asked the applicants if the barrier-free requirements would be met with the proposed changes.

Mr. Langlois stated:

Yes, and people from SAIL came through. We have access in the front of 3rd Street, and we have the ramp in the back, handicapped accessible bathrooms throughout.

S. Lawry stated:

By having multiple serving areas are you covered for that?

Mr. Langlois said: yes, absolutely.

S. Lawry stated:

From the plan sheets I noticed that there is a gas meter on the west face of the building and it doesn't show what is happening with that on the new construction sheets, and we wouldn't want to see it encroaching into the public sidewalk.

Mr. Langlois said that we'd like to get creative with that, but obviously it won't protrude over City property with it and we'll find another spot for it.

D. Stensaas said that he had a comment related to S. Mittlefehldt's question about bike parking. He stated: I was looking at the site plan and wanted to point out for the applicant's consideration that the area set aside for the drainage swale or rain garden on the east side of the parking lot could be a good place to provide more bike parking. You could cantilever a pervious deck to park bikes out over the concave drainage swale and sort of double your use of that space, and you could even put a covered shelter there with the roof draining into the swale.

A. Andres stated:

I just have one suggestion. The one glaring issue I see is if a handicapped person walks up to the building by themselves, they cannot enter the building. So, there's automatic doors that can be placed, push-button automatic doors would be lovely.

Mr. Langlois stated:

Okay, thank you, off the ramp?

A. Andes said: yes.

Chair Mittlefehldt opened the public hearing.

Dawn Gallo, of 135 W. Ohio St., stated:

I don't have a problem with the brewery getting larger on the bottom. I hear the balcony as it is right now. Is there a way that maybe you could put up a buffer (speaking to Mr. Langlois and Mr. Manson), fencing or something, so it's not hitting towards my house?

Mr. Langlois stated:

I think this might help, that we're going to be adding this right here [pointing to the rear monitor]. If you look on that far wall side, you see how that's a little different? So that's going to be a fencing that we have with our current one...so now see right there on the left? That will be open, but everything bouncing around in the corner will be probably be bounced off [inaudible].

Ms. Gallo stated:

I'm still a little concerned with the noise that's going to be coming from that area when people are sitting there on the railing there, because I already hear them at the other one. I love what you do with the music. You make great beer. I just have a problem with that. So, maybe if you'd put up some sort of buffering fence that could curb that noise down a little bit?

Mr. Langlois stated (to Ms. Gallo):

I'll see what we can do. I mean, obviously we don't want to block too much of the site coming down here, but I'm thinking you're living over here, so even something coming down that can collect that sound could make a big difference.

Dawn Gallo said: right, you can see my house from there, and there's a parking lot [inaudible]. It's like we love the idea they do shut down the music at 9, which is awesome.

S. Mittlefehldt stated:

That's something we could easily put in a motion as, like if this does get passed we can put it in the motion that they would look into and investigate sound buffering.

Dawn Gallo said: great, thank you.

Matt Gallo, of 135 W. Ohio St., asked:

Can we go back to the previous picture that you had up there? He's talking about a wall right here. This is still open right here so we're talking about this area right here, which faces north, and we live like across the Schwalbach's parking lot, okay, so we hear all the noise. We hear the generators from the food trucks running all the time. We hear the music all the time, and it's not the music, like my wife said. I commend them because they shut down at 9 o'clock at night-time, it's wonderful. We had to deal with 10 o'clock Charlie's when it was over on the other side of the street and Chad didn't care about anybody. But, if something can be done to maybe put a flat wall up there, or something up there, I hate to sound selfish, but I don't care where the sound goes as long as it doesn't come in our direction. I have music in my garage, which is across Schwalbach's parking lot and when the music starts at Blackrocks, I shut my music off in my garage because I can hear the music at Blackrocks better than I can hear my music in my garage. And it's not a complaint. Don't get me wrong, we love the bands that they select. We love the time, it's 6 'til 9 o'clock...so that's not - the music is always fantastic. If you've never been there, you've got to check it out. But anyway, it's the sound that we're concerned with, okay? The generator's off and different things. They used to be able to plug in there and then somebody came along and said you can't do that because of OSHA or something to that effect. So consequently all of the food trucks that are there nowadays are running a generator, and we hear the generators at our house, too. Okay? It's with us, it's more of a noise thing. We've been battling noises on Third Street for a long time and honestly, we have confidence that Andy and his partner are going to take care of the needs that we have. They've always been really cooperative, but we just wanted to make sure that we let everybody know what's going on. The noise amplified by going from the 1st floor to the 2nd floor - now you've opened up a whole different realm here. You're no longer on the ground level with all the blockage. The sound is going to project even more so we're concerned about that, adding the new area up top for sitting. How many do you seat right now in the open area?

Mr. Langlios stated:

You can get quite a few in there. Our goal, our seating plan up there is not to cram as many people in, it was more like a let's make this comfortable and if they can find a seat, then find a seat, but we're not trying to slam people in.

Matt Gallo stated:

We totally understand that. The other problem that we had, that we noticed immediately, is when they built the new band shell there, it put the wall up as on the south end of the open area at the back. That immediately acts as a bounce, so music that's coming out of there, any noise that's coming out of there as far as people conversing and stuff like that gets bounced across the parking lot and over to our house and stuff like that. It's not terribly bad, but I did notice the other day, believe it or not, this is something that amazed me - we were there on Friday evening and the band was playing and there were a lot of people there, as there always are on stuff like that and you can talk among each other without having to yell in each other's ears, but you couldn't hear the band as well there as you could hear it in my driveway.

Mr. Manson stated:

I remember that night. I live across the street over on Hewitt and that wind, if that wind is south, everything carries I've noticed.

Matt Gallo stated:

So basically, and that's the problem that we have with the whole thing as far as the sound, and what's it going to do as far as the sound goes if more people are talking and stuff like that. I've covered the generators, the upstairs and the sound bounce. So, that's pretty much all I've got, just the noise is our concern and so long as they keep it 9 o'clock, the music anyways, we'll see what happens as far as the sound going up. You may get that buffer wall in there would be something for us. I feel sorry for the people who live across the street on the west side of it, but it is what it is.

Pete Dohrenwend, of 131 W. Ohio St., stated:

I think when I looked at the site plan, too, I was just - that one wall, maybe you need to go back to the plan down below on the side view. Yeah, where the hanging lights are, and the fence...if it's hog panel or it's just permeable, maybe make sure that that's not open, maybe if it's something solid. I don't know, but that's something to think about. Coming around this corner (pointing to site plan on screen), is the



brewing equipment going to be between the house, on the bottom level, between the house and the sidewalk as well?

Mr. Langlois said: there's an entry there.

Pete Dohrenwend asked: this area inside, is that where the tanks are going to be too?

Mr. Langlois said: there will be brewing stuff in there.

Pete Dohrenwend stated:

Again, I frequent your establishment a lot. Just the one concern, just the noise and ways that they can mitigate that, knowing that they're going to elevate people. Again, it's mostly in the summertime. People aren't going to be there in December.

Mr. Langlois stated:

It is a fencing that we use. It's like lattice almost, and so obviously we did that so people can look down, wave by to your friend walking up 3rd Street. It's a smaller run. We could look at solid glass. There's also trees which provide options, hop plants are really thick and they grow fast and maybe that's something we could cover that with a whole string of hops.

Mr. Manson stated:

I'd like to have greenery and even having some big flower boxes on that side, like on the south side, would also kind of help buffer that.

Mr. Langlois said: we'll figure it out.

*It was moved by S. Lawry, seconded by K. Clegg, and carried 9-0 to suspend the rules for discussion.*

S. Lawry stated:

The Community Master Plan pushes business use on the ground floor and residential on the 2nd or 3rd floors, and both with this proposal here and the one we dealt with a couple of weeks ago next door, pronouncing commercial or manufacturing or whatever move up to the 2nd floor. I don't know if we should be considering that consistent with the Master Plan or not, or if it's something we should be looking at changing the Master Plan in the future, but it kind of sets a new pattern in where we were discouraging residents of the first floor and not actually was the source of a sore spot with the neighbors to this facility in the past, the ground level level residents straight off their patio, and I guess I'd hate to see the same problem develop one layer higher. I think it's a very efficient use of space and that it can be buffered, but I guess it's something that I think we need to look at with regard to the Master Plan and whether this is something we want to encourage or discourage or adapt the plan to.

A. Andres stated:

Restating the need for accessibility "buttons" on the outside of the building. Great job on accessibility, love your beer, it's great.

D. Stensaas said, concerning the issue with the electrical power for food trucks and the noise generated by generators, I'm wondering if with this next expansion, if this might be a good time to run power out under the sidewalk and place a disconnect between the sidewalk and the street to cut down the need for the food trucks to run generators.

Some discussion of the electrical power provision for food trucks in the right of way ensued between the applicants, staff, and the Planning Commission members.

S. Mittlefehldt stated:

Is anybody prepared to make a motion and maybe consider some language about the applicants investigating some type of buffer along that north wall on Michigan St.?

*It was moved by M. Rayner, seconded by S. Lawry, and carried 9-0 that after holding a public hearing and review of the site plan set dated June 16, 2023, with supplemental documentation and the Staff Report/Analysis for 03-SUP-07-23, the Planning Commission finds that the request meets the intent and requirements of the Land Development Code Sections 54.1403, 54.1402, 54.627, and 54.637, and hereby approves 03-SUP-07-23 with the following conditions - .  
1) that buffering options be examined for the rooftop patio expansion, and 2) that an amended plan is submitted to meet all of staff comments.*

## **CORRESPONDENCE, REPORTS, MINUTES OF OTHER BOARDS/COMMITTEES**

### **A. Discussion of correspondence RE complaints about Superior Culture late shutdowns**

D. Stensaas stated:

There's a couple of new members on the board since we had to have the hearings with Superior Culture, but we got a complaint from one of the neighbors. She documented two instances where they were not shut down on time and the one at 10:08 PM, she said it looked like it was still going strong with just people sitting out in the back, and the outdoor operations are supposed to be ended at 10.

A. Andres asked: are we really complaining about 8 minutes?

D. Stensaas stated:

Yes, but according to her, things were still going strong 8 or 10 minutes after 10 PM, and like a dimensional requirement - it doesn't matter if it's an inch too big or a yard too big, it's an exceedance of the limit. So, there was that one and then she documented another one, what did she say?

A. Landers stated:

While he's looking for that, its 717 N. 3<sup>rd</sup> St. - Superior Culture.

D. Stensaas stated:

Across from the Third Base and Main Street, Frosty Treats, not the quietest part of 3rd Street to start with, but they have a limit of having to shut down at 10 outdoors in the back.

A. Landers stated:

Sunday to Friday at 9, and 10 on Saturday.

D. Stensaas stated:

The other one was a little more niggling, noise outside at 9:03 and music is supposed to end at 9:00 PM, and then I think she said it was actually inside, the music was coming from inside the house. I just responded to this, directly to the property owner, and let him know that we got complaints, we're documenting this and they have to maintain these hours or you're going to be back in front of the Planning Commission.

S. Mittlefehldt stated:

For those people who are new, maybe a little bit of history on this site, because they have been before us a few times and it's the same - their neighbor is an acoustical engineer so he comes with quite compelling evidence of acoustical violations of the noise level on the outside patio in the back space. So, they had a conditional permit for like a year and they came back and the Planning Commission at that time gave the young business owner a second chance, and so this is the third time around now that we've heard these kind of complaints.

A. Landers stated:

The second chance was with conditions including soundproofing stuff.

D. Stensaas said they spent a lot of money on soundproofing. And this neighbor has said that they have been doing a really good job for the most part. She herself said they have been doing a really good job of keeping it under control, but she did want us to know that there's these instances so I'm just letting you know that we are keeping track of these things and if we get further complaints like this we're going to have to bring it to you and if it continues we're going to be back to another public hearing again, with their special use permit potentially being revoked or suspended.

D. Fetter asked: is the requirement only for outdoor music or also indoor?

D. Stensaas said: just outside, the outdoor music.

A. Landers said: two days a week, we put some really clear specifications on it so it was like two days a week.

S. Mittlefehldt stated:

I think Fridays has a stop at 9, which is what she was saying, and then the outdoor music on Saturday...had a stop at 10 and the outdoor use had a stop at 10 as well.

D. Stensaas stated: Lights out.

S. Mittlefehldt stated:

Lights out, that's what is in motion because I think the question from the residents, they wanted to make sure that there's no people are out there after 10, because the noise carries. This is a little bit different where this property, this is all residential in the back, so that back area is all residents living there. They hear it and...we were packed at the hearings.

S. Lawry stated:

Before it gets to the point where it comes back here, can staff maybe suggest that they install an automatic alarm that tells them, their patrons, that they need to vacate the space?

D. Stensaas stated:

Another issue that I think we need to talk about at the staff level is if we should be issuing fines...that is something we could do as a next step is just to tell the property owner that if there's a violation that we would be potentially issuing fines, and we could talk to the City Attorney about that and make sure she's comfortable with it and maybe that's the next step we should have as- take that step.

M. Rayner stated:

Legally I think we really have to have validation. Her clock could be off by 3 minutes. I mean, we're talking 3 minutes here.

D. Stensaas stated

Well, one of them. The other one was more like 10 minutes and still going strong is what she said.

S. Mittlefehldt stated:

Even the threat of a fine might be enough, if they realize there's going to be a real consequence, because that's the problem I think at this point. We've kind of given them the benefit of the doubt a couple of times.

D. Stensaas stated:

Well, the Planning Commission, you guys did take away a lot of their opportunity they had previously. When they were given their first Conditional Use permit for this, there were almost no restrictions on it. I mean, it was way too loosey-goosey as we found out, and then had to really reign it in and say like you can only have music two nights a week outside, during a six month period.

M. Rayner asked: Now there's no noise complaint David?

A. Landers stated:

For noise complaints they want to call the cops, but the cops can't do anything until 11 o'clock. They don't follow our code, so that's what this gal was saying, what is her recourse on this? That's why she's emailed this to us, stating this is what happened but I couldn't call the cops because it wasn't 11 o'clock yet. The cops follow City code. They don't work with our code.

D. Stensaas stated:

Maybe what we can do - there's several neighbors there that are very familiar with each other and if the group of them can document the time and send us photos like they've done in the past then we have more evidence, and that's how we brought them in before was evidence from multiple neighbors that was conclusive that this was a problem.

D. Fetter asked: would there be potential for a biased opinion of it? Do we need a third party that's neutral?

D. Stensaas stated and that's where we'd have a problem with the fines thing is if we don't have evidence from a city official that this is occurring it might be a little more problematic to fine, but actually getting them back to the planning commission and revoking their permit, that's the big threat to them is that they don't get to do any outside music. And so that's kind of what's hanging over their head is if this continues, the planning commission can completely revoke this permit for outside music.

M. Rayner asked: have we notified them that there have been additional complaints then, or do we need to make a motion to have you notify them?

D. Stensaas state:

No, I contacted the owner by email, but I have not gotten a response in over 5 days.

M. Rayner said: but you did make an effort to contact him.

D. Stensaas stated:

So I think maybe after this meeting, I'll try to call him, see if we can get in touch and say this is something you've got to take seriously because the Planning Commission can revoke your permit.

S. Mittlefehldt stated:

And maybe even before you call the business owner, talk to the City Attorney to see what the options might be, just so we know.

S. Lawry stated:

Do we know is this owner occupying the property or is it leased property?

A. Landres stated:

He owns it. The residence is no longer upstairs, that got changed to his business, so he no longer lives there anymore.

S. Lawry stated:

I just wonder, if he lost his permit on that site whether he would have the flexibility to just move to a different site.

D. Stensaas stated:

I've got to think that he's going to double down on making sure the noise is under control, after spending what he said was at least \$50,000 on all the noise abatement stuff they installed.

A. Landers stated:

It could be maybe he has new staff that they weren't told, there could have been things that weren't made clear to them or something like that.

S. Lawry stated:

That's why I thought maybe some type of automated alarm system that could also page his staff and if it actually was audible to the patrons as well...it could even be a recorded message.

C. Gottlieb asked: question, is there enforcement of conditional use permits, violations, that may fall back to this commission?

S. Mittlefehldt stated:

I think typically we hear about them when neighbors complain and it's mostly Dave and Andrea hear about it.

C. Gottlieb asked: that falls back to this group to enforce?

S. Mittlefehldt stated:

Well, that's why we're discussing it. I think we're discussing the options. There's no motion. We don't really have any authority to decide this is what the City is going to do, but we can help Dave and Andrea decide what the options might be.

D. Stensaas stated:

Well, the planning commission already took a lot of action with Superior Culture in the past. It is still the Planning Commission's discretion and the LDC allows the Planning Commission to revoke a conditional use permit for violations of conditions of approval. Like I said before, at first they didn't have much in the way of restrictions for outdoor music and the Planning Commission placed a lot of restriction on their outdoor music including what kind of instruments that they can have outside.

S. Mittlefehldt stated: that's right, no drums, right?

D. Stensaas stated:

Yeah, so the next step would really be to revoke the permit or suspend it for a period of time.

K. Clegg stated:

We talked about fines. Is that within our ability, is that an appropriate next step?

D. Stensaas stated:

That's authorized. Violations of site plan standards or conditions of approval are subject to fines and...to give you context, we're working on documenting landscaping on several site plans. We sent out letters to the property owners, letting them know if their landscaping is incomplete. This is typically the last thing that gets done on site plans, so this summer, the early part of the summer, we made a sweep of these sites where they're supposed to have their landscaping done by now and we're issuing those letters and that authority to issue fines comes from the Code. If your site plan is in violation because things weren't completed, conditions of approval weren't met, you can be fined for that and so that's a stick that the city has to try to entice the completion of site plan requirements. In this case, as you said, it's probably a lot harder because we don't have staff that can go out there at 10 o'clock and document whether there's a noise violation or not. That's something I would need to talk to our attorney about, you know, can hearsay or evidence – I'm not sure that evidence supplied by a resident can be used to issue a fine.

K. Clegg stated:

As far as the next step, if you can explore the possibility in what we do in terms of fining. The fine is going to be a lower penalty for them than revocation, but the revocation of the permit is also essentially a fine because they're going to reduce their business ability and not take in as much money, so if we're willing to have another step in between before that.

D. Fetter asked: was the business owner informed of the most recent complaint?

D. Stensaas stated: I did, by email, but I haven't received a response.

A. Andres stated:

For the record, there were people on the Commission, when they did give the permit approval, that we're against the location because of the neighbor complaints from the area, just for background.

S. Mittlefehldt stated:

Any thoughts on this? Dave, does that sound good, it sounds you have a path forward. Great.

## **Training**

### **A. Article – Traffic and Transportation Studies (Michigan Planner, May-June 2023)**

The Planning Commission and staff discussed the article. D. Stensaas said that staff will speak with the City Engineer and see if there are ways to provide more specificity to the traffic study requirement language in the Land Development Code, but that the vague language in the Code does allow for a range of options to be required, although no specific options are stated.

## **COMMISSION AND STAFF COMMENTS**

W. Premeau said that there were a lot of "To Be Determined" by the Planning Commission items in the Staff Report for the case tonight and they were not discussed.

S. Mittlefehldt stated the meeting is officially adjourned.

**ADJOURNMENT**

The meeting was adjourned by Chair S. Mittlefehldt at 7:45 p.m.

—  —

Prepared by: kw/iMedat

Edited by D.Stensaas, City Planner and Zoning Administrator, Planning Commission Staff Liaison

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**From:** Bill Sanders [REDACTED]  
**Sent:** Monday, July 17, 2023 1:41 PM  
**To:** [REDACTED]  
Throenle  
**Cc:** Bill Degroot  
**Subject:** Proposed Rezoning - Agriculture/Forestry District  
**Attachments:** Kittredge\_NorthernJAppForestry\_1996.pdf

Mr. Ryan Soucy  
Chair Chocolay Township Planning Commission.  
July 17, 2023

I am sending this note in follow-up to the last planning commission meeting where the re-zoning of the Agriculture/Forestry District was on the agenda. I remain firmly convinced that the proposed rezoning would have long term negative effect on the future of not only agriculture but also logging in Chocolay Township. Without the same level of public involvement that was a part of your master planning process it would be contrary to the will of the public to ignore the intent of the Agriculture/Forestry district to take the actions proposed. The action proposed is in direct conflict with the master plan; ("Agriculture and forestry areas are intended to allow resource production to take priority over other land uses by protecting these areas from the encroachment of residential and commercial development.", from page 81 of Master Plan).

It would be a violation of the public trust to make this change exclusive of concerted effort to engage and involve the public.

I have attached a link below that provides some perspective on the threats to Michigan Agriculture compiled by the American Farmland Trust and have also attached an article from the Northern Journal of Applied Forestry that also indicates the 20 acre parcel size as a practical minimum for forest harvest activity.

<https://farmland.org/fut-michigan-pr/>

The act of zoning developed land (as the township was in 1976 when the first township ordinance was enacted) by its nature creates non-conformity. Perhaps there is another way to deal with non-conformity across the township as a whole other than the proposed rezoning.

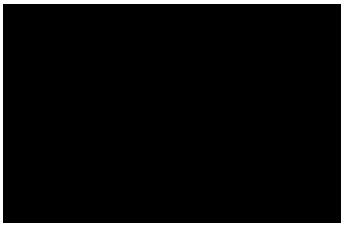
Thank you for your consideration in this matter Ryan. I also copied the other members of the Planning Commission and your zoning administrator with this message. I also copied your township manager and ask that this message be shared with the Township Board.

Take care

Bill Sanders, ASLA  
Landscape Architect / Principal

Sanders & Czapski Associates, PLLC  
109 South Front Street, Suite 210  
Marquette, MI 49855





# Decreasing Woodlot Size and the Future of Timber Sales in Massachusetts: When Is an Operation Too Small?

David B. Kittredge, Jr., Michael J. Mauri, and Edward J. McGuire,  
Department of Forestry & Wildlife Management, Holdsworth Hall,  
University of Massachusetts, Amherst, MA 01003.

**ABSTRACT.** *The heavily forested landscape of Massachusetts is dominated by nonindustrial private ownerships. Statistics indicate that parcel size has decreased to a most recent average of 10.6 ac. Professional loggers were queried to determine if there was a timber sale size (expressed in either volume or area) below which they would not bid. Respondents indicated that they had operated on a timber sale as small as an average of 7.8 ac and 20.4 mbf, and would purchase one as small as an average of 5.3 ac and 17.1 mbf. The single most important factor in deciding to bid on a small sale was the quality and value of the timber. In the future, small parcels with a preponderance of low-quality timber resulting from high-grading may be deemed inoperable by loggers. The importance of high quality timber on small parcels emphasizes the need for stand improvement measures to ensure small parcels are feasible to commercially operate in the future. North. J. Appl. For. 13(2):00-00.*

Massachusetts is the third most densely populated state in the United States. In spite of this, it is roughly 65% forested. The vast majority of forestland (85%) is in nonindustrial private (NIPF) ownership (Birch 1989). There are over 100 sawmills and between 500 and 600 licensed timber harvesters in Massachusetts, with approximately 200 professional foresters working in both the public and private sectors (Bond and Loud 1992). Approximately 55 mmbf are harvested annually from Massachusetts forests (Dep. Environ. Manage., Mass; unpubl. data). Although its forests are relatively small in area and sometimes urban or suburban in nature, Massachusetts has a modest but active primary forest products industry.

The nature of the predominantly forested Massachusetts landscape is changing, however. USDA Forest Service statistics for 1972 and 1985 indicate that while the percent of forestland did not change significantly, the number of owners of forestland jumped from 103,900 in 1976 (Kingsley 1976) to 235,000 (Brooks et al. 1993). The result is that the average NIPF ownership in Massachusetts fell during this time from 23.4 ac to 10.6 ac (minimum forest size = 1 ac; Birch 1989).

NOTE: Partial funding for this study was provided by the University of Massachusetts Cooperative Extension System. Analysis and preparation of the manuscript were conducted while Kittredge was on leave as a Charles Bullard Fellow in Forest Research at Harvard University. Helpful comments on the manuscript were provided by M.J. Kely.

The increase in the number of owners is the result of real estate development and subdivision spurred on by upwardly spiraling land values, high rates of taxation, and the frequent need of heirs to liquidate property to meet inheritance tax obligations (Broderick et al. 1994, Small 1990).

Forest Service statistics are not the only data indicating change in the forested landscape of Massachusetts. Aerial photo interpretation of the entire state for 1971 and 1984/85 indicated a 2.9% loss in forestland (MacConnell et al. 1991). Over the same period of time, agricultural land declined by only 0.5%. In the meantime, all forms of residential, commercial, and industrial land increased by 3.2%. Similarly, the Massachusetts Audubon Society studied changes in land use and found that between 1981 and 1987, 103,000 ac of "open space" were converted to commercial or residential use. In 1986 alone, over 30,000 ac were converted (Greenbaum and O'Donnell 1987). By several indications, forestland in Massachusetts is being lost, and that which remains is becoming parcelized into smaller ownerships.

This trend toward smaller parcels may have important effects on harvesting. Smaller parcels potentially mean lower volumes per timber sale. By the same token, loggers may need to negotiate with more consulting foresters and landowners to access the same volume of wood. Dennis (1992) suggested that such parcelization in New Hampshire might limit the availability of timber to harvesters, since owners of small properties seemed less inclined to harvest. This disin-

interest of owners of small parcels to harvest has also been reported by Sutherland and Tubbs (1959) and Thompson and Jones (1981). Other business-related factors may exacerbate these effects of parcelization. Machinery costs and insurance rates have increased drastically (Rizzo and Kittredge 1992, Hoffman 1991). Howard (1987) studied logging costs and profits in Connecticut using detailed production studies and accounting-based cost analysis. He reported submarginal profits in four out of seven cases, due to the harvest of unprofitable trees. Rising costs and a lack of markets put loggers in an economic squeeze. The overall trend of parcelization and its effect on harvesting warrant investigation.

We wanted to investigate the possible effect of a parcelizing forest land base in a rapidly suburbanizing state on timber harvesting. The specific questions asked were: (1) Is there a size of timber sale (estimated either by volume or area) below which loggers would not operate? (2) Does the trend of forest parcelization represent a problem for loggers, and incidentally for foresters interested in implementing silvicultural prescriptions?

## Background

There is little information in the literature on the effect of parcel size on harvesting. Cabbage and Harris (1986) provided a comprehensive overview of the issue of parcel size and forest management practices in general. They reported on Swedish studies indicating that tract size and the degree of mechanization are the most important factors controlling harvesting costs. Most economies of scale were achieved on parcels ranging from 20 to 40 ac, with larger logging costs being incurred on smaller parcels. Likewise, in modeling studies conducted with southern pine, Cabbage (1982) estimated harvesting cost curves by parcel size for eight different systems ranging in degree of complexity and mechanization. Tree-length and more mechanized systems required harvest areas of 40 to 60 ac in order to operate at minimum cost levels. Harvesting costs were much higher on smaller areas.

The notion of harvest profitability is very complex. A wide variety of factors such as terrain, skid distance, mechanization, labor cost, productivity, tree size, and log value all combine to determine the degree to which a particular timber sale is profitable (Hoffman 1991). Likewise, interactions among these factors play a role in determining how small a parcel might be profitably logged. Rather than study logging profitability using cost analysis techniques, we decided to study preferences and perceptions held by loggers themselves, by asking them to determine what the most important factors were, and indeed, to tell us how small a timber harvest they would consider.

## Methods

We designed a three-page survey to query Massachusetts loggers about harvest size feasibility. The draft survey was tested with six loggers, and modified slightly. Respondents were queried in three ways:

1. Specific questions such as counties in which they operate, equipment mix, whether or not they had purchased stumpage in the last 18 months, and both the smallest timber sale they had ever purchased (in terms of absolute volume and area) and the smallest timber sale they would consider purchasing.
2. Questions concerning hypothetical timber sales that varied incrementally by area, volume, distance from home, and the proportion of high-quality timber.
3. An open-ended question requesting the factors considered most important when deciding to purchase a small timber sale.

The survey was first sent to 522 loggers in April 1994, along with a cover letter and a postage-paid return envelope. A second mailing was made 4 weeks later to the same audience. Responses were anonymous in all cases. No test for nonresponse bias was made.

## Results

### Response

We received 195 responses after the two mailings, representing a return of 37%. Of those, 137 (70%) reported to have purchased stumpage in the last 18 months. Those who had not purchased stumpage more recently than that were excluded from further analysis, as it was felt that their views would not accurately represent those currently bidding on timber sales.

### Equipment Mix

The vast majority of respondents use rubber-tired cable skidders, while fewer reported using grapple skidders, forwarders, or crawlers to skid wood (Table 1). Only nine respondents had mechanized their operation to the point of using a feller buncher. Likewise, chippers and slashers were uncommon. The typical mix of equipment used by respondents seemed to be fairly conventional for the region.

### Timber Sale Size

The mean smallest timber sale area that the respondents had ever purchased was 7.8 ac (Table 2). The mean smallest volume that they had ever purchased was 20.4 mbf.

Response to the query of the smallest timber sale up for bid did not differ substantially. Respondents reported that they would purchase a timber sale averaging as small as 5.3 ac or 17.1 mbf.

### Hypothetical Timber Sales

The hypothetical sale described in the survey had the following characteristics:

**Table 1. Equipment mix of respondents (absolute number of responses, out of a total of 137).**

Rubber-tired cable skidder: 106	Feller-buncher: 9
Rubber-tired grapple skidder: 18	Chipper: 13
Crawler tractor: 20	Loader: 16
Forwarder: 17	Slasher: 2
Farm tractor: 16	Log truck: 52
Horse/oxen: 2	

**Table 2. Size of the smallest timber sale ever purchased and would ever purchase (n = 137 respondents).**

	Had ever purchased	Would purchase
<b>Area (ac)</b>		
Mean	7.8	5.3
Standard error	0.8	0.7
Median	5.0	5.0
Maximum	70.0	70.0
Minimum	0.3	0.1
<b>Volume (mbf)</b>		
Mean	20.4	17.1
Standard error	1.5	1.3
Median	15.0	15.0
Maximum	110.0	100.0
Minimum	2.0	1.0

- Volume: 50% red oak, 25% white pine, 25% other hardwoods
- Terrain: level, dry, easily accessible
- No stream or wetland crossings
- Average skid distance = 2000 ft; larger timber sales have multiple accessible landings
- Average tree diameter = 18 in., ranging from 14 to 24 in.
- A consulting forester is managing the sale and has marked the trees for removal

Respondents were asked to indicate whether or not (i.e., yes or no) they would bid on the hypothetical sale, as it varied by two parameters (e.g., area and density of timber to be harvested). It was hoped that this type of questioning would reveal thresholds below which loggers would lose interest in a potential timber sale.

### Volume

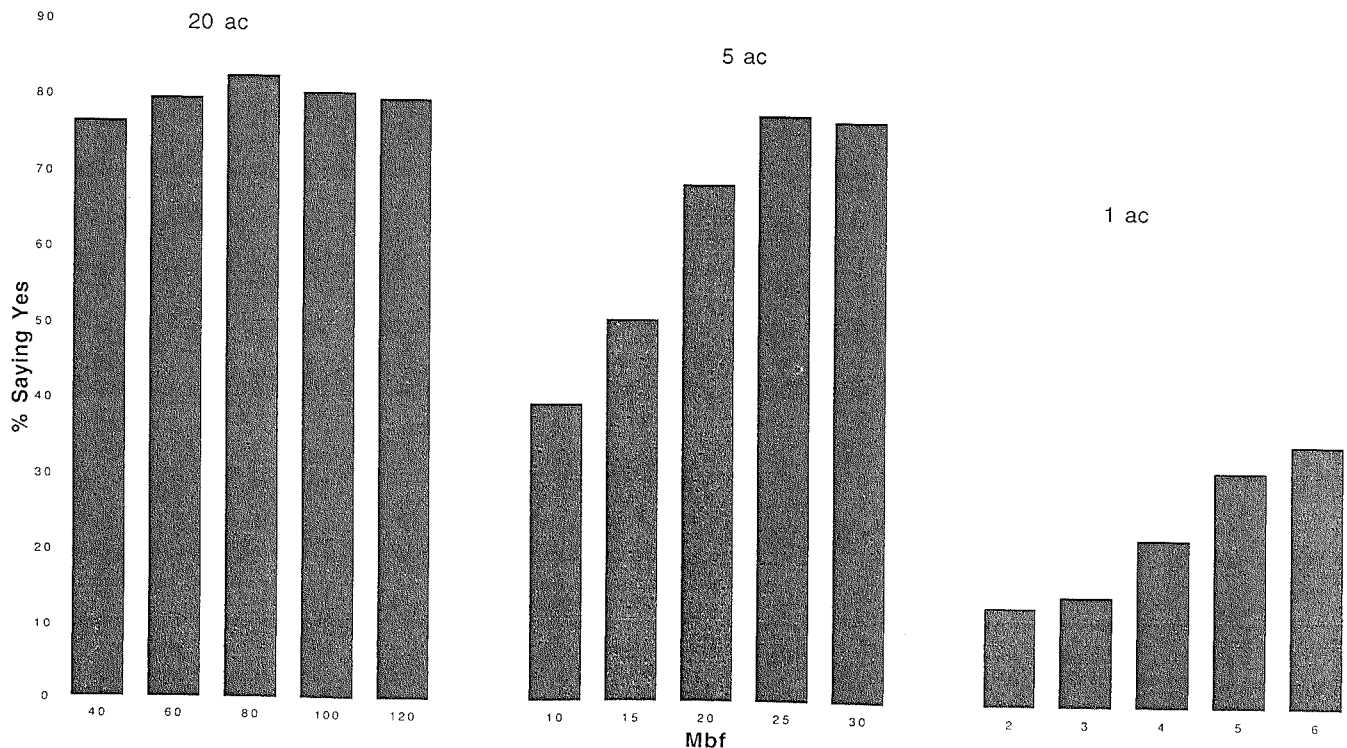
At the 20-ac level, most respondents reported that they would purchase the sale, regardless of the total volume or volume per acre (Figure 1). Respondents show much more sensitivity to volume at the 5 ac level. Roughly half the respondents reported that they would not purchase the sale if it had fewer than 15 mbf (i.e., 3 mbf/ac). A hypothetical timber sale of 1 ac was very unattractive to respondents. Only roughly a third (35.3%) reported that they would purchase the sale even if it had as much as 6 mbf/ac. This is in contrast to the 20 ac hypothetical sale, which more than 75% of the respondents reported that they would bid on even if it only had 40 mbf (i.e., 2 mbf/ac).

### Distance

Respondents were sensitive to the distance from home in all cases (Figure 2). Even for a 20 ac sale, only a third of respondents were willing to travel 50 miles. In contrast, fewer than half of the respondents (48.9%) would be willing to purchase a 1 ac sale 5 miles from home. Roughly half of the respondents (53.4%) would be willing to travel 25 miles from home for a 5 ac sale.

### Timber Quality

Respondents showed sensitivity to the area of the hypothetical sale (Figure 3) when timber quality varied. Fewer than half of the respondents (48.9 %) would bid on the hypothetical 20 ac timber sale if only 10% of the volume was high quality. Most respondents (75.9%) would bid on the 5 ac sale if as much as 50% of the timber was high quality. The 1 ac timber was found unattractive again by respondents—



**Figure 1. Percent of respondents indicating a willingness to purchase a hypothetical timber sale that varied in area and total volume.**

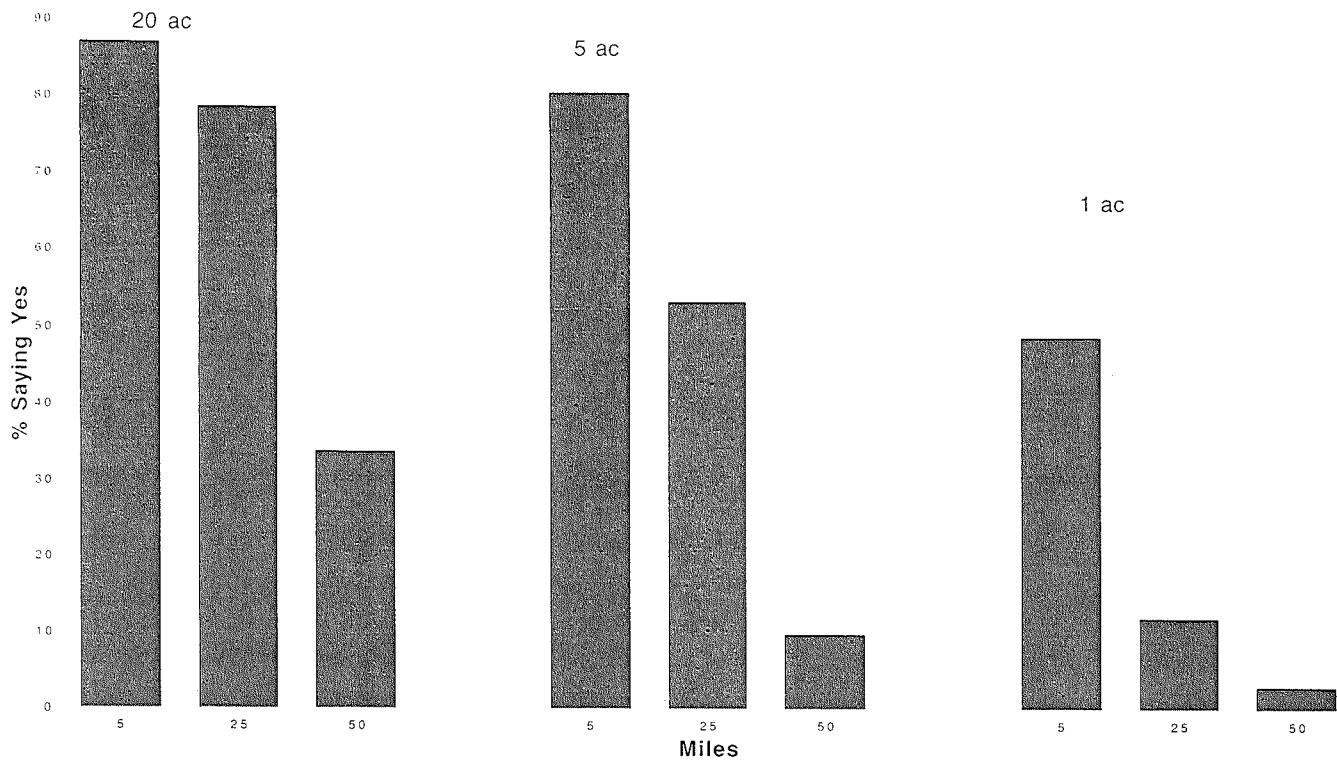


Figure 2. Percent of respondents indicating a willingness to purchase a hypothetical timber sale that varied in area and distance from home.

fewer than half (45.7%) would bid on the sale even if 50% of the timber was high quality.

#### Factors Considered Most Important

The open-ended question resulted in a wide variety of responses that could be grouped into 10 general categories

(Table 3). Most important, understandably, was the relative value of the wood. This is consistent with the sensitivity to quality (Figure 3) that respondents indicated in the "hypothetical-sale" part of the survey. All other factors were not nearly as important (i.e., they were not listed nearly as often by respondents). Perhaps more interesting than the factors

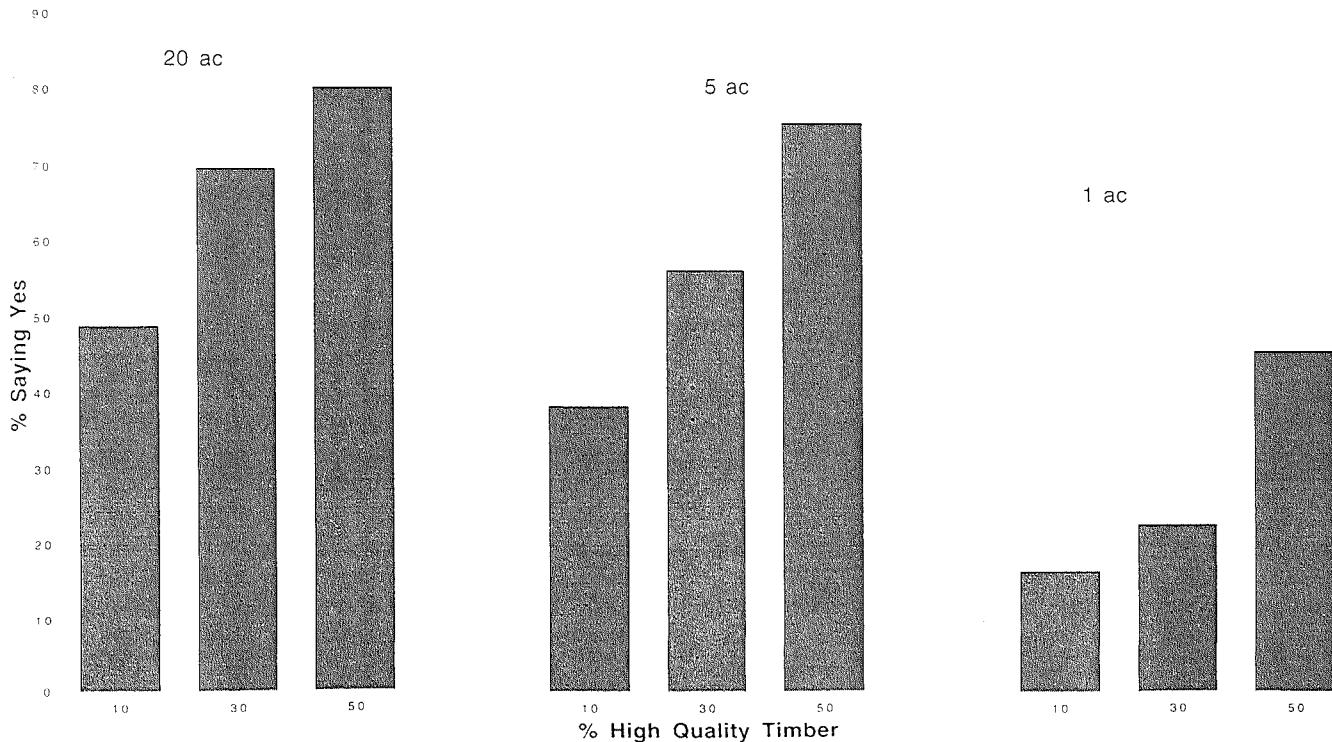


Figure 3. Percent of respondents indicating a willingness to purchase a hypothetical timber sale that varied in area and percent of high quality timber.

**Table 3. The most important factors to consider when bidding on a small timber sale (percent of respondents mentioning the category in their open-ended response).**

1. Relative value of the wood/quality/species	61.3
2. Landing location and size/access to sale	24.8
3. Proximity to another job in the area/cost of moving the machinery/travel distance	23.5
4. Presence of steep slopes/skidding difficulty	17.5
5. Wetlands	10.9
6. Problems with neighbors or local regulations	6.6
7. Size of the average tree	5.8
8. Proximity to mill	5.8
9. Well-drained site that could be operated during mud season	2.2
10. Job extras—e.g., remove all slash, junk cars, etc.	0.7

that are most important are the ones that are considered relatively unimportant by most respondents. Factors such as the presence of wetlands (listed 10.9% of the time), problems with neighbors or local regulations (6.6%), or "job extras" (0.7%) were apparently unimportant.

## Conclusions

### Response

The survey used in this study was completed by 26% of the licensed timber harvesters in Massachusetts. This response does not necessarily represent a statistical sample from which conclusions can be drawn about the entire harvester population. Based on the reported equipment mix, however, we feel that the respondents are fairly typical of conventional operators.

### Preferences Concerning Size of Sales

Respondents reported that they have harvested sales as small as 7.8 ac and 20.4 mbf, and they would bid on sales as small as 5.3 ac and 17.1 mbf. Small standard errors around these means and the similarity of means and medians indicate that in spite of a wide range in responses, participants in the survey were generally quite consistent. Also, it is worth noting that these averages are well below the current average woodlot size of 10.6 ac.

### Sensitivity

More than three-fourths of the respondents would purchase the hypothetical 20 ac sale, even if it had only 2 mbf/ac. Likewise, more than three-fourths would purchase it if it was 25 miles from home. Almost half of the respondents (48.9%) would purchase the 20 ac hypothetical sale even if only 10% of the timber was of high quality. Respondents were willing to travel farther and put up with low harvest volumes per acre and low quality if they could operate on an area of 20 ac. Respondents were sensitive to distance in all hypothetical cases. Fifty miles was too far to travel.

Timber sales of only 1 ac were unpopular with respondents. Even with a density as high as 6 mbf/ac of harvestable wood, roughly two-thirds of the respondents would not bid on the smallest hypothetical sale. This is in direct contrast to the harvestable density of 2 mbf/ac that the majority of respondents (76.7%) found acceptable on the 20 ac sale. Also, fewer than half of the respondents (48.9%) would bid on a 1 ac sale even if it was only 5 miles from home. Finally, even though timber quality and value was the most frequently cited factor to consider, fewer than half of the respondents (45.7%) would

bid on a 1 ac sale even if 50% of the timber was high quality. Sales of only 1 ac were unpopular regardless of proximity, density of harvestable trees, or timber quality.

Finally, respondents reported that the single most important factor in deciding to bid on a small sale was quality and value of the timber. All other factors paled in comparison. Remarkably low in importance were factors such as local regulation, problematic neighbors, and additional tasks to perform for the landowner.

### The 5 ac Sale

Respondents indicated that they would bid on a timber sale as small as 5 ac. For sales of that size, harvestable volume density is moderately important. Half the respondents (51.1%) would need at least 3 mbf/ac in order to bid, and most (78.2%) would need 5 mbf/ac. As forest ownerships become smaller through the trend of parcelization, the desire of harvesters to cut greater volumes per acre may conflict with the attitudes of landowners, neighbors, and society about aesthetics and the appearance of harvesting (Birch 1989, Brush 1979).

Most respondents (80.5%) would travel 5 miles from home for a 5 ac timber sale, and over half would travel 25 miles. Hardly any respondents would be willing to travel 50 miles for such a sale. As the forested landscape is increasingly parcelized, harvesters may have to travel greater distances and search among a larger pool of landowners to find those willing to have timber sold from their property. Although the number of potential owners that may arrange for a harvest increases due to parcelization, studies have shown that these new owners of smaller parcels may be less inclined to harvest (Dennis 1992).

Finally, roughly half of the respondents required at least 30% of the timber on the hypothetical 5 ac sale to be of high quality. Few were willing to bid on the 5 ac sale with only 10% high quality timber. In the future, small woodlots that are victimized by high grading may be "stranded" without the ability to implement an improvement cutting if they do not have a minimum of high-quality timber for sale. Conversely, woodlots of 5 ac or more in which the timber quality has been enhanced by silvicultural practices such as TSI and improvement treatments should readily find willing loggers.

## Application

Although the average forested parcel size is declining in Massachusetts, responding timber harvesters report that it has not reached the point where sales are so small that they cannot be profitably harvested by local loggers, at least with their current level of technology and mechanization. Participants in this study are currently willing to harvest as little as 5 ac and 17 mbf in a timber sale, but generally are not willing to drive more than 25 miles to reach it, and at least 30% of the timber should be high quality. This suggests the importance of silviculturally improving even large stands to ensure their feasible harvest in the future should they become part of a smaller property. It is especially important to improve the timber quality of small parcels if owners hope to maintain timber income as a future possibility. These relationships may change if timber prices increase. More valuable timber

or the total cash value of the sale may offset some of the negative effects of parcelization.

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**From:** [REDACTED]  
**Sent:** Thursday, August 10, 2023 1:56 PM  
**To:** Dale Throenle  
**Subject:** Message from directory page on Chocolay Township Web site

You have received an e-mail message from the Township directory page.

Sender name: Mark E. James  
Email address: [REDACTED]

Contact Number: [REDACTED]

Message: Dear Mr. Throenle,  
Per our conversation on 8-10-23, I would like you to present my concerns and petitions to the zoning board of appeals at the next meeting on Aug. 21. My goal is to obtain changes in zoning rules that will allow me to have an ADU(accessory dwelling unit) on my property located at 1805 E. Hwy. M28 in Chocolay township. I am currently disallowed to install an ADU because a dwelling unit is already on my property. Also, I cannot split the the land to allow another home because of and out of date rule from 1977 that blocks that land division because the width is 100 ft.; short of the 120 ft. requirement. 3rd, I cannot expand my existing home because it is 744 sq. ft., short of the 800 sq. ft. rule. So, 3 problems exist that prevent me from improving my camp property. Because of this, I now realize that my property is devalued and I cannot improve the comfort for my family or realize a maximum sale value in the future!  
I recommend the Board update the zoning rules to allow APU structures.  
Sincerely, Mark James, OD



TO: Chocoday Township Planning Commissioners and Board of Trustees, for the 21 August 2023 meetings

FROM: Deborah Mulcahey

DATE: 16 August 2023

SUBJECT: Chocoday Townships (CT) failure to Produce minutes which accurately reflect what was stated in meetings.

Anyone who either attends the Chocoday Township Board meetings or listens to the recordings of those meetings knows that the minutes are a brief summary of what transpires at the board meetings. Historically anyone who either attended the Chocoday Township Planning Commission (PC) meetings or listened to the recordings of those meetings could rely on the minutes being very detailed including an accurate representation of comments made by the public. In the last few years the Planning Commission minutes no longer contain an accurate summary or detailed specifics of what the public states during public comment. Minutes are to reflect what is stated, they should not be someone's perspective of what someone states. I suggest that the PC minutes for both the June and July 2023 meetings be revised to reflect what was actually stated.

The specific examples I give you in regard to this issue are in the draft minutes of the 19 June 2023 and 17 July 2023 PC meetings:

1. In regard to Bill Sanders 19 June 2023 public comment, the original draft minutes indicated that he,

"Spoke on his concerns with the proposals related to the proposed changes to the parcel sizes in the agriculture zoning district."

While the statement in the draft minutes is an accurate reflection of what Mr. Sanders stated the minutes fail to include the specifics. And as a prior CT Planning Commissioner Mr. Sanders has a perspective and history that the Board and PC needs to listen to. The following information is a more accurate representation of what he shared and should be included in the minutes.

Mr. Sanders specifically stated that he served on the PC for 14 years.

That open space and Ag land has always been a big part of CT. What is proposed here is way past what you would normally do as a zoning change.

What is proposed is more of a master plan change where the Ag community could be part of that & he thought that not to many had been. He read a paragraph from the master plan, "Agriculture and forestry areas are intended to allow resource production to take priority over other land uses by protecting these areas from the encroachment of residential and commercial development, and it goes on to say that parcel sizes should be reduced to 10 acres. But historically it was increased to 20 acres from 5, to satisfy the actual intent of the master plan. Even at 10 acres it is not sustainable for agriculture and you will end up with a bunch of small parcels and it will not satisfy the intent of the master plan. Maybe it is good, I have not seen all your research but I think it is way to big to just crank it through, and he would caution moving forward at this time until the public could be more involved.

2. In regard to my 19 June 2023 public comments, the draft minutes indicated that I,

" Spoke about the size of acreage in the agriculture zoning district and the uses within the district, the conditional use agenda item, and the rezoning agenda item."

Because the draft PC minutes for the 19 June 2023 meeting did not accurately include all that I had stated during public comment I advised CT Manager DeGroot, Supervisor Bohjanen, & PC Chair Soucy that, "My comments ... are not reflected in the minutes."

At the 17 July 2023 PC meeting a motion was passed to change the minutes to correctly or at least add to the minutes as to what I had said last meeting, in June.

CT Planning Administrator Dale Throenle stated that several staff listened {to the recording} & they are fine.

The revised draft minutes for the PC 19 June 2023 meeting now read that I,

"Spoke about the size of acreage in the agriculture zoning district and the uses within the district. Mulcahey stated her opposition to the concept as well as the Page 2 of 8 need for more public review and comment, referencing FlashVote. Additionally, Mulcahey spoke on the conditional use agenda item, and the rezoning agenda item."

Some of what is presented is correct but NOT all of it. I have no idea what is meant by "page 2 of 8." Further, the details of my public comments have not been included. The following information is a more accurate representation of what I shared and should be included in the minutes.

My public comments for this meeting included:

- a thank you to the commissioners for the work they do, -that I did not understand how the PC had gone from looking at a minimum of 10 acres for Ag to 3 groups of 1/2 an acre to 3 acres, 3-10 and greater than 10 acres, That this agenda was the 1st time I learned that less than 10 acres was being considered.

-Again as Mr. Sanders said this is not consistent with the Master Plan.

-So I asked the PC to STOP. STOP the process because when there had been discussion for the need for Flash Vote Mr. Rhein had stated many meetings ago that it was needed to get community input into the Ag needs and what was wanted. Ten months later we still do not have the Flash Vote so we don't have the input as to what is needed.

-In reference to Agricultural the PC is looking at definitions.

-I asked the PC why they were doing definitions for what would be allowed in the agricultural areas if there had not been consensus from the community as to what the community wanted for agricultural.

-You have heard me speak & put my comments in writing numerous times against this. I am opposed to this.

-So I asked that the PC STOP the process of what they are doing because I think this is ridiculous. You are the planning commission, you are the ones that drive the ship nobody else, you are suppose to drive the ship.

-I stated concerns as to what would be allowed in the shore line residential zoning being a bar, financial, or a medical clinic, but a day care or a group home would not be allowed.

-In reference to the Conditional use agenda item I did share my frustration with how the township handled the application.

-In reference to the rezoning agenda item I advised that I was a little confused because I thought I knew where the property was, but in the application the property is listed at another location-on M-28 N of

the Moyle retail center. I further stated that the info indicating that the State sold the property in 2022 was incorrect. The State sold the property to a different party than the applicant in 2021.

3. In regard to the Bill Sanders public comment the 17 July 2023 PC draft minutes indicate that he,

"Read his email sent to the Commissioners on his concerns with the proposals related to the proposed changes to the parcel sizes in the agriculture zoning district in relation to the master plan."

Yes, he read his email, but why did the minutes not reflect what Mr Bill Sanders specifically stated? He had already given the comments in an email to the PC members- & his comments were not included in the draft.

Mr Sanders specifically spoke of the agenda item for the proposed rezoning of agriculture and forestry and he remains firmly convinced that the rezoning would have a long term negative effect on the future of agriculture and logging and ChocodayTownship. Contrary to the will of the public to ignore the intent of the Ag forestry district to take the actions proposed. The action proposed is in direct conflict with the master plan. He addressed the priority of these areas to be protected for resource production over other land areas. He spoke of a violation of the public trust to make the changes as proposed. 20 acre size is a practical minimum for forest activity. Discussed 1976 historical zoning establishment in CT and that by it's nature created nonconforming properties. He suggested that perhaps there is another way to address nonconformity across the Township as a whole other than the proposed rezoning.

4. In regard to my public comment the 17 July 2023 PC draft minutes indicate that I,

"Agreed with Sander's comments, spoke on missing comments in minutes, the Page 2 of 7 importance of minutes, and the gathering of information from the public in regards to the agriculture discussion."

My July 17 comments were not accurately reported. I have no idea what is meant by "page 2 of 8." The following information is a more accurate representation of what I shared and should be included in the minutes. At this meeting my public comments included:

- that i agreed with Mr. Sanders' s comments, and thanked the PC for the work they do.
- I spoke of having watched this board and others struggle in the past when information was not available. Missing info from minutes. Minutes are part of the actual Township record.  
My specific comments and concerns are not included in your draft minutes.
- I said STOP. STOP looking to define the definitions for your different agricultural zoning ABC, 123, or whatever you want to call them until you have the input from the Citizenry.  
As Mr Zappa, the Township Atty, told you, you need input.
- You're making work for citizens and yourselves when you don't have citizen buy in to this process.
- I look at you the planning commissioners to direct the township, it is not the other way around as prviously shared with you.
- When you as commissioners are looking at minutes make sure that the public input you receive is acurately reported so that you comply with the requirements of what should be in the minutes. Specifically, that the information is correct so that the township and citizens will have an accurate reporting for historical use.

As planning commissioners you have worked hard on finalizing definitions for the zoning changes that you are looking to proceed with. However, some of you have publicly stated that the Township needs

community in put in regard to changing the agricultural forestry zoning. Why create work for yourselves, and the citizens if the community has not bought into this proposed agricultural forestry zoning change? Commissioners have also acknowledged that there will still be nonconforming properties if they were to implement what was last proposed for the Ag Forestry zoning changes.

If the issue of nonconforming properties is of such significant concern in the Township, why has the Zoning Board of Appeals only had one scheduled meeting for a year being from 22 September 2022 to 24 August 2023. As Mr. Sanders suggested in the July 2023 PC meeting perhaps there is another way to address nonconformity across the Township as a whole other than the proposed rezoning.