

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, February 20, 2017

I. MEETING CALLED TO ORDER BY: Kendell Milton at 7:03 p.m.

ROLL CALL

Members Present: Tom Mahaney, Kendell Milton, Andy Smith, Jon Kangas, Donna Mullen-Campbell, Judy White (Board)

Members Absent: Eric Meister (excused)

Staff Present: Dale Throenle (Planning Director/Zoning Administrator), Suzanne Sundell (Administrative Assistant)

II. APPOINTMENT OF MEETING CHAIR

Throenle explained to the Commissioners that they would need to elect a chair to cover this portion of the meeting. Once they have considered and approved the By-Laws, they would go on to elect officers of the Planning Commission.

A motion was then made by Mahaney, supported by Smith to have Milton chair this meeting.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

III. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

Motion by Kangas and seconded by Mahaney to approve the agenda as corrected (Under VI. Public Hearings should read "Public Hearing is deferred to item VIII.C.)

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

IV. MINUTES

January 16, 2017

Motion by Kangas, and seconded by Mullen-Campbell, to approve the minutes as written.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

V. PUBLIC COMMENT

Tony Harry, 6369 US 41 South – Harry handed out information to the Commissioners. He indicated that he had started an ATV / ORV Club in Marquette County, and is working on a UP wide trail. He would like Chocolay Township to partner with the Marquette County ordinance. He indicated that there was a UP wide map in his packet. He is looking for support to be able to go through Chocolay Township as a connector. He indicated that he has much information, including information from Governor Snyder on multi-use trails. The Club is currently working on a trail, along with maintaining other trails. He feels the program would be huge. Milton asked if this concerned ATV's on public road. Harry indicated it did.

VI. PUBLIC HEARINGS

Public Hearing is deferred to Item VIII.C.

VII. PRESENTATIONS

None

VIII. NEW BUSINESS

A. Planning Commission By-Laws and Officers

Throenle indicated that at the January meeting, it was discussed that changes were necessary in the Planning Commission by-laws to be able to appoint officers for the coming year. The way the by-laws were written provided for election of officers in June. In order to be able to change this, the members of the Planning Commission needed to be notified by mail of this intent at least 15 days prior to the next regular or special meeting of the Commission. This was mail to Planning Commission members on February 2, 2017.

Mahaney moved, Smith seconded, to change the language in Article VI of the Planning Commission Procedures and Bylaws from, "Said officers shall be elected by the Chocolay Township Planning Commission from among its members, at its June Annual Meeting." to "Said officers shall be elected by the Chocolay Township Planning Commission from among its members, at its January meeting."

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

Mahaney moved, Mullen-Campbell seconded, to change the language in Article X of the Planning Commission Procedures and Bylaws from, "amendments or repeal shall be submitted by mail to all members" to "amendments or repeal shall be submitted by mail or electronically to all members"

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

B. Planning Commission Election of Officers

Throenle indicated that since the Bylaws have been amended, the Planning Commission may now elect officers for the year. Throenle stated he had conversation with Meister, and that Meister was open to be considered for any position.

Moved by Smith, seconded by Kangas to nominate Tom Mahaney as Planning Commission Chair

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

Moved by Mahaney, seconded by White to nominate Eric Meister as Planning Commission Vice-Chair

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

Moved by White, seconded by Mahaney to nominate Donna Mullen-Campbell as Planning Commission Secretary

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

Moved by Mahaney, seconded by Mullen-Campbell Andy Smith as Planning Commission Vice-Secretary

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

At this point, Milton handed the leadership of the meeting to the new chair, Tom Mahaney.

C. Rezoning Request – R-1 to Commercial

Throenle opened the discussion by presenting some of the historical data in relation to the request from the Keweenaw Bay Indian Community (KBIC) for rezoning a portion of their property where the Casino parking lot is at right now. The parcel referred to is Parcel A, with the legal description of the property as follows: **North 660 feet of the South 1,392 feet of the E ½ of the SE ¼ , except the West 150 feet thereof, Section 12, Town 47, Range 24 West, Chocolay Township , Marquette County, Michigan.** KBIC is looking to rezone only a portion of the parcel, as they would like to keep the west 150 feet of that parcel as Residential.

Throenle indicated to the Planning Commission and the audience that this meeting is being held to rezone the property. At this time, the project is not being considered. Any comments in regards to the project will come at a later time.

Throenle indicated that the primary zoning in the area is residential, including the parking lot. He stated he had pulled a record card on the property, with the latest date showing as 1994. This record card states that this parcel was “tax exempt” and at one time was considered to be in trust. The parking lot was built under this understanding, later to find out that it was not trust property. The parking lot was established in 1997, as verified by pictures taken of the casino.

Throenle indicated that there were several factors he had to take into consideration. The first consideration was the question, **“Does it make sense to have a commercial property in a residential area?”** Throenle indicated that there could be concerns of “spot zoning”. The second consideration was, **“This is residential, but there is a commercial operation that exists on Tribal property, which borders the residential property.”** This property borders on other Commercial property, spot zoning would not be a factor. The third consideration was, **“The parking lot itself**

had been there for 20 years.” This is not a new parking lot, and has been used for 20 years to access a commercial operation.

Mahaney asked if the property is Trust land. Throenle indicated that the parking lot is not Trust land, and at this time, is under the jurisdiction of Chocolay Township. Throenle then went over the map indicating which parcels belong to KBIC.

Public Comment

Jason Ayres, Real Estate Officer, KBIC, 16429 Beartown Road, Baraga MI – The past 20 years this parcel has been an accessory to a commercial property. Even without considering the future plans, it does make sense to consider a rezoning of this parcel. He realizes there are a lot of public concerns, but those are permitting issues, and not necessarily rezoning issues.

Linda Rossberg, 1975 M-28 East – has lived at this address since 1989. She indicated that this is the fourth time she has appeared before the Planning Commission or Township Board in regards to rezoning properties and development. Each time there are the same issues – not only with KBIC, but other properties, which were being looked at to turn into commercial. Rossberg was involved in the Comprehensive Plan of 2005, where it was decided that this are remain residential. She extremely opposes any rezoning in that area.

Janet Amundsen, 2029 M-28 East – ten years ago the community went through this with Dr. English, which ended with the property being turned over to Northern Michigan University. Her fear is the water usage that will be needed by the project. Her water comes from inland, coming towards Lake Superior. She is now on her 4th well – her well is 40 feet down. She feels that Chocolay Township should keep control of the parking lot. If this goes into Trust, the Tribe will be able to do whatever they want.

Rick Stoll, 1927 and 1931 M-28 East – he disputes the rezoning. The parking lot parcel is not surrounded by any other commercial property therefore the zoning should not be changed. Stoll pointed out that in 1989, the land adjacent was residential plots with no Tribal ownership. The land, which is under Tribal Trust status, is currently used for a commercial purpose. Stoll feels that how the land is being used under Tribal trust should not be the determining factor for a zoning decision on adjacent property. They are two separate entities. Stoll also pointed out that the future land use plan projection for this area is flawed, and the zoning should not be changed. The future land use is assumed to be commercial. Implementation of the plan is based upon the zoning changes – once one parcel changes, all other adjacent parcels are subject to change. Stoll also feels that Tribal ownership outside of the Trust areas is residential property and should not become commercial just because the adjacent Tribal land is used as commercial.

Genevieve Morgan, 216 Kawbawgam – the casino parking lot is directly behind her property. She opposes the change of zoning. When they moved there a year ago,

they did not expect to have commercial property behind them. She is also concerned about what would happen to the property value. Throenle indicated that this was an assessor question.

Jill Hendrickson, 2023 M-28 East – she is very concerned about the possible change in zoning. She feels that the area should remain residential. She also has concerns about the water – if the property goes commercial, she feels this will have a huge impact on their water. There have been many studies done over the years. She then handed out a letter to the Commissioners.

Mike Angeli, 212 Kawbawgam Road – he grew up in Harvey, lived in Marquette for 10 years, and recently moved back to Harvey. He felt there were a lot of concerns if the property is rezoned to commercial – increased traffic and water uses. Cause and effect – if the Planning Commission makes it commercial, it will affect all who live there. Angeli is opposed, as it will go through his backyard.

Public Hearing closed.

Commission Discussion

Throenle pointed out to the Commissioners that the Master Plan of 2015 shows future land use for this property to be commercial. There was a question from the audience that since the Master Plan is being used as the basis for the decision, was this given to the public and everyone notified. Throenle explained that the previous Zoning Administrator would have sent out a survey. There were several public hearings that would have taken place. Stoll feels that the public should have had better notice. Mahaney explained that when you sit down to do a Master Plan, this does not happen in one meeting – it takes many meetings to devise a Master Plan. This process is gone through every five years. Mahaney suggested it is always wise to pay attention to meetings and minutes of the Township. Another question from the audience was how the public is notified. Throenle indicated that Township requirement is notification of residents within 500'. This is sent to the owner of record based on our assessing database. This is also posted in the newspaper and on the Township website and bulletin boards. Mahaney stated that a Master Plan tries to anticipate future growth - it is used as a guide in making decisions.

Milton stated he remembers spending lots of time looking at boundaries. When developing the Master Plan, casino expansion was taken into consideration for zoning purposes.

Smith asked why the commercial zoning was not going to the highway. Throenle indicated that at this time, there is no intent to expand beyond the parking lot to the north.

Mahaney asked if there were any plans on the proposed parking, such as island, buffers, etc. Throenle indicated that this is not part of the consideration for the rezoning and will be brought forward at a later date when the actual project is proposed.

Kangas asked about the west 150' – is this deep enough to build residential. Throenle indicated that it was.

Smith asked about the checklist on how this will proceed. Throenle indicated that this is a guideline, as once it goes to the County level, they could still change the decision.

Kangas asked if the rezoning was foreseen in the Master Plan. Throenle indicated that it was.

*Moved by Smith, seconded by Milton, that after conducting a public hearing and reviewing the staff analysis for rezoning case #ZA 17 01 submitted by the Keweenaw Bay Indian Community, the Planning Commission finds that the proposed rezoning is **consistent** with the goals of the Master Plan, 2015 Edition, and hereby recommends that the Township Board **approve** ZA 17 01 as presented.*

Ayes: 5 Nays: 1 (White) MOTION CARRIED

Throenle explained that the process will now be to send the recommendation to the County Planning Commission for their review, and then it will go to the Chocolay Township Board for approval.

IX. UNFINISHED BUSINESS

A. Short Term Rentals

Throenle indicated that this was started last month, and he has included the answers to the questions from that meeting.

Smith asked about the current rules on renting your property – was wondering about the clarity on the number of days. White indicated that it doesn't specifically say "short term rentals". According to the State, you lose your tax exemption after 14 days. Throenle indicated that in the Zoning Ordinance, a "*Bed and Breakfast*" is not to exceed 14 days, "*Hotels*" would be a standard overnight, and "*Resorts*" is not for a period for any less than one month. There is a need for clarification on a definition of short-term rental. Smith asked about an attorney recommendation. Throenle indicated that the attorney will usually look at the ordinance after a recommendation from the Planning Commission.

White indicated that it is necessary to define "short-term". She feels this would be 30 days or less. Throenle indicated that due to the number of different events that are held in the area year round, short-term rentals have become an alternate choice. He feels there is a need to have rules and regulations in place to protect the Township. Smith was concerned about the time frame to get something like this in place, and wondered if there was anything that the State had in place for this. Milton questioned if there would be a possibility of having a tax on the rentals. Smith indicated that the homeowner would have to register the house as a tourist destination.

Smith indicated that all the questions the Planning Commission is looking at already have ordinances in place.

Supervisor Bohjanen indicated he thought maybe a simple thing to do in this case is to add a definition of “short-term rental” to the zoning ordinance, and then put into the zoning districts as a Conditional Use. The property owner would then have a permit. The list that Throenle is putting together would provide the owner / renter with a list of rules, and a checklist to make sure everything is covered. It was discussed that it doesn’t seem like it needs to be that complicated. The Planning Commission discussed what the time frame should be – days, weeks, months – over the course of a year.

The Planning Commission then went on to answer questions starting with #19.

Commission Discussion

General Considerations

- 1. Should there be consideration in the ordinance to prevent long-term rentals from becoming short term rentals?** *It was felt that it is okay to convert, as long as it is not a multi-family dwelling.*
- 2. Is property ownership important? For example, will outside entities, such as property management companies, be permitted to buy / manage a short-term rental property?** *Throenle indicated that this is a non-question, as we are unable to dictate who owns property.*
- 3. People renting long-term should not be permitted to have a short-term rental. Yes or No?** *It was felt that they should not be permitted to sublet. This would probably refer back to the lease agreement and how that is written, which should cover if you’re allowed to sublet the rental.*
- 4. General thoughts toward short-term rentals lead to requiring a permit to operate. Good idea or no?** *Homestead was questioned – if you are still living there and renting (such as a bed and breakfast) – will ask the Assessor. The Planning Commission felt this is a good idea – could be a two part permit – Conditional Use permit and a permit asking about safety, etc.*
- 5. Should all short-term rentals be required to register with a valid listing site, such as Airbnb or HomeAway as part of the permitting process?** *It was felt that we can’t require how people market their property to potential customers.*
- 6. Accessory dwelling units cannot be rented as either a short-term or long-term rental. Yes or No?** *It was felt that accessory dwelling units cannot be rented, as it does not meet our current zoning ordinance.*

Neighborhood Considerations

- 7. Short-term renters should be held to the same standards as permanent residents in terms of noise, trash, etc. Are there further issues that should be considered?** *It was felt that short-term renters should be held to the same standards, if not stricter, and this would be included in the permitting process.*
- 8. Hosts / owners must actively work to prevent issues from impacting neighbors. Are there further issues that should be considered?** *This should be included in the permitting process, and after a set number of violations, would*

have their permit revoked.

9. **A host / owner must be available, either on the property or within _____ miles radius of a property in order to rent. Yes or No? (Keep in mind snowbirds for this item.) Can the host be other than the owner?** *It was felt that there should be someone (whether it is the owner or a designated representative) to be held accountable and to contact in case of an emergency. This could possibly be a part of the permitting process.*
10. **Signs or no signs permitted for the location?** *It was felt that they should have the same rights as anyone else would be able to. Cannot control based on content, only on size.*
11. **What should the neighbor reporting process be if there is an issue at a neighboring rental?** *This was talked about in prior questions – depending on the issue they may be contacting the owner, the Township, or the police.*
12. **When looking at neighborhood character, how can the neighborhood's character be preserved while at the same time permitting short-term rentals?** *Would need to look at number of people and number of vehicles being permitted on the property. They would still need to be in compliance with the zoning ordinance. Need to explore a little more.*
13. **How should these neighbor issues with short-term rentals be addressed?**
Issue #1 – “I don’t want my neighborhood filled with party houses. Let’s keep it nice and quiet.”
Issue #2 – “I don’t want strangers next door to me. I do not want to worry about my kids outside.
Issue #3 – “I don’t want loud parties going on at all hours of the night next door to me.” *On any of these issues, there would need to be “substantiated” complaints from neighbors. Most calls would be going through the police. The owner would also need to take responsibility.*
14. **Should the number of short-term rentals be limited in a given neighborhood? For example, should a maximum of one rental per every three residences be established? If so, how will it be monitored and who gets to determine who is first in line? Or should the option be open to anyone that wants to rent their property on a short-term basis?** *The option should be open to anyone that wants to rent their property out.*

Economic Consideration

15. **One important point to consider in this issue is the economic aspect of the rentals, in terms of how much will be spent in the local area (on items such as food, groceries, gas, and entertainment) as a result of the rental. Is this a valid consideration for the discussion?** *It was determined that this is a positive bonus, but this is not a significant factor.*

Local and Large Events Consideration

16. **Can larger events be held at a short-term rental (such as a wedding, graduation party and 50th wedding anniversary) if the number of occupants remaining after the event does not exceed the established maximum?** *It was felt it was okay to have an occasional party, but not to become a regular large event venue. Tolerance would drop if this was something that was happening every weekend.*
17. **Should short-term rentals, with a special permit, be allowed during large events or certain seasons, especially since there are room shortages in the Marquette area? Examples would be Christmas / New Years, UP 200 sled dog races, Ore to Shore bike race, and Hiawatha Festival, as well as during the weekend events that occur during the summer months in the Lower Harbor and surrounding communities.** *This would become a cumbersome permitting process, but will take a look at.*
18. **Will food services (such as catering or food trucks) be permitted at a short-term rental location?** *It was determined that it shouldn't be allowed.*

Remaining Questions

19. **What type of safety accommodations (such as fire exists, smoke detectors, fire extinguishers, first aid kits and carbon monoxide detectors) must be provided at a short-term rental unit?**
As determined by Fire Department or County codes.
20. **Should issuance of a permit be dependent on a documented fire and safety inspection? If so, who would provide this service?**
Safety inspections – to be determined
21. **Should issuance of a permit be dependent on proof of liability insurance? If so, what should the minimum amount be?**
To be determined
22. **Should a guest registry be required? If so, who will monitor and check the registry often?**
It was determined this was not needed
23. **Accessory dwelling units cannot be rented as either a short-term rental or long-term rental. Yes or no?**
The intent of accessory was for immediate family. Final consensus was NO.
24. **What type of substantiated violations can be issued for a short-term rental? Does a certain number of substantiated violations (say three), revoke the short-term rental permit, and if so, for how long?**
Citations would be issued to the homeowner – would need to be a written violation – has to be substantiated.
25. **Will the standards applied to short-term rentals for noise, trash, etc. be the same as applied to all other dwellings in the same neighborhood?**
Yes
26. **Should short-term rentals be required to have wildlife-proof trash containers for guests that leave prior to scheduled trash pickup?**
Yes

27. Will food services (such as catering or food trucks) be permitted at a short-term rental location?

No

28. Other safety considerations?

No comments

29. Environmental Considerations (such as trash and water usage)?

No comments

30. Cost of permit?

Conditional Use is \$250 - part of this is a yearly review

31. Issued permit for one year, multi-year, or permanent?

Two to three years, based on fee – would depend on restrictions that have been placed on the permit. Possible annual renewal as insurance policies are annual policies.

32. Other considerations.

Throenle will put together a definition of short-term rental for the next meeting. Mullen-Campbell questioned the fee and did not want it to be too high. Throenle explained that the affordance of the fee would come down to individual decisions and if it made sense for them to continue to rent. Mahaney wondered about making sure that the renter knows the rules of the Township – Throenle felt this would be the responsibility of the owner.

Milton mentioned that when people are doing Site Plans, it would be helpful to have a checklist and the zoning of the adjacent parcels with it.

X. PUBLIC COMMENT

Dick Arnold, 312 W Branch Road – commented that it was nice to see new members on the Planning Commission. He would like to see the AF district changed – currently in the AF district there are 8,000 acres, 841 parcels with 512 of those parcels under 20 acres and therefore non-conforming. Most people that live on non-conforming lots want to live in the country to enjoy the wildlife and the forests. There are accessory buildings of unlimited size and numbers. Prior to being zoned AF, they were zoned as Rural Residential – the Commissioners may want to consider going back to that.

XI. COMMISSIONER'S COMMENTS

Kangas – none

Mullen-Campbell - none

Milton – none

Smith – he agrees with D. Arnold – this has been brought up many times and he would like to look into this and get it on the list of priorities for this coming year.

Mahaney – none

White - none

XII. DIRECTOR'S COMMENTS

The next meeting for the Planning Commission will be on Monday, March 20th, starting at 5:30 PM with a Joint Meeting with the Township Board, and then have the regular meeting of the Planning Commission starting at 7:00 PM. The agenda will include establishing priorities. The Joint Meeting will also involve handing out tablets, along with a tutorial, with the intent that March will be the last meeting there will be paper packets. There will be a Public Hearing scheduled for the Planning Commission.

In reference to D. Arnold's comments, Throenle indicated there are many parcels in the Township that are non-conforming. He is planning on bringing this up at the ZBA meeting on Thursday, Feb. 23rd to see if he can get some guidance.

Throenle also pointed out the informational material he had placed on the table – Township Insights and Township Voice.

XIII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Minutes – 01/17/17 Marquette City Planning Commission
- B. Minutes – 01/09/17 Township Board minutes

XIV. ADJOURNMENT

Mahaney adjourned the meeting at 9:51 pm.

Submitted by:

Planning Commission Secretary
Donna Mullen-Campbell