

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, June 19, 2017

**I. MEETING CALLED TO ORDER BY:** Tom Mahaney at 7:05 p.m.

**ROLL CALL**

*Members Present:* Tom Mahaney (Chair), Eric Meister (Vice Chair), Donna Mullen-Campbell (Secretary), Andy Smith (Vice Secretary), Jon Kangas, Kendell Milton, Judy White (Board)

*Members Absent:* None

*Staff Present:* Dale Throenle (Planning Director/Zoning Administrator), Steve Lawry (Township Manager), Suzanne Sundell (Community Development Coordinator), Kristin Cannoot (Administrative Assistant)

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

*Motion by Kangas and seconded by Smith to approve the agenda as written.*

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

**III. MINUTES**

**May 15, 2017**

*Motion by Donna Mullen-Campbell, and seconded by Smith to approve the minutes as written.*

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

**IV. PUBLIC COMMENT**

Janet Amundsen, 2029 M-28 East – questioned the June 22 ZBA meeting and wondered if this was a private meeting, since only the people that are within 500 feet were notified. Attended Board meeting a month ago and is disappointed in her Township leaders. Questioning who is in charge of the Township. She feels that everything that has been KBIC related was not done in the proper order. Attended KBIC town hall meeting and feels most residents are more concerned about water storage and test wells, not the hotel, gambling, and restaurants as those will happen either way. She feels the bottom line is water quantity, not quality. She thanked the commission.

Deborah Mulcahey, 633 Lakewood Lane – She is upset that the agenda material was not available sooner than mid-morning. Short term rental have been a problem for 6 years, and now there are three new things on the agenda. Casino, wastewater – she wants to make sure that there is no cost to Chocolay residents. Site review on the storage units – need to look at lighting, vegetative buffer and fencing, acreage needs to be combined. Has a concern with 140 Carmen Drive - looks horrible and fence is not constructed on any portion – it is not behind Main St Pizza but adjacent. Need to be mindful of other residents. Short term rentals definition should be addressed.

Public comments closed at 7:15 pm.

**V. PUBLIC HEARINGS**

**CU Permit 17-03 Daycare:**

Dale Throenle reminded attendees that the current homeowners, Don and Lori Carlson, are applying for the permit and that they are not the ones who will be running the daycare. Read an email from the neighbor who lives at 130 Katers from Lance Gilliam. Question 1: Will the homeowners be living in the house? Answer: The owner/operator will be living in the house, the daycare will not be a separate business. Question 2: Is this a business that only the homeowners will run or will there be additional employees? Answer: The homeowners will run this business and there will be no additional employees. Question 3: Is there a maximum number of children that this daycare will provide for? Answer: Yes, the maximum number of children is 10. Throenle also read a letter that supports the fact that there is a need for additional daycare in the area.

**PUBLIC COMMENT**

Tina Brandel, 201 Terrace Street – she runs an in home daycare which is licensed for six children. She explained the difference between a center and an in-home daycare. She feels there is a definite need for this type of business. She explains that she has been running her daycare for 13 years and has a waiting list.

Mellisa Gilliam, 120 Katers Drive – wondered about the hours the daycare will be open. No problem with the daycare, she is concerned with her two dogs and the chain link fence that separates the property. She is worried that a child may put their hand through the fence and get hurt by her dogs.

Donna Marine – 150 Edgewood Drive – she bought property in a residential area and not one with businesses in it. Questions if there are restrictions or anything about running a business within a residential area. Mahaney stated there are within the Township Zoning Ordinance, such as home occupations, or in this case a Conditional Use permit, which is what the applicant is going through right now, that is the process to allow or deny the daycare. Marine went on to say she is unfamiliar with the process and is wondering how this works, vote on it? Mahaney replied that this is the process we are doing right here and we will vote on it tonight. There is a process, Conditional Use Permit turned in to Throenle, reviewed and then comes to the Planning Commission and the Commission will vote on it. Marine went on to explain that her whole adult life was spent looking after children and she came here to retire and she thought this was the kind of place where she could be free from that kind of thing and she wants it noted that she would not like the daycare there.

Abbey Lawrence – no address stated – she and Kyle Carlson are the ones that would like to open the daycare in the home after purchasing it. The business hours are primarily 7 to 5:30, licensing requires her to be compliant with state rules in order to keep her license, she has liability insurance and would like to put in a wood, privacy fence to

have a more appropriate barrier so there is no liability issue on her end. Lawrence stated she had thought about dividing the backyard to keep kids away from the neighbors with the dogs. Mahaney asked her if she has thought about the maximum children she would have. Lawrence responded that licensing does not allow her to have more than 12 children and that for the space she has she doesn't think that she would exceed 10. It depends on the age of the kids in the group. Meister asked if the fencing she is talking about is something she is planning on doing? Lawrence responded, if it's deemed necessary, absolutely and then follow the zoning ordinance to obtain that. Mahaney asked if the hours of operation are mandated by the state? Lawrence responded, no, that you choose hours when applying for a license and that it is safe to say that she will be licensed from 6:00 AM until about 5:45 PM, with main hours being 7:00 AM to 5:30 PM. Lawrence indicated they would not be open on the weekends and no evening or overnights. Mahaney asked if it would be open year round? Lawrence responded correct. White asked if Lawrence is applying for a day care center or a family day care? Lawrence responded that it is considered a group daycare. She is currently running a daycare in Gwinn and is zoned through Forsyth Township - she has been through this process before. Four of the five families from Gwinn are interested in coming to the new daycare and she has daily calls from people looking for daycare. White asked Lawrence if other than her own family would she have children there on weekends. Lawrence responded she is not licensed for weekends, and family is not considered as part of the daycare. Throenle interjected that children will not be outside before 9:00 AM. Lawrence stated that they will be courteous to the neighborhood and that they encourage children to behave. Mahaney asked if she will be working this alone or expect to hire? Abbey responded that depending on the ratio of children she can be alone with up to six children. Mahaney asked if Lawrence was planning on hiring someone? Lawrence responded she was. There was some discussion between Throenle and the Planning Commission on the hiring of employees.

## **VI. PRESENTATIONS**

None

## **VII. NEW BUSINESS**

### **A. Conditional Use Permit CU 17-03 Daycare**

#### **Staff Introduction**

Throenle went through information that was presented in his staff comments in the packet.

#### **Commission Discussion**

Throenle indicated this is a home occupation, but falls under the home occupation of daycare. Daycare license under the State of Michigan, requires an additional employee after you reach six. This is part of conditional use, so there will not be a need for a separate home occupation permit. Under State law, Lawrence is required to have one or two employees. Meister asked for clarification on the location of the

privacy fence. Throenle requested that there be a condition of a privacy fence between 130 and 120 Katers. Mahaney stated that the Commission would like to add the fence condition as a requirement. He then asked Lawrence if she will hire additional employees. Lawrence responded that she plans on hiring two employees. Kangas asked if the State has a requirement on background checks. Lawrence indicated it does.

*Meister moved, White seconded, that after public comment and staff review and analysis in consideration of Conditional Use Permit CU 17 03, 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 Zoning Ordinance, the Planning Commission approves Conditional Use Permit 17 03 with the following conditions:*

*(1) A six foot privacy fence be constructed between 120 and 130 Katers Drive.*

Vote: Ayes: 7 Nays: 0

MOTION CARRIED

## **B. Site Plan Review – Hudson Storage Units**

### **Staff Introduction**

Throenle introduced the proposed storage units Hudson Properties at 110 and 120 Carmen Drive and read the description of the property. The proposed storage units will be located in a commercial district, the only residential district is to the south of the proposed units, which is LSS Manor on Cherry Creek Road. Both lots are non-conforming lots of record. Three storage units are proposed: one is 40 x 130, the second is 40 x 60 and the third is 40 x 120. Scott Swenor (UP Engineering) will be representing the engineering firm.

### **Applicant Discussion**

Scott Swenor – UP Engineers and Architects – He lives in Chocolay, his partner Mark Daavettilla was pulled away and not able to be at the meeting.

### **Commission Discussion**

Throenle directed Commissioners to section VII.B.4 and proceeded to walk through the site plan review checklist. Proposed snow storage is a concern. Swenor replied that it would be pushed between two of the storage units. Mahaney asked Throenle if there is a fence. Throenle replied that there is a silt fence. Kangas asked if that silt fence would be to prevent erosion during construction. Throenle recommended a fence as a requirement. Mahaney, suggested a fence on the back side with the storage units being 24/7 and housing units behind it - would give more privacy. There is not much of a buffer there for the trees, maybe fence should extend all the way, access from the back. Milton interjected, there is an existing building there and would not want snow pushed over the line and affecting drainage with the existing building. Throenle directed the Commission to a graphic to show where buffers and

fence could be placed. Some of the tree line may be preserved. Throenle suggests that leaving trees could be requirement along with the fence. He also indicated that storage units typically do not generate a lot of noise but car lights could be a problem, however, tree buffer and a fence could diminish that. Kangas questioned plan sheet C103 as he is trying to figure out the contours. Meister asked if we have the authority to require a fence, Mahaney said to approve the site plan, he believes we do. He asked if there would be any utilities, Swenor replied that if there are any lights they would be downward facing. Swenor asked if they could move buildings closer to Carmen Drive to allow more space in the back for a buffer to leave more trees. Mahaney stated setbacks are already at the limit. Smith asked about storm water retention required. Throenle commented that the silt fence is there during construction, the storage units are drive in and drive out, not looking at a whole lot of water, just snow removal. There was some discussion on access. Throenle suggested that access could be a requirement. Swenor asked if the two lots could be combined to allow two buildings. Mahaney responded there was no approval for that. Throenle indicated we would need to pull this site plan off the table if that were the direction the engineers were going. Swenor responded that he withdrawals that idea. Smith would like storm water retention because the new buildings with metal roofs will be creating a lot of run off. Meister asked if the ditch would affect the property owner. Mullen-Campbell questioned where LSS Manor pushes their snow. Mahaney asked Throenle if they could approve it with conditions, as there was concern about the six foot strip on the east side of the large building, especially if that was sold separate without a permanent easement from Hudson? The Commission would like to see the easements, snow removal, storm water retention, privacy fence and buffer issues addressed at the next meeting.

*Meister moved, Kangas seconded, to table the Site Plan Review to either the July 6, 2017 Special Meeting or the July 17, 2017 Regular Meeting to allow the applicant to address concerns of the Planning Commission.*

*Vote: Ayes: 7 Nays: 0*

*MOTION CARRIED*

### **C. Site Plan Review – KBIC Casino Remodel / Expansion**

#### **Staff Introduction**

Throenle began the discussion by adding a letter sent from Gundlach Champion regarding landscaping, which Mahaney read. Throenle confirmed that each member of the Commission received the detailed plans. Throenle stated that there are representatives from Gundlach Champion and KBIC in the audience. Throenle described the expansion to include a hotel, restaurant, entertainment venue, casino expansion which is on the tribal trust land, as well as a conference center. The lot size, currently a parking lot, is 21.59 acres; he also provided a description of adjacent zoning districts and land uses. Throenle showed a graphic while describing the land and describing the moving of three homes to a residential site, the location of the new road, hotel, entertainment center, water tower and casino. The casino

expansion is on Tribal trust land and is not up for discussion tonight. The fire department will have access to the new water tank.

### **Applicant Discussion / Commission Discussion**

George Meister, project manager, GEI Consultants (Scott Richards; for water questions) G. Meister proceeded to go over the drawings which are part of the agenda materials. He highlighted the MDOT plans for acceleration/deceleration lanes for entrance and exit from the casino. These are decided by MDOT, not the Township or Casino. The eight-foot wide shoulder will become a two-foot wide, paved shoulder with a two-foot wide gravel shoulder. All permits will come through MDOT. He then described the new entrance and parking lot and he feels that about half of the residential traffic from Kawbawgam will use the new route and should reduce traffic on Kawbawgam. He discussed the utilities, specifically the elevated water storage tank and pump house as well as the three test wells. There will be a new hydrant that will be specifically for the fire departments use. He addressed the concerns regarding water quality and quantity with the three test wells, the water is not coming from a basin, the water is coming from water that is moving north to Lake Superior. The pump tests have shown very little impact on the surrounding area. After an eight-hour test, one of the test wells went down a quarter of an inch. The projected peak use will be 132 gallons per minute, giving a pump capacity of 264 gallons per minute. Milton asked if that is all three wells together – Richards stated it was. Mahaney questioned how long they have been testing the wells. Richards replied that they have been tested for eight hours, the initial test was to consider impact to see where the test wells should be sighted and the goal is to turn the test wells into production wells. Once permitted, Mahaney asked if the wells have to meet a certain State requirements. Richards stated yes, as they are type 1 water supplies. Mahaney questioned if the preliminary tests were felt to be adequate. Richards replied he does – they have done a lot of exploratory wells. There was a question from the audience on recovery. Richards stated that they came right back. Once the final permit test is done that information will be available. Mahaney asked if the State is there during the testing. Richards replied no, but the information would be submitted to them. Mahaney asked about the abandoned well on the plans – wondered if this is the existing well. Richards replied there are two wells, and both wells will be abandoned. Richards stated that the new wells will not have any residents to the south - nothing developable there. Throenle interjected to show in the graphic where the wells are. Mahaney asked if there will be monitoring wells to the south and if they are required? Richards replied that they are not required at this time, but it is highly recommended. If it is shown that the wells are drawing down the wetland then they are required. Smith asked if there are multiple aquifers out there? Richards replied that the wells are non-confined aquifers. They are not in the sandstone, they are in a layer between the clay lens and sandstone. Milton asked if they use screens? Richards replied screening coarse medium clean sand. Mahaney asked how deep the wells are? Richards replied that from the bottom of

the casing they are 100 to 110 feet for all three. Kangas asked Scott to cut to the chase - will the DEQ permit these wells? Richard replied that he thinks so and that they there is a lot of money invested in this and that they have been very cautious. Kangas stated that there are enough concerns out there and he thinks it's definitely warranted. Mahaney asked if the DEQ approval that Kangas mentioned going to happen before construction. G. Meister replied that it has been permitted along the way and then at the end they will need a final permit. Mahaney asked to go back to the highway and asked if they feel that with the new entry and exit if the two-foot paved shoulder is adequate with the new speed limit. Mullen-Campbell interjected that the speed limit change is proposed east of Kawbawgam. Throenle confirmed that the change is well past Kawbawgam. Kangas asked Township Manager, Steve Lawry (in the audience) about the exact location. Lawry stated, that MDOT has been asked to take into consideration the pedestrian traffic and the campground that is out there, but they have not determined the exact location yet other than it will be east of Kawbawgam Road. Kangas stated that MDOT is listening. Mahaney's concern is with the acceleration lane and the two-foot shoulder, that it is not much of a buffer with people walking or biking. G. Meister replied it is up to MDOT. Mahaney thinks it would be prudent to bring it up to KBIC because with the speed limit change people will not immediately slow down from the speed of 65, so two feet is not much of a buffer for non-motorized traffic. G. Meister replied that they will review it. Mahaney responded that with the push that Marquette County has with non-motorized he sees that area being used quite a bit and with the Heritage Trail just to the south of it, there are people using it - it would be prudent to enlarge the shoulder. G. Meister responded that he agrees with that and widening it to five feet. Milton asked if there would be any access for private homes to tie into water? G. Meister replied no. G. Meister indicated the other item to note on the public utilities is the sanitary sewer. It will be a combination gravity and forced main sewer, and the receiving system looks to be able to handle that. Looking at the design, the line would be turned over to Township once completed, allowing residents to tie into the sewer. He sees that being a bonus to this project for the residents. Mahaney questioned if this would run alongside the highway. G. Meister responded it will be on the right of way. Mahaney questioned when this would begin. G. Meister responded that would probably be a next year project – not fully designed yet. Milton asked what size pipe they would use? G. Meister responded they would start with eight-inch and it would vary as they go. Milton if this is an eight-inch forced main. G. Meister responded that the forced main would probably be more in the size of four-inch. Mullen-Campbell asked, what the average depth of residential wells in the area. Throenle responded roughly about 40 feet. Mullen-Campbell questioned if the KBIC deeper well would drop the level of their wells. G. Meister indicated it would not. There was a question on what the capacity of the storage tank is. G. Meister replied it is planned to be 75,000 gallons as of right now and a big part of that is for fire suppression needs. This will also be used for the casino. Mahaney asked if they are pretty confident on their construction schedule. G. Meister replied yes, the tentative start date is July 24<sup>th</sup> and

that is based on getting the remainder of the permitting process complete. Most of the big construction should be done by the end of September of next year and by the end of 2018 that will be pretty well wrapped up. There was some discussion on storm water, retention basins, and snow removal. Throenle asked G. Meister to address lighting. G. Meister commented that it will be a down lit style light. He referred to the packet and that it shows lumens etc. It will not be like a Walmart, it will be designed with modern features. It was stated that our ordinance requires that type of lighting. Throenle commented about the dark sky concept. Commissioner referred to the letter we received and asked about the tree being planted in each parking island along with a light, is that going to be an issue. G. Meister replied, no, it is in accordance with the ordinance. Kangas asked if we can recommend approval of this site plan contingent upon receipt of all state permits - wells, public sewer, MDOT permit. G. Meister responded that holding off construction until all permits are through is not realistic.

### **Commission Discussion**

Kangas asked how the motion should be stated with permits not being complete. Mahaney asked if the sewer has been approved and if permits are issued through the Township. This is permitted through the DEQ. Mahaney commented that we don't know if that will happen. Questioned if there would be a reason the Township would not take ownership. Manager Lawry responded that the Board has addressed that issue, but at this point if the DEQ denied this they would have to suggest another way. This is the way the DEQ has suggested it be done. It may take a while. Mahaney asked Lawry if he thinks the permitting will happen. Lawry responded yes. Kangas indicated he thinks we should hold them to the promise in the letter we received today on proper screening on the east side with the fence and mixture of plantings. Mahaney asked Throenle if the landscaping would have to be specified? Throenle responded, yes. Milton asked what the street address is - Throenle responded 105 Acre Trail.

Before the vote, E. Meister indicated his relationship with G. Meister – he has no financial interest in the business. The Planning Commission indicated they had no problem with E. Meister voting.

*Mahaney moved to approve with conditions, Kangas seconded, that after staff review and Commissioner discussion, Site Plan Review Application SR 17-35 is approved in accordance with the standards outlined in Section IX of the Zoning Ordinance, with the following conditions:*

- (1) The letter dated June 16, 2017 regarding landscaping issues is part of the accepted site plan review.*

Vote: Ayes: 7 Nays: 0

MOTION CARRIED

## **VIII. UNFINISHED BUSINESS**

1. Mixed Use Corridor – moved to July 17, 2017 agenda
2. Short Term Rentals – moved to July 17, 2017 agenda

## **IX. PUBLIC COMMENT**

Deb Mulcahey, 633 Lakewood Lane – commended the Commission on thorough review of the project. Regarding the Casino, she expressed her dissatisfaction with the timing of the information being available to the public. Suggestion to G. Meister she would like them to use native seeds and plantings. Right of way is a safety issue heart and she would like proper signage, especially for people from out of the area. With water quality, it was mentioned there is very little impact, but she feels there should be no impact. She is very concerned about the water.

Mark Maki, 370 Karen Road – commented about the public hearing, Mahaney corrected him that it was a typo error. Site Plan Review should be submitted 30 days prior, does not believe the timeline was followed. Maki also feels the zoning ordinances have not been followed. Water issue should have been part of the rezoning. Feels no one cares. No letters from fire department, police department, county health department, DEQ, state highway dept. Feels they should have approved it. Private road discussion, commercial driveway and he will put those in writing.

Janet Amundsen, 2029 M-28 – widening of the highway, wondering what side of the road the space will come from? She would like it to come from the KBIC side, not the lake side. Wants to know if the plans were available to the public, and if so where would she be able to see them. Throenle responded yes, but that we currently do not have a scanner to accommodate that size of paper, however, the plans are listed as part of the agenda materials. She attended the town hall meeting and wanted a copy of the plans instead of a goodie bag.

Jennifer Misigan – VP KBIC – She would like to thank everyone for their due diligence. She apologized to Janet for not having a copy of the plans available for her. Their intent is to be really open with the community and transparent and to be good neighbors.

Public Comment Closed

## **X. COMMISSIONER'S COMMENTS**

White – Mark was right - plans should have been submitted 30 days prior to the meeting and it wasn't. Throenle interjected that they were. White stated that she was looking at a date of May 31, the day it was signed. Throenle responded that it was a supplemental document and the original was submitted May 18. Throenle indicated on it was on the first page of the application, VII.A.1.

Milton - none

Mullen-Campbell – wondered if there was an attorney on staff.

Kangas – withhold my comments

Meister – none

Smith – none

Mahaney – Thanked the Commissioners

**XI. DIRECTOR'S COMMENTS**

None

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

**A.** Minutes – 05.02.17 Marquette City Planning Commission

**B.** Minutes – 05.16.17 Marquette City Planning Commission

**C.** Minutes – 05/15/17 Township Board Minutes – Special Meeting

**XIII. ADJOURNMENT**

Mahaney adjourned the meeting at 10:00 pm.

Submitted by:

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Planning Commission Secretary  
Donna Mullen-Campbell