

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

Thursday, July 6, 2017

I. MEETING CALLED TO ORDER BY: Tom Mahaney at 7:00 p.m.

ROLL CALL

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

Members Absent: Andy Smith (Vice Secretary)

Staff Present: Dale Throenle (Planning Director/Zoning Administrator), Kristin Cannoot (Administrative Assistant)

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

Motion by Meister and seconded by Kangas to approve the agenda with additions; change the day of the week from Monday to Thursday.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

III. MINUTES

None to approve – minutes for the June 19, 2017 meeting will be on the agenda for the July 17, 2017 meeting.

IV. PUBLIC COMMENT

Lynn Staubin – Property manager at 201 Cherry Creek Rd – Expressed her concerns about the Hudson Storage Units; questions about snow removal, ice forming in parking lot as snow melts (there are elderly residents), rain water run off onto property, requested for downcast lighting requested, fence to be pleasant to look at and easily maintained, leave as many trees as possible to form a natural buffer.

Deborah Mulcahey – 633 Lakewood Lane - Expressed concerns about the Hudson Storage Units, not a good neighbor, Hudson junk, (clean up their mess), water retention, mosquitos. Feels that the minutes are not reflective of public comments, feels she was treated inappropriately at the last meeting. Feels Meister should have recused himself from Casino project vote. Concerned about the Casino and water quality and quantity. She is wondering what the impact of the Dutch Campground will be on residents.

Sherry Nelsen – 1849 M28 – Expressed concerns about water from the original casino construction, she had to put in a new well, wants an answer about water. Mahaney informed her that it was all addressed at the last meeting.

Dalia Pavalkyte – 1943 State Hwy M28 – Concerned about expansion of the highway, water and that the highway expansion will be too close to homes.

Mark Daavettila – UP Engineers and Architects – Asked if he could be part of the

Commissioner's discussion regarding Hudson Storage Units later in the meeting. Commissioners approved that.

Connie Barto – 1951 State HWY M28 E – Concerned about highway regarding entrance to casino, brought up previous developments, wants to know where the water for the tower is coming from and what effect it will have. Concerned about casino expansion.

Frank Somerset – Cottage on M28 – Discussed the poor water quality, low water table, he wants the casino to replace his well so he has clean water.

Mark Maki – 370 Karen Road – KBIC issues; He feels that the new commercial entrance goes across residential zone. Water tower, view of it should be part of the site plan review. Talked about what zoning should be doing. Discussed the Hudson development easements; need to amend the plat.

Andy Larsen – 130 Carmen Dr. WHWL FM – He supports the Hudson Storage development, but wants trees on the west and north left as a barrier as he is concerned people will drive across WHWL property.

Linda Rossberg – 1975 M28 E – Concerned about water quality/quantity, referenced a letter from Governor Snyder requesting further dialogue with KBIC in regard to the airport site (letter dated April 22, 2016), litigation if wells are negatively impacted, lives in a residential area and does not want commercial.

Public Comment Closed at 7:30 p.m.

V. PUBLIC HEARINGS

Deferred to VII.B.

VI. PRESENTATIONS

None

VII. NEW BUSINESS

A. Site Plan Review SR 17-35 – KBIC Casino Remodel / Expansion Vote Rescind

1. Staff Introduction - Throenle requests the vote be rescinded. Throenle accepts responsibility for the clerical error.
2. Applicant Discussion - None
3. Commissioner Discussion - None

White moved, Milton seconded, that the Planning Commission rescind the vote taken on June 19, 2017 in regard to site plan review application SR 17-35 as the application did not meet the minimum thirty day submission date requirement found in section 9.1 in the Township Zoning Ordinance.

Vote: Ayes: 6 Nays: 0

MOTION CARRIED

B. Site Plan Review SR 17-35 – KBIC Casino Remodel / Expansion

1. Staff Introduction – Throenle addressed public comment regarding the 500' notification requirement and the MDOT highway easement; No personal property will be taken for the expansion, it will all be on the State easement. He told the audience that at the June 22, 2017 ZBA meeting the hotel and water tower were both approved. Throenle used a graphic to show the audience and Commissioners where everything is located and which parts are zoned commercial and which are zoned residential.

2. Applicant Discussion – None

3. Commission Discussion – Kangas asked if the existing wells will be abandoned. Peter Dupuis, Gundlach Champion, answered that three wells will be abandoned.

Mahaney asked about the depth of the existing wells. Dupuis responded, he does not know, they are 50 gpm, the new wells are 132 gpm and are 100' to 120' deep and they have been monitored by Chuck Thomas from the DEQ. Dupuis reiterated the well information from the last meeting and that no water will be taken from residents. The well field development will begin next week and on July 17th the final eight hour test required by the DEQ will be conducted. Mahaney inquired if the final well test needs to be approved by the state. Dupuis responded, yes.

Throenle addressed the sewer line that KBIC will be building. It is on an MDOT easement, the casino will pay for the construction of the sewer line and will then be a customer of the Township when the Township takes ownership of the sewer line. This will only affect the residents who choose to hook up to the new sewer line.

An audience member asked about security at the casino. Don Wren from KBIC addressed security issues and explained that KBIC has a full time police force.

Meister brought up a possible conflict of interest as his son works for GEI and is involved in the casino project. The Commissioners all agreed that there is no conflict of interest and value Meister's input in this decision.

Kangas expressed a concern over the 30 day paperwork requirement regarding the clerical error and would rather follow a democratic process than a bureaucratic process. Kangas suggested the timeline be amended for future meetings to avoid wasting time. Kangas stated that the Commission will follow the process as required for this particular meeting. Meister suggested it be added to a future agenda to correct the timeline. White and Milton agreed. Milton brought up the fact that the Commission approved the site plan before and he is in favor of approving it tonight. Meister stated that there is no new information.

Kangas reiterated Throenle's statement regarding the highway; that MDOT has the final say. As a Commissioner, Kangas would not recommend something that was not safe and feels it is not the Commissioners place to decide how the highway should be done. Highway safety has to prevail in that situation.

Kangas moved, Mahaney 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 condition:

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

Vote: Ayes: 6 Nays: 0

MOTION CARRIED

C. Conditional Use Permit CU 17-04 – Dutch Homes, LLC Campground

1. Staff Introduction - Throenle addressed an error that has led to the CU permit for the campground showing up on tonight's agenda; if approved, the Commission will proceed directly to the site plan review. Mahaney asked if the green area on the map in the packet is AF. Kangas asked if the area shown had been previously prepped as a golf course. Throenle responded yes and then showed a graphic to clarify the location of the proposed campground for the Commissioners. Throenle stated that there are two concerns regarding this particular location; 1. The residential property to the North and the potential development of said property. 2. The entrance to the property comes directly Chocoley Downs Rd. Throenle stated that the campground would have to be licensed by the State of Michigan before opening.

2. Public Hearing Open at 8:15 p.m.

Mark Maki – 370 Karen Road – Asked if there is a site plan available. Mahaney stated that site plan review comes next. Commented on conditional use requirements; garbage, police, fire, trash and traffic, type of road, impact on river, wetlands and natural characteristics. Maki proceeded to tell the Commission how he feels they should interpret the conditional use permit.

Deborah Mulcahey – 633 Lakewood Lane – Concerned that while looking at the map she could not figure out where the Chocoley River is, is it in a flood plain, flood zone. Concerned about traffic and passing lanes for casino. Discussed calling of a meeting in under 30 days and wants the public to have 30 days to review items.

Public Hearing Closed at 8:20

3. Commission Discussion -

Milton is asking for clarification on tonight's process. Mahaney explained that the Commissioners can approve the conditional use permit to allow a campground and then deny the site plan if they feel it is unacceptable. Milton asked if this was applicable to this AF parcel. Throenle responded, yes. Meister stated that usually conditional use and site plan are discussed together. Throenle responded that tonight they are separate. Meister asked what recommendation the Commission gave to Mr. Smith the last time he came to this body for advice and direction. Throenle responded, Smith was told he needed rezoning approval and prove that he has access to the parcel through an easement. Meister stated that if the Commission is just approving conditional use then it meets the requirements, well isolated and buffered. Meister and Mahaney both question the road and traffic, however, feel it is more part of the site plan. Milton states that it is

Consistent with the area. Mahaney states that it is a large enough parcel and questioned the squiggly line. Throenle stated that is the Chocoley River and that it shows up that way on the map as the southern border of the property. Mahaney asked if the campground needs a DEQ permit. Throenle stated yes and they need to have a State of Michigan operator's license as well. Meister asked what the distance from the campground sites to the river. Al Conrad, project manager, stated half a mile. Meister asked what the setbacks from the camp sites to the property line are. Conrad responded 100 feet.

Meister moved, White seconded that after public comment and staff review and analysis in consideration of Conditional Use application CU 17 04, 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 the Conditional Use Permit 17 04.

Vote: Ayes: 6 Nays: 0

MOTION CARRIED

D. Site Plan Review SR 17-34 – Dutch Homes, LLC Campground

1. Staff Introduction – Part of the Commissioner discussion
2. Applicant Discussion – Part of the Commissioner discussion
3. Commissioner Discussion –

Mahaney stated that the campground parcels look close to the property line. Conrad stated that the road is twenty feet off of the property line and the campsites are thirty feet. Mahaney asked how far from the northern boundary line south to the campsites; where the tail end of that camper would park. Conrad discussed the two way road. Mahaney asked what the proposed road surface is. Conrad stated that NMU insisted on gravel. Meister commented that it seems that would create a dust problem by the cart sheds. Conrad stated that there is continuous traffic there already from the golf course. Kangas asked where the road would travel. Mahaney asked if Conrad is responsible for that road. Conrad stated they are responsible for the easement and that they maintain NMU's roads. Mahaney asked if NMU is aware of the development. Conrad responded yes and the easement was moved 700 feet at Conrad's expense with NMU's approval. Mahaney asked if NMU was notified. Throenle responded, yes and then showed on a graphic the other properties that were notified.

White asked if they are just providing electrical for the campground sites. Conrad responded, full hookup with electrical and water and then discussed the well and a pumping test. Mahaney asked if the well pumping test was monitored by the DEQ. Conrad responded that it was monitored by McDonald Well Drilling and the information was forwarded to the health department which supplies the DEQ with all of their data. Meister asked if all water needed final approval by the DEQ. Throenle responded yes. Mahaney asked about NMU not allowing ATV's on that easement. Conrad responded, yes and that they are discussing an easement with KBIC. Throenle addressed the

Commission to let them know that ATV/ORV discussion should not be on the table at this time as Chocolay does not allow ATV/ORV traffic in that area. Throenle added that within the campground they may use ATV's / ORV's.

Mahaney asked if there are any concerns for Conrad for the residential property to his north, specifically fencing. Conrad responded that the property is currently vacant and that there is a natural ten foot barrier of jack pine and that if need be in the future they would put up a fence. Mesiter commented that a well planted tree line is a better barrier.

Meister asked about traffic and if it is an MDOT responsibility. Throenle addressed public concerns regarding the amount of traffic entering and existing off of M-28 as there will be 91 sites. The campground is open May through October, therefore, traffic is only a concern during those months. The Commissioners discussed other campgrounds and their lack of entrance/exit lanes to the campground. Milton asked about a sign. Throenle responded that is a different issue. Mahaney asked how MDOT could be involved. Throenle suggested that Kangas put it on the 41 Corridor group's radar. Kangas responded that he would run it by the group. Conrad discussed that the campground would be promoted as a seasonal rental so there is not so much in and out. They plan on utilizing a Pure Michigan DOT sign. White asked the name. Conrad responded, Stay and Play.

Throenle addressed the fact that this is a unique situation as the entrance goes through a residential area. Conrad stated that there are eight to nine homes. Meister stated that the residents chose to build on an entrance road to the golf course and are familiar with the traffic. Kangas stated that the campground traffic is usually safer, slower traffic than what you have on the highway. White is all for it and for developing in that area. Meister is concerned about the dust by the clubhouse, but if NMU requested it he is ok with it. Milton asked if they will have home brew like Gitchee Gumme. Conrad stated that on the site plan there will be a home brew, there will be a drain field and septic tank and that the soil analysis shows great sand that is very permeable. Kangas questioned the location for the waste. Conrad stated that the bar would be 150 feet from it.

Mahaney asked if the campground will be completely shut down October through May. Conrad responded that water will be shut down prior to the first freeze. Throenle stated that no matter what it will close by October 31, freeze or not. Mahaney asked about people being able to access it year round. Conrad stated that there will be a gate for people wanting to use it as a day camp with no water and they will not plow through the winter. Throenle addressed the ninety day maximum to live in an RV. The Commissioners discussed it and after Throenle researched the ordinance, it does not apply to campgrounds.

White moved, Kangas seconded that after staff review and Commissioner discussion, Site Plan Review Application SR 17-34 is approved in accordance with the standards outlined in Section IX of the Zoning Ordinance, with the following condition:

- *Proof of final DEQ licensing and approval*

VIII. UNFINISHED BUSINESS

A. Site Plan Review SR 17-33 – Hudson Storage Units

1. Staff Introduction - Throenle stated that the Site Plan is pretty much the same, the difference in this particular application is the redesign as requested by the Commissioners at the previous meeting regarding snow removal, lighting, run off, storm water, fencing, easements for eastern storage unit and security.
2. Applicant Discussion – Part of the Commissioners discussion
3. Commissioner Discussion –

Mark Daavetilla, UP Engineers and Architects, questioned the easement. Mahaney responded that it is important and that if that parcel would be sold without an easement the new owner has no access. Mahaney stated that it looks like they are trying to cram as much as possible on the space. The building should be shifted over to eliminate the problem. Daavetilla feels that the access easement would be up to the future buyer to deal with that. Milton stated that it is a legal document that is submitted to the county that allows that parcel to be accessed. Daavetilla hopes to have everything approved and the access easement as a contingency. Mahaney addressed the concerns from the last meeting; the fence along the south side and that the land owners from the west and south expressed their concerns at tonight's meeting regarding fencing, natural barriers of trees and water retention. Mahaney stated that he drove back there and that the property line is right on top of the group home and that all water is going in that direction. Daavetilla stated that there are some trees being kept as they are outside of Hudson's property line and he addressed that the lighting will be downcast and attached to the buildings for security. Mahaney questioned lighting. Throenle stated that it is not part of this site plan review.

Meister asked if there will be a ditch along the southern property line for storm water. Daavetilla responded, yes, all of the storm water will go to the basin. White directed the Commissioners to C103. Daavetilla asked if there is a storm water, snow removal ordinance that he can refer to. Mahaney stated that it is a concern for the existing neighbors and that the southern lot line drops toward the group home. Throenle addressed the aesthetic aspect more than zoning and that the property division should have adequate buffers.

Daavetilla stated that as undeveloped property, all of the snow and runoff melt away anyway. Mahaney stated when developed there will be hard surfaces such as metal roofs, and paved surfaces that will cause the melting snow and water run off to go directly south instead of being partially absorbed into the ground. Daavetilla stated that they went with a five year storm.

Milton asked the height of the snow pile. Daavetilla does not know and continued to ask for an ordinance to refer to. Kangas states that he sees the attempt being made to

remove water properly, but it is not adequate in his opinion. Mahaney stated that snow removal is always a guess. Kangas asked how often snow is removed. Mahaney stated, after a snow storm. Meister asked if the five year flood plan accounts for just the buildings or does that cover the gravel areas. Daavetilla responded top soil and gravel.

Mahaney states the concern for a fence to give privacy to the group home Daavetilla asked if the fence would be for screening, privacy and security, or headlights. Kangas replied that it would be a visual buffer between the zoning districts. Milton stated it would be to make sure the snow stays on their property.

Kangas wants to recommend it with three conditions. Kangas wants the easement, fence and curbing. Mahaney wants to deny based upon conditions and bring it back with a proper site plan. Commissioners Meister, Kangas and Mahaney discussed what a proper site plan would entail. Daavetilla stated that they want to be good neighbors and would provide what is required or desired and then brought up the access easement. White asked the possibility of going from three buildings to two. Mullen-Campbell suggested an L-Shaped building. Mahaney stated that those suggestions would eliminate the easement problem.

Throenle stated that the easement needs to be in place prior to construction. Milton said it would have to be done through a surveyor or lawyer. Daavetilla feels that an easement can be obtained in twenty minutes. Throenle stated that has to be a legal document and to go through filing in the courts. Kangas stated it has to be recorded. White interjected, recorded with the county. Discussion of changing plans, Daavetilla stated that would require new building permits.

Daavetilla stated that Hudson wants to use some of the storage units for personal property. Kangas stated that he gets what Hudson is trying to accomplish and if it means the mess will be cleaned up it gives him more incentive to see this project happen, however, the issue is the surrounding properties and considering this development as if it were separate ownership; it needs to be looked at long term. Mahaney suggested moving the building over. Daavetilla stated the plans are not changing.

Kangas moved, Milton seconded, that after staff review and Commissioner discussion, Site Plan Review Application SR 17-33 is approved in accordance with the standards outlined in Section IX of the Zoning Ordinance, with the following conditions:

- *Proof of access easement on parcel 52-02-440-002-00 or moving of the building to accommodate the same*
- *Provide screening by way of fencing on the south property line*
- *Curbing or bollards along the west property line to restrict traffic from continuing westward off the property*

Vote: Ayes: 3 Nays: 3 (Mahaney, White, Mullen-Cambell) MOTION FAILED

Further Commissioner discussion; Mahaney stated we have a tie and questioned Throenle as to what happens next. Throenle informed the Commissioners as to how

they may proceed. Mahaney's comment is that he is not opposed to the use of the property, he is opposed to the design. White and Mullen-Campbell both agreed with Mahaney. White feels it should be developed. Mahaney feels it is being crammed and would be a burden to surrounding properties and the lack of an easement is a glaring error on the site plan.

Daavetilla questioned if the Commissioners may deny based on the fact that they do not like the design. Mahaney interjected, the lay-out, not the design. Throenle informed the Commissioners that they may deny based upon specific reasons listed so the applicant may address/correct them in order to move forward. Daavetilla feels all of the requirements have been met and that the vote should be based on that, not whether the Commissioners like the look of it. Throenle cautioned the Commissioners that in order to deny the application, there needs to be specific reasons. White stated if we do not like the design it is not a good enough reason to deny. Throenle stated, yes. White stated she will change her vote. Throenle stated that the motion needs to be restated with new wording and a new vote.

Meister addressed the five year storm and that we need to trust that the engineers are accurate. Daavetilla stated that the engineers have met all of the specifications. Mahaney stated he still has a problem with how close the building is to the property line and would like to see a new site plan. Mullen-Campbell asked about lighting. Meister stated that lighting needs to meet Township standards. Throenle stated that the lighting ordinance requirements are quite extensive. Kangas is in support as long as the easement is completed prior to construction, natural tree buffers remain and would not need to see anything else except restricting traffic to the west.

Throenle and the Commissioners discussed options and rules to approve, deny or do a new motion.

Milton moved, White seconded, that after staff review and Commissioner discussion, Site Plan Review Application SR 17-33 is approved in accordance with the standards outlined in Section IX of the Zoning Ordinance, with the following conditions:

- *Proof of access easement on parcel 52-02-440-002-00 be obtained prior to proceeding with the construction of the storage buildings*
- *Bollards or some sort of traffic control device on west to keep cars from accessing the property next door*
- *Fence or barrier to south to give the appearance of a screen including trees*
- *Downcast lighting*

Vote: Ayes: 5 Nays: 1 (Mahaney) MOTION PASSED

B. Mixed Use Corridor – moved to July 17, 2017 agenda

C. Short Term Rentals – moved to July 17, 2017 agenda

IX. PUBLIC COMMENT

Mark Maki – 370 Karen Road - Discussed the easement and how to obtain one. Brought up the KBIC driveway across residential zone. Talked about amending the plat for an easement. Mahaney questioned Maki, won't their lawyers tell them that. Maki responded, lawyers will let them do whatever they want. The township needs to tell them what to do.

Deborah Mulcahey – 633 Lakewood Lane – Pleased with review of project and asked what happened with Jet Black and how poor it looks; fence is still not constructed. Related to that, she brought up the casino and water issues. She feels that those questions and issues were not addressed. Storage units should have vegetative buffer along the fence on the outside so the public sees the vegetative buffer.

Public Comment Closed at 9:55 p.m.

X. COMMISSIONER'S COMMENTS

Milton – None

White - None

Mullen-Campbell – She is learning fast

Kangas – None

Meister - None

Mahaney – Inquired about the tennis court project. Throenle responded that the tennis court project has a DNR Passport Grant and needs more money to finish the project. Mahaney asked if it will come to fruition. Throenle responded, yes. Mahaney asked about the tablets. Throenle responded that they will be coming, however, no date yet.

XI. DIRECTOR'S REPORT

Next meeting July 17th

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

None

XIII. ADJOURNMENT

Mahaney adjourned the meeting at 10:00 pm.

Submitted by:

Planning Commission Secretary
Donna Mullen-Campbell