



**Planning Commission**  
**Charter Township of Chocolay**

5010 US 41 South  
Marquette, MI 49855  
Phone: 906-249-1448 Fax: 906-249-1313

**There are no minutes for the meeting on January 5, 2009.**

**The meeting was cancelled.**

**CHARTER TOWNSHIP OF CHOCOLAY  
PLANNING COMMISSION MEETING MINUTES  
Monday, February 9, 2009**

**I. MEETING CALLED TO ORDER AT 7:30 PM/ROLL CALL**

**Present:** Chairman Albert Denton, Estelle DeVooght, Ken Tabor,  
Andy Smith, Steve Kinnunen, Andy Sikkema

**Absent:** Kendell Milton (excused)

**Staff Present:** Jennifer Thum (Planning and Community Development), Laurie  
Vashaw-Eagle (Recording Secretary)

**II. APPROVAL OF DECEMBER 8, 2008 MEETING MINUTES**

Albert Denton motioned to approve the December 8, 2008 meeting minutes as written, seconded by Andy Sikkema.

Ayes 6. Nays 0. Motion approved.

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

Estelle DeVooght motioned to approve the agenda as written for February 9, 2009, seconded by Steve Kinnunen.

Ayes 6. Nays 0. Motion approved.

**IV. PUBLIC HEARINGS**

**A. REZONING #142**

Mr. William Beckman submitted a letter dated December 18, 2008 describing the background for of the property encompassing his rezoning request. He stated in his letter that the parcel has been in his family for more than 70 years. His grandfather bought it in the 1930's. A camp was constructed on the lake front portion of the parcel shortly after the purchase. The remaining two parcels remained vacant until four or five years ago, at which time the parcel between Lakewood Lane and M-28. The purchaser has since built a home on this lot. The remaining parcel lies south of Highway M-28.

It abuts Timber Crest on the west side and Varvil's addition on the east. When Varvil's subdivision was laid out there was supposedly a fifty foot barrier left between said property and said subdivision. Mr. Beckman described that when they checked as to where the barrier lay, it was found to not exist. At this point they were forced to hire a surveyor to establish the property lines. Upon doing so, it was discovered there was not fifty feet set aside between our property and Varvil's subdivision. When this property was plotted out, Mr. Varvil's surveyors had made an error and as a result he sold fifty feet of our property to the builders of Timber Crest. In order to settle this problem, there was an agreement to deed fifty feet of our property to Timber Crest. In return we were deeded fifty feet from Mr. Varvil on our east property line.

The fifty feet should never have been on our east side to begin with. It should have been on our west side as a buffer between our residential zoned property and the industrial zoned property on our west side. As a result we now have a parcel zoned R1 butting up to an industrial property. We also now own a parcel zoned residential which is useless as a building lot. Mr. Yelle and Ms. Tina Fuller visited this property when we were trying to find the fifty feet that didn't exist. They are both very familiar with the fact that this parcel is not a good site to build a home, because of the properties that adjoin it, namely, Timber Crest and Marquette Fence Company.

It is with these thoughts in mind that I am requesting this parcel be rezoned to industrial or commercial. We are willing to set aside fifty feet as a buffer between us and the residential property on our east side.

I respectfully request that you rezone this parcel so it can be used as a source of revenue for Chocoley Township, rather than a vacant parcel that will generate very little revenue for the Township.

Mr. Beckman also stated in his letter that it is his hope that the above is enough background to make a decision on this matter. If this is not acceptable, he is requesting that the Planning Commission table the hearing until May, 2009 when he returns from Florida.

## **V. PUBLIC COMMENT**

Joseph Uren, 116 Dana Lane, commented that he is not in favor of any more property in this area being zoned as industrial or commercial due to issues with the existing businesses. Mr. Uren voiced his concern that he believes Timbercrest is burying illegal items in their landfill and has even brought pictures to the Township in the past to no avail.

Chuck Hudson, 104 Dana Lane, commented that he does a lot of walking in the area and has seen batteries, garbage, etc. on a trailer behind Timbercrest and then shortly thereafter it was gone. Mr. Hudson supports Mr. Uren's thinking that things are being buried illegally in the landfill behind Timbercrest.

Ms. Thum will follow-up on these concerns with staff.

## **VI. OLD BUSINESS**

### **A. RECREATION PLAN UPDATE**

Jennifer Thum reported that she attached a draft copy of the proposed Recreation Survey that she hopes can go out to the Township of Chocoley residents this year. She stated that work has been started on the Township's recreation plan and at next month's meeting she will show what has been put together so far in the hopes of getting some input. Please review the draft survey and let her know what you think. Any feedback would be appreciated. Ms. Thum also explained that she would like to send this out with the tax bills in the Spring/Summer. She is also working on trying to get the survey on the Township website where it can be filled in and submitted. The survey will also be announced in the Township Newsletter, at the CABA meetings, and forms will be available at the Township Hall.

Commissioners also suggested that Northern Michigan University be contacted to see if one of their classes might be interested in taking this survey on as a class project. Jennifer Thum will contact Northern Michigan University about this and report back.

## **B. TOP PRIORITIES 2009**

Jennifer Thum requested the Commission member's suggestions for the Top Priorities List for 2009. The 2009 priorities are as follows:

1. Better playground equipment for the existing playgrounds in the Township.
2. Camping by the Marina – Jennifer Thum reported that there will be 2 designated camping spots by the Marina.
3. Pocket Parks – Possibly one by the Township Hall's Pavillion and/or a pocket park with a plaque describing the history of Chocloy Township.

The Commissioners will contact Jennifer Thum with more ideas pertaining to the Top Priorities for 2009.

## **VII. NEW BUSINESS**

### **A. REZONING #142**

Jennifer Thum reported that the applicants, William Beckman and Glenn and Dorothy Beckman have petitioned to amend the Chocloy Township Zoning Ordinance to rezone the following described parcel of property from the current zoning classification of "R-1" (Residential) to "I" (Industrial) or "C" Commercial.

STAFF COMMENTS: (See attached "STAFF/FILE REVIEW – SITE DATA AND ANALYSIS) and the Zoning Administrators report.

Estelle DeVooght questioned this request as she believes this was addressed in the past 3 or 4 years and there was a discrepancy pertaining to a 50 to 75 ft piece of property that did not have a deed.

The Commissioners asked Jennifer Thum to research this piece of property and see if there is a tax number or if the tax description matches the legal description. She will also research past meeting minutes pertaining to a request to develop this piece of property (possibly in 2004).

Andy Sikkema, moved Ken Tabor, seconded, that following the review of Rezoning Request #142, and the Staff/File Review, and holding a public hearing, the Planning Commission recommends to table Rezoning Request #142 until the May, 2009, Planning Commission meeting as long as Mr. Beckman can provide proof of property ownership for the entire parcel being requested to be rezoned.

Ayes 6. Nays 0. Motion approved to table this until the May, 2009 meeting.

### **B. DISPOSING OF TREES AND STUMPS**

Jennifer Thum reported that she had a discussion with Commissioner Andy Smith and he brought up a topic for discussion. Mr. Smith was wondering if anyone knew where and how to properly dispose of trees and their stumps. Currently, contractors can take them to the landfill, but that does get expensive. Ms. Thum reported that she will contact the MSU Extension office and the Superior Watershed Group for their thoughts on this subject.

Ms. Thum reported that she contacted a few different agencies and asked if they know how people are disposing of their trees and stumps. The answers she received were that people bury them to let them decompose and they obtain a burning permit to burn them.

Ms. Thum asked the Commissioners for any thoughts or suggestions. The commissioners in attendance were not aware of any ordinance that addresses this or of any other options that could be looked into at this time.

### **C. SIGN ORDINANCE**

Jennifer Thum reported that after a discussion with Commissioner Andy Sikkema about the current DNR LED sign, he wanted to know where the Township Ordinance stands on this subject. The Township Ordinance states that, “No sign except time and temperature and similar signs shall have blinking, flashing, fluttering lights, exposed bulbs or other illuminating devices which have a changing light intensity, heightens or color, or any form of animation or moving device.” If the Planning Commission wishes, Ms. Thum will research other ordinances that cover this subject as well. Ms. Thum also reported that looking at the sign ordinance she can think of a situation that happened downstate and in Marquette Township involving the size of flags. Ms. Thum would like to research other ordinances that restrict the size of American flags at commercial establishments. She stated that if you drive by Perkin’s Restaurant in Marquette Township there is a huge American flag, which she thinks was not put up to be patriotic, but with the hopes to attract more customers by a huge sign (flag). The Marquette Township flag makes a lot of whipping or snapping noises which disturbs adjacent businesses and residents. Ms. Thum also explained that when she worked at a previous Township the sign ordinance did address the size of flags in relationship to the building. Ms. Thum is asking for support to research ordinances that do restrict the size of flags and bring them to the Planning Commission next month.

The Commissioners discussed that the Township doesn’t like large led signs as they are too much of a distraction to drivers. The Commissioners also approved for Ms. Thum to research and present at the next meeting, draft language for review pertaining to the size of flags in other areas. Follow-up at the next meeting.

### **D. MODEL RIPARIAN BUFFER IMPLEMENTATION PLAN**

Jennifer Thum reported that enclosed in the meeting packet is the sample Riparian Buffer Plan that the Superior Watershed Group put together. A riparian buffer is a vegetated area near a stream, usually forested, which helps shade and partially protect a stream from the impact of adjacent land uses. It also plays a key role in increasing water quality in associated streams, river, and lakes, thus providing environmental benefits. Ms. Thum asked the Commission members if they would like to adopt something similar to their plan, to let her know and she will set something up with the Superior Watershed Group.

Albert Denton stated that he feels that this is usually incorporated into the site review and doesn’t feel there is a need to explore this further.

Ken Tabor stated he wouldn’t mind hearing a presentation from the Superior Watershed Group.

Jennifer Thum will contact the Superior Watershed Group to see if they are willing to attend the next meeting and provide a presentation.

## **VIII. PUBLIC COMMENT**

David Blondeau, 30 N. Tracie, stated that he is a proponent for additional commercially zoned land in the Township of Chocolay. Mr. Blondeau stated that he feels commercially

zoned property in the Township is very limited and he fully supports additional zoned commercial property in the Township. Mr. Blondeau also stated that the old building on the Blondeau Trucking property is tentatively scheduled to come down by the end of February. He stated that he wanted to keep the Commission up-to-date on the status of the construction project.

#### **IX. COMMISSIONER'S COMMENT**

Andy Sikkema inquired about the subcommittee to discuss alternative energy.

Jennifer Thum asked if those interested in discussing this could come a half hour early for the March 9<sup>th</sup> meeting and this can be discussed then. Ms. Thum will also put a reminder in the next meeting packet.

#### **X. DIRECTOR'S REPORT**

Ms. Thum reported that the offer of land that was going to be given to the Township of Chocoday on Kawbawgam Road has been rescinded.

Ms. Thum reported that there is a 20 acre plot and a 40 acre plot that the State of Michigan owns on Kawbawgam Road and they are looking at disposing of it. Part of this land is along Lake Kawbawgam. Ms. Thum reported that the Township has put a request in for it. Ms. Thum will keep the Commission informed.

Ms. Thum reported that Northern Michigan University was given the Chocoday Downs Golf Course. Ms. Thum reported that all approved permits for the proposed development are now null and void. Northern Michigan University is looking at trying to still put a restaurant in sometime in the future, but they would still need to go through the Planning Commission process.

Ms. Thum reported that she and Randy Yelle are working on approximately 10 amendments to the Zoning Ordinance to be presented in the future.

Ms. Thum reported that there are two Seminars scheduled in the near future pertaining to Planning and Zoning. If anyone is interested, let Ms. Thum know as the Township will pay for this Seminar.

Ms. Thum reported they are looking at funding for the Chocoday Bridge.

Ms. Thum also reported that the Township has free low wattage fluorescent light bulbs available for low income families who live in the Township.

#### **XI. INFORMATIONAL ITEMS AND CORRESPONDENCE**

- A. Planning and Zoning news, September 2008 and November 2008
- B. Marquette Township Planning Commission Minutes 12-10-08

#### **XII. ADJOURNMENT**

Al Denton, moved, Ken Tabor, seconded, to adjourn the meeting as there was no further business to address. The meeting adjourned at 9:00 p.m.

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Albert Denton, Chairperson

**CHARTER TOWNSHIP OF CHOCOLAY  
PLANNING COMMISSION MEETING MINUTES  
Monday, March 9, 2009**

**I. MEETING CALLED TO ORDER AT 7:33 PM/ROLL CALL**

**Present:** Chairman Albert Denton, Estelle DeVooght, Ken Tabor,  
Andy Smith, Steve Kinnunen, Kendall Milton

**Absent:** Andy Sikkema

**Staff Present:** Randy Yelle (Zoning Administrator), Tom Murray (Community Development Coordinator), Laurie Vashaw-Eagle (Recording Secretary)

**II. APPROVAL OF FEBRUARY 9, 2009 MEETING MINUTES**

Ken Tabor motioned to approve the February 9, 2009, meeting minutes as written, seconded by Steve Kinnunen.

Ayes 5. Nays 0. Motion approved.

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

Steve Kinnunen motioned to approve the agenda as written for March 9, 2009, seconded by Ken Tabor.

Ayes 5. Nays 0. Motion approved.

**IV. PUBLIC HEARINGS**

No public hearing(s) scheduled.

**V. PUBLIC COMMENT**

No public present.

**VI. OLD BUSINESS**

**A. TOP PRIORITIES 2009**

Staff provided the Top Priorities for 2009 list in the meeting packet. The list consists of the following:

- Pocket Park
- Bike Path extension to residential areas – M-28 to Timberlane and Cherry Creek Road., West of the US 41/M-28 Intersection
- Children's Playground, similar to Kid's Cove in Mattson Park
- ORV Trails
- Grants for an independent Water System, and possibly a Sanitary Sewer System
- Recreation Plan Update – Preserve our current infrastructure, improvements to serve citizens for the next 5 years, and improvements to attract future residents
- Ordinance Updates – To concur with today's technology (Signs), Alternative Energy sources (Wood Boilers, Wind Generators, Solar Energy, Bio Fuel production).
- Improve business district aesthetics and community theme

The Commission members had no additions at this time.

## VII. NEW BUSINESS

### A. ZONING AMENDMENTS

#1 **Amendment #34-09-01** – Multi-Family Residential District (MFR);

Section 4.3: (D) 1:

Existing language:

1. Density is limited to seven homes per acre.

Proposed amended language:

2. Density is limited to *five* homes per acre.

Ken Tabor motioned seconded by Kendall Milton to approve the proposed amended language to five homes.

Ayes 5. Nays 0. Motion carried.

#2 **Amendment 34-09-02** – Agriculture/Forestry (AF); Section 4.7 & 4.4:

Parks were completely omitted from the AF district. In the old zoning Ordinance; Parks were a permitted use within the RP district and a conditional use within the RR-2 district.

Proposed additions:

1. Add to AF Section 4.7 (C) 11 *Parks*
2. Add to WFR Section 4.4 (C) 7. *Parks*

Ken Tabor motioned seconded by Steve Kinnunen to approve the proposed additions listed above.

Ayes 5. Nays 0. Motion carried.

#3 **Amendment 34-09-03** – Agriculture/Forestry (AF); Section 4.7:

Kennels were completely omitted from the AF district, in the old zoning ordinance; kennels were a condition use within the RR-2 & RP districts.

Proposed addition:

1. Add to Section 4.7 (C) 12 *Kennels*

Steve Kinnunen motioned, seconded by Ken Tabor to add the proposed addition listed above.

Ayes 5. Nays 0. Motion carried.

#4 **Amendment 34-09-04** – Height and Placement Regulations; Section 6.1:

(Schedule of Regulations)

Existing language:

	District	Front	Side	Rear
1.	MFR	30	30	30

Proposed language:

2.	MFR	30	<i>10</i>	<i>35</i>
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Steve Kinnunen motioned, seconded by Ken Tabor to approve the proposed language to bring this into alignment with the rest of the ordinance.

Ayes 5. Nays 0. Motion carried.

#5 **Amendment 34-09-05** – Height and Placement Regulations; Section 6.1:  
(Schedule of Regulations)

Existing language:

	District	Minimum Lot Size	Minimum Lot Width
1.	MFR	20 Acres	None

Proposed amended language:

2.	MFR	<b>2 Acres</b>	<b>200 feet</b>
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Ken Tabor motioned, seconded by Steve Kinnunen to table this until the next meeting.

Ayes 5. Nays 0. Table until the next meeting.

#6 **Amendment 34-09-06** – Outdoor Wood Burning Boilers and Appliances;  
Section 6.5: (Conditions of Approval) Section 6.5 (A) and (B) 1. B

Existing language:

1. Minimum chimney height of 15 feet, measured from the grade to chimney top or 2 feet higher than the nearest neighboring principal dwelling within 1000 feet, whichever is higher.

Proposed language:

1. Minimum chimney height of 15 feet, measured from the ***natural land*** grade to chimney top ***or higher*** than the nearest neighboring principal dwelling within 350 feet, whichever is higher.

Steve Kinnunen motioned, seconded by Ken Tabor to table this to incorporate Andy Smith's suggested language in to the proposed language.

Ayes 5. Nays 0. Tabled until the next meeting.

#7 **Amendment 34-09-07** – Commercial Vehicle Parking in Residential Districts;  
Section 6.11:

This paragraph was completely omitted from this section, and should not have been as this paragraph was not addressed. Although, whereas this action was not questioned and/or appealed within the required timeframe, it is my opinion that the newly adopted zoning ordinance is a legal and binding ordinance.

This paragraph is no longer a legal part of the zoning ordinance, therefore, if the Board wants it in the zoning ordinance, it must be adopted as a new amendment to the Zoning Ordinance.

Proposed reinstatement of this paragraph:

1. (C) One (1) 27 foot or smaller truck or van may be parked at a residence in all other residential zoning districts without Township review or approval.

Proposed additions:

2. (A) approval required, ***subject to the following subsections and limitations.***
3. (E) ***In the event of a conflict or contraindication between the above provisions of the Zoning Ordinance and Ordinance number 55, being the Vehicle and Trailer Parking and Storage Ordinance, the terms of the Zoning Ordinance shall prevail.***

If adopted, the action will move the existing (C) to (D).

Steve Kinnunen motioned, seconded by Ken Tabor to approve the proposed reinstatement paragraph and the proposed additions as written above.

Ayes 6. Nays 0. Motion carried. (Estelle DeVooght arrived late)

#8 **Amendment 34-09-08** – Nonconforming Uses and Structures; Article XIV, Sections 14.1 & 14.2:

The Zoning Board of Appeals shall not issue use variances, (Chocolay Township Zoning Ordinance Article XV, and per the Michigan Zoning Enabling Act; Act 110 of 2006) nor can the Planning Commission.

The Township Board, would amend the Zoning Ordinance to include the use that the Township Board may deem should be allowed within a designated Zoning District. Therefore, the Township Board would not be approving or issuing a use variance, but amending the ordinance, per MZEA, to accomplish the desired action or in this case, the desired used within said district(s).

Proposed action:

1. Remove any and all reference to and regarding USE VARIANCES.

No motion was made by the Commission members.

Ayes 6. Nays 0. Motion failed.

#9 **Amendment 34-09-09 – 1. Article II, Definitions:**

1. Add to definitions “Park”

Proposed definition:

*Park, A noncommercial not-for-profit, parcel of land, with or without a Structure, designed to serve the recreational needs of the residents, including but not limited to playgrounds, sport fields, game courts, beaches, trails, picnicking areas, and leisure time activities.*

Ken Tabor motioned, seconded by Kendall Milton to approve the above proposed definition.

Ayes 6. Nays 0. Motion carried.

#10 **Amendment 34-09-10**

1. Article II, Definitions:

Add to definition regarding “Kennels”

**Existing language:**

Means any activity involving the permanent or temporary keeping or treatment of four or more adult dogs, cats or any combination of, other than ordinary agricultural activities

**Proposed amended language:**

*Means any activity involving the permanent or temporary keeping or treatment of four or more domestic pets, including adult dogs or cats, or any combination of such animals exceeding three in number, for other than ordinary agricultural activities.*

No motion was made by the Commission members.

Ayes 6. Nays 0. Motion failed.

#11 **Amendment 34-09-11**

1. Article XVIII. Signs and Fences

Add 18.12 from “Fences” to “Flags”

Proposed language:

**18.12 Flags**

**(A) *Flags, other than corporate, commercial or advertising flags shall be permitted in all residential zoning districts, on developed residential lots. Flags shall be subject to the following regulations:***

- 1. *Flags shall meet the sign setbacks within Section XVIII and the height limits for structures within Section VI.***
- 2. *The flag of the United States of America, as well as other flags, displayed or flown out-of-doors, shall not exceed a total area of twenty-four (24) square feet.***
- 3. *Up to three (3) flags of any combination but not more than one (1) corporate, commercial or advertising flag shall be permitted on a single lot, shopping center, or business.***
- 4. *No flag shall be displayed with the flag of the United States of America, which is of greater area or which is placed at a greater or same height as that of the flag of the United States of America flag.***
- 5. *No corporate, commercial or advertising flag shall be located on any lot other than the business lot that the flag is advertising.***
- 6. *All out-of-doors flags shall be displayed from a pole or other mounting device which is permanently affixed to the ground or a building.***

No motion was made by the Commission members.

Ayes 6. Nays 0. Motion failed.

#12 **Amendment 34-09-12:**

Add to Article II Definitions:

After “Family Day Care Home”:

Proposed language:

***Flag: Any fabric or other flexible material attached to or designed to be flown from a flagpole or similar device or any such device attached to a building or structure for display out-of-doors.***

***Flag, Business: A flag displaying the name, insignia, emblem, logo, or the like, of a business and/or corporation.***

No motion was made by the Commission members.

Ayes 6. Nays 0. Motion failed.

#13 **Amendment 34-09-13:**

Add to Article VI: Add 6.1 after “Said structure(s)”

Proposed language:

***NOTE: Lots of less than 20 acres, but not less than 5 acres within the AF district prior to the adoption of this Ordinance, are legal nonconforming. April, 2008.***

Steve Kinnunen motioned, seconded by Estelle DeVooght to approve the proposed language as stated above.

Ayes 6. Nays 0. Motion carried.

- #14 **Amendment 34-09-14:**  
Add to Article XVIII: 18.4 Remove (C)

Current language:

(C) The flag of any state or nation respectfully displayed.

No motion was made by the Commission members.

Ayes 6. Nays 0. Motion failed.

- #15 **Amendment 34-09-15:**  
Add to section XI after Building Grades fill to increase height.

**11.12 Outside Lighting**

- A. On site lighting shall be directed away from residential properties and public or private streets.
- B. Light emitted in non-residential developments which are adjacent to residential development(s) shall be compatible with the character of the adjacent residential areas.
- C. Information shall be supplied on the style, manufacturer's part number, height direction, location, wattage, type of bulb and intensity of outside lighting on the final site plan for final approval.
- D. Building Lighting:
  - a) No building-mounted or pole mounted floodlights are allowed. Signs may be lit with floodlights provided the light is focused downward on the sign and does not spill beyond the sign. Shields or adjustable louvers shall be required on floodlights to control beam spread.
  - b) Landscape lighting shall be allowed, provided shielding and louvers are utilized to limit lighting to objects only. Lamp wattage shall be low as possible to illuminate the object without causing glare on the site or neighboring property.
  - c) Gas station canopy lights shall be provided with flat lenses to limit glare. Illuminant levels shall comply with Illuminating Engineering Society standards.
  - d) Lighting standards in parking shall have 20 foot maximum mounting height.
  - e) Searchlights, strobes, lasers or similar high intensity light for outdoor advertisement or entertainment are prohibited.
  - f) Lights mounted on buildings shall not be a flashing, or moving or intermittent type.

Ken Tabor motioned, seconded by Estelle DeVooght to table this item so staff can further work on the language for this item and bring it to the next meeting for review.

Ayes 6. Nays 0. Table until the next meeting

## **B. MTA CONFERENCE**

Jennifer Thum reported that she provided a registration form in the meeting packet for the MTA Planning and Zoning Conference in Escanaba on March 31, 2009. If members were interested in attending, they are to let Township staff know by Monday, March 9, 2009.

## **VIII. PUBLIC COMMENT**

No public present.

## **IX. COMMISSIONER'S COMMENT**

Al Denton stated his appreciation to Andy Smith for all the research he's done pertaining to Alternative Energy.

Al Denton reported that he will be resigning from the Zoning Board of Appeals and the ZBA will need a member from the Planning Commission to take his place. If anyone is interested, please contact Randy Yelle or Jennifer Thum.

Al Denton also reported that a Planning Commission and Township Board joint meeting will be arranged for early May, 2009, at the request of a Township Board member. Jennifer Thum will provide further information and will be putting together an agenda for this meeting.

## **X. DIRECTOR'S REPORT**

Ms. Thum provided a written update as she is unable to attend this meeting due to attending an Engineering Conference for Non-Engineers in Wisconsin. Ms. Thum's hope is that she will come back with a better understanding of storm water, floodplains, drain fields, streets and traffic engineering and street maintenance.

Ms. Thum reported that Geri Larson from the Superior Watershed Association will be doing a presentation at our April meeting to talk about riparian buffers and other items that our township could do to ensure the longevity of our dunes and water courses.

Ms. Thum reported that Township staff is still working on the Recreation Plan. They are also working on putting together a grant application to build a pocket park with some playground equipment at the Township's marina site. Speaking with the DPW crew, they felt that a pocket park at the Township Office location might be too close to US 41. Ms. Thum would still like to look into some type of park at our Township Office Location.

Ms. Thum reported that she has spoken with Ron Yesney of the DNR and apparently, they are working on updating the Rail Road overpass on M-28. The Township has no plans for this at this time. When more information is received it will be forwarded to everyone.

Ms. Thum spoke with Randy Yelle pertaining to the issues with tires at Timbercrest. Ms. Thum reported that Mr. Yelle stated that when he first started at the Township, the Timbercrest site was a problem and since then, they have cleaned things up. Ms. Thum reported that she and Mr. Yelle plan to visit the site this summer to make sure everything is cleaned up.

Tom Murray also reported that supervisors from the Marquette Branch Prison and the DNR will be holding a meeting to discuss a possible wind generator being placed between the Marquette Branch Prison and the DNR Office on U.S. 41. The meeting will be held on April 8<sup>th</sup>. Township staff will attend this meeting and report back the information obtained.

**XI. INFORMATIONAL ITEMS AND CORRESPONDENCE**

A. Planning and Zoning news, January and February, 2009.

**XII. ADJOURNMENT**

Ken Tabor, moved, Steve Kinnunen, seconded, to adjourn the meeting as there was no further business to address. The meeting adjourned at 8:30 p.m.

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Albert Denton, Chairperson

**CHARTER TOWNSHIP OF CHOCOLAY  
PLANNING COMMISSION MEETING MINUTES  
Monday, April 13, 2009**

**I. MEETING CALLED TO ORDER AT 7:30 PM/ROLL CALL**

**Present:** Chairman Albert Denton, Estelle DeVooght, Dr. Ken Tabor,  
Kendell Milton, Andy Sikkema

**Absent:** Andy Smith, Steve Kinnunen,

**Staff Present:** Jennifer Thum (Planning and Community Development), Laurie  
Vashaw-Eagle (Recording Secretary)

**II. APPROVAL OF MARCH 9, 2009 MEETING MINUTES**

Ken Tabor motioned to approve the March 9, 2009, meeting minutes as written, seconded by Estelle DeVooght.

Ayes 5. Nays 0. Motion approved.

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

Andy Sikkema motioned to approve the agenda as written for April 13, 2009, seconded by Kendell Milton.

Ayes 5. Nays 0. Motion approved.

**IV. PUBLIC HEARINGS**

No public hearing(s) scheduled.

**V. PUBLIC COMMENT**

No public present.

**VI. PRESENTATION**

**A. SUPERIOR WATERSHED GROUP**

Ms. Geri Larson from the Superior Watershed Group provided a short presentation. Ms. Larson stated that The Superior Watershed Group is a nonprofit organization that serve the entire Upper Peninsula pertaining to buffers, watershed protection, etc. Ms. Larson stated that they have served Chocolay Township quite a bit in the past with projects such as park improvements, erosion control, environmental conservation and restoration. She also stated that there are already some buffers and protections in place within the Township. She suggested that the Township look into applying for the DEQ Coastal Plan that would then be applied to creating a Natural Features Inventory for the Township. This type of inventory could help the Township staff better evaluate site plans, assist in updating the comprehensive plan, the zoning plan, and natural resources overlay. Ms. Larson will leave information pertaining to various types of funding with

Jennifer Thum to provide to the Township staff.

## **VII. OLD BUSINESS**

### **A. MOYLE CONSTRUCTION**

Jennifer Thum explained that she recently inspected the McDonalds/Gateway Plaza site with our engineering consultant, Mike Pond, to make sure everything was proceeding as approved. It was observed that construction was exceeding past the spot shown on the approved plans. Township records show that the original site plan signed and dated November 6, 2006, was not submitted to the County Building Department and was not what Moyle and TriMedia believed they had approval for. Jennifer reported that she, Mike Pond, and George Meister from TriMedia met to try to resolve this issue. Ms. Thum reported that the group agreed to disagree in regards to the final approval given and that TriMedia should approach the Township Planning Commission for final approval of Phase I so work can begin on this phase of the project.

Phase I consists of McDonalds, a financial institution with a drive-thru and seven other buildings. Phase II is going to consist of buildings east of the culvert. TriMedia and Moyle Construction are not sure of what the layout for Phase II will actually look like, so this will not be on the agenda for FINAL approval. At this point TriMedia and Moyle Construction are only seeking approval for Phase I.

Ms. Thum reported that with exception to the conditions placed with the suggested approval motion, TriMedia has provided all the documentation we need for Phase I's final approval. Ms. Thum reported that she doesn't see any problems with Phase I. As part of the conditions, Ms. Thum would like to recommend that our engineering consultant review the site for grading, landscaping and any other concerns.

Al Denton moved, Ken Tabor, seconded, that the Chocolay Township Planning Commission grants final approval for Phase I of SP-05-01 McDonald's/Gateway Plaza. Plans dated April 6, 2009 consisting of sheets 1.0, C2.0, C3.0, C4.0 referring to keynotes and landscaping only and sheet C5.0 are the approved site plans accompanied with the following conditions:

1. The developer submits an illumination plan with site specific lighting features and specifications. These plans and specifications are to be reviewed and approved by Township staff and its consulting engineer.
2. Elevations are to be submitted, reviewed and approved to ensure that building height does not exceed 30'.
3. The developer will adhere to the 30' required buffer adjacent residential zoning district.
4. Plans will be reviewed and approved by the Township's consulting engineer.

Ayes 5. Nays 0. Motion approved.

### **B. ZONING AMENDMENTS**

Jennifer Thum reported that Township staff is bringing to the Planning Commission the proposed zoning amendments that were either tabled or denied at the last meeting. Ms. Thum reported that some changes were made to the wood boiler and the flag proposals as follows:

#1 Amendment 34-09-05 – Height and Placement Regulations; Section 6.1:  
(Schedule of Regulations)

Existing language:

	District	Minimum Lot Size	Minimum Lot Width
1.	MFR	20 Acres	None

Proposed amended language:

2.	MFR	<b>2 Acres</b>	<b>200 feet</b>
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Al Denton moved, seconded by Ken Tabor to table this until the next meeting so Jennifer Thum can work on the language and e-mail the language to everyone for their input. Revisit at the next meeting.

Ayes 5. Nays 0. Motion tabled until the next meeting.

#2 Amendment 34-09-06 – Outdoor Wood Burning Boilers and Appliances;  
Section 6.5: (Conditions of Approval) Section 6.5 (A) and (B) 1. B

Existing language:

1. Minimum chimney height of 15 feet, measured from the grade to chimney top or 2 feet higher than the nearest neighboring principal dwelling within 1000 feet, whichever is higher.

Proposed language:

- a. A setback of 75 feet from any and all lot/property lines, easements, and right-of-ways;
- b. The outdoor wood-fired boiler shall be located at least 300 feet from the nearest residential dwelling, not served by the furnace;
- c. If the outdoor wood-fired boiler is located within 500 feet of the nearest residential dwelling, the chimney height measured from grade to the chimney top must be a minimum of 2 feet higher than the nearest neighboring principal dwelling;
- d. No fuel other than the natural wood without additives, wood pellets without additives, coal, and agricultural seeds in their natural state, may be burned;
- e. Outdoor wood-fired boilers shall not be located in the front yard;
- f. Granting of a zoning compliance permit, constitutes an agreement between the landowner and Chocolay Township, that the zoning administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with conditions;
- g. If the outdoor wood burning appliance meets the Phase I EPA standards, the outdoor wood boiler located within 300 feet of the nearest residential dwelling must have a chimney height measured from grade to the chimney top must be a minimum of 2 feet higher than the nearest neighboring principal dwelling;
- h. If the outdoor wood boiler meets the Phase II EPA standards, a setback of 50 feet from all lot/property lines, easements, and right-of-ways. The outdoor wood-fired boiler shall be located at least 200 feet from the nearest residential dwelling not served by the boiler. There are no chimney height requirements for a Phase II outdoor wood boiler.
- i. “Best Burn Practices” as issued by the Environmental Protection Agency shall be followed by all applicant utilizing outdoor wood boilers.

Estelle DeVooght moved, Ken Tabor seconded, to approve the proposed language for Amendment 34-09-06.

Ayes 5. Nays 0. Motion carried.

#3 Amendment 34-09-08 – Nonconforming Uses and Structures; Article XIV, Sections 14.1 & 14.2:

The Zoning Board of Appeals shall not issue use variances, (Chocolay Township Zoning Ordinance Article XV, and per the Michigan Zoning Enabling Act; Act 110 of 2006) nor can the Planning Commission.

The Township Board, would amend the Zoning Ordinance to include the use that the Township Board may deem should be allowed within a designated Zoning District. Therefore, the Township Board would not be approving or issuing a use variance, but amending the ordinance, per MZEA, to accomplish the desired action or in this case, the desired use within said district(s).

Proposed action:

1. Remove any and all reference to and regarding USE VARIANCES.

Ken Tabor moved, Al Denton, seconded, to approve the proposed language for Amendment 34-09-08 as written.

Ayes 5. Nays 0. Motion carried.

#4 Amendment 34-09-10

1. Article II, Definitions:

Add to definition regarding “Kennels”

Existing language:

Means any activity involving the permanent or temporary keeping or treatment of four or more adult dogs, cats or any combination of, other than ordinary agricultural activities

Proposed amended language:

***Means any activity involving the permanent or temporary keeping or treatment of four or more domestic pets, including adult dogs or cats, or any combination of such animals exceeding three in number, for other than ordinary agricultural activities.***

After a second review, Al Denton moved, Ken Tabor seconded, to approve the proposed language as written for Amendment 34-09-10.

Ayes 4. Nays 1. Motion carried.

#5 Amendment 34-09-11

1. Article XVIII. Signs and Fences

Add 18.12 from “Fences” to “Flags”

Proposed language:

**18.12 Flags**

**(A) Flags, other than corporate, commercial or advertising flags shall be permitted in all residential zoning districts, on developed residential lots. Flags shall be subject to the following regulations:**

- 1. Flags shall meet the sign setbacks within Section XVIII and the height limits for structures within Section VI.**
- 2. Up to three (3) flags of any combination but not more than one (1) corporate, commercial or advertising flag shall be permitted on a single lot, shopping center, or business.**
- 3. No flag shall be displayed with the flag of the United States of America, which is of greater area or which is placed at a greater or the same height as that of the flag of the United States of America flag.**
- 4. No corporate, commercial or advertising flag shall be located on any lot other than the business lot that the flag is advertising.**
- 5. All out-of-doors flags shall be displayed from a pole or other mounting device which is permanently affixed to the ground or a building.**

Jennifer Thum informed the Commission members that she removed anything of restricting the size of the American flag. The only language that remains pertains to not having another flag be taller or larger than the American flag.

Ken Tabor moved, Kendell Milton seconded, to approve the proposed language as written for Amendment 34-09-11.

Ayes 5. Nays 0. Motion carried.

#6 Amendment 34-09-12:  
Add to Article II Definitions:  
After "Family Day Care Home":

Proposed language:

**Flag: Any fabric or other flexible material attached to or designed to be flown from a flagpole or similar device or any such device attached to a building or structure for display out-of-doors.**

**Flag, Business: A flag displaying the name, insignia, emblem, logo, or the like, of a business and/or corporation.**

Andy Sikkema moved, Ken Tabor seconded, to approve the proposed language As written for Amendment 34-09-12.

Ayes 5. Nays 0. Motion carried.

#7 Amendment 34-09-14:  
Add to Article XVIII: 18.4 Remove (C)  
Current language:

(C) The flag of any state or nation respectfully displayed.

After a second review, Kendell Milton moved, Ken Tabor seconded, to approve the removal of Amendment 34-09-14, Article XVIII: 18.4 (C).

Ayes 5. Nays 0. Motion carried.

#8 Amendment 34-09-15:  
Add to Section XI after Building Grades fill to increase height.

**11.12 Outside Lighting**

- A. On site lighting shall be directed away from residential properties and public or private streets.
- B. Light emitted in non-residential developments which are adjacent to residential development(s) shall be compatible with the character of the adjacent residential areas.
- C. Information shall be supplied on the style, manufacturer’s part number, height direction, location, wattage, type of bulb and intensity of outside lighting on the final site plan for final approval.
- D. Building Lighting:
  - a) No building-mounted or pole mounted floodlights are allowed. Signs may be lit with floodlights provided the light is focused downward on the sign and does not spill beyond the sign. Shields or adjustable louvers shall be required on floodlights to control beam spread.
  - b) Landscape lighting shall be allowed, provided shielding and louvers are utilized to limit lighting to objects only. Lamp wattage shall be low as possible to illuminate the object without causing glare on the site or neighboring property.
  - c) Gas station canopy lights shall be provided with flat lenses to limit glare. Illuminant levels shall comply with Illuminating Engineering Society Standards.
  - d) Lighting standards in parking shall have 20 foot maximum mounting height.
  - e) Searchlights, strobes, lasers or similar high intensity light for outdoor advertisement or entertainment are prohibited.
  - f) Lights mounted on buildings shall not be a flashing, moving or intermittent type.

Ken Tabor moved, Estelle DeVooght seconded, to approve the proposed language as written for Amendment 34-09-15.

Ayes 5. Nays 0. Motion carried.

#9 Amendment 34-09-16

Remove from Article IV; Sections 4.1 C, 4.2 C, 4.3 B, 4.4 C, and 4.6 B (on lots of 5 acres or more)

Proposed language:  
Outside wood boilers, including conditions of approval.

Andy Sikkema moved, Kendell Milton seconded, to approve the removal of Amendment 34-09-16, Article IV; Sections 4.1 C, 4.2 C, 4.3 B, 4.4 C, and 4.6 B (on lots of 5 acres or more).

Ayes 5. Nays 0. Motion carried

**VIII. NEW BUSINESS**

**A. KENDELL MILTON APPOINTMENT TO ZBA**

Jennifer Thum reported that at the previous meeting, the Planning Commission Chair, Mr. Al Denton, resigned from the Zoning Board of Appeals (ZBA). As a result,

someone needs to be appointed from the Planning Commission to serve on the Zoning Board of Appeals. Mr. Kendell Milton has volunteered to serve on the ZBA as the Planning Commission represented member.

Al Denton moved, Ken Tabor seconded, that we the Chocolay Township Planning Commission appoint Mr. Kendall Milton to serve on the Zoning Board of Appeals as our representative. Mr. Milton's term will be from April 13, 2009 to May 24, 2011.

Ayes 5. Nays 0. Motion carried.

## **B. CHOCOLAY DOWNS**

Jennifer Thum reported on the high points of the Chocolay Downs meeting held on April 4, 2009 as follows:

- Water Testing – The Township will provide water kits and the location of each well to NMU. NMU will gather the water samples at a minimum once a year with staff from the Township. NMU will conduct the water test at their lab and send the results to Chocolay Township.
- Police Protection – Police Chief Greg Zybert discussed that the vandalism that usually occurs is in the rear of the property by greens 12, 13, 14, 15 and the individual tee boxes. The previous owners have installed gates and natural barriers to try to prevent 4-wheelers and snowmobilers from trespassing. There was also discussion pertaining to new wireless technology that will be installed around Chocolay Township and a possible antenna for that system being installed around the golf course and clubhouse. Also, to help with security at the golf course, NMU will install security cameras that the Township police could watch via the wireless technology. Chief Zybert stated that this would be especially helpful since the Chocolay Township police would be the first to respond to any incidents at the golf course and detain the individual(s) until NMU Public Safety could arrive.
- Fire Protection – Chocolay Township Fire Chief, G. Johnson spoke about response time. Mr. Art Gischia asked if the Fire Department would have to use the ponds on the golf course if needed. Chief Johnson explained that this should not be an issue as there are several water pumps not far from the course and the Township has a portable pump they could use if needed. There was discussion about the future clubhouse/restaurant. NMU will provide the Fire Department with a list of the chemicals they have and their location.
- Future Development – NMU and Chocolay Township discussed the current and future signage and the possibility of a new clubhouse. Chocolay Township will provide NMU with GIS layers, traffic study, sign ordinance and any other information pertaining to Chocolay Downs. NMU has talked to Lansing about the liquor license transfer and it will be about 6 months before they can utilize this at Chocolay Downs. All NMU golf events have been moved to the course. There is also the possibility of utilizing the course in the winter for cross country skiing and snowshoeing.
- There was also conversation about grant writing. Chocolay Township will look into what types of grants they can write that might aid Chocolay Downs/NMU and our community. Ms. Thum will look into this and get with Mrs. Martha Haynes with the NMU Foundation Department.
- Intern – Professor Haynes has 4 candidates that would work for the position at Chocolay Township. Ms. Thum is to contact Mr. Haynes about meeting these individuals and to hold interviews for the intern position. The intern would help with any grant administration, water testing, and help process any applications for new development such as the liquor license.

**IX. PUBLIC COMMENT**

No public present.

**X. COMMISSIONER'S COMMENT**

Al Denton stated that he has concerns pertaining to the Water Testing at the Chocolay Golf Course and feels that Township staff and not an intern should perform these tests. He also suggested that the water testing be sent to another facility for testing so there is no discrepancies or concerns pertaining to this.

Mr. Denton also stated his concern in regards to the "Police Protection" at the Chocolay Golf Course and feels that it should be the decision of Chief G. Zybert, or whomever is on duty, to detain or arrest an individual or individuals who are involved in an incident(s) at the golf course instead of detaining them for NMU Safety to arrive.

**XI. DIRECTOR'S REPORT**

Jennifer Thum reported that at the joint Planning Commission and Township Board meeting, the members will be asked to review the MDOT plans, proposed zoning amendments and thoughts on a township newsletter. This joint meeting will take place on May 20<sup>th</sup>, 2009 at 7:00pm.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

- A. Planning and Zoning news, March, 2009
- B. Michigan Planner, February, 2009

**XIII. ADJOURNMENT**

Estelle DeVooght moved, Ken Tabor seconded, to adjourn the meeting as there was no further business to address. The meeting adjourned at 8:40 p.m.

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Albert Denton, Chairperson

May 18, 2009

**A joint meeting of the Chocolay Township Board and Chocolay Township Planning Commission was held on Monday, May 18, 2009 at the Chocolay Township Office, 5010 U. S. 41 South, Marquette, MI. Planning Commission Chair Denton called the Planning Commission meeting to order and Supervisor Seppanen called the Township Board meeting to order at 7:00 p.m.**

TOWNSHIP BOARD.

PRESENT: Greg Seppanen, Arlene Hill, John Greenberg, John Trudeau, Dr. Ken Tabor, Mark Maki, Susan Carlson.

ABSENT: None.

PLANNING COMMISSION.

PRESENT: Estelle DeVooght, Dr. Ken Tabor, Al Denton, Andy Sikkema, Steve Kinnunen, Andy Smith, Kendell Milton.

ABSENT: None.

STAFF PRESENT: Jennifer Thum, Mary Sanders, Brad Johnson, Denny Magadanz, Pat Beck, Gary Heinzelman.

The first item on the agenda was to look at the new fire truck. Both board went out to see the truck and returned at 7:15 pm.

Discussion by both Planning and Township Boards:

- The township has had two large projects this past year, Blondeau has been completed and the site has been cleaned up with two new buildings. The other project is the McDonalds (Gateway Plaza) that is moving along and the plaza will be a nice addition to our township.
- It would be good to have an overview of the comprehensive plan and how the zoning ordinance works with it.
- The Planning Commission and Board looked not allowing any new roads in Chocolay to be private; but instead required that private roads use county road standards when being built. Culs-de-Sac are only allowed to be temporary in Chocolay Township sub-divisions. All sub-divisions must have two outlets.
- Shared driveways are a problem.
- The Planning Commission would like to hear from the Township Board what direction they want the Planning Commission to go in the future.
- The comprehensive plan will be updated again next year.
- The Planning Commission plans for the future and still has to respond to what is currently happening.
- The 2010 census will most likely show an aging population in Chocolay. The Planning Commission should be looking into transportation and housing for the elderly and how to attract the youth.
- The Planning Commission should be looking at highway issues including the proposed tunnel.
- Water should be a concern of this Township, we should be looking at bring water lines from the City of Marquette.

The proposed zoning amendments 34-09-1 through 34-09-16 were looked at by the two boards. The Township web site was discussed, and staff stated that they are looking for any changes or addition the Board would like to see. Andy Sikkema, Planning Commissioner and representative of MDOT explained the 2009-2010 highway improvements. The intersection at M-28 and U S 41 will be realigned in 2009. Patching and sections will be worked on from the Welcome Center to the intersection in 2009. The pedestrian bridge on M-28 and the tunnel on U S 41 will be 2010 projects. The bike trail from the Welcome Center to Carp River will be relocated away from the highway in 2010. Along with all of these projects landscaping will include planting trees with consideration of clear vision for traffic. Planning Director, Jennifer Thum reported on the Coastal Grant Application with a resolution to be presented to the Board later in the meeting.

Commissioner Denton adjourned the Planning Commission portion of the meeting at 8:40 pm.





SCRAP METAL COLLECTION

Greenberg moved, Tabor second that the Chocolay Township Board accepts the bid from Sands Auto Salvage for scrap metal pickup in the Township.

AYES: 7      NAYS: 0      MOTION CARRIED.

TOWNSHIP ROAD RESURFACING RFP.

Bid specifications on the road resurfacing were presented to the Board for information purposes only. This will be brought back to the Board at the May 18, 2009 meeting.

FRED RYDHOLM RESOLUTION.

Maki moved, Greenberg second that

THE CHARTER TOWNSHIP OF CHOCOLAY  
Board members, staff, and citizens  
Join together to express to Fred Rydholm's  
Family, close friends, neighbors and others who's life has been suddenly  
Jarred by the call home of Fred to a better land.

As we join our hearts and hands in a solemn salute  
To Fred Rydholm as his time of passing has come,  
Our lives have benefited because of who he was,  
What he was, and he stands a monument and  
Inspiration of what a friend and neighbor should be.

In commenting on his own life Fred said "I've never considered myself a writer.  
I'm just a story teller"

We thank God for the stories you've told us. How alive you have made our lives. As with you we  
saw our streets and neighborhoods come to life. We lived through you and grew in wisdom as we  
joined your story telling audience.

Thank you Fred, restin peace. Amen.

AYES: 7      NAYS: 0      MOTION CARRIED.

MCTA SPRING BANQUET

Hill moved, Tabor second that the Township pay the dinner cost of \$25.00 for all employees, Township Board members, Planning Commission members, and ZBA members to attend the 2009 Marquette County Township Association banquet on Friday, May 28, 2009.

AYES: 6      NAYS: 1      MOTION CARRIED.

PUBLIC COMMENT.

Clerk Hill told the Board that Debra Heinzelman is the new Administrative Assistant, she took Cathy Phelps position.

INFORMATIONAL REPORTS AND COMMUNICATIONS.

- A. Board update from employee staff meeting
- B. Police Quarterly Stats
- C. Letter from LSCP about Crime Lab
- D. Information on RR overpass over M-28
- E. Magnum Farm article
- F. Map of proposed Marquette Skate Park
- G. Chocolay Township Volunteer Fire Rescue Department Monthly Report

Supervisor Seppanen adjourned the meeting at 8:15 pm.

\_\_\_\_\_  
Arlene E. Hill, CMC  
Clerk

\_\_\_\_\_  
Mary L. Sanders, CMC  
Deputy Clerk

**CHARTER TOWNSHIP OF CHOCOLAY  
PLANNING COMMISSION MEETING MINUTES  
MONDAY, JUNE 8, 2009**

**I. MEETING CALLED TO ORDER AT 7:30 PM/ROLL CALL**

**Present:** Chairman Albert Denton, Estelle DeVooght, Ken Tabor,  
Kendell Milton, Andy Sikkema, Andy Smith, Steve Kinnunen,

**Absent:**

**Staff Present:** Jennifer Thum (Planning and Community Development), Randy Yelle (Zoning Administrator), Laurie Vashaw-Eagle (Recording Secretary)

**II. APPROVAL OF APRIL 13, 2009 & MAY 18, 2009 (JOINT BOARD) MEETING MINUTES**

Steve Kinnunen motioned, seconded by Andy Sikkema, to approve the April 13, 2009 Planning Commission minutes as written and Ken Tabor motioned, seconded by Estelle DeVooght to approve the Planning Commission/Township Board combined May 18, 2009 meeting minutes as written.

Ayes 7. Nays 0. Motion approved.

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

Steve Kinnunen motioned, seconded by Estelle DeVooght, to approve the agenda as written for June 8, 2009.

Ayes 7. Nays 0. Motion approved.

**IV. PUBLIC HEARINGS**

**A. CONTINUED HEARING FOR REZONING REQUEST #142**

Mr. William Beckman stated that he is requesting to rezone this parcel from R-1 to Commercial. He stated that when Dana Estates had their subdivision surveyed many years ago there was supposed to be a 50 ft buffer between the subdivision and Mr. Beckman's property. This never occurred, which resulted in Mr. Beckman's property being zoned residential instead of commercial. Mr. Beckman stated that he has provided a letter and deed for this property as requested by the Township staff.

Joseph Uren, 116 Dana Lane – stated that he opposes Rezoning Request #142 as he feels the Township doesn't enforce the zoning ordinance. Mr. Uren provided the Commission members with pictures he provided to the Township approximately 7 years ago. The pictures show what Mr. Uren believes is dumping occurring behind Timbercrest and on the Oberstar property. Mr. Uren stated that he believes the residents do not want any more commercial dumps in the area.

Mr. Ed Paveglio 108 Dana Lane, stated that why should Mr. Beckman be allowed to rezone his property when he wasn't allowed to put up a commercial garage? Mr. Paveglio also stated that he and Mr. Beckman have had problems pertaining to their lot lines.

Trisha Martin, Dana Lane, stated that she feels if Mr. Beckman's property is used for storage facilities or something similar, the Township should work with Mr. Beckman to rezone this piece of property from R-1 to Commercial.

**B. PROPOSED ZONING AMENDMENTS 34-09-01 TO 34-09-16**

Proposed Zoning Amendments #34-09-01 through #34-09-16 were presented to the public for comment. There were no comments from the public pertaining to any of the proposed zoning amendments presented (#34-09-01-#34-09-16).

**V. PUBLIC COMMENT**

No public comment.

**VI. PRESENTATION**

No presentations scheduled.

**VII. OLD BUSINESS**

**A. REZONING #142**

Jennifer Thum reported that Rezoning Request #142 is a request from William Beckman, the property in consideration is parcel #52-02-110-063, and the lot is between the Dana Estates and Timbercrest Landscape Company. Mr. Beckman has petitioned the Chocolay Township Planning Commission to rezone the parcel from the current zoning classification of R-1 (Residential to "I" (Industrial or "C" (Commercial). The entire parcel is 3.08+/-acres and the applicant is requesting the rezoning due to hardship of selling the land as residential, as the land abuts an Industrial District.

The questions that came up at the January meeting concerning the deeds have been answered. Mr. Beckman dropped off copies of the deeds that show that he was deeded 50 ft. east of the Dana Estates and he then deeded 50 ft. to the Wursters (Timbercrest). It appears that everything is correct.

Steve Kinnunen moved, Ken Tabor seconded, that following the review of Rezoning Request #142, and the Staff/File Review and holding a public hearing, the Planning Commission recommends that the Township Board Deny Rezoning Request #142 for the following reasons:

1. There is no public health, safety or welfare concerns, that would require this lot to be rezoned.
2. The Planning Commission cannot rezone properties just because the owner is having a hard time selling the lot.
3. The Future Land Use map has the parcel zoned as Residential.

Ayes 7. Nays 0. Motion approved.

**VIII. NEW BUSINESS**

**A. PROPOSED ZONING AMENDMENTS #34-09-01 - #34-09-16**

Jennifer Thum reported that Township staff is bringing to the Planning Commission the proposed zoning amendments now that they have been presented at a public hearing. We can approve them and recommend them to the Township Board, deny them, or table them for more discussion.

#1 Amendment 34-09-01 – Multi-Family Residential District (MFR); Section 4.3:  
(D) 1

Existing language:

1. Density is limited to *seven* homes per acre.

Proposed amended language:

2. Density is limited to *five* homes per acre

Ken Tabor moved, Andy Smith seconded, to approve zoning amendment #34-09-01 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

#2 Amendment #34-09-02 – Agriculture/Forestry (AF); Section 4.7 & 4.4:

Parks were completely omitted from the AF district. In the old zoning ordinance; Parks were a permitted use within the RP district and a conditional use with the RR-2 district.

Proposed additions:

1. Add to AF Section 4.7 (C) 12. Parks
2. Add to WFR Section 4.4 (C) 7. Parks

Steve Kinnunen moved, Ken Tabor seconded, to approve zoning amendment #34-09-02 and recommend to the Township Board.

Ayes 7 Nays 0 Motion carried.

#3 Amendment #34-09-03 – Agriculture/Forestry (AF); Section 4.7;  
Kennels were completely omitted from the AF district, in the old zoning ordinance; kennels were a conditional use with the RR-2 & RP districts.

1. Add to Section 4.7 (C) 11. Kennels

Ken Tabor moved, Kendell Milton seconded, to approve zoning amendment #34-09-03 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

#4 Amendment #34-09-04 – Height and Placement Regulations; Section 6.1:  
(Schedule of Regulations)

Existing language:

	District	Front	Side	Rear
1.	MFR	30	30	30

Proposed amended language:

	District	Front	Side	Rear
2.	MFR	30	10	35

Ken Tabor moved, Steve Kinnunen seconded, to approve zoning amendment #34-09-04 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

#5 Amendment #34-09-05 – Height and Placement Regulations; Section 6.1:  
(Schedule of Regulations)

Existing language:

	District	Minimum Lot Size	Minimum Lot Width
1.	MFR	20 Acres	None

Proposed amended language:

2.	MFR	<b>2 Acres</b>	<b>200 feet</b>
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Ken Tabor moved, Kendell Milton seconded, to approve zoning amendment #34-09-05 and recommend to the Township Board.

Ayes 7 Nays 0 Motion carried.

#6 Amendment #34-09-06 – Outdoor Wood Burning Boilers and Appliances;  
Section 6.5: (Conditions of Approval) Section 6.5 (A) and (B) 1. B

Existing language:

1. Minimum chimney height of 15 feet, measured from the grade to chimney top or 2 feet higher than the nearest neighboring principal dwelling within 1000 feet, whichever is higher.

Proposed language:

- a. A setback of 75 feet from any and all lot/property lines, easements, and right-of-ways;
- b. The outdoor wood-fired boiler shall be located at least 300 feet from the nearest residential dwelling, not served by the furnace;
- c. If the outdoor wood-fired boiler is located within 500 feet of the nearest residential dwelling, the chimney height measured from grade to the chimney top must be a minimum of 2 feet higher than the nearest neighboring principal dwelling;
- d. No fuel other than the natural wood without additives, wood pellets without additives, coal, and agricultural seeds in their natural state, may be burned;
- e. Outdoor wood-fired boilers shall not be located in the front yard;
- f. Granting of a zoning compliance permit, constitutes an agreement between the landowner and Chocolay Township, that the zoning administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with conditions;
- g. If the outdoor wood burning appliance meets the Phase I EPA standards, the outdoor wood boiler located within 300 feet of the nearest residential dwelling must have a chimney height measured from grade to the chimney top must be a minimum of 2 feet higher than the nearest neighboring principal dwelling;
- h. If the outdoor wood boiler meets the Phase II EPA standards, a setback of 50 feet from all lot/property lines, easements, and right-of-ways. The outdoor wood-fired boiler shall be located at least 200 feet from the nearest residential dwelling not served by the boiler. There are no chimney height requirements for a Phase II outdoor wood boiler.
- i. “Best Burn Practices” as issued by the Environmental Protection Agency shall be followed by all applicants utilizing outdoor wood boilers.

Ken Tabor moved, Andy Sikkema seconded, to table amendment #34-09-06 until the next meeting to allow staff to research set-backs and the definition of grade.

Ayes 7. Nays 0. Tabled.

#7 Amendment #34-09-07 – Commercial Vehicle Parking in Residential Districts; Section 6.11:

This paragraph was completely omitted from this section, and should not have been as this paragraph was not addressed. Although, whereas this action was not questioned and/or appealed within the required timeframe, it is my opinion that the newly adopted zoning ordinance is a legal and binding ordinance.

This paragraph is no longer a legal part of the zoning ordinance, therefore, if the Board wants it in the zoning ordinance, and it must be adopted as a new amendment to the Zoning Ordinance.

Proposed reinstatement of this paragraph:

1. (C) One (1) 27 foot or smaller truck or van may be parked at a residence in all other residential zoning districts without Township review or approval.

Proposed additions:

2. (A) approval required, *subject to the following subsections and limitations.*
3. (E) *In the event of a conflict or contraindication between the above provisions of the Zoning Ordinance and Ordinance number 55, being the Vehicle and Trailer Parking and Storage Ordinance, the terms of the Zoning Ordinance shall prevail.*

If adopted, the action will move the existing (C) to (D).

Steve Kinnunen moved, Al Denton seconded, to reinstate the previous zoning ordinance wording for amendment #34-09-07 and recommend to the Township Board.

Ayes 7 Nays 0 Motion carried.

#8 Amendment #34-09-08 – Nonconforming Uses and Structures; Article XIV, Sections 14.1 & 14.2:

The Zoning Board of Appeals shall not issue use variances, (Chocolay Township Zoning Ordinance Article XV, and per the Michigan Zoning Enabling Act; Act 110 of 2006) nor can the Planning Commission.

The Township Board, would amend the Zoning Ordinance to include the use that the Township Board may deem should be allowed within a designated Zoning District. Therefore, the Township Board would not be approving or issuing a use variance, but amending the ordinance, per MZEA, to accomplish the desired action or in this case, the desired use within said district(s).

Proposed action:

1. Remove any and all reference to and regarding USE VARIANCES.

Andy Smith moved, Ken Tabor seconded, to approve zoning amendment #34-09-08 and recommend to the Township Board.

Ayes 7 Nays 0 Motion carried.

- #9 Amendment #34-09-09 – 1. Article II, Definitions:  
1. Add to definitions “Park”

Proposed definition:

***Park, A noncommercial not-for-profit, parcel of land, with or without a Structure, designed to serve the recreational needs of the residents, including but not limited to playgrounds, sport fields, game courts, beaches, trails, picnicking areas, and leisure time activities.***

Steve Kinnunen moved, Ken Tabor seconded, to approve zoning amendment #34-09-09 and recommend to the Township Board.

Ayes 7 Nays 0 Motion carried.

- #10 Amendment #34-09-10

1. Article II, Definitions:

Add to definition regarding “Kennels”

Existing language:

Means any activity involving the permanent or temporary keeping or treatment of four or more adult dogs, cats or any combination of, other than ordinary agricultural activities

Proposed amended language:

***Means any activity involving the permanent or temporary keeping or treatment of four or more domestic pets, including adult dogs or cats, or any combination of such animals exceeding three in number, for other than ordinary agricultural activities.***

Andy Sikkema moved, Al Denton seconded, to approve zoning amendment #34-09-10 and recommend to the Township Board.

Ayes 4 Nays 3 Motion carried.

- #11 Amendment #34-09-11

1. Article XVIII. Signs and Fences

Add 18.12 from “Fences” to “Flags”

Proposed language:

***18.12 Flags***

***(A) Flags, other than corporate, commercial or advertising flags shall be permitted in all residential zoning districts, on developed residential lots. Flags shall be subject to the following regulations:***

- 1. Flags shall meet the sign setbacks within Section XVIII and the height limits for structures within Section VI.***
- 2. Up to three (3) flags of any combination but not more than one (1) corporate, commercial or advertising flag shall be permitted on a single lot, shopping center, or business.***
- 3. No flag shall be displayed with the flag of the United States of America, which is of greater area or which is placed at a greater or same height as that of the flag of the United States of America flag.***
- 4. No corporate, commercial or advertising flag shall be located on any lot other than the business lot that the flag is advertising.***
- 5. All out-of-doors flags shall be displayed from a pole or other mounting device which is permanently affixed to the ground or a building.***

Ken Tabor, moved, Steve Kinnunen, seconded to approve only (A) #1 of zoning amendment #34-09-12 and delete #2-#5 and recommend to the Township Board.  
Ayes 7. Nays 0. Motion carried.

#12 Amendment #34-09-12:  
Add to Article II Definitions:  
After “Family Day Care Home”:

Proposed language:

***Flag: Any fabric or other flexible material attached to or designed to be flown from a flagpole or similar device or any such device attached to a building or structure for display out-of-doors.***

***Flag, Business: A flag displaying the name, insignia, emblem, logo, or the like, of a business and/or corporation.***

Steve Kinnunen, moved, Al Denton, seconded to approve zoning amendment #34-09-12 and recommend to the Township Board.  
Ayes 7 Nays 0 Motion carried.

#13 Amendment 34-09-13:  
Add to Article VI: Add 6.1 after “Said structure(s)”

Proposed language:

***NOTE: Lots of less than 20 acres, but not less than 5 acres within the AF district prior to the adoption of this Ordinance, are legal nonconforming. April 21, 2008.***

Steve Kinnunen, moved, Estelle DeVooght, seconded to approve zoning amendment #34-09-13 and recommend to the Township Board.  
Ayes 7 Nays 0 Motion carried.

#14 Amendment 34-09-14:  
Add to Article XVIII: 18.4 Remove (C)

Current language:

(C) The flag of any state or nation respectfully displayed.

Steve Kinnunen, moved, Ken Tabor, seconded to approve zoning amendment #34-09-14 and recommend to the Township Board.  
Ayes 7. Nays 0. Motion carried.

#15 Amendment 34-09-15:  
Add to Section XI after Building Grades fill to increase height.

### **11.12 Outside Lighting**

- A. On site lighting shall be directed away from residential properties and public or private streets.
- B. Light emitted in non-residential developments which are adjacent to residential development(s) shall be compatible with the character of the adjacent residential areas.

- C. Information shall be supplied on the style, manufacturer's part number, height direction, location, wattage, type of bulb and intensity of outside lighting on the final site plan for final approval.
- D. Building Lighting:
  - a) No building-mounted or pole mounted floodlights are allowed. Signs may be lit with floodlights provided the light is focused downward on the sign and does not spill beyond the sign. Shields or adjustable louvers shall be required on floodlights to control beam spread.
  - b) Landscape lighting shall be allowed, provided shielding and louvers are utilized to limit lighting to objects only. Lamp wattage shall be low as possible to illuminate the object without causing glare on the site or neighboring property.
  - c) Gas station canopy lights shall be provided with flat lenses to limit glare. Illuminant levels shall comply with Illuminating Engineering Society Standards.
  - d) Lighting standards in parking lots shall have 20 foot maximum mounting height.
  - e) Searchlights, strobes, lasers or similar high intensity light for outdoor advertisement or entertainment are prohibited.
  - f) Lights mounted on buildings shall not be a flashing, moving or intermittent type.

Steve Kinnunen moved, Ken Tabor, seconded to approve zoning amendment #34-09-15 and recommend to the Township Board.

Ayes 7 Nays 0 Motion carried to table.

#16 Amendment #34-09-16  
Remove from Article IV; Sections 4.1 C, 4.2 C, 4.3 B, 4.4 C, and 4.6 B  
(on lots of 5 acres or more)

Proposed language:

Outside wood boilers, including conditions of approval.

Estelle DeVooght moved, Andy Sikkema, seconded to table this until the next meeting so staff can research further #34-09-06.

Ayes 7 Nays 0 Motion carried to table.

## **B. HEIGHT RESTRICTION FOR ACCESSORY STRUCTURES**

Jennifer Thum reported that a couple of months ago, staff was approached by Mr. Gary Niemela to discuss the height limit of accessory structures in our Township, which is 15 ft. Mr. Niemela's position is that we should reconsider this height and raise it to 17 ft; this would be the average height from finished grade to the center of the vertical truss height. Mr. Niemela's logic behind this is, the State of Michigan has adopted a new energy code, which requires R49 in ceilings to comply with the heel trusses that must be raised to accommodate insulation. The new energy code is expected to encourage more insulation and ventilation in attic spaces.

Staff has spoken with Greg Sicotte at the County, and he does not interpret the energy code the same as Mr. Niemela. We have gotten a letter of support from Mr. Swadley of Sunrise Builders, stating that he believes the height increase would be a good thing too. Ms. Thum has spoken with Marquette Township and the City of Marquette both of them are looking at raising the height. One objection at Marquette Township was that the increased height could lead to view or shade problems for the neighbors. Our

Zoning Administrator, Mr. Yelle is not in support of raising the detached height limit from 15 ft. to 17 ft.

Ms. Thum stated that she shares the same concerns as Marquette Township, but our zoning ordinance is not “green” and we should be encouraging residents to do everything to be more environmentally sensitive. Her concern about having residents create living space in the attic due to height increase is legitimate, but that is where we would have to do more enforcement and work with the County to ensure that the plans don’t reflect any living space. Ms. Thum stated she would be in support of raising the height, but maybe to 16 ft, with the condition that the height of the accessory structure does not exceed the main structure.

Steve Kinnunen moved, Ken Tabor seconded, to table this item, to give staff further time to review/research set-backs, definition of grade, and lot sizes until the next meeting.

Ayes 7 Nays 0 Motion to table this item until the next meeting.

### **C. PEDESTRIAN GRANTS**

Jennifer Thum reported that our NMU intern, Mr. John Neych has been working on trying to secure a couple of pedestrian based grants. He has completed the first one which is through the North Carolina Highway Safety Research Center they wrote a book titled, “Resident Guide for Creating Safe and Walkable Communities.” The Highway Safety Research Center was seeking ten communities or neighborhoods that were interested in making their environment safe for pedestrians and walkable to pilot the test guide. We will hear if we were awarded this grant in mid-July.

The second one will be worked on within the next couple of weeks and that is through the Conservation Fund, in partnership with Eastman Kodak and the National Geographic Society, provides small grants to stimulate the planning and design of greenways in communities across the United States. The annual grants program is designed to help establish a national network of greenways. The grants may be used for activities such as mapping, ecological assessments, surveying, conferences, design activities, developing brochures and interpretative displays, public opinion surveys, hiring consultants, incorporating land trusts, building foot bridges, planning bike paths, or other creative projects.

### **D. SENIOR COMMITTEE**

Mr. Steve Kinnunen, reported on the possibility of creating a senior committee. Ms. Thum thinks this is a great idea, as our demographics show an aging population and she thinks it would be a good idea to try and meet with them to see what their needs are from the Township. Ms. Thum stated she would be happy to post some information on the Township’s website about the possible committee to see if we get any interested volunteers.

Al Denton moved, Steve Kinnunen seconded, to have the Planning Director post some information on the website about the possible senior committee to see if we get any interest.

Ayes 7 Nays 0 Motion carried.

### **E. POCKET PARK**

Steve Kinnunen reported that at the April meeting, he showed Ms. Thum pictures of pocket parks and thought that we should try and develop at least one in our Township.

This would be a great thing, but the hard part comes in trying to find a location to work on. Mr. Kinnunen drew up a plan for a park at our municipal complex and Ms. Thum has discussed this with our DPW and they were concerned about it being rather close to the road.

Ms. Thum reported that the Township did put away money for new playground equipment, and she was thinking that we might be able to do a park and install playground equipment by the Township marina on Main Street. There are a lot of families in the Harvey area with really no place for recreation. Ms. Thum stated that a fence could be installed to help keep the kids away from the water and the playground equipment could be located on top of the hill.

Steve Kinnunen motioned, Estelle DeVooght seconded, to support staff to go to the Township Board to discuss a pocket park in Chocolay Township.

Ayes 7 Nays 0 Motion carried.

#### **F. MDOT LANDSCAPE PLAN**

Jennifer Thum reported that she has gotten back the latest landscape plan for the US-41 Enhancement Project. It appears that there will be landscape coverage in more areas and staff is pleased, but still has some concerns. Such as the plant choices, there could be more use of taller trees, the split-rail fence seems to have disappeared and the consultant is still showing trees where some already exist. Ms. Thum provided photographs of the proposed plans and trees.

Ms. Thum stated that this plan is for our Township, so she is expecting all of the Commissioners to really look at the plans, and pay attention to the locations, plant species and determine if overall you as a resident are happy with the plans. The Township and its residents should feel very fortunate to have a project like this in our Township and Ms. Thum would like to see the Township Boards and Commissions take some ownership of this project.

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

No public comment.

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

No comments from the Commissioners.

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

Jennifer Thum reported that the Township has made it through the first round of the Coastal Grant and hopes to hear something further in June. Ms. Thum reported that there will be an article in the CABA Newsletter pertaining to road construction.

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

A. Planning and Zoning News, May, 2009.

B. Marquette Township Planning Commission minutes March, April, and May, 2009.

#### **XIII. ADJOURNMENT**

Ken Tabor moved, Andy Smith seconded, to adjourn the meeting as there was no further business to address. The meeting adjourned at 9:40 p.m.

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Albert Denton, Chairperson

**CHARTER TOWNSHIP OF CHOCOLAY  
PLANNING COMMISSION MEETING MINUTES  
MONDAY, JULY 13, 2009**

**I. MEETING CALLED TO ORDER AT 7:30 PM/ROLL CALL**

**Present:** Chairman Albert Denton, Estelle DeVooght, Ken Tabor,  
Kendell Milton, Andy Sikkema, Andy Smith, Steve Kinnunen,

**Absent:**

**Staff Present:** Jennifer Thum (Planning and Community Development),  
Laurie Vashaw-Eagle (Recording Secretary)

**II. APPROVAL OF JUNE 8, 2009 MEETING MINUTES**

Estelle DeVooght, moved, Andy Sikkema, seconded, to approve the June 8, 2009 Planning Commission minutes as written.

Ayes 7. Nays 0. Motion approved.

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

Steve Kinnunen, moved, Estelle DeVooght, seconded, to approve the agenda as written for the July 13, 2009, Chocolay Township Planning Commission meeting.

Ayes 7. Nays 0. Motion approved.

**IV. PUBLIC HEARINGS**

**A. CONTINUED HEARING FOR ZONING AMENDMENTS #34-09-06 AND # 34-09-16**

Proposed Zoning Amendments #34-09-06 and #34-09-16, which were tabled at the previous meeting, were presented to the public for comment. There were no comments from the public.

**B. REZONING #143**

Mr. Frank Stabile, 121 Vista Hills Trail, presented a summary of Rezoning Request #143. This request is to further develop his property, which consists of approximately 103 acres and is located approximately 5 miles south of the US 41 intersection on the east side. Mr. Stabile received approval for a private road in 2000, but didn't request anything further. He put in the road, utility services, and built his home at that time. Mr. Stabile stated he feels that this planned unit development would be a good fit and maintain the integrity of the area around it. He reported that he has been working with Township staff to address their concerns and do what is required to develop this property. Mr. Stabile reported that he did neglect to pay attention to the recent zoning ordinance revisions and was under the impression that the 5 acre requirement that was previously in effect was grandfathered for this property. Mr. Stabile also stated that the current development plan is very similar to the one he presented in 2000 when he requested a private road. He would now like to develop 9 parcels (approximately 95

acres) and is requesting to rezone the property from AF to a PUD, which is why he is requesting a Planned Unit Development (PUD).

**V. PUBLIC COMMENT**

Eric Keough, 111 Autumn Trail, reported that he is the person who has the purchase agreement with Mr. Stabile to construct a home on one of the 5 acre parcels and fully supports Mr. Stabile's request.

Diane Huetter, Green Garden Hill, stated that she does not support this particular development as she feels developments such as this should be closer to town.

Bernie Huetter, Green Garden Road, has concerns about water issues that are usually associated with these types of developments as this would be close to his property.

Gary Revord, 7001 US 41 S, stated he supports Mr. Stables planned development.

**VI. PRESENTATION**

No presentations scheduled.

**VII. OLD BUSINESS**

**A. HEIGHT RESTRICTIONS FOR ACCESSORY BUILDINGS**

\*\*This item was tabled last month in order for Mr. Niemela to be in attendance.\*\*

Jennifer Thum reported that a couple of months ago, staff was approached by Mr. Gary Niemela to discuss the height limit of accessory structures in our Township, which is 15 ft. Mr. Niemela's position is that we should reconsider this height requirement and raise it to 17 ft; this would be the average height from finished grade to the center of the vertical truss height. There were two parts to these request, one is that the new energy code is having individuals push for taller garages for more installation and that is what people are wanting now.

Staff has spoken with Greg Sicotte at the County, and he does not interpret the energy code the same as Mr. Niemela. We have gotten a letter of support from Mr. Swadley of Sunrise Builders, stating that he believes the height increase would be a good thing too. Ms. Thum reported that she's spoken with Marquette Township and the City of Marquette, both of which are looking at raising their height requirement. One objection at Marquette Township was that the increased height could lead to view or shade problems for the neighbors. Our zoning administrator, Mr. Yelle is not in support of raising the detached height requirement limit from 15 ft. to 17 ft.

Ms. Thum reported that personally she shares the same concerns as Marquette Township, but she also knows that the Township Zoning Ordinance is not "green" and we should be encouraging residents to do everything that can be done to be more environmentally sensitive. The concern about having residents create living space in the attic due to height increase is legitimate, but that is where we would have to do more enforcement and work with the County to ensure that the plans don't reflect any living space. Ms. Thum reported that she would be in support of raising the height requirement, but maybe to 16 ft., with the condition that the height of the accessory structure does not exceed the main structure.

Mr. Niemela was present and discussed some of his reasoning for requesting the height requirement be increased for accessory buildings. He explained that roofs with a 10-12

foot roof pitch are becoming the norm. He did explain that he is not pushing for the energy code as stated previously, but a height increase would allow a person to apply the new energy code if he/she desired. The old height requirement does have its drawbacks such as lack of room for insulation, ice build-up that results in roof leaks, etc. He also reported that he provided a letter of support from the Builder's Association.

Ms. Thum reported that the City of Marquette did pass a height requirement of 17.6 ft on July 7, 2009.

After much discussion involving lot sizes and the possibility that a height increase could cause problems involving viewing and shading the neighbors property, Steve Kinnunen, moved, Estelle DeVooght, seconded, to have Township staff come up with a formulation to include height and set-backs for various size properties to review and hold a public hearing on this at the next meeting

Ayes 7. Nays 0. Motion approved.

## **B. PROPOSED ZONING AMENDMENTS #34-09-06 AND #34-09-16**

### **OUTDOOR WOOD BURNING BOILERS AND APPLIANCES**

Section 6.5: (Conditions of Approval) Section 6.5 (A) and (B) 1. b.

Proposed amended language: (conditions for approval)

~~a. A setback of 75 feet from any and all lot/property lines, easements and right of ways;~~

Chimney Heights

b. The outdoor wood-fired boiler shall be located at least 300 feet from the nearest residential dwelling, not served by the furnace;

- *Or the chimney shall extend to a minimum height of 15 ft if neighboring residences are located greater than 300ft from the proposed boiler, Which ever is greater:*

c. If the outdoor wood fired boiler is located within 500 feet of the nearest residential dwelling, the chimney height measured from grade to the chimney top must be a minimum of 2 feet higher than the nearest neighboring principal dwelling;

d. *If there is an existing outdoor wood boiler already installed and there is new construction of a residence not served by the outdoor wood boiler within 200ft of such wood boiler then the owner of such wood boiler shall conform to the stack height requirements of this regulation within 30 days of the date such construction is complete and upon written notice from Chocolay Township*

### *OWB Regulations*

a. No fuel other than the natural wood without additives, wood pellets without additives, coal and agricultural seeds in their natural state may be burned;

1. The following fuels are strictly prohibited in new or existing Outdoor Wood Furnaces:

- i. Wood that has been painted, varnished or coated with similar material and/or has been pressure-treated with preservatives and contains resins or glues as in plywood or other composite wood products.
- ii. Rubbish or garbage, including but not limited to food wastes, food packaging, or food wraps.

- iii. Any plastic materials, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
  - iv. Rubber, including tires or other synthetic rubber-like products.
  - v. Newspaper, cardboard, or any paper with ink or dye products.
  - vi. Any other items not specifically allowed by the manufacturer or this provision.
- b. Outdoor wood fired boilers shall not be located in the front yard;
- c. Granting of a zoning compliance permit, constitutes an agreement between the landowner and Chocolay Township, that the zoning administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with conditions;
- d. If the outdoor wood burning appliance meets the Phase I EPA standards, the outdoor wood boiler located within 300 feet of the nearest residential dwelling must have a chimney height measured from grade to the chimney top must be a minimum of 2 feet higher than the nearest neighboring principal dwelling.
- e. If the outdoor wood boiler meets the Phase II EPA standards, a setback of 50 feet from all lot/property lines, easements, and right-of-ways. The outdoor wood-fired boiler shall be located at least 200 feet from the nearest residential dwelling not served by the boiler. There are no chimney height requirements for a Phase II outdoor wood boiler.
 

*Letter d and e seem to be the norm with other zoning ordinances, except the phase II has a 100ft setback in majority of the ones that I read. Also, there was a note about no outdoor wood boiler should be closer than 500 ft from the property line of a state licensed school, daycare or healthcare facility regardless of the emission rate. If terrain conditions could complicate air flow patterns on a parcel of land (e.g. valley, hilly, or tall trees), it may be necessary to install the OWB even farther away than the minimum setback distance to avoid costly changes that could be required later is a nuisance occurs when the boiler is operated.*
- f. "Best Burn Practices" as issued by the Environmental Protection Agency shall be followed by all applicants utilizing outdoor wood boilers.
- g. *In a couple of the ordinances talk about Commercial Outdoor Wood Boiler with a rated thermal output greater than 350,000Btu/hr. Should we mention something about commercial units in our ordinance?*
- h. *No OWB, regardless of the date of installation, is allowed to operate when conditions cause visible smoke plum to cross onto adjacent owner's land and buildings for 12 minutes or more in any hour. Sending smoke on adjacent land or buildings for 12 minutes or more is a nuisance and a violation of the regulation.*
- i. *Outdoor furnaces may only be used from September 1 to May 31 each year.*
- j. *All outdoor wood-fired boilers shall be equipped with properly functioning spark arrestors.*

Andy Smith, moved, Ken Tabor, seconded, to approve zoning amendment #34-09-06 and forward it to the Township Board for their review.

Ayes 6. Nays 1. Motion approved.

#2 Amendment 34-09-16

Remove from Article IV: Sections 4.1 C, 4.2 C, 4.3 B, 4.4 C and 4.6 B.  
(On lots of 5 acres or more)

Proposed language:

Outside wood boilers, including conditions of approval.

Ken Tabor, moved, Andy Smith, seconded, to approve zoning amendment #34-09-16 and forward it to the Township Board for their review.

Ayes 6. Nays 1. Motion approved.

## **VIII. NEW BUSINESS**

### **A. REAPPOINTMENTS OF PLANNING COMMISSION MEMBERS**

Jennifer Thum reported that the terms of Andy Sikkema who replaced Denny Magadan and Steve Kinnunen expired on May 24, 2009.

Ken Tabor, moved, Estelle DeVooght, seconded, to allow the Director of Planning and Community Development to write a letter of support on behalf of the Planning Commission asking for the re-appointment of Andy Sikkema and Steve Kinnunen and present the letter to the Township Supervisor.

Ayes 5. Nays 0. Motion approved. (Andy Sikkema and Steve Kinnunen abstained from voting)

### **B. REZONING #143**

Jennifer Thum reported the Rezoning #143 is a request from Mr. Frank Stabile of 121 Vista Hills Trail, the properties in consideration are parcel #52-02-126-019-014, #52-02-126-019-30, and #52-02-126-019-20. These parcels are part of the proposed development and approved private road Vista Hills Drive. Mr. Stabile has petitioned the Chocoy Township Planning Commission to rezone the parcel of property from the current zoning classification of AF (Agricultural/Forestry) to PUD (Planned Unit Development). The entire proposed development is approximately 95 acres and the applicant is requesting the rezoning due to only a private road being approved in 2000 and changes to the Township Zoning Map.

There was also much discussion by the commission members pertaining to the definition of a Planned Unit Development (PUD) and its requirements. The members will research this further. The commissioner's discussed the need for more open space and how the objectives for the Planned Unit Development in our zoning ordinances states that a PUD should include open space and recreational areas for the residents. Also, that PUD's should also provide for adequate protection and safeguards for the site and the surrounding area. The applicant and commissioner's then discussed where the open space should go and the possibility of a walking trail. The applicant will provide a plan that meets the community needs.

Steve Kinnunen, moved, Kendal Milton, seconded, that following the review of Rezoning Request #143 and the Staff File/Review, the Planning Commission recommends this be tabled until the next meeting and hold a public hearing with the following conditions being met:

1. The Township Staff be provided a revised Plot Plan showing the requested PUD proposed green space with changes to Lots "F" and "C and showing a 50 ft. easement by the cemetery/ highway, and a 15 ft buffer that will run the entire length of the road on Lot "C".

2. The applicant's engineer will put a scale on all maps not greater than 1 inch equals 60 ft., as required per the Township Ordinance. The engineer will have the grading plan on a separate sheet; this will make the plans easier to read.
3. The engineer will look into the soils of where the proposed driveway for lots F, H, I, and J is located and report back to the Planning Commission if he feels that is the best location.
4. The applicant and engineer will follow Section 9 and 10.2, for final development requirements and procedures.

Ayes 5. Nays 2. This will be tabled until the August meeting.

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

Diane Gider (sp?) stated she is concerned about how many homes could be built in this the development, which could change the integrity of the area.

Mike Lynn, resident of Chocolay Township, stated that he is concerned about PUDs in the Township.

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

No comments at this time.

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

Jennifer Thum reported that the grant has been submitted for the Pedestrian Walkable Study and we should hear something this month. Ms. Thum also reported that a link will be placed on the Township website pertaining to the formation of a Senior Committee. Ms. Thum reported that work is being done on the lay-out for the Pocket Park in the Township. She reported they are still waiting to hear regarding the grant for the Recreational Brochure, which was submitted. Junk cars are being addressed in the Township and the annual dust control has been completed.

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

- A. Planning and Zoning News, June, 2009.
- B. Marquette Township Planning Commission minutes May 27, 2009 and June 10, 2009.
- C. MDOT Press Release for Intersection Construction.
- D. Township Department Update, June 2009.

#### **XIII. ADJOURNMENT**

Al Denton moved, Ken Tabor, seconded, to adjourn the meeting as there was no further business to address. The meeting adjourned at 9:30 p.m.

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Albert Denton, Chairperson

**CHARTER TOWNSHIP OF CHOCOLAY  
PLANNING COMMISSION MEETING MINUTES  
MONDAY, AUGUST 10, 2009**

**I. MEETING CALLED TO ORDER AT 7:30 PM/ROLL CALL**

**Present:** Chairman Albert Denton, Estelle DeVooght, Ken Tabor,  
Kendell Milton, Steve Kinnunen

**Excused:** Andy Sikkema

**Absent:** Andy Smith,

**Staff Present:** Jennifer Thum (Planning and Community Development),  
Laurie Vashaw-Eagle (Recording Secretary)

**II. APPROVAL OF JULY 13, 2009 MEETING MINUTES**

Estelle DeVooght, Moved, Ken Tabor, Seconded, to approve the July 13, 2009, Planning Commission minutes as written.

Ayes 5      Nays 0      Motion approved.

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

Steve Kinnunen, Moved, Al Denton, Seconded, to approve the agenda as written for the August 10, 2009, Chocolay Township Planning Commission meeting.

Ayes 5      Nays 0      Motion approved.

**IV. PUBLIC HEARINGS**

**A. HEIGHT INCREASE FOR DETACHED ACCESSORY STRUCTURES**

Mr. Gary Niemela, 111 Lara Lei Trail stated he appreciates the process that the Township has followed in considering increasing the current height of 15 ft for detached accessory structures. Mr. Niemela stated he would be very satisfied if the height for detached accessory structures could be increased to 16' 6". Trusses are changing and trusses with a 12/12 pitch are becoming very popular to not only add to the look of the roof, but also to accommodate attic space/storage. The City of Marquette just decreased the height for detached accessory structures to 16' 6". Mr. Niemela also commented that the energy code just went from R39 to R49, but the code is not currently being enforced. However, Mr. Niemela stated that he would like to give people the opportunity to follow the energy code if they wish and this could be done easily with an increase in the height of detached accessory structures.

**B. REZONING #144**

Mr. Frank Stabile, 121 Vista Hills Trail, stated that after hearing the comments from the Commissioners, the public and staff at the July meeting, he requested that Rezoning Request #143 be denied. He is now submitting a new plan per staff recommendation, Rezoning Request #144, which has a similar lay-out as the previous plan, but shows a reduction in the size of the development by almost 50%. On this new plan there will be only one lot behind the cemetery, which will need a private driveway. Green space will be approximately 3 ½ acres with an easement between Lots D and F. There will also be a 15 ft buffer along the west side of Lot C coming off of US 41, which will also be green space. The houses will not be visible from the highway, but you will see his

home, which is not part of the PUD. All the lots will consist of at least 5 acres, which goes back to his plan of 10 years ago. Mr. Stabile hopes that this plan will bring the development more in tune with the neighborhood lay out and hopes the Planning Commission will provide preliminary approval.

**V. PUBLIC COMMENT**

Dick Arnold, 312, County Road 545, stated that he's wondering why the Green Garden Hill Subdivision (across from his property), is now designated as Agricultural/Farming (AF). Mr. Arnold stated he did a survey of his own and found out that of the 224 pieces of property in the area, the majority are 15 acres or smaller and only 8 parcels out of the 224 have animals. Mr. Arnold stated he feels these properties should have remained designated as R-2. He feels that such a designation could decrease the value of these properties now that they are designated Agricultural/Farming (AF). Mr. Arnold also stated that he feels the Vista Hills development would be good for the area as Mr. Stabile has always maintained his property well and the plan will fit well in the area.

**VI. PRESENTATION**

No presentations scheduled

**VII. OLD BUSINESS**

**A. HEIGHT RESTRICTIONS FOR ACCESSORY BUILDINGS**

Ms. Thum reported that staff was asked to come up with a formula for the height of detached accessory structures and the projected problem with shading the neighbor's yard. Ms. Thum stated that there are a couple of options that the Commissioners can use. The maximum height now for a detached accessory buildings is 15 ft. At last month's meeting there was discussion to raise the height to 17' 2". Ms Thum discussed that the formula she came up with would be for every foot that the building is over 15 feet in an R-1 district, the side and rear setback would have to be increased by 2 ft. In an R-2 district, the side and rear setback for a building would be increased by 3 ft. for every foot over the 15 ft. The accessory height maximum in Commercial and Industrial District is also 15 ft.

Ken Tabor, Moved, Steve Kinnunen, Seconded, that the Chocolay Township Planning Commission recommends to the Township Board approval to raise the minimum height of a detached accessory structure from 15 feet to 16' 6". In order to prevent blocking any sun, the following formula will be attached to any building with a height over 15 ft.

R-1 District:

The rear and side setback of any detached accessory structure will be increased by 2 ft for every foot over the 15 ft.

R-2 District:

The rear and side setback of any detached accessory structure will be increased by 3 ft. for every foot over the 15 ft.

Ayes 5 Nays 0 Motion approved.

**B. REZONING #143**

Jennifer Thum reported that a couple of days after the July Planning Commission meeting, Mr. Stabile, (the applicant), contacted her about the meeting and his proposed plan. He stated that he wanted to change some things, and upon hearing those changes it was recommended that he ask the Planning Commission to deny Rezoning Request #143 in that it does not match the objectives of a Planned Unit Development (PUD)

according to the Township Zoning Ordinance. We then asked him to submit a whole new set of plans and a rezoning application, which he did and that is Rezoning Request #144.

Al Denton, Moved, Ken Tabor, Seconded, that following the review of Rezoning Request #143, the Staff/File Review, and holding a public hearing, the Planning Commission recommends that the Township Board deny Rezoning Request #143 for the following reasons:

1. Mr. Stabile, (the applicant), has not provided enough open space to be in compliance with the objectives of the Township planned unit development section of our Zoning Ordinance.
2. The proposed plan is not in compliance with the Township's master plan.

Ayes 5 Nays 0 Motion approved.

### **C. WOOD BOILER ZONING AMENDMENT #34-09-06**

Ms. Thum explained that this is again before you because when the motion was made, it was to accept the changes, but the way the amendment was written in the minutes, it was not accurate. It was decided to bring it back to the Planning Commission for re-approval and discussion on the commercial wood boiler language that Ms. Thum added.

#### Chimney Heights/Setbacks

- a. If the outdoor wood burning appliance meets the Phase I EPA standards, the outdoor wood boiler located within 300 feet of the nearest residential dwelling must have a chimney height measured from grade to the chimney top must be a minimum of 2 feet higher than the nearest neighboring principal dwelling.
- b. If the outdoor wood boiler meets the Phase II EPA standards, a setback of 50 feet from all lot/property lines, easements, and right-of-ways. The outdoor wood-fired boiler shall be located at least 200 feet from the nearest residential dwelling not served by the boiler. There are no chimney height requirements for a Phase II outdoor wood boiler
- c. If there is an existing outdoor wood boiler already installed and there is new construction on a previous vacant lot of a residence not served by the outdoor wood boiler within 200 ft. of such wood boiler then the owner of such wood boiler shall conform to the stack height requirements of this regulation within 30 days of the date such construction is complete and upon written notice from Chocolay Township.

#### OWB Regulations:

- a. No fuel other than natural wood without additives, wood pellets without additives, coal and agricultural seeds in their natural state may be burned;

- 1) The following fuels are strictly prohibited in new or existing Outdoor Wood Furnaces;
  - i. Wood that has been painted, varnished or coated with similar material and/or has been pressure-treated with preservatives and contains resins or glues as in plywood or other composite wood products.

- ii. Rubbish or garbage, including but not limited to food wastes, food packaging, or food wraps.
  - iii. Any plastic materials, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
  - iv. Rubber, including tires or other synthetic rubber-like products.
  - v. Any other items not specifically allowed by the manufacturer or this provision.
- b. Outdoor wood fired boilers shall not be located in the front yard;
- c. Granting of a zoning compliance permit, constitutes an agreement between the landowner and Chocolay Township, that the zoning administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with conditions;
- d. “Best Burn Practices” as issued by the Environmental Protection Agency shall be followed by all applicants utilizing outdoor wood boilers.
- e. In a couple of the ordinances there is talk about Commercial Outdoor Wood Boilers with a rated thermal output greater than 350,000Btu/hr. Should we mention something about commercial units in our ordinance?
- f. No OWB, regardless of the date of installation, is allowed to operate when conditions cause visible smoke plum to cross onto adjacent smoke on adjacent land or buildings for 12 minutes or more is a nuisance and a violation of the regulation.
- g. Outdoor furnaces may only be used from September 1 to May 31 each year.
- h. All outdoor wood-fired boilers shall be equipped with properly functioning spark arrestors.

**III. Commercial Outdoor Wood Boiler or Outdoor Wood Boiler with a rated thermal output greater than 350,000 Btu/hr Analysis Requirement**

- a. Any person intending to install or operate a commercial outdoor wood boiler or an outdoor wood boiler with a rated thermal output greater than 350,000 Btu/hr shall obtain an evaluation, report and installation recommendations performed by a licensed professional engineer that includes the following information:
  - b. What type of application will the outdoor wood boiler be used for;
  - c. A determination of the heat load requirements of the facility as compared to the available heat supply of the outdoor wood boiler to ensure the unit is properly sized;
  - d. The stack location relative to the property lines and building locations within 400 feet of the outdoor wood boiler;
  - e. The stack height; and
  - f. Recommendations for the proper outdoor wood boiler installation, including but not limited to, hook-up, auxiliary fuel, properly sized outdoor wood boiler, stack height and stack location.
- g. No person shall install or operate a commercial outdoor wood boiler or outdoor wood boiler with a rated thermal output greater than 350,000 Btu/hr unless it is installed according to the recommendations of the evaluation report in Section 3(D)(1). In any case, no person shall install or operate a commercial outdoor wood boiler or an outdoor wood boiler with a rated thermal output greater than 350,000 Btu/hr unless it meets the minimum setback and stack height requirements stated in Section 3(B) and 3(C) of this Chapter.

Steve Kinnunen, Moved, Kendell Milton, Seconded, to table zoning amendment #34-09-06 until the September meeting to allow staff to rewrite this amend- to be reviewed and to further discuss commercial and industrial use.

Ayes 5 Nays 0 Motion approved to table until September meeting.

**D. PROPOSED ZONING AMENDMENTS #34-09-01, #34-09-03, #34-09-04, #34-09-05, #34-09-10, #34-09-13**

Ms. Thum reported that at last months' Township Board meeting, the trustees requested that some of the zoning amendments be sent back to the Planning Commission for more detailed explanation and review.

**Draft Amendment #34-09-01 – Multi-Family Residential District (MFR); Section 4.3: (D) 1**

Existing language:

1. Density is limited to seven homes per acre.

Proposed amended language:

1. Density is limited to *five* homes per acre.

The trustees wanted a good and clear explanation as to why we are decreasing the density limit.

Ms. Thum reported the change is being made due to the increased size of the newer mobile homes being built today, which take up more space.

Steve Kinnunen, Moved, Al Denton, Seconded, to recommend to the Township Board for approval at their next meeting.

Ayes 5. Nays 0. Motion approved.

**Draft Amendment #34-09-03 - Agriculture/Forestry (AF); Section 4.7: Kennels were completely omitted from the AF district, in the old zoning ordinance; Kennels were a conditional use within the RR-2 & RP districts.**

Proposed addition:

1. Add to Section 4.7 (C) 11. *Kennels*

Trustee Maki, was not sure why we need to change this.

Kendell Milton, Moved, Al Denton, Seconded, to recommend approval to the Township Board to reinstate into the new ordinance, Kennels with the addition of “are allowed on 20 acres or more”, which is from the old ordinance.

Ayes 5 Nays 0 Motion approved.

**Draft Amendment #34-09-04 – Height and Placement Regulations; Section 6.1: (Schedule of Regulations)**

Existing language:

	District	Front	Side	Rear
1.	MFR	30	30	30

Proposed amended language:

2.	MFR	30	10	35
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The trustees wanted to know why the Planning Commission was asking for this to change, is there a specific site plan in mind?

The Commissioners in attendance unanimously agreed not to place the wording in the zoning ordinance.

Ayes 5 Nays 0 Motion approved.

**Draft Amendment #34-09-05 – Height and Placement Regulations; Section 6.1: (Schedule of Regulations)**

Existing language:

	District	Minimum Lot Size	Minimum Lot Width
1.	MFR	20 Acres	None

Proposed amended language:

1.	MFR	2 Acres	200 feet
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The trustees wanted to know why the Planning Commission was asking for this to change, is there a specific site plan in mind?

Ken Tabor, Moved, Steve Kinnunen, Seconded, to table this item until the September meeting and ask staff to come up with some information for language with regards to spacing between buildings.

Ayes 5 Nays 0 Motion to table approved until the September meeting.

**Draft Amendment #34-09-10 – Article II, Definitions:**

Add to definition regarding “Kennels”

Existing language: means any activity involving the permanent or temporary keeping or treatment of four or more adult dogs, cats, or any combination of, other than ordinary agricultural activities.

Proposed amended language: Means any activity involving the permanent or temporary keeping or treatment of four or more domestic pets, including adult dogs or cats, or any combination of such animals exceeding three in number, for other than ordinary agricultural activities.

The trustees wanted to know how this would work with sled dogs and they wanted to increase the number to 4 or more domestic pets.

Estelle DeVooght, Moved, Ken Tabor, Seconded, to recommend to the Township Board for approval at their next meeting the “Existing Language listed above stating “means any activity involving the permanent or temporary keeping or treatment of four or more adult dogs, cats, or any combination of, other than ordinary agricultural activities”.

Ayes 5 Nays 0 Motion approved.

**Draft Amendment #34-09-13 – Add to Article VI: Add 6.1 after “said structure/s.”**

Proposed language:

NOTE: Lots of less than 20 acres, but not less than 5 acres within the AF district prior to the adoption of this Ordinance are legal nonconforming, April 21, 2008.

The trustees wanted to drop the 5 acres and have it read, “lots of less than 20 acres within the AF district prior to the adoption of this Ordinance are legal nonconforming lots.”

Ken Tabor, Moved, Al Denton, Seconded, to recommend to the Township Board for approval at their next meeting the omission of “but not less than 5 acres” from the proposed language listed above.

Ayes 5 Nays 0 Motion approved.

## **VIII. NEW BUSINESS**

### **A. REZONING REQUEST #144**

Jennifer Thum reported that Rezoning Request #144 is a request from Mr. Frank Stabile of 121 Vista Hills Trail, the properties in consideration are parcels #52-02-126-019-040, 52-02-126-019-20, 52-02-126-30. These parcels are where the proposed development and approved private road Vista Hills Drive are located. Mr. Stabile has petitioned the Chocloy Township Planning Commission to rezone the parcels of property from the current zoning classification of AF (Agricultural/Forestry) to PUD (Planned Unit Development). The entire proposed development is approximately 45 acres and the applicant is requesting the rezoning due to only a private road being approved in 2000 and changes to the township zoning map. Ms. Thum reported that the applicant has added some open space, but removed his lot and the two additional rear lots out of the PUD. Which could cause problems in the future. Ms. Thum also had reservation about Lot E, which abuts US 41 and really is not connected to the proposed PUD. Staff still does not feel that this is a typical PUD.

There was much discussion by the Commissioners pertaining to the placement of the easements and the green space. Mr. Stabile and his engineer (Mr. Cambensy) explained a discrepancy of the easement between Lots A and B and stated that the easement will be between Lots D and F.

Al Denton, Moved, Estelle DeVooght, Seconded, that following the review of Rezoning Request #144, the Staff/File Review, and holding a public hearing, the Planning Commission recommends preliminary approval with the following conditions:

1. The applicant will provide a 15 ft buffer along the west side of Lot C, to ensure that the development will not be seen from the road.
2. The applicant will provide an easement between lots D and F.
3. The applicant will increase the open space lot to 3.42 acres.
4. The applicant and engineer will follow the Section 9 and 10.2, for final development requirements and procedures.
5. The applicant creates an agreement for maintenance of the road, for his lot and for any future owners of his home and the back lots.

Ayes 4 Nays 1 (DeVooght) Motion approved.

### **B. 2010 BUDGET**

Jennifer Thum discussed a couple of changes to consider for 2010. First, she would like to move the meetings to the first Monday of the month instead of holding them on the second Monday of the month. The Township Board would like their meeting packets earlier and moving the meeting would allow more time for her to assemble the meeting packets for the Township Board meeting. Second, she would like to know if the Commissioners would be in favor of starting the meeting at 7:00 PM instead of 7:30 PM

The Commissioners agreed to change the meeting to the first Monday of each month beginning in January 2010. The meeting time of 7:30 PM will remain the same for 2010.

Ms. Thum reported the Township is looking at possibly purchasing right-of-way in the future along the highways in our township to make it easier to install bike paths.

Ms. Thum asked the Commissioners for their thoughts on how much money should be budgeted in 2010 for the Marina Park and the Veteran's Park? Please let her know your thoughts by calling or e-mailing her.

Ms. Thum also reported that she is going to budget money for a training class to be held in the Township for the Commissioners in December, 2009 and one sometime in 2010.

Ms. Thum reported she will provide more information and projects for consideration at the September meeting.

**IX. PUBLIC COMMENT**

Stephanie Gencheff, 597 Lakewood Lane, stated she is very concerned about the height increase of 1 ½ ft for detached accessory buildings and feels such an increase is unnecessary.

George Kazymowski 741 Lakewood Lane, stated he is building a home and is concerned about the difficulty with trusses pertaining to averaging the height. He stated that if you're working on anything with a grade this will make it even more difficult to determine. He stated that a lot of houses in Michigan have 2-4 steps up to the entrance and removing the word average will create difficulties in the future for 2 story houses.

**X. COMMISSIONER'S COMMENT**

Estelle DeVooght stated that Rezoning Request #143 and #144 were the messiest plans she's ever seen.

**XI. DIRECTOR'S REPORT**

Jennifer Thum reported that one of the grants applied for has been denied and she is still waiting to hear on the other one. She also reported that another intern will be starting in September.

Mr. Kinnunen asked about the status of the Gateway Plaza. Ms. Thum reported that McDonald's should be opening soon and she's heard that most of the store fronts are filled.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

- A. Planning and Zoning News, July, 2009.
- B. Marquette Township Planning Commission minutes, July 9, 2009.

**XIII. ADJOURNMENT**

Ken Tabor, Moved, Kendell Milton, Seconded, to adjourn the meeting as there was no further business to address. The meeting adjourned at 9:20 p.m.

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Albert Denton, Chairperson

**CHARTER TOWNSHIP OF CHOCOLAY  
PLANNING COMMISSION MEETING MINUTES  
MONDAY, SEPTEMBER 14, 2009**

**I. MEETING CALLED TO ORDER AT 7:31 PM/ROLL CALL**

**Present:** Chairman Albert Denton, Ken Tabor, Kendell Milton,  
Andy Sikkema, Andy Smith

**Excused:** Steve Kinnunen, Estelle DeVooght

**Staff Present:** Jennifer Thum (Planning and Community Development),  
Laurie Vashaw-Eagle (Recording Secretary)

**II. APPROVAL OF AUGUST 10, 2009 MEETING MINUTES**

Ken Tabor, Moved, Kendell Milton, Seconded, to approve the August 10, 2009, Planning Commission minutes as written.

Ayes 5. Nays 0. Motion approved.

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

Ken Tabor, Moved, Andy Sikkema, Seconded, to approve the agenda as written for the September 14, 2009, Chocolay Township Planning Commission meeting.

Ayes 5. Nays 0. Motion approved.

**IV. PUBLIC HEARINGS**

No public hearings scheduled.

**V. PUBLIC COMMENT**

No public comment.

**VI. PRESENTATION**

No presentations scheduled.

**VII. OLD BUSINESS**

**A. PARKS #34-09-02**

Agriculture/Forestry (AF); Section 4.7 & 4.4:

The reasoning behind the proposed amendment is that parks were completely omitted from the AF district. In the old zoning ordinance; Parks were a permitted use within the RP district and a conditional use within the RR-2 district.

Proposed Additions:

1. Add to AF Section 4.7 (C) 12. *Parks*
2. Add to WFR Section 4.4 (C) *Parks*

Ms. Thum reported the Township Board wanted the Planning Commission to look at

setting a minimum lot size for a park in the AF and WFR districts.  
Discussion ensued pertaining to including a definition of parks. The Commissioners felt that a definition should be developed to better define the amendment.

Andy Sikkema, Moved, Ken Tabor, Seconded, to table this until the October 12, 2009 meeting so a draft definition for Parks can be created for review.

Ayes 5. Nays 0. Motion approved to table until the October meeting.

## **B. MFR LOT SIZE AND WIDTH #34-09-05**

Draft Amendment #34-09-05 – Height and Placement Regulations; Section 6.1:  
(Schedule of Regulations)

Existing language:

	District	Minimum Lot Size	Minimum Lot Width
1.	MFR	20 Acres	None

Proposed amended language:

1.	MFR	2 Acres	200 feet
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Ms. Thum reported that in the MFR, Multiple Family Residential District, the minimum distance between any two buildings on the same site shall be regulated according to the length and height of such buildings. The formula regulating the required minimum distance between the two buildings is as follows:

$$S=La + Lb + 2 (Ha + Hb) /6$$

Where:

S=Required minimum horizontal distance between any wall of Building “A” and any wall of Building “B” or the vertical prolongation of either.

La=Total length of Building “A”. [The total length of Building “A” is the length of that portion or portions of a wall or walls of Building “A” from which, when viewed directly from above, lines drawn perpendicular to Building “A” will intersect any wall of Building “B”.]

Lb=The total length of Building “B” [the total length of Building “B” is the length of that portion or portions of a wall or walls of Building “B” from which when viewed directly from above, lines drawn perpendicular to Building “B” will intersect Building “A”.]

Ha=Height of Building “A” [the height of Building “A” at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of Building “A”. Natural grade levels shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.]

Andy Sikkema, Moved, Ken Tabor Seconded, to recommend the proposed Draft Amendment #34-09-05 – Height and Placement Regulations as written to the Township Board for approval at their next meeting.

Ayes 5. Nays 0.

**C. WOOD BOILER ZONING AMENDMENT #34-09-06**

**\*\*REVISED\*\***

Ms. Thum provided a revised draft amendment #34-09-06, Outdoor Wood Burners/Furnaces and Appliances; Section 6.5: (Conditions of Approval), Section 6.5 (A) and (B) 1.b.

Proposed amended language: (conditions for approval)

**I. Chimney Heights/Setbacks**

- a. If the outdoor wood burner/furnace or other wood appliance meets the Phase I EPA standards, the outdoor wood burner/furnace or other wood appliance shall be located within 300 feet of the nearest residential dwelling must have a chimney height measured from grade to the chimney top must be a minimum of 2 feet higher than the nearest neighboring principal dwelling.
- b. If the outdoor wood burner/furnace or other wood appliance meets the Phase II EPA standards, a setback of 50 feet must be met from all lot/property lines, easements, and right-of-ways. The outdoor wood burner/furnace or other wood appliance shall be located at least 200 feet from the nearest residential dwelling not served by the wood appliance. There are no chimney height requirements for a Phase II outdoor wood burner/furnace or other wood appliance.
- c. If there is an existing outdoor wood burner/furnace or other wood appliance already installed and there is new construction on a previous vacant lot of a residence not served by the outdoor wood burner/furnace or vacant lot of a resident not served by the outdoor wood burner/furnace or other wood boiler within 200 feet of such wood appliance then the owner of such wood appliance shall conform to the stack height requirements of this regulation within 30 days of the date such construction is complete and upon written notice from Chocolay Township.

**II. OWB Regulations:**

- a. No fuel other than natural wood without additives, wood pellets without additives, coal and agricultural seeds in their natural state may be burned;
  - 1) The following fuels are strictly prohibited in new or existing Outdoor Wood burner/furnaces or other wood appliance:
    - i. Wood that has been painted, varnished or coated with similar material and/or has been pressure-treated with preservatives and contains resins or glues as in plywood or other composite wood products.
    - ii. Rubbish or garbage, including but not limited to food wastes, food packaging, or food wraps.
    - iii. Any plastic materials, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
    - iv. Rubber, including tires or other synthetic rubber-like products.
    - v. Newspaper, cardboard, or any paper with ink or dye products.
    - vi. Any other items not specifically allowed by the manufacturer or this provision.

- b. Outdoor wood burner/furnace or other wood appliance shall not be located in the front yard;
- c. Granting of a zoning compliance permit, constitutes an agreement between the landowner and Chocolay Township, that the zoning administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with conditions;
- d. “Best Burn Practices” as issued by the Environmental Protection Agency shall be followed by all applicants utilizing outdoor wood boilers.
- e. No Outdoor Wood burner/furnace, regardless of the date of installation, is allowed to operate when conditions cause visible smoke plum to cross onto adjacent owner’s land and buildings for 12 minutes or more in any hour. Sending smoke on adjacent land or buildings for 12 minutes or more is a nuisance and a violation of the regulation.
- f. Outdoor wood burner/furnace or other wood appliances may only be used from September 1 to May 31 each year.
- g. All outdoor wood-fired boilers shall be equipped with properly functioning spark arrestors.

III. Commercial Outdoor Wood Burner/Furnace or other wood appliance with a rated thermal output greater than 350,000 Btu/hr Analysis Requirement

- a. Any person intending to install or operate a commercial outdoor wood burner/furnace or other wood appliance that has a rated thermal output greater than 350,000 Btu/hr shall obtain an evaluation report and installation recommendations performed by a licensed professional engineer that includes the following information:
  - b. What type of application will the outdoor wood boiler/furnace or other wood appliance be used for;
  - c. A determination of the heat load requirements of the facility as compared to the available heat supply of the outdoor wood boiler to ensure the unit is properly sized.
  - d. The stack location relative to the property lines and building locations within 400 feet of the outdoor wood boiler;
  - e. The stack height; and
  - f. Recommendations for the proper outdoor wood boiler installation, including but not limited to, hook-up, auxiliary fuel, properly sized outdoor wood boiler/furnace or other wood appliance, stack height and location.

Andy Smith reported that he received more information today that should be reviewed and possibly incorporated into the proposed draft amendment. Mr. Smith and Jennifer Thum will work to revise this amendment again and review it at the October meeting.

Al Denton, Moved, Ken Tabor, Seconded, to table this until the next meeting so additional revisions can be made for review.

Ayes 5. Nays 0. Motion approved to table this until the next meeting.

**VIII. NEW BUSINESS**

**A. PLANNING COMMISSION CALENDAR 2010**

Jennifer Thum provided the proposed 2010 Planning Commission calendar dates for review and approval. The Commissioners pointed out that September 4<sup>th</sup> is a Saturday and should be changed to September 6, 2010 and December 1<sup>st</sup> should be changed to

December 6<sup>th</sup>, 2010. After these corrections are made, the Planning Commissioners in attendance unanimously approved the 2010 calendar.

Ayes 5 Nays 0

**B. 2010 BUDGET**

Ms. Thum reported that the proposed 2010 budget for the Planning Commission and the proposed park at the Township Marina was provided for review in the meeting packet. The Planning Commission members in attendance unanimously approved the 2010 budget as written for the Planning Commission and the proposed Township Marina.

Ayes 5 Nays 0

**C. LAKENENLAND**

Ms. Thum reported that recently an issue was brought to the Township Board's attention that needs to be addressed by the Planning Commission as to what the next step should be. Earlier this year, Mr. Lakenen constructed a band shell on his property without the necessary permits. The County was after Mr. Lakenen and he was required to get a permit. The Township's zoning administrator issued Mr. Lakenen a zoning compliance permit, but Lakenen Land is considered a park and the property is currently zoned AF. As of today, our ordinance does not allow for parks in the AF district, so the permit should not have been issued. However, there is a proposed amendment to permit parks in the AF district. The Township Board does know about the permit being issued and wanted to get feedback from the Planning Commission on what our next step should be. The next step could be to revoke the permit until parks are allowed in the AF district or to do nothing and wait until the proposed amendment gets approved.

After much discussion by the Commissioners, a unanimous decision was made to table this until a definition for "Parks" is developed and approved by the Township Board.

Ayes 5 Nays 0

**D. JUNK CAR ORDINANCE**

Ms. Thum reported that over the years, we have seen our current Vehicle and Trailers Parking Ordinance (junk car ordinance) fail at protecting some neighborhoods from the blight of junk cars. The current ordinance is not stringent enough to deal with our current junk car problems; it also does not address Recreational Vehicles. The Township is seeing an increase in the number of RVs that are being parked in the front yard. Staff would like to address some of the problems that we are having by reverting back to Vehicle and Trailers Parking, #46, with new language concerning the Recreational Vehicles. At this time, staff is asking for you to review the propose changes and then hold a public hearing next month.

Al Denton, Moved, Andy Smith, Seconded, to hold a public hearing at the October 12, 2009 Planning Commission meeting to discuss the Vehicle and Trailers Parking Ordinance.

Ayes 5 Nays 0 Motion approved.

**E. FIRE HALL LOCATION**

Ms. Thum provided a map in the meeting packet indicating the proposed location for the new Fire Hall. The proposed site for the Fire Hall is located on two parcels with a total of 7.06 acres. The smaller .46 acre parcel is intended to serve as access to Silver Creek Road and the larger 6.60 acre parcel indented to house the fire hall. Please review the location for its appropriateness for response time, and highest and best use.

The proposed site is currently wooded and used for hiking trails with evidence of four wheeler usage as well. The property is currently zoned Municipal Properties with Fire Stations listed as a permitted principal use. On two separate occasions, staff submitted applications to expand and improve the trail system in this area with a MNRTF grant, but were not successful.

The Commissioners discussed at length constructing a new Fire Hall at a new location and stated they would rather see the current Fire Hall demolished and a new one reconstructed on the same site. The Commissioners felt that the current site is more accessible to US 41, which they felt was important as most fires happen to the south and east. They also felt that having the fire engines go through a residential area is not a good idea.

Staff will work out the details with the Township Fire Department to ensure they are satisfied with the location for their new fire hall as well.

Al Denton, Motioned, Ken Tabor, Seconded to deny moving the proposed new Fire Hall to parcels #52-02-106-038-00 and #52-02-107-059-00.

Ayes 5 Nays 0 Motion approved.

#### **F. TOWNSHIP PROPERTIES**

Ms. Thum reported that she included maps in the meeting packet showing the Township owned properties. The Township Board would like the Planning Commission to review all Township owned properties to see if they are still a valuable asset to the Township, and if we are using them to meet the needs of our residents. Ms. Thum requested that the Planning Commission review one property per month so we can work on a full review and put together a detailed report for the Township Board.

After discussion the Commissioners approved the reviewing of the Township Properties with the Beaver Grove properties (#52-02-116-011-10 and #52-02-116-020-10) to be reviewed at the October 12, 2009 meeting.

Ayes 5 Nays 0 Motion approved.

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

Waynes Dees, 512 Woodvale Drive, stated that he will put his thoughts from the meeting into writing and send it Jennifer Thum. Mr. Dees' did state that having a conditional use for parks is good idea so the Township will have some control over the operations of and in parks within the Township.

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

Andy Smith stated that he hopes to finish up the Outdoor Wood Furnaces/Boilers Draft Ordinance with the proposed changes to be reviewed at the next meeting.

Andy Sikkema that the bike trail crossing M-28 is almost completed and the projected tunnel is coming along.

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

Ms. Thum reported that she is 3 months pregnant and her tentative due date is April of 2010. Tom Murray will fill in for her during her maternity leave. Ms. Thum also reported that the Township is looking at hiring a manager to handle the Planning and Zoning, which may result in a couple of Township positions being eliminated.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

- A. Planning and Zoning News, August, 2009
- B. County Planning Commission Reviews

**XIII. ADJOURNMENT**

Ken Tabor, Moved, Kendell Milton, Seconded, to adjourn the meeting as there was no further business to address. The meeting adjourned at 9:03 p.m.

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Albert Denton, Chairperson

**CHARTER TOWNSHIP OF CHOCOLAY  
PLANNING COMMISSION MEETING MINUTES  
MONDAY, OCTOBER 12, 2009**

**I. MEETING CALLED TO ORDER AT 7:31 PM/ROLL CALL**

**Present:** Chairman Albert Denton, Ken Tabor, Kendell Milton,  
Andy Sikkema, Andy Smith, Estelle DeVooght

**Excused:** Steve Kinnunen

**Staff Present:** Jennifer Thum (Planning and Community Development),  
Laurie Vashaw-Eagle (Recording Secretary)

**II. APPROVAL OF SEPTEMBER 14, 2009 MEETING MINUTES**

Andy Sikkema, Moved, Al Denton, Seconded, to approve the September 14, 2009, Planning Commission minutes after corrections on page 6, VIII) A) change September 6, 2010 Planning Commission Calendar meeting date to September 7, 2010 and on page 9, IX) Public Comment correct Ms. Dees' to Mr. Dees'.

Ayes 6 Nays 0 Motion approved.

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

Estelle DeVooght, Moved, Andy Sikkema, Seconded, to approve the agenda as written for the October 12, 2009, Chocolay Township Planning Commission meeting.

Ayes 6 Nays 0 Motion approved.

**IV. PUBLIC HEARINGS**

**A. REZONING #144**

Tyler Lemire for Kurt Spodeck, 106 West Branch Road, stated that Mr. Spodeck submitted a letter dated June 11 2009 expressing his opposition to the rezoning of this planned development. Mr. Spodeck feels that this type of development should not be done in the Agricultural/Farming district. Mr. Lemire stated that there is the possibility of sewage problems from the houses in this development as each parcel will have its own septic system and feels this type of development does not fit into the area.

Dick Arnold, 312 Co. Road 545, stated that he is in favor of this development and feels it would be a nice addition to the area. Mr. Arnold stated that Mr. Spodeck is operating a business in an area that is zoned rural residential.

**B. VEHICLES, TRAILER PARKING, AND STORAGE ORDINANCE**

No public comment.

**V. PUBLIC COMMENT**

Stephanie Gencheff, 597 Lakewood Lane, inquired if there will be a vote on the height of accessory buildings tonight? She would like to state that she opposes any increase in the current height of accessory buildings and is questioning why the change is needed. She feels that the reason the City of Marquette is increasing their height requirement is to encourage the building of mother-in-laws home within the city, which are not permitted in the Township of Chocolay.

Wayne Dees, 512 Wooddale Drive, stated he feels this is unnecessary and doesn't know why it should go through.

**VI. PRESENTATION**

No presentations scheduled.

**VII. OLD BUSINESS**

**A. HEIGHT FOR ACCESSORY STRUCTURES, #34-09-17**

Ms. Thum reported that at the September 21, 2009 Township Board meeting, the trustees thought the idea of increasing the height of the detached accessory structures was worth exploring. However, they wanted to see some language that did not permit the accessory structure to be taller than the primary residential structure. If you recall at the August 10, 2009 Planning Commission meeting, a public hearing was held to discuss increasing the overall height limit of a detached accessory structure.

Responding to concerns from Gary Niemela of Skandia Truss, the Planning Commission was asked to review the current height limit for detached accessory structures. Section 6.1 in the definition section of the Zoning Ordinance currently permit a height of 15'. This height is measured from the average grade of the area covered by the building to the midpoint between the eave and the peak of the structure. Attached garages or accessory structure are regulated by height restriction of the residence. As per Mr. Niemela, the "Attic Truss" that his company produces exceeds the current height restriction and is not legally marketable in our township. From a planning standpoint, our concern is the protection of neighboring property and to ensure that these structures remain at a scale which is accessory to the main structure. This was the reason that staff was asked by the Planning Commissioners to come up with a formula for buildings over 15 ft, so they would not have an impact on the neighboring properties grass/gardens. On September 14, 2009, the commission accepted staff's formula and made a motion to increase the height to 16'6" for a detached accessory structure. The recommended changes are as follows:

R1 District – Side and rear yard setbacks for accessory structures must be increased 2' for every foot over 15'.

R-2 District – Side and rear yard setbacks for accessory structures must be increased 3' for every foot over 15'.

Staff would now like to add language in the motion that states that the detached accessory structure shall not be higher than the primary structure. Staff believes the suggested language bellows covers the trustees concerns with regards to the detached building being taller than the primary one. Also, staff would like to try to put a stop to anyone thinking that they can occupy the detached building and staff added a sentence addressing that.

Estelle DeVooght, Moved, Andy Smith, Seconded, to recommend to the Chocolay Township Board to approve zoning amendment #34-09-17 to raise the maximum height of a detached accessory structure to 16'6". The overall height of the detached accessory structure shall not exceed the height of the principal residence on the property. Detached accessory structures shall not be occupied for dwelling purposes. In order to prevent blocking any sun, the following formula will be attached to any building with a height over 15 ft.

R-1 District – Side and rear yard setbacks for accessory structures must be increased 2'

for every foot over 15’.

R-2 District (Harvey) – Side and rear yard setbacks for accessory structures must be increased 3’ for every foot over 15’.

Ayes 4 Nays 2 Motion approved. (opposed Andy Sikkema, Ken Tabor)

**B. PROPOSED ZONING AMENDMENT #34-09-09, DEFINITION AND ACREAGE**

Ms. Thum reported that at last month’s meeting, the Planning Commission discussed parks and the Lakenenland property. Listed below is an updated version of an updated definition of a park that staff and Mr. Andy Sikkema worked on:

**Draft Amendment #34-09-09**

This proposed zoning amendment is being recommended because the definition of parks was not in the ordinance; therefore, this is a recommendation for consideration to the Planning Commission to include Parks within the definition section of the zoning ordinance.

1. Article II, Definitions:

Add to definitions “Park”

Proposed definition:

**Park, a publically owned parcel of land, as:**

- A. Maintained for recreational and ornamental purposes.
- B. A landscaped Township square.
- C. A large tract of rural land kept in its natural state and usually reserved for the enjoyment and recreation of visitors.
- D. Protected area in its natural or semi-natural state that may consist of rocks, soil, water, flora, fauna and grass areas.
- E. A place where people can hold public festivals/events.

The Township Supervisor would like the Planning Commission to make a decision on how to handle the permit that was issued for the band shell at Lakenenland. We can leave the permit sit, as parks will be added into the AF districts shortly (as a conditional use permit) or we can revoke it and then have him apply for a band shell under a CUP permit.

The previous definition for parks is as follows:

“Park, a noncommercial, not-for-profit, parcel of land, with or without a structure, designed to serve the recreational needs of the residents, including but not limited to playgrounds, sport fields, game courts, beaches, trails, picnicking areas, and leisure time activities.

After much discussion pertaining to publically owned parks and privately owned parks Ken Tabor Moved, Estelle DeVooght, Seconded to table amendment #34-09-09 until November so more research can be done.

Ayes 6 Nays 0 Motion approved to table this until the next meeting.

## C. WOOD BOILER ZONING AMENDMENT #34-09-06

Ms. Thum reported that at the last Planning Commission meeting there was more discussion on the wood boiler ordinance. Mr. Andy Smith submitted some suggested changes. Staff feel there should still be an acreage requirement for wood boilers and believe that 5 acres should stay in place.

### **\*\*REVISED\*\***

Ms. Thum provided a revised draft amendment #34-09-06, Outdoor Wood Burners/Furnaces and Appliances; Section 6.5: (Conditions of Approval), Section 6.5 (A) and (B) 1.b.

Proposed amended language: (conditions for approval)

- I. Chimney Heights/Setbacks
  - a. If the outdoor wood burner/furnace or other wood appliance meets the Phase I EPA standards, the outdoor wood burner/furnace or other wood appliance shall be located within 300 feet of the nearest residential dwelling must have a chimney height measured from grade to the chimney top must be a minimum of 2 feet higher than the nearest neighboring principal dwelling.
  - b. If the outdoor wood burner/furnace or other wood appliance meets the Phase II EPA standards, a setback of 50 feet must be met from all lot/property lines. The outdoor wood burner/furnace or other wood appliance shall be located at least 75 feet from the nearest residential dwelling not served by the wood appliance. There are no chimney height requirements for a Phase II outdoor wood burner/furnace or other wood appliance.
  - c. If there is an existing outdoor wood burner/furnace or other wood appliance already installed and there is new construction on a previous vacant lot of a residence not served by the outdoor wood burner/furnace or vacant lot of a resident not served by the outdoor wood burner/furnace or other wood boiler within 75 feet of such wood appliance then the owner of such wood appliance shall conform to the stack height requirements of this regulation within 30 days of the date such construction is complete and upon written notice from Chocolay Township.
  - d. If there is an existing outdoor wood burner/furnace or other wood appliance already installed and there is new construction on a previous vacant lot of a residence not served by the outdoor wood burner/furnace or other wood boiler within 200 ft. of such wood appliance then the owner of such wood appliance shall conform to the stack height requirements of this regulation within 30 days of the date such construction is complete and upon written notice from Chocolay Township.
- II. Outdoor Wood Burner/Furnace Regulations:
  - a. No fuel other than natural wood without additives, wood pellets without additives, coal and agricultural seeds in their natural state may be burned;
    - 1) The following fuels are strictly prohibited in new or existing Outdoor Wood burner/furnaces or other wood appliance:
      - i. Wood that has been painted, varnished or coated with similar material and/or has been pressure-treated with preservatives and contains resins or glues as in plywood or other composite wood products.

- ii. Rubbish or garbage, including but not limited to food wastes, food packaging, or food wraps.
  - iii. Any plastic materials, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
  - iv. Rubber, including tires or other synthetic rubber-like products.
  - v. Newspaper, cardboard, or any paper with ink or dye products.
  - vi. Any other items not specifically allowed by the manufacturer or this provision.
- b. Outdoor wood burner/furnace or other wood appliance shall not be located in the front yard;
  - c. Granting of a zoning compliance permit, constitutes an agreement between the landowner and Chocoley Township, that the zoning administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with conditions;
  - d. “Best Burn Practices” as issued by the Environmental Protection Agency shall be followed by all applicants utilizing outdoor wood boilers.
  - e. No Outdoor Wood burner/furnace, regardless of the date of installation, is allowed to operate when conditions cause visible smoke plum to cross onto adjacent owner’s land and buildings for 12 minutes or more in any hour. Sending smoke on adjacent land or buildings for 12 minutes or more is a nuisance and a violation of the regulation.
  - f. Outdoor wood burner/furnace or other wood appliances may only be used from September 1 to May 31 each year.
  - g. All outdoor wood-fired boilers shall be equipped with properly functioning spark arrestors.

III. Commercial Outdoor Wood Burner/Furnace or other wood appliance with a rated thermal output greater than 350,000 Btu/hr Analysis Requirement

- a. Any person intending to install or operate a commercial outdoor wood burner/furnace or other wood appliance that has a rated thermal output greater than 350,000 Btu/hr shall obtain an evaluation report and installation recommendations performed by a licensed professional engineer that includes the following information:
- b. What type of application will the outdoor wood boiler/furnace or other wood appliance be used for;
- c. A determination of the heat load requirements of the facility as compared to the available heat supply of the outdoor wood boiler to ensure the unit is properly sized.
- d. The stack location relative to the property lines and building locations within 400 feet of the outdoor wood boiler;
- e. The stack height; and
- f. Recommendations for the proper outdoor wood boiler installation, including but not limited to, hook-up, auxiliary fuel, properly sized outdoor wood boiler/furnace or other wood appliance, stack height and location.

Kendell Milton, Moved, Ken Tabor, Seconded, to recommend to the Township Board for approval at their next meeting.

Ayes 6 Nays 0 Motion approved.

**VIII. NEW BUSINESS**

**A. REZONING #144**

Jennifer Thum reported that Rezoning Request #144 is a request from Mr. Frank Stabile of 121 Vista Hills Drive. The properties in consideration are parcels #52-02-126-019-040, #52-01-126-019-20, and #52-02-019-126-30. These parcels are where the proposed development and approved private road Vista Hills Drive are located. Mr. Stabile has petitioned the Chocolay Township Planning Commission to rezoning the parcels of property from the current zoning classification of AF (Agricultural/Forestry) to PUD (Planned Unit Development). The Planning Commission held a public hearing on August 10, 2009 for the preliminary review. The Commissioners voted to grant Preliminary approval to the applicant at that meeting with a vote of 4 to 1.

The Township Board voted on September 14, 2009 to give the applicant Preliminary approval as well. Staff has received the required information from the County Planning Commission; they were not in favor of this PUD development. The applicant has met all of the required conditions that were placed on him as part of the preliminary approval. Staff would still like to add some language to ensure that the Eastern lots cannot use Vista Hills Drive or the driveway off lot F, since they were removed from this PUD application.

Staff still feels that more open space should be required, and that Mr. Stables lot’s should be included in the entire PUD. However, staff understands that the applicant’s intent since 2002 was develop this land, and one can see that from looking at the plans that went along with the private road application.

Al Denton, Moved, Kendell Milton, Seconded, that following the review of Rezoning Request #144, the Staff/Review, holding a public hearing, and receiving preliminary approval from both the Planning Commission and the Township Board recommends Final approval with the following conditions.

1. The 3.42 acres of open space and the various easements and 15’ buffers shall be recorded with the Marquette County Register of Deeds.
2. The eastern lots if ever developed shall not be allowed access to Vista Hills Trail, the applicant would have to go through the PUD process again to see if the lots would be allowed to use either Vista Hills Trail or the driveway to Lot F.
3. The applicant must obtain all local and county permits that are required before construction.

Ayes 4. Nays 2. Motion approved. (Opposed Estelle DeVooght, Ken Tabor)

**B. VEHICLE AND TRAILER PARKING AND STORAGE (JUNK CARS) ORDINANCE**

Ms. Thum reported that staff feels the current vehicle/trailer parking and storage ordinance is too lax and leaves staff unable to enforce junk car ordinance violations. Staff have done several site inspections on known problem places and the current ordinance does not allow us to do anything about them. The current ordinance does not place regulations on RV’s, which is becoming a problem in the Township. The Township is also having problems with people allowing their kids or friends to park either their commercial vehicle or a car for sale on their lot. The proposed ordinance would allow the Township to be able to clean up this problem. (See attached).

The Planning Commission members provided approval to continue work on the Vehicle and Trailer Parking and Storage (Junk Cars) Ordinance.

Ayes 6 Nays 0 Motion carried

**C. 2009/2010 ROAD RANKINGS**

Ms. Thum reported the Township last completed road evaluations/rankings in October, 2007. The Township’s road resurfacing project has been underway for two years. The Township was able to get all of the roads in Harvey resurfaced, and Jean, Juliet, Judy, and Veda in those two years. With the 2010 budget looking at the next road resurfacing project to start up next Spring, we need to prioritize our next road projects. For the first year of the road resurfacing project the Township worked with the road commission. The following year, the Township went out for bids and the bid was awarded to Superior Paving. They finished up a couple of weeks ago, and it appears that they came in under budget. The roads look great and we have had no complaints.

Attached is a spreadsheet detailing the roads that we identified through field inspection that should be prioritized for resurfacing. The roads that have recently been resurfaced are at the bottom and shaded in gray. Also, attached are out field notes regarding all roads that have some significant problems that need to be addressed. The Township staff have ranked the roads according to the Township’s road ranking system. The Planning Commission should review these rankings to determine your recommendation (ranking) to the board.

Ken Tabor, Moved, Al Denton, Seconded to recommend to the Township Board approval of the Road Ranking List that staff and the Planning Commission have agreed to.

Ayes 6 Nays 0

**D. BEAVER GROVE RECREATION AREA ANALYSIS**

Ms. Thum reported local parks not only serve a recreational purpose, but they also enhance the quality of life for the communities. Each month staff will give an overview of the Township properties and the Planning Commission is to decide if the property is being used to serve our residents. Local parks focus on recreational activities that are generally more intensive and often require highly developed infrastructure (e.g., ball fields, golf courses, and swimming pools), though many local parks also preserve important land and water resources. In reviewing the properties, please look at the neighboring residential development and see if that park fits their needs. The Township is almost all residential and the more places we can offer to them to enjoy locally the better.

**Beaver Grove Recreation Area (BGRA):**

**LOCATION:** West of US 41 and north of County Road 480 and is accessible from either road.

**SIZE:** This is a combination of two parcels making up a 29.1 recreation site.

**ZONING:** MP

**SCHOOL:** None.

**OBSERVATION:** Facilities at this site consist of a baseball field, basketball court, pavilion, tot-lot playground, horseshoe courts, picnic facilities, multi-use open space, hiking trails, parking and restrooms. The Township comprehensive plan states that there are access sites to Big Creek, with fishing opportunities. Staff is not sure if this is

still there. This is done on 15.11 acres; the other 14 acres are leased for agricultural purposes.

**IMPLEMENTATION**

**STRATEGIES:** Staff has looked at developing a community garden on the 14 acres that we currently lease for agricultural. There are several community gardens in the Upper Peninsula, one is in Escanaba. Commissioner Sikkema also mentioned that this might be a good spot for a community garden. A question pertaining to a community garden will be put on the upcoming survey that will be sent out to the residents of the Township of Chocoday.

Ayes 6 Nays 0 Motion approved.

**IX. PUBLIC COMMENT**

Wayne Dees, 512 Woodvale, inquired if staff received his comments from the last meeting.

**X. COMMISSIONER'S COMMENT**

Ken Tabor inquired about the new flashing sign at the Holiday Station on US 41. Jennifer Thum stated she asked the Zoning Administrator about it and was told the sign is legal.

**XI. DIRECTOR'S REPORT**

Jennifer Thum reported staff is looking at the budgeting for the proposed new manager position. Ms. Thum also stated that the State revenue sharing was decreased by approximately \$300,000 for the Township, which will have an impact on statutory funds and possibly employee positions.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

- A. Marquette Township Planning Commission Minutes, August and September, 2009
- B. Planning and Zoning New, September, 2009

**XIII. ADJOURNMENT**

Ken Tabor, Moved, Al Denton, Seconded, to adjourn the meeting as there was no further business to address. The meeting adjourned at 9:33 p.m.

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Albert Denton, Chairperson

**CHARTER TOWNSHIP OF CHOCOLAY  
PLANNING COMMISSION MEETING MINUTES  
MONDAY, NOVEMBER 2, 2009**

**I. MEETING CALLED TO ORDER AT 7:30 PM/ROLL CALL**

**Present:** Chairman Albert Denton, Ken Tabor, Kendell Milton,  
Andy Sikkema, Andy Smith, Estelle DeVooght, Steve Kinnunen

**Excused:**

**Staff Present:** Jennifer Thum (Planning and Community Development),  
Laurie Vashaw-Eagle (Recording Secretary)

**I. APPROVAL OF OCTOBER 12, 2009 MEETING MINUTES**

Estelle DeVooght, Moved, Albert Denton, Seconded, to approve the October 12, 2009, Planning Commission minutes as written.

Ayes 7. Nays 0. Motion approved.

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

Steve Kinnunen, Moved, Estelle DeVooght, Seconded, to approve the agenda as written for the November 2, 2009, Chocolay Township Planning Commission meeting.

Ayes 7. Nays 0. Motion approved.

**I. PUBLIC HEARINGS**

**A. CONTINUATION OF VEHICLES AND TRAILER PARKING AND STORAGE ORDINANCE**

No comments from the public.

**I. PUBLIC COMMENT**

No public comment provided.

**I. PRESENTATION**

No presentations scheduled.

**I. OLD BUSINESS**

**A. PROPOSED ZONING AMENDMENT #34-09-09, DEFINITION AND ACREAGE**

Ms. Thum reported that last month the Planning Commission discussed parks and the Lakenenland property. The new definition was discussed by the Planning Commission last month, but Ms. Thum believes nothing was approved. There was discussion about private vs. public parks and the consensus was to leave a park as public. For this month's discussion, Ms. Thum reported she included a couple of examples for a definition of Private Park, in case you would like to include them in the zoning ordinance. A while ago a proposed zoning amendment did go to the Board for a definition of a park, but this can be changed.

The Township Supervisor would like the Planning Commission to come up with a decision on how to handle the permit that was issued for the band shell at Lakenenland. Ms. Thum stated that the Planning Commission can leave the permit sit, as parks will be added into AF districts shortly (as a conditional use permit) or the permit can be revoked and then have Mr. Lakenen apply for a band shell under a CUP permit. The previous definition for parks stated:

*“Park, a noncommercial, not-for-profit, parcel of land, with or without a structure, designed to serve the recreational needs of the residents, including but not limited to playgrounds, sport fields, game courts, beaches, trails, picnicking areas, and leisure time activities.”*

There was much discussion by the Planning Commissioners that the definition for a park is a totally separate issue from the Lakenenland issue. The Commissioners agreed to determine the definition for a park at this meeting and address the Lakenenland issue at a later time.

Andy Sikkema, Motioned, Ken Tabor, Seconded to approve the definition of a public park as listed below:

**Park, a publically owned parcel of land, as:**

- A. Maintained for recreational and ornamental purposes.
- B. A landscaped Township square.
- C. A large tract of rural land kept in its natural state and usually reserved for the enjoyment and recreation of visitors.
- A. Protected area in its natural or semi-natural state that may consist of rocks, soil, water, flora, fauna and grass areas.
- B. A place where people can hold public festivals/events.

Ayes 7. Nays 0. Motion approved.

**A. VEHICLE AND TRAILER PARKING AND STORAGE ORDINANCE**

Ms. Thum stated that last month there was discussion about the junk car ordinance. As noted last month, the current ordinance does not place regulations on RV's, which is becoming a problem in our Township. With the proposed ordinance, we are hoping to be able to clean up the Township. Ms. Thum discussed that she would like to have the Planning Commission take time putting this ordinance together. She reported that it has also been sent to the police and Township Attorney for their review.

The Commissioners provided some additional revisions to the ordinance, which Ms. Thum will address. The Commissioners agreed to table this until further input from the Township Attorney and Police are received.

Andy Sikkema, Motioned, Ken Tabor, Seconded, to table this until the next meeting to further review and await Township Attorney and Police Department input.

Ayes 7. Nays 0. Motion approved.

## **I. NEW BUSINESS**

### **A. BLONDEAU FENCE APPLICATION**

Jennifer Thum reported that normally Township Staff can approve a fence permit, but since Blondeau Construction is a commercial use, they have to go before the Planning Commission. Staff contacted Mr. David Blondeau about the fence and he stated the reason he was asking for a permit, was that an individual recently fell off of the retaining wall that the fence would sit on. This incident did involve the State Police, so staff sent a FOIA request to Lansing for a copy of the report. Ms. Thum stated that in her opinion, the report shows justification for the fence. Ms. Thum also stated that staff has no problem with the fence, and does feel that one is needed.

Ken Tabor, Motioned, Al Denton, Seconded, to permit Blondeau Construction to install a 4 ft. high chain link fence located on a block retaining wall, permit #2009-94.

Ayes 7. Nays 0. Motion approved.

### **B. BROWERS RECREATIONAL AREA**

Ms. Thum reported the local parks not only serve a recreational purpose, but they also enhance the quality of life for the communities. Each month staff will give an overview of the Township properties and the Planning Commission is to decide if the property is being used to serve our residents. Local parks focus on recreational activities that are generally more intensive and often require highly developed infrastructure (e.g., ball fields, golf courses, and swimming pools), though many local parks also preserve important land and water resources. When reviewing the properties, please look at the neighboring residential development and see if that park fits their needs. The Township

is almost all residential and the more places we can offer to them to enjoy locally the better.

### **Browsers Recreation Area**

**History:** In 1999 Don Bower donated this 48 acre parcel of land to the Township with hopes that we could use the land to educate the public about nature. His one request was that it had to be developed for youth by the youth. A local youth resident was seeking his Eagle Scout badge and took on this project. He organized a plan, presented it to the Township Board, and added some additional thought on how to use the property (attached).

**Location:** 430 Kawbawgam Road (see attached map)

**Size:** 48 acres

**Zoning:** MP

**School:** None

**Observation:**

Currently the area is used for recreational purposes. There is a gravel parking lot at the site, but we have problems with resident's dumping their brush at this site. Also, there is no signage so Ms. Thum stated she doesn't believe the Township residents know where the site is. Ms. Thum thinks this would be a great spot to get the local kids involved and to add some much needed signage. This area has a rough trail for hiking with minimal nature signage.

### **Implementation**

**Strategies:** Staff has looked at utilizing this area for cross country skiing.

Ms. Thum requested approval from the Commissioners to contact Northern Michigan University to see if they have any groups interested in working to enhance this recreational area. Ms. Thum also reported that in January, 2010, she will bring some sample mission statements and an inventory sample for the Township parks that are being reviewed. She stated that staff will also be looking at the 2010 budget to see if funds for signage can be obtained for the Township parks as some are not identified and hard to find.

Ayes 7. Nays 0.

### **C. HOLIDAY GAS STATION SIGN**

Ms. Thum reported that as requested by the Commission, she has reviewed Section 18 of the Zoning Ordinance relating to signage and its application to the recently installed signage at the Holiday Gas Station. She also reviewed the sign permit dated July 9<sup>th</sup>, 2009, attached site plan and supplemental; information submitted with the permit.

Since the question at hand is the color electronic message signage, Ms. Thum will concentrate her reference of the ordinance to the pertinent section. Section 18.9 Sign Illumination states that “No sign except time and temperature and similar signs shall have blinking, flashing, fluttering lights, exposed bulbs or other illuminating devices which have a changing light intensity, heightness of color, or any form of animation or moving device.

With every person you ask, you will get a slightly different opinion, but the generally accepted version of a time and temperature sign is the red LED small lights with the black background that shows a static display the temperature. It is also customary that the date appears as well. Beyond that type of display you have an electronic message center and in this case one with several messages, heightness of color, and changing light intensity.

Andy Sikkema suggested to Ms. Thum to contact the Michigan Department of Transportation to make sure the sign is not in the right-of-way.

**I. PUBLIC COMMENT**

No public comment provided.

**I. COMMISSIONER’S COMMENT**

No Commissioner’s comments provided.

**I. DIRECTOR’S REPORT**

Jennifer Thum reported that in January, 2010, an Intern will be working with the Township who is interested in Planning. Ms. Thum is putting together her 2010 Work Plan and will send the Commissioners a hard copy when she’s finished. The Township has applied for a grant to replace all of the current lights along the highway with LED lights from M-28 to the Township border by Sand River. The grant is for \$63,000. She hopes they’ll hear something by December, 2009 or March, 2010. Ms. Thum also reminded everyone that there will not be a Planning Commission meeting in December. She will send everyone a reminder of the January meeting date in the near future.

**I. INFORMATIONAL ITEMS AND CORRESPONDENCE**

A. Planning and Zoning New, October, 2009

**I. ADJOURNMENT**

Ken tabor, Moved, Al Denton, Seconded, to adjourn the meeting as there was no further business to address. The meeting adjourned at 8:27 p.m.

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Albert Denton, Chairperson



**Planning Commission**  
**Charter Township of Chocolay**

5010 US 41 South  
Marquette, MI 49855  
Phone: 906-249-1448 Fax: 906-249-1313

**There are no minutes for the meeting on December 7, 2009.**

**The meeting was cancelled.**