



CHEBOYGAN COUNTY PLANNING COMMISSION

870 SOUTH MAIN ST. ■ PO Box 70 ■ CHEBOYGAN, MI 49721
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**CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING
WEDNESDAY, MAY 20, 2015 AT 7:00 PM
ROOM 135 – COMMISSIONERS ROOM
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721**

AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES

UNFINISHED BUSINESS

1. Committee Recommendations Regarding Setbacks And Time Limits Relative To Amendment Of Section 17.7. Use Of Tents, Campers, Recreation Vehicles Etc.
2. Proposed Zoning Ordinance Amendment – Article 5, Rural Stream Protection District (P-RS)
3. Discussion, Highway front setbacks.

NEW BUSINESS

1. 2016 Capital Improvement Program Project Presentations From Cheboygan County Marina
2. 2016 Capital Improvement Program Project Presentations From Mullett Township

STAFF REPORT

PLANNING COMMISSION COMMENTS

PUBLIC COMMENTS

ADJOURN



CHEBOYGAN COUNTY PLANNING COMMISSION

870 SOUTH MAIN ST., ROOM 103 ■ PO Box 70 ■ CHEBOYGAN, MI 49721
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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, MAY 6, 2015 AT 7:00 P.M. ROOM 135 – COMMISSIONER'S ROOM - CHEBOYGAN COUNTY BUILDING

PRESENT: Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Churchill, Jazdyk
ABSENT: None
STAFF: Scott McNeil
GUESTS: Carl Muscott, Bob Lyon, Judy Ostwald, Russell Crawford, Cheryl Crawford, Tony Matelski, John Moore, Brent Shank, George Olson, Katelyn Schley, Betsy Hanson, Roger Gauthier, Leo Forster

The meeting was called to order by Chairperson Croft at 7:00pm.

PLEDGE OF ALLEGIANCE

Chairperson Croft led the Pledge of Allegiance.

APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Borowicz, seconded by Mr. Kavanaugh, to approve the agenda as presented. Motion carried unanimously.

APPROVAL OF MINUTES

The April 15, 2015 Planning Commission minutes were presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Borowicz, to approve the meeting minutes as presented. Motion carried unanimously.

PUBLIC HEARING AND ACTION ON REQUESTS

George and Darlene Olson - Requests a rezoning of property from Agriculture and Forestry Management (M-AF) to Commercial Development (D-CM). The property is located at 744 VFW Road, Inverness Township, section 7, parcel #092-007-400-003-00.

Mr. McNeil reviewed an aerial photo of the parcel and noted that Mr. and Mrs. Olson are requesting a rezoning from Agriculture/Forestry Management to Commercial Development. Mr. McNeil stated the parcel is 5 acres with 350ft. of frontage. Mr. McNeil noted that from the westerly property line of this parcel it is approximately 900ft. to the Commercial Development zoning district.

Mr. Kavanaugh stated that this may be a good location for condition rezoning. Mr. Jazdyk stated that in the Master Plan this area is Commercial. Mr. Kavanaugh stated the Master Plan is only a plan and explained that it can change. Mr. Kavanaugh stated in this case all of the area is residentially developed and that here is a farm field and a sheep farm that are adjacent. Mr. Kavanaugh stated the Planning Commission thought that this area would be used commercially at one time, however, it is not going that direction now. Mr. Kavanaugh stated there is a lot of commercial land around and a lot of open buildings. Mr. Kavanaugh stated it could be a problem to open it up for all commercial uses. Mr. Kavanaugh stated if a specific use was approved there would not be a negative impact on the property owners in this area. Mr. Kavanaugh noted that a conditional rezoning may allow several uses for this parcel and would be in harmony with this area without changing the character. Mr. Jazdyk stated a lot of time and money were spent on the Master Plan and noted that the Planning Commission can not predict what will happen. Mr. Jazdyk stated that the Planning Commission should make the best decision for the community. Discussion was held. Mr. Ostwald asked if there is a potato chip or snack cake storage facility in the area. Mr. McNeil stated there was a special use permit granted for the adjacent property and they may work out of this location from time to time. Mr. Kavanaugh stated it is a low intensity use. Mr. Kavanaugh stated that if the rezoning is approved it would allow bars, restaurants and pool halls. Mr. Kavanaugh also noted that manufacturing, junk yards and contractor's yards would be allowed with a special use permit. Mr. Jazdyk noted that just down the road there is a store where chainsaws and tractors are sold.

Ms. Croft asked for public comments. Mr. Olson stated for 21 years he and his wife operated a gymnastics club at this location and they have decided to do something different. Mr. Olson stated his home is next door. Mr. Olson noted they had to hook up to the sewer system. Mr. Olson stated there are many people from down state that need boat storage. Mr. Olson stated they

do not plan on having a dance hall or a bar. Mr. Kavanaugh stated this is why conditional rezoning may work for this use. Mr. Kavanaugh suggested that Mr. Olson talk to Mr. McNeil about applying for a conditional rezoning. Public comment closed.

Mr. Kavanaugh asked if there would be a waiting period for Mr. Olson to apply for a conditional rezoning if the Planning Commission makes a decision on the rezoning application. Mr. McNeil stated that Mr. Olson could verbally request to withdraw his application tonight. Mr. McNeil stated that a new application would have to be submitted and a public hearing would have to be held. Mr. Jazdyk asked if there will be another application fee. Mr. McNeil stated yes. Mr. Kavanaugh asked what is the next possible date for the Planning Commission to review a conditional rezoning application if Mr. Olson submits the application. Mr. McNeil stated it would be reviewed by the Planning Commission at the first meeting in June.

The Planning Commission reviewed and approved the General Findings:

1. The Planning Commission finds that the applicant proposes rezoning of certain real property in the application from Agricultural and Forest Management District (M-AF) Commercial Development District (D-CM). See exhibit 3.
2. The Planning Commission finds that the application is made by George and Darlene Olson, See exhibit 3.
3. The Planning Commission finds that the legal description of the property at issue, including the proposed property to be rezoned, is attached to the application. See exhibit 3.
4. The Planning Commission finds that the Cheboygan County Master Plan Future Land Use Map designates the area with the proposed rezoning as being offered as General Commercial. See exhibit 2

The Planning Commission reviewed the rezoning factors:

1. Is the proposed rezoning reasonably consistent with surrounding uses?

- A. The Planning Commission finds that many of the surrounding land uses are in the M-AF District and are residential in nature. Thus, the Planning Commission finds that the proposed rezoning is not reasonably consistent with surrounding uses. See exhibit 5.

Motion by Mr. Kavanaugh, supported by Mr. Freese, that this factor has not been met based on Will Not Support The Factor A. 7 Ayes (Bartlett, Freese, Croft, Ostwald, Lyon, Kavanaugh, Churchill) 2 Nays (Jazdyk, Borowicz), 0 Absent

2. Will there be an adverse physical impact on surrounding properties?

- A. The Planning Commission finds that there is evidence that the proposed rezoning in and of itself would result in adverse physical impact on surrounding properties as the activities which could occur in the subject area were rezoned would physically disturb the properties surrounding the land proposed for the rezoning.
- B. The Planning Commission finds that most of the surrounding properties are currently residential use. See exhibit 6

Motion by Mr. Borowicz, supported by Mr. Freese, that this factor has not been met based on Will Not Support The Factor A and B. Motion carried unanimously.

3. Will there be an adverse effect on property values in the adjacent area?

- A. The Planning Commission finds that there is no evidence that any study has been made to either support or negate the change in property values, however, common sense would indicate that property values would not increase and would probably decrease as a result of changing the property to a commercial use.

Motion by Mr. Freese, supported by Mr. Kavanaugh, that this factor has not been met based on Will Not Support The Factor A. 8 Ayes (Bartlett, Freese, Croft, Ostwald, Lyon, Kavanaugh, Churchill, Borowicz) 1 Nay (Jazdyk), 0 Absent

4. Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?

- A. The Planning Commission finds that changes which have occurred in the vicinity of the property have trended towards residential uses as opposed to commercial uses. As such, the changes that have occurred, albeit they have been slow over the past few years, do not favor the proposed rezoning.
- B. The Planning Commission finds that there is property available for development which is currently zoned Commercial Development. See exhibit 1

Motion by Mr. Borowicz, supported by Mr. Freese, that this factor has not been met based on Will Not Support The Factor A and B. Motion carried unanimously.

5. Will rezoning create a deterrent to the improvement or development of adjacent property in accordance with

existing regulations?

- A. The Planning Commission finds that the proposed rezoning would deter the improvement or development of adjacent property in accordance with existing regulations since most properties to the north, east, and west are residential uses. See exhibits 1 and 2 and 6.

Motion by Mr. Kavanaugh, supported by Mr. Freese, that this factor has not been met based on Will Not Support The Factor A. Motion carried. 8 Ayes (Bartlett, Freese, Croft, Ostwald, Lyon, Kavanaugh, Churchill, Borowicz) 1 Nay (Jazdzyk), 0 Absent

6. Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?

- A. The Planning Commission finds that the property has received a special use permit for a gymnastics facility and is contiguous to property currently zoned Commercial Development to the south. As such, the proposed rezoning does not create a special privilege or result in spot zoning. See exhibit 6 figure 1.

Motion by Mr. Freese, supported by Mr. Borowicz, that this factor has been met based on Will Support The Factor A. Motion carried. 8 Ayes (Bartlett, Freese, Croft, Ostwald, Lyon, Jazdzyk, Churchill, Borowicz) 1 Nay (Kavanaugh), 0 Absent

7. Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?

- A. The Planning Commission finds that although the property has an existing periodically used gymnastics facility, given the existing access to property via VFW Road and the current surrounding land uses, the property can be used for all purposes listed under its current zoning classification. See exhibit 6

Motion by Mr. Freese, supported by Mr. Kavanaugh, that this factor has not been met based on Will Not Support The Factor A. Motion carried. 8 Ayes (Bartlett, Freese, Croft, Ostwald, Lyon, Kavanaugh, Churchill, Borowicz) 1 Nay (Jazdzyk), 0 Absent

8. Is the rezoning in conflict with the planned use for the property as reflected in the master plan?

- A. The Planning Commission finds that the County's Master Plan depicts the future use of the property as being in the General Commercial category. The Planning Commission finds that the County's Master Plan Future Land Use Map depicts the future use of the property to the west of subject property as being in the Light Industrial category. See exhibit 2 future land use map and exhibit 5 figure 2.
- B. The Planning Commission finds that, as per the adopted Cheboygan County Master Plan, and Future Land Use Map, the future land use categories for surrounding properties may very well better describe the desired future land use on any given parcel and there is support in the Master Plan that this proposed rezoning would allow land uses which would be compatible with surrounding properties and meet the County's land use goals. See exhibit 2.

Motion by Mr. Kavanaugh, supported by Mr. Freese, that this factor has been met based on Will Support The Factor A and B. Motion carried unanimously.

9. Is the site served by adequate public facilities or is the applicant able to provide them?

- A. The Planning Commission finds that the site is or will be served by adequate public and private facilities by the applicant considering the type of uses which may be permitted on the property.

Motion by Mr. Freese, supported by Mr. Churchill, that this factor has been met based on Will Support The Factor A. Motion carried unanimously.

10. Are there sites nearby already properly zoned that can be used for the intended purposes?

- A. The Planning Commission finds that, with respect to the proposed rezoning, nearby land is available with existing Commercial Development zoning. See exhibit 1

Motion by Mr. Freese, supported by Mr. Kavanaugh, that this factor has been not met based on Will Not Support The Factor A. Motion carried unanimously.

Motion by Mr. Kavanaugh, seconded by Mr. Borowicz, to recommend denial for the rezoning request based on public comments, general findings of fact and the rezoning factors of which 7 of 10 did not support the rezoning. Motion carried. 8 Ayes (Bartlett, Freese, Croft, Ostwald, Lyon, Kavanaugh, Churchill, Borowicz) 1 Nay (Jazdzyk), 0 Absent

Mr. Freese noted that the purposes for which the applicant is requesting the rezoning would not really impact the area much.

Mr. Freese stated the rezoning to Commercial would impact the area. Mr. Freese stated if the applicant is truly interested in the proposed use he should follow through with a conditional rezoning application.

UNFINISHED BUSINESS

Discussion With Brent Shank, Cheboygan County Road Commission Manager, Regarding Setbacks On Highways

Mr. McNeil stated the Planning Commission is looking at some of the required setbacks along the state highways. Mr. McNeil stated in the Agriculture/Forestry Management zoning district there is a 50ft. setback from the right of way. Mr. McNeil stated in many cases there is a 150ft. right of way along the state highway and in some cases it is wider. Mr. McNeil stated this would require 75ft. from the centerline and also a 50ft. front setback. Mr. McNeil stated the Zoning Board of Appeals has made some decisions in the past providing relief from the front setback requirement. Mr. McNeil stated the Planning Commission is looking at lessening the front setback requirements along this area because of the varying width in the right of way. Mr. McNeil stated Mr. Shank will talk about the administration of right of ways and help the Planning Commission with that decision.

Mr. Freese believes there are a large number of cases that have come to the Zoning Board of Appeals regarding setbacks along that stretch of highway. Mr. Freese stated the right of way varies and he does not see the justification for this wide of a right of way as it will not be made into a 6 lane highway. Mr. Freese stated over 30% of the parcels in this stretch are non-compliant as far as setbacks. Mr. Freese stated he is proposing that the setbacks be determined from 33ft. from the centerline of the road or the property line whichever is less. Mr. Freese stated he does not see the justification for that stretch of highway being any different than other roads in the county that have a 66ft. right of way.

Mr. Shank noted that most of this area is old MDOT right of way which was a lot wider than the traditional 66ft. wide right of way. Mr. Shank stated that they want to provide safety for the traveling public and anything that is erected in the right of way would constitute a hazard to the traveling public. Mr. Shank cautioned against setting up a setback that would fall within the right of way. Mr. Freese stated it would be no closer than the 66ft. wide right of way which is what is required for 90% of the roads in the county. Mr. Shank stated they do not control the right of way widths and the law requires that they defend the right of ways from obstructions. Mr. Shank stated his concerns that the Planning Commission may change the front setback requirement and allow building within the right of way.

Mr. McNeil asked if Mr. Freese is proposing allowing structures to be built within the right of way. Mr. Freese stated he is proposing building up to 33ft. from the centerline if the property line falls within the 150ft. right of way. Mr. Freese stated the property owner could not do this if it is a right of way owned by the county. Discussion was held who owns the right of ways. Mr. McNeil and Mr. Shank agreed that this should be reviewed by legal counsel.

Ms. Croft asked if the roads are where they are supposed to be. Mr. Shank stated there is case law that supports roads being centered in their own right of way.

Mr. Shank stated the right of ways that MDOT had were turned over and adopted by the counties. Mr. Shank stated the property owners can petition the Road Commission to abandon a piece if there is a wide right of way and to allow them to gain the use of the property back and the setback would be moved up to where the new right of way is established. Mr. Shank explained that the law does have a mechanism for fixing these areas. Mr. Shank stated all Road Commission managers and boards are duty bound to defend the right of ways.

Mr. Kavanaugh stated that this should be reviewed by legal counsel. Mr. Kavanaugh stated that there have only been 11 of these cases reviewed by the Zoning Board of Appeals in 23 years. Mr. Kavanaugh suggested not making any changes and allow the Zoning Board of Appeals to review these types of cases.

Mr. Ostwald stated these cases are reviewed on an individual basis by the Zoning Board of Appeals and the Road Commission. Mr. Ostwald stated that the property owners should be made aware that they can also petition the Road Commission. Mr. Freese stated the Road Commission has lost all of the cases that have gone to court and the people are paying a lot of money to take this to court. Discussion was held.

Discussion Regarding Draft Zoning Ordinance Provisions Regarding Proposed Rural Stream Protection Zoning District

Mr. McNeil referred to the proposed amendment document that would establish the provisions of the Rural Stream Protection Zoning District and noted that it would be included in the Zoning Ordinance as Article V. Mr. McNeil reviewed the permitted uses and uses which require a special use permit. Mr. McNeil stated a 40ft. setback along the streams will be required with conditions for the setback area. Mr. McNeil stated that proposed zoning maps are available showing the Rural Stream Protection zoning district.

Mr. Freese stated that Mr. McNeil has done a great job on this proposed amendment. Mr. Freese stated many of these items should have been included previously. Mr. Freese stated the maps are incorrect. Mr. McNeil stated that in the printing of the maps something happened to the Natural Rivers Protection layer. Mr. McNeil stated zoning maps will be resubmitted to the Planning Commission.

Mr. Freese believes that the 250ft. district boundary is excessive. Mr. Freese stated 250ft. may be acceptable for some streams but a lot of these are small streams and 150ft. may be more than adequate. Mr. McNeil stated that agricultural uses will be able to come closer to the streams. Mr. Kavanaugh stated 250ft. is half of the previous district boundary and will allow 50% more use. Mr. Freese stated it could be 250ft. if the underlying zoning district is Agriculture/Forestry Management and 150ft. if the underlying zoning district is Residential Development. Mr. Kavanaugh stated this would be a reasonable change. Mr. McNeil stated this zoning district is not needed with Residential Development. Mr. Freese stated by keeping this zoning classification with Residential Development there will still be protection measures in it as it is a new zoning district.

Mr. Kavanaugh asked if the townships have reviewed these maps and if there were any comments. Mr. McNeil stated yes the townships have reviewed the maps and there was feedback from 2 or 3 townships.

Capital Improvement Plan – Review Of Project Acceptance And Prioritization Criteria

Mr. McNeil provided the Planning Commission language for review criteria for each of the projects to be in the needed or desirable categories. Mr. Kavanaugh stated that he did not realize that they could decide not to include some of the projects.

Mr. McNeil stated the Planning Commission's first decision should be to determine if the project should be included in the plan. Mr. McNeil stated the second decision is whether the project should go in the needed or desired category. Ms. Lyon stated that new projects should include research on why it should be included in the plan. Mr. Freese referred to Section 125.3865 Section 65 (2) and read "Any township may prepare and adopt a capital improvement program. However, subsection (1) is only mandatory for a township if the township, alone or jointly with 1 or more other local units of government, owns or operates a water supply or sewage disposal system" Mr. Freese stated this is mandatory for Tuscarora Township. Ms. Croft stated it is also mandatory for Beaugrand Township and Inverness Township. Mr. McNeil noted that the City of Cheboygan operates the water supply and sewage disposal system. Discussion was held.

Mr. McNeil stated presentations will be scheduled for the second meeting in May and the first meeting in June.

NEW BUSINESS

Escrow Account Recommendation For Heritage Cove Farm

Mr. McNeil stated the Planning Commission received a memo from Steve Schnell in regards to an application that was received for Heritage Cove Farm which is a proposed therapeutic farm community that would serve the mentally handicapped. Mr. McNeil stated the Planning Commission has also received copies of the application and a recent letter that was provided to the applicant. Mr. McNeil stated that Mr. Schnell is citing complexities with the application as well as applicant's assertion of some federal and state law that may pre-empt zoning that would cause us to require legal counsel. Mr. McNeil stated the ordinance allows the Planning Commission to ask an applicant to place funds into an escrow account to offset costs. Mr. McNeil stated that Mr. Schnell is recommending \$2,000 be placed in an escrow account to service the legal needs of this application. Mr. Freese agreed with Mr. Schnell's suggestion and noted that there have been three cases that have gone into extensive meetings and were expensive to the county. Mr. Freese stated the applicant should have to shoulder that cost with this application. Discussion was held. Mr. Bartlett questioned if unused money will be returned to the applicant. Mr. McNeil stated yes. Mr. Bartlett stated \$2,000 is a small amount and will be used quickly. Mr. Bartlett suggested increasing the amount to save time. Discussion was held. **Motion** by Mr. Kavanaugh, seconded by Mr. Bartlett, to request a \$2,000 escrow deposit for the project based on staff recommendation. Motion carried unanimously.

STAFF REPORT

Mr. McNeil stated the Planning Commission has received copies of a letter from Corwith Township stating that they have completed their Master Plan. Mr. McNeil stated please contact the Planning and Zoning Department if you would like to receive a copy of the Corwith Township Master Plan.

PLANNING COMMISSION COMMENTS

No comments.

PUBLIC COMMENTS

Mr. Gauthier commented on the proposed Rural Stream Protection Zoning District (see Attachment A).

Mr. Muscott stated he advertised lots for sale in Topinabee and the first few calls were regarding whether or not camping would be allowed. Mr. Muscott stated his concerns about the camping amendment taking over two years to complete. Mr. McNeil stated camping will be on the next Planning Commission agenda.

ADJOURN

Motion by Mr. Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 8:54pm.

Charles Freese
Planning Commission Secretary

DRAFT

Roger Gauthier Comments on Proposed Rural Stream Protection Zoning District

May 6, 2015

First and foremost, I applaud the work of the County's Planning Department to revise the County's zoning ordinance to better protect water quality for our most precious resource.

My strongest agreement exists with the following components of the proposed amendment:

1. Reduction of the zone size to 250 feet from the ordinary high water mark on either side of all designated perennial streams;
2. Adding a mandatory requirement for a natural vegetative strip of 40 feet from the ordinary high water mark for 70% of each affected parcel;
3. Limiting expanded agricultural within the mandatory 40 foot setback zone;
4. Reinforcing permitting requirements for new construction within the 40 foot setback, in accordance with federal, state, and local regulations; and
5. Outlawing new septic systems within the 40 foot setback zone.

My suggestions for improving the amended zoning ordinance are to:

6. Revisit the distinctions between current Natural Rivers and Resource Conservation zones and the new Rural Stream Protection zone to insure consistency and reduce redundancies;
7. Rename the Lake and Stream Protection zone to Lake and Rivers Protection zone to reduce confusion;
8. Reassess zoning priorities for coincident areas where perennial stream exist within existing commercial and industrial development zones; a special use permit should be required for any new development within the proposed Rural Stream Protection zone;
9. Add a requirement that a special use permit would be necessary for construction of any new roads and bridges over perennial streams included in the proposed Rural Protection zone; and
10. Clean up a few orphaned perennial stream features currently within the existing Natural River Protection and proposed Rural Stream Protection zones, particularly in Nunda, Walker, and Waverly townships.



CHEBOYGAN COUNTY COMMUNITY DEVELOPMENT DEPARTMENT

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Date: May 14, 2015

To: Planning Commission

From: Scott McNeil

Re: Committee recommendations regarding setbacks and time limits relative to amendment of Section 17.7. Use of tents, campers, recreation vehicles etc.

Included with your May 20 meeting package is the pertinent sections regarding subject amendment document which provide recommendations that have been developed in conjunction with a review committee set at the April 1, 2015 meeting. The review committee included Commissioners Jazdyk and Kavanaugh along with myself. The committee addressed setbacks and time frames relative to camping on private property for vacation and hunting stays. *No other provisions of the amendment were reviewed.*

You will find the proposed provisions relative to setbacks and time limits printed in bold within sections 17.4. and 17.5. You will find the text highlighting provisions for the Agriculture and Forestry Management District (M-AF) under section 17.4. and for all other districts under section 17.5. in red.

The most recent draft provisions within section 17.4. relative to the M-AF district provide for meeting the standard required setbacks of 50 feet from the front lot line, 10 feet from the side lot lines and 30 feet from the rear lot line. ***The proposed changes in the attached draft*** would require a 75 foot front setback and side setback of 30% of the lot width. Language requiring the standard 30 foot rear setback remains under proposed section 17.7.4.a.

Most recent draft provisions within section 17.5. relative to all zoning districts except the M-AF district provide for meeting the standard required setbacks of the district in which they are located. ***The proposed changes in the attached draft*** would require a side setback of 30% of the lot width under proposed section 17.7.5.c. Meeting the standard front and rear setback requirements are proposed to remain. Also, a time limit of three (3) periods of thirty (30) consecutive days in a calendar year when located within three hundred (300) feet of a dwelling is being recommended.

Current provisions within the zoning ordinance relative to time frames and setbacks include a time frame of 30 consecutive calendar days each year, by the owner only, if located within 1,000 feet of a permanent residence in any zoning district. There is no limit if located more than 1,000 feet of a permanent residence. There is a 100 foot setback from the water's edge on a water front lot. Meeting other setback requirements is not currently provided.

We will look forward to discussion of these proposed changes at the next regular meeting of May 20, 2015. Please contact me with questions.

Sections 17.7.4. and 17.7.5. committee recommendations.

17.7.4. A tent, travel trailer, camper or recreational vehicle may be used in the **Agriculture and Forestry Management zoning district** without a zoning permit, for vacation and hunting stays provided all of the following conditions and requirements are met: (Provisions for camping under Public Act 368 of 1978, part 125 as amended may also apply)

17.7.4.a. Each tent, travel trailer, camper, or recreational vehicle fully complies with rear setback requirements of the district. Each side lot line setback shall be 30% of the lot width. The front setback shall be 75 feet.

17.7.4.c. Each tent, travel trailer, camper, or recreational vehicle has a method of sewage and waste disposal that meets the requirements of the local Health Department.

17.7.5. A tent, travel trailer, camper or recreational vehicle may be used in the **all zoning districts except the Agriculture and Forestry Management zoning district** (See section 17.7.4.for requirements in the Agriculture and Forestry Management District.) without a zoning permit, for vacation and hunting stays provided all of the following conditions and requirements are met: (Provisions for camping under Public Act 368 of 1978, part 125 as amended may also apply.)

17.7.5.a. For lots less than one half (1/2) acre in area, no more than one (1) tent, travel trailer, camper or recreational vehicle shall be used as authorized by this subsection on the lot at the same time.

17.7.5.b. For each additional full one half (1/2) acre of lot area one (1) additional tent, travel trailer, camper or recreational vehicle may be used as authorized by this subsection on the lot at the same time with a maximum of four (4) such tents, travel trailers, campers or recreational vehicles.

17.7.5.c. Each tent, travel trailer, camper, or recreational vehicle fully complies with the front and rear setback requirements of the zoning district within which it is located. Each side lot line setback shall be 30% of the lot width.

17.7.4.b. The use of tents, travel trailers, campers or recreational vehicles shall be limited to three (3) periods of thirty (30) consecutive days in a calendar year when located within three hundred (300) feet of a dwelling.

17.7.5.d. Each tent, travel trailer, camper, or recreational vehicle has a method of sewage and waste disposal that meets the requirements of the local Health Department.

17.7.5.e. Each tent, travel trailer, camper, or recreational vehicle that is used in the Lake and Stream Protection and Residential Development zoning districts, in addition to complying with the regulations of subsections 17.7.5.a through 17.7.5.d. shall be removed from the lot during periods when not being used for vacation or hunting stays, unless stored under the requirements of Section 17.7A of this Ordinance.



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Date: May 13, 2015

To: Cheboygan County Planning Commission

From: Scott McNeil

Re: Proposed Zoning Ordinance Amendment – Article 5, Rural Stream Protection District (P-RS)

Included with your meeting package is the draft amendment document dated 5/13/15. Proposed changes to the document as discussed below are printed in bold.

Per discussion at the most recent meeting I have revised Section 3 establishing the district on land located within 150 feet of a perennial stream when located contiguous to a Residential Development District, and 250 feet from a perennial stream for all other areas as mapped. I would like to discuss the desire to reduce the district to 150 from streams in Residential Districts as we are experiencing some difficulty describing and mapping.

Also in section 3, Supplemental Requirements, you will find updated language relative to maintaining a natural vegetation strip in the front setback area which is in existence at the time of adoption of the amendment.

Also please note a recommendation of a 400 square foot minimum floor area for a dwelling in section 4 of the amendment document. I failed to point this out in my presentation at the last meeting. This is intended to start discussion regarding areas where smaller dwellings may be allowed.

I will look forward to further discussion with the Planning Commission. Please do not hesitate to contact me with questions.

DRAFT 5/13/15
CHEBOYGAN COUNTY
Zoning Ordinance Amendment # ___

AN ORDINANCE TO AMEND CHEBOYGAN COUNTY ZONING ORDINANCE NO.
200 TO ADD THE RURAL STREAM PROTECTION (P-RS) ZONING DISTRICT.

Section 1. Amendment of Section 2.2.

Section 2.2. of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to change the following definition which shall read in its entirety as follows:

LOT LINE, FRONT

In the case of a corner lot, through lot, or waterfront lot in the D-GI, D-LI, D-CM, D-VC, VC-IR and VC-IR-O zoning districts it is that line separating said lot from the street which is designated as the front street in the plat and in the application for a building permit or occupancy permit. In the case of an interior lot it is the line separating the lot from the abutting public or private road right-of-way. In the case of a waterfront lot in the P-LS, P-RS and P-NR zoning districts it is the ordinary high water mark.

Section 2. Amendment of Section 3.8.1.

Section 3.8.1. of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to read in its entirety as follows:

3.8.1. This ordinance establishes the following zoning districts in Cheboygan County.

Development Districts

D-RS Residential
D-CM Commercial
D-LI Light Industrial
D-GI General Industrial
D-RC Rural Character/Country Living

Village Center Districts

D-VC Village Center
VC-IR Village Center Indian River
VC-IR-O Village Center Indian River Overlay
VC-T Village Center Topinabee
VC-T-O Village Center Topinabee Overlay
VC-T-RO Village Center Topinabee Residential Overlay

Management District

M-AF Agriculture & Forestry

Protection Districts

P-LS Lake and Stream
P-NR Natural Rivers
P-RC Resource Conservation
P-RS Rural Stream

Section 3. Add provisions to Article 5

The provisions of Article 5 of the Cheboygan County Zoning Ordinance No. 200 are hereby added to read in their entirety as follows;

Article 5 Rural Stream Protection District (P-RS)

Section 5.1. Purpose

5.1.1. Cheboygan County has the distinction of having more water surface than any other county in the State of Michigan which includes many miles of perennial streams which are directly connected to many other larger bodies of water in the County. It is vital to the orderly future development of the county that these waters and natural resources are protected and that environmental control is exercised.

The provisions for this zoning district are designed to promote the general health and welfare of the county by protecting water quality, public health, property values, and community scenic and recreational values.

Water quality protection measures include buffers to maintain stream banks, minimize erosion, maintain shading which will help cool water temperatures and protect fisheries and wildlife habitat. Natural vegetation strips to help protect water quality by absorbing nutrients from surface water run-off shall be encouraged. Uses which preserve property values, community scenic and recreational values and maintain a rural character shall be provided.

5.1.2. The Rural Stream Protection District (P-RD) includes property within two hundred and fifty (250) feet of the shoreline's ordinary high water mark (measured horizontally and perpendicular to the shoreline) of any perennial stream **or one hundred and fifty (150) feet of the shoreline's ordinary high water mark of any perennial stream when located contiguous to a Residential Development District (D-RS)**, as identified on the zoning maps incorporated into the Cheboygan County Zoning Ordinance No. 200, Section 3.9.1 as amended. Exact boundaries shall be interpreted by the most logical continuations or interpolations of property lines. In following such continuations, district boundaries may be greater than 250 feet **or 150 feet, as applicable**, from the shoreline but never less. If there are questions on the interpretation of district boundaries, the Zoning Board of Appeals shall decide.

Section 5.2. Permitted Uses

- 5.2.1. Single Family Dwellings.
- 5.2.2. Commercial Farm Buildings.
- 5.2.3. Commercial Farms.
- 5.2.4. Day care centers
- 5.2.5. Farm Markets
- 5.2.6. Private hunting and fishing cabins.
- 5.2.7. Private Storage Buildings
- 5.2.8. Hobby Farm Buildings.

- 5.2.9. Hobby Farms.
- 5.2.10. Home occupations as defined in Section 17.21.
- 5.2.11. Tree farms

Section 5.3. Uses which require a special use permit.

- 5.3.1. Bar/restaurant
- 5.3.2. Bed & Breakfasts
- 5.3.3. Community buildings, Public parks, public access sites, public recreational areas, and public campgrounds.
- 5.3.4. Cabin colonies, resort hotels, vacation lodges, motor inns, motels and other tourist lodging facilities.
- 5.3.5. Child caring institution
- 5.3.6. Commercial campgrounds
- 5.3.7. Commercial hunting grounds, fishing sites and wildlife preserves. hunting and fishing cabins.
- 5.3.8. Commercial outdoor recreation activities and launching ramps.
- 5.3.9. Golf courses, driving ranges and country clubs.
- 5.3.10. Greenhouses and nurseries
- 5.3.11. Nursing and convalescent homes
- 5.3.12. Public parks, public access sites, public recreational areas, and public campgrounds
- 5.3.13. Two family or multifamily dwellings.

Section 5.4. Supplemental Requirements for Rural Stream Protection District

5.4.1 A setback shall be established and maintained on all streams in the Rural Stream Protection District. The setback area shall include all the land area located within forty (40) feet of the ordinary highwater mark of a stream. The following conditions and requirements shall apply in the setback area in addition to applicable provisions of the Cheboygan County Soil Sedimentation and Stormwater Control Ordinance:

- 5.4.1.1. A natural vegetative strip consisting of native trees, shrubs and other natural vegetation **in existence on the effective date of this amendment** shall be maintained on at least seventy percent (70%) of the setback area.
- 5.4.1.2. Dead, diseased, unsafe or fallen trees, and noxious plants and shrubs, including poison ivy, poison sumac and poison oak may be removed.
- 5.4.1.3. The use of pesticides, herbicides and fertilizers is prohibited, except to allow use of herbicides for removal of poison ivy, poison sumac, and poison oak.
- 5.4.1.4. Trees and shrubs may be pruned to achieve a filtered view of the stream from a dwelling.
- 5.4.1.5. New and expanding agricultural and farm uses including new and expanding commercial tree farm uses shall not be conducted.

- 5.4.1.6. No dredging, filling or any type of construction over a stream shall be allowed except where permitted under provisions of applicable county or township ordinance and state or federal laws.
- 5.4.1.7. The use of stone, aggregate, wood or similar surfaces shall be limited to a single walkway or stairs no more than eight feet in width necessary for water access to a stream. Handrails along stairs are permitted.
- 5.4.1.8. No septic tanks, absorption fields or septic system filtration fields shall be allowed.

Section 4. Amendment of Section 17.1.

Section 17.1. of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to add the following row in its proper alphabetical order which shall read in its entirety as follows:

		Minimum Floor Area	Minimum Building Width	Min. Lot Size		Min. Yard Setbacks (feet)			Maximum Height of Structures
Zoning District		Sq. ft.	Feet	Area (Sq.ft.)	Width (ft.)	Front	Sides	Rear	Feet
<u>P- RS</u>	<u>Rural Stream Protection District</u>	400 ^D	14 ^D	30,000 ^D	150 ^D	40 ^M	10	40	35 ^L

Section 5. Addition of Section 17.1. Note M.

Section 17.1.Note M, of the Cheboygan County Zoning Ordinance No. 200 is hereby added to read in its entirety as follows;

M. The minimum front setback for non waterfront lots in the P-RS District shall be forty (40) feet.

Section 6. Severability.

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 7. Effective Date.

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the County.

CHEBOYGAN COUNTY

By:

Peter Redmond
Its: Chairperson

By:

Mary Ellen Tryban
Its: Clerk

YOUNG, GRAHAM, ELSENHEIMER & WENDLING, P.C.

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James G. Young, *Of Counsel*

May 14, 2015

**CONFIDENTIAL-Attorney/Client Privilege
Sent via email**

Scott McNeil, Community Development Planner
Cheboygan County
P.O. Box 70
Cheboygan, MI 49721

SUBJECT: Measurement of setbacks on the road right-of-way

Dear Scott:

Per our conversation, the Cheboygan County Zoning Ordinance requires setbacks to be established from the line separating the property from the road right-of-way easement. As you are aware, most road right-of-ways are a grant of an easement as opposed to fee ownership, although there are circumstances where the roadbed is actually owned either by the road commission or, in other cases, MDOT and/or the federal government.

In any event, an easement is an interest in property and public right-of-ways for public county primary and local roads come under the jurisdiction of the road commission. In order to place any structure within a right-of-way, a permit from the road commission is required. These provisions are contained in the General Highway Law, being Public Act 283 of 1909, as amended, specifically see MCL 224.19b. It also contains regulations pertaining to governmental entities for the installation of facilities or utilities, etc. Regardless, these exceptions which require the issuance of a permit would not be applicable in the context of zoning regulations. Therefore, Cheboygan County's provisions requiring the measurement of setbacks from the edge of the road right-of-way are proper.

If you have any further questions, please do not hesitate to contact me directly.

Sincerely,

Peter R. Wendling

PRW/tac



CHEBOYGAN COUNTY COMMUNITY DEVELOPMENT DEPARTMENT

CHEBOYGAN COUNTY BUILDING ■ 870 S. MAIN STREET, PO BOX 70 ■ CHEBOYGAN, MI 49721
PHONE: (231)627-8485 ■ FAX: (231)627-3646
www.cheboygancounty.net/planning/

Date: May 11, 2015

To: Planning Commissioners

From: Scott McNeil

Re: 2016 Capital Improvement Program project presentations from Mullett Township and Cheboygan County Marina.

Included with your May 20 meeting packages are Project Descriptions from the entities which are the subject of this memo for your reference.

Also included is a work sheet I prepared which includes selection criteria from the CIP document as recently discussed. I will have hard copies for your use at the meeting. I have provided a copy of the same to the presenters.

Mullett Township Clerk Rachel Osborn will present on behalf of Mullett Township and Dock Master Curtis Chambers will present on behalf of the Cheboygan County Marina.

Please do not hesitate to contact me with questions or comments.

CHEBOYGAN COUNTY PLANNING COMMISSION.
CAPITAL IMPROVEMENT PLAN
PROJECT SELECTION AND PRIORITIZATION WORK SHEET.

Proposed Project;

Projects are to be placed in general priority in consideration of factors listed in the following categories: (One or more of these factors should be met to be placed in the CIP)

a) Needed (essential, should do)

- Addresses an objective of the Cheboygan County Comprehensive Plan
- Satisfies a legal obligation
- Corrects a condition dangerous to public health and safety
- Reduces future operating and maintenance costs
- Leverages local, state or federal funds.
- Prevents irreparable damage to a valuable public facility
- Stimulates economic growth and private investment

b) Desirable (important, could do)

- Provides a new or expanded level of service
- Provides a facility improvement adding efficiency or increase in use with minimal or no operating cost increase.
- Enhances cultural or natural resources.

Cheboygan County Capital Improvement Program

Project Description

Project Title: Pier System "A" Replacement and Upgrade

Agency: Cheboygan County Marina

Project Type: Facility Replacement

Project Description: Existing dock system at the Marina was constructed in 1988. A new wood structure floating pier system is proposed to replace the existing 88 slip facility which includes 20, 536 square feet of floating piers. System "A" includes replacement of 35 slips which make up 11,142 square feet of the existing floating pier system. The dock system replacement includes ice suppression system , sanitary pump out, pump out stanchion, potable water lines and, fire suppression system, power pedestals, shore line fuel system repairs and service pier lighting. Electric service upgrades and improvements to meet current ADA requirements are also included in the proposed System "A" replacement and upgrade plan.

Year(s) of Project: Contingent of Obtaining Funding - 2018

Estimated Cost: \$1,000,000

Planning Commission Priority Category: Desirable

Cheboygan County Capital Improvement Program

Project Description

Project Title: Pier System "B" Replacement and Upgrade

Agency: Cheboygan County Marina

Project Type: Facility Replacement

Project Description: Existing dock system at the Marina was constructed in 1988. A new wood structure floating pier system is proposed to replace the existing 84 slip facility which includes 20,536 square feet of floating piers. System "B" includes replacement of 43 slips which make up 9,412 square feet of the existing floating pier system. The dock system replacement includes ice suppression system, potable water lines and stanchion, fire suppression system, power pedestals and service pier lighting. Electric service upgrades and improvements to meet current ADA requirements are also included in the proposed System "B" project.

Year(s) of Project: Contingent on Obtaining Funding - 2019

Estimated Cost: \$950,000

Planning Commission Priority Category: Desirable

Cheboygan County Capital Improvement Program

Project Description

Project Title: Fuel Tank and Fuel Dock Replacement and Upgrade

Agency: Cheboygan County Marina

Project Type: Facility Replacement

Project Description: Existing fuel dock and fuel tank at the Marina was constructed and installed in 1988. A new wood dock is proposed to replace the existing dock. Replacement of the existing fuel storage tank is also proposed.

Year(s) of Project: Contingent on Obtaining Funding - 2016

Estimated Cost: \$400,000

Planning Commission Priority Category:

Cheboygan County Capital Improvement Program

Project Description

Project Title: Topinabee Beach Park Improvements

Agency: Mullett Township

Project Type: Facility Improvement

Project Description: The Topinabee Beach Park Improvement Project includes two new parking lots, sidewalks, signage and landscaping where the existing library, restroom and pavilion facilities are located. Stormwater facilities are also included in the project.

Year(s) of Project: 2016

Estimated Cost: \$239,600

Planning Commission Priority Category: Desirable

Cheboygan County Capital Improvement Program

Project Description

Project Title: Topinabee Green Corridor Streetscape

Agency: Mullett Township

Project Type: Facility Maintenance and Improvement

Project Description: The Topinabee Streetscape Plan is to improve the downtown parking, sidewalks, water runoff, and define the street with curb, gutter and lighting.

Year(s) of Project: 2017

Estimated Cost: \$1,200,000

Planning Commission Priority Category: Desirable