

**MINUTES**  
Cascade Charter Township Planning Commission  
Monday, June 7, 2010  
7:00 p.m.

- ARTICLE 1.** Chairman Waalkes called the meeting to order at 7:00 p.m.  
Members Present: Hammond, Logue, McCarthy, Pennington, Sperla, Williams.  
Members Absent: Lewis (excused), Robinson (excused).  
Others Present: Township Planning Director Peterson, Recording Secretary Hern and Members of the Public.
- ARTICLE 2.** Chairman Waalkes led the Pledge of Allegiance to the Flag.
- ARTICLE 3.** **Approve the Agenda for the June 7, 2010 Planning Commission Meeting.**  
Chairman Waalkes requested a motion for the approval of the June 7, 2010 Agenda.
- Motion was made by Member Sperla and supported by Member Pennington to approve the Agenda as presented. Motion carried unanimously.**
- ARTICLE 4.** **Approve the Minutes of the May 10, 2010 Meeting.**  
Chairman Waalkes requested if there were any corrections to the May 10<sup>th</sup> Minutes.
- Planning Director Peterson noted that Member McCarthy had emailed some minor grammatical corrections. There were no other corrections to the minutes.
- Motion was made by Member Pennington and supported by Member Sperla to approve the May 10, 2010 Minutes as corrected. All in favor with none opposed. Motion carried.**
- ARTICLE 5.** **Case # 10-2993: Cascade – Thornapple River Association (PUBLIC HEARING)**  
**Requested Action:** Consider amendments to Section 4.33 of Zoning Ordinance – Keyhole Development.
- Planning Director Peterson referred to the map showing the neighborhoods that have access to the river that the Township is aware of.
- He noted that the amendments being reviewed this evening are not adding river access to anyone new. The map shows those with deeded access to the river. This map was also provided to Scott

Rissi, of the Cascade Thornapple River Association and his comments are also included on the map.

The reason for the amendments is to provide a process for an association to use one or more of the existing ramps for access to a body of water. The applicant would have to come before the Planning Commission for a Special Use Permit and then go before the Township Board prior to utilizing one or more existing access points. The existing zoning ordinance already has some language that implies that this process is already available but the Township Attorney, Cliff Bloom, has reviewed the ordinance and recommended that we clarify the section with the proposed amendments.

The amendment is an addition to the existing ordinance, creating a twelfth section to 4.33.

There is not a current application before the Township requesting a new launch. There are existing launches that could possibly be renovated and utilized for future applications. This addition simply clarifies the process an applicant must follow to obtain the Special Use Permit.

Staff recommends approval of the amended language and to forward a positive recommendation to the Township Board.

Staff did not receive any phone call or letters pertaining to this project.

Member Sperla said that he has been involved in Keyhole Ordinances before. The purpose of the ordinance is to limit the access and usage of the river. The Special Use Permit allows back-lot owners access to the river to undermine the ordinance. Planning Director Peterson clarified that the amendment does not change who has access to the river. The existing ordinance already addresses who has access, this amendment does not change that. Member Sperla noted that private easement and access rights are independent of zoning ordinances. He believes the Township is combining the two by allowing pre-dated rights prior to 1995 therefore mixing zoning ordinances with private easement rights. The amendment says the individual could go twenty (20) years without utilizing their rights and if they have proper documentation with many years of non-use, they would now, through the Special Use process would be able to apply for access even though they have not used it over the past years. Member Sperla noted that a key principal in non-conforming use law (Grandfather Law) is that if you quit using it, you lose it. It is his opinion that the ordinance is being undermined. He does not have a problem with allowing

residents that have frontage on Thornapple River obtaining access to the river from an access point other than at the residents property but he does have a problem with back lot owners having access to the river in this manner as that defeats the objective of Keyhole Ordinance in limiting access to the river to property owners that do not have river frontage. Planning Director Peterson noted that the existing keyhole ordinance does allow for someone with deeded rights to access a body of water, the amendment does not change this.

Member Sperla asked where the watercraft would go once launched and expressed concern for more docks. Planning Director Peterson said the association would have to come before the Planning Commission in order to construct something.

Member Sperla noted that the Township Attorney expressed his concern in expanding the ordinance in his notes by allowing back-lot access. Planning Director Peterson noted that only those with easement/river access and deeds are allowed river access and this is not proposed to change.

Member McCarthy, a member of the Goodwood Association, thought the language needed more detail in the proper steps an association takes requesting their dock or ramp. She noted that the language seems unclear that the association needs to approach the board of directors with their project and obtain approval prior to coming before the Township for the Special Use Permit. Planning Director Peterson noted the proper steps are addressed under "Requirements to be met A through D".

Member Pennington said he is a back-lot owner who lives downstream of the dam and he would hate to lose his rights to the river. He believes he paid extra when he purchased the property to keep the rights to allow river access.

Member Logue believes the amendment would fundamentally weaken the ordinance and supports Member Sperla's comments.

Planning Director Peterson noted that the CTRA and township staff believes the amendment would strengthen the ordinance. Currently, the association is experiencing violations to the ordinance with trespassers are accessing the river where they should not be.

Member Logue questioned if the amendment would allow developers river access and Planning Director Peterson said that the developer would still have to fall under the requirements of the

keyhole ordinance. This amendment would not pertain to a new development.

Chairman Waalkes said he views the amendment as if he were a back-lot owner, pre-dated to 1995, who had a ramp that filled with sediment overtime. He would want to remove the old ramp and sediment and rebuild what is there and should be able to do so. Planning Director Peterson also noted that if the ramp were constructed, the Planning Commission would have to review the project. He also noted that the only reason the 1995 date is included in the documentation is because the Township did not want to take away anyone's rights to river access when the ordinance was developed. This amendment provides a procedure for a group to apply for a permit to use existing access. Member Pennington believes the access would be primarily for walking to your vehicle once or twice a year, the boat would stay in the water at the existing dock.

Member Williams questioned that if she owned property on the river but could not access the river due to a steep slope, could she ask her neighbor for the use of his ramp or dock? Planning Director Peterson said that technically, that is illegal today and this has been a concern of CTRA. The amendment would provide a way to avoid that problem and strengthen the ordinance as it is written today.

Member Williams asked if an association could request access to a ramp from another association, would they have to request a Special Use? Planning Director Peterson stated that is what this amendment would do.

**Member Pennington motioned to open the Public Hearing supported by Member McCarthy. All in favor, motion carried. The Public Hearing was opened.**

Chairman Waalkes noted that Staff did not receive any letters or phone calls pertaining to this case and invited Public comments.

Ned Quinn, 7382 Whispering Ridge SE and is current president of CTRA, wanted to address Member Sperla's concerns with no mooring and no dock. The idea is to put it in during the spring and remove it in the fall and the location has to be designated. Currently the ordinance allows for day use if a property owner grants the right. This amendment is for property owners who have a right to put a boat in the water the term of the summer. This solves ninety-five percent of their issues. He has seen people add ramps in their backyards and so forth and they want to stop having new ramps built.

The River Association has spoken with other association boards in the past in granting usage of their ramps. Both associations agree sharing the ramps and current docks makes sense as neither wants to see an increase in the construction of ramps and docks on the river; the goal is to preserve the environment. Even though both associations agree to combine usage of current ramps, it is against the keyhole ordinance to do so and this amendment would allow for shared usage.

Member Sperla asked Mr. Quinn if he envisions people using that launch if a Special Use Permit were granted to non-frontage owners? Mr. Quinn said that it would not expand river usage. An example is there are twenty-two (22) homes in his neighborhood with seven (7) lots on the water with fifteen (15) off the water. Of those fifteen (15) off the water, there are four (4) who currently have boats in the water or are put on a small dock. The issue is for the property owners who have rights to use the river and have a place to put their watercraft and don't have direct access.

Member Sperla asked how they would police canoes and paddle boats and who is allowed to use the docks, etc. Mr. Quinn said this amendment would allow them to police the usage better as there are many who are currently violating the ordinance. They do have a list of those pre-1995, which do have river access/property rights. These property owners receive mailings and information regarding river access and association membership. The association is limited to twenty-two members, they can lose members and fall below that number but the membership is not to exceed twenty-two (22) members.

Mr. Quinn noted to the Planning Commission that their intent is not to open up river access within the Association but to limit access and keep the river safe. Residents are trying to work together to limit the access to the river and allow those with rights onto the river. Under the current ordinance, many of the residents are breaking the law by allowing those with rights and who do not have direct river access, onto the river by verbal agreements.

Member Sperla said he was not sure what the associations would gain by the amendment as a Special Use is needed with/without the amendment and Mr. Quinn said the associations would be allowed to work out agreements for current ramp usage. Those with rights could financially assist in the maintenance of the ramp and docks and those with rights to the river without having direct access would now have a place to legally put their watercraft in and out of the river. The amendment streamlines the process in further communications with larger neighborhoods. They recognize that

they will have to come before the Planning Commission with their agreements, how often they are utilizing it and when. They will produce the necessary documentation from the boards allowing use. This is the first step of many after numerous discussions with Staff over the last five (5) years and the amendment is a suggestion on how to legalize what is currently happening and limit the usage and no extra mooring or dockage.

John Briggs, 3475 Goodwood Dr SE and currently the president of the Goodwood Plat Association, and sympathizes with the applicants. His concerns are that the Goodwood Plat Association has a Special Use Permit that does not allow them to allow anyone else in that does not reside in their plat. Their access to the river is tax-free as it is shared with the residents and if they were to consider open it up, they would lose their tax-free status. In summary, their Special Use Permit states two (2) things:

- 1) It cannot open usage to anyone outside of the neighborhood.
- 2) The neighborhood would lose its tax-free status if others used their rights.

Goodwood would not participate in sharing rights. He noted that if the ordinance is changed, it should affect everyone. Goodwood has forty-one (41) residents and some are on back-lots with river rights and he is concerned these folks would be excluded from the river rights based on the documentation.

Mr. Briggs also noted that their association does not put out docks or mooring stations and therefore it becomes a day use issue. He does not see in the ordinance and amendment the ability for day use for those with river rights but no direct access. It is important to their neighborhood that those with rights living on back-lots retain their rights to access the river.

He believes the applicant should see who is willing to give them rights prior to moving forward with the amendment. He agrees that there is too much going on in launching watercraft and there should be more control. Their association has a detailed process for identifying who has rights to the river by utilizing tags marking the allowed watercraft. They are not allowed to authorize friends to launch from their property, as this is part of their Special Use Permit.

Planning Director Peterson clarified that the amendment does not affect the day usage of the ordinance. It could be a requirement that the Commission might want to add.

**Member Pennington motioned to close the Public Hearing supported by Member Logue. All in favor, motion carried. The Public Hearing was closed.**

Member Logue questioned that if there is a ramp and an agreement that is worked out with another neighborhood and money is collected for rent usage, is that not a business use going against Subsection V? Planning Director Peterson said that could affect the tax-free status but if the users are paying a fee to help maintain the ramp then the Township would not consider it a business-use as the money collected is for maintenance and improvements.

Member Sperla said he does not believe the amendment gives any new rights to anyone that do not already exist and does not see any purpose in the amendment. Theoretically it could undermine the non-conforming use provisions for continuous usage. He said that the ordinance is to limit the non-conforming usage by watercraft and is against the amendment, as it would open up usage to back-lots. Planning Director Peterson said that the amendment is not allowing more access to the river by including those with back-lot rights, those residents are already permitted access to the river in the existing ordinance.

Member Williams asked if the point of the amendment is to help those with rights get their boats in the water and Planning Director Peterson said that is one point of the amendment. This would allow those with rights to access the water legitimately.

**Member Logue motioned for an unfavorable recommendation to the Township Board for amendments to Section 4.33 of Zoning Ordinance – supported by Member Sperla.**

**Member Hammond: Yes**

**Member McCarthy: Yes**

**Member Sperla: Yes**

**Member Waalkes: No**

**Member Pennington: No**

**Williams: Yes**

**Member Logue: Yes**

**Five Commissioners supported the unfavorable recommendation to the Township Board, motion carried.**

**ARTICLE 6.**

**Any Other Business**

No other business at this time.

**ARTICLE 7.**

**Adjournment**

Chairman Waalkes requested a motion for adjournment.

**Motion was made by Member Sperla and supported by  
Member Hammond to adjourn. Motion carried unanimously  
and the meeting was adjourned at 8:14 p.m.**

Respectfully submitted,

Al Pennington, Secretary

Lisa Hern, Recording Secretary