I Call to Order and Attendance

Acting Chairperson Derrohn called the meeting to order at 7:32 p.m. Chairman Eby was absent.

II Minutes of December 2, 2004

Alexander made a motion to approve the minutes of the December 2, 2004 meeting as presented. Letzmann supported the motion which passed by unanimous voice vote.

III Election of Officers

The Board decided to discuss the election of officers at the end of the meeting, following the cases.

IV Cases

Acting Chair Dehronn moves Case #58A-04 to the beginning of the cases in order to review with existing case #58-04.
A request by Frank Adams & Sharon Bellant to rezone all or part of the following property, excluding the north 66', from FF-2 Farm Forest to B-2 General Business: Tax Parcel No. 24-09-14-22-400-019 and tax parcel number 24-09-14-22-400-021 lying some 940.5 feet north of East Brutus Road, bordering the east right-of-way line of US-31 with 1,040 feet of frontage, in Section 22, T36N-R4W, Maple River Township, but excepting therefrom the north sixty-six (66) feet including the narrow 18' x 500' strip lying north of tax parcel 400-011. The property contains some 17 acres of area and part of the property bordering US-31, to a depth of 116 feet, is currently zoned B-2, and will so remain. The purpose of the rezoning is to include the entire parcel (except the north 66') in one zoning classification, B-2, which adjoins B-2 zoning to the south.
Putters explained the request using a location map, tax parcel map and photos. The case has been readvertised since the December 2004 meeting to exclude the north 66', from rezoning to B-2 and removing 66' of the existing B-2 along US-31. Applicant applied for rezoning because the adjacent properties in that location are already B-2 and this will be an extension of the existing B-2. Maple River Township recommended approval with the 66 foot exclusion along the north.
Dehronn asked for input from the applicant. There was no comment.
Letzmann asked for clarification on the B-2 zoning. There was discussion on the Master Plan and that it could be interpreted as being in compliance with the Master Plan. Simon asked for clarification on the 66 foot exclusion which Putters pointed out. There was discussion on the original zoning and the legal description of the property. Putters stated that if the case as readvertised were approved, that Mr. Adams should withdraw the original request (Case #58A-04).
Dehronn asked for any public comment, there was none.
While Dehronn served as Chair, Eby made a motion to approve 58A-04 because it complies with the Master Plan, it leaves a buffer between the different zoning classifications, it combines different zoning classes into one, and part of the property is already zoned B-2, and that the 2nd hearing be waived because the case was already heard once and was re-advertised. Jones seconded the motion which passed on the following roll call vote: Yes; Alexander, Derrohn, Behan, Laughbaum, Letzmann, Scott, Jones, Simon, Eby. No; None.

2. Case #58-04 Frank Adams, REZONING, FF-2 Farm & Forest to B-2 General Business, US-31, Section 22, Maple River Township
A request by Frank Adams & Sharon Bellant to rezone the following property from FF-2 Farm Forest to B-2 General Business: Tax Parcel No. 24-09-14-22-400-019 lying some 940.5 feet north of E. Brutus Road, bordering the east right-of-way line of US-31 with 1,040 feet of frontage, in Section 22, T36N-R4W, Maple River Township. The property contains some 17 acres of area and that part of the property bordering US-31, a depth of 116 feet, is currently zoned B-2.
The rezoning is also to place the entire area of tax parcel number 24-09-14-22-400-021 in the B-2 District. The purpose of the rezoning is to include the entire parcel in one zoning classification, B-2, which adjoins B-2 zoning to the south.
Case #58-04 was withdrawn by the applicant, based on the Planning Commission action to recommend approval for Case #58A-04.

3. Case #72-04 Darin Philport for Gary McInerney & James Karrip, RE-ZONE TO R-2A AND PUD-1 OVERLAY, Maple River Road, Section 23, Maple River Township
A request by Darin Philport, for Hidden River Golf and Casting Club, to re-zone a 17.0 acre property from the three (3) existing zoning districts of SR-1, FF-1 and FF-2 to R-2A General Residential. The property is tax parcel number 24-09-14-23-100-005, being the E ½ of the NE 1/4 of the NW 1/4 of Sec 23, T36N-R4W, Maple River Township. The purpose of the re-zoning is to provide a duplex housing complement to the adjoining golf course use with stand alone density and to place all of the property in a single zoning district.
Putters explained using a tax parcel map, a request & location map and an updated site plan. Maple River Township recommended approval for a Preliminary PUD Mixed Use Master Plan. Jacqueline Stubner of the
Tip of the Mitt Watershed Council was present. Putters explained the site plan and the individual duplex unit plan. Putters reported that the owner of the Golf Course land would not allow a density transfer to the parcel now under review for rezoning, hence, the only way to develop a housing adjunct to the golf course is on land that is adjacent. The golf course is on a 99 year lease.

Derrohn asked for input from the applicant. Philport referred to the letter sent on behalf of Hidden River Golf and Casting Club, in answer to a letter from the Tip of the Mitt. Changing to SR-2 is not setting a precedent. Philport reasoned that he cannot negotiate with the landowner to build on the adjacent property. Changing the zoning will give needed density to support the golf use. The PUD overlay ties the two properties together so that future owners cannot make changes unless the PUD is amended. Hidden River will maintain a 40 foot green belt and a 60 foot waterfront setback. Philport stated they would abide by the River Management agreement with Tip of the Mitt.

Dehronn asked for any questions or discussion from board.

Letzmann requested clarification on the PUD and stated that it only showed the Golf Course and Casting Club, only two buildings of a density nature. What happens if the golf course fails, does it still remain a golf course until the PUD is amended? Laugbaum stated that the PUD needs to change in order to change the site plan. Alexander stated that he understood that there was always a plan for cabins. Philport explained his difficulty with the landowner and his need to look for other opportunities, hence the request.

Discussion centered on the previous plans and the failure to obtain an agreement with the landowner. Philport stated that he was stuck until this adjacent property became available.

Simon asked about the existing allowable density? If 3/4ths of the property is in SR-1, that would mean approximately 12 acres for 16 houses, and the remaining 5 acres in FF-2 could mean 2 more houses, for a total of 18 with the underlying density.

There was discussion on the cabins, as some were removed from the original plan because they were in wetlands. Simon stated that the property had not been mapped for a flood plane. In the event of high rain, would it back up? Philport answered no, the property was figured for a 100 year high water mark. Philport stated that the DEQ did not see any problems with where the cabins are situated. Simon asked about the nature of the 40 foot bluff? Philport stated that the bluff was grassy in nature, there was a dense woods with no open space at this time.

Derrohn asked if there was any public comment? Dr. John Huttow commented that he worried about the wildlife, the density and the rezoning. The Trout fishing has decreased since Maple River moved into the area. He is against the expansion, although he knows that is will eventually occur, but it is a special area, with prime fishing which has already been degraded. He stated that he is also very concerned about the water quality.

Glen Smith also spoke on behalf of the public. He referred to a highland marsh which is located upstream 1/4 mile and the culvert rusted out and flooded the area.

Philport pointed out that the most density will be away from river to the south. To comply with river management, water testing is being done annually. They have invited the University of Michigan Biological Station to do the testing. Philport stated that a culvert was put in to divert water down the other side of road to the river, and not to the existing hay field. He plans to talk to the Road Commission about removing the culvert and diverting the water back into the hay field which is no longer being farmed.
Alexander asked how to obtain the results of the water testing? Philport stated that they are done annually and that they can be provided upon request (to Philport).

Jacqueline Stubner from the Watershed Council spoke. She referred to their letter dated December 27, 2004. She discussed how valuable the river is to Emmet County for tourism and fishing. They are in support of the applicant, but have specific conditions to be met and hope these are considered in the decision by the Planning Commission. This area is mapped as a wildlife corridor. There are concerns with development in the area, Farm Forest areas are usually targets for subdivisions and rezoning which have a great impact on the resources.

They have met with the applicant on many issues, and there are concerns about the 40 foot setback and storm water management. They would recommend that the County table the case until they hear from the Health Department, regarding the septic systems, the driveways and the site plan layout. They would like to see the original SR-1 zoning retained and the Maple River Protection Plan followed. They are willing to work with the applicant to develop some consistency with the River Protection Plan.

Behan asked if a site visit would change their views? Stubner answered that it may or may not. Behan stated that he has a problem supporting a tabling when there is no site visit made to the site. Stubner replied that a site visit is compromised with the snow cover.

Alexander asked if there is a detailed signed plan and how many violations have occurred? Philport stated there have been no violations and he has met with the Watershed Council and the DEQ.

There was discussion on preserving the land along the river and working with the Maple River Protection Plan.

Eby asked if this was preliminary? Putters answered that the request was for Preliminary and Final. Putters explained the 3 step PUD process.

There was discussion on the pending issues. Letzmann expressed reluctance to change the SR portion of the zoning. Philport could develop about 17 units on existing zoning density. The zoning request was made because no agreement could be made with golf course owner. Discussion on the Master Plan. Simon feels the SR areas should be maintained and supports the PUD with duplex considered as two units. Eby discussed the SR buffer and enforcement. Enforcing is a problem under SR. The 40 foot protection strip should be replaced with a conservation easement.

Discussion on considering the entire golf course and the subject property. Putters explained that the golf course PUD can be considered, but the density remains an issue. Philport noted that the golf course PUD includes a fishing lodge (15 units) and four (4) lots west of the clubhouse.

Derrohn asked if the owner could put in housing? Putters answered, not without amending the PUD. Putters feels it’s important to tie in the PUD’s. Simon wants to waive lot sizes but not the underlying density. Discussion on the density transferring from the golf course to this property.

Simon had concerns about the runoff, the number of septic fields, and the driveways and parking.

There was discussion on the Townships recommendation for Preliminary PUD approval and R-2A zoning. Eby stated that they didn’t want the golf course to go away (fail).

Philport discussed the rezoning and the protection of the wetland. He stated that the bulk of density is in the FF District. The SR-1 area is the major area to protect, and they are trying to maximize their developing away from the river.

Simon stated she is all for clustering, but doesn’t think that is the spot to allow the higher density.
Eby stated that he has a fear of what could be done with the property. The property could be bought and developed by someone else. He does not want the golf course to fail.

Alexander stated that the applicant has shown good faith.

Harold Zitto, 74 yr resident, doesn’t want to see anything happen until spring. He referenced water runoff. He would like to see the case tabled until spring, concerned that the septic runoff will end up in the river.

Behan stated that this issue is subject to the Health Department and their permits. Philport answered that the Health Department will come out once the case is approved, that will be the next step in the process.

Eby asked if both parts can be acted on with one motion? Putters explained.

Simon moved that Case #72-04, a request for rezoning to R-2A be denied because the applicant needs to rework the plan with the current underlying zoning in mind. Letzmann seconded the motion which failed on the following roll call vote: Yes; Simon, Scott, Letzmann. No; Eby, Jones Laughbaum, Behan, Derrohn, Alexander.

Eby then moved that case #72-04, a request for rezoning and Preliminary PUD only be approved under the condition that the SR 40 foot buffer be replaced with conservation easement, as it can provide ancillary housing to the adjacent golf course, the existing golf course ownership does not incorporate housing amenities other than the lodge for the Casting Club, The Great Lakes Pipeline R.O.W. is a form of barrier or transition area between the golf course and the lower density Farm Forest areas to the west, it consolidates three (3) rezoning classifications into one, the R-2A District is to have a PUD-1 overlay and the township supports. Alexander seconded the motion which passed on the following roll call vote: Yes; Eby, Jones Laughbaum, Behan, Derrohn, Alexander. No; Simon, Scott, Letzmann.

4. Case #70-04 S. Garrett Beck, SPECIAL USE PERMIT, Exception to Section 2201 - Accessory Buildings, 7422 Channel Road, Section 29, Springvale Township

A request by S. Garrett Beck for a Special Use Permit to construct an accessory building as a main use and for a larger than maximum size accessory building on a 12.7 acre property located in the N ½ of the NE 1/4 of Section 29, T35N-R4W, Springvale Township. The parcel number is 24-14-17-29-200-044 and the zoning is SR-2 Scenic Resource. The proposed 36'x48' building is for domestic farm use, keeping horses, and is to be sited some 300 feet from Channel Road. The proposed building is 528 sq. ft. larger than that permitted in the rear yard of the SR District. The request is per Section 2201-2 and 2201-8 of the Zoning Ordinance.

Case withdrawn by applicant.

Eby stated that although the case was withdrawn, there was a motion to approve on the floor from the last meeting. Jones made motion to bring the case to the table, Scott, supported the motion. There was a voice vote to bring the case to the table, all in favor by unanimous voice vote.

Chairperson Derrohn called a 5 minute break.

Chairperson Eby relieves Derrohn and assumes chair.

Eby requested a change be made to the December minutes. He requested that the single sentence on page 3, "Laughbaum offered a motion to table the case. Motion to approve on the table." be deleted.
5. Case #54-04  David Billideau, SITE PLAN REVIEW, Duplex units & professional office & Storage Building, Barney Road, Section 26, Bear Creek Township

Putters explained using a site plan (12/2/04) and suggested that greenbelt be per zoning ordinance standards, or use trees with equivalent effect of screening, i.e. the applicant can select plant materials other then what the site plan documents, provided there is equivalent screening results. Bear Creek Township recommends approval with concerns for sanitary sewers and screening.

Jones asked about dumpster screening. Screening is stated on the legend, but how? Putters, answered that a wooden structure could be used or planted screens. There was no case representative and no audience comment.

Jones moved to approve Case #54-04, with the conditions that the screening is done per the Ordinance, with the option of equivalent plant materials, subject to Zoning Administrator approval, there is to be a provision for a parking lot driveway connection with the property to the west, Sign and Lighting Committee review for approval, dumpsters be screened and approved by the Zoning Administrator. Letzmann seconded the motion which passed on the following roll call vote: Yes; Alexander, Derrohn, Behan, Laughbaum, Letzmann, Scott, Jones, Simon, Eby. No; None.

6. Case #69-04  Holton’s LP Gas, RE-ZONE, 2472 US 31 N, Section 25, Bear Creek Township

A request by Holton’s LP Gas to re-zone a 50 ft. by 250 ft. lot from B-1 Local Tourist Business to I-1 Light Industrial. The property is lot number 115 in the Plat of Hiawatha Heights in Section 25, T35N-R5W, Bear Creek Township, it is tax parcel number 24-01-16-25-101-007 and is currently owned by Fochtman Realty Company. The purposes of the rezoning are to place all of the business property in one zoning classification and permit the business to expand onto the lot.

Putters explained the request using a location map, a tax parcel map and photos. He expressed some hope that the existing tree standing in front (along US-31) could be retained in the Site Plan Review phase.

There was discussion on the zoning classification, and the fact that it would be an extension of the existing I-1 District on the four (4) lots already owned and used by Holtons. It would also place the entire ownership in one (1) zoning classification (I-1). Bear Creek Township recommended that the rezoning from B-1 to I-1 be approved.

Letzmann moved to approve Case #69-04, a request to re-zone from B-1 to I-1 Light Industrial because it places the entire property in one zoning class, both the Township Board and the Township Planning Commission recommended approval, and it was the desire of the Planning Commission to retain as many trees as possible. Simon supported the motion which passed on the following roll call vote: Yes; Alexander, Derrohn, Behan, Laughbaum, Scott, Jones, Simon, Letzmann, Eby. No; None.

7. Case #1A-03  Ron & Kim Midyett, PUD-1 MIXED USE - AMENDMENT

Section 26, Bear Creek Township

A request by Ron & Kim Midyett to amend the Final PUD-1 Mixed Use Master Plan that applies to two lots in the George Anna Estates, being tax parcels numbered 24-01-16-26-176-006 and 176-007, at 2049 US-31 North, all in Section 26, T35N-R5W, Bear Creek Township. The underlying zoning is B-1 Local Tourist Business to a depth of 150 feet along the front and R-2B General Residential on the remainder. The request would amend the PUD uses permitted to include out door display presently within the front 50' setback area and simultaneously amends the PUD Master Plan and site plan to accommodate the requested usage. The request is per Article XVIII of the Emmet County Zoning Ordinance, Section 1802, paragraph 9 and 10.
Putters explained the request using a location map, a site plan and photos.

Derrohn stated she had a problem with this use as the property has continuing sign/lighting violations. There was discussion on the outdoor display, the 150' road r.o.w. and the 50 foot PUD setback. Jones wanted clarification on setbacks. There was discussion on the open displays along the entire highway in that area. Jones is not opposed to the request and feels they should not limit the applicant. Auto dealers line US-31 and Hyde Equipment was recently approved for front display.

Derrohn stated that the applicant is in constant violation of their sign and lighting stipulations. For example, their flag was only to be displayed until the end of December and it is still on display. There was also a comment on the golfer figurines which are displayed illegally in front.

Ordinance Enforcement Officer, Doernenburg agreed that there are violations on the property at this time.

Putters stated that businesses like Antique Shops, and Art Galleries, similar to the “Dream Catchers Mall” are permitted to display one (1) artifact in the open. These regulations are found in the R-2B General Residential District, (Section 501-2f). Also reported, Bear Creek Township approved a very limited 10'x15' outdoor display space.

Jones moved to table the case to make sure the applicant is in compliance. Alexander supported.

Eby wanted more consideration on the tabling motion.

There was further discussion concerning the issue of non compliance. Eby agreed to allow the tabling until the Enforcement Department can report on the applicant’s compliance to the Planning Commission.

The motion to table failed on a roll call vote: Yes; Scott, Behan, Alexander, Jones. No; Simon, Letzmann, Laughbaum, Derrohn, Eby.

There was further discussion on the request and the noncompliance issue. Derrohn does not feel the Planning Commission should reward the applicant for being noncompliant. There was discussion on the PUD. Eby stated that the reason for putting a PUD in place was mainly to make the area more desirable and functional.

Discussion continued on the current displays in the windows and the displays being requested.

Jones moved to approve a 10’ x 15’ display area limited to one (1) artifact theme based on a studio or art gallery as being allowed in Section 501, paragraph 2f of the R-2B district, and the display is to be north from the northerly window with only one item as opposed to a flea market appearance, with the condition that all signs and lighting be in compliance, that the Site Plan show the area to be within ten (10) feet of the building wall and on the existing grade. Scott supported the motion which passed on the following roll call vote: Yes; Behan, Laughbaum, Scott, Jones, Eby. No; Alexander, Derrohn, Letzmann, Simon.

8. Case # 64A-92 Bob Jerichow for Thomas Whittingham, SUP-Exception to 2201, 5265 N. Lake Shore Drive, Section 05, Cross Village Township

A request by Tom Whittingham for a Special Use Permit to construct a third accessory building on a property at 5265 Lake Shore Drive, in Section 5, Cross Village Township. The property is zoned RR-2, Recreation Residential and is Tax Parcel Number 24-05-08-05-300-006. The purpose of the request is to permit a 13’ x 17’ personal work room or studio that would not be attached to the residence, but would be connected by an open deck and would be separated some six (6) feet from the residence. The request is per Emmet County Zoning Ordinance, Section 2201. Accessory Buildings, Subsection 8, Exceptions.

Putters explained the case using a location map, a tax parcel map and a site plan. The Township
recommended approval and there is support from a neighbor.

There was discussion on the bluff and the critical dune area. This is not a regulated shoreline bluff area, but it is in a Critical Dune area.

Eby asked for comments from the applicant. Jerichow pointed out that there was a letter submitted from a neighbor that is in support.

Eby asked for public comments. There were none.

Simon stated that she had no problem with the case, but wanted confirmation that it was not on a regulated bluff. There was discussion on the critical dune not being under the bluff rule, and being exempt from the Bluff Ordinance standards. Simon asked who was responsible for checking the dune regulations? Putters answered Nancy Salazar.

There was discussion on the setbacks in the critical dune areas. These are very complicated and Putters assured the Board that Salar had checked and approved the plan.

There is further discussion on the steep slope, shoreline bluff and critical dune areas.

Letzmann moved to approve Case #64A-92, because it was approved for critical dune regulations, the Township recommended approval, it is minor in nature, it is well screened from neighbors and there was a letter of support from a neighbor. Dehronn supported the motion which passed on the following roll call vote: Yes; Alexander, Derrohn, Behan, Laughbaum, Letzmann, Scott, Jones, Simon, Eby. No; None.

9. Case #82-04 Alvin Bennett, RE-ZONE, Lakeview Lane & Grubaugh Rd., Section 4, Littlefield Township

A request by Alvin Bennett to rezone tax parcel number 24-07-17-04-301-003, located at Lakeview Lane and Grubaugh, in Section 4, T35N-R4W, Littlefield Township from part R-1B One Family Residential and part FF-2 Farm Forest, to FF-1 Farm Forest. The purposes for the rezoning is to place all of the subject property into one zoning classification and to decrease the lot size from 88,000 sq. ft. to 44,000 sq. ft. per dwelling unit as a transition area between the existing R-1B district and the FF-2 District.

Additionally, the rezoning will include zoning district changes on all or part of the following properties as noted for tax parcel numbers prefixed 24-07-17-04 and numbered:

a) 301-006, place the entire parcel in R-1B, from FF-2
b) 301-004, place the entire parcel, either in FF-1 or R-1B, from FF-2
c) 301-001, from FF-2 to FF-1
d) 301-010, from FF-2 to FF-1
e) 301-005 from FF-2 and part R-1B to FF-1
f) 301-011 from FF-2 and part R-1B to FF-1
g) 300-001, from FF-2 to FF-1
h) 400-038, 400-037, 400-035, 400-039, 400-004 from FF-2 to FF-1
i) that part of 200-010 that is within 660’ of Grubaugh Road from FF-2 to FF-1 Farm Forest.

The foregoing zoning changes are to avoid spot zoning and to adjust zoning boundaries to coincide with property lines.

Laad explained using a location map and alternate rezoning plans. She pointed out that the zoning boundaries do not coincide with the lot lines. The subject property is zoned R-1B and FF-2. The owner asked for rezoning to FF-1 and put all of his property in one district. The original zoning line was drawn in 1972 and the lots were created later.

Eby asked for public comments. Neighbors were present for information only, they voiced no concerns.
The case was deferred for a second hearing per Planning Commission policy.

10. Case #139A-78 Jeff Galsterer, SUP - Veterinary Hospital, 2010 M - 119 Hwy, Section 27, Bear Creek Township

A request by Jeff Galsterer for a Special Use Permit to establish a veterinary clinic and office in the B-2 General Business District, at 2010 M - 119 in Section 27, T35N-R5W, Bear Creek Township. The Tax Parcel Number is 24-01-16-27-200-039. The use does not involve a kennel for boarding animals, but some animals being treated may remain on-site overnight. The request is per Emmet County Zoning Ordinance, Section 2102-9. The use is closer than 500' to a Residential District boundary, for which a variance is being sought.

Putters explained using a location map, a tax parcel map, photos and a site plan. The case was tabled by Bear Creek Township.

Applicant was represented by Kevin Olson of Graham Real Estate.

Eby asked for questions. Letzmann asked if there was an outdoor facility. Putters answered no, there is one out building, which will be taken down.

The case was deferred for a second hearing per Planning Commission policy.

V Public Comments - none offered.

There was discussion on the election of officers and whether this should be done at the Annual Meeting. New members should be appointed before this is done.

VI Other Business

· Enforcement Report - distributed by Doernenburg.

· Seminar Agenda - How to Develop & Implement a PDR Program.

Max asked that if there was anyone interested in attending this seminar to please let the Planning and Zoning office know.

VII Items to consider at Special Meeting - The date was set for January 20, 2005, 7:30 pm. The Agenda will consist of the following items:

· NWMCOG - Natural Hazards Mitigation Plan - Patty O'Donnell

· Proposed Text Amendment - Communication Towers.

· Case #50-04 Emmet County Planning Commission, TEXT AMENDMENT, FR-Forest Resource, Add Article VIII-A, Amend Section 1900, Amend Section 300
VIII Adjournment

Chairperson Eby declared the meeting adjourned at 10:45 p.m.

_________________________________   ______________________
                           James Scott, Secretary     Dated