I Call to Order and Attendance
The meeting was called to order at 7:30 p.m. by Vice-Chair Derrohn acting as Chair. All members were present except Eby, Anderson, Alexander and Laughbaum.

II Minutes of February 1, 2007 and February 19, 2007 meetings
Jones made a motion, supported by Neal, to approve the minutes of the February 1, 2007 and February 19, 2007 meetings as presented. The motion passed by a unanimous voice vote of the members present.

III Cases
1. Case #23B-98 Rich Jackimowicz, SPECIAL USE PERMIT, Level III Resource Mining & Extraction, E. Mitchell Road, Section 6, Springvale Township

Legal Notice: A request by Rich Jackimowicz for a Special Use Permit for a Level III Resource Mining and Extraction operation with a Redi Mix Plant to be located on the south side of E. Mitchell Rd., Section 6, T34N-R4W, Springvale Township. The parcel is approximately 27.2 acres, zoned FF-2 Farm and Forest with a tax parcel number 24-14-06-300-008. The review is per Section 2102-10 of the Emmet County Zoning Ordinance.

Packet Items: revised permit requirements, hours of operation chart for other local pits.

Michalek explained the proposal which has been the subject of review for several meetings. The request is for a mining operation on approximately 27 acres. Currently three acres are being mined and have been approved. At the previous meeting, the applicant was not present and there were questions regarding hours of operation, crushing and materials brought on-site. The changes to the updated draft permit were explained. There would be no materials brought onto the site. Crushing is proposed to be limited to 3 weeks per year. Hours of operation need to be discussed.

The Road Commission was contacted and they indicated that they would prefer a commercial access but it may not be able to be required. Scott asked if that was a function of the Planning Commission; it is a function of the Road Commission.

Mr. Jackimowicz clarified that Phase I is preferred to remain as part of the staging area. There was discussion regarding the phasing and the staging area. Scott stated that it seems that there would need to be access to the future phases that are not shown on the plan. Access should be in the center of the property. He suggested that the phasing be changed so that Phase II becomes Phase I and the staging area remain as shown at 4.5 acres.

Jackimowicz stated that he would like it to be somewhat flexible. He could perhaps reclaim a portion of the staging area provided that he did not exceed 7 acres.

Neal asked what the applicant had in mind for the stock piles. Jackimowicz stated that the stock piles would not change from how it is now. Neal asked how much traffic is generated. Jackimowicz stated that it varies by season. The economy is down this year so it may...
After meeting with the Bear Creek Township Planning Commission, modifications to the site plan were made today. The revised site plan was displayed. One issue to be resolved is that a platted road right-of-way exists which requires legal work to obtain clear title. Doernenburg explained a concern with Rice Street. It is not a Class "A" road, however, the applicant met with the Road Commission which could allow for parking adjacent to the right-of-way. Trees have been added to the rear of the convenience store.

Michalek explained that one letter of objection has been received; the health department has given verbal approval (written approval is expected next week); drainage is not intended to utilize the MDOT system, as previously planned, a snow storage plan was provided and the fire department approval has been received. Two issues which require a resolution are: this is the first plan reviewed under the Zoning Ordinance as shown on the Site Plan dated received 12/21/06 and the phased plan dated 1/24/07, and subject to the conditions set forth in the Special Use Permit dated 2/1/07; the phased plan is to be revised so that the staging area is mined next and that Phase II become Phase I (etc.) and with a change in the hours of operation as indicated in the discussion: Monday thru Friday: 7am-6pm; Saturday: 8am-3pm; Sunday and national holidays: none. Crushing will be permitted once per year for a period of 3 weeks. Screening is a part of the ongoing operation. Hours of operation for crushing: Monday thru Friday: 8am-5pm; not permitted on Saturdays, Sundays or national holidays. Phasing can be re-numbered. Neal asked if the driveway is paved; it is gravel.

Michalek explained the request for a gas station and convenience store proposed to be located at the corner of Rice Street and US-31. The parcel encompasses 0.67 acres of the approximately 12 acres site and is zoned B-2 General Business with a tax parcel number of 24-14-20-06-300-008 because it meets the standards of the Zoning Ordinance as shown on the Site Plan dated received 12/21/06 and the phased plan dated 1/24/07, and subject to the conditions set forth in the Special Use Permit dated 2/1/07; the phased plan is to be revised so that the staging area is mined next and that Phase II become Phase I (etc.) and with a change in the hours of operation as indicated in the discussion: Monday thru Friday: 7am-6pm; Saturday: 8am-3pm; Sunday and national holidays: none. Crushing will be permitted once per year for a period of 3 weeks. Screening is a part of the ongoing operation. Hours of operation for crushing: Monday thru Friday: 8am-5pm; not permitted on Saturdays, Sundays or national holidays and because the Township recommended approval. Jones supported the motion which passed on the following roll call vote: Yes: Neal, Jones, Scott, Gregory, Doehrn. No: None. Absent: Eby, Laughbaum, Anderson, Alexander.

**2. Case #148E-77 Spartan Stores Fuel, LLC, SPECIAL USE PERMIT & SITE PLAN REVIEW, Gasoline Station & Retail Store, US-31 N, Section 33, Bear Creek Township**

**Legal Notice:** A request by Spartan Stores Fuel, LLC for a Special Use Permit to allow a gasoline station to be located on the southwest corner of property located at 1185 N US-31 Hwy., Section 33, T35N-R5W, Bear Creek Township. The parcel encompasses 0.67 acres of the approximately 12 acres site and is zoned B-2 General Business with a tax parcel number of 24-01-16-33-200-017. The review is per Section 1001-6 and 901-1 of the Emmet County Zoning Ordinance.

**Packet items:** Site plan 2/19/07, snow removal explanation

**Additional handouts:** 2/23/07 fire department approval, 2/27/07 DEQ permit application, 2/28/07 health department application

Michalek explained the request for a gas station and convenience store proposed to be located at the corner of Rice Street and US-31. After meeting with the Bear Creek Township Planning Commission, modifications to the site plan were made today. The revised site plan was displayed. One issue to be resolved is that a platted road right-of-way exists which requires legal work to obtain clear title. Michalek explained that one letter of objection has been received; the health department has given verbal approval (written approval is expected next week); drainage is not intended to utilize the MDOT system, as previously planned, a snow storage plan was provided and the fire department approval has been received. Two issues which require a resolution are: this is the first plan reviewed under the Zoning Ordinance as shown on the Site Plan dated received 12/21/06 and the phased plan dated 1/24/07, and subject to the conditions set forth in the Special Use Permit dated 2/1/07; the phased plan is to be revised so that the staging area is mined next and that Phase II become Phase I (etc.) and with a change in the hours of operation as indicated in the discussion: Monday thru Friday: 7am-6pm; Saturday: 8am-3pm; Sunday and national holidays: none. Crushing will be permitted once per year for a period of 3 weeks. Screening is a part of the ongoing operation. Hours of operation for crushing: Monday thru Friday: 8am-5pm; not permitted on Saturdays, Sundays or national holidays. Phasing can be re-numbered. Neal asked if the driveway is paved; it is gravel.

Doernenburg explained a concern with Rice Street. It is not a Class “A” road, however, the applicant met with the Road Commission and have come to an agreement that the applicant will improve the road to support the extra weight of the gasoline delivery trucks.

Nancy Dulin asked for further clarification of the gas storage for fuel? Scott responded that the gas tank is portable, it is approximately 200-500 gallons.

There were no other comments.

Cynthia Hill asked about the fueling facilities identified under #17 in the draft permit. Jones responded that generally fuel is on the site and will be regulated by others as well. She asked if the crushing would be loud and could it be required during a certain time of year? Scott stated that it would be dependent on availability of the crusher and stock piles available for crushing. The crusher is rented and is limited to 3 weeks per year. Hill asked if the Saturday hours could be reduced. Scott felt that 3:00 p.m. is a sufficient time. Jackimowicz has been a good neighbor and it is not going to be operating every Saturday. They will operate on Saturday when the need is required.

Scott made a motion to approve Case #23B-98, Rich Jackimowicz for a Special Use Permit for a Level III Resource Mining and Extraction operation to be located on the south side of E. Mitchell Rd., Section 6, T34N-R4W, Springvale Township. The parcel is approximately 27 acres, zoned FF-2 Farm and Forest with tax parcel number 24-14-20-06-300-008 because it meets the standards of the Zoning Ordinance as shown on the Site Plan dated received 12/21/06 and the phased plan dated 1/24/07, and subject to the conditions set forth in the Special Use Permit dated 2/1/07; the phased plan is to be revised so that the staging area is mined next and that Phase II become Phase I (etc.) and with a change in the hours of operation as indicated in the discussion: Monday thru Friday: 7am-6pm; Saturday: 8am-3pm; Sunday and national holidays: none. Crushing will be permitted once per year for a period of 3 weeks. Hours of operation for crushing: Monday thru Friday: 8am-5pm; not permitted on Saturdays, Sundays or national holidays and because the Township recommended approval. Jones supported the motion which passed on the following roll call vote: Yes: Neal, Jones, Scott, Gregory, Doehrn. No: None. Absent: Eby, Laughbaum, Anderson, Alexander.

Nancy Dulin asked for further clarification of the gas storage for fuel? Scott responded that the gas tank is portable, it is approximately 200-500 gallons.

There were no other comments.

Scott made a motion to approve Case #23B-98, Rich Jackimowicz for a Special Use Permit for a Level III Resource Mining and Extraction operation to be located on the south side of E. Mitchell Rd., Section 6, T34N-R4W, Springvale Township. The parcel is approximately 27 acres, zoned FF-2 Farm and Forest with tax parcel number 24-14-20-06-300-008 because it meets the standards of the Zoning Ordinance as shown on the Site Plan dated received 12/21/06 and the phased plan dated 1/24/07, and subject to the conditions set forth in the Special Use Permit dated 2/1/07; the phased plan is to be revised so that the staging area is mined next and that Phase II become Phase I (etc.) and with a change in the hours of operation as indicated in the discussion: Monday thru Friday: 7am-6pm; Saturday: 8am-3pm; Sunday and national holidays: none. Crushing will be permitted once per year for a period of 3 weeks. Screening is a part of the ongoing operation. Hours of operation for crushing: Monday thru Friday: 8am-5pm; not permitted on Saturdays, Sundays or national holidays and because the Township recommended approval. Jones supported the motion which passed on the following roll call vote: Yes: Neal, Jones, Scott, Gregory, Doehrn. No: None. Absent: Eby, Laughbaum, Anderson, Alexander.
Darline Wethington, representing Spartan Stores Fuel, stated that the store was a Spartan store since 2000. They have been pushing service and adding services, with the quick stop being the latest addition. The convenience store is 940 sq. ft. Adding fuel will add an element to help the success of the store for its long term viability. She asked that the members take a hard look at the site plan. She thinks they have addressed every issue. She would like to hear from legal counsel regarding the platted road issue, she’s not sure if it has an impact on site plan approval.

Abbott responded that it could be included as a condition, but it should not hold up the approval of the site plan. It is relevant, and it is recognized that they did bring it to our attention. Other plans with the same problem have also been approved. There is a provision in the statute which allows for rights to the road to be relinquished if all parties in the plat agree.

There was discussion regarding the Health Department review. The agent met with staff and will likely approve the well permit next week. A variance can be granted by the agent.

Jones stated that the site is small. It will work fine for small trucks and cars. Bear Creek Township has not seen the revised site plan or the revisions that have been made.

The mail boxes will be moved and Wethington explained that the US Post Office has strict rules regarding the location. They may be able to be on the curb line, they will be moved in accordance with their rules.

John Krause asked if the significant issues have been addressed. They would like reasonable assurance that the site plan would be considered at the next meeting.

Michalek reiterated that the performance guarantee amount needs to be discussed. Long term projects may require a larger percentage; smaller sites could be 100%. K. Abbott stated that usually 100% of the anticipated cost is required.

Krause added that the revised design has better traffic flow. The hatched area on the plan is the transport area for unloading. It is an approximate area and will not be marked on the parking lot. Jones stated that of all the canopies in the area, this canopy design is a step up. The landscaping may be moved slightly to get the planting out of the curbside right-of-way.

Derrohn requested that they look into relocating the trees. Wethington replied that she’d look into having the trees moved.

There was no public comment. The case was deferred until the next regular meeting and will return to Bear Creek Township.

3.  Case #138A-96 Emmet County Planning Commission, TEXT AMENDMENT-SEXUALLY ORIENTED BUSINESSES

The legal notice for this case is attached at the end of these minutes.

Michalek explained that a special informational meeting was held by the Emmet County Planning Commission on February 19, 2007 to identify the negative secondary effects of sexually oriented businesses and to establish a legislative history. Attorney Scott D. Bergthold presented the background information necessary to determine the need to amend the Ordinance. Notifications have been sent out to all of the Townships. There will be a public meeting held on March 29, 2007 by the Board of Commissioners (BOC). Attorney Bertghold will be presenting to the BOC. An opportunity will be given to ask questions of the attorney.

K. Abbott stated that the maps are available, they are not zoning maps, but they identify all possible locations for the sexually oriented businesses. It is a current mapping of where the businesses could be located based on the ordinance. If a sensitive use locates in an area identified on the map, it would change the available parcels; it is a constantly changing map. Michalek added that it is current based on the date on the map. Land uses identified in the ordinance could change the available parcels.

Abbott added that the letter previously distributed, from Bertghold indicated that mapping was essential. The maps were sent and discussed with attorney Bergthold. He indicated that the sites identified seem to be an acceptable level of parcels; however, if the number of parcels is reduced significantly, the ordinance language could require modifications.

Fred Gray asked if there has been an expression of interest, is there a concern that a business could slide in under the wire, before the ordinance is amended. Abbott has that concern; she would like the process to move forward. There was no public comment.
Scott made a motion to send to the Board of Commissioners a recommendation that they adopt the proposed ordinance as written for Case #138A-96 based on the information provided, the presentation of the February 19, 2007 meeting and as reflected in the text of the proposed resolution and on condition that a record of the hearing will be forwarded to the Board of Commissioners, Neal supported the motion which passed on the following roll call vote: Yes: Neal, Jones, Scott, Gregory, Derrohn. No: None. Absent: Eby, Laughbaum, Anderson, Alexander.

There was discussion about licensing. Abbott stated that local units could require licensing which could address: condition of premises, qualifications of operator, and require periodic reviews. It could require an application like other kinds of highly regulated industry.

Derrohn asked who would regulate this license. Abbott stated that it would be townships, cities, or villages. To enforce local ordinance, an arrangement with the Sheriff could be an option to contract for law enforcement services. Municipal Civil Infractions could be used similar to the process used for zoning & building code violations.

IV Public comments: None.

V Other business:

- Cemetery-Discussion:
  Michalek explained the proposed cemetery regulations. Staff suggests that if desired, the regulations for cemeteries be added into the Ordinance as a Special Use in the FF zones. It would be a new paragraph - Section 801-10. Michalek read the proposed standards.

  Scott made a motion to authorize staff to publish the language as presented for a Public Hearing, Gregory supported the motion which passed by unanimous voice vote.

- Case #150E-98 Gerald McConnell, FINAL PUD & SITE PLAN REVIEW, 1619 Anderson Road, Section 7, Bear Creek Township
  Michalek explained that the Board of Commissioners approved the PUD-2 and it has been advertised and likely will go into effect on Monday, March 12, 2007. The site is located on Anderson Road owned by Mindel which had been approved by the Zoning Board of Appeals for a Temporary Use of outdoor display and sales. The property is located across Anderson Road from Home Depot, the cinema and an approved retail plaza. Setback standards on the site plan are going to be requested to be modified. The surrounding uses are becoming office uses on US-131 with retail uses along Anderson Road. The setback standards and proposal of the site plan were explained. A trail easement along the front of the property is included; connectors to the north and south are shown for future connectors to adjacent properties. Staff concerns were with pedestrian traffic and a side walk along the front of the building, main entranceway blocked with barrier free parking, parking exceeds requirements, suggested moving parking to allow unobstructed access to the entranceway and one tree needs to be closer to the parking area. Questions regarding tapping into the sewer need to be discussed.

  The setback modifications were discussed. Jones stated that the plan is good as proposed. Doernenburg explained that the applicant would prefer an option of allowing B-2 setback standards if the adjacent uses change to business uses. Jones stated that with the slopes, the current plan is a good plan.

  Joe O’Neil representing the applicant stated that the McConnell’s don’t want to be bound by the existing footprint. They would like the option to expand if the uses on either side are changed to business uses.

  Photos of the site were shown & explained.

  Derrohn stated that there is buffer along the back of the property. The adjacent uses were explained. The slope rises to the business uses to the east.

  The signage was discussed. The method to measure area was explained. They would like to exceed the sign allowance. The wall mounted signage request was explained. Jones suggested that the Sign & Lighting Committee review the proposal.

  Derrohn asked about air conditioners and vents on the top of roof. Would they be screened? There was discussion.
The property is currently wooded behind the building. Derrohn stated that there are a lot of businesses that camouflage the air conditioner and vents. It should be shielded. O’Niel stated that there are businesses and a water tower to the east. He can pass along the concerns. Derrohn stated that it does look nice when the roofs are screened. Jones recalled the 1301 building on US-131, where the property owner moved the mechanical equipment into the basement or lower level of the building. Working on the equipment on the roof during cold weather conditions is costly. There was discussion that if trees were planted along the east, it could be a compromise to allowing the reduced setbacks.

Joe O’neal stated that a large transmission pole is located on the front of the building. They are considering a mirror image of the plan which would solve some of the screening issues along the back; it would move the drive and give more shielding. The retaining wall shown on the plan would be 3-4 ft. The warehousing will remain at the main store in Onaway. O’Neil stated that the McConnells apologized for not attending the meeting; they were concerned with the weather.

Staff concerns were re-iterated. The revised site plan should be submitted prior to the next meeting. The slopes on the east side are the largest concern. Scott has no problem with reduced setbacks. Jones has concerns with reduction of setbacks. Modifications of setbacks are allowed for in the PUD section of the ordinance. Neal stated that the trees give the appearance on-site of greater setbacks. Derrohn would like to see trees in the back because the other trees are on the adjacent properties. Jones added that the City of Petoskey is erecting a new water tower. He’s not sure if it’s to be on the adjacent property.

O’Neal explained the health department requirement. The sewer is over 200 ft. from the building and therefore, not required to tie-into the sewer. The health department is not concerned with the drainfield on the site. The use of the septic and drainfield will be comparable to a house, it is not a large flow use. Jones stated that the sewer line is essentially private. Public sewer is 800’ away. They are not required to hook up to the sewer.

The case will be advertised for public hearing at the next meeting scheduled for April 11, 2007.

- **Shoreline Bluff-Discussion:**
  Michalek explained that the Zoning Board of Appeals reviewed a zoning administrator decision regarding a bluff property. There have been requests to take another look at the Ordinance. Staff recommends that since a way to identify the bluff has now been established, the ordinance may not need further review. Jones explained the ZBA case. Abbott stated that the purpose of the regulation needs to be recognized. The Ordinance regulates slumping and run-off into the lake. Look at the problems, are they the same for the secondary slope as for the larger slope. Jones added that there are not many areas that the secondary slope is as high as 30 ft. as in the ZBA case. The intent was to protect the bluff, not to prohibit development. Michalek explained that there were primary and secondary bluffs identified in the expert’s report, and there were several modifications between the original recommendations of Dr. Schaetzl and what was adopted. There was discussion regarding regulating steep slopes throughout the entire county. There was no support for re-reviewing the ordinance language.

- **Enforcement Report:**
  Distributed, no discussion.

- **Annual Meeting-discussion:**
  Because there were only 5 members present, there was no discussion regarding an annual meeting.

**VII Adjournment**
Acting Chair Derrohn called the meeting adjourned at 9:35 p.m.

__________________________________________
James Scott, Secretary  
Date