EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING
THURSDAY MARCH 4, 2010
7:30 P.M.
COMMISSIONER’S ROOM
EMMET COUNTY BUILDING
200 DIVISION STREET
PETOSKEY, MI 49770

MINUTES

MEMBERS PRESENT: Leroy Gregory, John Eby, Dan Plasencia, James Scott, Sue Anderson, Jack Jones, Steve Neal, Kelly Alexander

MEMBERS ABSENT: David Laughbaum

STAFF: B. Michalek, T. Doernenburg

VISITORS: Steve Robinson, Todd Wyett, Brian Howard, Danica Howard, Kevin Freidli, Spencer Hope, Alfred LaCount, Ethan Swiger, and Bob Crothers.

I Call to Order and Attendance
The meeting was called to order at 7:30 PM by Chairperson Eby, all members were present except Laughbaum.

II Minutes of February 4, 2010 meeting
Gregory made a motion, supported by Jones, to approve the minutes of the February 4, 2010 meeting as presented. The motion passed by a unanimous voice vote.

III Cases
1. Case #4A-09 Petoskey 131, LLC, REZONE FF-1 to B-2, 2323 Anderson Rd, Section 18, Bear Creek Township

Legal Notice: A request by Petoskey 131 LLC to rezone a property located in Section 18 of Bear Creek Township from FF-1 Farm and Forest to B-2 General Business. The property is tax parcel 24-01-19-100-042 and includes the following addresses: 2323 Anderson Road, 2420 US-131 Hwy, 2404 US-131 Hwy, and 2412 US-131 Hwy. The request is per Section 2408 of the Emmet County Zoning Ordinance.

Packet Items: Bear Creek Township Planning Commission minutes

Neal stated that he may have a conflict of interest since he is working with a real estate agent who is involved in the project. It has nothing to do with this case; therefore, the Chairman indicated no conflict of interest exists.

The second Public Hearing for the case began with Michalek briefly explaining the request. The location was pointed out. The Future Land Use Map was displayed. No new information has been received. Bear Creek Township Planning Commission and Board recommended denial with reasons provided in the minutes sent to the Planning Commission members.

Steve Robinson, applicant, provided an update. Since the last meeting they have been in discussions with their neighbors to the north and west. There is not a consensus as to the approach, but they do want to work together. There is some hesitancy to the PUD process. They continue to work with the adjacent property owners. They want to work together; however, they don’t agree on how to
accomplish that. Flynn has agreed to allow Robinson to represent that they would be interested in a rezoning, but they are hesitant to pursue a PUD.

There was no public comment.

The commission members commented that they discussed the case thoroughly during the last meeting.

Scott stated that there is no continuity since this is the only parcel under proposal. Anderson stated that at the present time, B-2 may not be needed since there is other B-2 available and in-fill should take precedent over the rezoning.

Michalek stated that the Sub-area master plan Future Land Use Map, in place until January 2009, showed mixed-use, prior to the current master plan. The current Master Plan Future Land Use Map shows commercial use.

Eby stated that the Master Plan supports rezoning, it does not demand it. He added that he needs a reason to rezone. He does not feel a straight rezoning has been shown to be needed at this time. Michalek stated that there are several B-2 and commercial properties not developed in the vicinity. Jones added that the PUD could address some of the traffic concerns, whereas a straight rezoning would not address those safety concerns.

Eby stated that a statement was made at the previous meeting that the Farm Forest zone was obsolete; he felt that the name Farm Forest may be obsolete, but the uses are not. There are some commercial uses allowed in a FF-1 zoning district. A PUD could allow some additional uses – it could allow more businesses than FF-1 allows.

Anderson made a motion to recommend to the Board of Commissioners to deny Case #4A-09, Petoskey 131, LLC to rezone tax parcel 24-01-19-18-100-042, which includes 2323 Anderson Road, 2420 US-131 Hwy, 2404 US-131 Hwy, and 2412 US-131 Hwy in Section 18 of Bear Creek Township based on the Emmet County Master Plan approved January 15, 2009 which states that “The Future Land Use Map does not necessarily indicate the need for immediate changes, but rather acts as a guide for long-term growth.” And the goals of the Land Use Chapter to “Provide for land uses based on demonstrated need in their appropriate locations throughout Emmet County.” And the objectives of the Land Use Chapter to “Coordinate proposed land use patterns with adequate transportation, infrastructure, and required services to support development, while encouraging the best use of land and discouraging sprawl.” And Land Use Strategies “Promote the development of brownfields and vacant parcels in already development locations rather than development of greenfields and open spaces in rural areas,” and based on the recommendation by Bear Creek Township Planning Commission and Bear Creek Township Board. Jones supported the motion which passed on the following roll call vote: Yes: Eby, Neal, Jones, Scott, Gregory, Anderson, Plasencia, Alexander. No: None. Absent: Laughbaum.

Michalek stated that the recommendation will be forwarded to the Board of Commissioners. The Board meeting is scheduled for an Administrative Meeting Tuesday March 9 at 2PM and the Board of Commissioners meeting is Thursday March 11 at 6PM.

2. **Case #13A-06  Kevin Friedli, SITE PLAN REVIEW AMENDMENT, 1897**
Fochtman Industrial Drive, Section 26, Bear Creek Township

Legal Notice: A request by Kevin Friedli for Site Plan Review amendment on property located at 1861 Fochtman Industrial Park Drive, Section 26, T35N-R5W, Bear Creek Township. The property is zoned I-1 Light Industrial and is tax parcel number 24-01-16-26-430-105. The proposal is to add an auto repair business use and modify the site plan to include screening of outdoor display (automobiles) and modify the parking layout. The property is owned by Trade Sites, LLC and the request is per Section 1300-1 of the Emmet County Zoning Ordinance.

Packet Items: Request & location map, application, impact statement, 2006 zoning permit application and site plan, 1/13/10 site plan, zoning evaluation, fire department letter

Michalek explained the request for a site plan amendment on a parcel located within the Fochtman Industrial Park at the end of the development. The original site plan was displayed and explained. The current site plan modification includes adding parking on the side of the building and installing a screening fence to allow cars being repaired to be located out of view of neighboring property owners. Photos of the site were shown. There are cars parked throughout the lot, some appear to be for sale and have no license plates. They have been there longer than one week as required in the Ordinance and they are not screened or removed from sight. The auto service use was approved administratively after the Planning Commission approved the Site Plan per Section 1300-1 which leads to Section 1001-a. The case is a result of ordinance enforcement, amending the site plan is a way to bring the property into compliance. The applicant did not attend the Township Planning Commission meeting, therefore, the case was postponed and no Township recommendation has been received. One staff recommendation is that if it were to be approved, a condition be added that the fence be installed before May 15, 2010 as a deadline to bring it into compliance.

Eby asked about the cars parked in the area in front of the building. The parking areas shown on the original site plan indicate that it is associated with other buildings. Those buildings have not yet been built. The request is to allow parking in front of the building with storage behind screened with a fence.

Mr. Friedli was present. He stated that he wants to bring the site into compliance. Michalek added that the site cannot be seen from US-31.

Eby asked about the cars with prices. Friedli stated that he does a lot of work for auto dealers. He repairs cars and returns them to dealerships. He stated that some cars are dropped off and it takes time to gain a title. Eby stated that the goal is to have those on the site longer than a week screened.

There was no public comment.

The Ordinance language was read and clarified. There may not be enough room for all of the vehicles on the site behind the fence. Some cleaning up of the site may be necessary.

Anderson stated that the applicant was not in attendance at the meeting, so no questions could be answered and there was little discussion. The Township minutes seemed to indicate that they wondered why the case was being heard. Anderson stated that she didn’t think that the Township would be opposed to action by the Planning Commission. The use is in the right zone.

Anderson made a motion to approve Case #13A-06, Kevin Freidli, for Trade Sites LLC, for a site plan amendment at 1861 Fochtmans Industrial Park Drive, Section 26, Bear Creek Township, to permit the auto repair business use and modifications to the site plan as shown on the graphics dated Received
Feb 13, 2010 because the use is a permitted use in the I-1 Zoning District, the plan meets the standards of Section 1001-1, and on condition that the screening be in place no later than May 15, 2010, the fence is to provide full screening, and vehicles parked overnight may only be parked in the screened area and the site must meet the requirements of the Bear Creek Fire Code, Plasencia supported the motion which passed on the following roll call vote: Yes: Eby, Neal, Jones, Scott, Gregory, Anderson, Plasencia, Alexander. No: None. Absent: Laughbaum.

Alexander asked if there were retail sales on-site, and would it be a problem if there was. It would not be a concern if were accessory to the use. The property is zoned to include retail sales.

3. Case #63A-82 Brian Howard, PUD-PRELIMINARY & FINAL-SITE PLAN REVIEW, 2041 Click Road, Section 16, Bear Creek Township

Legal Notice: A request by Brian Howard for a Preliminary and Final Mixed Use Planned Unit Development-1 (PUD-1) for property located at 2041 Click Road, Section 16, Bear Creek Township. The property is zoned FF-1 Farm and Forest and includes tax parcels 24-01-19-16-300-006 & 016 and part of tax parcel 24-01-19-16-300-013. The proposed uses include FF-1 & FF-2 uses and auto repair garage. The request is per Article XXVIII of the Zoning Ordinance.

Packet Items: Request & location map, tax parcel map, application, impact statement, 2/8/10 elevations, fire department letter, 2/23/10 site plan, 2/24/10 revised zoning evaluation

The Public Hearing began with Michalek explaining the request and location. The property was originally one larger parcel. The existing legal non-conforming auto repair garage exists on a portion of the property on the west side of the Bear River. The current location is about 80 feet from the river and the proposal is to place it approximately 200 feet from the river. The request is to apply a PUD-1 overlay to the portion of the property on the east side of Bear River and the other properties owned by the applicant. The uses proposed include all FF-1 uses and auto repair garage. There is a dense wooded area in front of the residence and proposed location. The location for the garage was identified. There is screening from the public road. The current auto repair garage is right up to Click Road. Photos were displayed. The unscreened dumpster will be screened further back on the property. There is a garage next to the existing residence which will be used for residential use. The PUD would eliminate the non-conformity and reduce environmental impact. The fifty foot perimeter setback standard is met. The Road Commission review was received. The Fire Department recommended approval with conditions. Bear Creek Township Planning Commission recommended approval on condition that the Road Commission review is received, and that condition has been satisfied. If the PUD were not approved, the use would continue at the existing location.

Eby stated that the existing use is on a separate parcel. The options were discussed with the applicant. Eby added that it seems to be the best option.

There was no public comment.

Anderson made a motion to recommend approval of Case #63A-82, Brian Howard for a Preliminary and Final Mixed Use Planned Unit Development-1, an overlay on tax parcels 24-01-19-16-300-006 & 016 and part of 24-01-19-16-300-013 in Section 16, T34N-R5W, Bear Creek Township. The PUD-1 encompasses some 28 acres of the property. The Final PUD-1 Master Plan refers to the (scaled) plan dated received 2/22/10 (11”x17” map dated received 2/23/10). Approval is based on the facts presented in this case; and subject to the following additional conditions: the use is existing on the parcel and will eliminate a legal non-conforming site, the environmental impact appears to be reduced at the new location, Township Planning Commission and Board recommended approval, based on
meeting the requirements of the Bear Creek Township Fire Chief and the Emmet County Road Commission. Jones supported the motion which passed on the following roll call vote: Yes: Eby, Neal, Jones, Scott, Gregory, Anderson, Plasencia, Alexander. No: None. Absent: Laughbaum.

Anderson then made a motion to approve the site plan for Case #63A-82, Brian Howard for an auto repair garage on tax parcel 24-01-19-16-300-006 in Section 16, T34N-R5W, Bear Creek Township as shown on the (scaled) plan dated received 2/22/10 (11”x17” map dated received 2/23/10) as it meets the requirements of Section 2405 and on condition that the PUD is approved by the Board of Commissioners. Jones supported the motion which passed on the following roll call vote: Yes: Eby, Neal, Jones, Scott, Gregory, Anderson, Plasencia, Alexander. No: None. Absent: Laughbaum.

4. Case #1-10 Spencer Hope, SPECIAL USE PERMIT-RESOURCE EXTRACTION, Banwell Road, Section 22, Littlefield Township

Legal Notice: A request by Spencer Hope for a Special Use Permit for a Level III Resource Extraction and Mining operation on property located south of the Burley Road/Banwell Road intersection and west of the Sunset Blvd/Burley Road intersection in Section 22 of Littlefield Township. The property is zoned FF-1 Farm and Forest and is tax parcel 24-07-17-22-200-023. The request is to remove top soil from the parcel and the review is per Section 2102-10 of the Zoning Ordinance.

Packet Items: Request & location map, tax parcel map, application, road commission application, impact statement, mining proposal, zoning evaluation, 1/8/10 site plan.

The Public Hearing began with Michalek explaining the proposal using the 2008 aerial to explain the location and the proposed resource mining operation to remove top soil stock piles/berms from the property located south of Banwell Road in Littlefield Township. The location is on the north side of the Eagle Beach development. There are some discrepancies in the aerial and site plan which is being addressed by the County GIS department. Dust control measures are in the draft permit that was modified and has been distributed. The draft is based on previously approved mining operations.

Plasencia stated that the Township Planning Committee tabled until additional information was received. The Board requested an additional review by their Planning Committee due to the applicant being absent from the PC meeting. The Board recommended a water tank to control dust; they were concerned with debris on the road. They will be discussing the case during their meeting scheduled for the last Monday in March. They are concerned with property ownership. It is being purchased on a land contract. They would like to see some documentation that if the property were not reclaimed, the property owner would be responsible. The committee would like to see the site cleaned up within 1 to 2 years. They are concerned with runoff to the ditch which runs directly to Crooked Lake. One corner on the site plan shows fifty feet from the Burley Road right-of-way, since they cannot walk on the property so it cannot be measured; it is difficult to determine if the setback standard is met. It should be screened along Burley Road and some screening by the ditch at the road should be required. Alexander asked where the measurements are made from. It needs to be setback from the front lot line, which is the edge of the right-of-way which is 33 feet from the center line of the road right-of-way. They may request a performance guarantee for reclamation.

Michalek stated that it is currently a berm with grass. Gregory stated that it should improve the site.

Spencer Hope stated that he just wants to remove the berms. Hope stated that he went to the second township meeting and tried to answer all of their questions. He will obtain ownership. The concerns have been addressed regarding the water situation. There will be gravel brought in and debris will be
kept off the road. He will install silt fence so that there will not be any runoff into the ditch. They want to remove the berms and will not be going below the initial grade. He is hoping for approval.

Doernenburg explained that the owner of the property is responsible for following a special use. Plasencia stated that the township board would support further review by the planning committee so that a recommendation would be given prior to the April 1, 2010 meeting. Weight limits are in place now and they likely would not be lifted prior to the next regular Planning Commission meeting which is April 1, 2010 (at 6:00 PM).

The case was deferred until the next regular meeting. The applicant was suggested to attend the Township Zoning Board meeting on March 29, 2010 at 7:00 PM.

V Public Comments: None.

VI Other Business

- **Enforcement Report:** Michalek reported that the Letavis Car Wash sign with white background is being actively pursued as a zoning violation.
- **Citizen Planner:** Pamphlets were distributed. The Citizen Planner program is available in Boyne City. Members who would like to attend should contact staff.
- **April meeting time and date** – Michalek requested an earlier meeting time – meeting will begin at 6 PM, April 1, 2010.
- **Smart Commute Week** – draft pamphlet was distributed.
- **ZOAC** – Zoning Ordinance Advisory Committee. The meeting was scheduled for March 24, 2010 at 5PM. The members are Kelly Alexander, Sue Anderson, Dan Plasencia, and James Scott.
- **Wind Met Towers** - Michalek stated that a company wishes to come to the next meeting under other business to introduce their proposal for several Met Towers in northern Emmet County.

VII Adjournment
Chairman Eby called the meeting adjourned at 8:45 p.m.

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James Scott, Secretary        Date