EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING
THURSDAY MAY 3, 2007
7:30 P.M.
COMMISSIONER’S ROOM
EMMET COUNTY BUILDING
200 DIVISION STREET
PETOSKEY, MI 49770

MINUTES

MEMBERS PRESENT: Jack Jones, James Scott, Leroy Gregory, Katie Derrohn, John Eby, Sue Anderson, Kelly Alexander, David Laughbaum, Steve Neal

MEMBERS ABSENT: None

STAFF: Brentt Michalek, Tammy Doernenburg, Monica Linehan

VISITORS: Christy Cameron, Darrin Cameron, Gary Giebhardt, Alyce Conrad, Peter O’Rourke, Eitel Dahm, Carol Dahm, Doug Houseworth, Ginny Vogel, Jim Malewitz, Scott Hotchkiss, and others.

I Call to Order and Attendance
The meeting was called to order at 7:30 p.m. by Chairman Eby. All members were present.

II Minutes of April 11, 2007 meeting
Jones made a motion, supported by Anderson, to approve the minutes of the April 11, 2007 meeting as presented. The motion passed by a unanimous voice vote.

III Cases
1. Case #46-06 Emmet County Planning Commission, TEXT AMENDMENT, Cemeteries in FF zones
Legal Notice: A request by Emmet County Planning Commission for a Zoning Ordinance Text Amendment as follows:
Part I: Add to Article II, Section 200 of Definitions: CEMETERY: A place set apart for burial or entombment of the dead.
Add to Article VIII, Section 801, Paragraph 10:
10. Cemetery provided that:
a) All laws, ordinances, rules, and regulations established by federal, state, and local governing bodies have been complied with.
b) Cemetery boundaries shall be clearly identified (fencing, signage, etc.).
c) The cemetery perimeter shall meet a minimum setback of fifty (50) feet from a right-of-way and 100 feet from all side and rear property lines.
On the basis of findings at the Public Hearing, the Planning Commission may waive or modify standard c) above where strict compliance is not necessary to protect the public health, safety, or general welfare.
Part II: Consider removal of Article IV, Section 401, Paragraph 3: “Cemeteries when developed on site of ten (10) acres or more.”

Packet items: None.
Additional items: 5/1/07 email from Dale Scott, Friendship Township

Doernenburg explained that this issue has been reviewed over the past several months. After discussion amongst staff, she stated that they recommend that ‘cemetery perimeter’ in item c) be changed to ‘cemetery boundary’ to be consistent with sub paragraph b). The proposal does include removing cemeteries from residential zones and has been reviewed by civil counsel. There has been some concern about accessibility to the cemeteries. Perhaps something needs to be placed in the language to resolve this issue. Friendship Township requested lessening the setbacks. To meet FF setback standards for front property lines would be 40’ instead of the proposed 50’. Staff is not opposed to this change. They were also concerned that this amendment would make cemeteries that are currently in FF zones non-conforming. Doernenburg
explained that they are not allowed at all in the FF districts now so they already would be non-conforming. If this amendment is approved, it would proceed to the Board of Commissioners for final approval.

There was some discussion about the accessibility issue. Eby noted that it would have to be accessible and that a landlocked parcel cannot be created. Jones stated that an easement could be required as a condition to the special use permit when requested. This easement should be unrestricted and on record with the County. Eby asked if this was seizing property in perpetuity for unknown people. Alexander asked who would have access rights if an easement was placed. Jones stated that it should be an unrestricted easement for anyone and should be required if the cemetery is not adjacent to a public road. Eby asked if this would be asking for public access on a private use. Perhaps Civil Counsel should review this again for additional wording.

Eby opened the floor to public comment.

Alyce Conrad stated that she is also concerned about access. There are situations within the County that this has been an issue. The easement should be in the deed.

Peter O’Rourke stated that he plans to record the existence of the cemetery and an easement. He feels that it is up to the landowner to have the wisdom to do this. The easement should be for descendents and relatives of the descendents. There are other agencies requirements that he will have to go through before being allowed to have a cemetery. He stated that he doesn’t think that the easement needs to be part of the zoning ordinance; it may be up to another department to require this. O’Rourke stated that there is a law of necessity that allows a court to grant an easement to access a landlocked parcel of land.

Eby stated that Civil Counsel should be consulted regarding the wording. The members stated that they felt that a 40’ front setback to match FF setback standards would be appropriate.

This case was deferred pending consultation with Civil Counsel.

2. Case #S-6-07 Spartan Stores Fuel, LLC, SIGN REVIEW-EXCEPTION, Rice Street & US 31, 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: None
Additional items: Sign information from Apex Signs

Doernenburg explained that the Sign & Lighting Committee have approved two canopy signs that meet the ordinance standards. They are allowed to approve up to two signs and are not able to approve the extra sign. The ordinance allows one freestanding sign up to 56 sq. feet plus one wall mounted sign up to 15% of the area of the mounting wall or two wall mounted signs. The exception is to exceed the allowed number of signs and sign area on the narrow side of canopy. The proposal is to have two canopy signs plus one wall mounted sign. The proposed wall mounted sign will be unlit. The canopy signs will be externally lit from shielded lights. The signs that were approved were shown along with the proposed additional sign.

Gary Giebhardt from Apex Signs stated that he assumed that Spartan plans to have the wall mounted sign lit as all of the others that he has done for them have been. Doorenburg stated that when they addressed the Sign & Lighting Committee, they advised them that it would be unlit. If they do want the sign lit, it would have to be addressed. Giebhardt stated that perhaps it will not be lit. He stated that there is not a lot of room on this site. Typically the canopy is turned so that signs are more visible, but this is not possible here. They are foregoing allowed pylon signs which he feels is better for the community.

Jones stated that if they want the wall mounted sign lit, they should have to return for further review. Doorenburg stated that they could revert the colors as the sign would meet the ordinance standards for an internally lit sign if the background was dark with light lettering.
There was no public comment on this case.

Derrohn made a motion to approve Case #S-6-07, a request for a 37.1 square foot unlit wall mounted sign and an additional 51 square foot canopy mounted sign to be located on the east side of the canopy as shown on plans dated 4/30/07, located at the Glen’s Quick Stop gas station and convenience store, 1115 North US-31 Highway, tax parcel 24-01-16-33-200-017, Section 33, Bear Creek Township, because of the configuration of the lot in proximity to US-31.

There was some discussion after the motion was offered regarding review if the applicant preferred the wall-mounted sign to be lit. Michalek stated that since the Planning Commission is granting additional signage in exchange for an unlit wall mounted sign, if the sign is to be lit it should come back before the Planning Commission. Alexander asked why this sign request wasn’t looked at before. Michalek stated that sign requests typically come up after the use is approved.

After discussion, the motion was supported by Anderson and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Laughbaum, Anderson, Derrohn. No; Alexander. Absent; None.

3. Case #9-07 Eitel Dahm, SPECIAL USE PERMIT, Accessory building without main Use & larger than maximum size accessory building, Stutsmanville Road, Section 19, Friendship Township

Legal Notice: A request by Eitel Dahm for a Special Use Permit for an accessory building as a main use and an exception to allow a larger than maximum size accessory building. The proposed 2,700 sq. ft. building will be situated on 15 acre portion of an 80 acre parcel zoned FF-2 Farm Forest in Section 19, T37N-R5W, Friendship Township. The tax parcel number is 24-06-12-19-200-003. The proposed 90’x30’ accessory building is to be used for personal storage. The request is per Zoning Ordinance Section 2201-2 & 2201-8. The 80 acre parcel is owned by Kenneth Dye.

Packet items: Request & location map, tax parcel map, application, site sketch, location drawing, 4/12/07 site plan, impact statement, site plan review checklist, 3/19/07 lot split, zoning evaluation, affidavit of use.

Additional items: Friendship Township Planning Commission minutes, 5/3/07 site plan.

Michalek explained that Friendship Township denied the second portion of this request regarding a larger than maximum size accessory building. The site plan that was handed out tonight reflects the change to a 2400 square foot building. Neal asked if the applicant is fine with a 2,400 square foot building. Michalek stated that the applicant has agreed to this.

The parcel is located south of Stutsmanville Road on a 15 acre parcel. There is a future proposal to split this property; however this request is on the entire parcel. If the parcel is split, the eastern portion of the property will remain intact. The site plan was shown and Michalek explained the request is for an 80’x30’ pole barn to be built for personal storage. An affidavit of use is on file with Planning & Zoning and would be required to be filed with the Register of Deeds if approved. The applicant has provided a letter from the Health Department indicating that a permit for the septic will be issued. The township has recommended approval if the building size is no more than 2400 square feet.

Eby asked about the screening on the parcel. Jim Malewitz, representative for the applicant explained that it is a wooded site and they will only be clearing what needs to be cleared to put up the building which is proposed to be set back approximately 600’. Jones asked if the applicant accepts the smaller building. The applicant, Eitel Dahm, stated that the building will be 2,400 square feet and used only for personal storage.

There was no public comment on this case.

Scott made a motion to approve Case #9-07, Eitel Dahm for a Special Use Permit for an Accessory Building as a Main Use to be no more than 2400 square feet to meet the ordinance standards on property located on Stutsmanville Road, Section 19, Friendship Township, as shown on the site plan dated 4/12/07PZ and as indicated in the Impact Statement and Affidavit of use because no good purpose would be served by strict compliance with the provisions of Section 2201 of the Zoning Ordinance and the standards for allowing an Accessory Building as a Main Use have been met and Friendship Township recommended approval. The motion was supported by Derrohn and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Laughbaum, Anderson, Derrohn, Alexander. No; None. Absent; None.

4. Case #10-07 Dan Manthei, SPECIAL USE PERMIT, Land Development Standards, Corner of Woodland & Gregory, Section 11, Maple River Township

Legal Notice: A request by Dan Manthei for a Special Use Permit per Land Development Standards to create 7 parcels on approximately 40 acres located in the northwest corner of the southeast corner of Section 11 of Maple River Township. The property
is zoned FF-1 Farm and Forest and is tax parcel 24-09-14-11-400-019. The review is per Section 2102-14 of the Zoning Ordinance.

Packet items: Request & location map, tax parcel map, application, 3/30/07 proposed property division, site plan review checklist, impact statement, 3/30/07 Road Commission letter, 3/30/07 Health Department letter, 1996 PA 591, 3/29/07 memo from Kathy Abbott, zoning evaluation.

This property is located on the corner of Woodland and Gregory near the Village of Pellston. An aerial view of the site as well as the proposed division was shown. This is currently an open field and has been staked out for the proposed division. The proposal would create seven parcels and is before the Planning Commission because more than five parcels are proposed to be created. Each of the parcels will access either Woodland or Gregory and no new roads will be created. Approval letters have been received from both the Health Department and the Road Commission. There has been no comment received from the township.

Eby stated that Maple River Township heard but didn’t act on this case. Jones stated that he and Gregory were discussing that this parcel is perhaps the best 40 acres for farming in the County. Eby agreed that this parcel has been identified as prime farmland in the Comprehensive Plan maps, but there has to be a farmer to farm the land. This was the discussion at the township meeting as well.

Doug Houseworth, representing the applicant, was available for questions.

Eby opened the floor to public comment.

Ginny Vogel stated that she owns the 20 acres that abuts to the back of this parcel. She has horses and livestock that she intends to keep and manure is spread throughout the field. She hopes that anyone moving there would understand that. She asked if there is any regulation on the type of houses that can be put on the parcels and what does this do to other people’s taxes in the area.

Houseworth stated that the owner intends to put deed restrictions against HUD or mobile homes. The homes would have to either be a BOCA modular or a stick built home. Gregory stated that her property would be near the two large parcels and probably wouldn’t be too close to the buildings.

Alyce Conrad asked if there was some reason for this particular layout. Are the larger parcels intended to be split in the future?

Houseworth stated that they looked at multiple options and this is the one that Mr. Manthei liked. The configuration meets the standards of the ordinance.

Eby stated that any further divisions would have to come back before this board. Jones stated that as it complies with the ordinance standards and the Land Division Act, there is only one choice, and that is to approve the request.

Jones made a motion to approve Case #10-07, Dan Manthei, Special Use Permit for Land Development to create 7 parcels from approximately 40 acres on the southeast corner of Woodland and Gregory Roads in Section 11, Maple River Township, tax parcel number 24-09-14-11-400-019 because of the facts in the case and the plan dated Received March 30, 2007 meets the standards of Section 2102-14 of the Zoning Ordinance. The motion was supported by Neal and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Laughbaum, Anderson, Alexander. No; Derrohn. Absent; None.

IV Public comments: None.

V Other business:

- **Enforcement Report:** Distributed, no discussion.
- **Annual Meeting:** Staff feels that we should wait to hold the annual meeting until the fall when a completed draft of the Comprehensive Plan should be available for review.
- **Annual Report:** Michalek stated that the annual report will be ready to present at next month’s meeting.
- **Amendment to 2004 Emmet County Comprehensive Recreation Plan:** Michalek explained that this request is for the Planning Commission to recommend approval to the Board of Commissioner’s and to proceed with the
notification processes. If this is approved tonight, it would go to the May 10, 2007 Board of Commissioners meeting and it would be advertised for the July 5, 2007 Planning Commission meeting. Michalek pointed out the list of parcels that are included in this amendment. Littlefield Township would also like to add a bike trail to this list. They currently have a snowmobile trail and are looking to add a bike trail as well. Eby asked for more information as to why these properties are on the list. Michalek explained that this is similar to a request approved in 2005. The reasoning behind the parcels is included in the text of the 2004 Emmet County Comprehensive Recreation Plan, which will be amended in 2009. Jones added that having the Recreation Plan allows the County to apply for grants. Michalek added that Emmet County is in the top ten counties in regards to receiving grant money. The Headlands were a result of this process, as is the last grant approved on Camp Petosega. All properties that are on the list would come before the Planning Commission and the Board of Commissioners before anything was done with the properties. There was some further discussion of the different parcels on the list. Anderson made a motion to recommend approval of the amendment to the 2004 Emmet County Comprehensive Recreation Plan to the Board of Commissioners, begin the notification process for a public hearing, and begin the forty day notification process to public entities and utilities. The motion was supported by Scott and passed by a unanimous voice vote.

- **Darrin Cameron-rezoning discussion SR to FF, Carp Lake Township:** Michalek explained that Mr. Cameron is investigating the potential of purchasing some farm buildings for personal storage use. The parcel is currently zoned SR and Mr. Cameron would like comments from the Board on possibly rezoning this to FF. Michalek explained that there are sections of this SR zone that have been rezoned already. The aerial view and current zoning map was shown. The question is whether this section around the road should still be zoned SR. Eby stated that a lot of the SR zoning along the road was removed about five years ago. Scott stated that he thought there were issues on the township level and that is why this area wasn’t included. Darrin Cameron stated that as they live there and are working on cleaning up their mining operation, they would like to utilize these buildings for storage and would like to do this before they deteriorate further. This will improve the property as they are looking shabby now. There was discussion as to whether the whole section should be looked at for rezoning or just the parcel that Cameron is interested in. Michalek stated that they could hold off until the Comprehensive Plan was complete to see what is planned for in that area. Eby stated that if the zoning doesn’t conform to the ordinance they should act without waiting for the Comprehensive Plan to be complete. Anderson stated that the history behind why it was left as SR zoning would be helpful to make a decision on this. Doernenburg stated that the old file could be pulled to reference. After much discussion, Cameron was urged to go ahead and apply for a rezoning on just that property. Staff will find the old file and get information on why this section wasn’t changed.

- **Resort Township Zoning Coordinating Committee:** Doernenburg explained the proposal for rezoning an area from R-1B to PUD-2. PUD-2 requires review by the County. The township Planning Commission has reviewed this already and recommended approval to the Township Board. The proposed single family homes would be allowed, the bed and breakfast isn’t allowed unless it’s handled as a home occupation, and the orchard and farming could be an allowed use on the property. Rezoning this property to PUD-2 would control the uses on the property and would require a 50’ perimeter setback. Staff’s recommendation is to recommend approval as being an appropriate change to the ordinance. Scott made a motion to authorize the Chair to sign the memo to Resort Township recommending approval. The motion was supported by Anderson and passed by a unanimous voice vote.

- **Sub area plan:** Michalek explained that the changes requested by Resort Township have now been made by the consultant. There have been difficulties in getting an updated plan and we now have a good copy of the plan. Michalek stated that staff recommends taking the time to review this copy and then propose it for a public hearing. Doernenburg stated that this should be advertised for the July meeting to give ample time for the townships to review the final copy.

VII Adjournment
Chairman Eby called the meeting adjourned at 9:06 p.m.

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James Scott, Secretary                  Date