I Call to Order and Attendance
The meeting was called to order at 7:33 PM by Chairman Eby, all members were present except Laughbaum.

II Minutes of May 6, 2010 meeting
Alexander made a motion, supported by Gregory, to approve the minutes of the May 6, 2010 meeting as presented. The motion passed by a unanimous voice vote of the members present.

III Cases

1. Case 7-10 Petoskey 131 LLC, REZONE FF-1 to B-2, Anderson Road, Section 18, Bear Creek Township

Legal Notice: A request by Petoskey 131 LLC to rezone properties located in Section 18 of Bear Creek Township from FF-1 Farm and Forest to B-2 General Business. The properties include tax parcels and addresses 24-01-19-18-100-017 (2265 Anderson Road), 24-01-19-18-100-018 (2275 Anderson Road), 24-01-19-18-100-025 (vacant – no address), 24-01-19-18-100-040 (2287 Anderson Road), and 24-01-19-18-100-042 (2265 Anderson Road, 2323 Anderson Road, 2420 US-131 Hwy, 2404 US-131 Hwy, and 2412 US-131 Hwy). Property owners include: James & Regina Gasco, Michael Flynn, Michael & Susan Flynn, Tina & Robert Crothers, and the applicant, respectively. The request is per Section 2408 of the Emmet County Zoning Ordinance.

Packet Items: Email correspondence between Steve Robinson & Brentt Michalek
Passed out at meeting: Bear Creek Township minutes, revised zoning evaluation.

Michalek explained that this is the second meeting in which this request has been reviewed. There was a PUD request reviewed prior to this request, however the request skipped some parcels that are currently included in this request which created a spot zoning request. The applicant has looked at the possibility of zoning the northern three parcels B-2 and the southern two parcels B-1. This possibility was reviewed by Bear Creek Township and approval was recommended. The future land use map was shown. Michalek stated that B-1 seems to be a good transition to the surrounding areas due to multiple retail uses in close proximity to this request. A letter from MDOT was emailed and had been unfortunately omitted from the packet information sent to the Planning Commission. This letter stated that a right-in, right-out access would be allowed along US-131. The aerial photo was shown. Michalek noted that the rezoning request needs to be looked at as a separate issue from potential site plan issues such as the entrance concerns. During the site plan review process, traffic uses and potential traffic studies could be reviewed.
The applicant, Steve Robinson was present. He noted that he feels that B-2 and B-1 uses as proposed are appropriate for the area. They have complied with all requirements during this process.

Michalek noted that the R-1B zoned parcels may be looked at as B-2 uses in the future; the master plan shows some form of commercial on both sides of US-131.

Jones noted that at the Bear Creek Township meeting it was stated that the County recommended the north B-2/south B-1 zoning. Scott stated that this was discussed as a possibility at the last Planning Commission meeting as a better transition. Michalek stated that looking at a B-1 type use in that area was suggested to avoid some of the more intense B-2 uses. The applicant called him the day following the meeting with some questions regarding the B-1 uses. The applicant then sent the email that was in the packet indicating that they would be open to looking at this option.

There was some discussion as to where the best split of the B-1/B-2 use area would be. The applicant noted that the entrance that was discussed with MDOT would be located just north of the existing drive right at the hilltop. Michalek noted that speed limit changes have been discussed. Plasencia noted that he is concerned with the safety issues along US-131. He wondered if a compromise could be agreed upon to allow for some sort of buffer to remain in order to have a line of sight. He noted that new development areas such as this in other states have a buffer zone. Using this concept here would help in keeping the area looking rural. Scott noted that these concerns cannot be required in a rezoning request; it would have to be under a PUD. He also noted that the request follows what is in our master plan; this should be followed. Michalek noted that traffic studies, setbacks, etc. can be looked at during the site plan review process.

After discussion regarding the different options in changing the zoning on the requested parcels, the consensus was to change the current FF-1 zoned areas to B-1; the R-1B zoned areas to B-2; and keep the existing B-2 zoned areas as B-2. There was discussion regarding what the current property owners wish to have their property zoned as. Michael Flynn was present and he stated that he would prefer B-2 zoning on his parcel rather than B-1.

There was no further public comment on this case.

Anderson made a motion to recommend approval to the Emmet County Board of Commissioners, Case #7-10, Petoskey 131, LLC to rezone currently zoned R-1B areas to B-2 and FF-1 areas to B-1 on tax parcels 24-01-19-18-017, 018, 025, 040, and 042, the addresses are 2404 US-131 Hwy, 2412 US-131 Hwy, 2420 US-131 Hwy & 2323, 2265, 2275, and 2287 Anderson Rd, and one vacant parcel in Section 18 of Bear Creek Township; based on the Emmet County Master Plan approved January 15, 2009 and based on the Bear Creek Township Master Plan, the parcels abut property zoned B-2 – creating continuity in zoning, Bear Creek Township recommended approval. The motion was supported by Jones and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Anderson, Alexander. No; Gregory, Plasencia. Absent; Laughbaum.

Michalek explained to Robinson that this case will move on to the Emmet County Board of Commissioners review and will be discussed at the Administrative meeting of June 15, 2010 and the Public meeting of June 17, 2010.

2. Case #9-10 Robert Monroe, SPECIAL USE PERMIT-Larger than allowed accessory building, 7355 Geary Road, Section 29, Friendship
Township

Legal Notice: A request by Robert Monroe for a Special Use Permit for an Exception to allow an accessory building which exceeds 1,200 sq. ft. on property located at 7355 Geary Road, Section 29, Friendship Township. The property is zoned FF-2 Farm and Forest and is tax parcel 24-06-12-29-400-020. The request is to permit a 1,790 sq. ft. accessory building in the side yard of the property per Section 2201, Paragraph 8 of the Emmet County Zoning Ordinance.

Packet Items: Request & location map, tax parcel map, application, 4/27/10 email from Bo Trufant, 4/26/10 Township PC minutes, 5/11/10 email from Janell Van Divner, 5/5/10 Township Board minutes, 5/6/10 record of phone conversation-Gerard Joliceour, zoning permit application, site plan checklist, impact statement, 4/25/10 applicant’s narrative, basic site plan, detailed site plan, building details, septic/well permit, survey.

Doernenburg presented this case noting that the property in question is located on Geary road which is a dead end gravel road which is lightly traveled. The parcel is zoned FF-2. The location was cleared when the house was built but the garage wasn’t built at that time. The garage is inline with the building line but is actually located in the side yard which allows for a maximum 1200 square foot building. The building is screened well and cannot be seen well from the road. If the property were 5 or more acres in size this request could have been approved administratively for a building up to 2400 square feet.

The applicant, Robert Monroe was present to answer any questions.

Plasencia noted that he visited the site. It is a well wooded area. There is a lot of side yard to the east. He noted that he would be in favor of approval on the condition that the trees are left as a buffer along Geary Road in the circle drive area near the well. Robert Monroe noted that they do intend to keep the area wooded. After further discussion, maintaining a 35 foot buffer was offered by the applicant.

There was no public comment on this case.

Plasencia made a motion to approve Case #9-10, Robert Monroe for a Special Use Permit for an Exception to the Standards of Section 2201 - Accessory Buildings on property located at 7355 Geary Road in Section 29, Friendship Township, tax parcel 24-06-12-29-400-020, as shown on the site plans dated Received April 27, 2010 because the applicant has demonstrated that no good purpose would be served by strict compliance with Section 2201 since the structure is well screened from neighboring properties, the character of the building is similar to those in the immediate vicinity, and the building is setback 100 feet from Geary Road, and on condition that a 35 foot natural screening is maintained from the road right-of-way. The motion was supported by Gregory and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Anderson, Plasencia, Alexander. No; None. Absent; Laughbaum.

3. Case #9-10  Max & Janet Mathews, SPECIAL USE PERMIT-Accessory building as a main use, 2531 State Road, Section 14, Friendship Township

Legal Notice: A request by Max & Janet Mathews for a Special Use Permit for an Accessory Building as a Main Use at 2531 S. State Road, Section 14, Friendship Township. The property is zoned FF-2 Farm and Forest and is tax parcel 24-06-12-14-300-063. The request is per Section 2201-2 of the Zoning Ordinance.

Packet Items: Request & location map, tax parcel map, application, 5/10/10 site plan, 5/10/10 building information, zoning evaluation
Passed out at meeting: 6/3/10 email from Friendship township
Doernenburg presented this case. The parcel is a primarily wooded parcel zoned FF-2. The original building was constructed and approved on the condition that a house is constructed within two years from the time of application. The applicant has indicated that they are not in a financial position at the moment to build a home. There is space on the parcel for a residence to be built in the future. The parcel is screened more heavily from Fisher Road than from State Road. The township had questions on how the accessory building was originally approved. Doernenburg noted that it was able to be approved because Section 2201, Paragraph 1, Sub-paragraph b) states: “On a corner lot, i.e. with two front yards, the Zoning Administrator may approve one yard to qualify for an accessory building that meets the size standards for a rear yard accessory building.” This was the provision which allows the accessory building to be up to 2,400 sq. ft. The minutes indicate that the Township was concerned that a residence would not fit on this parcel. Doernenburg stated that because of the questions that they had, the Township postponed the case. There is no reason to postpone the case yet it doesn’t need to be expedited either. Because the applicant thought that the case would be postponed, they did not attend tonight’s meeting.

Eby asked if there is room on the parcel for a future residence; there is. Alexander asked if they could just ask for an extension to build the residence. Doernenburg explained that the ordinance does not allow for an extension. She added that an affidavit of use should be filed as a condition of approval. Scott noted that perhaps this section should be looked at to assess whether adding an extension option would be helpful. Eby stated that the request meets the ordinance requirements for an accessory building as a main use. Michalek noted that the screening should be required to remain.

Scott made a motion to approve Case #13-10, Max & Janet Mathews for a Special Use Permit for an Accessory Building as a Main Use on property located at 2531 S State Road, Section 14, Friendship Township, tax parcel 24-06-12-14-300-063, as shown on the site plan dated “Received 5/10/10” because the standards for allowing an Accessory Building as a Main Use have been met, the applicant intends to construct a residence on the property in the future and on condition that an affidavit of use be filed with the Emmet County Register of Deeds and that the existing tree and shrub screening be maintained on the north and west side of the property. The motion was supported by Plasencia and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Anderson, Plasencia. Alexander. No; None. Absent; Laughbaum.

4. Case #63B-82  Brian Howard, PUD-1 Amendment, 2031 Click Rd. Section 16, Bear Creek Township.

Legal Notice: A request by Brian Howard for a modification to a Mixed Use Planned Unit Development -1 (PUD-1) to allow the front setback to be reduced from 50 feet to 28 feet at 2031 Click Road, Section 16, Bear Creek Township. The property is zoned FF-1 Farm and Forest and SR-1 Scenic Resource and is tax parcel 24-01-19-16-300-006. The request is per Article XVIII, Section 1805, Paragraph 8 of the Zoning Ordinance.

Packet Items: Request & location map, application, 5/4/10 letter from Brentt Michalek to Brian Howard, 5/10/10 site plans
Passed out at meeting: Bear Creek Township minutes

Michalek presented this case explaining that the request if for an amendment to the PUD-1. The garage was built outside of what was originally submitted and approved. The intent of the PUD was to relocate the garage from the west side of the Bear River to the east side. The aerial view was shown. Trees have been removed to place the building and many trees have been planted to screen the building. A 50’ buffer setback for the PUD runs through the location of the proposed paved building.
approach. 21 feet is required for the paved area, the building meets the setback. The ordinance does allow for minor adjustments to the PUD Master Plan by the Zoning Administrator and as a result, the building location was accepted administratively provided there would be no parking within the 50’ perimeter setback. The current request is to permit parking up to 29’ from the right-of-way. This would permit pavement into the 50’ perimeter setback which would not be allowed without this modification request.

Anderson noted that photos of the site were shown at the Bear Creek meeting; the screening was done well.

Michalek stated that soil erosion issues are being looked into and there may be possible issues to be addressed with the MDNRE.

The applicant, Brian Howard was present. He noted that the pavement is needed in order to get vehicles in and out of the garage; grass would not work well there.

Plasencia asked about a drainage plan. Howard stated that the trees buffer some drainage. It is about 45’ through the trees to the drainage ditch. Bear Creek Township made a drainage plan and meeting MDNRE conditions as conditions of their recommended approval. Gregory asked what the need for so much pavement is. Howard explained that all of the doors are on that side of the building and they need the pavement to get vehicles in and out. Scott asked if pavement is allowed in the underlying zoning of FF-1 and SR. Doernenburg replied that it is allowed.

There was no public comment on this case.

Anderson made a motion to recommend approval of Case #63B-82, Brian Howard for a Preliminary and Final Mixed Use Planned Unit Development-1 perimeter setback modification on tax parcel 24-01-16-300-006 in Section 16, T34N-R5W, Bear Creek Township. Approval is based on the facts presented in this case; and subject to the following additional conditions: a drainage plan which meets the standards of the Ordinance must be submitted for review by the Planning Office, the requirements set forth by the MDNRE must be met, and that the trees present on June 3, 2010 be maintained. The motion was supported by Neal and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Anderson, Plasencia, Alexander. No; None. Absent; Laughbuam.

The applicant was given the dates of the Emmet County Board of Commissioners meetings where this case will be reviewed for final approval.

5. Case #10-10  Emmet County Planning Commission, TEXT AMENDMENT-‘Compliance with Law’

Packet Items: Zoning evaluation

Michalek reviewed the presentation from the May meeting regarding the Michigan Medical Marihuana Act. The Michigan Zoning Enabling Act allows uses to be excluded if not lawful. Bear Creek, Littlefield, Friendship, and Springvale Townships have all recommended approval of this text amendment. Littlefield Township felt that the ordinance standards should go further similar to how the SOBs were reviewed. The text amendment only addresses the commercial uses of lands or buildings as it relates to zoning. This text amendment would also address any other uses that may not
be compliant with State and Federal laws.

There was no public comment on this case.

Jones made a motion to recommend approval to the Emmet County Board of Commissioners of Case #10-10, Emmet County Planning Commission, Text Amendment to add Section 2412: Compliance with Law as proposed for the following reasons: because of the facts presented in this case, the proposed text will allow the County to prohibit commercial uses of land and/or buildings that are not compliant with state and/or federal laws. The motion was supported by Alexander and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Anderson, Plasencia, Alexander. No; None. Absent; Laughbuam.

6. Case #14-10  Emmet County Planning Commission, TEXT AMENDMENT-Section 1900, note f

Packet Items: Zoning evaluation

Doernenburg explained that this text amendment would remove the sentence in Section 1900 that allows parking in B zoning districts in the front yard setback areas if the road right-of-way is 100’ or larger. The proposal would change this rule to always allow at least a 10’ buffer. The change would also apply to the I-1 and I-2 zoning districts. The main reason for this change is due to enforcement issues and to address public safety issues of parking that close to the right-of-way. This does not affect building setbacks.

Anderson made a motion to recommend approval to the Emmet County Board of Commissioners of Case #14-10, Emmet County Planning Commission, Text Amendment to add notation (f) to I-1 and I-2 zoning in Section 1900 the Schedule of Regulations, and to remove the second sentence from Section 1900 notation (f) as proposed, for the following reasons: because of the facts presented in this case, the proposed text is necessary to ensure public safety, that no parking lots would be permitted closer than 10 feet from a road right-of-way. The motion was supported by Scott and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Anderson, Plasencia, Alexander. No; None. Absent; Laughbuam.

V Public Comments:
Alford LaCount asked how the County will be regulating the oil/gas development that have been in the area. Michalek noted that the County has no authority to regulate in this area.

Doernenburg reported that several companies have approached residents wanting to lease property for mineral rights (natural gas) development. She stated that she attended an informational meeting put on by MSU Extension. Some of the people going around are low lease companies that have residents sign a low lease which they sell to larger companies for a profit. The wells are 5k-15k feet deep and there is only one of these types of wells in Michigan, in Missaukee County. There is a significant amount of potential money to come into the area through these leases. The Zoning Enabling Act does not allow local regulation; the State regulates these. Alexander asked what the impact of these wells will be. Doernenburg stated that these wells can be up to 5 acres in size during the mining and there are byproducts such as brine water. The companies feel that they can control the environmental impacts and stated that Michigan has the second most stringent environmental regulations following California. She stated that the company does expect that drilling will occur. Jones added that Otsego County has had spill issues in the past and there are no requirements that the property owners be
notified when this happens; only the State. There is a proposal to have the Health Department come up with some way to notify property owners if such an event occurs.

VI Other Business

- Resort Township MNRTF Grant: Doernenburg explained that Resort Township requested a letter signed by the Planning Commission supporting their grant request. Alexander made a motion to have the Chair sign the support letter. The motion was supported by Anderson and passed by unanimous voice vote of the members present.
- Annual Report: Michalek reviewed the highlights of the 2009 Annual Report. The Emmet County Master Plan is being used in presentations as an example of how to form a master plan.
- Enforcement Report: Was distributed in packets; no discussion.
- Carl Drayton-storage units: Doernenburg reported that she met with Drayton on his site. The 16’ high trees are planted, the area that was required to be paved has been paved, and the gate is operational.

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

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James Scott, Secretary        Date