EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING
THURSDAY JULY 7, 2011
7:30 P.M.
COMMISSIONER’S ROOM
EMMET COUNTY BUILDING
200 DIVISION STREET
PETOSKEY, MI 49770

MINUTES

MEMBERS PRESENT: Paul Hramiec, Dan Plasencia, Jack Jones, Kelly Alexander, Steve Neal, John Eby, James Scott, David Laughbaum

MEMBERS ABSENT: Sue Anderson

STAFF: Tammy Doernenburg, Monica Linehan, Nancy Salar

I Call to Order and Attendance
The meeting was called to order at 7:30 PM by Eby. All members were present except Anderson.

II Minutes of June 2, 2011
Alexander made a motion, supported by Plasencia, to approve the minutes of the June 2, 2011 meeting as presented. The motion passed by a unanimous voice vote of the members present.

III Cases

1. Case #75A-84 Rob & JoEllen Thompson, SPECIAL USE PERMIT-Dog Kennel, 2656, Howard Road, Section 18, Bear Creek Township

Legal Notice: A request by Rob and JoEllen Thompson for a Special Use Permit for a dog kennel at 2656 Howard Rd in Section 18 of Bear Creek Township. The property is zoned FF-1 Farm and Forest and is tax parcel 24-01-19-18-400-013. The request is per Section 2102-9 of the Zoning Ordinance.

Packet Information: 6/20/11 revised site plan-staff prepared, 6/17/11 revised site plan-applicant prepared, 6/22/11 revised draft motions, letter from Mazzolines

Doernenburg explained that this is the third hearing of this case. The property located on Howard Road is zoned FF-1, is approximately 2.8 acres, and is located more than 500 feet from a residential district boundary. It sits north of a non-conforming commercial use-Evergreen Lawncare. There has been a revised site plan submitted that shows the screening details and noise reduction measures. The building will be insulated. The location and site are secluded. The applicant agreed to keep the main garage door and windows closed during the night hours (10pm-8am). Photos, aerials, and the site plan revisions were shown. Littlefield Township recommended approval.

The applicant was present for any questions.

Neal asked about the letter from the Mazzolines which states that they are closer than 500'. Doernenburg stated that according to the aerial photos it is more than 500'. The side that the Mazzolines live on would be screened with privacy fencing and evergreen trees. Neal asked about air conditioning if the doors and windows will be closed. This is up to the property owner.
There were no public comments for this case.

Jones made a motion to approve Case #75A-84, Rob & JoEllen Thompson, Special Use Permit for a kennel at 2656 Howard Road, Section 18, Bear Creek Township as shown on the site plan dated Received 6/17/11, on condition that the animals be housed within a completely enclosed building between the hours of 10 p.m. and 8 a.m., that the outdoor kennels meet the setbacks of the zoning district (20’ side/ 35’ rear) as shown on the site plan, that the building be insulated, that the screening be installed as indicated on the plan to include a privacy fencing and evergreen trees, that the driveway be paved in the right-of-way as required by the Road Commission, the main garage door and windows will be kept closed between the hours of 10 p.m. and 8 a.m., and that the previously approved Special Use Permits are removed and replaced with this approval; because the use meets the standards of Section 2102-9, the kennel is located more than 500’ from a residential district boundary, and the use will not conflict with the character of the neighborhood, and because the township recommended approval. This motion was supported by Neal and passed on the following roll-call vote: Yes: Eby, Neal, Jones, Scott, Hramiec, Laughbaum, Plasencia, Alexander. No: None. Absent: Anderson.

2. Case #6-11 Jack & Kate Koboski, SPECIAL USE PERMIT-Land Development Standards, 1808 Cedar Valley Road, Section 9, Bear Creek Township

Legal Notice: A request by Jack & Kate Koboski for a Special Use Permit per Land Development Standards to create four new parcels at 1808 Cedar Valley Road in Section 9 of Bear Creek Township. The parcel is zoned FF-1 Farm and Forest along Cedar Valley Road to a depth of 1,320 feet and the remainder is zoned R-1B One Family Residential and is tax parcel 24-01-19-09-400-008. The request creates seven parcels within a ten year period and the review is per Section 2102-14 of the Zoning Ordinance.

Packet Information: 6/21/11 revised zoning evaluation, easement for electric line, legal descriptions for proposed split, 6/21/11 site plan for proposed split

Doernenburg explained that this is the second review of this case. The property is zoned FF-1 and R-1B with the proposed splits in the FF-1 District. The original parcel was 80 acres. They have already split three parcels previously and now want to split another three parcels. The revised plan shows a "T" turnaround for at the end of the access for the three parcels. All of the proposed parcels meet the one acre minimum lot size. The DEQ has provided written documentation that their review is independent of zoning. A consultant and preliminary application with the DEQ has been started. The health department standards will have to be met. Bear Creek Township recommended approval. Some questions regarding the notations on the plan have been corrected; existing culverts and fences have been labeled and legal descriptions of the parcels have been submitted.

Neal asked if zoning is also independent from the DEQ decision? Yes.

Eby opened the floor to public comment.

Tom Fettig stated that he owns a trailer on Cedar Valley Road and Shanley Road. He is not within 300 feet of the property so he wasn't notified and wasn't at the Bear Creek meeting. He questioned the access to the proposed lots; will this be across the creek? Doernenburg pointed out the proposed access on the site plan from Cedar Valley Road. It is shown through the wetland and is pending DEQ approval. The access has been approved by the Road Commission. Fettig asked if the access would be
right next to the property line. Dale Daniels stated that it will be approximately 10-15' from the Fettig property and will utilize an existing trail.

Jones made a motion to approve Case #6-11, Jack and Kate Koboski, Special Use Permit for Land Development to create 8 parcels; Seven under 15 acres and one over 15 acres, from the property at 1808 Cedar Valley Road, Section 9, T34N-R5W, Bear Creek Township, tax parcel number 24-01-19-09-400-008 because of the facts presented in the case and the plan dated Received June 21, 2011 meets the standards of Section 2102-14 of the Zoning Ordinance, and because Bear Creek Township recommended approval. Neal supported this motion which passed on the following roll-call vote:  Yes:  Eby, Neal, Jones, Scott, Hramiec, Laughbaum, Plasencia, Alexander. No: None. Absent: Anderson.

3. Case #9-11 Beverly Clark, SPECIAL USE PERMIT-Larger than allowed accessory building, 10676 McCarthy Dr., Section 26, Littlefield Township

Legal Notice: A request by Beverly Clark for a Special Use Permit for an Exception to allow a 1,196 sq. ft. accessory building at 10676 McCarthy Drive in Section 26 of Littlefield Township. The property is tax parcel 24-07-17-26-177-011, and is zoned RR-1 Recreation Residential. The request is per Section 2201-8 of the Zoning Ordinance.

Packet Information: Request & Location map, application, applicant's letter, impact statement, 6/10/11 site plan, 6/10/11 elevations, zoning evaluation
Passed out at meeting: 7/5/11 Littlefield Township Planning Committee minutes

Doernenburg explained that this parcel is located on McCarthy Drive which is a very lightly travelled dead end road. The parcel is on Pickerel Lake. She explained that on waterfront parcels, the road is still the front and the lake side is considered the rear yard. If this proposed building were built in the rear yard in the RR-1 district it would be allowed at this size. Because it is technically built in the front yard, the proposed building is approximately 200sf over what is allowed. The property is mostly screened. The building could only be used for personal storage and cannot be used as a dwelling as the lot is not large enough to support two dwellings. The site plan and elevations were shown. Littlefield Township recommended approval stating that no good purpose would be served by strict compliance with the ordinance in this case

Greg Warner was present representing the applicant. He asked that the Commissioners consider the lake to be the front yard in this case. They do not want the accessory building built between the house and the lake.

Plasencia made a motion to approve Case #9-11, Beverly Clark for a Special Use Permit for an Exception to the Accessory Building size standards and to allow a 1,196 sq.ft. at 10676 McCarthy Drive, Section 26, Littlefield Township, tax parcel 24-07-17-26-177-011, as shown on the site plan dated “Received June 10, 2011” because the building is mostly screened from the public road and the building is less than 1,200 sq.ft., no good purpose would be served by strict compliance with the standards of the Zoning Ordinance, and due to a lack of rear yard on the parcel. Neal supported this motion.

After a short discussion Plasencia edited his motion to include the stipulation that there will be no living quarters allowed in the accessory building. Neal supported the amended motion which passed on the following roll-call vote:  Yes:  Eby, Neal, Jones, Scott, Hramiec, Laughbaum, Plasencia, Alexander. No: None. Absent: Anderson.
4. Case #16A-05 Daniels Pig-n-Dig, SPECIAL USE PERMIT-Installation & use of a portable batch concrete plant, 2769 Greenwood Rd., Section 10, Bear Creek Township

Legal Notice: A request by Dale W. Daniels for Daniels Pig N’ Dig, for a Special Use Permit for a portable concrete batch plant to be located at an existing Level III mining site in Section 10 of Bear Creek Township. The property is located at 2769 Greenwood Road. The parcel is zoned FF-1 Farm and Forest and is tax parcel 24-01-19-10-100-014. The request is per Section 2102-10 and/or 801-6 of the Zoning Ordinance.

Packet Information: Request & Location map, application, impact statement, photo, 6/20/11 site plan, redi-mix plant stipulations, zoning evaluation

Doernenburg explained that a decision cannot be made on this case tonight as not all of the neighbors were notified due to a technicality on the application. All of the neighbors have been re-notified both for tonight's meeting and next month's meeting dates. The case was preliminarily reviewed at the township level but no recommendation was made.

Salar presented this case explaining that the property is located on the corner of Cedar Valley Road and Greenwood Road. It is zoned FF-1 and is approximately 50 acres. The proposal is for a redi-mix concrete plant within an existing mining operation. The use would be a two-year temporary operation. Photos of a silo-like structure was shown; this structure is similar to the two that the applicant proposes on the property. Salar explained that there is a discrepancy between the applicant's site plan location and where the measurements put the silos. The site plan was shown as was an aerial photo with the measured location marked. The locations meet the perimeter setbacks but the location will need to be clarified. Photos of the site were shown.

Dale Daniels, applicant, pinpointed the location. He explained that the structures will be located between two utility poles that are on the site. The location is approximately 120' from the east pole, and 100' from the west pole. It is still the same distance from the road and will be in an existing 30' hole with a straight up and down bank. This is already screened due to the hole from both roads. Daniels questioned the need for a berm. The silos are a sand color and will blend in. If trees are planted for screening and this doesn't work out, they would be removed in two years.

Plasencia asked where the nearest residence to the silo location is. Daniels answered that his brother's son is the closest, there is another residence about 600-800' away. The silos are approximately 45-50' tall and will be down 30' at the existing level of the proposed location.

Eby opened the floor to public comment.

Nate Summer, general manager of Cornille Concrete on West Conway Road asked if Daniels will own and operate the plant. He stated that there are already three existing plants currently, is another needed?

Tom Fettig stated that his land is northwest of the pit. The pit acts like a big funnel and the winds carry the sand to his property. The winds come very fast through there now. During the heavy winds this spring there were times when he couldn't see his neighbor's woods due to the sand blowing so hard. Fettig stated that he has to wash his windows weekly. If approved, the concrete dust will mix
with the sand and blow up there with the sand. Fettig questioned the setbacks stating that the setbacks that were required are not being adhered to. Fettig stated that the trees that were supposed to be planted either haven't been planted or they are dead. He would like the erosion and setbacks checked into. Fettig noted that each March, dead brush, lumber, and old wood is burnt on the site and because it is very wet, the smoke comes up to his house. He built his house in 1970 and it was the most beautiful area in Bear Creek Township. If you look across the valley now, it has been ruined. Fettig stated that he has complained to the Planning and Zoning office with no results. He is strictly against this proposal. The issues will only get worse and continue to ruin Bear Creek Township.

David Hill of Concord Academy stated that their school is located across Cedar Valley Road from Daniels and he is concerned about likely increased truck traffic. Their students don’t arrive by bus but rather private auto and there are 200 or so vehicles each morning and afternoon. Hill is concerned about both the increased traffic and the likely deterioration of the road due to the heavy trucks.

Alan Hoffman lives on Atkins Road and stated that he is also concerned about truck traffic. The roads are class B now. He feels that if a special permit is given for this case it basically opens concrete batch plant operations up to everyone with a pit in Emmet County. Having a plant at a gravel pit decreases a company's trucking expenses immensely and gives them a business benefit over competitors.

Jill Ryan stated that she lives on Greenwood Road, about a mile from the pit. Her son goes to Concord Academy and she is concerned with the traffic issues. It is difficult now to get 200 cars in out of Concord in a 15 minute period. It would be worse with truck traffic. She stated that she understands that extraction has to occur where the materials are but a concrete batch plant doesn't need to be at the site of the material and isn't necessary here.

Mary Lou Tanton stated that she is affected by another phase of this process, the burning. She has concerns with the acrid smoke due to health problems. March may not be the best time to burn. When the burning is going on, smoke fills the whole valley. Tanton stated that last year she called the fire department because they thought there was a fire due to the amount of smoke. She is also concerned about dust. How much more dust would occur with the added use? What are the hours of operation?

Doernenburg stated that the hours of operation on the proposed stipulations are the same as proposed for the redi-mix operation. They include Sundays for hauling, but not mining.

Tanton stated that the resource mining can be allowed in any district if the material is there. She feels that a concrete plant doesn’t need to be there. Tanton stated that she is concerned that this would affect the watersheds and asked if there are known facts about the additional draw on the watershed with the additional functions. Doernenburg stated that we don't have that information.

Eby asked Nate Summer to list the three Emmet County operations. Summers answered with Blumke, Cornille, Manthei-MDC.

Tom Fettig asked about how the chemicals used to clean the trucks will be contained.

Jones asked Doernenburg about the alleged complaints from Fettig. Doernenburg stated that Daniels received their permit in 2005. She has only received a complaint in regards to burning. They are allowed to burn one week per year. This complaint was investigated and they were found to be in
compliance. Doernenburg stated that as far as the setback issues, she is not aware of violations but will inspect the site.

Eby stated that all of the existing plants are located in Industrial zoned areas. Blumkes rezoned their parcel to Industrial to be allowed. Another concrete plant was just turned down in an FF zone.

Plasencia asked if the materials used for concrete manufacturing are on site. Daniels stated that the majority are except for the cement. He added that the cement is pumped into the silos to minimize dust issues. He also commented on the burning issues. He stated that the only way to get the permits from the DNR for burning is when there is snow on the ground. He agrees that it is miserable and doesn't blame the neighbors. He added that they are looking into chipping the wood to make a useable product instead of burning.

This case will be deferred until the next regular meeting.

4. Case #91C-98  DMK Development Petoskey, LLC, SPECIAL USE PERMIT-Multi-part request, N US 31, Section 26, Bear Creek Township

Legal Notice: A request by DMK Development - Petoskey, LLC for a multi-part Special Use Permit on property located across US-31 from Fochtman Industrial Drive (between 2169 and 2215 US 31 N) in Section 26 of Bear Creek Township. The property is zoned B-2 General Business with a PUD-1 overlay, and is tax parcel 24-01-16-26-200-052. The requests to be reviewed to ensure compliance with the Emmet County Zoning Ordinance include: Part 1) Allow a retail sales operation with outdoor display and sales per Section 1000-1 (reference 900-4) and 1001-4; Part 2) Allow an outdoor speaker/sound device per Section 2204-3; Part 3) Allow Sign Exceptions per Section 2207-10 for a) an internally lit sign with a light background and dark letters, b) a sign larger than permitted, and c) a freestanding sign higher than permitted; and Part 4) repeal of the PUD-1 overlay per Section 1802-13.

Packet Information: Request & Location map, tax parcel map, application, impact statement, 6/13/11 MDOT email, 6/13/11 Health Dept email, 6/9/11 Fire Department letter, 6/21/11 zoning evaluation, 6/22/11 drainage letter, 6/13/11 sign info/layout, 6/13/11 site plan

Doernenburg explained that this case was discussed briefly under other business last month. This is for Tractor Supply. The parcel is located on N US 31 across from Fochtman Industrial Park Drive. The request is for a retail sales operation with outdoor display and sales, an outdoor speaker system, and removal of the PUD-1 overlay. The PUD overlay removal was added by staff. It does not change the applicant's request but it would go to the Board of Commissioners for the approval of the PUD removal. The request originally included sign and lighting exceptions, however the applicant attended the Sign & Lighting Committee meeting and have taken their recommendation and agreed to comply with the ordinance standards. The aerial of the property and site plan were shown. The parcel is currently used for outdoor display by the adjacent property owner. Doernenburg stated that the setback standards have been met on the site plan. There will be no outdoor display in the setback areas or along property lines. The parking meets the Ordinance standards. Bear Creek Township asked for bigger caliper trees (4-6""). A revised plan has been submitted tonight to show this change. A line of site for the facade was shown. The road sign will be a monument sign rather than a pedestal sign and will be externally lit, the wall signs will be lit individual letters similar to the Gaylord store. A new photometric plan showing 20' light poles has been received. The Planning Commission asked that the connector drive be paved, this has been noted on the site plan subject to both property owners' approval. MDOT reviewed and preliminarily approved the access.

Steve Witte and Don Kettler, applicants, were present. Witte thanked everyone for their help in this
process. He stated that Kettler and Tractor Supply have been looking at the Petoskey region for some
time. The areas of outdoor sales were pointed out and will include a sidewalk display near the
building, a trailer display behind that, and a fenced in area for larger items that will have a gated drive-
in area to allow customers to load their purchases. Witte explained that they are modifying their sign
and lighting plans to comply with the Committee's recommendation and the ordinance. The revised
photometric plan shows the pole height lowered to 20', the ground mounted sign along US 31
externally lit, and the change to the wall sign to alleviate the need for an exception. He noted that the
access may be moved if the adjacent owner doesn't approve but MDOT would prefer to see it lined up
with Fochtman Drive.

Neal asked the applicants how far they are in their discussions with the neighbor. Kettler stated that
Jack VanTreese is helping them. VanTreese advised that he is meeting with Jack Anderson in the
morning.

Plasencia asked about the adjacent property's entrance drive. Can they share an entrance and reduce
the curb cuts? Witte responded that the other entrance is too far away. It is probably 200-300' away.

Scott made a motion to approve Case #91C-98, a request by DMK Development - Petoskey, LLC for a
Special Use Permit to allow retail sales including outdoor display and sales as depicted on the site
plan dated received June 13, 2001 at property located west of 2215 US-31 N, Section 26, Bear Creek
Township, tax parcel 24-01-16-26-200-052 because the conditions of Section 1001-4 have been
satisfied, the plan meets the standards of the Ordinance as indicated in the facts presented, and on the
following conditions: 1) that the sign and lighting committee review all exterior lighting for
compliance with the Zoning Ordinance, 2) the outdoor speaker is permitted provided that the noise
does not create a nuisance, trees planted will be 4-6” caliper trees as shown on 7/7/11 plan and because
the township recommended approval. The motion was supported by Neal and passed on the following
roll-call vote: Yes: Eby, Neal, Jones, Scott, Hramiec, Laughbaum, Plasencia, Alexander. No: None.
Absent: Anderson.

Scott also made a motion to recommend to the Board of Commissioners that the PUD Overlay be
removed from tax parcel 24-01-16-26-200-052, Case #91C-98, located in Section 26, Bear Creek
Township, because a new site plan has been submitted which meets the standards of the underlying
zoning district (B-2). This motion was supported by Alexander and passed on the following roll-call
vote: Yes: Eby, Neal, Jones, Scott, Hramiec, Laughbaum, Plasencia, Alexander. No: None. Absent:
Anderson.

IV Public Comment: None

V Other Business

• Littlefield Township Corridor Study: Doernenburg explained that the CD that was included
with the packets included the draft study. Littlefield Township has requested that Emmet
County adopt the corridor study as a sub-area master plan. There was some general discussion
about some areas of the plan. The consensus amongst the members present was to publish the
corridor study for public hearing at 7pm on August 4, 2011.

• Enforcement Report: Distributed, no discussion.
• **New Legislation:** Doernenburg noted that a few months ago, Michalek had brought a court case to the Planning Commission's attention that allowed townships to determine where in their township resource mining operations could go. There is current legislation that will likely reverse that decision. It has moved quickly through the process and appears to be near adoption, having passed both the House and Senate. It allows resource mining anywhere unless very serious consequences would result if the operation were approved.

• **MSU wind energy systems report:** A report suggesting that Michigan lower its recommended decibel level from 55dB to 40dB was passed out. Plasencia added that Otsego County allows 40dB during the day and 35dB at night.

VI  **Adjournment**

There being no other business, and no additional public comment, Eby called the meeting adjourned at 8:38 p.m.

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James Scott, Secretary        Date