EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING
THURSDAY AUGUST 2, 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

MEMBERS ABSENT: Steve Neal

STAFF: Brentt Michalek, Tammy Doernenburg, Monica Linehan, Penny Marshall

VISITORS: Marilyn Roll, Marilyn Smith, Charles Cook, Ray McMullen, Stacey Reeb, Karla
Buckmaster, Sheldon Buckmaster, Tom Snider, Bob Roll, Jack Clear, John & Bridget
Melane, Fred Gray, Michael Brown, Dan Plasencia, Karen Plasencia, Larry & Kathy
Tremble, Joel Frye, Paul Teike, Thomas Reed, Scott Bell, Jim Murdis, 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 except Neal.

II Minutes of July 5, 2007 meeting
Anderson made a motion, supported by Alexander, to approve the minutes of the July 5, 2007 meeting as presented. The
motion passed by a unanimous voice vote of the members present.

V Cases

1. Case #15-07   Emmet County Planning Commission, REZONE, SR-1 to FF-2,
Section 34, Carp Lake Township

Legal Notice: A request by Emmet County Planning Commission to amend the County Zoning map by changing the
zoning district classifications for selected areas in the Township of Carp Lake. The specific amendments include all or
part of the following areas: Proposed rezone from SR-1 Scenic Resource to FF-2 Farm and Forest those properties lying
north of the SE 1/4 of Section 34, specifically: 24-03-06-34-200-004; 24-03-06-34-200-005; 24-03-06-34-200-006; 24-03-
06-34-200-008, being 6602 N US 31 Hwy; 24-03-06-34-200-010 being 6614 N US 31 Hwy; 24-03-06-34-200-011 being
6568 N US 31 Hwy; 24-03-06-34-200-013; 24-03-06-34-400-001 being 6494 N US 31 Hwy; 24-03-06-34-400-002 being
6408 N US 31 Hwy; 24-03-06-34-400-005 being 6564 N US 31 Hwy; 24-03-06-34-200-014 being 6506 N US 31 Hwy;
and 24-03-06-34-200-001 being 6507 N US 31 Hwy. The proposed rezoning is intended to include part, some, or all of
the properties lying within the boundaries of the SR District which is 400 feet either side of US-31 or the depth of the
abutting properties, whichever is less, or as otherwise mapped on the Emmet County Zoning Map.

Doernenburg explained that this request is to rezone parts of eleven properties from SR-1 to FF-2 along US-31 north of
Levering. Staff and John Eby attended the Carp Lake Township meeting. The proposal originated because Mr. Cameron
wanted to use the storage buildings on one of the parcels for storage. Under the current zoning, this is not allowed. A
zoning map and aerial of the area was shown. One of the major differences between the two zones is allowed density. On
one property in particular, located between US-31 and Litzner Drive, under the current zoning, eleven units are allowed,
and under FF-2, there would be a maximum of three units allowed. Doernenburg stated that she spoke with Paul Teike,
Carp Lake Township supervisor, regarding the township’s recommendation. The Township recommended that the parcel
in question be rezoned to allow the property owner to utilize the storage buildings. They would like an overlay district to
be looked at for the remainder of the parcels in order to limit uses and tree cutting. Doernenburg explained that the request
was advertised as ‘all or part’ of the parcels so it is ok to move ahead with the single parcel if the Board wishes.
Eby stated that the idea of having an overlay district seemed to have more support at the Carp Lake meeting. Scott stated that it seems to make more sense to him as well. Eby stated that an overlay wouldn’t help Mr. Cameron’s parcel.

Alexander stated that the overlay was requested for everything but that parcel. Scott stated that the single parcel could be rezoned and it wouldn’t be spot zoning because it is consistent with the zoning of the remainder of the parcel. Michalek stated that the Comprehensive Plan should be finished before looking at adding overlay districts. Derrohn asked why they can’t both be done at the same time. She would hate to see this placed on hold for a long time. Michalek explained that resources are limited and to create a new zoning overlay would take time. The Comprehensive Plan should be done in the spring of 2008.

Paul Teike, Carp Lake Township Supervisor, stated that the Township is not against rezoning the parcel with the warehouses on it but they would still like a scenic overlay on the rest of the parcels. They are concerned with having more development next to the road. When the Township first saw the proposal, they didn’t think it was a good option. After it was explained better by staff and this board, it made more sense. If it is rezoned, the density requirements would lead to fewer buildings. The citizens that were in attendance at the Township meeting were concerned with the amount of buildings between Levering and Carp Lake.

Scott made a motion to recommend approval to the Emmet County Board of Commissioners of Case #15-07, Emmet County Planning Commission, to rezone the portion of tax parcel number 24-03-06-34-200-014 located on the southeastern side of US 31, from SR-1 Scenic Resource to FF-2 Farm and Forest because rezoning would bring the parcel into the same zoning as the adjacent part of the parcel, it is in line with the Master Plan, it is in the character of the Farm and Forest Zoning District, and because the township has recommended approval. The motion was supported by Alexander and passed on the following roll call vote: Yes; Eby, Jones, Scott, Gregory, Laughbaum, Anderson, Derrohn, Alexander. No; None. Absent; Neal.

2. Case #28B-83 Town & Country Cedar Homes, PUD AMENDMENT, 4772 US 131 S, Section 30, Bear Creek Township

Legal Notice: A request by Town & Country Cedar Homes to Amend the Mixed Use Planned Unit Development located at 4772 US-131 South, Section 30, Bear Creek Township. The property is zoned FF-1 Farm & Forest, B-2 General Business with a PUD-1 overlay on the entire parcel, tax number 24-01-19-30-400-011. The proposal is to add the uses of Offices, workshops, showrooms of plumbers, electricians, decorators, designers, contractors, sign makers, door makers, carpet or furniture sales, lighting centers, or any similar trades to the entire PUD. The request is per Article XVIII of the Zoning Ordinance.

Packet items: 7/23/07 email from Steve Biggs

This case was tabled per the applicant’s request. Doernenburg stated that the neighbors are aware of the tabling. Alexander asked what the Commissioners feelings were on this case and why it was to be re-visited. Jones explained that after the motion was made at last month’s meeting, he believed that perhaps it should have been a partial approval in order to allow the daily operations and administration buildings to be moved to the southern portion of the property. Anderson stated that it would be more of a site plan review in that case; however she pointed out that the entire request from Mr. Biggs is still on the table for review.

3. Case #21-07 Payne & Dolan Inc., SPECIAL USE PERMIT, Level III Resource Extraction, Sommers Road, Section 26, Carp Lake Township

Legal Notice: A request by Payne & Dolan, Inc. For a Special Use Permit for a Level III Resource Mining Special Use Permit on a 40 acre property identified as the SW 1/4 of the NE 1/4 of Section 26, Carp Lake Township. The property is zoned FF-2 Farm and Forest and is tax parcel number 24-03-06-26-200-003. The request is per Section 2102-10 of the Zoning Ordinance. The proposed operation includes tax parcel 24-03-06-26-200-004, owned by Richard Snider, which has been approved for a Level III Resource Mining Special Use Permit.

Packet Items: Request & location map, tax parcel, application, 6/12/07 site plan, letter from applicant, impact statement, site plan review checklist, lease agreement, Snider permit for level II & III extraction, zoning evaluation, permit wording.

Information passed out at meeting: 8/2/07 letter and supporting documentation from Paradise Lake Association, 8/2/07 letter from Dwight & Martha Krueger, updated 8/2/07 site plan.
Doernenburg explained that this request is for a Level III Resource Mining Special Use Permit. The parcels involved are a 40 acre parcel and 50’ of the adjacent parcel owned by Richard Snider. The Snider property was approved in 1997 for a Level III mining permit. The provided site plan was shown; however, Doernenburg explained that an updated plan showing only the 40 acre parcel and 50’ of the Snider parcel has been requested. Access is shown from Sommers Road. There is screening with white cedar along the road. The intent is to remove the hill and mine down to the elevation of the surrounding property. The location for a temporary batch plant is shown on the plan and more details regarding this plant have been requested. The 40 acre parcel has been clear cut. The trees have been cut on the northern boundary up to the boundary line. Staff was present at the Carp Lake Township meeting for another case, they were present when this was reviewed as well and several citizens voiced concerns regarding drainage, noise, traffic, safety, air pollution and odor. A resolution from the Township has been passed out that states that the Township does not recommend approval, but should it be approved, a list of recommended requirements have been attached. Multiple letters from neighbors have been received in opposition of this case. The proposal also includes elimination of the setback between the 40 acre parcel and Richard Snider's property.

Scott Bell of Lapham Associates, a representative of the applicant, stated that they have revised the site plan as requested. This was passed out to all members. Bell stated that they have proposed to extend Snider operation as Doernenburg explained. They have no real concerns with the recommended restriction from the Township. A few changes that they would request would be to change the proposed times for asphalt heating production to operate 8am-7pm in order to coincide with delivery of the product. Bell stated that they feel that the request to not operate trucks during school busing time frames would be difficult to work around. As for the speed limit request of trucks not to exceed 25mph, they feel that this would be more of a safety hazard on Dekruif Road as it is a 55mph zone.

Gary Hartmann of Payne & Dolan stated that the Snider operation next door is permitted to operate 7am-7pm for all activities except crushing. They would request to be able to mirror those allowed times. The Township resolution #4 states that the temporary asphalt plant be limited to 24 months, the equipment removed in its entirety, not to be returned. Mr. Hartmann explained that every asphalt plant is different and is regulated by the DEQ. In order to operate longer than originally stated, they would have to request an extension from the DEQ or move the plant to a different location. Air quality would already have been regulated as well. The Emmet County draft permit #13 states that the permit shall be reviewed annually by staff. Mr. Hartman stated that because it is a portable site, they may not be there on a yearly basis. The site would be operated on a project specific basis. Perhaps a review every two years would be more suitable.

Eby stated that just because staff reviews the site, it isn't required for anyone to be there.

Thomas Reed stated that he just purchased property on Dekruif Road. He is concerned about environmental effects. He is very close to the proposed plant and knows that hydrocarbons are a Class A carcinogen. How will this affect the health of neighbors? Have studies been done on this? He stated that he is also concerned with traffic. There are trucks back and forth on the roads due to Snider's pit now. How much of an impact would this be on resale values of property?

Jack Clear, a neighboring resident and geologist, stated that he has been involved in many asphalt plants. He strongly urged that this case be denied. He listed his concerns and information supporting them.

- Air emissions: Although the plant would be regulated by a DEQ permit, it cannot have zero emissions which are what the area currently has. Southerly breezes in the summer will pass over the lake and the residential areas.
- Surface and ground water: The plant would use tar which will be stored on site as well as fuel. If there is a catastrophic problem, the lake could be lost. Groundwater could be affected as well. Mr. Clear stated that it is easier to prevent problems than to try to rectify them later.
- Noise: When the Snider operation began, residents were told that there would be minimal noise. Mr. Clear stated that he lives across the lake from this operation and on a quiet day can hear the operation. If approved, this operation would add an extensive amount of equipment and truck traffic noise that will affect the entire area.
- Traffic: There is no information regarding Road Commission approval. Can the roads handle the proposed loads? The intersection of Dekruif Road and US 31 is very dangerous. The straight-away in that area is often used by motorists as a passing zone and could be very dangerous for those who are unaware of truck traffic entering the road. Mr. Clear stated that there was a serious accident in that area a few years back.
- Tourism: There are 19 resorts around the lake not including restaurants or hotels. The emissions from this
operation will be visible. Tourists do not come to the area to see this. The community has spent thousands of dollars to enhance the lake.

- Quality of life: Mr. Clear stated that most residents moved to the area to escape medium to large size cities.
- Property value: There is property devaluation now due to the economy. There are at least 40-50 parcels for sale around the lake now. If this operation is approved, the values of properties could be expected to decrease more.
- Economics: The addition of this operation won't do anything for the local economy. The trucking company and employees are likely established already.

Mr. Clear stated that there are alternatives to this site in Emmet County or adjacent counties and he strongly opposes this request.

Bob Roll, Carp Lake Township Trustee, stated some of the reasons that the Township adopted the resolution to oppose the issuance of the Level III permit were odor, safety of people along the roads, wear and tear of the roads, and the inclusion of a concrete batch plant. The trucks will be damaging to both Sommers and Dekruif roads. The noise will directly affect approximately ten homes in the immediate area. This decision will affect the community for twenty plus years.

Marilyn Smith, President of the Paradise Lake Association, stated that she represents 250 plus members. She has received many comments of opposition. Originally at the Township Board meeting, the applicant stated that the water would drain south, away from the lake. Ms. Smith stated that the south border of the watershed in that area is the top of the ridge that is proposed to be removed. As the operation is 0.9 miles from the lake, half of the water runoff would run to the lake. This area is a nesting area for loons and eagles. She stated that there are health issues with this type of plant and read from a report on an investigation of a Payne & Dolan operation in Grand Rapids which stated many contaminants were emitted from asphalt plants. Even if these are under control and of acceptable levels, they will still be present in the air. There are issues with tourism as well. Ms. Smith questioned the section of the applicant’s permit that stated because the operation would be over a 40 year period there would be no impact on wildlife. She stated that the Paradise Lake Association has requested a Michigan natural features inventory. This has a turnaround of 30 days. There are endangered water beetles and monkey flowers in the area. Ms. Smith stated that the DEQ air quality division told her that due to budget and staffing restraints, they investigate typically once every five years. They also advised Ms. Smith that when an applicant is given the forms to fill out they are also given an opt-out form from the EPA standards. She questioned whether Payne & Dolan plan on using recycled asphalt as the odor is much stronger. In a fish contamination study in 2002, there were below acceptable levels of contaminants found in the fish. This was with no industry in the area showing that the contaminants were airborne. If this is approved, there will be many more contaminants in the air. Payne & Dolan stated on their application that a wetland DEQ permit was not applicable. Why? There has been no drainage plan filed. If the asphalt plant is restricted to a 24 month window, will they be restricted from moving the plant and starting the 24 months over again? There is no language in the draft permit regarding blasting or the prohibition of it. No soil erosion permit has been applied for. The applicant's stated on their application that there are no significant water resources near the parcel. They are 0.9 miles from the lake. Ms. Smith stated that there is further information coming and she would request that if this request isn't going to be denied in its entirety tonight, that it is postponed to allow for review of the incoming information.

Bridget McLane stated that she now lives in Petoskey but grew up on Dekruif Road. People use this road to walk with pets and babies, bicycle, and use the boat launch and park. Payne & Dolan are a large corporation in the business to make money but once this request is approved, the door is open and you can't go back.

Joel Frye stated that there is a lake on Sommers Farm with a weed growing there that has been researched by scientists. The road should be studied. Are turnoff lanes required? Downstate, bonds are required in cases such as these; can they be required to replace or repair roads that they damage? Mr. Frye stated that he is against this request.

Eby stated that bonds cannot be required by the Planning Commission to repair or improve roads. This would have to come from the Road Commission.

Larry Tremble stated that he and his wife Kathy own the property to the west of the parcel in question. There is a pond on their property in the spring. He stated that he is opposed to this request.

John McLane stated that his family lives in the area and he is opposed to this request. Dekruif road and its history should be considered. In the past, the road could be impassable in the spring. Tourism in the area is also a major concern.

Thomas Reed stated that he raises honey bees on his property and processes approximately 30 tons of honey per year.
What impact will this have on the water? Honey absorbs moisture and anything that is in the air. Will he have to move out of the area because of this operation? Will the honey absorb the chemicals that are in the air?

Mike Brown asked who would want a potential environmental catastrophe in their back yard. He is opposed to the request.

Paul Teike stated that the 25mph request from the Township was a safety issue because many of the houses are close to the road. It was also a noise issues because when the trucks are empty, they make a lot of noise which is why the lower speed was requested. The school bus schedule shouldn't be an issue to work around in the mornings because the bus comes for the children earlier than the proposed hours of operation.

Marilyn Smith stated that Payne & Dolan were questioned at the Township meeting as to whether they ever use recycled asphalt material. They stated that they almost always do. Why is this necessary? Ms. Smith stated that Payne & Dolan stated that they could move their equipment to Snider's operation and proceed if not approved at this site. Does the Snider permit allow an asphalt plant?

Jack Clear stated that his wife submitted a letter of opposition as she is an owner of a resort on the lake. If any tourists are lost, they could lose 10-15% of their income.

Joel Frye asked about the proposed cement plant also on this site. There are others that do this now in the County. It seems that this would be creating unnecessary additional traffic.

John Mclane stated that there was perhaps an oversight of the watershed in the area. Carp Lake is close as are some of the other small lakes that have been mentioned tonight. Once the land is excavated, it goes deeper into the water table. As this is a tourist destination area, we shouldn't open up for problems with the water. If there is a problem, what would happen?

Jones asked the applicant if they did plan to have a batch plant for cement. They replied that they have no immediate plans but put it in the request so that they didn't eliminate any options.

Jim Murdis, the environmental manager for Payne & Dolan, stated that air permits for all plants are issued by the DEQ. There is extensive stack emissions tests done and the DEQ limits how much materials can be made, what types and amounts of emissions are acceptable, and what control devices are used. The bag house captures dust and shoots it back into the mix. Therefore very little dust would be coming out of the stacks. The fossil fuel that is used is no different than the emissions from driving in a car. A stormwater permit from the DEQ would not be required for this site. This is also regulated from the County via the soil erosion permit which if the request is approved, they would apply for. There is no tar used on site. It is asphalt cement which would solidify if released. The reason that this site was chosen is because it is next to an existing operation, there is quality material near the surface, and it is near a highway. They won't be mining into the water table.

Jones asked if recycled asphalt will be used. He stated that when another plant did the same a few years back there were a lot of complaints because of the smell. Murdis replied that it is still regulated by the DEQ whether it is recycled material or not. They don't differentiate between the two and it is standard operating procedure.

Jones asked if there is a reclamation plan on file. Anderson stated that it appears that there is not an official plan, however there is text regarding this. This is a 40 year operation.

Jones stated that the Planning Commission can't enforce or address speed limits.

Eby asked if this is an appropriate site for this use. Derrohn stated that she doesn't think it is because it is so close to the lake, there are many people that would be affected, tourism would suffer, and the roads are an issue. There are other areas for this. 40 years is a long time. Eby asked if it is distinguished between extraction and batch plants. The Planning Commission doesn't have much control over extraction, but batch plants are an issue. The question is asked if not here where and when looking at it this way, he can think of other places. Jones stated that a batch plant in Springvale Township can be heard from Camp Petosega. Eby asked if this request is lumping extraction and a batch plant together. Should it be split and looked at separately? Derrohn stated that it should be. Scott stated that a mining operation and batch plant have been separately reviewed in the past. Gregory stated that the mining operation can't be prohibited but a batch plant can be.
He was in the area recently and the roads are not in good condition. They wouldn't hold up to the truck traffic. The lake is close and it isn't the best place environmentally.

There was discussion on various redi mix plants that have been denied in the Farm Forest zone.

Alexander stated that he feels that the extraction is fine, however he has issues with the other operations both the redi mix and the asphalt plant. This is an invasive operation and there is great opposition from the residents in the area. This shouldn't be allowed just to see what happens especially since it is a 40 year timeframe that is being looked at.

Derrohn stated that the Township has made a recommendation to deny and that should be considered.

Jones asked if this request can be broken down. Eby stated that it could be broken down with conditions. The Special Use Permit is subject to special conditions and those conditions could prohibit or remove uses. Michalek added that there are review standards that should be looked at. Is the material actually there? Soil borings can be required and have been in the past. In Section 2100, there is a list of hearing matters to be considered. These were recently revised about a year ago.

Eby asked the representative from Payne & Dolan whether they are interested in looking at this request in part or only if it is considered as a whole. Mr. Hartmann stated that they are looking for the request to be looked at in its entirety and not just as an extraction site. Even if it was just an extraction the truck traffic would still be there. They are looking for a decision on the entire request at this time.

Eby asked if Civil Counsel should look at this as well. Can the request be separated into resource mining and batch/concrete plant? Scott stated that he felt that would be wise. Michalek agreed and added that new information has been presented at the meeting. There are concerns from the public and possible environmental concerns.

Anderson made a motion to postpone this case for Civil Counsel review and to allow additional time to review the new information that was presented. Derrohn supported this motion and it passed by a unanimous voice vote of the members present.

Gregory stated that Civil Counsel should also examine the proposed motions as well. Alexander asked if the Watershed Council should be asked to evaluate potential environmental issues. Eby stated that they are welcome to submit any information if they do it in a timely fashion in order to be reviewed for the next meeting.

4. Case #17A-02 Jessica Moore for Lucy & Duncan Dobson, SPECIAL USE PERMIT, Larger than maximum size accessory building, 4230 N Lakeshore Drive, Section 7, Readmond Township

Legal Notice: A request by Jessica A. Moore, Architect PLLC, for Lucy & Duncan Dobson for a Special Use Permit for an Exception to the size standard of Section 2201 of the Zoning Ordinance. The larger than allowed accessory building is proposed to be located at 4230 N. Lakeshore Drive, Section 7, Readmond Township. The property is zoned SR-2 Scenic Resource to a depth of 400' from N. Lakeshore Drive and RR-2 Recreation Residential on the remainder of the property which is tax parcel number 24-12-08-07-400-002. The proposed accessory building is 2,248 sq. ft. accessory building where 1,000 sq. ft. is permitted.

Packet Items: Request & location map, tax parcel map, applicant, impact statement, site plan review checklist, special use permit information/property description, vicinity map, 7/11/07 site plan, second floor plan, elevations, zoning evaluation.

Information passed out at meeting: Minutes from Readmond Township’s meeting, 8/2/07 fax from Jessica Moore.

This case was withdrawn by the applicant.

5. Case #22-07 Andrew J. Spencely, SPECIAL USE PERMIT, Home Occupation, 3174 US 31 N, Section 15, McKinley Township

Legal Notice: A request by Andrew J. Spencely for a Special Use Permit for a Home Occupation to make and sell windmills at the residence located at 3174 N US-31, Section 15, McKinley Township. The property is zoned R-2B General Residential along US-31 for a depth of 400 ft. and the remainder of the property is zoned FF-2 Farm and Forest and is tax parcel number 24-10-10-15-400-006. The request is per Section 2102-12 of the Zoning Ordinance.
Packet Items: Request & location map, tax parcel map, application, 6/20/07 site plan, home occupation use plan, zoning evaluation.

Doernenburg explained that this property is just north of Van Road on the east side of US 31. The applicant is currently constructing windmills; however they have had other lawn ornaments in the past. This has been going on for about 15 years and they have applied for a Special Use Permit for a home occupation in order to do so legally. The site plan and photos of the property were shown. The applicant has requested to display their goods at one of two possible sites on the property. The parcel is wide open and the drive is approximately 100' long. There has been no recommendation received from the Township. A two square foot sign would be allowed. If approved, staff would recommend display at site #2 shown on the site plan and limiting one ornament for display at site #1 nearer to the road. The property owner lives on site and makes the ornaments in the garage.

Mrs. Spencley explained that her husband is retired and spends the winter making projects. He has done this for 15 years without issue. It really isn’t a commercial project. He has sold out of the amount that they had this year within two months so it is not a long term sale, typically May-July. He will be making Dutch windmills which are shorter as his next project. He would like to display the ornaments so that they can be seen from the road in order to allow for sale of the items. They are not an eyesore.

Mr. Spencley stated that he likes to keep busy and he can’t sell the items if they aren’t on display. He would like at least 3-4 on display by the highway.

Alexander asked what the ordinance says as far as display when it comes to home occupations. Jones stated that the ordinance states that there is no display of goods. Anderson stated that there are places such as artisan malls and some stores in which he could sell the goods without having display on his property.

There was discussion regarding whether any display would be allowed. Eby stated that the manufacture of the product, the sale of the product, and the two square foot sign can all be allowed. The issue is with the display of the goods; this is not allowed at all. After discussion, it was decided that if approved, it should be approved conditional of having no outdoor display and after approval, it becomes an enforcement issue.

Eby opened the floor to public comment.

Dan Plasencia asked if the applicant had the ornaments in his garage with the door open, would that constitute as outdoor display. Anderson explained that the home occupation limits the use to 600 square feet of work area.

Cupolas for sale on East Mitchell Road were discussed. Doernenburg stated that that individual has received an enforcement letter as well.

Mr. Spencley stated that if display area #2 is used, the trees screen that area from the road.

Anderson made a motion to approve Case #22-07, Andrew Spencley, Special Use Permit for a Home Occupation at 3174 N US-31, Section 15, McKinley Township to construct and sell craft items as per the Home Occupation Standards of Section 2102-12 on the condition that there will be no open display of items and the sign will be no larger than two square feet. The motion was supported by Jones and passed on the following roll-call vote: Yes; Eby, Jones, Scott, Gregory, Laughbaum, Anderson, Derrohn, Alexander. No; None. Absent; Neal.

6. Case #38A-04 Dr. Henrike Kroemer, SPECIAL USE PERMIT, Home Occupation, 3875 Sheldon Drive, Section 35, Bear Creek Township

Legal Notice: A request by Dr. Henrike Kroemer for a Special Use Permit for a Home Occupation to operate a psychologist’s consulting practice at her residence located at 3875 Sheldon Drive in Section 35, Bear Creek Township. The property is zoned R-1A One Family Residential and is tax parcel number 24-01-16-35-100-003. The request is per Section 2102-12 of the Zoning Ordinance.

Packet Items: Request & location map, tax parcel map, application, site plan, 7/9/07 applicant letter, home occupation use plan, zoning evaluation, 7/23/07 letters from Charles Cook, Nancy Rosel, Sheldon & Karla Buckmaster, Clifford
7. Case #30A-03  Emmet County Planning Commission, PUD-1, MIXED USE, Creekside Crossing, Section 4, Bear Creek Township

Legal Notice: See attached.

Packet Items: Request & location map, tax parcel map, zoning evaluation, Bear Creek Township Planning Commission minutes of 7/25/07.

Michalek explained that this request is for the development of Creekside Crossing located on the north side of East Mitchell Road. This PUD was approved during Bear Creek's period of interim zoning. It is before the Planning Commission to ask that the PUD-1 and all provisions be recognized by the County. Michalek stated that in the recent past the Emmet County Planning Commission has approved site plans in this development. The PUD has been recognized as a non-conforming development since Emmet County resumed zoning administration in Bear Creek Township.

Derrohn asked if the dumpsters on site are screened. Doernenburg stated that there is an issue with the screening that can be followed up with through enforcement.

There was no public comment on this case.

Jones made a motion to recommend approval of Case #30A-03, Emmet County Planning Commission, Preliminary and Final Mixed Use PUD-1 overlay to apply to the entire Creekside development located in Section 4 of Bear Creek Township, as approved by Bear Creek Township and as identified on the PUD Final Master Plan dated Received on Nov. 1, 2000 by Bear Creek Township Planning & Zoning including all notations thereon because it meets the standards and intent of Article XVIII of the Zoning Ordinance and the PUD recognized by Emmet County, but approved by Bear Creek Township during their Interim Zoning administration and on condition that any future site plans are subject to Site Plan Review and the conditions of the Zoning Ordinance. The development includes tax parcels 24-01-19-04-231-001, and 101 thru 110 and Bear Creek Township recommended approval. The motion was supported by Anderson and passed on the following roll-call vote: Yes; Eby, Jones, Scott, Gregory, Laughbaum, Anderson, Derrohn, Alexander. No; None. Absent; Neal.

8. Case #23-07  Emmet County Planning Commission, SIGN ORDINANCE AMENDMENT

Packet Items: 7/12/07 letter, proposed ordinance wording, zoning evaluation.

Information passed out at meeting: Minutes from Readmond Township’s meeting, minutes from Friendship Township’s Planning Commission meeting of July 23, 2007.

Michalek explained that the proposed changes to the sign ordinance were sent out along with the attached report from staff. Bear Creek, Readmond, Springvale, and Friendship Townships have all recommended approval. Friendship Township did have a few small issues, most of which were numbering issues or questions. Staff would recommend adding ‘non-illuminated’ to the home occupation section b) to read:

b) Home Occupations in all Districts are permitted one (1) non-illuminated sign not to exceed an area of two (2) square feet, provided the home occupation is approved per Section 2102 (12).

Michalek stated that he would request a motion to waive the second hearing because signs are a
big issue in the County and this has been worked on for some time now. The townships have had a chance to review this information as well.

One of the other concerns from Friendship Township was the change regarding electronic signs. The reason for this change was based on a Little Traverse Township ZBA case. Civil Counsel advised that the County ordinance should be in alignment with Little Traverse Township’s ordinance.

The automatic approval after 45 days if a decision isn’t made was placed in the ordinance after the Deposition involving the sexually oriented business located in Bear Creek Township. This provision was requested by Civil Counsel. There are first amendment issues if a case is put off for a long period of time.

There was no public comment on this case.

Jones made a motion supported by Scott to waive the second hearing for Case #23-07. The motion passed on the following roll-call vote: Yes; Eby, Jones, Scott, Gregory, Anderson, Derrohn, Alexander. No; Laughbaum. Absent: Neal.

Derrohn then made a motion to recommend approval to the Emmet County Board of Commissioners of Case #23-07, Emmet County Planning Commission, of the proposed text amendments to Section 2207, as proposed, with the addition of “non-illuminated” under Home Occupation signs as requested by staff for the following reasons: the proposed text is necessary to clarify some standards and procedures for sign review, addresses building height for measuring for wall mounted signs and aligns the standards with the City of Petoskey, addresses electronic changeable message signs and aligns the standards with Little Traverse Township’s ZBA decision, further prohibits movement on all types of signs, removes some discretionary decision making authority, requires submittals for review 7 days prior to the meetings and includes a review time frame. The motion was supported by Anderson and passed on the following roll-call vote: Yes; Eby, Jones, Scott, Gregory, Anderson, Derrohn, Alexander. No; Laughbaum. Absent; Neal.

VI Public comments:
Paul Teike stated that there are 8 or 9 gravel pits in Carp Lake Township. If this asphalt plant is turned down, can they just go across the street to another plant to do what they want? No one wants an asphalt plant in their area. The mining operation can’t be stopped so the truck traffic will be there. Would it be possible to put conditions on this request and try it out for a year? There are devices that can be put on the stacks that capture odors and shoot them back into the mix. Is it that difficult to make them fix the road if it’s torn up? Presently this company is driving to Elmira; environmentally this may be worse. They will be gone as soon as the gravel is gone.

Eby stated that most of the other operations are not permitted for asphalt. There is a site south of Levering that does allow for an asphalt plant in their permit. The other sites do not.

Teike stated that he is concerned about the zoning ordinance backing the Township if they are taken to court for any reason. They have had some issues in the past with roads. Jones replied that the County would be responsible for any action taken. The Planning Commission has no authority to make them improve or repair the roads. They can only make them make improvements to the site.

Michalek stated that when the Planning Commission was dealing with the septic storage units, the neighbors were concerned about smell. It was written into the permit as a public or private nuisance and regulated that way. Teike stated that there are ways to eliminate or mask the odors. If this can’t be stopped, we can require more conditions.

VII Other business:
- Enforcement Report: Distributed; no discussion.
- Text Amendment-Waterfront setback standards:
  Information passed out at meeting: 8/1/07 email from Ray McMullen

Michalek explained that staff met with representatives last week to iron out the proposed text. Another meeting will be held before the next Planning Commission meeting.

Dan Plasencia stated that he and the other representatives do encourage the Planning Commission to support the text
amendment. They are still working on the text to get it right.

- **Agricultural Signs:**

  Information passed out at meeting: Proposed changes to sign ordinance to incorporate seasonal commodity signs, Michigan Agricultural Tourism Advisory Committee report of recommendations, Michigan Agricultural Tourism Advisory Committee local zoning guidebook & model zoning ordinance provisions.

  Doernenburg explained that there has to be reasons behind having these seasonal agricultural signs regulated. She pointed out an article from the MTA that was passed out a few months ago. This proposal would allow for seasonal commodity signs to be posted on a limited basis. This would allow for farm stands and the like to have signs during their sales of goods. Doernenburg explained that staff is requesting permission to publish this ordinance change for the next meeting. Michalek explained that this was discussed at length during the Agricultural, Natural, and Cultural Resources PES meetings. The minutes from those meetings will be copied and sent out to the Planning Commission for review.

  Jones made a motion, supported by Derrohn to authorize publication of proposed changes to the ordinance. The motion passed by a unanimous voice vote of the members present.

  **VII Adjournment**

  Chairman Eby called the meeting adjourned at 10:00 p.m.

  ____________________________________________________________________________
  James Scott, Secretary                                           Date