EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING
THURSDAY SEPTEMBER 6, 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, Nancy Salar


I Call to Order and Attendance
The meeting was called to order at 7:32 p.m. by Chairman Eby. All members were present.

II Minutes of August 2, 2007 meeting
Gregory made a motion, supported by Derrohn, to approve the minutes of the August 2, 2007 meeting as presented. The motion passed by a unanimous voice vote.

V Cases

1. 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: 8/15/07 site plan

Michalek explained that the Board of Commissioner’s reviewed the recommendation for denial by the
Planning Commission and would like the case reviewed again. They considered that it was not prudent to deny the entire plan and discussed possibly allowing a portion of the request such as allowing the business offices to move to the south side of the property. Michalek explained that staff and Mr. Biggs met and came up with another site plan. Staff would recommend approval of this plan dated 8/15/07. The site plan was shown. Two of the residential lots have been combined to form one lot. Both residential lots would be accessed from W. Gruler Road. The four remaining lots in the FF-1 zone would become lots with commercial uses previously discussed such as offices, workshops, showrooms, and similar trades. The office is proposed to be relocated to the south portion of the property.

Eby asked Michalek point out where the 500’ buffer from the sexually oriented business would fall. This was pointed out on the PowerPoint.

The applicant, Mr. Biggs, stated that Town & Country is not here to request a zoning change. They only want to adjust the PUD. This is needed because the SOB was allowed to move into this area. Mr. Biggs explained that the PUD approved in 1998 worked well for them. It allowed for six nice wooded lots. Now, sites 3-6 would fall within 500’ of the SOB. This business is open until midnight. Residents may choose to be located within this 500’ setback but who would want to buy a home here? Town & Country has taken the brunt of the adverse secondary effects of this SOB. The current PUD is not viable and is not an option. Mr. Biggs stated that there are two options on the table for the Planning Commission’s approval. The first option is the seventh revision of the PUD amendment. This reduces the number of commercial uses and maintains a buffer around those uses and the residential uses. There would be single drives accessing West Gruler Road instead of one large entrance. The other option is to go back to the underlying zoning of FF-1 and utilize the property for approved FF uses such as tree farms, mining, portable sawmills, house trailers, or agricultural uses.

Stephanie Baldwin, President of Town & Country, stated that she has been an employee of Town & Country for 13 years and the President for about eight months. Their priority is to be successful and support the residents of the county. This plan has taken into account both the company’s needs and the needs and concerns of the neighbors. They provide top quality products and believe they have provided a top quality plan as well. Ms. Baldwin stated that they are looking for approval of this plan.

Eby opened the floor to public comment.

Dan Armstrong, 1060 W. Gruler Road, stated that he understands that Town & Country has made seven presentations and revisions. His family has lived here for eight years and he has been to each meeting regarding this issue. His time is important too. Town & Country stated that they don’t want their business affected, but they want to affect the neighbors. Even with the new plan there will still be an industrial look to the site. It is important to understand that any changes made will affect the neighbors forever. Once zoning is changed on this property, it can lead to more development in the future.

Wendy Armstrong, 1060 W. Gruler Road, stated that she has studied the FF section of the ordinance. The intent of this zone is to hold the natural quality of the area. If business uses are allowed, the area loses its natural characteristics. There are concerns with one business buying multiple lots and creating one large business. The SOB also affects the neighbors. Ms. Armstrong passed out selected portions of the ordinance that specify why this amendment should be denied.

Eric Brown, 1004 W. Gruler Road, stated that the PUD was approved in 1998 and Mr. Biggs has yet to do anything with it. Now that a SOB has been located here he’s crying foul. If this property is changed to allow business uses, others will do so as well. This should be kept as residential.
Jones stated that Mr. Biggs had the opportunity to purchase the property that the SOB is located on up to the point that they moved in. He stated that this plan looks good and he knows that work has been done, however he still has concerns because there’s no road to access the residential properties. There could be an argument in the future that the residential parcels can’t be sold because they are near commercial uses. This PUD is still viable as residential uses. It should remain residential. Jones stated that he would approve the business uses being moved to the south portion of the property. A drive from Gruler Road should be installed.

Neal stated that he likes the plan. It appears that a lot of effort has been made to accommodate the suggestions from previous meetings.

Derrohn stated that she is not completely in favor of the new site plan. She has concerns with the businesses located at the rear of the property because there is a chance that one business could buy multiple lots. Derrohn stated that the buffer should stay in place. She has no issues with moving the business operations to the south of the property.

Gregory stated that there isn’t much danger of a big business going into this space because they wouldn’t want to be that far off of the highway. It would be more likely that small businesses would want these lots. Derrohn stated that they could clear cut in order to see the site from US-131.

Eby stated that anyone who wanted to build a business there would still have to come to the Planning Commission for site plan review. Michalek stated that one large lot wouldn’t be able to be created without amending the PUD.

Derrohn asked about the note on the plan that mentions thinning trees. Doernenburg explained that it was only in the southeast corner to allow for a view of the model homes.

Eby stated that the original PUD was a good plan and because a consent judgment allowed a SOB to move in, the residential lots no longer conform to our zoning ordinance. He wouldn’t want to live anywhere near the SOB.

Jones stated that Town & Country is moving most of its construction to Boyne Falls. Only sales offices and model homes will probably be left here. He stated that Mr. Biggs is requesting this change to enhance the sale of his property. He has never tried to market the lots as residential lots.

Laughbaum stated that he voted no on the last plan. This new plan is not perfect but it is a good compromise. He would probably support this.

There was discussion regarding approving part of this site plan. Eby cautioned that this is far from a minor change on the site plan and perhaps the case should be deferred in order for the applicant to present a site plan that reflects the change of moving the business uses to the south portion of the property and leaving the residential portions as is. Eby asked the applicant if he was willing to provide a new plan for review or if he would like action on the plan as proposed. Mr. Biggs stated that he would like action on the plan as proposed.

As the moving of the business uses could be done during a site plan review, Jones made a motion to deny Case #28B-83, Town & Country Cedar Homes to amend the Preliminary and Final PUD-1 Master Plan, an overlay on tax parcel #24-01-19-30-400-011 in Section 30, T34N-R5W, Bear Creek Township. The property encompasses some 23 acres +/-, having some 600 feet of frontage on the north side of W. Gruler Road and some 1,250 feet of frontage on the west side of US-131 South. The applicant is requested to return for site plan review to move the business office uses to the south portion of the property.
Laughbaum asked to amend the motion to strike the word 'deny' and replace with 'approve.' As this is a major change to the motion the motion to deny went forward as stated. The motion to deny was supported by Derrohn and failed on the following roll-call vote: Yes; Jones, Scott, Derrohn, Alexander. No; Eby, Neal, Gregory, Laughbaum, Anderson. Absent; None.

Neal made a motion to approve Case #288-83, Town & Country Cedar Homes to amend the Preliminary and Final PUD-1 Master Plan, an overlay on tax parcel #24-01-19-30-400-011 in Section 30, T34N-R5W, Bear Creek Township. The property encompasses some 23 acres +/−, having some 600 feet of frontage on the north side of W. Gruler Road and some 1,250 feet of frontage on the west side of US-131 South. The Final PUD-1 Master Plan refers to the map dated received August 15, 2007, and on the condition that an access drive was installed to access both residential lots.

Derrohn inquired if there is a buffer required on this plan between the business uses and the residential uses. There was discussion regarding whether a buffer needs to be placed in the motion. It was decided that it should be reviewed during the site plan review process.

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

Laughbaum asked why the drive would be built before the lots are sold. Neal stated it would encourage the lots to be sold as residential. Mr. Biggs stated that putting the drive in wouldn’t be a problem.

2. 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 Extraction 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: 8/27/07 letter from Tip of the Mitt Watershed Council

Doernenburg explained that the applicant has requested this case to be tabled in order to give them more time to address concerns that were brought up at previous meetings. As requested by Alexander at the August Planning Commission meeting, Tip of the Mitt Watershed Council has provided a report and comments on the proposal. Civil Counsel was consulted and her opinion is that the request is complete; however, the Planning Commission could choose to consider the mining operation and the batch plant separately. John Beeson has presented a petition of citizens and businesses in the area that are opposed to this operation.

Eby opened the floor to public comment.

John Beeson stated that the petition that was presented was signed by every business around the lake that they could contact. This is a tourist area and this plant would destroy the community. He is more concerned with the asphalt and concrete plant than the mining side of the operation. Please consider the repercussions of this operation.

Mike Kruzel stated that he lives ½ mile off of Reed Road. His property adjoins the Carp River. He doesn’t want to smell an asphalt plant.
Eby asked Gary Hartmann, the applicant, what the status of the concrete plant is. Hartmann stated that they intend to remove it from the application. Jones stated that the biggest issue seems to be the asphalt plant. Laughbaum commented that they've heard a lot of negative comments, but they haven't had any hard facts good or bad regarding the impact on the lake. It is hard to make a decision without facts. Eby asked if there are specific locations that asphalt plants can be. Michalek stated that they are potentially able to be approved in an area in which level III mining can be permitted. Eby asked if there are alternate sites for this plant. Gregory mentioned a site south of Levering that is in operation now. Doernenburg stated that there is a site for sale in Carp Lake Township.

This case was deferred until the next regular meeting.

3. 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: No new information

Doernenburg explained that this case was tabled last month at the request of the applicant. This is a request for a home occupation on property located on Sheldon Drive. It is the fourth parcel near the end of the drive. The site plan was shown. The property is zoned R-1A. Both letters of support and requesting denial have been received. The home would be used as a consulting office and expected traffic would be 1-2 cars per day. The hours of operation would be during school hours only, Monday thru Friday. There will be no sign.

Neil Marzella, representing the applicant, stated that this request is one of the mildest forms of home occupation. There are no outward signs of the business. Dr. Kroemer will see 2-3 clients per day, but only 2-3 days per week which totals seven or fewer people per week. The hours of operation will be limited to 9 a.m. to 2 p.m.

Doernenburg added that this consulting practice is a satellite office supporting her main office in Petoskey. Some neighbors have brought up concerns regarding deed restrictions; however, this board cannot enforce or look at these issues in their decision. It would be between the property owners to solve if need be.

Dr. Kroemer stated that she may not see people every week. She maintained the same business out of her home for eight years when she lived in Petoskey. Marzella added that some of the letters of support were from people who lived near her place in Petoskey and stated that there was no impact on them.

Charles Cook, 3911 Sheldon Drive stated that Dr. Kroemer’s children have 5-6 years left of school. What happens when they leave and she has more time to schedule clients; will they increase? This is a private road that the property owners maintain and pay for. The intent of a private road is to limit the use to the property owners who maintain the road or drive without help from other agencies. Sheldon Drive was seal coated last year. This is a quiet neighborhood and he is against this request.

Carla Buckmaster, 3860 Sheldon Drive stated that the home occupation requested is not like a computer
operated home business; there will be unwanted extra traffic on the private easement. The residents were recently required to pay for a name sign that indicates the private drive. This drive was built and is maintained for the use of private homes only. There is no cul-de-sac so the traffic is doubled. All of the homes along the private drive have expressed opposition to this request. Of the twelve neighbors in the 300’ buffer zone that were notified, six requested denial. Only one of the twelve parcels supports the petition. The other letters of support were from people who live in Petoskey who have no direct connection to the potential traffic problems. About four to five months ago, Dr. Kroemer apparently started to see patients at her home and the traffic was considerably heavier and noticeable. When the Supervisor of Bear Creek Township was contacted, the traffic stopped. Please deny this request.

Sheldon Buckmaster, 3860 Sheldon Drive stated that he submitted a letter recommending denial. The property is to be used for residential uses only. The deed restrictions were shared with the previous property owner by email in July of 2004 and they were aware of the restrictions when the property was sold. He is also concerned about the property values being adversely affected. This use would conflict with the residential character of the neighborhood.

Marzella stated that he understands the neighbors’ concerns. Zoning is a balance between the needs of the community and the right of individuals to use their properties. The standards for a home occupation are set out in the zoning ordinance and Dr. Kroemer is within the standards. They are asking for approval.

Anderson explained that at the Bear Creek Planning Commission meeting, the vote was split to approve. She stated that she understands some of the neighbors concerns because Sheldon Drive is seldom traveled; however if someone moved into the neighborhood with a couple of teenagers, there would probably be more traffic than this use would generate. This is a minimal home occupation use.

Alexander agreed that it would be a minimal use but wonders if this is the correct place to have this use due to the impact on the neighbors.

Neal asked if there is any recourse if the number of clients is exceeded. Eby stated that if the use no longer conformed to the residential nature of the neighborhood, the case could be revisited.

Laughbaum stated that the use meets the home occupation criteria and although the neighbors don’t want it approved, the applicant has a right to use her home. Deed restrictions are easy to enforce and if they would like to pursue that option, it is out of our authority to do so.

Jones asked how the people coming to the home would be distinguished between who’s there for the business and who’s visiting. Is this something that can be enforced? Doernenburg stated that there really isn’t a good solution. It is necessary to specify the conditions in the motion and if those conditions are not abided by, the permit can be revoked.

Anderson made a motion to approve Case #38A-04, Dr. Henrike Kroemer, Special Use Permit for a medical consulting practice at 3875 Sheldon Drive, Section 35, Bear Creek Township as outlined in the Home Occupation Use Plan and the applicant’s letter dated July 1, 2007 because the use meets the standards of Section 2102-12, the occupant is the only employee and on condition that no advertising signs be displayed, no more than 7 vehicles per week are permitted and the hours of operation are limited to 9:30 AM to 1:30 PM. Monday thru Friday. The motion was supported by Scott and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Laughbaum, Anderson. No; Derrohn, Alexander. Absent; None.

4. Case #26-07 Tom Graham & Molly Veling for David Fink, SPECIAL USE
PERMIT, Land Development Standards, Oak Drive & Levering Road, Section 34, Cross Village Township

Legal Notice: A request by Tom Graham and Molly Veling for David Fink for a Special Use Permit per Land Development Standards to create three parcels from two combined parcels located on the southeast corner of Oak Drive and Levering Road in Section 34 of Cross Village Township. The property is zoned RR-2 Recreation Residential and includes tax parcels 24-05-04-34-400-028 & 029. The review is per Section 2102-14 of the Zoning Ordinance and the resulting splits will create a fifth parcel within a ten year period.

Packet Items: Request & location map, tax parcel map, application, 8/21/07 Health Department letter, 9/23/02 Road Commission letter, 8/13/07 Road Commission letter, Cross Village Township land division application, site plan checklist, zoning evaluation, location map, 8/7/07 proposed parcel split plan.

Doernenburg stated that this property is located on the corner of Oak Drive & Levering Road. The request includes combining two parcels and then splitting them into three parcels, each being three acres and above. Each parcel meets the lot size and width standards. No township recommendation has been received; however Doernenburg explained that she had spoken to Howard Wood who stated he didn’t feel that there was any reason to withhold a decision tonight. The site plan and the aerial photo were shown. This is before the Planning Commission because it would create the fifth parcel within a ten year period. The area is wooded along Oak Drive. The applicant was present to answer any questions.

There was no public comment on this case.

Jones asked if Oak Drive is a seasonal road. What happens if one of the lots is built on and someone needs access? Oak Drive is seasonal and it is up to the property owners to access the parcels.

Scott made a motion to approve Case #26-07, Tom Graham and Molly Veling for David Fink, Special Use Permit for Land Development to create 3 parcels from approximately 10 acres located on the southeast corner of Oak Drive and W. Levering Road being, tax parcels numbered 24-05-04-34-400-028 & 029, Section 34, Cross Village Township as shown on the site plan dated Received August 7, 2007 because of the facts in the case, all lots meet the minimum area and width standards, and the plan meets the standards of Section 2102-14 of the Zoning Ordinance. The motion was supported by Alexander and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Laughbaum, Anderson, Derrohn, Alexander. No; None. Absent; None.

Case #24-07 Mary Burrows, SPECIAL USE PERMIT, Home Occupation, 5790 Milton Road, Section 34, Maple River Township

Legal Notice: A request by Mary Burrows for a Special Use Permit for a Home Occupation to operate an Internet Advertising and Mortgage Broker home office at 5790 Milton Road, Section 34 of Maple River Township. The property is zoned FF-1 Farm and Forest and is tax parcel number 24-09-14-34-300-019. The request is per Section 2102-12 of the Zoning Ordinance.

Packet Items: Request & location map, tax parcel map, application, State of Michigan licensing information, home occupation use plan, zoning evaluation.

Doernenburg explained that this request is for a home occupation to sell real estate via internet, fax, and phone. A larger than two square foot sign was requested, however the Sign & Lighting Committee denied that request and the applicant has stated she will abide by the two square foot sign standard. Photos of the residence were shown. There doesn’t seem to be any negative impacts on
the neighborhood by granting this request. There has been no recommendation from the township.

Eby stated that Maple River Township had no issues with this request.

The applicant, Mary Burrows, stated that her business is all internet based and there would be no traffic created. Neal asked why a sign was needed if the business is internet based. Burrows replied that she would like the two square foot sign to advertise the website address legally.

There were no public comments on this case.

Scott made a motion to approve Case #24-07, Mary Burrows for a Special Use Permit for a Home Occupation to conduct an internet advertising and mortgage broker home office at 5790 Milton Road, Section 34, Littlefield Township, as indicated in the Home Occupation Use Plan dated 7/19/07PZ because the proposed use meets the standards of Section 2102-12 of the Zoning Ordinance and the Township had no objections and on the condition that the sign be limited to 2 sq.ft. and there be no structural changes to the residence or accessory building. The motion was supported by Gregory and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Laughbaum, Anderson, Derrohn, Alexander. No; None. Absent; None.

6. Case #25-07 Cellere, agent for Skyway Towers, LLC, SPECIAL USE PERMIT, Telecommunications tower, 4445 S. Howard Road, Section 30, Bear Creek Township

Legal Notice: A request by Cellere, agent for Skyway Towers, LLC for a Special Use Permit for a 195 ft. telecommunication tower (monopole) located on property located at 4445 S. Howard Road, Section 30, Bear Creek Township. The property is zoned FF-1 Farm and Forest, is tax parcel number 24-01-19-30-200-025, and is currently owned by Charles & Joan Daniel. The request is per Section 2102-2 of the Zoning Ordinance.

Packet Items: Request & location map, tax parcel map, 7/23/07 letter from applicant, application, site plan checklist, impact statement, applicant’s response regarding specific land usage requirements, memo of option and lease agreement, FAA 2C certificate of determination, radio frequency map, existing tower map, zoning map, future land use map, tax map, aerial photos, alternative technology letter, warranty deed, construction drawings, 8/21/07 Road Commission letter, 8/10/07 soil/erosion letter, zoning evaluation, 8/28/07 email from Don & Bev Schuch, 8/28/07 Fire Department approval, 8/29/07 email from Sue Kughn, 8/29/07 email from Eric & Chris Daniel, 9/8/07 neighbor petition, 8/29/07 Bear Creek Township Planning Commission minutes.

Michalek explained that the applicant has requested that this case be tabled to give them time to address questions that arose at the Bear Creek Township Planning Commission meeting. Some of the questions raised were regarding the provided propagation maps and the inclusion of towers that haven’t been built. The location map was shown. The proposal is for a 195’ unlit monopole.
Approval letters have been received from the Fire Department and Road Commission. The Emmet County Sub-Area Master Plan identifies this area as part of the view-shed protection area. The neighbors are concerned with their views being impacted. The township requested the case to be tabled due to the incorrect propagation maps, collocation opportunities need to be further investigated, and issues with scenic views need to be addressed.

There was some discussion regarding the height at which lighting is required. The FCC regulates this and different lighting is required at different heights.

Doernenburg stated that the letters of objection that have been received have been distributed. There was new information handed out tonight regarding cell towers and their health effects. This will be included in next months packets. Michalek stated that there has been a petition received both in support and against this tower.

Eby opened the floor for public comment.

Pat Daniel stated that the area in which the views are affected isn’t the north arm of Walloon Lake; it’s actually a little further south. He pointed out different views on the map that may be compromised if the tower is installed as proposed.

Marilyn Kolstock stated that she is concerned with the view from the top of hill looking towards Walloon Lake. It will look awful with a tower there. She is also concerned with the health issues of having a tower in this location.

Margaret Borowski stated that this is right behind her house. The view of sunset would be blocked. At least 30 homes have some view of this area. An alternate place would be across the road. There is cleared land there and it could be tucked into the hills. Utility buildings will be needed as well. There are no neighbors back to River Road. The applicant has stated that if the tower was moved to a different location, there would just be a different set of neighbors, but that isn’t true here. There are other places that would be better to place this on the opposite side of Howard road.

Chuck Daniels, the land owner, asked the tower representatives if it could be located behind his house. They advised him that they couldn’t put it there. This is filling in cell service in an area in which there is poor service. The other neighbors have blocked his view of the lake by planting trees. The generator will run once a month for about ten minutes and neighbors should not be able to hear it.

Norm Daniels passed out pictures from his son’s deck showing approximately where the tower would be located. He was also approached by this company. There are unknown health issues with cell towers. He has grandkids and is concerned.

Emily Daniel stated that the footprint that this site will have will take out some of the trees in a 100’x100’ section. The pictures show conservative representation of where the tower would be able to be viewed. They don’t expect that the land will be undeveloped, but to start with this tower is not good. She is concerned with the light issue. There are small aircraft landing into lake and she would imagine that lights would be required. They are also on a flight path for the Air Force and those planes fly very low. This is dangerous with a tower. Some houses in the area would look directly at the structures at the base of the tower. A lot of towers are located either in remote or commercial areas; this is a residential area.
Chuck Freese states that with the new technology, cell towers will need to be five miles apart in the future and it can’t be stopped.

This case was deferred at the request of the applicant.

7. Case #29A-99 Ethan Swiger for SFS Group, LLC, SPECIAL USE PERMIT, Land Development Standards, Evergreen Trail, Section 27, Bear Creek Township

Legal Notice: A request by Ethan Swiger for SFS Group, LLC for a Special Use Permit per Land Development Standards to create a 5th, 6th & 7th parcel within a ten year period on a parcel located in the SE ¼ of the SE ¼ of Section 27 of Bear Creek Township. The property is zoned FF-2 Farm and Forest and is tax parcel 24-01-19-27-400-009. The review is per Section 2102-14 of the Zoning Ordinance. The parcels subject to review are labeled Parcel #3, #5, and #6 on the parcel split map.

Packet Items: Request & location map, tax parcel map, application, impact statement, site plan checklist, Health Department letter, Road Commission letter, 8/6/07 site plan, zoning evaluation, 8/28/07 Fire Department approval, 8/28/07 letter from Dennis Lawrason, 8/29/07 Bear Creek Township Planning Commission minutes.

Michalek explained that the property is located off of Evergreen Trail and Mindel Road. Evergreen Trail runs through the parcel. The request is to create three additional parcels out of this 32 acre parcel. Four parcels were previously approved. All proposed lots meet the lot area and width standards. The township recommended approval on the condition that a boundary survey is obtained. This has been done. All parcels have access to Mindel Road.

There was some discussion on possible changes to Mindel Road.

Anderson made a motion to approve Case #29A-99, Ethan Swiger for SFS Group, LLC, Special Use Permit for Land Development to create 3 parcels from approximately 16.7 acres being part of the SE ¼ of the SE ¼ of Section 27, Bear Creek Township, tax parcel number 24-01-19-27-400-009 as shown on the site plan dated Revised August 30, 2007 because of the facts in the case, all lots meet the minimum area and width standards and the plan meets the standards of Section 2102-14 of the Zoning Ordinance and on condition that the existing mobile home between Parcel #2 & 6 be moved and Bear Creek Township recommended approval. The motion was supported by Alexander and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Laughbaum, Anderson, Derrohn, Alexander. No; None. Absent; None.

8. Case #137A-78 Swartout Properties, LLC, SITE PLAN REVIEW, 1812 US 31 N, Section 26, Bear Creek Township

Legal Notice: 1A request by Swartout Properties LLC for Site Plan Review, amendment, for property located at 1812 N US-31 Hwy. The property is tax parcel number 24-01-16-26-300-064 and is zoned B-2 General Business. The property encompasses some 2.0 acres with wholesale uses allowed. The request includes an addition to the wholesale building for storage, and additional parking. The review is per Section 1000-2 and Article XXIV of the Zoning Ordinance.
Packet items: Request & location map, tax parcel map, 8/14/07 existing conditions plan, 8/14/07 site plan, 8/14/07 grading/paving plan, 8/14/07 utility/drainage plan, 8/14/07 tree planting plan, 8/14/07 lighting plan, 8/14/07 floor plan, 8/14/07 external elevations, 8/15/07 Fire Department letter, 8/22/07 soil/erosion letter, 8/6/07 email from MDOT, 8/6/07 MDOT removal sheet, 8/6/07 MDOT construction sheet, zoning evaluation, 8/29/07 Bear Creek Township Planning Commission minutes.

Michalek explained that this property is located on the east side of US-31. The KOA campground is located to the south of this parcel with Mim’s Restaurant across the street. This request is to place an addition to be used for storage onto an existing wholesale plumbing supply store. MDOT has reviewed the parcel and have stated that road construction will occur on US-31 in 2008 and will include entrance to this site. The parking standards have been met. A sealed drainage plan is on file. A letter is on file stating that a $10,000 performance guarantee would be needed. The township has recommended approval.

Joe O’Neill of Benchmark and Dan Steffes were present representing the applicant and were available to answer any questions.

There was no public comment on this case.

Anderson asked about the light on the building and if the motion could condition that a skycap or different downward facing light be installed. This can be requested of the applicant and Dan Steffes stated that this would not be an issue.

Anderson made a motion to approve Case #137A-78, Swartout Properties, LLC, Site Plan Amendment on tax parcel 24-01-16-26-300-064, 1812 N US-31 Hwy, for the plans received August 14, 2007 because the standards of the Ordinance regarding parking, use and setbacks have been satisfied and on condition that the exterior lighting and any additional signs not previously approved be reviewed by the Sign & Lighting Committee prior to installation, the required performance guarantee of $10,000 be issued prior to issuance of the zoning permit, and as per the applicant, the light on the southwest corner of the building will be replaced with lighting that is up to current standards and because Bear Creek Township recommended approval. The motion was supported by Neal and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Laughbaum, Anderson, Derrohn, Alexander. No; None. Absent; None.

9. Case #150F-98 Gerald McConnell, SITE PLAN AMENDMENT, 1619 Anderson Rd
1619 Anderson Road, Section 7. Bear Creek Township

Legal Notice: A request by Swartout Properties LLC for Site Plan Review, amendment, for property located at 1812 N US-31 Hwy. The property is tax parcel number 24-01-16-26-300-064 and is zoned B-2 General Business. The property encompasses some 2.0 acres with wholesale uses allowed. The request includes an addition to the wholesale building for storage, and additional parking. The review is per Section 1000-2 and Article XXIV of the Zoning Ordinance.

Packet Items: Request & location map, tax parcel map, application, impact statement, site plan checklist, 4/11/07 Planning Commission minutes, 4/7/07 approved site plan, 8/17/07 proposed site plan, 8/17/07 details, 8/17/07 tree planting plan, 8/17/07 lighting plan, 8/17/07 grading/utility plan, 8/17/07 existing conditions plan, 8/28/07 Fire Department approval, 8/29/07 Bear Creek Township Planning Commission minute, 8/31/07 site plan.

Michalek explained that when this site plan was approved there was discussion of a potential tent. The
applicant was directed toward more of a fenced in yard for those types of sales such as what Home Depot or Lowe’s has. They have decided that they would like a larger building size instead of doing that. The building has increased from 45,700sf to 55,400sf. The useable space has increased from 40,000sf to 43,200sf. The employees have decreased from 20 to 18. The parking requirements increased from 60 to 63; the parking provided has decreased from 72 to 63 which meet standards. The Township has recommended approval. The loading dock will face north and have additional screening.

Joe O’Neill, representing the applicant, was present to answer any questions.

There was no public comment on this case.

Derrohn asked what the requirement for trees per parking space is. Doernenburg stated that 1 tree per 10 spaces is required and the seven required trees are shown on the landscape plan.

Jones asked if the truck well would be properly drained. Does it dip? O’Neill stated that it is 4’ lower. There was some discussion on the height of the berm and the trees for screening. The plan shows a berm of 3’ and 6’ trees for a total of 9’ of screening.

Neal made a motion to approve Case #150F-98, Gerald McConnell, Site Plan Amendment on tax parcels 24-01-19-07-300-004 & 007, 1619 Anderson Road, for the plans received August 24, 2007 because the standards of the Ordinance regarding parking, use, and setbacks meet those identified in the April 2007 approval of the PUD-2, and on condition that the exterior lighting and any additional signs not previously approved be reviewed prior to installation, and a minimum of 9’ screening be placed around the loading area and because Bear Creek Township recommended approval. The motion was supported by Scott and passed on the following roll-call vote: Eby, Neal, Jones, Scott, Gregory, Laughbaum, Anderson, Derrohn, Alexander. No; None. Absent; None.

10. Case #23A-07 Emmet County Planning Commission, TEXT AMENDMENT, Sign Ordinance—“Seasonal Commodity Signs”

Legal Notice: A request by Emmet County Planning Commission to amend the Zoning Ordinance, Article XXII, Section 2207 as follows:

Add to paragraph 3 SIGNS NOT REQUIRING A ZONING PERMIT, sub-paragraph 1) to read: “Seasonal commodity signs (such as for garden produce or landscape products) shall not have a total sign face greater than thirty-two (32) square feet. Such signs shall not be set in place for use until one (1) week before the beginning of the season and shall be removed within one (1) week of the close of the season and may not remain hanging for more than ninety (90) days. Three (3) off-premise seasonal commodity directional signs, not to exceed four (4) square feet in sign face area, may be permitted upon review by the Zoning Administrator. Additional off-premise signs may be permitted subject to finding by the Advisory Sign Review Committee that the signs are the minimum necessary for safe travel to the site. A SEASONAL COMMODITY SIGN means an on- or off-premise sign which indicates the name of the farm, the sale of farm products produced seasonally on the premises, the location of the premises, and/or the hours open to the public.”

Packet Items: 8/21/07 memo, proposed amendment wording, zoning evaluation, minutes from Springvale Township Planning Committee 8/27/07 meeting, 9/6/07 email from Robert Cardinal, Readmond Township.

Michalek pointed out some of the comments from the township regarding this proposed amendment.
• Springvale Township: recommended one sign for one use.
• Littlefield Township: recommended a permit be issued in order for the Zoning Administrator to be able to track the 90 day period.
• Readmond Township: recommended approval.
• Bear Creek Township: recommended approval.
• Friendship Township: recommendation received with items to address.
  o 90 days may be too short of a season for many operations.
  o Sees no reason to limit primary sign beyond the current zoning ordinance regulations
  o Should the time limit only be placed on directional signs?
  o Should the 4’ directional signs need review?

Doernenburg explained that perhaps there was some confusion on the review of the 4’ directional signs. Three directional signs are allowed, if any more are needed, those signs would require the review.

Eby questioned whether this is being pushed through without the proper review? Michalek stated that he feels that further discussion is necessary. It should be looked at again next month. There is no intention to pursue current signs.

Neal questioned the 90 day period. Is this consecutive or 90 days within a year. If within a year, what is to prevent someone from changing a sign and starting the 90 days over again.

Alexander is concerned with the word ‘seasonal.’ Perhaps there is a better word as it could be multiple seasons.

Scott inquired how other businesses would be prevented from placing directional signs. Michalek stated that due to the State of Michigan providing some background on these types of special signs, he is reasonably confident that this could be enforced.

Doernenburg stated that the TOD signs (Tourist Oriented Directional signs) that MDOT uses could also be looked into. The Road Commission could utilize these signs, but they currently elect not to. The signs would be in predetermined locations and would be uniform throughout the County. More information on these signs was requested of staff.

Eby asked about the current status of enforcement on these signs. Doernenburg stated that enforcement action will be stalled unless there is an issue.

There was some further discussion about the TOD signs and the enforcement issues.

Gordon Tuthill of Just A Plain Farm stated that he had a sign at end of the road to direct people to his business. He eventually found signs all around the farm directing people to another local farm. He is concerned about there being too many signs and believes that there are more appropriate places to advertise. The plight of the farmer doesn’t depend on being able to put up signs.

Michalek stated that the reports that were given from the State had multiple suggestions to help the farmers such as creating maps to the farms. Perhaps a sub committee should be formed to look into this. Also, signs 3,000’ off of a highway requires MDOT approval.

Eby asked what will be done when someone litters the area with signs in the meantime. Michalek stated that
the moratorium needs to be legally written and perhaps Civil Counsel can draft this. Eby stated that more study is needed, but something that can be enforced is needed in the meantime.

This case was deferred to the next regular meeting.

11. Case #27-07 Zoning Coordinating Committee, Little Traverse Township, PUD Overlay District

Packet Items: 8/22/07 memo, 8/7/07 letter from Township, Little Traverse Zoning Board minutes 8/6/07, Draft copy of proposed PUD Overlay District ordinance wording.

Doernenburg explained that Little Traverse Township doesn’t have PUD language in their ordinance now. The proposed language is in alignment with previously approved language for West Traverse Township and staff recommends approval.

Scott made a motion to authorize the Chair to sign the motion to Little Traverse Township. The motion was supported by Derrohn and passed by a unanimous voice vote.

12. Case #5-19-07 Charles Freese & Eugene Balough, SIGN EXCEPTION, 1014 US 31 N, Section 27, McKinley Township

Packet Items: Request & location map, aerial photo, sign photos, chronology of events, 2006 Freese application, sign sketch, site plan, 12/14/06 sign & lighting minutes, 7/25/07 Balough application, sign sketch, site plan, 8/9/07 sign & lighting minutes, 8/28/07 Freese & Balough application, sign sketch, site plan, notes from applicant, Zoning evaluation

Doernenburg explained that this property is located on the corner of Industrial Drive and North US-31. The chronology of events was shown. The Sign & Lighting Committee reviewed and approved the Honda sign. The property owner didn’t approve the sign location. The R&L Auto sign existed on the property and the Honda sign blocked the view of it. The Sign & Lighting Committee didn’t have the authority to remove the Honda sign because there is a valid permit on file. The property owner can go to court and get the sign removed if he chooses. The property owner asked for a freestanding sign on the northerly property but was denied citing the need for a joint/cooperative sign for the entire zoning lot. The current request is for a combined sign. This sign doesn’t meet the ordinance standards; however the Planning Commission can approve based on Section 2207-12 which allows for exceptions based on large site areas and/or cooperative sign use. The proposed freestanding sign is 145sf, 15’ high (10’ above the grade of US-31.) The site plan was shown along with the proposed sign sketch.

Neal asked if it could be more standardized as it looks like signs that were thrown together. Derrohn stated that perhaps the Honda sign could be cut to match the size of the others. Jones stated that 56sf is what is allowed; perhaps 112sf should be the maximum with two signs.

Chuck Freese, applicant for the Honda business explained that Honda requires this sign to meet with their franchise requirements. It is internally lit. Jones stated that similar issues were brought up with Ford and they complied with the requirements of the ordinance. Derrohn stated that the applicant has spoken with Honda and they will not comply. Freese explained that he was held up for six months with Honda and he is now trying to sell the franchise to a new buyer and is now held up due to this sign issue. Derrohn asked if the other signs would be lit. Freese stated only externally with downward lighting.
Eugene Balough, applicant and property owner, stated that when the Honda sign was approved by the Sign & Lighting Committee, it was done illegally because he owns the property and wasn’t consulted. The Honda business only leases space inside the building not outside. Approving the sign trespassed on his property. Linda, the owner of R&L Auto will be leaving the building because she has lost $40,000 and will lose $12,000 this year due to lack of advertising.

Linda, the owner of R&L Auto, stated that she understands that the sign needs to be there, but her sign was there previously. It is now blocked and her customers are complaining. She would like to see a compromise that lets all of the businesses run and be happy.

Balough stated that the reality is that businesses are being destroyed. Three jobs lost if R&L Auto leaves. He had to lay off the manager of the storage business today. Money was spent on advertising, people drove by and didn’t stop. This error needs to be corrected. These businesses are entitled to these signs.

Alexander stated that the Honda sign was approved in good faith that it could be placed there. It shouldn’t have been approved. Derrohn stated that during Sign & Lighting review the property owner isn’t looked into. Doernenburg stated that the property owner’s signature and advance notification is now required. The Honda sign request came in the day of the meeting and the information provided to the Committee was relied upon. The applicant should have had the property owner’s permission. The property owner does have the right to have the sign removed.

Eby asked how many businesses are involved in this building. Balough stated that ¾ of the land is dedicated to the storage business. The building is 25,000sf. The other businesses hold long term leases inside. Three businesses are currently in the building, two more to lease soon with the storage business outside.

Doernenburg stated that Kathy Abbott, Civil Counsel, feels that the businesses are allowed to have signs. The ordinance standard allows for a 56sf freestanding sign and a wall mounted sign of up to 15% of the mounting wall.

Jones stated that if the sign was squared off and a sign that had a split panel placed on the top of the Honda sign it would look nicer.

After some further discussion on various ways to make the sign more presentable, Jones made a motion to approve Case #S-19-07, a sign exception to allow for a sign of 8’x15’ with a maximum sign area of 120 sq. ft., the top height of the sign will be no more than 10’ above the grade of US-31, any lighting will meet the ordinance standards, because the sign is a cooperative use, the sign is not out of character with the adjoining properties, and the Sign & Lighting Committee recommended joint sign use; and on condition that no other freestanding signs are permitted on the two properties, tax parcels 24-10-10-27-300-011 and 012. The motion was supported by Anderson and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Anderson, Derrohn. No; Laughbaum, Alexander. Absent: None.

VI Public comments:

VII Other business:
- **Enforcement Report**: Passed out, no discussion
- **Text Amendment-Waterfront setback standards**: No new information
- **Policy for special meetings**: Doernenburg stated that the ordinance requires a 21 day advance for site plan review. In the last two cases, the applicant hadn’t paid for the special meeting and didn’t have the required information in hand prior to the work being done to try to set up the special meeting. Perhaps
the 21 day guideline needs to be adhered to. Eby stated that some criteria should be in place to determine whether a meeting should be held. Scott stated that the Planning Commission has a right to approve or deny the request for a special meeting. Requiring the fee to be paid up front and possibly requiring a portion of that fee to be non refundable in case of cancellation would be a good plan. One of the recent requests was for a site walk. Kathy Abbott’s opinion was that it would be inappropriate to hold this as the public wouldn’t have been notified. Staff was requested to put together some guidelines for review at the next meeting.

VII Adjournment
Chairman Eby called the meeting adjourned at 10:50 p.m.

________________________________________  ______________________________
James Scott, Secretary  Date