EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING MINUTES
THURSDAY JANUARY 3, 2013
7:30 P.M.
COMMISSIONER’S ROOM
EMMET COUNTY BUILDING
200 DIVISION STREET
PETOSKEY, MI 49770

MEMBERS PRESENT: Dan Plasencia, Kelly Alexander, John Eby, Steve Neal, Paul Desy, James Scott, Bert Notestine, Shawn Wonnacott

MEMBERS ABSENT: David Laughbaum

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 Laughbaum

II Public Hearing: Emmet County Recreation Plan Update
Eby opened the Public Hearing for the Emmet County Recreation Plan 2013 update. Salar presented a brief overview on some areas of the recreation plan that were updated based on public input and comments that were received during the 63 day comment period. Eby asked for public comment, there was none. The Public Hearing was closed.

Alexander made a motion supported by Plasencia to authorize the chair to sign the resolution of support. The motion passed on the following roll-call vote: Yes: Eby, Neal, Noteultine, Scott, Wonnacott, Desy, Plasencia, Alexander. No: None. Absent: Laughbaum.

III Minutes of December 6, 2012
Alexander made a motion supported by Plasencia to approve the minutes of the December 6, 2012 meeting minutes as presented. The motion passed unanimously by voice vote of the members present.

Doernenburg introduced the two Commissioners that will be serving on the Planning Commission board to replace Jones and Hramiec. They are Shawn Wonnacott and Bert Notestine.

IV Cases

Legal Notice: Attached

Packet Items: Email from Bill Marshall and document regarding personal property tax and wind turbines, Email from Chris Stahl and DWEA draft ordinance

Doernenburg reported that at the last Board of Commissioner's meeting, AECOM was authorized to be hired to review the wind energy portion of the ordinance, the documentation that has been received, and the public comments and concerns brought up to give us some direction in where to go with this section of the ordinance. She stated that it was staff's recommendation to remove this item from the
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agenda and once the review has been conducted, republish for the case. She noted that there is a sheet being passed around that interested audience members could add their name and contact information to be advised when the case will be reviewed again. Anyone else that would like to be notified can contact the Planning office at 231-348-1735 or pzcr@emmetcounty.org.

Eby asked if there is any text portions of the proposed amendment that need to be adopted quicker than the rest. Doernenburg responded, no. He suggested tabling the case indefinitely instead of just removing from the agenda to avoid any issues.

Scott made a motion supported by Neal to table Case #12A-09 indefinitely. The motion passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Scott, Wonnacott, Desy, Plasencia, Alexander. No: None. Absent: Laughbaum.

2. **Case #27-12  Tom Tomalka, SPECIAL USE PERMIT-Home Occupation-storage of product for resale, 832 Intertown Rd, Section 18, Bear Creek Township**

**Legal Notice:** A request by Tom Tomalka for a Special Use Permit for a Home Occupation - Storage of products for resale at 832 Intertown Road, Section 18, Bear Creek Township. The property is zoned FF-1 Farm and Forest and is tax parcel #24-01-19-18-200-020. The request is to allow the business within the attached garage of the residence per Section 2102-12 of the Zoning Ordinance.

**Packet Items:** Request & location map, tax parcel map, application, 12/4/12 site plan, impact statement, home occupation use plan, staff report. Passed out at meeting or emailed: 1/2/13 letter from Haggard's P&H

Doernenburg presented this case. The parcel is located on Intertown Road between Howard Road and US-131. It is just under 1 acre in size and is zoned FF-1. The request is for a home occupation to store and deliver wine products from the property. The applicant lives on the property. No structures are proposed; the storage would be in a portion of an existing attached garage as seen on the site plan. Photos were shown that illustrate the screening on both sides of the property. There was not a quorum at the township meeting so it was cancelled, however Doernenburg reported that she had spoken with the supervisor and they had no concerns with the request. A letter of support was received from Haggard's Plumbing & Heating.

The applicant, Tom Tomalka stated that the product comes from a warehouse in Warren or Grand Rapids, he picks up the product and delivers it on his way back to Petoskey. The reason for this request is that the State of Michigan now requires him to have a permanent physical address for the licensing process. Tomalka stated that most of the time, everything is delivered before he gets to Petoskey but there are times that there may be a few cases that he has to store in the garage.

Alexander asked if the State requires any specific criteria for this storage area. Will there be structural changes to accommodate them? Tomalka stated that they don't, it just has to be locked to prevent any unauthorized entry or theft. He may have to install a lock on the inside of his kitchen door that leads to the garage. Eby noted that we have seen similar cases involving firearms dealers in the past. Plasencia asked if the applicant foresees any instance that he may have to load or unload into the garage. Tomalka stated that he doesn't. He would just pull his van into the garage if he had to bring any product home. Desy asked about a sign. Tomalka stated that he does not need, nor want a sign.

Desy made a motion to approve Case #27-12, Tom Tomalka, Special Use Permit for a Home Occupation to store products in the attached garage at 832 Intertown Road, Section 18, Bear Creek Township as outlined in the Home Occupation Use Plan and as shown on the site plan both dated Dec 4, 2012 because the use meets the standards of Section 2102-12, the use will not conflict with the residential character of the neighborhood, only people living on the premises may be employees of the home occupation. The motion was supported by Scott and passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Scott, Wonnacott, Desy, Plasencia, Alexander. No: None. Absent: Laughbaum.
3. Case #28-12  Carl Drayton for Rodney Lennie, SPECIAL USE PERMIT-Larger than allowed accessory building, 7970 Barney Rd, Section 12, Littlefield Township

Legal Notice: A request by Carl Drayton, for Rodney Lennie, for a Special Use Permit for an exception to the Accessory Building standards to allow a 900 sq. ft. addition to a 624 sq. ft. accessory building at 7970 Barney Road, Section 12, Littlefield Township. The property is zoned FF-1 Farm and Forest and is tax parcel 24-07-17-12-300-015. The request is per Section 2201-6 of the Zoning Ordinance.

Packet Items: Request & location map, tax parcel map, application, Littlefield Township recommendation, impact statement, staff report, 12/10/12 site plan
Passed out at meeting or emailed: 1/2/13 letter from Haggard's P&H

Doernenburg presented this case explaining the location on the west side of Barney Road and that this is the last structure on this side of Barney Road before it dead ends. The existing 900sf structure sits 200' from the road on a wooded lot. A 2,400 sf building would be approvable if it were setback an additional 50'. After the proposed addition, the structure would be 1,524sf. The site plan and photos were shown. Littlefield Township recommended approval on condition that an affidavit of use be filed with the register of deeds and that all personal items are stored inside. Doernenburg stated that we can request the items be stored inside but cannot enforce that. This structure is the main use on the property.

Carl Drayton was present representing the applicant. He stated that the owner wants to store a mobile home and trailer inside. It can hardly be seen from the road. The addition will be tied into the other building and it will look like one building when done.

Plasencia made a motion to approve Case #28-12, Carl Drayton for Rodney Lennie for a Special Use Permit for an Exception to the Accessory Building size standards and to allow a 1,572 sq. ft. accessory building at 7970 Barney Road, Section 12, Littlefield Township, tax parcel 24-07-17-12-300-015, as shown on the plot plan dated “Received Dec 10, 2012” because no good purpose would be served by strict compliance with the standards of the Zoning Ordinance and on condition that the use be residential and that an affidavit of use be recorded with the Register of Deeds. The motion was supported by Scott and passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Scott, Wonnacott, Desy, Plasencia, Alexander. No: None. Absent: Laughbaum.

4. Case #29-12  Emmet County Planning Commission, TEXT AMENDMENT, Repeal Article XVII-Dune Overlay District

Legal Notice: A request by the Emmet County Planning Commission for a Zoning Ordinance Text Amendment to repeal Article XVII, Dune Overlay District (DOD), including Sections 1700 through 1715, and references to Sections 1700 through 1715 in parts of other Sections of the Zoning Ordinance, including Sections 300, 1900, 2209, and 2405. The request is based on changes to 1994 PA 451 by 2012 PA 297 which: 1) does not allow a local zoning ordinance regulating critical dune areas to be more restrictive of development than the Michigan Department of Environmental Quality model zoning plan, including the standard of review of permits or variances in the model plan; 2) conflicts with the Michigan Zoning Enabling Act regarding public hearing notifications; 3) gives a local enforcing agency the burden of proving environmental impacts upon which a permit denial is based; and 4) has been analyzed to potentially increase costs to local enforcing agencies.

Packet Items: memo, staff report, chart of critical dune permits and reviews, Legislative Analysis-Critical Dune Areas Amendments

Doernenburg explained that in August, the State of Michigan enacted changes to the dune law statewide. These changes would require us to amend our ordinance. These were reviewed with Nancy Salar, Critical Dunes officer and Kathy Abbott, Civil Counsel. There were several discrepancies that couldn’t be rectified. Due to this, the recommendation is to repeal the critical dunes ordinance. The critical dune area permitting staff map was shown; there is a representative assigned to Emmet County. Most jurisdictions are regulated by
the State. Currently our ordinance is out of line with the State. If repealed, the State would regulate their own ordinance. Doernenburg noted that some of the issues that came up were that the act is out of sync with the Zoning Enabling Act in regards to notification procedures. We would not be allowed to have an ordinance that is any stricter than the State's act. It also potentially increases the costs to the local enforcing agency and puts the burden of proof on the local agency regarding negative environmental impacts for permit denials. Bear Creek, Readmond, and Cross Village Townships have critical dune areas as shown on the map. Little Traverse Township has their own ordinance so they would have to go through this same process and either choose to repeal that section or enforce it themselves. Doernenburg stated that because there are people waiting to see what happens to this case prior to applying for a permit, she would suggest waiving the customary second hearing. She stated that she is not sure that a permit issued by us would be valid with the State. Littlefield Township recommended approval.

Notestine stated that he attended the Bear Creek Township Board meeting and their only concern was that there used to be quite a delay for permits. Apparently this has not been a problem anymore and they had no objection to the text amendment. Doernenburg stated that she doesn't know what the procedure will be with the State although it may take more time than applicants are accustomed to due to one officer covering multiple counties. The number of permits issued is pretty small; 10 is the most over the last 6 years. She added that she met with Tip of the Mitt Watershed Council and a representative from L'Arbre Croche, both of who support the amendment.

There was no public comment on this case.

Scott made a motion to recommend approval of Case #29-12 to the Emmet County Board of Commissioners of the proposed text amendment to Repeal Article XXVII Dune Overlay District and all references thereto in Sections 300 and 1900 as published on December 19, 2012 and as reviewed during a public hearing, based on the facts presented in the case, and the amendment was recommended for approval by Littlefield Township and Bear Creek Township has no objection. The motion was supported by Neal and passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Scott, Wonnacott, Desy, Plasencia, Alexander. No: None. Absent: Laughbaum.

V  Public Comment: None

VI  Other Business:

- **Resolutions of appreciation:** Doernenburg read the resolutions of appreciation for Jack Jones and Paul Hramiec. Alexander made a motion supported by Desy to authorize the chair to sign the resolution for Hramiec. Plasencia made a motion supported by Scott to authorize the chair
to sign the resolution for Jones. Both motions passed unanimously by voice vote of the members present.

- **Election of Officers:** Neal made a motion supported by Alexander to elect the current slate of officers: John Eby- Chair, Paul Desy-Vice-Chair, James Scott-Secretary. The motion passed unanimously by voice vote of the members present.

- **Review 2013 meeting dates:** The meeting dates were reviewed. Independence Day falls on the first Thursday in July this year so the July meeting will be held at 7:30 p.m. on June 27, 2013. Alexander made a motion supported by Plasencia to accept the meeting dates for 2013. The motion passed unanimously by voice vote of the members present.

- **Appointment to Sign & Lighting Committee:** Jack Jones was on this committee and needs to be replaced. A member of the Planning Commission is required to be on the committee. Wonnacott volunteered. Scott made a motion to appoint Wonnacott to the Sign & Lighting Committee. The motion was supported by Desy and passed unanimously by voice vote of the members present.

- **Review By-laws:** Doernenburg stated that she needs to meet with Civil Counsel to discuss the bylaws as there seems to be some discrepancies between them and the Planning Commission Ordinance adopted by the Board of Commissioners. One thing that will be changed is the section regarding appointments to the Planning Commission. This is detailed in the Planning Commission Ordinance and does not need to be in the bylaws. She asked for any further suggestions on changes. Eby would like the following changes made:
  1. Article II, Section 3: remove
  2. Article VII, Section 2: add "or otherwise unable to perform duties of the Chair."
  3. Article VII, Section 3: add: "be assigned Chair duties if the Chair and Vice-Chair are absent"
  4. Article XI: Add 'general public comment' after new business. See if 'public hearings' can be clarified as all of our cases are public hearings.

- **Enforcement Report:** Distributed, there was some discussion.

- **ZBA Text Amendment:** Doernenburg distributed a proposed text amendment for the ZBA. The Zoning Enabling Act allows the ZBA to have an alternate member if allowed for by the Zoning Ordinance. Frequently during the winter there is a member on the ZBA who is absent for a few months at a time. The text amendment would allow an alternate to be appointed to fill in that spot when needed. Scott made a motion, supported by Alexander to authorize this text amendment to be advertised. The motion passed unanimously by voice vote of the members present.

- **ZOAC:** Doernenburg explained that the consultant is in the process of reformatting the ordinance which was one of Kurt Schindler's recommendations during his review. She would like some guidance and would like to have the ZOAC meet for a few months to review the proposed changes. The committee will meet on February 7, 2013 at 5:30 p.m. in the Board of Commissioners room prior to the Planning Commission meeting.

### VI Adjournment

There being no other business, and no additional public comment, Eby called the meeting adjourned at 8:20 p.m.

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James Scott, Secretary        Date