EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING MINUTES
THURSDAY NOVEMBER 3, 2011
7:30 P.M.
COMMISSIONER'S ROOM
EMMET COUNTY BUILDING
200 DIVISION STREET
PETOSKEY, MI 49770

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

MEMBERS ABSENT: None

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.

II  Minutes of October 6, 2011
Alexander made a motion, supported by Plasencia, to approve the minutes of the October 6, 2011 meeting as presented. The motion passed by a unanimous voice vote.

III  Cases

1. Case #14-11 Emmet County Planning Commission, TEXT AMENDMENT-
Section 801-6 (Portable & Temporary uses-including mining operations)

Packet Information: Draft language

This case was moved to the end of the agenda to allow other cases with interested public present to be reviewed sooner.

Doernenburg explained that civil counsel looked at the proposed text and came up with the draft that is up for review tonight. Mining was removed all together from this section. MDC was contacted in regards to the specific terms. After discussion regarding the potential confusion of the term 'solid waste processing equipment', it was decided to remove that term from the text altogether.

Laughbaum asked about the requirement to restore site to equal or better condition within 90 days. If a project went late into the year this could be an issue.

The following text was distributed and displayed for review:
Portable and temporary uses, including hot and cold mix asphalt plants, ready-mix concrete plants, solid waste processing equipment, and similar uses, may be operated in any FF-1 or FF-2 District with a Permit; provided that: (1) the use serves a specific project in the vicinity; (2) the use is active for a period of less than ninety (90) days on any one parcel; (3) the use is not nearer than 300 feet from any off premises dwelling; (4) the use complies with applicable State and Federal laws, rules, and regulations, including, but not limited to, those governing pollution control and environmental
protection; and (5) within ninety (90) days after the use ceases to be active, the site is restored to a condition equal to or better than that which existed prior to the use.

Scott made a motion to recommend approval to the Emmet County Board of Commissioners the draft text that was reviewed by civil counsel. The term 'solid waste processing equipment' will be removed. The purpose of the text amendment is to clarify the intent of the provision. The text has been reviewed at duly noticed public hearings of the Planning Commission. The motion was supported by Neal and passed on the following roll-call vote: Yes: Eby, Neal, Jones, Scott, Hramiec, Laughbaum, Desy, Plasencia, Alexander. No: None.

2.  Case #27B-10  Craig Rapin, SPECIAL USE PERMIT-On site wind-energy system over 60', 5322 Hill Road, Section 1, Cross Village Township

Legal Notice: A request by Craig Rapin for a Special Use Permit for an On-Site Wind Energy System over Sixty Feet at 5322 Hill Road, Section 1, Cross Village Township. The property is zoned FF-2 Farm and Forest and is tax parcel 24-05-08-01-300-01. The request is to allow a WES 140' in height per Emmet County Zoning Ordinance Section 2102-16. The request includes tax parcels: 24-05-08-01-300-008 owned by Craig & Mary Rapin; 24-05-08-01-300-010 - 5494 Hill Rd, owned by Mark Rosalik; 24-05-08-01-300-012 - owned by Christa-Maria and Christine Hahn; and 24-05-08-02-400-002 - 5539 Hill Rd owned by David Trautman. All parcels are to be reviewed as a zoning lot for the purposes of this request. The request is per Section 2102-16 of the Zoning Ordinance.

Packet Information: Request & location map, tax parcel map, zoning lot map, application, 10/15/11 site plan, supplemental information from Lake Effect Energy. Turbine sound controller information, zoning lot agreements, 10/10/11 letter from Suzanne Duval, zoning evaluation.
Passed out at meeting: 10/31/11 letter from Tom Graham, 11/2/11 email from Gene Reck re: Township meeting

Doernenburg presented this case explaining that the tower is the same 140' tower as was proposed in 2010. Since then, the dB level was reviewed and denied by the Zoning Board of Appeals. The modifications to the current case include 1) a proposed mechanism that shuts the turbine down if the 35dB level is exceeded at the property line and 2) a zoning lot that has been created by easement agreements signed by surrounding property owners. There has been one letter of support received as well as one letter of opposition. The proposed tower meets the required setbacks. Cross Village Township recommended approval 4-1. According to the plans provided for the Northwind Measurement turbine sound controller, it will be placed 700-800' from the tower. Doernenburg showed a map prepared for the ZBA case that showed where the required distances to meet the 35dB levels would be. She added that she is concerned about how far away the sound controller is proposed to be from the tower. 799' would be required to meet the dB levels. If the mechanics work, with that and the zoning lot, all other requirements seem to have been met. Photos of the site and the site plan were shown. Additional information was handed out by applicant showing the comparison in dB levels, ambient sound, and wind speeds.

Tom Gallery from Northwind Measurement was present. He stated that he does shadow flicker and noise studies. Half of his work is with wind farms and the other half with home systems. He was contacted by Chris Stahl to try to come up with a way to shut down the turbine if it reaches the 35dB levels. Gallery explained the chart that was passed out. It shows both day and night time ambient noise as well as the dBA at different distances compared to windspeed. As the wind increases, the sound goes up. He explained that sound tests are done to an international standard. The test results for this model were looked at and he did a comparison based on the distances and wind speed to come up
with the chart. Gallery stated that this is the quietest machine he has ever seen data on. The problem is that somehow a system has to be developed to differentiate between ambient and turbine noise. The diagram of the proposed system was discussed. There would be a receptor sound meter placed about 100' away from the turbine. A reference meter would be placed 500-700' away from the turbine which would measure ambient sound. Because both turbine noise and ambient sound are collected, the sounds are averaged. When the difference reaches a certain measurement, the turbine would be shut down. Gallery stressed that there will have to be some human interaction with this system. There has to be a place of interest in which someone will have to say they can hear the turbine and set the receptors accordingly. Gallery stated that he is not sure that you'd be able to hear any of the turbine noise over the ambient sound at these locations.

Plasencia asked some questions about the chart. Are the measurements actual to this site? Gallery stated that he has not measured this exact site but based his numbers off of sites that are topographically similar. The background sound level tests were done on this actual machine. It always is there and always increases with wind speed.

Alexander discussed the difference between ambient noise of crickets, leaves, etc with the noise of a turbine. The issue is with the type of noise, high frequency vs. low frequency noise. Low doesn't seem to dissipate and is felt rather than heard. Gallery replied that this is correct when discussing commercial turbines. There is a low frequency swishing noise with those turbines. The Mackinaw City commercial turbines are probably about 20dB louder than the machine that we are discussing. Gallery stated that there is a big difference between machines. Smaller machines such as this one have higher rotor speeds so the sound frequency is higher; 56rpm vs. 20rpm for the larger machines. Low frequency sounds don't exist much in the smaller machines. You can pick up the swishing sounds. The drive train in this machine was very clean in tests, there were no resonances in the tower.

Doernenburg asked Gallery if based on the data he reviewed and this site if he thinks the sound will dissipate from the tower to the west property. Gallery stated that at 300-400' you'd have to work at hearing the tower. The turbine will also be in a different wind regime than the ground level ambient noise. It shouldn't make that much difference on this machine. At 400' you'd be hard pressed to hear it under most conditions. The sound controller machine can be used to determine if the sound is an issue.

Laughbaum asked if we look at air movement as a stream, does sound tend to go 'downstream'? Gallery replied that all tests are assumed downwind. There is a 10-20 dB difference upwind vs. downwind. At these distances there would be no difference.

Scott asked what the closest distance to the property line of a property not included in the zoning lot. About 300' to the closest property to the west. Scott stated that he is worried about the testing. Should it be set by wind speed rather than using the proposed monitors? It seems that may be more reliable. If we are actually concerned about setting a dB level we have to have a way to control it. Wind speed wouldn't rely on ambient noise. Gallery noted that the plan is to have both the reference and receptor unit the same distance from the road so that the traffic sounds wouldn't confuse the system. Neal asked about the sample times. Gallery stated that they can be changed; he has found that five second sampling can be the same results as one second sampling.
Alexander stated that he likes what he sees but feels that more neighbors should be convinced. Laughbaum asked what the county will be able to do to test this. Doernenburg stated that at this point there is not a wind energy system to test so there is no equipment to do so. Neal asked what would be needed to do so. Gallery stated that a type 2 meter can be used and would require calibration and maintenance. The data needs to be logged and reviewed to be accurate or of use. Gallery stated that dBA matches human hearing. In many cases you can't separate the ambient or turbine sound; it will be very difficult to assess the differences. The data shows that this machine is so far away from being an issue; the machine is not a problem. Neal asked about maintenance and how this plays into noise. Gallery stated that this is a very well made Danish machine. Chris Stahl stated that it calls for yearly maintenance. Gallery added that there is an automatic shutdown built in if any vibration is sensed in the gear box.

The applicant, Craig Rapin pointed out that all of their neighbors are in favor of this project except one. That person does not have a residence on their property. There is 500' to the closest residence. If the wind speed is 28mph there would be 42.5dB at the property line. The opinions in the two letters seem that if the turbine doesn't meet the ordinance it shouldn't be installed. Rapin stated that he doesn't want to harm the neighbors. He could shut down the turbine based on wind speed. Stahl noted that ambient sounds with a 28mph wind will outdo the turbine noise. Gallery added that snow will buffer some noises as well. Rapin stated that they would be willing to shut down the turbine between 11pm and 6am and this could be done automatically with the sensors if there is an issue with nighttime noise.

Doernenburg noted that the property owner has to address any issues if there are complaints. Desy asked about the difference between the ambient and turbine noises; how this will be determined and enforced? Doernenburg stated that a violation would have to be determined. Rapin stated that they as property owners would take a neighbor's word for it if they complained and would be willing to shut down the turbine for a week to try to determine if it is actual turbine noise or wind noise that was the issue. Jones noted that just because this is agreed to now, property owners can change for the future and any rules would remain for future owners. Alexander noted that there was a long complaint process for the turbines in Mackinaw City. It took years to determine the low frequency noise issues. Neal noted that the ordinance dB level is an actual measurement. The type of noise is more of a personal level or opinion. Doernenburg stated that the lower dB was established because we knew of the issues with low frequency noise at the time the ordinance was written.

Eby opened the floor to public comment.

Zach Luheiller stated that he met with the land owner to the north to talk about the project. That owner told him that he defers decision making to the planning commission because it is not his job to make the decision.

Hramiec stated that the letter from 10/27/11 states that the request should be denied. When the case was reviewed last year, the biggest hurdle that he had was this one property owner. There seems to be something of an impasse. The most recent letter reiterates his previous points and brings up other issues. Hramiec added that the fact that there is not a house there now is irrelevant; the owner could build tomorrow. The debate is not wind energy, it is the ordinance standards. Eby stated that the letter assumes that the tower doesn't meet the ordinance standards. The applicant wants us to believe that it
does. Doernenburg added that the height can be up to 199' as a special use permit if they meet the dB standards.

Neal asked if the ordinance is capable of using subjectivity as a measurement or purely a dB level number? Can you walk out to the property and determine this? Doernenburg stated that the county would probably have to hire someone to do this. She read the ordinance standards.

Desy asked what does the noise do to wildlife, does the underlying noise affect them? Gallery stated that he doesn't know of any studies that relate to this scientifically. Any noise over 2,000-3,000 hertz dissipates very quickly due to the high frequency. The turbine doesn't produce the low frequency—it is all within human hearing levels.

Neal asked the applicant how much it would cost to remove if it is determined to clearly be in violation of the ordinance. Stahl stated that it would be about $5,400.00 to remove.

Joseph Sullivan read from the ordinance in regards to vibrations. He stated that the language is subjective to human perception. What objective data can be used? If a person is opposed to the project, what is stopping them from saying that they can feel vibrations and have issues with it? Hramiec stated that if health problems occur due to those vibrations this can be scientifically proven.

Kevin Larson asked if experts were spoken to before the ordinance was adopted. Perhaps the ordinance was written prior to all of the information being received? Eby stated that this ordinance was adopted after a very long process and many expert opinions from both Europe and the United States were used.

Alexander stated that the applicant's have previously stated that it would not be fiscally feasible to relocate the tower on their property in order to meet the dB levels. It could be physically done. He feels that the one opposed neighbor should be on board with the project in order to not be an issue.

Eby stated that we need to determine if this request meets the ordinance standards as proposed. An uninterested part needs to look at this objectively to see if they feel that it will work as stated. Neal stated that the project should be bonded to deal with issues and potential removal of the system if necessary. Jones stated that the applicant should pay for the review. Eby stated that we need to be reasonably sure that the system will work. Laughbaum stated that he thinks that the dB level is too low, these issues would go away at 45dB. The applicants have a good plan if it works. He doesn't see the county going out and being able to check on all of this, why spend money to see if their system works? This is FF-1 property, tractors are much louder at 85-90dB. They should be able to build the system but still feels that he cannot vote in favor on this as proposed.

Doernenburg stated that the county has an engineering firm on retainer. The County Controller could be consulted to see what can be done.

Jones made a motion to defer this case to allow time to consult with the Board of Commissioners and the engineering expert. The motion was supported by Plasencia and passed by a voice vote with one in opposition (Neal).
3. Case #17-11  Curtis Regentin, SPECIAL USE PERMIT-Personal tower over 50', 8525 W. Stutsmanville Road, Section 19, Friendship Township

Legal Notice: A request by Curtis Regentin for a Special Use Permit for a personal internet tower on property located at 8525 W. Stutsmanville Road, Section 19, Friendship Township. The property is zoned FF-2 Farm and Forest and is tax parcel number 24-06-12-19-100-004. The request is to erect a 70' high guyed tower for internet reception per Section 2102-2C) of the Zoning Ordinance.

Packet Information: Request & location map, tax parcel map, application, site plan, impact statement, site plan review checklist, zoning evaluation, Friendship Township PC minutes, letter from Richard & Patricia Hawkins

Salar presented this case. The parcel is located south of West Stutsmanville Road in FF-2 zone. There is a residence on the lot. Photos were show to illustrate the screening of the property. The proposal is for a 70' tower for personal internet. The tower and proposed 50' guyed wires meet the setback requirements. One letter of concern was received in regards to the personal nature of the tower. The township recommended approval.

The applicant, Curtis Regentin, stated that he actually would like to move the tower about 25' more towards the center of his property and would like up to 100' tower. The trees are considerably larger and taller than he previously thought and the tower needs to be slightly above the trees for signal. He would like to avoid cutting trees.

Jones stated that the maximum height of most trees in this area is 85’. Hramiec asked how high the applicant would like the tower to get the signal. Regentin stated that they need to be above the tree level but he doesn't know exactly how high the trees are. Laughbaum stated that the trees could be topped if he didn't want to cut them down. Regentin stated that he hasn't settled on a provider or equipment yet. The trees are slightly shorter on the west side of the property so moving the tower in helps with that. A new site plan was passed out that illustrates that change. Laughbaum asked if there is an elevation change on the property. Regentin replied that there isn't much change.

There was discussion about the change in height request. The board felt that increasing the height to 100’ without further notification or township review was too much. 85’ they felt was an insignificant change in the request. Neal stated that he doesn't feel that the applicant knows what height he needs.

A letter of concern had been received which related to the tower being used for personal internet. Regentin asked what the difference would be if he allowed others to use it as well. He also noted that the FCC regulations state that local authorities will review in regards to safety issues only. Doernenburg stated that it was advertised as a private tower.

There was no public comment on this case.

Scott made a motion to approve Case #17-11, Curtis Regentin for a Special Use Permit for a tower to provide internet communication for personal use at 8525 W. Stutsmanville Rd. in Section 19, Friendship Township, tax parcel 24-06-12-19-100-004, as shown on the site plan because the tower is screened from public view, the tower meets the fall zone requirement, and the tower will not be lit. The tower will be a maximum of 85’ in height and will be moved an additional 25’ toward the center.
of the site as per the site plan dated "Received Nov 3, 2011". The motion was supported by Neal and passed on the following roll-call vote: Yes: Eby, Neal, Jones, Scott, Hramiec, Laughbaum, Desy, Plasencia. No: Alexander.

4. Case #229D-98 Sue Engle for Friendship Centers of Emmet County, PUD-1
Amendment-Perimeter Setback, 1322 Anderson Road, Section 7, Bear Creek Township

Legal Notice: A request by Sue Engle, Executive Director of the Friendship Centers of Emmet County, for a Modification to a Mixed Use Planned Unit Development-1 (PUD-1), to allow a parking lot to be located within the front/perimeter setback of the PUD at 1322 Anderson Road, Section 7, Bear Creek Township. The property is tax parcel 24-01-07-150-025 and is zoned R-2B General Residential with a Mixed-Use PUD-1 overlay. The request is to allow parking up to ten feet from the front property line per Section 1805-8 of the Zoning Ordinance.

Packet Information: Request & location map, tax parcel map, application, site plan, site pictures, zoning evaluation, letter from Lucy Eppler/Marion Cowan, Bear Creek Township PC minutes.

Salar presented this case. The total PUD is 35 acres. The area in question is 5 acres. The request is to allow overflow parking within the 50' perimeter setback. The parking exists now. The aerials from 2004 and 2008 were shown to illustrate that a building previously sat in this area and has since been removed. Bear Creek Township Planning Commission has recommended denial. Photos were shown of the parking area. There is a 10’ green area and a non-motorized trail through the property.

Jones stated that they would be losing five parking spots however, if these spots are full, maneuvering cars is very difficult. Jones stated that the parking lot was pretty full when he was there but these spaces were empty.

Sue Engle, the applicant, stated that there was a small building in this location for years. It was part of the PUD agreement to remove the building. People on the Board of Directors have come and went and the current board didn't know that the PUD was being violated. Engle stated that the parking looks closer to Anderson Road due to the non-motorized trail running between the parking area and the road. There used to be a lot of lawn there which was torn up when the bike trail went in. The parking spots are not offensive and don't look bad. Engle stated that she was quite surprised when she got the phone call regarding the violation. She does not want to use the senior millage money to tear up parking spaces.

Doernenburg stated that this case is here as a result of an enforcement issue. The Planning Commission will be recommending to the Board of Commissioners due to this being a PUD amendment request. Hramiec asked about the letter from Lucy Eppler/Marion Cowan that was in the packets. Doernenburg stated that it seemed from the wording of the letter that they thought there was additional parking being requested. Their property is to the north of this parcel. Laughbaum asked if there is room for parking in the back. Engle stated that there is some parking near the bus garage but the busses are large, the staff parks there, and the large delivery trucks deliver in that area. She doesn't see how parking could be added in that location. Jones noted that the parking is encroaching 40' into the 50' perimeter setback. Laughbaum stated that they should be the first to follow regulations if they are utilizing taxpayer money. Eby stated that due to the nature of the business, it seems that parking should be closer to the building. Jones noted that the applicant had discussed a potential future expansion at the Bear Creek Township meeting; where would parking for that go? Engle stated that
they would like to expand some of the areas of the building but wouldn't necessarily need more parking. Desy stated that this is overflow parking. He would like to keep the PUD intact and keep the greenbelt area along the road. These were also the issues at Bear Creek Township.

Jones made a motion to recommend to the Emmet County Board of Commissioners denial of Case #229D-98, Friendship Centers of Emmet County for a Mixed Use Planned Unit Development-1 (PUD-1) perimeter setback modification to allow the overflow parking area to remain at 1322 Anderson Road, Section 7, Bear Creek Township for the following reasons: the parking doesn't meet ordinance standards, Bear Creek township has recommended denial, and because other feasible alternatives exist. The motion was supported by Desy and passed on the following roll-call vote: Yes: Eby, Neal, Jones, Scott, Hramiec, Laughbaum, Desy, Plasencia, Alexander. No: None.

5. Case #19-11 Caesar Citraro, SPECIAL USE PERMIT-Home Occupation, 3938 Northview Drive, Section 35, Bear Creek Township

Legal Notice: A request by Caesar Citraro for a Special Use Permit for a Home Occupation to operate a fine art studio at 3938 Northview Drive, Section 35 of Bear Creek Township. The property is zoned R-1A One Family Residential and is tax parcel 24-01-16-35-100-013. The request is to operate a fine art studio per Section 2102-12 of the Zoning Ordinance.

Packet Information: Request & location map, tax parcel map, application, impact statement, home occupation plan, 10/7/11 plans, zoning evaluation, statute information, revised floor plan, Bear Creek Township PC minutes
Passed out at meeting: 11/2/11 letter from William Steffel, BC Building Official

Salar presented this case. The parcel is zoned R-1A. The proposal is for a home occupation for an artist's studio to be located in a proposed addition to the residence. The addition meets the setback requirements and is proposed to be connected to the residence with a pergola structure. The township deferred the decision to the county. The site plan, floor plan, and elevations were shown. The Bear Creek Township building official does not consider these one building. The floor plan has been modified since the township meeting to designate 600sf of space to be used for the home occupation as per the ordinance. There may be some classes taught in this studio as well.

The applicant, Caesar Citraro, stated that he wants to build a fine arts studio. He introduced his builder, Trevor Doublestein, who explained that he has met with Doernenburg to alter the floor plan and confirm the 600sf area of the addition which will be used for the home occupation. The rest of the building will be for personal use and storage. Citraro stated that there will be a very small amount of people for lessons (2-3). He is not trying to take away from the residential feel of the neighborhood. He has met with adjacent neighbors on their street and they are supportive. He is trying to give something to the community.

Jones asked about the classes-how many students? Citraro stated that he doesn't have the room now to have people come and take lessons or watch him paint. He wanted to have total transparency and honesty which is why he is here. He has had maybe 5-10 people a week for a few hours a day watch him paint. Citraro stated that he is not opening up an auto parts store and is not trying to expand into a disruption. There would only be people there occasionally. Jones stated that parking would be a limiting factor. Citraro stated that the parking pad that they have can accommodate 3-5 cars and others if parked in the driveway couldn't be seen from the road. He noted that if he does have a larger group he typically takes them somewhere outside to a different location all together. Doublestein stated that
these are more private lessons, like piano lessons.

Citraro added that the people he spoke with along Northview Drive are supportive. He went door to door to his neighbors. There is someone in the audience that has some concerns that lives beyond his street but within the neighborhood. Eby asked if there would be any retail sales. Citraro stated that he will not be selling from the home, will not have any signs, and will have very contained activity. He noted that holiday company would be more of a distraction to the neighborhood than what he is doing. He wants to keep it beautiful. The pergola was originally to connect the buildings but now he likes the design and would like to keep it. Neal asked about the attachment issue. Doernenburg explained that because 600sf was designated, it is a non-issue now.

Eby opened the floor to public comment.

Karla Buckmaster stated that she lives in the neighborhood on the next road down. The property has deed restrictions on it that prohibits businesses. She stated that she knows that this cannot be considered by this board but it is frustrating to her. When students and people are being brought in, it becomes a business. Buckmaster stated that it cannot be compared to a party on the street or holiday company. She stated that this board can place restrictions on the use. She finds it frustrating that when a home occupation is approved it runs with the land. There is a home occupation right next door. At what point does this turn into a business district rather than a residential district?

Kirk Rose stated that his brother built the house. There is a lot of room for car parking. The pergola adds to the look of the residence. Honesty should be welcomed and it looks nice.

Karla Buckmaster stated that she does not see how five cars could fit as the applicant claims. She stated that the design is beautiful. The proposed addition is 900sf. The ordinance states that unless attached to the house, the home occupation can only be 600sf. Now the applicant is saying that they will only use 600sf of the space. This is how businesses have progressed.

Citraro stated that he understands the neighbor's concerns. He wants the neighbors to be happy and is not trying to hurt anyone. He is ok with setting limits on the use.

Doernenburg noted that the zoning enabling act states that an artist studio is an allowed use in a single family residence. Restrictions are allowed to be placed on the approval.

Desy made a motion to approve Case #19-11, Caesar Citraro for a Special Use Permit for a home occupation artist studio at 3938 Northview Dr. in Section 35, Bear Creek Township, tax parcel 24-01-16-35-100-013, as shown on the site plan dated Received October 7, 2011 because of the facts presented in the case and the plan meets the standards of Section 2102-12 of the Zoning Ordinance, the architectural style of the addition is comparable with the exiting home, and there will be no off-premises people employed in connection with the home occupation and on the condition that any outside vehicles from art lessons are limited to existing on-site parking, there will be no signage, and that the applicant agrees to allow the Zoning Administrator to verify the 600sf space limit for home occupation use prior to a certificate of occupancy being signed. The motion was supported by Jones and passed on the following roll-call vote: Yes: Eby, Neal, Jones, Scott, Laughbaum, Desy, Plasencia,
Alexander.  No: Hramiec.

Hramiec stated that he voted no because he felt that the township should look at it again.

6.  Case #PS-25-11  Nicholas Spadafore for Biggby Coffee, SPECIAL USE PERMIT-Sign Exception, 1201 Lear Road, Section 18, Bear Creek Township

Legal Notice:  A request by Nicholas Spadafore for Biggby Coffee for a Special Use Permit for a Sign Exception at the Meijer store located at 1201 Lear Road, Section 18, Bear Creek Township.  The property is zoned B-2 General Business with a PUD-1 overlay and is tax parcel number 24-01-19-200-063.  The request is per Section 2207 of the Zoning Ordinance.

Packet Information: Request & location map, tax parcel map, application, sign specs, zoning evaluation

Doernenburg presented this case.  Biggby Coffee is located in the Meijer building.  The sign in question exists unlit.  The proposal is to internally illuminate the sign.  This request would normally just go to the Sign & Lighting Committee but the color scheme is the opposite of the ordinance standards for illuminated signs; light background with dark letters.  Sign and Lighting has not reviewed this request as they applied prior to their meeting.  The property has previously been approved for sign exceptions to allow more and larger signs than allowed.  The proposed sign was shown as well as the approved sign plan for Meijer.  The 'fresh' and 'home' signs for Meijer were not allowed to be illuminated but are fairly large compared to the Biggby Coffee sign.  The original elevation graphics and photos were shown.  Current photos of the Biggby Coffee sign were displayed; one of the photos were taken in the early morning before light and shows a can light in the soffit above that seems to illuminate the sign now.

Nicholas Spadafore, the applicant, stated that the can light does do the sign some justice.  The sign was installed with the intent to light it on its own.  He doesn't feel that this would cause anymore hinderence than the existing Meijer lighting.

Laughbaum asked if the can light will remain if the sign is illuminated.  It is a Meijer light and Biggby Coffee doesn't have a say in it.  Alexander asked if they could change the background of the sign to conform to the ordinance standards.  Spadafore stated that it is a corporate sign and they wouldn't change it.  Hramiec asked about the hair salon in Meijer.  Where is their signage?  They have interior signs only.  Jones stated that the Sign & Lighting Committee has worked hard over the years to keep the dark background with light lettering standards.  Corporations have said they can't comply and have.  Spadafore stated that they would probably not change the sign as it is their logo.  He could approach them to see if they would change the sign but he would have to pay for the new sign which is something that as a small businessman, he would not want to do.  Hramiec stated that we should do what we can to support businesses.  Alexander stated that it is the applicant's responsibility to know the ordinance.  There are options and there is lighting on the sign now.  Plasencia stated that the light pollution is a big concern in the county and the ordinance standards should be adhered to.  Laughbaum stated that he doesn't agree-there should be give and take.

Jones made a motion to deny Case #PS-25-11, Biggby Coffee for a Special Use Permit to allow an Illuminated Sign per Section 2207-7 of the Zoning Ordinance for the sign plans dated received 10/10/11 at 1201 Lear Road, Section 18, Bear Creek Township for the following reasons: the sign background coloring does not meet the standards of the ordinance and there are other options available.  The motion
was supported by Plasencia and passed on the following roll-call vote: Yes: Eby, Jones, Scott, Desy, Plasencia, Alexander. No: Neal, Hramiec, Laughbaum.

7. Case #20-11 Louis Hankey Trust, REZONE B-1 to B-2, N US 31 HWY, Sections 24, 25, 26, Bear Creek Township


Packet Information: Request & location map, tax parcel map, application, property owner's signature pages, current zoning map, zoning evaluation, Bear Creek Township PC minutes.
Passed out at meeting: Comparison of uses chart

Doernenburg presented this case. The proposal is to rezone from B-1 to B-2 twelve parcels on the northwest side of US 31 starting at the Northern Wholesale Trailer property and up to the R-2B zoning district. There are four parcels that are skipped in this request. I-1 zoning exists across the highway. The uses allowed in B2 are also allowed in I-1. The Master Plan shows the parcels as commercial. Bear Creek Township recommended approval but asked staff to re-advertise to include the four parcels that were not included in this request. The comparison of uses between B-1 and B-2 were shown and discussed.

Jack VanTreese, representative for the applicants, stated that they contacted every owner that they could. One of the four parcels is owned by Little Traverse Conservancy and their policy is to not do anything regarding zoning. Another parcel didn't return correspondence. VanTreese stated that he hasn't been able to get a hold of anyone at the church. The final property is a 20' strip of property. The owner was not able to be contacted there either.

Doernenburg explained that an applicant cannot bring in an application for parcels that property owners have not signed. The Planning Commission can authorize a rezoning request without the property owners' permission. The policy on a rezoning case is to review over two meetings.

Desy stated that he doesn't know of anyone that will complain about increasing the usage on their property. Hramiec stated that the surrounding neighbors opinions also need to be considered. He would feel more comfortable having an owner's ok.

Kirk Rose of Hearthside Grove stated that their residents are mainly concerned about the type of business that may be across from them. Specifically, they are concerned with a bar/tavern type use or a sexually oriented business. This is not something that they would like to see there. Doernenburg stated that a sexually oriented business could not go in that area because they are within 500' of a residential boundary. VanTreese stated that a Wal-Mart type use could go into a B-1 zone which is what these properties are zoned now. Hramiec asked about the selection of properties-why these ones?
VanTreese stated that they started at the Northern Wholesale Trailer property and continued up to the R-2B property. They could stop before the church. There is one parcel in which the proposed buyer would like to utilize for motorcycle repair (old Park's funeral home) and this cannot be done in a B-1 zone.

Jones made a motion supported by Alexander to allow staff to re-advertise to include the four parcels that were not included in this request. The motion passed on by unanimous voice vote.

IV Public Comment:
Karla Buckmaster stated that Doernenburg has been very helpful answering questions that she has had. Now that we know that the zoning ordinance is in violation regarding the home occupation section, what is the plan? Doernenburg stated that civil counsel has instructed the language referring to cases being determined on individual merit be removed. A home occupation cannot be dissolved with a property owner change. We have the option to wait and make the change when the ordinance is changed or advertise for the change now. After discussion, it was decided that as long as that language isn't acted upon, we can wait for the ordinance to be changed.

V Other Business:

- **Brutus:** There was some discussion regarding a potential change to the PUD in Brutus. The owner has proposed a convenience store to be located in the old post office building. It seems that the PUD needs to be changed in this area. The community will probably support this use. Eby would like some direction from this board. The future land use map shows mixed use in that area. After discussion it seems that the applicant should bring in his plans to see what he wants to do for sure.
- **Training:** Doernenburg offered a training session for the 'New Economy' to anyone interested.
- **Enforcement Report:** Distributed, no discussion.

VI Adjournment

There being no other business, and no additional public comment, Eby called the meeting adjourned at 10:40 p.m.

________________________  __________________________
James Scott, Secretary        Date