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

II Minutes of October 3, 2013
Desy made a motion supported by Neal to approve the minutes of the October 3, 2013 meeting as presented. The motion passed unanimously by voice vote of the members present.

III Cases
1. Case #3B-88 Henry Schneider for Petoskey 31 Properties LLC, SITE PLAN REVIEW-Amendment, 1192 & 1194 N US 31 Hwy, Section 33, Bear Creek Township

Legal Notice: A request by Henry Schneider for Petoskey 31 Properties LLC for site plan review amendment on the properties located at 1192 and 1194 US 31 N Hwy, Section 33, Bear Creek Township. The property is zoned B-2 General Business and includes tax parcels 24-01-16-33-200-013 and 014. The request is to amend the site plan to allow a second restaurant on the property per Sections 1000-6 & 2405 of the Zoning Ordinance.

Packet items: 10/21/13 updated zoning evaluation, 10/18/13 site plan & renderings, 10/25/13 Fire Dept letter
Passed out at meeting or emailed: 11/1/13 revised plan, Bear Creek Twp minutes, 11/4/13 updated zoning evaluation, 11/1/13 memo from Benchmark

Doernenburg presented this case noting that although it has been on the agenda before, this is the first thorough review by the Emmet County Planning Commission. The property location was shown. This request encompasses two parcels on the south side of US 31 Hwy; the China Buffet property and the former Alfie's Attic property. The zoning is B-2. There is an existing restaurant with an unused drive-thru on one parcel. This proposal would combine the two parcels. Doernenburg explained that the original plans showed a proposal for two separate restaurant buildings. Bear Creek Planning Commission reviewed this proposal and had concerns with safety and traffic flow and also wanted one building. The applicant modified the plan in September, addressing the township's concerns but keeping two buildings and requesting retail use. This plan was again modified and reviewed by Bear Creek Township Planning Commission who requested modifications. The most current plan dated November 1, 2013 incorporates the modifications requested at the October 30, 2013 Bear Creek Township meeting in which they recommended approval to their Board. The changes made to the plan include changes to modify Fire Department access; modifying curbs and increasing driveway width on the east side of building, landscaping added to prevent pedestrian traffic across the drive-thru lane, removed parking on east side of
building (deferred), entrance/exit is one way traffic which eliminates one access point which is in-line with the County Access Management plan. There is also a connector between the McDonald's property and this property and a future connection to the Side Door Saloon property. The dumpster location is now at the east side of the parking lot. Two spaces have been added for people to wait for food at the drive-thru or to drop people off. Doernenburg explained that the Bear Creek Planning Commission unanimously recommended approval to the township Board. When the Board reviewed the plan, the vote to approve failed 3-2. Their Board then recommended sending the plan back to the township Planning Commission for additional review. That vote passed 4-1. Doernenburg noted though that since then, two members have contacted her and stated that they would have allowed the plan to move on after further research. She stated that because the plan has been reviewed and revised, she recommends moving forward with the review. Elevation renderings and photos of the site were shown along with the latest site plan.

Jessica Moore and Bryan Nolan were present for the applicant. Moore stated that they have done their best to meet the ordinance standards and changing things on the site to satisfy the township and for safety. Everyone seemed satisfied after the township Planning Commission meeting. Once it was clear that they wanted a single building, things moved forward quickly.

Plasencia asked that signs showing one way or do not enter be placed at the entrance. Moore showed a location at the northwest corner that would be a good location for this signage and would be easy to do. He added that signs and pavement markings should be added for the pedestrian crossings as well. Doernenburg stated that was discussed at the township level as well and could be a condition. Alexander asked that the township votes be clarified. Notestine stated that the township board was concerned about people crossing the drive-thru lanes. He stated that he was somewhat surprised that they wanted to send it back for review. The applicant has complied with all requests and he doesn't see holding it up any longer.

Desy made a motion to approve Case #3B-88, Henry Schneider, Site Plan Review - amendment to add a restaurant with drive-thru at 1194 N US 31 Hwy located within Section 33, Bear Creek Township, as identified on the Site Plan dated Nov 1, 2013 for the following reasons: based on the facts presented in the case, the restaurant use is a Principal Use Permitted in the B-2 Zoning District, the parking meets the standards of the Ordinance with 6 spaces deferred to provide a wider maneuvering lane on the east side of the building, landscaping meets the standards of the Ordinance, and the Site Plan meets the standards of Section 2405. Approval is on condition that signage is permitted as allowed in the B-2 zoning district and additional review is required when details become available, that a Performance Guarantee in the amount of $17,000 is in place prior to issuance of a zoning permit and that an as-built drainage plan which meets the requirements of Section 2405 be provided prior to occupancy, and on condition that the building mounted lighting be full cut-off and reviewed as required by the Zoning Ordinance and the new parking lot is to be a paved surface, additional one way signage shall be installed at the entrance driveway on the northwest side of the building, pedestrian crossings shall be clearly identified both near the drive-thru and also near the dumpster locations on the east side, and because Bear Creek Township Planning Commission recommended approval. The motion was supported by Notestine and passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Scott, Wonnacott, Desy, Plasencia, Alexander. No: None. Absent: Laughbaum.


Legal notice: A request by Ernest Spierling for a Special Use Permit for a Level III Resource Mining and Extraction operation to be located on the east side of US-31 at the end of Litzner Rd., Section 35, T38N-R4W, Carp Lake Township. The property is zoned FF-2 Farm Forest. The use is proposed on approximately 20 acres of tax parcel numbers 24-03-06-35-100-005,100-006 & 100-009. The review is per Section 2102-10 of the Emmet County Zoning Ordinance.
Doernenburg presented this case. The case was last month. The revised plan from the applicant was received November 5 was distributed. The project consists of three parcels, totaling approximately twenty acres which is located approximately 1000' from another mining operation. Level III mining is a special use in the FF-2 zoning district. The original approval for the operation was from 1998 and was a Level II approval. The originally approved plan was shown as well as an aerial showing the current activity. Photos of the building and site were shown. There is an existing pond and stockpiles on the property. The revised plan submitted doesn't appear to be to scale. There are measurements listed on the plan and using those, staff made an approximation overlaid on an aerial photo to show the extent of the operation. A letter was sent along with examples of professionally drawn plans to show what the ordinance requires. What was passed out tonight was what was provided in response to that information. Doernenburg also added that the township had recommended approval in an email sent last month prior to the meeting.

Mr. Spierling was present and stated that the north area is 95' and has a one on two slope now. It will have a one on three slope. This portion of the site is how it was when he bought it.

Eby asked if the staff drawing could be attached to the applicant's latest plan to give a better perspective. There are dimensions noted on the site plan. Treeline to treeline would be easier to enforce. Mr. Spierling stated that he would be ok with that. Scott asked how anyone could use the provided site plan to determine whether this site is in compliance. It doesn't meet the ordinance standards. How can we use it? This is not a small project it is a significant site impact and we should have a more detailed plan. Doernenburg noted that she went through the site plan review checklist on the new plan that was received and it meets some of the items but is still missing many including appropriate scale, zoning setback lines, surrounding zoning, natural features, access drives, road agency approval, and the site inventory is questionable. It is unknown if the road access was approved. Mr. Spierling stated that the access is unchanged and has been the same for 35 years. Plasencia stated that this is not a proper site plan. Mr. Spierling asked what is needed. Doernenburg replied that something similar to the examples that were sent to him would meet requirements. Mr. Spierling stated that he doesn't have thousands of dollars to provide an engineered plan. Plasencia stated that this doesn't meet the ordinance standards and accept this that doesn't. Eby asked if drawing the requirements on an aerial picture would work. It would have to be to scale. Desy asked if staff has the discretion on a plan that doesn't meet standards to not bring to the Planning Commission. Doernenburg replied - yes. Scott stated that a surveyor's site plan doesn't cost thousands of dollars. This would then at least have something to scale and proper measurements to the setbacks. We should at least have the ability to police it and can’t do this with the provided drawing. Plasencia asked if the crusher and screener are permanent or if they are moved. Mr. Spierling stated that they are on tires and are moved.

Scott made a motion to defer this case to the next regular meeting to allow the applicant time to produce a site plan that meets the ordinance standards and corrects the deficiencies based on the site plan review checklist completed by the Zoning Administrator. This 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.

Doernenburg advised Mr. Spierling to come into the office to discuss the issues and try to come up with a suitable plan.
3. **Case #12B-09**  
Emmet County Planning Commission, TEXT AMENDMENT-Wind Energy Systems

**Legal Notice:** Attached

**Packet Items:** Maple River Twp recommendation, comparison
**Emailed Items:** Attachments to Tom Herzog's (consultant's) email identified below; Dr. Ed Timm's email and Journal of Audiologists report
**Passed out at meeting:** 10/25/13 email response from Tom Herzog, Draft resolution

Doernenburg stated that this was reviewed in detail last month. Another township recommendation has been received since the last meeting. Maple River Township stated that they support the lowest decibel level possible that is legally defensible. The proposed amendment was broken down into parts. The first part includes three new definitions. An email from Tom Herzog, consultant from AECOM has been distributed. Herzog recommends moving forward with the three definitions; high amenity zones, maximum noise level, and qualified acoustics professional.

The zoning maps shown and Doernenburg pointed out the areas in which utility grade wind turbines would not be allowed (FR and SR). The FF-2 zoning district is proposed to retain the 35dB(A) or ambient plus 5dB(A) during daytime, ambient plus 0 at night. The measurements are to be taken at the adjacent property boundaries. Doernenburg noted that originally Tom Herzog recommended that for enforcement we should measure at the building. Civil Counsel, Kathy Abbott, wanted to be sure that we talked to him about this as this board has wanted to measure at the adjacent property boundaries. After speaking with him, he stated that he feels that our approach is progressive. It protects property owners. Abbott was satisfied with his response. The table showing the maximum noise levels allowed per zoning district was shown which is 40dB(A) in R-1, R-2, RR, FF-1, FR, B-1, B-2, B-3, I-1, and I-2 districts and 35dB(A) in FF-2 districts. The South Australia EPA Wind farms environmental noise guidelines are used as the mechanism for measuring noise as they are thought to be the most comprehensive guidelines worldwide and specific to wind energy sound.

The next section states that utility grid systems would be considered in the I-1, I-2, FF-1, or FF-2 zoning districts if all other standards are met. The next section discusses the maximum noise levels in which the recommendation is 35dB(A) in high amenity zones, 40 dB(A) in all others adding ambient plus five during daytime hours (6am-10pm) and ambient plus zero during nighttime hours (10pm-6am). The next section adds "wherever possible as determined by the Planning Commission" to the section discussing requiring underground transmission lines. This allows the Planning Commission to use discretion on this requirement if necessary.

Doernenburg stated that at last month's meeting it was requested that she looked into low-frequency and infrasound. She emailed the Centerville Township ordinance standards to the consultant for his review. He came back with a study that was done called DEFRA. A copy of this study was emailed to the board as it is lengthy. It is available for review if requested. This provides the low frequency sound and the dB level that could be established. He was concerned with the Centerville Township standards because he didn't know where they came from and whether they were scientifically based. He did state that it is nearly impossible to measure under 10Hz. The standard of 10Hz is the lowest level worldwide. He recommended using the DEFRA table if we want to regulate the low-frequency sound and use the South Australia EPA definition of infrasound. Alexander asked who created this and when? 2005 by University of Salford, Greater Manchester University.

Doernenburg stated that Steve Neal had emailed her with a suggestion that we look into maintenance schedules for anyone coming in with a wind energy system. She put together some possible language to add a standard for this. **The application for a wind energy system shall include a maintenance**
schedule which, at a minimum, shall conform to the most current best management practices recommended by the American Wind Energy Association.

Desy asked about the low-frequency chart. How does the dB levels compare? Doernenburg stressed that these are on a different scale because it is not sound that you can hear but rather sound pressure you can feel. The low-frequency noise can be perceived differently by different people. There are devices that can measure these sounds. Alexander noted that there are weapons being developed that utilize low-frequency noise.

Doernenburg noted that a draft resolution has been drawn up. She stated that a lot of public input has come in during this process and during the last review. Many of those people have restated their concerns and said that they are still valid for this review. She showed the list of names on the PowerPoint presentation. This will go on to the Board of Commissioners as they have the final authority on the text amendment.

Neal stated that he read through the memo from Tom Herzog and he disagrees with him on the measuring point for the maximum sound level. Neal stated that he feels that the adjacent property line should be the measuring point and not a building as Herzog recommended. Doernenburg noted that this was discussed and he did say that he feels that we are making the right move for our communities with the adjacent property boundary as the measurement point. He stated that it is forward thinking and gives extra protection to the property, property owners, and the community. Civil Counsel agreed with this. Doernenburg stated that she was concerned as well which is why it was brought up because there has been a lot of discussion at this board and the consensus seemed to be that the adjacent property boundaries should be used. Eby asked if we are looking at using the DEFRA limits for low-frequency. Doernenburg stated that if we would like to look at limits the consultant recommend using these limits. Neal asked how it would work if that is what we use. Who carries the burden? Machines require maintenance and it seems logical that a compliance plan should be in place with or without complaints. Neal stated that he doesn't feel that the county should be burdened with the cost if at all possible. Doernenburg stated that it is the county's responsibility to enforce their ordinance. Alexander asked if it would be out of line to request the applicant to provide periodic monitoring information to the county. Doernenburg stated that this was a requirement on the Cross Village Township system and they have yet to comply. Neal asked if we can work the costs into the fee schedule somehow and base it on the number of systems that are expected. He stated that he feels that the county could be exposed financially if something like this isn't looked at. Doernenburg stated that the fee schedule is being worked on but that is a separate issue from the ordinance. Desy asked about the monitoring requirement for the Cross Village system. Doernenburg stated that a condition of approval was that a compliance report be submitted to the county every two months. Some reports have been provided but they have been provided without dB levels. She has asked that the system be turned off until they can meet the standards of their approval. Desy asked if performance bonds could be used to do the required monitoring. Doernenburg stated that they could be used but there are some risks and limitations that go along with that as well. If it is a bond, it has to be renewed yearly. If it is cash, the Treasurer and Clerk's office would have to administer and monitor it. Doernenburg noted that the EPA guidelines show how the assessments have to be done such as multiple times a day, multiple seasons. Neal asked about the maintenance schedules that were discussed. Doernenburg stated that it could be a requirement that when applying a maintenance schedule would be attached. Neal stated that this would make the property owner aware that they need to adhere to a maintenance schedule. Doernenburg suggested that the applicant should provide that documentation.

Eby asked what the chances were that we could get the basic amendment approved and then make an additional amendment to add in the other standards that are now being discussed. He stated that he is
frustrated and feels like we are striving for the perfect ordinance when we should be working at getting a defensible ordinance in place and then tweaking that. Neal stated that he isn't convinced that the current ordinance is a non-defensible ordinance. Eby stated that the experts agree that this is not a defensible ordinance and the proposed ordinance option is better. Alexander stated that it is difficult to get things in after the fact. Eby stated that as long as we keep it on the agenda and not let it go to sleep these other issues will be dealt with. Doernenburg stated that we could move forward with the amendment as proposed and then advertise for the other items. Neal stated that as we move forward it is getting better. Eby stated that our final decision feels like it's getting elusive. Wonnacott stated that as a County Commissioner he feels compelled to get something in place to satisfy Civil Counsel. He feels that this should be a working document and the parts that need to be amended now should be and then we can move forward with the rest. Low-frequency is very important but is not the main issue right now. Alexander stated that the ordinance does us no good if we can't defend it. The turbines in Mackinaw were all within the ordinance. He doesn't want to see Bliss or anyone else fall through the cracks in the interim. Scott stated that the ordinance as is leaves us wide open now. Neal asked how we act quickly if we know that there is a broken ordinance and there are legitimate lawsuits lining up. Whatever we would do in the circumstance we should do here. The other issues are legitimate and shouldn't be just thrown out. If the changes aren't in the first amendment, they probably won't get in. Eby stated that he disagrees. There are enough people on this board that want the changes made that they won't just go away. It would also focus us on each section. Neal stated that there are many that are at risk including staff budgets, property owners, neighbors, and the very nature of our county. He is just trying to protect those things. Eby stated that he wants protection and then continue forward. The proposed ordinance amendment provides very good protections for the public. There are people who are ready to go waiting for this. Wonnacott asked Neal if he is concerned that if this is approved as written the other issues will go away. Neal stated that he is or that those waiting will move forward quickly before we have the chance to make the other changes. Doernenburg stated that it is worse keeping the ordinance as is because it doesn't address ambient noise. Wonnacott agreed stating that our current ordinance can be used against us. If this document is passed, it is much more defensible and then we put the other issues immediately on the agenda. Doernenburg noted that these other issues can be on the December agenda. Plasencia stated that he agrees that we need to get some protections in place. We've been working for a long time on the ordinance and we're getting closer.

Eby opened the floor to public comment.

Dr. Ed Timm stated that he thinks getting the ordinance as proposed through is a good plan. The board has done a great job. As far as maintenance, these systems have warranties that are not any good if a maintenance schedule is not adhered to. The South Australia guidelines deal with low frequency pretty strongly if a wind system is identified as having a low frequency sound issue. The county needs to implement an ordinance quickly. The science is changing. He mentioned the Journal of Audiologists report article that does a good job covering these sound issues. Neal mentioned that the Planning Commission had received the publication Timm had forwarded.

Susan Barber stated that she is an advocate to passing the ordinance as proposed. She thinks it adds a good layer of protection. She didn't understand how the low frequency could be measured and is glad that is being looked into.

John Woodcock stated that he agrees that something needs to be in place. He asked if the board was saying that once the main ordinance is in place that amendments cannot be made. Neal stated that no, that isn't what was said, he was just concerned that the pressure would be eased. Woodcock added that we haven't spoken about other impacts such as animals and birds. If this is passed can we still go into these other things? Doernenburg stated that there have been 276 amendments to the ordinance since it
was adopted in 1972. It is a working document and it changes as time changes. These changes can take time but it can always be amended.

Susan Barber stated that she receives newsletters from different State of Michigan departments. A million dollars in grants have been passed out to study the effects of offshore wind turbines in Lake Michigan. Perhaps the industry is heading that way.

Neal stated that his concerns have no reflection on Doernenburg's job. She has done a great job getting everything together and he appreciates it. Eby asked if there is a possibility to get us a working draft for next month's meeting on some of the other issues such as low-frequency noise and maintenance agreements and we'll look at them in December. Doernenburg said this can be done.

Plasencia made a motion to recommend approval of Case #12B-09 to the Emmet County Board of Commissioners the text as proposed and the draft resolution of adoption based on all of the documentation received from our consultants and the information received from the public which was outlined at the last meeting and in the PowerPoint presentation. The motion was supported by Desy and passed on the following roll-call vote: Yes: Eby, Notestine, Scott, Wonnacott, Desy, Plasencia. No: Neal, Alexander. Absent: Laughbaum.

IV Public Comment:

V Other Business:

Circuit Controls Corporation-status/update: Doernenburg explained that the representatives from Circuit Control went before the Bear Creek Township Planning Commission under other business to discuss a potential proposal for parking. Tom Mason and Scott Jozwiak were present from Circuit Controls. They explained that they have been looking at their proposed expansion and there is no way to get enough parking so they're exploring other options. One option was an offsite warehouse on the other side of Petoskey but this was not feasible due to costs. They approached the owners of Charter Communications property to see if they could acquire their property but they declined to sell. They are at full capacity on their site and are running 24/7 right now due to demand. They need at least another 20% expansion which equates to approximately 36 jobs. The plan that they've come up with allows for a 43% expansion including a new warehouse. They have a purchase agreement for two lots across M-119. The potential proposal is to put parking across the street. This option would separate parking, pedestrians, and truck traffic. It would allow for 240 parking spaces in which 206 would be required. Jozwiak showed where the existing entrance is on the property and pointed out where the across street parking would be. He noted that there would still be some parking up against the building and that probably later shifts wouldn't use the other lot as much. He stated that they looked at tunnel options but there are many buried pipes and lines that they'd have to try to work around. An overhead crossing was looked into but a very large structure would be required, there are many large overhead lines, and there are accessibility issues. Jozwiak explained that when they met with MDOT to go over some options, they were presented with a pedestrian crossing system called HAWK. An extensive traffic and pedestrian study would start next week if they get good feedback from this board. If everything goes as planned they would request an amendment to their existing PUD. A video demonstrating the HAWK system was shown: http://www.youtube.com/watch?v=x92c5SHc8yM.

Jozwiak stated that the parking would be within the zoning ordinance parameters as it would only be 250' from the buildings. Mason stated that there could also be community benefits if this signal was put in as M-119 is difficult to cross now and it also may change traffic enough to help the bike path as well. Doernenburg stated that because there is no room within the right-of-way for a sidewalk, it
would be on private property, CCC would have to obtain easements for the walkway. Also, MDOT discussed having some of the Toski-Sands entrances eliminated. Notestine stated that it would be nice to have this type of signal in Bay View as well. It would be nice from a public education aspect to have them function the same. Mason added that if the parking was able to be located across the street they wouldn't have to impact the dunes at all with the expansion. The berm buffer would stay between them and the condo units as well. Desy stated that the berm would help protect the condos from truck traffic too. Mason stated that this plan would allow for more truck waiting room onsite as opposed to having trucks waiting to park in the turn lane as they often do now. Alexander stated that he sees some nice advantages. The public would need to be properly educated. He is somewhat concerned with the fact that it would be a crosswalk; what if they don't hit the button? Who's liable? Doernenburg stated that it would be the same as any other traffic area. Mason stated that the purchase agreement is dependent upon approval from the township and the Planning Commission as well as MDOT. The Planning Commission appeared to generally support the concept.

• **SR-2 Ordinance Review:** Doernenburg again asked if any members were interested in being on an advisory committee to review the SR-2 tree-cutting section along M-119 only. Desy and Alexander volunteered to work on this committee. Eby cautioned that a tree cutting standard may be a police power ordinance and not a County function.

• **Master Plan Update:** Doernenburg noted that the Master Plan needs to be reviewed every five years. She recommends updating demographics, recreational changes, etc. that have occurred since it was adopted. Scott made a motion to begin the review process on updating the Master Plan. The motion was supported by Alexander and passed by unanimous voice vote of the members present.

• **Enforcement Report:** Distributed with little discussion.

**VI Adjournment**

There being no other business, and no additional public comment, Eby called the meeting adjourned at 9:23 p.m.