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

MINUTES

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

MEMBERS ABSENT: David Laughbaum, Sue Anderson

STAFF: Brentt Michalek, Tammy Doernenburg, Monica Linehan

I Call to Order and Attendance

The meeting was called to order at 7:33 PM by Eby, all members were present except Anderson and Laughbaum.

II Minutes of February 3, 2011 meeting

Alexander made a motion, supported by Plasencia, to approve the minutes of the February 3, 2011 meeting as presented. The motion passed by a unanimous voice vote of the members present.

III Cases

1. Case #1-11 Boguslaw Gieresic, REZONING-R-2B to B-1, W. Levering Road, Section 34, Cross Village Township

Legal Notice: A request by Boguslaw Gieresic for rezoning on parcels located at 5959 W. Levering Road, 5885 W. Levering Road and the vacant parcel located between the two identified addresses all in Section 4 of Cross Village Township. The three parcels are zoned R-2B General Residential, include tax parcels numbered 24-05-04-34-151-042, 044 & 043, and encompass approximately 4.35 acres fronting W. Levering Road. The request is to rezone from R-2B General Residential to B-1 Local Tourist Business per Section 2408 of the Zoning Ordinance.

Packet Information: 2/16/11 letter from Bill Glass

This case has been withdrawn by the applicant. An additional letter from the township against a PUD was received.

2. Case #124K-94 North Country Mental Health, SITE PLAN REVIEW AMENDMENT, 1420 Plaza Drive, Section 7, Bear Creek Township

Legal Notice: A request by North Country Community Mental Health for a Site Plan amendment at 1420 Plaza Drive, Section 7, Bear Creek Township. The property is tax parcel 24-01-19-07-380-102 and is zoned R-2B General Residential with a PUD-1 overlay. The property is owned by Valentino Development Co. and is part of the RG Properties PUD. The request is to add onto the existing medical/professional office building per Section 2405 of the Zoning Ordinance.

Packet Information: Request & location map, addition sketch, 2/16/11 zoning evaluation, 2/9/11 site plan, zoning evaluation revised 2/22/11, 2/21/11 site plan

Doernenburg explained that this case has to be postponed because the applicant has not obtained the developer’s signature for the project. The Township recommended postponement as well.

3. Case #28-10 Joe Blachy, REZONING-R-2B & R-2C to B-1, US 131, Section 7, Bear Creek Township

Legal Notice: A request by Joe Blachy on behalf of the property owners of certain properties identified herein and a request by Judy & Mike Hills for a rezoning of the following properties: 1) from R-2B General Residential to B-1 Local Tourist Business: parcels 24-01-19-07-150-016 (vacant), 24-01-19-07-150-018 (vacant), 24-01-19-07-300-030 (1523 US 131 Hwy), 24-01-19-07-
Emmet County Planning Commission March 3, 2011 Page 2 of 7

300-035 (1601 US 131 Hwy), 24-01-19-07-300-036 (1633 US 131 Hwy), 24-01-19-07-300-010 (1689, 1691, & 1693 US 131 Hwy); and from R-2C General Residential to B-1 Local Tourist Business: parcels 24-01-19-07-300-050 (vacant) & 24-01-19-07-300-051 (1859 US 131 Hwy) all within Section 7 of Bear Creek Township. The rezoning request includes some 13.35 acres on the east side of US 131 Hwy north of Lears Road and South of Kilborn Drive. The request is per Section 2408 of the Zoning Ordinance.

Packet Information:

Doernenburg presented the second hearing of this case. She explained that the original request has changed and not all of the parcels are still involved. The four remaining parcels were pointed out. There have been concerns from the neighbors regarding incompatibility between retail/restaurant uses and residential uses. Bear Creek Township recommended denial of this request because it creates a ‘leapfrog’ effect in zoning, there is no continuity, the uses on the sites are currently commercial and there are options through the Special Use Permit process (which would notify neighbors) which allow for expanded uses. The use by right vs. special use chart was provided in the packets. Doernenburg stated that the area is shown in the Master Plan as commercial; however, the Master Plan also states that infill and continuity are important. Bear Creek Township Planning Commission and Board recommended denial.

Marty Brightner, representing Bay Winds Credit Union was present. He explained that the request is simple. The Credit Union property is zoned R-2B and they, with the neighbors to the south are asking that their properties be rezoned from residential to commercial. The request is consistent with the Master Plan, which is a long term plan and a clear expression of how this property needs to be developed. Brightner stated that this is an opportunity for the Planning Commission to act in accordance with the Master Plan. Three of the properties involved in the request are developed, one is not. Brightner stated that everyone recognizes that the future of these properties is commercial. B-1 is the most restrictive commercial zoning and the change would make the Calico Crafts property a conforming use. He stated that this would protect against an irrational person putting a residence on the vacant property in the future.

Joe Blachy was also present. He stated that the other three parcels wish to continue their request.

Eby opened the floor to public comment.

Curt Harwood, 1510 Kilborn Drive, stated that he was at the Bear Creek meeting. The Credit Union wants the rezone only due to a sign issue. Rezoning creates a ripple effect. If the rezone is approved and the vacant lot is purchased it would be really easy for someone to plead their case and have their property rezoned as well. This goes down the line. Harwood stated that the does not see any purpose in changing anything. The Credit Union bought the property knowing the regulations and the zoning on the property as he did when he purchased his property. He knew what was on these properties and what potentially could go there when he moved there. Harwood stated that he has to live with what he gets on his lot. Bear Creek Township made it clear with a 5-0 vote and discussion stating that there is no reason for the rezone. There are rumors that Calico Crafts property may be changed into a restaurant; Harwood stated that there is no reason for all of that activity.

Aaron Brooks, 1474 Kilborn Drive, stated that it was stated at the Bear Creek Township meeting that the properties were already zoned for commercial uses. It doesn’t need to be less restrictive commercial. He stated that it was nice to hear that four properties pulled from the request. Brooks stated that Joe Blachy mentioned the fact that the former bowling alley is zoned business and it is in
the same corridor. Brooks stated that this thinking is what he is afraid of. It will be harder to stop others who state that they should be zoned business because they are in the same corridor. Brooks would like the Planning Commission to go along with the Township recommendation.

Steve Rinock, 1526 Kilborn Drive, stated that he is concerned about the leapfrog zoning effect, potential restaurant odors, and traffic. The Master Plan wanted a transition between business and residential, which is why it is zoned as it is now. The current zoning provides that transition. Retail is not what the Master Plan calls for.

Marty Brightner stated that his client screwed up when he purchased the property. He didn’t read the fine print. The reason that they are requesting the rezoning is because they cannot put their sign on their building. Brightner stated that their sign is their mark, it is on every one of their buildings, and it is important to them. The sign would be allowed if zoned B-1. R-2B and R-2C primary use is residential. The Planning Commission has an opportunity to rezone these properties to their proper commercial designation. Not taking that opportunity is not good planning. Brightner stated that he cannot address concerns for the future from the neighbors; he stated that he doesn’t know if they are justified or unjustified. The Master Plan that has been adopted after careful consideration is a pure expression as to the future of this property and what should be done. Bear Creek Township was heavily involved in the Master Plan. Political pressure has come upon Bear Creek Township and their position is based on that pressure. Brightner stated that the obligation of the Planning Commission is to do the right thing for the property and the future-discourage and prohibit residential development and recognize property should be zoned as commercial.

Curt Harwood stated that he hopes that these properties aren’t rezoned because of someone else’s mistake.

Steve Rinock stated that the rezoning would eliminate the transition into housing and would then be commercial against residential uses.

Aaron Brooks stated that to rezone because Mr. Brightner’s client screwed up and because of a sign is laughable.

Jack Jones stated that the Holiday Inn stated that they would never be able to change their sign, they did, and it works. All the properties along that stretch are functioning and the corridor looks nice due to smaller signs. This corridor attracts people to the area and he stated that he would like to keep it that way.

Doernenburg state that there is a provision within the ordinance that allows for the applicant to apply for a larger than allowed sign. The property owner did go through that process when they were first developing their site. It is still available if they’d like to have it reviewed again but a larger sign is not a valid reason to rezone.

Neal stated that ‘leapfrog’ zoning are not a good thing from a zoning standpoint. Doernenburg stated that the former bowling alley that was mentioned is not under County zoning jurisdiction as it is in Tribal trust. Neal stated that the change in the parcels that are involved in the process makes him wonder about the request. Alexander asked if the current zoning is conducive to the Master Plan or isn’t it. Eby stated that the Master Plan endorsing commercial can be done through the special use permit process under the current zoning. Jones noted that all uses on these properties are businesses
now. Alexander added that it is not the intent to discourage residential use. Michalek stated that an apartment complex would fit in with Master Plan and still have the commercial feel of the area. Eby added that Master Plans support planning decisions, they don’t drive them.

Jones made a motion to recommend denial to the Emmet County Board of Commissioners of Case #28-10, a request Joe Blachy to rezone from R-2B or R-2C to B-1 tax parcels 24-01-19-07-150-016, 018 & 300-003, 035, 036, 050 & 051 and a request by Mike & Judy Hill to rezone from R-2B to B-1 tax parcel 24-01-19-07-300-010 in Section 7 of Bear Creek Township based on the Emmet County Master Plan approved January 15, 2009 which states that “The Future Land Use Map does not necessarily indicate the need for immediate changes, but rather acts as a guide for long-term growth.” And the goals of the Land Use Chapter to “Provide for land uses based on demonstrated need in their appropriate locations throughout Emmet County.” And the objectives of the Land Use Chapter to “Coordinate proposed land use patterns with adequate transportation, infrastructure systems, and required services to support development, while encouraging the best use of land and discouraging sprawl.” The applicant has not shown a demonstrated need for B-1 zoned properties, and there are currently commercial uses permitted by Special Use on all of the subject properties, R-2B is consistent with the uses to the east and provides a buffer and transition zone, the request does not include all of the properties and therefore lacks continuity and because Bear Creek Township recommended denial. The motion was supported by Plasencia and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Hramiec, Plasencia, Alexander. No: None. Absent: Laughbaum, Anderson.

Doernenburg explained that this motion is a recommendation to the Board of Commissioners who will make the final decision in this case. They meet administratively on Tuesday March 15, 2011 and have their regularly scheduled meeting on Thursday March 17, 2011.

4. Case# 38B-07 Melissa McPherson-HD Consulting, SITE PLAN REVIEW AMENDMENT-Install a Redbox Machine, 1301 N US 31 (Walgreen’s), Section 34, Bear Creek Township.
Legal Notice: A request by HD Group for Walgreen, Co. for Site Plan Review – amendment at 1301 N US-31 Hwy, Section 34, Bear Creek Township. The property is zoned B-2 General Business and is tax parcel 24-01-16-34-100-062. The request is to allow additional retail space on the outside of the existing retail establishment. The request is per Section 900-1 and 2405.

Packet Items: Request & location map, 2/10/11 zoning evaluation, application, impact statement, 11/1/10 impact statement/project description from applicant, plans, redbox information

Michalek presented this case pointing out the location of the Walgreen’s North store. The proposal is to add a Redbox machine (DVD rental) to the outside of the store. This would add approximately 18sf of retail space; it is essentially another sign on the building. Michalek explained that Walgreens had various signs permitted outside of the normal approval. The site plan was shown. The Redbox machine is proposed to be placed on the south side of the building. When the original site plan was approved, there were 14 parking spaces deferred. This request does not add any additional parking space requirements to the plan. A rendering of what the machine looks like was shown. The kiosk includes signage and is internally lit. It is proposed along the sidewalk on the southerly side of the Walgreens store. The sidewalk will remain ADA compliant and Bear Creek Township recommended approval. Michalek noted that this store has been in violation of the sign ordinance several times.

Mark Coopersmith, the store manager of this Walgreens store stated that it is typical for a Walgreens store to have a Redbox machine along with the propane cages. He stated that placing the machine
inside was discussed at the township meeting. Coopersmith explained that this store is a smaller, 9-aisle model of store and there is not room inside. He stated that it is customary across the country to have these machines and many customers have asked for it here. It would be in conformity with the majority of their stores. The Walgreens in Gaylord has one. Coopersmith asked about the sign violations that Michalek mentioned. Michalek responded that there have been multiple yard signs and today there is a sandwich board at the entrance to the store. Coopersmith stated that he wasn’t aware that the temporary signs had to go through an application process. Michalek offered to provide him a copy of the sign ordinance to review.

Eby asked if staff had notified them of the violations. Doernenburg stated that they have received notification three times and the yard signs have come down each time. The sandwich board from today has not been addressed yet. Coopersmith stated that he will remove the sandwich board and the yard signs won’t be used. Eby asked if the sign issues are a workable situation. Michalek and Doernenburg both stated that they have been responsive and there is no reason to suspect that they wouldn’t be again. Jones stated that the sign ordinance should have been read prior to putting out the signs. Hramiec added that the ordinance is in place and available even if they don’t want to read it.

Jones stated that he feels the Redbox is another business, a rental unit. It is understandable to have the LP gas outside as it’s dangerous to have inside and you still have to go inside to pay for them, but to him the Redbox is another large lit sign.

Eby asked about surrounding businesses. These were pointed out and their outdoor displays were discussed.

Coopersmith stated that they are leasing space to Redbox but it is not any different than the propane cage. Jones asked about the lighting on the machine. Coopersmith stated that it is lit for the consumer only. Scott stated that the machine itself does not block the sidewalk but the use of it seems that it would render the sidewalk useless. Parking has already been deferred, this use seems like it would be deferring more parking by blocking access to the building. Space needs to be allocated in front of the unit that is not part of the sidewalk. Neal noted that it seems that the store would get more business if the machine was inside. Coopersmith stated that the Walgreens does not put these inside the smaller stores, when they are on the inside it is on the larger 24 hour stores. Scott asked if the machine could be moved, perhaps to the west wall. This would get it off of the US-31 side and make it less visible. It probably cannot be seen from M-119 if it were there due to the topography. Jones stated that the site plan does not show the traffic patterns that were specifically designed for this site during the original review. How will the additional traffic for this machine affect the drive-thru? Coopersmith stated that the traffic for the machine will be small compared to regular store traffic. Eby asked what the reason for having the machine placed on the south wall of the building. Coopersmith stated that the machines are typically placed on the busy side of the store. Plasencia asked how far away the propane cage is from this proposed location. Doernenburg noted that there is not a complete site plan but that it is probably just to the right of the proposed location. Plasencia noted that there is a lot of signage on the propane cage. Jones noted that Walmart and Meijer on the other side of town are not allowed to have these kinds of items on the outside of their stores.

Coopersmith stated that Walgreens has been in business for 107 years. It was agreed at the Bear Creek meeting that their store has added to that corner. They aren’t a gas station with stacks of mulch outside; they are speed and convenience oriented. Customers are used to having a Redbox. One out of five people in America get their prescriptions from Walgreens and there are thousands of Redbox
machines next to Walgreens stores and their customers would like to use them. They could probably move the machine to the other wall if need be. Bear Creek Township recommended approval 4-1. He stated that he thinks if there was an access issue with the machines that Walgreens would have required them to be moved by now. Hramiec asked if there is a store of a similar size in the Walgreens Company that has the machine inside. Coopersmith stated that in his discussions with Walgreens there is not.

After discussion, it was decided that a more complete site plan with traffic plans, an alternate location for the machine, and volume statistics for the machine is needed in order to render a decision. The case was unanimously deferred to the next meeting in order to give the applicant time to present further information.

5. Case #2-11 Michael Wolohan, SPECIAL USE PERMIT-Accessory building as main use, 8256 Marathon Way, Section 36, Maple River Township

Legal Notice: A request by Michael Wolohan for a Special Use Permit for an accessory building as a main use at 8256 Marathon Way. The parcel is located in Section 36 of Maple River Township, is on the south side of Marathon Way, is tax parcel 24-09-14-36-151-034, and is zoned RR-1 Recreation Residential. The request is per Section 2201-2 of the Zoning Ordinance.

Packet Items: Request & location map, tax parcel map, application, 1/17/11 site plan, impact statement, 2/11/11 zoning evaluation, 2/22/11 email from township.

Michalek presented this case showing the location of the proposed building and the location of the applicant’s residence. The residence is on a separate parcel that could not be attached and used as a single zoning lot. The proposal is to build a 1200sf pole barn without a main use. Michalek noted that a similar building was approved a couple of years ago in the same area. The property is primarily wooded and this parcel is near the end of Marathon Way, which is a dead-end road. Upon approval the applicant would be required to file an affidavit of use with the Register of Deeds. Maple River Township has recommended approval. Photos of the site were shown.

The applicant was present for any questions.

Eby stated that these back lots are wet and not suitable for anything else. Jones added that Health Department approval cannot be obtained on these lots.

Scott made a motion to approve Case #2-11, Michael Wolohan for a Special Use Permit for an Accessory Building as a Main Use and up to 1,200 sq. ft. on property located at 8256 Marathon Way, Section 36, Maple River Township, tax parcel 24-09-14-36-151-034, as shown on the site plan dated “Received Jan 17, 2011” because the standards for allowing an Accessory Building as a Main Use have been met, the building is mostly screened from the public road and on condition that an affidavit of use be filed with the Emmet County Register of Deeds and because Maple River Township recommended approval. The motion was supported by Neal and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Hramiec, Plasencia, Kelly Alexander. No; None. Absent; Laughbaum, Anderson.

IV Public Comment: None

V Other Business
- **Michigan Natural Resources Trust Fund grant application: non-motorized trail improvements: Petoskey to Alanson**: Emily Meyerson explained that the Planning Commission has already signed a resolution of support for non-motorized trail improvements. She is here tonight as a public meeting for this project is required. This was advertised. Meyerson showed a PowerPoint presentation on the background and future plans for the non-motorized trail project.

- **Zoning Coordinating Committee**: There were two amendments to Resort Township’s zoning ordinance to review. The Wind Energy Systems section and an Open Space Preservation section. After review, Jones made a motion, supported by Scott to authorize the chair to sign the Memo to Resort Township for the WES amendment. This motion passed by a unanimous voice vote of the members present. Scott then made a motion, supported by Jones to authorize the Chair to sign the Memo to Resort Township for the Open Space Preservation amendment. This motion also passed by a unanimous voice vote of the members present.

- **SOB Update**-Michalek explained that Scott Bergthold has returned the updated information regarding the numbers of the numbers of available SOB sites. Michalek noted that all of the information from this process has been printed and is available for review in our office. There were some language changes in definitions due to court cases since the ordinance was written. More detail will be reviewed next month. Alexander made a motion, supported by Scott to allow changes to the SOB ordinance to be advertised for public hearing at the next meeting. The motion passed by a unanimous voice vote of the members present.

- **Enforcement Report**-Eby asked about an item on the report regarding signs in the MDOT right-of-way. Doernenburg will check with the Road Commission to see if there’s anything that they can do.

- **Silver Creek**: Doernenburg explained that a $1,000 performance bond that was supposed to be used for a road has been returned to the Homeowners Association with interest earned.

- **Michigan Planning Enabling Act**: A copy of information will be emailed to the members outlining points that will be discussed by the Board of Commissioners regarding reaffirming or reestablishing the Planning Commission. We already are in compliance with the Planning Enabling Act. Some changes to the bylaws will have to be looked at after this is reviewed.

**VI Adjournment**

There being no other business, and no additional public comment, Eby called the meeting adjourned at 9:20 p.m.

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James Scott, Secretary        Date