EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING
THURSDAY MAY 5, 2011
7:30 P.M.
COMMISSIONER’S ROOM
EMMET COUNTY BUILDING
200 DIVISION STREET
PETOSKEY, MI 49770

MINUTES

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

MEMBERS ABSENT: Steve Neal

STAFF: Brentt Michalek, Tammy Doernenburg, Monica Linehan

I Call to Order and Attendance
The meeting was called to order at 7:30 PM by Eby, all members were present except Neal.

II Minutes of April 7, 2011
Alexander made a motion, supported by Anderson, to approve the minutes of the April 7, 2011 meeting as presented. The motion passed by a unanimous voice vote of the members present.

III Cases
1. 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: none

   Michalek stated that the applicant has requested postponement to allow for more time for to gain traffic flow information from their consultant.

2. Case# 13A-05 Suarez Farm Sales & Aggregates LLC, SPECIAL USE PERMIT-Batch Plant, US-31, Section 34, Carp Lake Township

   Legal Notice: A request by Suarez Farm Sales & Aggregate LLC, on property owned by Darrin & Christina Cameron, for a Special Use Permit for a batch plant to be used annually during temporary periods of time and to be located at an existing Level III mining site in Section 34 of Carp Lake Township. The property is located approximately ½ mile north of E Levering Road and approximately ½ mile south of Litzner Drive on the east side of US-31. The parcel is zoned FF-2 Farm and Forest and is tax parcel 24-03-06-34-400-007. The request is per Section 2102-10 of the Zoning Ordinance.

   Packet Items: Proposed batch plant stipulations, revised site plan
   Passed out at meeting: 5/3/11 letter from Tom Welch & Jill Kubont

   Michalek explained that this is the second hearing for this case; a request is for a batch plant. The subject parcel was shown on a map along with an aerial view. The subject parcel has been split and a residence is on the piece that was split. A revised site plan has been provided from the applicant showing stockpile locations and a proposed sound berm between the batch plant and the residence. The applicant also worked with staff to come up with a list of stipulations for the batch plant. The neighbor has provided tonight a list of items that they do and do not agree with on the stipulation list. The applicant has proposed hours of operation to be 7am-9pm Monday thru Saturday, no Sunday operations or national holidays.

   The applicant, Mr. Suarez, stated that he is available for questions. He went over the stipulations and tried
to address the issues that were brought up at the last meeting. He feels like that has been done.

The details of the stipulations were discussed at length focusing mainly on the wording regarding equipment storage, time of operation, hours of operation, and the sound berm. The importance of keeping the batch plant temporary and not having unending equipment storage was discussed. Doernenburg stated that for enforcement, having a specified period of time that equipment can be stored would be better and easier to enforce. The sound berm was discussed as well. Eby stated that the revised site plan doesn’t really define the berm and what it is supposed to accomplish. Suarez stated that the exact location of the plan has yet to be determined. Anderson stated that if the specific requirements for the berm were added to the stipulations rather than the site plan it would allow for the variation in location of the plant.

Alexander noted that the stipulations should not limit their operations as multiple jobs could be done within a 60 day period of time.

Eby opened the floor to public comment.

Tom Welch, who lives in the residence, stated that they would like the hours of operation changed. They do not want Saturday operations and feel that 9pm is too late to operate. Suarez noted that it is common to work on Saturdays with these road projects. The commissioners felt that the Saturday hours should stay but the end time should be 8pm instead of 9pm. Welch also asked about limiting the hours and days of the stone crushing as well. Eby explained that that was under their previous permit and they cannot put additional restrictions on an already approved permit. Michalek noted that mineral extraction was limited to daylight hours, Monday-Friday with no holiday operations on the previous permit; however this does not limit the stone crushing operations on stockpiles.

After discussion and public comment, the following stipulations will be changed:

- #2, The hours of operation for the batch plant operations shall be restricted to 7AM to 8PM and prohibited on Sundays and National holidays.
- #10, The batch plant equipment shall be used and stored temporarily on the site and shall be removed from the site from December 1st thru April 15th of each year unless special permission is granted from the Planning Commission.
- #11 (new), A 15’ berm shall be added 20’ beyond the line of sight from each end of the batch plant to the adjacent house tax parcel number 24-03-06-34-400-006.

A motion was made by Scott to approve Case #13A-05, Suarez Farm Sales & Aggregate LLC, Special Use Permit for a Level III Resource Mining and Extraction operation to include a batch plant to be located on the east side of US-31 Highway, Section 34, Carp Lake Township. The parcel is approximately 26.4 acres, zoned FF-2 Farm and Forest with tax parcel number 24-03-06-34-400-007 because it meets the standards of the Zoning Ordinance as shown on the Site Plan dated 4/27/11 and Impact Statement dated received 03/11/11, and the batch plant stipulations prepared 4/28/11 with amended as follows: #2, The hours of operation for the batch plant operations shall be restricted to 7AM to 8PM and prohibited on Sundays and National holidays, #10, The batch plant equipment shall be used and stored temporarily on the site and shall be removed from the site from December 1st thru April 15th of each year unless special permission is granted from the Planning Commission, #11 (new), A 15’ berm shall be added 20’ beyond the line of sight from each end of the batch plant to the adjacent house tax parcel number 24-03-06-34-400-006. The motion was supported by Anderson and passed on the following roll-call vote: Yes: Eby, Jones, Scott, Hramiec, Laughbaum, Anderson, Plasencia, Alexander. No: None. Absent: Neal.

3. Case# 1A-11 Boguslaw Gierek, MIXED USE PUD-1, W. Levering Road, Section 34,
Cross Village Township

Legal Notice: A request by Boguslaw Gierek for a Mixed Use Planned Unit Development-1 (PUD-1) overlay on a vacant parcel located between 5959 W. Levering Road and 5885 W. Levering Road in Section 4 of Cross Village Township. The parcel is zoned R-2B General Residential, is tax parcel 24-05-04-34-151-043, and encompasses approximately 1.76 acres fronting W. Levering Road. The request is to allow a restaurant on the property zoned R-2B General Residential per Article XVIII of the Zoning Ordinance.

Packet Information: Request & location map, tax parcel map, applicant, 9/13/10 Health Dept letter, 3/30/11 email from ECRC, 4/20/11 zoning evaluation, 3/28/11 site plan, 4/20/11 existing conditions plan

Passed out at meeting: Cross Village Township residents petition

Michalek explained that this request is for a preliminary Mixed Use PUD-1 to allow for restaurant use. The underlying zoning is R-2B, General Residential. The parcel location was shown and the Cross Village downtown area was pointed out. Michalek explained that PUDs are usually focused on a larger area and not typically on a single parcel but if the request fits, it could still be approved on a single parcel. The aerial of the area was shown. The gas station in Cross Village is a commercial use located across West Levering Road from the subject parcel. The property to the west of the subject parcel is also a commercial use (art gallery). The other surrounding parcels are residential. The applicant has provided a site plan that shows existing conditions as well as a preliminary PUD site plan for the proposed use. Cross Village Township has not seen this case yet due to meeting date changes for elections. A neighborhood petition against the project was passed out.

Eby stated that there are many vacant B-1 and B-2 properties in Cross Village.

The applicant, Boguslaw Gierek, explained that there are no suitable B-1 and B-2 zoned parcels available for what he wants to do. He stated that before he decided to purchase this parcel he met with Gene Reck, Cross Village Township Supervisor, to ask his opinion of his proposal and he seemed excited. There is not currently a restaurant in Cross Village open year-round as he proposes to be. Gieriek explained that when he started looking at what is required for the building and parking he realized that he would have to have a very large lot. There wasn’t a sizeable enough lot to accommodate both the building and the required parking. This parcel is suitable for this project. Gierek presented a physical model of the proposed restaurant that he had built. He stated that his project would improve Cross Village. The restaurant would be open all year which may encourage more business to come in to the area because there is somewhere to go. This could allow for growth. Gierek stated that the neighbors have questioned what would happen to their property values. He thinks that his project will improve land value and benefit everyone. Gierek stated that he doesn’t want to destroy Cross Village; he wants to bring something to it.

Eby requested the Commission to advise Gierek of the concerns for his project. He noted that the applicant needs to prove that his project cannot fit where the Township wants it to go (business zoned parcels). Jones asked if requesting a PUD on this project circumvents the zoning ordinance. Eby noted that it would not if extenuating circumstances that wouldn’t set precedent could be shown. Alexander stated that feedback from the township is needed; the applicant will need to go to the township meeting. Eby stated that valid reasons for denial need to be provided from the township if that is the direction they decide to go.

Gierek explained that the screening with the trees shown on the proposed site plan are to screen the project from the neighbors and would need to be added to the site. There is already a 40’ area of trees and shrubs between his parcel and the commercial use parcel to the west which he will leave as is.

Eby noted that this would be an expansion of an existing B-1 zoning district due to the gas station across the street. It would help if the request included the gallery property as well.
Doernenburg noted that in an R-2B zone, fraternal lodge halls and related uses are allowed as a special use. Many of these types of halls are often restaurants or bars. Rather than try to circumvent the ordinance by using this option the applicant chose to be straight forward and request the PUD for the restaurant use.

Alexander asked if the restaurant is to be a specific theme. Gierek explained that it will be a Polish restaurant. It would be open all year whereas the similarly themed Leggs Inn is only open for five months. Gierek stated that it is his money to spend on this project. He has already purchased this parcel and shouldn’t have to buy multiple small lots to do what he wants to do.

This case was deferred to the June regular Planning Commission meeting to allow for township review.

4. Case #75A-84 Rob & JoEllen Thompson, SPECIAL USE PERMIT-Dog Kennel, 2656 Howard Road, Section 18, Bear Creek Township

Legal Notice: A request by Rob and JoEllen Thompson for a Special Use Permit for a dog kennel at 2656 Howard Rd in Section 18 of Bear Creek Township. The property is zoned FF-1 Farm and Forest and is tax parcel 24-01-19-18-400-013. The request is per Section 2102-9 of the Zoning Ordinance.

Packet Information: Request & location map, tax parcel map, application, impact statement, 4/26/11 Fire Dept email, 4/20/11 zoning evaluation, aerial, 4/11/11 site plan
Passed out at meeting: Bear Creek Township 4/27/11 minutes

Michalek presented this case with a map shown on PowerPoint. The request is for a dog kennel to be located on Howard Road on an approximately 2.8 acre parcel zoned FF-1. They will be converting an existing accessory building for the kennel use which is approximately 550’ from Howard Road. The site is located more than 500’ from a residential district boundary; nearest is 2300’ away. The site is located north of a non-conforming commercial use (Evergreen Lawncare). There has been one call of support received from that business. On this parcel there have been two special use permits approved; in 1984 for auto repair and in 1987 for childcare. Bear Creek Township reviewed this case and requested postponement and would like to see a plan to soundproof the accessory building, screening and soundproofing of the northerly and drive side run, maximum number of dogs to be 12, setbacks on dog runs, and the paved drive as required by Emmet County Road Commission. The aerial of the site was shown.

The applicants, Rob and JoEllen Thompson were present. JoEllen Thompson stated that they were unaware of the paving requirement, but all of the other township requests are workable. Doernenburg explained that only the entry needs to be paved, not the whole driveway.

Plasencia asked if the house in front on Howard Road was notified. All properties within 300’ were notified. Anderson stated that the neighbor to the north came to the township meeting and had noise concerns and asked for screening.

Eby opened the floor to public comment.

Roberta Svatora stated that she lives on Intertown Road and is concerned about the noise as it carries. She asked what the screening will be. Svatora noted that a 6-8’ wooden fence had been placed at another kennel on US 31 in order to keep distractions from the dogs and alleviate barking issues. JoEllen Thompson stated that they cannot see neighbors, there is no traffic, and they have roughly a 500’ long driveway. Trees will be planted on the west and north sides of the property. Doernenburg noted that the township chair suggested privacy fencing installed.

This case will be deferred until the June regular Planning Commission meeting to allow the township further review.
IV Public Comment:
Ronald Svatora asked what a Master Plan does. Michalek stated that it guides all development and future endeavors for the County. He added that we are currently going through the zoning ordinance to make sure that it matches the Master Plan goals. The Master Plan directed a recreation plan to be created. Svatora stated that the area in which he lives is shown as residential in the Master Plan. Will his zoning be changed? Eby explained that the Master Plan is a long range plan that gives order, a guideline. The Master Plan doesn’t demand change.

V Other Business
- Certificate of Appreciation: A certificate of appreciation for Brentt Michalek for his time as Emmet County Zoning Administrator was reviewed and signed by Eby and Scott.
- DRAFT US-31 & M-119 Access Management Plan- Doernenburg noted that the draft plan was sent out last month for review. She explained that it was a collaborative effort and explained the process. There are some changes that have been recommended prior to the final review including removal of a round-about at the US 31/M-119 intersection due to traffic and marking the access roads through the wetland area behind McDonald’s as conceptual. Michalek noted that MDOT had offered a $90,000.00 grant to do the study but it would have been contingent on a match by the county. It was decided to do the work in-house instead and save the money. There was some discussion about alternative routes to connect M-119 to the Glen’s North Plaza. Jones made a motion, supported by Anderson to approve advertising the draft plan for public meeting. The plan will be reviewed at Bear Creek Township’s meeting on May 25, 2011 and the June 2, 2011 Emmet County Planning Commission meeting.
- Enforcement Report- Distributed with no discussion.
- Change in use: Doernenburg noted that there are two buildings that will be approved administratively for a change in use. The old Seldon Auto is now Park’s Funeral home. This is a lower impact use. The old Simple Auto location is now being approved for a furniture builder and will use a portion of the parking area only for outdoor display.

VI Adjournment
There being no other business, and no additional public comment, Eby called the meeting adjourned at 9:34 p.m.