EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING MINUTES
THURSDAY JUNE 7, 2012
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, Paul Desy, David Laughbaum, Steve Neal

MEMBERS ABSENT: None

STAFF: Tammy Doernenburg, Monica Linehan, Kathleen Abbott (Civil Counsel)

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 May 3, 2012
Alexander made a motion, supported by Desy, to approve the minutes of the May 3, 2012 meeting as presented. The motion passed by a unanimous voice vote.

III Cases
Prior to discussing the cases, the Planning Commission members determined that a quorum is planning to be present for the next regular meeting which is scheduled for July 5, 2012 at 7:30 PM.

1. Case #3-12 Lakeland Tower Leasing, SPECIAL USE PERMIT-480' tower, 1182 Johnston Rd, Section 29, Readmond Township

Legal Notice: A request by Lakeland Tower Leasing for a Special Use Permit for a 480 ft. guy tower facility on property located at 1182 Johnston Road, Section 29, Readmond Township. The property is zoned FF-2 Farm and Forest and is tax parcel 24-12-08-29-300-003. The request is on property owned by Patrick and Myrna Proctor and the review will be per Section 2102-2 of the Zoning Ordinance.

Packet Information: Emails from Peter Doren regarding status of tower co-location
Passed out at meeting (or emailed): 6/4/12 letter & topo charts from Terry Martin, 6/4/12 letter from Peter Doren, 6/7/12 letter from Margo Sutton

Doernenburg presented this case explaining that it was first heard by this board in April. The case was postponed in May at the applicant's request. The new information that has been distributed in packets or at the meeting was listed. Doernenburg asked Kathy Abbott, Civil Counsel, to comment on email correspondence from Interlochen Public Radio that was distributed in the packets. Abbott noted that there was an email that was distributed addressing co-location possibilities on the State Police tower. In this email, it was stated that Emmet County is planning to reject the application. There was concern expressed by at least one Planning Commissioner that this is listed as part of the record and appears to state that the Planning Commission was going to deny a case prior to a decision being made. She stated that it is important to note that the statement in the email is an opinion rather than a fact. Doernenburg noted that this request has not changed since it was originally heard in April. The request is for a 480' tower. The site plans and aerials of the proposed location were shown. New draft motions of approval, denial, or postponement to consider were distributed in the staff report at the May meeting. Doernenburg noted that there are sections that should be specifically addressed during the motions. If the motion would be to approve, specific landscaping should be discussed. This is addressed on the site plan and the applicant has indicated that they would landscape based on the recommendations of the Planning Commission. If the
motion would be to deny, specific reasons must be listed. Doernenburg reminded the board that these are draft motions that can be used as a guide and language can be added or deleted as necessary. The Master Plan has been discussed and issues with view-shed areas have been brought up. Doernenburg explained the duty of the Planning Commission for this case. They can approve the case, approve with conditions, or deny with reasons given. If all of the special use permit standards are determined to have been met, approval must be granted. If any of the special use permit standards are determined to not have been met, the Planning Commission has the authority to approve with conditions (related to the zoning ordinance standards) or deny (based on zoning ordinance standards). The applicant provided cross section topo maps of two sites which were shown.

Peter Doren, the attorney representing the applicant was present. He stated that they would not be here if this tower wasn't extremely needed by IPR. There is a dramatic need to service the Emmet County residents. Doren stated that this is for the greater good to provide not-for-profit, commercial free, radio. They have presented substantial evidence in this case. He feels that all of the ordinance standards have been met. The delay last month was requested so that the Planning Commission knew that all other avenues had been explored. They have gone as far as they could with the State Police tower and have been denied. Even if the House bill passes, this would not be an option for them. Other sites have been looked at. Doren stated that there will always be opposition to major changes.

Terry Martin from Lakeland Tower explained the cross-section topo maps of the two sites. These were made off of the larger propagation studies that were distributed in April. He explained the tower heights in order to provide the required coverage into Harbor Springs from the proposed Proctor location and another site they visited and identified as the "Sterly Location." At the Sterly location, Martin stated that a 560' tower would be required to do the same thing that a 480' tower at the Proctor location would do. FAA lighting rules change once a tower is 502' or higher; high intensity strobe lights would be required which would be very obtrusive. Also, due to the cost of providing the high intensity strobe lighting, they would consider a higher tower, possibly 700', to help offset the cost of the lighting. Peter Doren added that the signal would have to service Harbor Springs by law as that is where they are licensed. He noted that the State Police tower has medium intensity lighting. Laughbaum asked where the Sterly site is located. Martin stated it is about a mile south and slightly east of the Proctor site.

Thom Paulson, General Manager of IPR, stated that they are interested in the tower at the Proctor site as it would deliver the required signal into Harbor Springs and also would be very effective to service Emmet County and beyond. They want to reach as many people as cost effectively as possible. It is difficult to cover the County due to the terrain. Paulson stated that he contacted Gerald Leach regarding the co-location opportunities on the State Police tower. He was asked to send an email to him outlining the situation and his request. Paulson state that he put his perception of the outcome in the email; perhaps incorrectly. They have been advised that this tower would not be an option due to the engineering and also because that tower is bonded along with forty other towers; the bond would have to be released on all forty towers. They also would need to be located at the very top of that tower and the top would not be open to them. Paulson stated that there were questions as to why IPR could not broadcast from many towers throughout the County. He explained that the way that the licensing works only allows a station to broadcast from one tower. The proposed tower has the height that they would require.

Alexander asked why they would need to be at the very top of the police tower. Paulson stated that the center of radiation is about 100' below where the antenna would be and on that tower, any lower than the top of the tower would be at too low of an angle to service Harbor Springs. The top 50' of that tower is reserved.
Laughbaum stated that they have said that they have done everything to find the best location. He asked if it would be impossible to move the tower on the Proctor site to the northwest at all. Paulson replied that the proposed location is the highest spot on that property. Other locations would be lower elevations. Doren added that as Mr. Yantz, the realtor stated in April, they looked at other sites. Even if another was found, the landowners would have to be agreeable to allow a tower on their property as well. Martin stated that he has made a few attempts to contact the owners of the Sterly site but has not received a response; he is not sure that the landowners would be agreeable to utilizing their property so that site may not be an option at all. Doren noted that the proposed tower would have red lights-no strobes. Eby asked where this other site option came from. Paulson stated that Mr. Sutton and the township recommended looking at it. Eby wanted to clarify that the Planning Commission is looking at their application for the proposed site and hasn't seen any other sites.

Plasencia asked about the license to operate that has been discussed. Is there no reception now in Harbor Springs? Paulson stated that there is reception in Harbor Springs now from the Stutsmanville tower location but that the FCC limits the 90.1 station to 1200 watts at this location. The proposed location would allow them to reach more people and still service Harbor Springs. Jones asked how many more people they project that the new location would service in Emmet County. Jack Conners, the engineer for IPR, stated that their estimates are 12,000 additional people. Paulson stated that they want the signal made available to as many people as possible as it is a public service station. Scott asked what the realistic expectation of additional listeners would be of the people that could get the signal. The answer was 20% for two stations. Alexander asked if they are currently fulfilling their license agreements. Paulson stated that, yes, they are. They have three stations and are trying to reach Emmet County with two stations at the new location; both the Harbor Springs channel and the Mackinaw City channel are proposed to be located on the tower. Neal asked when the agreements went into effect. Paulson stated in 2005. They would increase their service area if they moved to the proposed tower. Neal stated that it sounded like they stated that they are not currently fulfilling their terms. Jack Conners stated that both stations are currently fulfilling their obligations at their current locations. Paulson explained that they are trying to expand and have solid coverage and still fulfill their agreements. Neal asked if the proposed tower is engineered to provide other services and if they have a history with partnering with others to do so. Martin stated that it is engineered for co-locating. This is the whole idea because it makes it an easy space for other providers to be located on such as wireless internet and cell service. This would be the link between the Stutsmanville tower and Harbor Springs. Doren added that the record from April will show the interest from a couple of internet providers. Martin stated that he has been in contact with at least one of them already. Desy asked if either of the towers that they are currently using are proposed to be removed. The answer was no.

Eby opened the floor to public comment.

Margo Sutton asked about the status of the property they visited with the applicants on Wormwood Road about three miles northwest from the proposed tower. Eby stated that the applicant could comment on this if they wished to.

Joel Moore, representing Paul & Sara Matthews, passed out a photo that was taken from the Matthews' property today looking towards the lake. He had penciled in what the view would be if the proposed tower were there. He stated that Planning Commission can require an applicant to prove that the proposed use does not detrimentally affect neighboring property and that it doesn't conflict with the Master Plan. Both the Emmet County Master Plan and the Readmond Township Master Plan show this area as a view-shed area. The drawing he submitted in April from Benchmark Engineers shows that the proposed tower
location is either in or directly adjacent to this view-shed area. The proposed location is in a field and you will see the tower regardless of where you are. Moore stated that the code has a provision that says that the tower should be landscaped to blend in. While landscaping is proposed on this project, it won't screen a 480' tower. It may screen the base, the buildings and the anchors. The only way to screen a tower is to place it in a wooded location to make it harder to see. Moore stated that in this case, there is an open field and view-shed area. There is a significant conflict to what the Master Plan is trying to accomplish and what the tower company wants. There are other locations in the county that are covered with trees and can be used for screening. It is inconsistent to say that we are trying to protect the views and then say that a 480' tower is okay. Because the request is not consistent with the Master Plan, that is one reason to deny the request at this location. The ordinance requires that there is not a detrimental impact to the uses in the district and the Readmond Township Master Plan references the increase to property values that views add. Moore read sections from the Readmond Township Master Plan regarding viewsheds. "Although specific economic value is difficult to ascribe to viewsheds within Readmond Township, it is acknowledged that real estate values are dramatically increased if they possess aesthetically pleasing views..." (Excerpt from 'Scenic Viewsheds' Page 5-20, 2005 Readmond Township Master Plan.) The township has designated areas along Robinson Road as viewsheds in their plan. "Separate decisions made by individual landowners and public agencies can degrade viewsheds..." (Excerpt from 'Threats to Scenic Viewsheds', Page 5-20, 2005 Readmond Township Master Plan). Moore stated that the tower would degrade the viewshed. The township recommended denial of this application. Moore stated that his clients, the Matthews', have a very long and unique view of the lake from their property. They were approved for residential subdivision uses of their property. Those sites will be detrimentally impacted by the tower if approved at this location. Paul Matthews stated that the photo that was passed out tonight was taken from the footprint of lot number two, looking directly to the lake. Moore added that the Little Traverse Conservancy has over 1,000 acres of preserved land within a mile of this site; this is also a surrounding use that would be detrimentally impacted by this tower. Moore stated that this is another reason to deny the application. He also stated that he can drive from Harbor Springs to north of Sturgeon Bay and listen to the 90.1 fm station clearly and uninterrupted. IPR is already serving the area. They are only looking at cost effectiveness.

Bill Sutton stated that he is here as a private citizen, not in relation to the Readmond Township Planning Commission. He stated that when Moore spoke in April, he stated that the view-shed is the main issue. The applicant stated that this is the only part of the Master Plan that is in conflict. Doren had stated that the only focus of a public body in regards to view is the public's view, not necessarily the individual property owners' views. Sutton read a Wikipedia definition of view-shed: "A viewshed is an area of land, water, or other environmental element that is visible to the human eye from a fixed vantage point. The term is used widely in such areas as urban planning, archaeology, and military science. In urban planning, for example, viewsheds tend to be areas of particular scenic or historic value that are deemed worthy of preservation against development or other change. Viewsheds are often spaces that are readily visible from public areas such as from public roadways, public parks or high-rise buildings. The preservation of viewsheds is frequently a goal in the designation of open space areas, green belts, and community separators." The Master Plan concept is required by both the Zoning Enabling Act and the Planning Enabling Act. It is intended to express the County's vision of its future and be a guide to accomplish this vision. It is strong legal support and allows for preservation of characteristics in the County. Those who wrote the zoning ordinance felt the Master Plan was so important that it requires that the Master Plan be referenced to and not contradicted. The proposed tower doesn't block the view; it is the view. Margo Sutton narrated a slide show of various
views with and without a tower. She stated that if approved, there would be three towers within two miles of one another.

Gordon Kruskie, Readmond Township Supervisor stated that the Township Planning Commission and Board voted to not accept this plan. There were people at their meetings that voiced similar opinions. He thinks that this should be rejected.

Alfred LaCount stated that the ordinance has a requirement in the wind energy system to have a monopole tower; this proposal is a lattice tower. Could we have some uniformity? He stated that the applicant has said that they have to service Harbor Springs but he believes that this station was originally located about two miles from his house, it was then moved to the Stutsmanville tower. It still reaches Harbor Springs. LaCount wants to know why they will be moving further from Harbor Springs to service Harbor Springs. Why can't they use their original tower? It is still there and still has lights. Due to the relocation history it would appear that the applicant has created their own problems.

Doren stated that towers are allowed in this zoning district. He stated that the criteria are to be 'reasonably applied' and that common sense needs to be used. The entire use shouldn't be disallowed because they are ugly. This would take out the allowable use in these districts; that would be unreasonable. Doren stated that this tower does not conflict with the Comprehensive Plan that has some blobs that they called view sheds. It doesn't say that this needle sticking up with guy wires are impeding the view. People don't like the way it looks. Doren noted that Mrs. Sutton's presentation mentioned 'emotionally disturbing views'; who's emotions? Doren asked if you will believe a professional from IPR and the FCC or someone who is just driving in their car in regards to the need for the increased stations. Doren stated that they have met the ordinance standards.

Alexander asked about the red lights on the tower. Will they be on both day and night? The answer was no. No lighting during the day.

Jones stated that the rental of space on the tower for broadband would be an asset to the people rather than another tower. There was an article recently in the paper regarding using the Good Hart Store tower to give the lakeshore residents broadband. Doernenburg added that there is an initiative to provide broadband to the lakeshore and northern Emmet County through HarborInc. Neal stated that approving the tower does not guarantee that this would happen. He read the intent from the ordinance in the FF zoning districts: 'The FF-Farm and Forest Districts are designed to promote the use of wooded and rural areas of the County in a manner that will retain the basic attractiveness of the natural resources and provide enjoyment for both visitors and the community at large. The intent of the District is to hold the rural County areas for agriculture and forestry purposes and to allow some multiple uses of marginal farm-forest lands.' Neal stated that he feels that statement speaks pretty clearly. Doernenburg stated that both the FF section and the Special Use Permit section need to be looked at. The intent of Article XXI-Special & Conditional Land Uses states: 'The Special and Conditional Uses in this Article are uses requiring special reviews because they may have activities that have effects which project beyond property lines, may require lengthy standards for review and/or may not be currently allocated to one zoning district, uses herein may be considered to be Special Uses, Conditional Uses, and/or Exception Uses.' The criteria needs to be applied and the Planning Commission needs to determine whether those criteria have been met. The Planning Commission does have a greater amount of discretion in a Special Use Permit review that they would not have if this were a Site Plan Review.
Laughbaum stated that he has thought about this quite a bit. He doesn't feel that the Master Plan prohibits this use or necessarily says that it is a good thing. He thinks that there are economical benefits. The Master Plan seems to be more positive towards the project; it includes a lot about economic activity. Even the photos show economic activity such as roads, not pine trees and trilliums. We are not strangers to new things. The surrounding uses are farm/forest. The residential development that was approved wasn't developed. If it were there, he stated that he may feel differently. The development may or may not be built, the radio station could come in and ask for more towers; Laughbaum stated that he doesn't know what is going to happen in the future. He stated that he understands that the neighbors are first in line to feel any adverse effects. Laughbaum stated that he doesn't feel that most of the criteria under Section 2102 'Commercial Television & Radio Towers' applies to this project. Requiring screening may block the view more than not being screened; perhaps this should be looked at. It would become part of the enemy in regards to the view. Laughbaum stated that he doesn't think that the Master Plan should overrule the code. Laughbaum stated that he is speaking as an individual and not making a statement for the County. He stated that he would not want to be in the position to defend the code as is. He took this job because he doesn't want to see the County in lawsuit after lawsuit spending the public's money defending something that is not written into the code. He was the only one that didn't vote in favor for the adoption of the Master Plan because it is ambiguous. It will be abused because it is ambiguous. He stated that he would be in favor of approving this case.

Eby stated that the Planning Commission has identified sites that are readily approved for tall lit towers. He doesn't believe that there has been adequate propagation evidence given that these sites are inadequate to cover Emmet County. Given the many radio stations that cover Emmet County without this site or even close, he questioned the necessity of this site. Eby stated that it seems that this site application violates so many aspects of the Master Plan and the Zoning Ordinance that if this application is approved, our ordinance concerning towers would be meaningless. The FCC regulation problems with this Harbor Springs location seem to be self inflicted in that the applicant knew FCC restrictions previously. Eby stated from a county-wide position, he feels that this ordinance section and our previous interpretation of it is very important to the health, safety, and welfare of the people of Emmet County.

Laughbaum stated that no one has spoken to say that this tower isn't safe from a health perspective and no one has challenged the idea that they did their homework. It seems to him that they did. You can't say that a precedent is set because there are two towers on Levering Hill and all towers have to go there. The ordinance doesn't say that all towers have to be where there are existing towers. Eby stated that we have identified Levering Road, south of Petoskey, and a general area from Stutsmanville Road down to Harbor Springs as locations for these tall, lit towers.

Neal stated that he feels that it is important to at least consider that this is not NPR, this is a commercial tower company. Leading with the not-for-profit status is not accurate unless the tower company is not-for-profit. This relationship could change tomorrow. Doernenburg stated that the applicant is Lakeland Tower Leasing.

Alexander stated that he disagrees with Laughbaum in regards to aesthetics not being important. He read recently about the County having more of a turnaround primarily due to aesthetics and what we have to offer. This needs to be protected. The view sheds and the land conservancies add and will continue to add to the growth and development of the County. It is difficult when this tower is looked at and may be just outside of the view shed area and is close to but not part of the conservancy. Where are the lines drawn
when trying to preserve and maintain these views. Laughbaum stated that he never said aesthetics weren't important.

Hramiec made a motion to deny Case #3-12, Lakeland Tower Company for a Special Use Permit for a 480 ft. tower facility on property located at 1182 Johnston Road, Section 29, Readmond Township, tax parcel 24-12-08-29-300-003, as shown on the site plan dated “Received March 12, 2012” for the following reasons:
1. The use would have detrimental impact upon the surrounding uses in the District [Emmet County Zoning Ordinance (ECZO) Section 2100-1] including surrounding property values and the location of conservancy property, based on submitted evidence in this case;
2. The use conflicts with the principles, goals, and objectives of the County Comprehensive Plan (Emmet County Master Plan) (Section 2100-5) - specifically: it does not encourage land use patterns and development that reinforces and improves the quality of life, while maintaining the rural character (Chapter 9, Goal 2); it does not protect the locally significant area (viewshed) (Chapter 9, Goal 4); the proposal is not "based on demonstrated need in the appropriate location" (Chapter 9, Goal 5); it does not preserve the viewshed which helps maintain the character of the County (Chapter 9, Objective 4); it does not "concentrate land use activities" (Chapter 9, Objective 7); it is not a compatible land use with other uses in the vicinity (Chapter 9, paragraph 9.4.12 Viewshed Protection Overlay); it does not promote the development of brownfields and vacant parcels in already developed locations rather than development of greenfields and open spaces in rural areas (Chapter 9, Strategy 15);
3. The plan does not meet ECZO Section 2102., Paragraph 2, sub-paragraph B)2.c). There is no natural screening from the proposed tower site; therefore the tower is not blended into the landscape;
4. The applicant has not shown a demonstrated need at the proposed location (ECMP Chapter 9, Goal 5)-Adequate coverage exists for the public radio signal, shorter towers may be used to provide the same coverage, other options may be available in more appropriate locations;
5. and because it conflicts with the Readmond Township Master Plan and Readmond Township Board recommended rejection.

The motion was supported by Plasencia and passed on the following roll-call vote: Yes: Eby, Neal, Jones, Hramiec, Desy, Plasencia. No: Scott, Laughbaum, Alexander.

A short break was taken.

2. Case # 7-12 Victor Yowell, SPECIAL USE PERMIT-Accessory Building as Main Use, Lakeview Rd/Pickerel Dr., Section 22, Littlefield Township

Legal Notice: A request by Victor Yowell for a Special Use Permit for an Accessory Building as a Main Use on property located on the northwest corner of Lakeview Road and Pickerel Drive, in Section 22, Littlefield Township. The property is zoned FF-1 Farm and Forest and is tax parcel 24-07-17-22-400-030. The request is per Section 2201-2 of the Zoning Ordinance.

Packet Information: Request & location map, tax parcel map, application, impact statement, Emmet County aerial, photos, zoning evaluation, 4/14/12 site plan, 5/31/12 letter from Haggard's P&H

Passed out at meeting: Littlefield Township recommendation

Doernenburg presented this case showing the location of the property at the northwest corner of Lakeview Road and Pickerel Drive. Pickerel Drive is a private road. The parcel is zoned FF-1 and is partially screened from Lakeview Road with mature pine trees. There are accessory structures in the adjacent areas to the south. The building meets the size standards and setback requirements. Littlefield Township recommended approval on the condition that the affidavit of use is filed with the Register of Deeds and that the sale of the property be finalized prior to building. Doernenburg noted
that proof of ownership is required prior to issuance of a permit as normal operating procedure. The site plan and photos showing berming on the property were shown. This parcel is near the Eagle Beach subdivision.

Randy Wolfgram, builder and representative for the applicant showed a picture of the pole barn that is planned to be built. The proposed building would be 40'x60' with 12' side walls.

There was no public comment on this case.

Plasencia asked if there were any complaints or discussion from neighbors received. Haggard's Plumbing & Heating sent in a letter of support.

Eby asked if the golf course is gone. Plasencia stated that it has been broken up into different owners and associations. Eby stated that if that isn't there, it wouldn't require screening from that use.

Plasencia made a motion to approve Case #7-12, Victor Yowell for a Special Use Permit for an Accessory Building as a Main Use on property located at the northwest corner of Lakeview Road and Pickerel Lake Drive, Section 22, Littlefield Township, tax parcel 24-07-17-22-400-030, as shown on the site plan dated 4/14/2012 because the standards for allowing an Accessory Building as a Main Use have been met, the building is partially screened from the public road and on condition that an affidavit of use be filed with the Emmet County Register of Deeds and because Littlefield Township Planning Committee and Board both recommended approval. 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.

3. Case #8-12 John Peters, SPECIAL USE PERMIT, Accessory building-exception to accessory building standards, 1955 Greenwood Rd, Section 9, Bear Creek Township

Legal Notice: A request by John Peters for a Special Use Permit for an Exception to the Accessory Building standards at 1955 Greenwood Road, located in Section 9 of Bear Creek Township. The property is tax parcel 24-01-19-09-100-014 and is zoned R-1B One Family Residential. The request is to construct a 2400 sq. ft. accessory building per Section 2201-8 of the Zoning Ordinance.

Packet Information: Request & location map, tax parcel map, application, aerial, Emmet County aerial, impact statement, photos, zoning evaluation, 4/26/12 site plan, Bear Creek Township Planning Commission minutes, 5/31/12 letter from Haggard's P&H

Doernenburg explained that this property is located on the north side of Greenwood Road. There is a parcel in front of it and the site is essentially screened due to both the topography and the existing foliage. The proposed building would be located behind an existing accessory building. Photos of the site from different angles, aerials, and the site plan were shown. There are agricultural and residential uses in the vicinity. The site can be seen from McDougal Road. The proposal is to build a 2400sf accessory building; 1200sf is allowed. After much deliberation at the township level, they voted to recommend approval 6-1 and the township Board also recommended approval. Eby asked about the height; 30' is the maximum height, but the applicant isn't planning on that tall of a building.

The applicant stated that the building is proposed to be 21.5' to the peak.

Doernenburg added that the township required the gable end of the building to face Greenwood Road as it is proposed on the plan.
There was no public comment on this case.

Jones made a motion to approve Case #8-12, John Peters for a Special Use Permit for an Exception to the Accessory Building size standards and to allow a 2,400 sq.ft. accessory building at 1955 Greenwood Road, Section 9, Bear Creek Township, tax parcel 24-01-19-09-100-014, as shown on the site plan dated “Received April 26, 2012” because the building is setback over 300 feet from the public road, and no good purpose would be served by strict compliance with the standards of the Zoning Ordinance, because the township recommended approval and on the condition that the gable end of the building face Greenwood Road. 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.

4. Case #9-12 William Hodges, SPECIAL USE PERMIT-Accessory Building as Main Use, Wressel Rd., Section 27, Friendship Township

Legal Notice: A request by William Hodges for a Special Use Permit for an Accessory Building as a Main Use on property located on the south side of Wressel Road, in Section 27, Friendship Township. The property is zoned FF-2 Farm and Forest and is tax parcel 24-06-12-27-100-001. The request is per Section 2201-2 of the Zoning Ordinance.

Packet Information: Request & location map, tax parcel map, application, affidavit of use, impact statement, photos, specs, zoning evaluation, 5/19/12 email from Laura Kors, 4/27/12 site plan, 5/24/12 letter from Pamela Cumberland-Stutsmanville Development Corp.

Passed out at meeting: Friendship Township recommendation

Doernenburg explained that this parcel is an 80 acre parcel on the south side of Wressel Road, a seasonal road. The proposed building would be 120’ from the right-of-way, and is wooded. The proposed building meets the size standards and setbacks. A letter of support has been received from a neighbor. The township recommended approval on the condition that the affidavit of use be recorded. Photos and the site plan were shown.

The applicant was not present. There was no public comment on this case.

Plasencia asked if there is an obligation on our part to advise the applicant that this is a seasonal road and is not maintained. Doernenburg replied that there wasn't an obligation but we certainly could advise him. Eby stated that because it is on a seasonal road, it would be support for the request for an accessory building as a main use.

Plasencia made a motion to approve Case #9-12, William Hodges for a Special Use Permit for an Accessory Building as a Main Use on property located on the south side of Wressell Rd., Section 27, Friendship Township, tax parcel 24-06-12-27-100-001, as shown on the site plan dated “Received April 27, 2012” 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 the township recommended approval. Staff was requested to advise the applicant that Wressel Road is a seasonal road that is not maintained. The motion was supported by Alexander and passed on the following roll-call vote: Yes: Eby, Neal, Jones, Scott, Hramiec, Laughbaum, Desy, Plasencia, Alexander. No: None.

5. Case# 129D-80 Dave Kring, SPECIAL USE PERMIT-Sign Exceptions-size & number, 1861 N US-31 Hwy, Section 26, Bear Creek Township

Legal Notice: A request by Dave Kring for a Special Use Permit for sign exceptions to the size and number of the wall mounted signs on property located at 1861 N US-31, Section 26, T35N-R5W, Bear Creek Township. The property is
This request is for Dave Kring Chevrolet, located in a B-2 zoning district on US-31. There have been sign exceptions previously granted on this site. There are five wall mounted signs and a free standing sign existing onsite. The additional requested signage would bring the total signage to over 500sf more than is currently there and would be more than triple what the ordinance allows. The Sign & Lighting Committee recommended denial because they feel that the existing signage is adequate for the business, the property already has sign exceptions, they do not want to see a precedent set for others to request similar exceptions in the area, it would be over triple the square footage allowed by the ordinance, there is no deep use setback, it would block visibility from the north, and because there are other options available. The site plan, proposed sign, current signage, and photos were shown. There would be a total of four signs on the front of the building, two on the sides and one free standing along the highway if approved.

Dave Kring, applicant, stated that Chevy is remodeling their signs and he is here to ask for the exception.

There was no public comment on this case.

Doernenburg added that the Sign & Lighting Committee also stated that the 'one size fits all' corporate signage does not fit our Northern Michigan character. Jones stated that it distracts from the building. Eby added there is no issue seeing the building or the signs from the highway.

Jones made a motion to deny Case #129D-80, Dave Kring Chevrolet Cadillac for a Special Use Permit to allow a Sign Exception per Section 2207-10 of the Zoning Ordinance for the sign plans dated May 2, 2012 at 1861 US-31 Hwy, Section 26, Bear Creek Township for the following reasons: the proposed signage is more than triple the maximum sign area permitted by the Emmet County Zoning Ordinance (432sf allowed, 1556sf proposed); adequate signage is provided in the previously approved sign exception; options exist without the exception, there is no deep use setback, and because the Sign & Lighting Committee recommended denial. 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.

6. Case# 74B-03 Enterprise Holdings, SITE PLAN REVIEW-CHANGE IN USE, 1075 US-31 N, Section 33, Bear Creek Township

Legal Notice: A request by Enterprise Holdings for Site Plan Review and Change of Use on property located at 1075 US-31 N, Section 33, T35N-R5W, Bear Creek Township. The property includes tax parcels numbered 24-01-16-33-202-049, zoned P-T Parking Transition & 24-01-16-33-202-052, zoned B-2 General Business. The property is located at the corners of US-31 N, Hampton Avenue and Old Tannery Creek Road. The request is to allow a parking lot to extend into the P-T zoned property per Section 1200-1 & 1200-5 of the Emmet County Zoning Ordinance.

Packet Information: Request & location map, application, property owner's permission email, impact statement, 5/24/12 email from Benchmark Engineering regarding drainage, zoning evaluation, 5/14/12 site plan, Bear Creek Township Planning Commission minutes, 5/31/12 site plan

Doernenburg explained that the front parcel is zoned B-2 and the rear parcel, PT (parking transition).
The proposal is to add 15 spaces to the parking lot on the PT zoned parcel. The drainage plan has been sealed with a cost estimate of $600.00. The trees proposed meet ordinance standards. There was extensive discussion at the township meeting regarding the house on the property. A revised site plan was created after the township meeting to address their concerns. This was shown. The privacy fence that currently exists will remain and the parking will stay out of that area so that the house has some yard and they will also have 15' in front of the white vinyl privacy fence along Old Tannery Creek Road. The originally proposed fence was wooden, there was discussion at the township about planting trees for screening. As a compromise, the white vinyl fence was agreed upon so that it would be immediate and we wouldn't have to worry about the trees being maintained. Doernenburg did note that enforcement prompted this application. There has been unauthorized parking along the drive in the right-of-way and hopefully the increase in the parking lot will alleviate the ordinance violations. The site plan and photos were shown. Bear Creek Township Planning Commission and Board recommended approval. They did ask that the tax parcels be combined into one parcel; the property owner would have to do that if they wished. This is not a requirement of zoning. The parcels are combined into one zoning lot.

The applicant was present and stated that his only concern is the shared use parking with the resident of the house. He thought that perhaps a separate space should be carved out for that use. Doernenburg stated that two spaces are required and they are shown on the plan. She stated that she has never seen two cars parked at the residence any of the times she's been by. Eby stated that they have fulfilled their obligation by providing the two spaces whether they are used or not. Laughbaum asked if those spots are to be identified specifically for resident's use. Eby stated that they are shared so the resident can park anywhere on the lot.

Desy made a motion to approve Case #74B-03, Enterprise Holdings Site Plan Review to allow expansion of the parking lot at 1075 US-31 Highway, Section 33, Bear Creek Township, tax parcel 24-01-16-33-202-049 & 052, as shown on the site plan dated “Received May 31, 2012” because the setback standards are met, the screening standards are met, a performance guarantee in the amount of $600 is required and an as-built drainage plan will be required prior to return of the performance guarantee, and the existing residence may remain as parking is permitted in a residential zoning district and because the township Planning Commission and Board both recommended approval. The motion was supported by Alexander and passed on the following roll-call vote: Yes: Eby, Neal, Jones, Scott, Hramiec, Laughbaum, Desy, Plasencia, Alexander. No: None.

7. Case# 10-12 Charles Daniel, SPECIAL USE PERMIT-Contractor's Use, US 131, Section 30, Bear Creek Township

Legal Notice: A request by Charles Daniel for a Special Use Permit for a Contractor's Use and forest harvesting operation on property located on the east side of US Highway 131 approximately 600 feet south of Greg Road, Section 30, Bear Creek Township. The property is tax parcel number 24-01-19-30-200-005 and is zoned FF-1 Farm and Forest. The request is per Section 801-8 and 800-6 of the Zoning Ordinance.

Packet Information: Request & location map, tax parcel map, application, impact statement, 5/21/12 record of phone call from Mary Riley, zoning evaluation, aerial, 5/14/12 site plan, 5/21/12 letter from Kathy Coveyou, Bear Creek Township Planning Commission minutes

Doernenburg showed the location of this parcel located on the east side of US-131 approximately 600' south of Greg Road. It is zoned FF-1. The request is for a contractor's use. There are exceptions to the required criteria for a contractor's use that are being requested those being that there is no residence on the parcel, it is not 10 acres, and it is not 600' wide. The outdoor storage activities are proposed to
be outside, not in a building but screened from public view. The parcel is approximately 6.4 acres. The proposal, according to the application, is to process wood, screen black dirt, and stockpile gravel; the product would come in from off site. Six to eight trucks may be expected some days. MDOT has reviewed the access and Doernenburg noted that she has checked with them twice for site review. They will not require an additional access and have authorized the access for the use. A letter of opposition has been received noting that the request is more of a sawmill or planing operation and is an industrial type use rather than farm and forest. The township recommended denial stating that they feel it is an industrial use. An aerial view was shown and the surrounding uses pointed out including a gravel pit to the south, agricultural use across the highway, and some residential uses. The site plan was shown and locations of stockpiling for topsoil, gravel, and wood to be processed were pointed out. There are berms with trees shown on the site plan that already exist along the inside of the drive and along US-131. There are hills along the north and east side of the property. Photos of the site were shown.

The applicant, Charles Daniel, explained that he had back surgery and couldn't make the township meeting. His representative confused the meeting date and wasn't there either. He feels that if someone had been there, the township recommendation would have been different. All of the activity will be in a confined area. You can't hear it. He stated that he went across the street to the neighbor's property that complained and could hardly hear the processor running. At his sister's house, which is on top of the hill, you have to go to the back of her property to hear it.

Alexander asked about complaints on this case. Doernenburg stated that at the township meeting there were neighbors present who spoke in opposition. This case came about as a result of enforcement. One of the concerns was that they could feel the vibrations in the house across the street. All of the neighbors present said that they could hear it.

Laughbaum asked about the contractor's use. As it is now, it doesn't seem to fit into a contractor's use. Doernenburg stated that the township recommended denial because they didn't feel that it fits into that category. The ordinance does allow for exceptions to the contractor's use criteria: Modifications to the standards listed in items b) thru f) above may be approved by the Planning Commission, provided that the intent of Article VIII is retained and the surrounding properties are protected from nuisances.

Jones stated that this was a gravel pit that was grandfathered in, became a larger operation. Others in the area, Manthei, Dunkel mine as well. Across the road is Coveyou's Farm which is growing busier all of the time with a lot of traffic and trucks in and out. It is more of a commercial use; farm market. Jones stated that the highway isn't the safest; there are a lot of accidents in the area. The use seems to fit the property as it is protected in an area that has berms to hold in the noise. The rumble strips on the highway make more noise and vibrations than the machine noise. There is a wood processing place on Gruler Road that is also on a smaller acreage. Jones stated that he feels this is an appropriate use for the property.

Pat Daniel asked if anyone has taken a dB level reading to evaluate the noise complaints. The berms are quite large. He stated that he lives on Howard Road, just a little ways away from the subject parcel. He hears the rumble strips on the highway all day long especially from semis. The processor is pretty much just idling to run the equipment.

David Coveyou owns Coveyou Farms across the street and also owns a parcel to the east as well. The noise when it is running can be heard throughout the day. It is different than highway noise as it is
continuous. You can hear it inside and out. Other neighbors can too. Coveyou stated that he feels that trucking in and screening materials and then trucking it back out puts it into a industrial use; more like Flynn’s pit across from Meijer. The Zoning Ordinance doesn’t allow that level of activity in the FF zone. There are definitely trucks in and out and he feels that the estimate of six to eight is on the light side. Coveyou stated that he doesn't feel like this project meets the intent of the ordinance. There is berming but you can still see right in from their driveway and they do not limit the noise. This is not a forest harvesting operation. That applies to parcels in which the harvesting is from that parcel. This is more of a log processing/sawmill operation. Coveyou stated that they are 150' away from this parcel. The zoning ordinance requires 1000 feet for a reason. He stated that he feels the vibration and hears it too. Their views to Walloon Lake would be compromised. There is a better place for this operation. Manthei's sand mining operation is short term and they are nearing the end of the project and reclamation. Coveyou stated that when Max Putters outlined the section, it was meant to be residential. This would be a better use for the site.

Bud Gray stated that he is trying to buy the property from Mr. Daniel to do the wood processing. He stated that he has a semi load of wood come in with wood every 4-6 weeks. He cuts and splits that wood and puts it into the stockpile. He only has four trucks, two of which haul wood. Regarding the noise, it is a 65hp diesel motor, 1700rpm. It is fully muffled. He has already cut over 400 cords of firewood. The neighbor to the north didn't even know that they were cutting. Gray stated that he doesn't think that Manthei's project is going anywhere soon. They still have huge stockpiles of materials. He noted on the aerial that this is 70' below the highway. This employs a couple of guys most of the winter. They usually don't work much during the summer. Gray stated that he can't see how it wouldn't fit into the contractor's use. The black dirt has only been screened twice over a two day period. This is not more disruptive than anything else in the area. He stated that he wrote the wrong date and missed the township meeting. Gray stated that he feels that this project is more of an attribute to the County than a nuisance.

Eby asked how much activity is going on at the Manthei site. Gray replied that it is more of a satellite location when they are working in Boyne or Petoskey. When they are there, they are in and out all day long. Right now they are working in other areas so there isn't much activity. Jones noted that they hauled a lot of material when the park (Jones Landing) was being created and they were in and out all of the time. Gray stated that on his site, they will store a trailer with a machine on it. Most of the time the trucks go home with them for the day. There is very little backup beeping noises and there may be a tractor and old log truck on site.

David Coveyou stated that all the material that came in from Jones Landing they brought in. He stated that there isn’t enough material to reclaim and Manthei's are going to use that material to create the required slope. They are coming to the end of that mining process. If this case is approved, it would set a precedent to allow in contractor's uses in areas that don’t meet the contractor’s use criteria. This should be located elsewhere. Desy stated at the township meeting the criteria of not having the 10 acres and not having the owner occupying the property was discussed. They also discussed a previous case in which a request came in on a smaller lot and it was denied. That owner found another lot that was the correct size and is doing well. Desy stated that it was unanimous at Bear Creek, both planning and board, to deny.

Pat Daniel stated that he thinks that it is a great site. There is no room for expansion in that area. The pit has been reclaimed and trees planted because it is done. They respect the neighboring landowners and kept the mining operations away from the neighbors. There are hardly any homes in the area.
Eby stated that the site has some attributes but does have some issues.

Gray stated that this is a small business and only has three guys working. It won’t be a huge operation. He has cut 1500 cord of wood over the last five years. To do this with a chainsaw and splitter is a lot of hours, with the machine the time is ¼ of that. It doesn’t run every day all day long. They are busy September to December and some during the winter.

Plasencia asked if the hours of operation could be limited. This area is loud anyway because of the highway. The hours could be limited to match traffic, perhaps 9am-5pm or 6pm. Jones stated that he doesn't know what else the property could be used for. He stated that Max Putters wanted it to be residential but this doesn't seem like an option.

David Coveyou stated that the views are really good and you could easily put a home with a great view of the lake. Pat Daniel stated that you cannot see the lake from the subject parcel.

Eby asked if there is a 3:1 slope. Charles Daniel stated that it has been grated off and planted with pine trees. The back is still woods because he didn't want to get onto Coveyou's or his sister's property. It has been reclaimed. Coveyou stated that he did do a good job with the reclamation. Charles Daniel stated that a few years back he had some doctors that wanted to put in storage units but he was denied to do so because he didn't live there. Doernenburg noted that the ordinance has been changed to allow modifications to the standards in the last few years if it was shown that the surrounding properties are protected from nuisances.

Coveyou stated that there is no question that he hears the noise in his house. There are also the people that are shopping for flowers and things at their farm and trying to enjoy the up-north experience that can hear it.

Eby stated that he likes the highway access and the natural berming but it is a small lot with restrictions as to where it can be put.

Desy made a motion to deny Case #10-12, Special Use Permit for a Contractor’s Use and Site Plan Review for a forest production operation, for Charles Daniel at property located on the east side of US-131 in Section 30 of Bear Creek Township for tax parcel 24-01-19-30-200-005 as shown on the plot plan dated received May 14, 2012 for the following reasons: the owner does not occupy the premise, the lot size is less than 10 acres, the lot does not meet the 600' lot width, there is a better place for the use, and because both the township Planning Commission and Board voted to deny based on the fact that it is an industrial use. The motion was supported by Alexander.

Laughbaum requested further discussion. Eby informed him that discussion had already taken place. Laughbaum objected.

The motion to deny failed on the following roll-call vote: Yes: Neal, Hramiec, Desy, Alexander. No: Eby, Jones, Scott, Laughbaum, Plasencia.

Hramiec stated that perhaps the township should take another look at the case as the applicants weren't present at their meeting. He asked Desy if he thought it would make a difference. Desy stated that he doesn't think it would make a difference at the Planning Commission level; doesn't know about the
board. Doernenburg stated that the case could be sent back to the township for further review but they have already made their recommendation. They are a recommending body and the decision needs to be made by the Emmet County Planning Commission. Jones stated that he would like to walk the site. Eby would like a better site plan. He asked if the machines could be relocated to alleviate some of the noise. Perhaps a topographical map would help visualize the options. There is so much missing on the plans at this point. Hramiec asked how it could be approved if it doesn't meet the criteria listed. Eby explained that there is some flexibility allowed, but feels that we are ignoring too many of the criteria as it is now.

Laughbaum stated that he likes the location for this use. He thinks that the noise is screened. It is on a class A highway so the roads wouldn't be damaged. The wood is heavy and needs to be cut. The property needs to be able to be used. Eby agreed that the class A highway is a positive for this case. Scott stated that limiting the area that is used could help make the smaller parcel size work better. Jones asked the applicants if there is anywhere that the machine could be placed so that the sound wouldn't carry out where the berm isn't in order to dampen the noise. Gray stated that it possibly could be moved further north and be behind the larger berm.

Coveyou stated that the noise echoes out of the property. Moving the machinery wouldn't change this. Eby stated that the surrounding hills should funnel the sound up. The hours of operation should be restricted. Laughbaum stated that it doesn't fit into the sawmill category as the noise is not continuous and not the same type of equipment to generate the same noise. It is a completely different operation. Coveyou stated that he feels that the sawmill designation does fit this; it is processing, not harvesting. Jones stated that when you live in a FF district, you aren't afforded the same protections as in a residential zone or subdivision. There are various noises and smells from farm operations that can occur. People tend to move into a FF area and then don't like what happens. Coveyou stated that this isn't an agricultural use. Jones stated that it is to some extent. Laughbaum stated that the other F in FF is for Forest; they are doing forestry work.

Eby asked if the noise issue is something that can be overcome. It needs to be blocked from coming out the driveway. Scott stated that there are options; a wall could be built to deflect the sound, or it could be put in a building. These may not be viable to the applicant. There was discussion on site visits. The applicant is willing to run the machinery so that those who wish to visit the site in small groups or individuals can hear the noise levels. It was noted that the visits should be four or less people at a time and no ex parte communication is allowed.

Jones made a motion to postpone Case #10-12, Special Use Permit for a Contractor’s Use and Site Plan Review for a forest production operation, for Charles Daniel until the next regular meeting to allow the applicant further time to resolve the discussed issues. 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.

IV Other Business:

- Enforcement Report: Distributed, no discussion.
- Accessory Buildings as a Main Use-proposed text amendment: Doernenburg explained that during Kurt Schindler's review he said that exceptions as written in our ordinance are use variances-which are not allowed. They can either be reviewed by the ZBA or the ordinance can be changed to allow the use by right or by special use. The proposal is to allow for an accessory building without a main use in FF-1 and FF-2 zones if criteria are met. Doernenburg noted that they have consistently been approved if they meet the ordinance criteria. None have been denied
in a FF zone. Eby stated that he feels one of the reasons that they aren't denied is that they know that they have to come up with an acceptable plan to go before the Planning Commission. This could be opening this section up to misuse. Perhaps there needs to be a lot size limitation such as five acre minimum and over 300' wide. Eby stated that he would like to keep the review at the Planning Commission level for smaller lots. Doernenburg added that many times the accessory buildings are already built. These cases come to the Planning Commission because the applicant originally applied for both a house and accessory building, built the accessory building, and, for various reasons, were unable to build the house within the two year time period. Laugbaum stated that changing this takes the public review out of the equation and makes it more of a subjective review. He feels it is better to be reviewed by the board at a public meeting. Plasencia asked about the screening. Doernenburg noted that it may be too subjective and perhaps needs to be more specific. Scott stated that it could be stated that it can't be seen from the public road and/or neighboring property lines. After discussion it was decided that more work needs to be done on the language. Staff will work on this and bring back another recommendation next month.

- **Co-location/Replacement:** Doernenburg noted that a bill was passed that goes into effect immediately that will not require permits for collocations and/or replacement of existing antennas on existing towers. We have required zoning permits after administrative review for collocation but not for replacement of antennas.

**V Public Comment:** Alfred LaCount stated that in regards to the accessory building discussion perhaps the lot size to building size ratio could be used.

**VI Adjournment**

There being no other business, and no additional public comment, Eby called the meeting adjourned at 10:46 p.m.

________________________________________   __________________________
James Scott, Secretary        Date