EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING MINUTES
THURSDAY JANUARY 2, 2014
7:30 P.M.
COMMISSIONER’S ROOM
EMMET COUNTY BUILDING
200 DIVISION STREET
PETOSKEY, MI 49770

MEMBERS PRESENT: John Eby, Dan Plasencia, Kelly Alexander, Paul Desy, James Scott, Bert Notestine, Shawn Wonnacott, David Laughbaum, Steve Neal

MEMBERS ABSENT: None

STAFF: Tammy Doernenburg, Monica Linehan

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

II Minutes of December 5, 2013
Wonnacott noted that the support and vote results were not included for Case #31-13 in the December minutes. Alexander made a motion supported by Desy to approve the minutes of the December 5, 2013 meeting with the correction. The motion passed unanimously by voice vote.

III Cases

1. Case #33-13 Steve Migda, SPECIAL USE PERMIT-Accessory building as main use, 5450 Pickerel Lake Rd., Section 36, Bear Creek Township

Legal notice: A request by Steven Migda for a Special Use Permit for an Accessory Building as a Main Use at 5450 Pickerel Lake Road, Section 36, Bear Creek Township. The property is zoned FF-1 Farm and Forest and is tax parcel number 24-01-16-36-200-065. The request is per Section 2102-17 of the Zoning Ordinance.

Packet items: Request & location map, tax parcel map, application, impact statement, accessibility letter from Road Commission for parcel split & split info, 12/6/13 zoning evaluation, survey, 11/21/13 site plan, 12/18/13 Bear Creek Township minutes, 12/23/13 support letter from Haggard's P&H.

Doernenburg showed the location of this property on the south side of Pickerel Lake Road. In 2011 the single parcel was split into four parcels as shown. Parcel number three is the proposed parcel to be developed. It is 1.42ac and is zoned FF-1. Proposed is a 2,400sf pole barn built in the rear yard as defined by the ordinance. The accessory building would be the main use on the property. The property is quite well screened and a Road Commission approved existing access driveway will be used along the east side of the property. There appears to be room for a future use and the accessory building use is consistent with the uses in that area. The 2012 aerial was shown. The proposed accessory building would be for personal use only and would require an affidavit of use to be recorded with the Register of Deeds. Photos of the site and the proposed site plan were shown. The township recommended approval of this case.

Steve Migda, the applicant, was present for questions. There was no public comment on this case.

Desy made a motion to approve Case #33-13, Steven Migda for a Special Use Permit for a Customary Accessory Building without a main use on property located at 5450 Pickerel Lake Road, Section 36 of Bear Creek Township on tax parcel 24-01-16-36-200-065, as shown on the site plan dated Received...
November 21, 2013 because the standards of Section 2102-17 have been met based on the facts presented in this case and on condition that an affidavit of use be filed with the Register of Deeds prior to issuance of a zoning permit, and because the township recommended approval. The motion was supported by Neal and passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Scott, Wonnacott, Laughbaum, Desy, Plasencia, Alexander. No: None.

2. Case #246B-98 Charles Philliben, PUD-1 Amendment, 2050 Harbor Petoskey Rd, Section 27, Bear Creek Township

Legal Notice: A request by Charles Philliben to amend a Planned Unit Development-1, Mixed Use, Overlay District (PUD-1), Preliminary and Final, over an existing R-2B General Residential District on tax parcel number 24-01-16-27-200-050. The property is located at 2050 Harbor-Petoskey Road (M-119), Section 27, T35N-R5W, Bear Creek Township. The proposal is to expand the display area and storage area for Hot Springs Spa, a retail business, which shares parking and access with the existing use east of the parcel. The review is per Article XVII of the Zoning Ordinance.

Packet Items: Request & location letter, tax parcel map, application, impact statement & written statement from applicant, 1999 board approval & site plan, 12/10/13 impact evaluation, photos, 12/6/13 site plan & blown up section, 12/16/13 support email from Elaine Keiser Architect, 12/18/13 Bear Creek Township minutes, 12/23/13 support letter from Haggard's P&H.

Passed out at meeting: 12/31/13 revised plan

Doernenburg explained that this has been an ongoing enforcement case. If the proposed revision is approved, the Board of Commissioners has final approval. The property is located on the east side of M-119. It has a PUD-1 overlay with R-2B underlying zoning. The originally approved PUD-1 plan was shown from 1999. The enforcement issues are too many display models in the front, unsightly storage, and unscreened dumpsters near the rear storage area. The original proposal for the PUD amendment requested four display units to be allowed in the front display area and proposed an enclosure for the storage and dumpsters in the rear. Doernenburg stated that there was quite a bit of discussion at the township level in regards to this case. One of the issues discussed was the access drive to the south. It is not a legal access to the property but is being used on a regular basis and to empty dumpsters. At the township meeting the applicant agreed that he would screen the storage area with an eight foot vinyl privacy fence, he would also reduce his request for display models from four to three, would enclose the dumpsters and move them to meet the setback, and would install a decorative concrete enclosure to screen the dumpster. After the township meeting, the applicant brought in a revised plan showing those changes on 12/31/13. Photos of the property were shown both in the summer and recent photos in the winter. Doernenburg noted that the front of the property is well kept however the storage area has many unusable or reconditioned hot tubs. There was also a sign near the access for the neighboring property that has since been removed. The display units in front have already been reduced to the three units. The vinyl fencing and concrete wall are shown on the revised plan. The wall will be angled so that the dumpsters can be emptied on his property instead of using the neighbors' access. Doernenburg noted that the township required and the applicant agreed to a May 15, 2014 deadline for the corrections to be made. They also asked that the display models in the front be unwrapped so that they look more like a display. With those corrections and stipulations, the township recommended approval.

The applicant was not present.

Eby asked about the access drive. Who owns it? Doernenburg stated that the neighbor does. Eby stated that if the neighbor doesn't want it used they could cut off access with a fence or gate. Doernenburg stated that they could if they wished. The neighbor and Mr. Philliben want it kept open for emergency access but the neighbor doesn't want it regularly used. Laughbaum asked if this would require the garbage trucks to back into the site. Doernenburg pointed out the access area on the subject property that could be utilized for the trucks. Alexander asked if the dumpsters are on a slab. Doernenburg stated that she doesn't think that they are. Alexander asked for confirmation that the proposed changes would bring the
site into compliance and increase the display units from two (approved in 1999) to three. Yes. Plasencia asked about the difference shown in the storage area size. The plan shows 42'x42' not 36'x36'. Doernenburg stated that the township discussed the option of including the dumpster area with the storage area, therefore the size was increased. Alexander asked what would happen if the May deadline is not met. Doernenburg explained that there is a February court date already set. If this is approved by the Planning Commission and the Board of Commissioners, the case could be dismissed without prejudice. If he doesn't meet the deadlines, the existing citations can be re-instated and it would continue to be pursued through the courts. If it isn't approved, the judge will hear the case in February and make a decision. Doernenburg stated that he has made changes including moving the sign and reducing the display units already. Desy asked why the parking has been reduced from eleven to nine spaces. Doernenburg stated that he wasn't asked to change the parking. She noted that the area near the dumpsters is to remain concrete so it can be driven on and used for snow removal according the applicant's narrative. Laughbaum asked about the access drive in question. Will it remain? If it does, is the neighbor going to come back to us when it is used too much? Doernenburg stated that the intent is for it to remain as emergency access only. The complaints or issues with the access would be between the neighbors. Laughbaum noted that if the neighbor agrees the garbage trucks could still utilize the access for trash. Doernenburg noted that the neighbor Tom Behan Jr. is present. At the township meeting, Tom Behan Sr. indicated that he would like the access to be utilized but they have had some issues with damage to asphalt in the past and with the access being used to come into the front of their building.

Eby opened the floor to public comment.

Tom Behan Jr. stated that they have approached the access issues in a neighborly way. They agree with shared access especially for emergency vehicles but feel that it has been overused and they have an additional issue with their insurance agency; they are concerned with others using it regularly - for liability reasons. There has also been some damage in the past to the asphalt. Behan stated that their main concern is with the aesthetics of the property and they are willing to work out the access issues if the other items are addressed. They are going to work together as neighbors to deal with the access. They haven't had issues with customers using the access, mainly the applicant's company trucks and garbage trucks. They don't want to put a gate up and are willing to work on it together. Neal asked Behan if he is here to support the request. He wants to be sure that he doesn't have an expectation that if things don't work out with the access that the Planning Commission can fix it. It is out of our realm of enforcement. Doernenburg added that we can only enforce the site plan which in this case deals with the display, the storage area, and the sign. She added that a deck was approved administratively on the condition that the 1999 restrictions be adhered to. Behan stated that they are more concerned with the aesthetics as they have client access along the side and rear of the building across from the storage area and receive comments about how it looks often. He would love to see the changes on this site plan work.

Charles Philliben, applicant, arrived at 7:55pm.

Laughbaum asked Mr. Philliben if the garbage trucks have room to maneuver as shown on this plan. Philliben responded that they do it regularly for the neighbor and would just be turning the other direction. Scott added that most trucks are front load now anyway. Alexander stated that he doesn't like the fact that we'd be giving him additional display units in order for him to conform to what is supposed to have been done already. If the zoning isn't right in the area we should tweak it. He already had more display units out there than the two that are currently allowed. Doernenburg stated that his original amendment request was for four display units. That has been reduced to three which was recommended for approval by the township. She added that this area is and has been evolving from primarily residential to primarily commercial, mostly through the PUD process. Most of the area is now commercial uses as opposed to the residential uses they once were. Neal asked if it is enforceable to require the display units to be
unwrapped. Doernenburg stated that it is and that the applicant agreed to this at the township meeting. It is a pretty simple thing to identify. She added that she imagines that there may be some that are wrapped this time of year but that during the summer they should be unwrapped. Desy added that the reason for the wall on the south of the property is so that they can double stack their models that are stored and get them out of the line of sight.

Desy made a motion to recommend approval of Case #246B-98, Charles Philliben for Northwoods Hot Springs Spas, Final Mixed-Use Planned Unit Development-1 - Amendment at 2050 Harbor-Petoskey Road, Section 27, Bear Creek Township to allow for retail use and up to three unwrapped, new display items in front of the building and screened storage as shown on the plan dated December 31, 2013 based on the facts presented in the case, the character of the corridor has transitioned to several commercial uses since 1999, and the use was originally approved in the PUD. Approval includes Site Plan Review approval if the PUD is approved by the Board, as identified on the 12/31/13 Site Plan for the following reasons: Based on the facts presented in the case, the use is permitted in the PUD, and the Site Plan meets the standards of Section 2405. The approval is on condition that the dumpster be screened as shown on the plan at least six feet in height, and the 42'x42' storage area be screened by an eight foot high vinyl privacy fence and that the screening be completed by May 15, 2014, and that the display units in front be unwrapped, and because the township recommended approval. The motion was supported by Neal and passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Scott, Wonnacott, Laughbaum, Desy, Plasencia, Alexander. No: None.

IV Public Comment: None

V Other Business:

- **Wind Energy Systems:** Doernenburg noted the memo from Kathy Abbott, Civil Counsel, that was sent in the packet. She reviewed the proposed draft and indicated that she doesn't feel that the maintenance schedule requirement is out of our realm to require. She noted that other things that the county enforces such as drainage sometimes require maintenance schedules, as does the sanitary code. Laughbaum asked if these schedules would only be kept on file. Doernenburg stated that in the event of a complaint the records can be requested by the Zoning Administrator, the reports would be maintained by the owner. This requirement is only for those WES units over 60' and the utility grade systems. Systems under 60' are required to provide a maintenance schedule mostly to make sure that the owner understands that maintenance will be required on the units. Scott stated that the schedules would be public record but the actual maintenance records would only be public record during enforcement if requested by the Zoning Administrator.

Scott made a motion supported by Wonnacott to publish the proposed text changes for public hearing at the next regular meeting. The motion passed by unanimous voice vote.

- **Election of officers:** Since the Board of Commissioners haven't met yet this year, this will be revisited at our next meeting. Doernenburg noted that both Neal and Laughbaum have indicated that they would like to remain on the Planning Commission.

- **Enforcement Report:** Distributed with some discussion

- **Ordinance reformatting:** Doernenburg stated that the reformatted ordinance had been emailed to the ZOAC members. It is quite lengthy and thinks it would be best to have the ZOAC meet prior to presenting it to the full Planning Commission.

- **Enbridge Energy invitation:** Doernenburg stated that we have been invited by Mackinaw County Planning Commission to attend an informational session regarding the Enbridge pipeline in the Straits on February 5th at 2pm if anyone is interested. Invitation was emailed to all members.
• **Master Plan 2014:** Doernenburg stated that the Board of Commissioners approved and the Notice of Intent to Plan was sent out to townships, cities, villages, and neighboring counties. There are to be minor changes mainly adding in some of the recreation options that weren't there in 2009 and updating with 2010 census data. Doernenburg requested to be contacted if there are other changes that anyone would like reviewed.

**VI Adjournment**

There being no other business, and no additional public comment, Eby called the meeting adjourned at 8:12 p.m.

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James Scott, Secretary        Date