EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING MINUTES
THURSDAY MARCH 5, 2015, 7:30 P.M.
EMMET COUNTY BUILDING
200 DIVISION ST
PETOSKEY, MI 49770

MEMBERS PRESENT: John Eby, Dan Plasencia, Bert Notestine, David Laughbaum, Tom Urman, James Scott, Shawn Wonnacott, Kelly Alexander, 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 except Neal who arrived at 7:32PM.

II Minutes of February 5, 2015
Notestine made a motion supported by Urman to approve the minutes of the February 5, 2015 meeting. The motion passed unanimously by voice vote of the members present.

III Cases
1. Case #180B-87 Leslie Adkins for P&L Liquid Investments LLC (Petoskey Brewing LLC), SITE PLAN REVIEW-Amendment, 1844 Harbor-Petoskey Rd, Section 27, Bear Creek Township

Packet Items: 2/5/15 provided plans

Doernenburg explained that this case had been reviewed last month but that revised plans had been submitted since then. The location of the site, an aerial map from 2012 before the site improvements occurred, and the currently proposed site plan were shown.

Neal arrived.

Doernenburg explained that the request is for the placement of a silo in the front of the building. The hauling zone that was shown on the previous plan in the setback has been eliminated. The silo displaces two parking spaces. Seating was confirmed and a patio table has been removed bringing the total required parking spaces to 39. The uses on the second story of the building will be for fermentation tanks and an office. The elevations were shown. The current sign on the outside of the building will have to be moved up, but it can't be any higher than the roof of the building. Photos of the site and building were shown. Doernenburg noted that there will be other cosmetic improvements to the building as well but they don't need to be addressed by zoning. They will be utilizing existing road accesses. The parking now meets the ordinance standards. The spaces in the front are 10' wide and the ones in the rear of the building are 9' because they are angled, they meet the standards. If a sign were to be placed on the silo it would need to be reviewed by the Sign & Lighting Committee. The outdoor storage has been eliminated. The trail on the back has been identified as a wood chipped trail. The township did recommend approval however they requested that the trail be concrete, asphalt, or a raised wooden boardwalk. Doernenburg stated that she believes that there is an invasive species that needs to be eliminated and she spoke with the soil conservation district and they indicated that they may be able to assist. Letters of support have been received from both neighbors. The
township minutes were distributed in the packets; the Planning Commission and Board both recommended approval.

Leslie Adkins, applicant, stated that they were agreeable to the change in path material but asked that they be able to reserve the decision of which would be the best method until after the snow melts. Urman stated that they discussed allowing that at the township meeting. They were ok with the plan and they are also working at restoring the building cosmetically.

Neal asked what the silo is made of and if plans have been made to prevent rusting. Adkins stated that it is made of galvanized steel that is painted white. Doernenburg added that they did discuss the suggestion that Eby made regarding surrounding the silo with wood or other material but they felt it would lose functionality.

Urman asked if the snow removal issues had been addressed. Adkins stated that they will haul it off or push it further back. Neal asked if there is enough employee parking or if they will have to utilize the neighbor's parking as previously discussed. Doernenburg stated that the required number of spaces is obtained including employee parking. It is her understanding that there is also an agreement in place with the neighbor to utilize their lot for extra employee parking if needed but that would be between the property owners. Eby stated that he feels that this silo is an industrial accessory and is uncomfortable with that especially given the extent of screening that places like Circuit Controls had to accommodate. There isn't anything saying that this can't be done but asked what the long-term goal with this corridor is. Where is this area going? Urman stated that the township felt that the silo fits in with the brewery character. They did ask them about putting the silo at different locations such as the back of the building but they stated that wouldn't work with the grain process. Some thought it draws attention to what the business is and what they offer. Urman stated that the neighboring property owners are in support of the project. Alexander asked Eby if his concern is that it is an industrial use or aesthetics. Eby stated that it is a minor use that fits the property but the structure in this location is an industrial accessory without any screening. Laughbaum asked about the foundation of the silo; would this be a building department issue? Adkins stated that it is a slab foundation and the plans have been submitted to the building department for review.

Urman made a motion to approve Case #180B-87, Leslie Adkins, Site Plan Review to add a grain silo to the parking area at 1844 M-119, Section 27, Bear Creek Township as shown on the site plan packet dated received February 23, 2015 based on the facts presented in the case, and on condition that there be no additional seats provided in the serving areas, that the second story be used for production, storage and accessory office use only, that the parking spaces are to be used for customer and employee parking only (no outdoor storage), all deliveries shall be prior to 11:30a.m., and the parking lot connector to the bike path will be finished with concrete, asphalt, or a wooden-type bridge as noted on the site plan. The motion was supported by Notestine and passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Scott, Wonnacott, Laughbaum, Urman, Plasencia, Alexander. No: None.

2. Case #1-15 Cherry Capital Connection LLC for Kristina S Carras, SPECIAL USE PERMIT-Internet Tower, 3255 Vorce Rd, Section 17, Readmond Township

Legal: A request by Cherry Capital Connection LLC for Kristina S Carras for a Special Use Permit for an internet tower on property located at 3255 Vorce Road, Section 17, Readmond Township. The property is zoned FF-2 Farm and Forest and is tax parcel number 24-12-08-17-300-001. The request is to erect a 120' high guyed tower for internet reception per Section 2102-2 of the Zoning Ordinance.

Packet Items: Request & location map, application, impact statement, 1/27/15 email and minutes from Readmond Township, 2/5/15 staff report, 1/20/15 site plan
Doernenburg stated that the applicant had turned in the paperwork for this case in January but missed the deadline for the February meeting. We notified neighboring property owners of the February township meeting date based on the township submittal requirements however the township reviewed the case in January. There are letters in the packets that neighbors came to the township meeting in February and found that there wasn't one. They spoke with the supervisor and didn't have concerns other than the fact that the tower had already been erected before permits were pulled. No other concerns have been presented by neighbors.

Doernenburg explained that this is an 80 acre property zoned FF-2 which sits about a 1/4 mile off of the Vorce Road. The property is fully wooded. The 120' tower is 1,012' from the north, 1,584' from the south, 670' from the west, and 626' from the east property lines. The site plan and photos were shown. Doernenburg noted that when she was at the site she was not able to see the tower from any public road.

Bruce Vaughn, Cherry Capital Connection, stated that this is the last of the towers that were put up prior to obtaining permits. After this, all of their towers will be permitted and they will follow the correct procedures for new ones.

Urman asked when this tower was put up. Tim Maylone, Cherry Capital Connection, stated it's been up for at least two years. They had a hard time getting the property owner's signatures so it has taken longer to submit the applications for the Special Use Permit process since it was discussed the last time. Urman stated that he thought that in December they had stated that they had permitted all of their towers. Doernenburg confirmed that this location was mentioned during a previous meeting. Plasencia asked if unauthorized climbing and guy guards will be installed. Vaughn stated that they will. Neal asked where the electricity for the tower comes from. Vaughn replied that it is from the home on the site. Neal asked if it is used as a relay tower and if it delivers service to others in the immediate vicinity of the tower. Maylone stated that it services the property owner and acts as a relay to Cross Village.

Gordon Kruskie, Readmond Township Supervisor, stated that the township met on this case in January and was approved by the board after recommendation from the Planning Commission.

Neal asked if there are plans to collect any data on these towers as to who they service. Doernenburg stated that there aren't at this point. Maylone added that this information is on file with the FCC. Neal asked about co-location. Maylone stated that they are lightweight towers and their antennas just about max them out. Notestine asked about the label that shows contact information in case of emergency; is this required on this tower? Doernenburg stated that she thinks the application came in just before the Ordinance change. Maylone stated that they will be adding that information to this tower and all of their other towers as soon as the signs are made.

Eby opened the floor to public comment.

Mike Tydek asked about the location of the tower and whether it is lit; he isn't able to see it at all from his property. The location was shown on the map. Vaughn stated that it is not lit.

Scott made a motion to approve Case #1-15, Cherry Capital Connection LLC for Kristina Carras for a Special Use Permit for a 120' internet tower at 3255 Vorce Road in Section 17 of Readmond Township. The property is zoned FF-2 Farm and Forest and is tax parcel 24-12-08-17-300-001. Approval is for the plot plan dated 1/20/2015 because the tower meets the setback standards, and it will not be lit, approval is on condition that the tower be equipped with devices to prevent unauthorized climbing and guy wire guards shall be installed and all wireless communication facilities
shall be removed and the site restored to its original condition by the property owner or lessee within ninety (90) days of being abandoned (no longer used) and the applicant agreed to install identification sign stating the purpose, ownership, and emergency contact information, and because the township has recommended approval. The motion was supported by Neal and passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Scott, Wonnacott, Laughbaum, Urman, Plasencia, Alexander. No: None.

3. **Case #68B-01 Ellsworth Farmers Exchange, FINAL MIXED USE PLANNED UNIT DEVELOPMENT (PUD-1) & SITE PLAN REVIEW, 7488 M-68 Hwy, Section 11, Littlefield Township**

**Legal:** A request by Ellsworth Farmers Exchange for Final Mixed Use Planned Unit Development-1 (PUD-1) and Site Plan Review for a fertilizer storage and mixing facility, a propane storage and distribution facility, and outdoor display on property located at 7488 M-68 Hwy, Section 11, Littlefield Township. The property is zoned R-1B One Family Residential and FF-1 Farm and Forest with a PUD-1 Overlay and is tax parcel 24-07-17-11-300-026. The request is consistent with the Preliminary PUD approved on November 14, 2012 and is per Article XVIII of the Zoning Ordinance.

**Packet Items:** Request & location map, application, impact statement, 2/12/15 staff report, 2012 Planning Commission minutes excerpts, 2012 site plans-Oct, Nov, 2/6/15 PUD/Site Plan packet

Doernenburg presented this case explaining that the site is part of a larger PUD along the south side of M-68. A preliminary PUD was approved in 2012 for fertilizer storage and propane. The originally approved site plans were shown. The former Emmet Excavating property is now used for Ellsworth Farmers Exchange business and parking. Behind the building there is a row of evergreen trees with vacant property behind. There is a row of hardwood trees that will be removed for the additional development. A revised site plan was received today as a result of the township's recommendations. It is a 5 acre parcel zoned R-1B and FF-1 with a PUD-1 overlay. The current request is for outdoor storage and display, propane distribution, and fertilizer mixing and distribution. The 50' PUD perimeter setback is maintained. The existing pine trees are to remain. The outdoor display area was originally defined at 33'x75' and 113'x29' (5,752 sf.) but this has been revised on today's plans. The outdoor display is for farm and hunting related items. There is a gravel drive that goes behind the storage facility for the propane that would access both the fertilizer and propane areas. The township requested that gates be placed at the entrance and exit drives to eliminate afterhours access. The fertilizer area is proposed to be within an 160'x40' building that will also have the mixing silo. Lights on the building would need Sign & Lighting Committee approval. On the south side of the lot there will be a 60'x80' building for dry storage. The propane storage will be behind that building. The large propane tank will be a 500 gallon tank which is 9'x16'. There will be a 14'x13' shed on an elevated platform. These will be screened by mature pines and a building. There is also a 40' elevation difference between the east property line and the fertilizer building. Snow storage is identified on the plan. The siding on the buildings will be vinyl except for the propane shed that will be metal. A sealed drainage plan is on file and was shown. The elevation of the fertilizer facility and photos of the site were shown. The new plan shows revised locations for outdoor storage. There is a total of 900sf now proposed for outdoor storage, a 37'x8' and a 75'x8' area. The township has requested that the display be only during business hours. The revised plan also shows the gates on the gravel drive as requested by the township. The township wanted to have a stipulation for approval stating that if the outdoor storage conditions were violated and cited more than three times that the approval for outdoor storage would be revoked. Doernenburg stated that she spoke with Civil Counsel and this is not something that can be enforced. If the conditions are violated, the normal enforcement procedure will occur.

Aaron Nordman with Performance Engineering stated that outdoor display was the main concern at the township level. They spent a long time talking about it. The outdoor display would be for bagged material such as topsoil or deer feed. It will be forked in and out to be displayed during business
hours. It makes sense to have these locations at the end of the parking areas and parking has been provided at alternate locations on the plan. The gates were addressed and are shown on the plan. The township also wanted a liner in the center of the retention pond but there is a secondary containment system inside the building already so the liner shouldn't be needed.

Tim Underwood stated that during the presentation it was mentioned that the propane storage tank was 500 gallons; it's actually 30,000 gallons. He mentioned that the gates are on the plan as requested but they would rather have the gate on their property rather than the drive in case the other property gets sold. As Aaron stated there is a containment system in the fertilizer building that will contain any spills of liquid fertilizer. It is contained inside of the building and also outside when loaded.

Neal asked about fire protection. Doernenburg stated that the fire department has reviewed the plan and we haven't received any notice of issues. Plasencia stated that he was at the township meeting and is concerned about how the outdoor display will be enforced. It is difficult and during the corridor study outdoor display was noted as something that they didn't want. How will this be policed? There are lots of items outside of places such as Tractor Supply where this display is allowed. In this instance, it is a special use and he doesn't feel that it should be allowed here. Will the filling station be fenced? Underwood stated that it will have to be. Plasencia asked if the road specifications will be up to par with what is required for their tankers and fire equipment. He stated that he doesn't want to see outdoor display because the violations are very difficult to enforce and costs money and time. They have opportunities to advertise what they are offering. The township didn't have a committee meeting so only their township board has looked at this. One of the trustees that are out of town are also against the outdoor display.

Doernenburg stated that she received an email from Paul Mooradian the neighboring property owner across the highway at Keystone Industrial Park who supports the project but was concerned about safety and spills. He is supportive of the outdoor display request as long as it was limited.

Plasencia stated that he is still concerned with the outdoor display and feels that it should be eliminated or greatly reduced.

Nordman stated that he feels that the PUD gives this kind of opportunity to do something a bit different but still allow for some control. It allows for it not to be carried away. They are selling the same types of things as the gas stations and hardware stores. The improvements to the site plan gets the display away from the front of the building and limits it to smaller strips. Underwood stated that they operate this business in several areas and they are very proud of their business. This location is the nicest facility that they own. They are not going to junk it up with stuff out front. Much of what they do and much of their market base is impulse based. The speed on M-68 is 55mph. They would like to take advantage of the sight distance from the road and get these impulse purchases. It isn't storage, it's only display. They will take it in after business hours. They are trying to be good neighbors.

Doernenburg stated that this company has been very responsive when she's had to contact them for issues. She stated that she had to contact them once for an issue when they first opened and they were very apologetic and responsive and immediately took care of the issue.

Eby stated that the outdoor display may help screen some of the stuff out back such as the spreaders. He asked if the gate will be an issue with farmers returning equipment as they likely won't be there during business hours. Underwood stated that they can drop off near the fertilizer center and they'll move them in the morning. Alexander stated that since the township's idea of revoking the outdoor display after three strikes can't be enforced what will the enforcement options be if needed?
Doernenburg stated that regular enforcement procedures will be followed. She stated that enforcement is only difficult if the person or business is not complying with the approval conditions. Plasencia asked how long it would take to enforce a potential violation. Doernenburg stated that it really depends; some issues are addressed immediately, some take much longer. She stated that rapport is typically built with property owners allowing for quicker compliance. Plasencia stated that it could happen that way where it takes a very long time and it has happened that way. He feels that it opens a can of worms for the whole area. The Shell station isn't allowed outdoor display. Underwood stated that they do have outdoor display of propane and bait in the fall. Ron Aldrich, Ellsworth Farmers Exchange, stated that it is unsightly to have display materials out when they are closed and they are also concerned about theft. Urman agreed stating that he feels that it would be self policed for those reasons. It sounds like they are and have been cooperative.

Scott made a motion to recommend approval to the Board of Commissioners of Case #68B-01, Ellsworth Farmers Exchange for Final Mixed Use PUD-1 Master Plan, an overlay on tax parcel #24-07-17-11-300-026 in Section 11, Littlefield Township. The property encompasses approximately 5 acres, having some 333 feet of frontage on the south side of M-68. The Final PUD-1 Mixed Use is for the back half of the parcel with the following uses: propane storage, fertilizer storage and blending, and storage units as shown on the plan dated Received March 5, 2015. The motion was supported by Neal and passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Scott, Wonnacott, Laughbaum, Urman, Alexander. No: Plasencia.

Scott made a motion to approve Case #68B-01, Ellsworth Farmers Exchange, Site Plan Review to add outdoor display to front of retail store area and for fertilizer mixing & storage, propane storage & distribution in back half of parcel at 7488 M-68, Section 11, Littlefield Township as shown on the site plan dated March 5, 2015 based on the facts presented in the case, the use meets the standards of Section 2405, the use will not conflict with the character of the area, fire protection has been reviewed by the fire department, there has been no negative response from neighboring property owners, and because the township board recommended approval. The motion was supported by Urman and passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Scott, Wonnacott, Laughbaum, Urman. No: Plasencia, Alexander.

IV  Public Comment: Mike Tydek read a letter in regards to FLOW. A copy was submitted.

V Other Business:
- Support letters for FLOW (For Love of Water): Approximately thirty letters have been received from people asking us to support ordinance changes in relation to gas and oil and FLOW. These letters have been emailed to this board. Doernenburg stated that there is a new house bill that was just presented which would change the Zoning Enabling Act to eliminate the clause that doesn’t allow counties and townships to regulate oil and gas. She stated that she's looking for direction; should we continue to watch these developments or would this board like to pursue ordinance changes? Notestine stated that even if we address problems with these wells that can happen above the surface, how would we ever regulate and get to the issues below ground? Doernenburg stated that since we regulate land use, we wouldn't regulate issues underground-this would go through the DEQ. There is question of whether these issues could be regulated by counties even if that clause is rescinded. The Director of Wells would have primary authority. Doernenburg noted that she met with representatives of the oil/gas companies last month and they are willing to come in and speak or answer any questions. There is also a major discrepancy between what FLOW says we can do and what our legal counsel says we can do; counties do not have authority to adopt police power ordinances; the FLOW representative seems to represent that they can. Townships can do this but not counties. Neal asked how this would work with neighboring properties? If your
neighbor makes a deal with them, can they cross property lines below ground? Mike Tydek stated that they have what is called enforced pooling which means that the properties within a certain distance must allow the activities to take place. Notestine stated that there are people that do what they're supposed to do and do it correctly and there are others that try to save money and do things incorrectly; how would this get addressed on this level of activity? Mike Tydek stated that fire and rescue people are very concerned about responding to accidents in which these trucks are involved because they haul mixed chemicals in trucks which make up to 1,400 runs per well. No one knows what is in these trucks exactly because they don't have to disclose the information until 60 days afterwards. This is a concern when responding to an accident. After this discussion, it was determined that we should monitor what is happening and changing in the legislature.

- **Master Plan:** All of the previously discussed changes have been made and a CD was provided to each of the members with the full changed text. Alexander made a motion supported by Plasencia to authorize the Chair to sign the Resolution for adoption of the Master Plan changes. The motion passed by unanimous voice vote.

- **Village of Alanson-Resolution:** Doernenburg explained that the Village of Alanson is applying for a development grant for a storage facility with public restrooms at Sanctuary Island where they have a self propelled boat that takes you out to the island in the middle of Crooked River. Plasencia made a motion supported by Notestine to authorize the Chair to sign the resolution of support. The motion passed by unanimous voice vote.

- **Zoning Ordinance, Review:** The discussion began with accessory dwelling units. This was discussed last time and some concerns were brought up. Should we look at utilizing duplexes instead of individual second homes? Notestine stated that his concern is with what happens to this second home built after the family members that it was built for are no longer here. Doernenburg stated that the reason that we are looking into this is for affordable housing for an increasing aging population. These are going to primarily be for those locations that may not have a large enough parcel for more than one dwelling unit. We have discussed enforcement which could be difficult. We could authorize the ADUs as duplexes or perhaps just try them in one zoning district. Eby suggested requiring owner occupancy in one of the units of the duplex. Neal asked how this would be enforced. Properties can be put in trusts which can have a number of owners. Eby stated that he could live with the duplex option; would be the option to combine back into a single home in the future. Wonnacott stated that this would be an advantage. Eby stated that he feels it would conform to the community more as one home. Doernenburg asked if there are any districts that these units don't make sense to be in. It was agreed that they wouldn't fit into the B zoned districts. Doernenburg will work on wording for our next review. The other changes are new terms and reformatting being added to the B zoning districts. All of the B-2 uses were added to the chart, auto body painting was added to B-3. There were no changes in the I districts. The Airport Overlay District was added; this is required to be adopted and match the airport plan. Eby stated that some definitions should be added; identified surface water, wetland. Doernenburg stated that the Environmental Act defines both of these terms; we could reference their definitions. Doernenburg asked about the salvage use in FF. Was this intended in both FF-1 and FF-2 when it was originally discussed? Eby stated that he remembers discussing that it isn't a fit in I zones. Eby had previously requested that the salvage section be adjusted so that the reasons for denial come before the site plan review of the salvage operation. Eby stated that it is similar to a rezoning; the use is reviewed first to be sure that it fits and then the site plan requirements are checked to be sure that they are met as well. Setback requirements from a wetland should be looked into. The MDEQ says that as long as they aren't in a wetland it's ok. We could institute
a setback from a wetland.

VI Adjournment

There being no other business Eby called the meeting adjourned at 9:10p.m.

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James Scott, Secretary        Date