MEMBERS PRESENT:  J. HARRIS, Chairman, J. EBY, J. SCOTT, K. DERROHN, A. BEHAN, L. BLANCHARD, J. JONES

MEMBERS ABSENT: D. LAUGHBAUM, Vacant Seat

STAFF: M. PUTTERS, D. COON, T. DOERNENBURG

VISITORS: Alyce Conrad, Pat Masuch, Mark Rosczewski, Martha Dyksterhouse, Brian and Sally Turbin, Thomas Gallagher, Travis Weide, Clint Stahl, Pat and Paul Frisbe, Connie Marshall, James Carter, Memory Massey, Michele Casey, Sally and Leonard Schreier, Barry Siegel, Kathryn and Adam Dunshee, Ken Greenhoe, Jay Duggen, Paul Mooradian, Duane Pretzer, Bobbi Walsh, Fred Gray and others.

I Call to Order and Attendance
Chairperson Harris called the meeting to order at 7:30 p.m. The Pledge of Allegiance was recited. All members were present except Laughbaum with one vacant seat.

II Minutes of October 4, 2001
Eby made a motion to accept the minutes of October 4, 2001 as written. Scott supported the motion which passed on a unanimous voice vote.

III Enforcement Report - Larry Houghton
An enforcement report was not provided. Putters was asked to report on the Jewell property. He indicated that a site visit was held with Civil Counsel, Soil Erosion, Enforcement and others. The Jewell’s have applied for Land Division and they plan to move to another site. Compliance is a work in progress and compliance is the goal.

IV Public Comment
Denise Coon reported that Max Putters received an award for Outstanding Community Planner at the Michigan Society of Planning Annual Conference held on Mackinac Island (October 25-27, 2001).

V Cases
1. CASE #13A-00 Harbor Springs Excavating, Inc. for Tom Gallagher, RESOURCE MINING SPECIAL USE PERMIT, Luesing and Reed Roads, Section 28, Carp Lake Township
A request by Harbor Springs Excavating, Inc. for Tom Gallagher for a Resource Mining Special Use Permit on approximately 40 acres located on the corner of Luesing and Reed Roads, Section 28, T38N-R4W, Carp Lake Township. The property is zoned FF-2 Farm Forest and is tax parcel number 24-03-06-28-400-005. The request for a Level III Resource Mining permit per Section 2102-10 of the Zoning Ordinance.

Putters explained the request using a site plan, a location map and tax parcel map. A three acre Level II Mining Permit has been issued as allowed in the standards of the Ordinance and the location was shown on the site plan. An underground gas line divides the property into an east and west half. Carp Lake Township is concerned with the number of mines within the Township and they suggested the property be mined in more than two phases, as shown on the proposed site plan. The proposed Special Use Permit was distributed and each item was explained.

Eby asked about adding “Class A” to item number 8, referring to Reed Road.

Blanchard asked about the hours of operation, are they standard? Derrohn suggested Saturday hours be limited. Putters explained that they will only be operating crushing four Saturdays, maximum per year. Derrohn would like the language to include “no Sundays”.


Jones asked who monitors the special owners account, who oversees it? Putters stated that Harbor Springs Excavating will report to the Planning Office twice per year.

Item number 12 was eliminated because the language is repetitive.

Scott asked about the access drive. Tom Gallagher stated that the plan is to keep the existing drive unless the Road Commission requests that it be moved.

Derrohn asked about an expiration date. Putters stated that the permit could be subject to review at some future date. The permit could be issued in phases. Eby stated that the permit will expire after Phase I. Harris reminded the PC about the testimony of the applicant at the previous months meeting regarding the life span of the pit. Putters stated that the Permit does not indicate that there are two phases.

Harris asked about the 25' wetlands setback. Putters stated that the 50' setback is the perimeter property line setback. Gallagher stated that the 25' wetland setback was a suggestion from the Tip of the Mitt Watershed Council. Harris would like no activity within 25' of the wetland.

Harris asked if Soil Erosion has seen the request. A Soil Erosion Permit will also be necessary.

Gallagher stated that a natural berm will be created between the pit and the wetland because of the level to be maintained above natural ground water.

Putters read a proposed expiration standard.

Gallagher commented on the expiration. Rather than an expiration, he would prefer that the permit be reviewed for compliance.

Harris stated that violation of a permit would be cause for not renewing the permit.

Eby asked if a new site plan showing stock piles could be required when Phase II is reviewed? Gallagher explained the future plans for the pit. If the permit expires, it would require public hearings annually. Derrohn stated that she is comfortable with annual review by the Zoning Administrator.

Tip of the Mitt established the wetland areas. Bidstrup Engineering demarcated the elevation levels.

Eby made a motion to approve Case #13A-00 subject to the conditions on the amended Special Use Permit with the following changes:

Standard #4: change to require that a natural buffer of 25' from the wetlands be preserved,

Add Standard #16: requiring another site plan when phase II begins and annual review of the permit by staff,

Standard #8: add “Class A” after “Reed Road”,

Standard #2: add “Status of the fund to be reported to the Office of Planning and Zoning twice per year.”,

Standard #1d): add No Sundays,

Add Standards #17 & #18: “A new site plan shall be submitted if and when operations move to areas west of the pipeline. The Permit shall be subject to annual site inspections to determine permit compliance, to be conducted by November 30. ”

Derrohn supported the motion which passed on the following roll call vote: Yes; Harris, Behan, Jones, Scott, Blanchard, Eby, Derrohn. No; none. Absent; Laughbaum. One Vacant Seat.
2. CASE #87A-88 Brian Turbin for Carter Family Living Trust, SPECIAL USE PERMIT, Land Development Standards, Tower Road, Section 4, Maple River Township
A request by Brian Turbin for Carter Family Living Trust for a Special Use Permit for Land Development to create two parcels from approximately 12 acres. The proposed land division will create the 7th & 8th parcel within a ten year period. The property is located on Tower Road, is zoned FF-1 Farm Forest, and is in Section 4, T36N-R4W, Maple River Township, being tax parcel numbers 24-09-14-04-300-041 & 042. The request is per Section 2102-14 of the Zoning Ordinance and is an after the fact review (the 5th & 6th parcels were also created without Planning Commission review).

Putters explained that the request is for a two lot split which created the need for additional reviews to resolve potential zoning violations. Putters recommended denial of the Case, which could then be reviewed through Case #87C-88.

Eby made a motion to table indefinitely Case #87A-88 because it is being superceded by Case #87C-88. Scott supported the motion which passed on the following roll call vote: Yes; Harris, Behan, Jones, Scott, Blanchard, Eby, Derrohn. No; none. Absent; Laughbaum. One Vacant Seat.

3. CASE #87B-88 Brian J. Turbin for Carter Family Living Trust, SPECIAL USE PERMIT, Larger than maximum size accessory building as a main use, Tower Road, Section 4, Maple River Township
A request by Brian J. Turbin for Carter Family Living Trust for a Special Use Permit for a larger than maximum size accessory building as a main use on property located on Tower Road, Section 4, T36N-R4W, Maple River Township. The property is zoned FF-1 Farm Forest and is tax parcel number 24-09-14-04-300-042. The accessory building currently exists as a contractor’s use building on a parcel of at least ten (10) acres. The contractor’s use would not be allowed to continue because of a proposed lot split.

The case was tabled through a motion made during review of Case #87C-88.

4. CASE #87C-88 Brian J. Turbin for Carter Family Living Trust, SPECIAL USE PERMIT, Land Development, Tower Road, Section 4, Maple River Township
A request by Brian J. Turbin for Carter Family Living Trust for a Special Use Permit for Land Development, to create five or more parcels, on property located on Tower Road, Section 4, T36N-R4W, Maple River Township. The properties are zoned FF-1 Farm Forest and are tax parcel numbers 24-09-14-04-300-036, 038, 040, 041 & 042. The request is per Section 2102-14 of the Zoning Ordinance.

Putters explained the reason for the revised request. Several lots were created without Planning Commission review. All lots meet minimum zoning standards. Each lot borders a County Road.

Eby stated that Maple River Township discussed the requests at length. The Township has approved the divisions through the Land Division Act. The other issues have not been resolved. Eby asked about the issues of the land development. If the applicant is asking for a parcel (under 10 acres), then the contractor’s use would not be allowed.

Brian Turbin stated that a number of the lots have been in existence for a long time.

Eby asked if the applicant still wants to split the two lots? Yes, they do.

The issues remain: the building is larger than allowed and is a contractor’s use. When it was built, as an agricultural building, the standard required 10 acres.

Eby stated that if the building were allowed to remain as a larger than maximum size accessory building, as a main use, an affidavit would need to be filed with the Register of Deeds stating that it is used for personal use.

Turbin suggested that the contractor’s use be allowed with a deed restriction stating that if/when the building is sold, the contractor’s use cannot be allowed.

Jones is opposed to allowing the contractor’s use on a parcel smaller than 10 acres. When the lot is split, it is no longer 10 acres, and the building cannot be used for a contractor’s use.
The building is 48'x96', 200 ft. from the road. It is screened. If the lots are split, the building should be used for personal use only. There is room on the parcel with the accessory building to build a house.

Eby stated that the lot split is being held up because of the building and the use. Putters stated that if the building is not on 10 acres, the contractor’s use cannot be allowed. Memory Massey, the owner, Dick Carter’s daughter and James Carter, his brother were present. They stated that they are operating a landscaping business now from the building. A nursery and landscape business, is a contractor’s use according to the Ordinance.

Turbin stated that they are trying to phase out the contractor’s use.

Until they cease the contractor’s use, the property cannot be split.

Massey asked, what if it were 10 acres or more? Could the lot on the east be added to the property. If that is their only option, they would be willing to do that.

Putters suggested approving the lot split plan subject to combining the other lots, and a separate application must be applied for to allow the contractors use.

Eby stated that the problems are not taken care of. They remain unresolved. The lot split still has the same problems. Eby felt that the application for the contractor’s use should come first. Does the line come out if the two lots are combined? The property description would require that the two lots be combined and legally become one. The applicant agreed, the line would disappear.

Behan stated that the motion could allow the split subject to the other two lots being combined and applicant must apply for a Contractor’s Use.

Jones stated that he’d like to see new descriptions before the split is granted.

Eby stated that the Township had approved the split and these splits are after the fact.

Eby moved to approve the five parcel lot split request, Case #87C-88, with the exception of Parcel B which must remain with the parent parcel, Parcel 1; Parcel B and Parcel 1 are still one parcel, all subject to the condition that the applicant apply for a contractor’s use if it is to continue and further, table the larger than allowed accessory building, Case #87B-88. Behan supported the motion which passed on the following roll call vote: Yes; Harris, Behan, Jones, Scott, Blanchard, Eby, Derrohn. No; none. Absent; Laughbaum. One vacant seat.

5. CASE #58-01 Cross Village Food Farm, SPECIAL USE PERMIT, Recreation Farm plus various recreational/educational uses, 5322 Hill Road, Section 1, Cross Village Township

A request by Cross Village Food Farm for Special Use Permits to apply to a property located at 5322 Hill Road, Section 1, T37N-R6W, Cross Village Township. The property is zoned FF-2 Farm Forest and is tax parcel number 24-05-08-01-300-011. The request is per Section 801-1, 2, 3, & 5 of the Zoning Ordinance, for uses in the nature of a recreation farm with primitive camping, staff housing, community kitchen, classroom space, physical fitness facilities, trails and accessory maintenance facilities and off-street parking.

Mark Rosczewski explained the request for a Special Use Permit. The property is owned in a partnership between Pat Masuch and Rosczewski. Cross Village Food Farm, a non-profit organization, leases the property. They own the property and it will be controlled by the partnership. It is a complex business arrangement but they are here for land use issues. The property is 24.9 acres, half wooded. He pointed out the buffers along the property boundaries. A barn is underway, the drive is in and approved by the Road Commission. They are proposing a development for nice, quiet programs. The proposed buildings include a farm building, machine shed, kitchen, bath facility for clients, dining and classroom, guest house, director’s housing, small cabins and a growers cabin. Trails are existing because of previous logging on the property. A low ropes course, to challenge clients, is also proposed. The plan is conceptual. The roadside stand will be for retail sale of farm surpluses. The proposed parking locations were shown and they will meet the necessary requirements. Drainage is not a problem. No outdoor lighting is planned. They have spent a lot of time preparing the plan and feel it is a responsible FF-2, agricultural and multiple use. About 13 acres of the property is planned for agricultural use.
Derrohn asked if it is open to the public. Rosczewski answered that people could participate as members. They will also conduct programs for cancer survivors/victims and others who wish to enter their programs. It will not be generally open to the public. People could learn about agriculture, but it is a recreational facility. The public can buy at the roadside stand.

Jones asked about the “Tree House Adventure” program, wondering if there is a contract with local government agencies. They do not have programs through Emmet/Charlevoix County. They have no contracts with groups currently.

Masuch stated that the ropes course is a challenge course. It is a small area of poles with wires with challenge exercises. They plan to work with groups of women with breast cancer, conduct young widow programs and have youth at-risk programs. They are small groups of 10 to 20 per group. Some programs will be on-site, some such as backpacking, biking and canoeing will be off-site. The cabins are small, and sleep four people. Their programs are designed to challenge people to do what they don’t think they can do. Their farm is a special quiet place to learn, grow, share and heal.

Harris asked if each use can be itemized in a Special Use Permit. Putters stated that the uses can be spelled out. Any use not specifically listed will be excluded. Putters stated that the problem is that the uses are difficult to identify in the Ordinance. He thinks there is some misunderstanding of a PUD. There are four standards of the Ordinance listed in the Legal Notice. Putters went over the memo distributed and prepared by staff, dated 11/1/01, outlining the request. He added that a PUD would be the clearest zoning tool.

Bobbi Walsh who lives on Division Road commented about a previous Special Use Permit that has become difficult to enforce. It started with Blissfest, neighbors want to be involved.

Connie Marshall from Larks Lake, has been a social worker for 30 years working with youth at risk. The concept has good intentions, but they require licensing and experts. She sees a lot of problems. Once a permit is issued, who makes sure that it will be run as it is supposed to be run? Zoning Enforcement.

Pat Masuch stated that she doesn’t want to argue of semantics. They have looked hard at the Ordinance. The impact on the environment is important to them.

Licensing is for the State of Michigan to decide. Each land use will be listed. The case was deferred until the Township has an opportunity to review the request.

A break was taken at 9:02 pm until 9:17pm.

6. CASE #23A-98 Stanley Jackimowicz, SPECIAL USE PERMIT, Resource Mining, East Mitchell Road, Section 6, Springvale Township

A request by Stanley Jackimowicz for a Special Use Permit for Resource Extraction on property located on East Mitchell Road, Section 6, T34N-R4W, Springvale Township. The property is zoned FF-2 Farm Forest, is tax parcel number 24-14-20-06-300-008 and contains some 28.6 acres. The planned excavation is for approximately one (1) acre, with very limited or no on-site processing or stockpiling materials. The permit expands upon a previous one (1) acre permit that is nearing close out.

Coon explained the request for an expansion of an excavation operation off of Mitchell Road. The site is well hidden with a steep hill in back of the excavated area and a berm in front of the excavation. One acre was previously approved, and a second acre is being proposed. If future excavation is requested, a better site plan will be necessary and road improvements may be necessary.

Scott stated that the Township has not reviewed the request.

The applicant understands that Springvale Township still needs to review the request. In the future, he may wish to process gravel. They are approaching excavation completion of the one acre site.

Scott stated that the site was approved a few years ago by the Township and he expects the one acre expansion will not be a problem. It will be heard at the next regular meeting.
The case was deferred until the next regular meeting.

7. CASE #103A-99 Duane Pretzer, Special Use Permit, height modification, 7897 Lakeview Road, Section 11, Littlefield Township

A request by Duane Pretzer for a Special Use Permit for a height modification to apply to a 70 ft. self supporting amateur radio & wind generator tower on property located at 7897 Lakeview Road, Section 11, T35N-R4W, Littlefield Township. The property is zoned R-1B One Family Residential and is tax parcel number 24-07-11-300-016. The request is per Section 1900 note g) of the Zoning Ordinance.

Coon explained the request for height modification to apply to an amateur radio/wind generator tower 70' tall, 450' from Lakeview Road and 200' from the west property line. There is a tall cell tower in the line of site looking to the east. Construction has begun of the lattice tower. One complaint has been received from a neighbor to the south concerned about noise and the unsightliness. Staff wondered if the tower could be a pole structure rather than a lattice tower? And why is 70' necessary?

Pretzer stated that he has been studying alternative energy since the 1970's. He distributed a photo showing what is existing. The other two existing towers were erected in 1999. The existing towers make a fluttering sound. The oldest tower will be removed. The new tower is a 1,000 watt generator and will put out the same power as two little generators. He is a novice wind generator user. He pointed out the location of the power line on the site plan. It is over 80' from the power line to the guyed wires on the tower. The tower is proposed to be 30' from the south property line. The Township Planning Committee wanted the tower moved to respect a fall zone. It was started with specs from a tower company and is built to withstand great pressure.

Harris asked how it is that Mr. Pretzer is before the Planning Commission. It is through enforcement. Two existing towers were built without permits.

Derrohn stated that the Township Planning Committee is concerned with the fall zone. They would like the other towers to come into compliance which are 38' in height without the blades. The Township Board has not reviewed the request and would like the case tabled.

Ken Greenhoe stated that his wife is concerned with the noise. He is concerned because he is in the process of selling two lots. He is worried that the tower and blades could fall onto his property. He stated that the applicant is building the tower. If it were built in a factory, it will be engineered and tested. He would like the tower to be at least 70' from the property line.

Putters explained the WTG standards of the Ordinance and the tower standards regarding setbacks. The setback of 100% of the tower height must be met. The setback standard may be reduced by up to fifty (50) percent, if the construction plan, the tower, and its guying/anchoring systems are certified by a Registered Professional Engineer as being safe from the hazard of falling onto public roads or adjacent properties.

Jones asked about the design of towers which collapse on themselves. He feels that the setback concern is valid. It must be moved.

There was discussion and some questions about the existing towers. Putters will review the Ordinance as it existed when the existing WTG’s were constructed to determine if they are in compliance.

Derrohn made a motion to table Case #103A-99 until the Township reviews the request. The motion was supported by Blanchard and passed by unanimous voice vote.

VI Other Business

- CASE #61-01 Springvale Township; Text review, Article VII and Article XIX. Notification of property owners.

Putters stated that an overlay or new zone could be created to solve the issues brought up by Springvale Township. Scott stated that the intent was to look at the entire County, but a solution could be to eliminate the Scenic Resource zones in Springvale Township. Putters would like to meet with the Township to review and write standards.

- ZBA
There was some discussion about the need for a member from the Planning Commission to serve on the Zoning Board of Appeals.

- **Chairperson**
  Harris stated that a new Chairperson will be necessary, as he will be moving to Wyoming within one year.

**VII Public Comments**
Alyce Conrad commented about the other suggestion provided by Springvale Township regarding notification of property owners. The State Statute is the guiding law.

Conrad also commented on non-profit vs. sales of products in the Cross Village Food Farm Case.

**VII Adjournment**
There being no other business, Chairperson Harris declared the meeting adjourned at 9:50 p.m.

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James Scott, Secretary Dated