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

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 Wonnacott.

II Minutes of December 3, 2015

Eby commented that there was some confusion during the recording of the comments that members made last month. He cautioned the board to be aware and to speak in an orderly fashion so that the comments are clear for the record. Alexander made a motion seconded by Plasencia to approve the minutes of the December 3, 2015 meeting as presented. The motion passed unanimously by voice vote of the members present.

III Cases

1. Case #PSUP15-0003 Dick Huvaere Land, Inc., SPECIAL USE PERMIT-Private heliport, 1780 Commerce Ct, Section 26, Bear Creek Township

Legal Notice: A request by Dick Huvaere Land, Inc for a Special Use Permit for a private heliport on property located at 1780 Commerce Ct, Section 26, Bear Creek Township. The proposal is to use the vacant lot as a helicopter landing field for private use only. The property is zoned I-1 Light Industrial and is tax parcel number 24-01-16-26-275-108. The request is per Sections 1301-8 and 2405 of the Zoning Ordinance.

The case was deferred until the March, 2016 meeting at the request of the applicant and township while the potential ordinance changes are discussed.

2. Case #PSUP15-0009 Mark Tracy, SPECIAL USE PERMIT-Home Occupation-Instruction in the use of firearms, 3501 Shanley Rd, Section 10, Bear Creek Township

Legal Notice: A request by Mark Tracy for a Special Use Permit for a Home Occupation for instruction in the use of firearms at 3501 Shanley Road, Section 10, Bear Creek Township. The property is zoned FF-1 Farm and Forest and is tax parcel 24-01-19-10-400-005. The request is per Section 26.11 of Zoning Ordinance 15.1

Packet items: Revised zoning evaluation, revised impact statement, phone call report-Antony Pickarski, letter from Craig & Donna Lively, letter from Haggard’s P&H

Doernenburg presented this case, the second public hearing on this matter. The property is located on the north side of Shanley Road and is 2.25 acres, zoned FF-1 Farm and Forest. The request was for a home occupation for firearms instruction with a shooting range. The applicant had provided a revised Home Occupation Use Plan which included range use for up to two students. The Bear Creek Township Board recommended approval, with the condition that the shooting range be used for personal use only and not as part of the Home Occupation. At the Township Planning Commission meeting, the applicant agreed to the stipulation that the home occupation will be for instruction only.
The range can still be used for personal use by the property owner and guests. The revised use plan that was submitted shows hours of operation from 6-8pm M-F, 9am-6pm Saturday. The aerial site plan was shown and each area of the property was pointed out. The floor plan showing the area of the house to be used for the instruction was shown. Parking is adequate. Photos of the site were shown. Doernenburg noted that public comments received include a phone call of opposition from someone 1.5 miles away, a letter of opposition from a neighboring property owner within 300 feet, and a letter of support from Haggard’s Plumbing & Heating. Doernenburg stated that the township board added two conditions; that the occupant or owner be a certified instructor and that there be no shooting other than personal use.

Mark Tracy stated that the range was convenient but there are other near-by areas that he can take the students to in order to do the qualifying shooting. It is acceptable to him to have the range portion of the request removed. There will be no shooting on the range for the classes.

Alexander asked if there is any restriction on shooting for personal use. Doernenburg mentioned that there are rules about hunting within 450 feet of a residence as identified in the safety zone standards regulated by the DNR that were distributed during the last meeting. There are no local restrictions regarding shooting.

Urman made a motion to approve Case #PSUP15-0009, Mark Tracy for a Special Use Permit for a home occupation for firearms training classes at 3501 Shanley Road in Section 10, Bear Creek Township, tax parcel 24-01-19-10-400-005, as shown on the plot plan dated Received Nov 4, 2015 and the revised home occupation use plan dated Received Dec 21, 2015 because of the facts presented in the case, the proposal meets the standards of Zoning Ordinance #15-1, there are no physical changes proposed which would be out of character in the neighborhood and Bear Creek Township recommended approval; and on condition that 1) the property owner or occupant be a certified firearms instructor, 2) there be no shooting at the range except for personal use, and 3) the classes and instruction be within the home only. The motion was supported by Notestine and passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Scott, Laughbaum, Urman, Plasencia, Alexander. No: None. Absent: Wonnacott.

3. Case #PSPR15-0002 John Cupps, FINAL PUD & SITE PLAN REVIEW, S. State Rd, Section 14, Friendship Township

Legal Notice: A request by John Cupps for a Final PUD and Site Plan Review for property located approximately 500 feet north of W Stutsmanville Road on the east side of S State Road, Section 14 of Friendship Township. The property is tax parcel 24-06-12-14-300-016 and is zoned PUD-2 Planned Unit Development and FF-2 Farm and Forest. The Preliminary PUD was approved in 2002 allowing for commercial uses. The Final PUD proposal is to allow for a fire wood cutting operation and a 50'x60' storage building. The request is per Article 17 of Zoning Ordinance 15-1.

Doernenburg explained that the applicant has requested postponement while he reviews what he plans to do on the property. The case was deferred until the February 4, 2016 meeting.

4. Case #PREZN15-0002 Jay Wheatley & Jamie Dunson (Wheatley), REZONE: FF-1 to B-2, 2283 US 131 Hwy, Section 18, Bear Creek Township

Legal Notice: A request by Jay Wheatley and Jamie Dunson Wheatley to rezone their property located at 2283 US 131 Hwy in Section 18 of Bear Creek Township. The property is currently zoned FF-1 Farm and Forest and is tax parcel 24-01-19-18-100-028. The request is to rezone the property to B-2 General Business per Section 27.11 of Zoning Ordinance 15-1.

Packet items: Request & location map, tax parcel map, application, impact statement, chapter 9 from Master Plan, zoning evaluation, 12/14/15 support-Sky Harbor Leasing, 12/2/15 zoning map, MDOT comments
Doernenburg presented this case. The property is located on the east side of US-131 and adjoins the Meijer PUD property. The surrounding zoning map was shown. Adjacent properties south and east are zoned FF-1, north zoned B-2, northwest corner zoned FF-1, and across US-131 is zoned B-1. That area was rezoned from FF-1 to B-1 a few years ago. B-2 zoning was originally requested for those parcels. The property across Anderson Road is under consent judgment. The Emmet County Master Plan Future Use Map was shown. Commercial uses extend not quite to Intertown Road and then it shows high density residential uses. Doernenburg explained that the new ordinance has rezoning standards that need to be looked at. She also reminded the board that all of the potential B-2 uses need to be looked at to determine if the rezoning is appropriate. The current use of this parcel is residential; there is an existing dwelling with accessory buildings. The vacant parcel owned by the State has very deep hills and potentially drainage from across the highway. A letter of support was received from a neighboring property owner. Bear Creek Township asked that MDOT be contacted in regards to this request. Their comments were emailed to the board. They suggested that there be some shared access through the Meijer property as this is not a good site for a commercial drive. Photos of the site were shown. Doernenburg noted that this board’s policy in rezoning cases is to have two hearings. The township has also recommended postponement until the second hearing.

Jay Wheatley, applicant, stated that they want to sell their property. The letter of support is from the neighboring property owner of the parcels surrounding his property. They would like to move to another area and believe that this area will be developed at some point. Urman asked if he has received a copy of the MDOT comments. Wheatley stated that he has. He doesn’t think that someone will purchase just his parcel; it would more likely be a sale of multiple properties. Eby asked about the support letter. Wheatley stated that he is a developer out of Arizona.

Doernenburg stated that there was a rezoning request in the late 90s that was not approved. She read off the rezoning standards from the ordinance. These include: Is the proposed rezoning consistent with the Master Plan, Are all of the allowable uses in the proposed district reasonably consistent with the surrounding uses, Will there be an adverse physical impact on surrounding properties, Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning, Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations, Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public, and What is the impact on the ability of the County and other governmental agencies to provide adequate public services and facilities, and/or programs. The request for MDOT review would answer the public services and facilities question once it was determined whether access can be put in.

Urman stated that this area has been looked at many times for different reasons. It is a tough area for planners. Notestine asked if there is a stipulation in the ordinance that requires available B-2 zoned property to be utilized before new ones are created. Doernenburg stated that the Master Plan encourages in-fill development.

Plasencia asked how far the Meijer PUD goes. Doernenburg stated that it borders this property on the north property line. The commercial use of Meijer is actually farther north but they needed additional property for their drainage and parking. Part of their property is zoned FF-1 with the PUD overlay. Plasencia stated that it may be tough to get access through that PUD area. Doernenburg stated that there is a very steep ravine through the State owned property and part of the Meijer property.

Laughbaum asked the applicant if he feels that his driveway is safe. Wheatley stated that he has lived there for 17 years and hasn’t had a problem. Alexander stated that he read the comments from MDOT and they seem to say that they will look into the area in depth if requested but that they don’t like the idea of a commercial driveway there and would prefer the shared access through the Meijer property.
Doernenburg stated that their comments mentioned conditional approval but a rezoning cannot be approved with conditions. Eby stated that if the applicant got together with additional property owners and create a PUD with adequate access that may be more acceptable. Urman stated that the terrain makes that difficult. Eby asked if the board is opposed to business uses here. Urman stated that if it were flat ground he could maybe see it but there are other B-2 zoned properties available. Noteesteine stated that if a proposal came in that had someone interested in a specific use it would be easier to review. It is more difficult to review since we are unsure of the actual use on the parcel. Plasencia agreed stating that he has a hard time approving the rezoning without some sort of concept plan for the use. He is not opposed to some type of commercial use but would prefer to see a usage plan. Eby stated that this doesn’t help the applicant now because he doesn’t have a use. Laughbaum stated that he feels this is a poor area for residential use given the traffic. He would also have to see a plan to determine what can be done there. It is possible that a larger parcel could solve the access issues. He can see some possibilities and believes that there are plans that could work. The drives shouldn’t be a problem if engineered correctly. There was a lot of negativity when Meijer went in. He would like to see MDOT fix this area.

Hearing no public comment, the first hearing on the re-zoning case was closed. This case will go back to the township for review and will be heard again by this board on February 4, 2016.

5. Case #PSPR15-0003 Jessica Moore for 2240 Mitchell Park LLC (Jack VanTreese), SITE PLAN REVIEW, 2240 Mitchell Park Dr, Section 4, Bear Creek Township

Legal Notice: A request by Jessica Moore for 2240 Mitchell Park LLC (Jack VanTreese) for Site Plan Review at 2240 Mitchell Park Drive. The property is zoned B-1 Local Tourist Business and is tax parcel 24-01-19-04-201-001. The request is to construct an addition to the existing office building per Sections 10.01 and Article 20 of Zoning Ordinance 15-1.

Packet items: Request & location map, application, impact statement, zoning evaluation, 12/11/15 site plan

Doernenburg presented this case. The property is located on Mitchell Park Drive, north of Mitchell and east of Division. It is zoned B-1 and is 1.03 acres. There is an existing multi-office building on the site which is adjacent to other professional and medical office buildings. The proposal is for a 12x28.8’ addition for offices on the south side of the existing building. The shed on the property is to be removed. There is an existing dumpster on the site that is not screened. The township recommendation was for approval on the condition that the dumpster be screened. There is an excess of parking, the total area of the new building is 6,526 square feet. There is no outdoor lighting changes proposed and the required number of trees are provided on the site. A retaining wall exists on the west side and south end of the building. There is no requirement for screening as there are no adjoining residential uses. The sidewalks and parking exist. The original plan was approved in 1986 and an addition was constructed in 2005 based on the original plan. Photos and site plan were shown.

Jack VanTreese was present to answer any questions. There was no public comment on this case.

Urman made a motion to approve PSPR15-0003, Jessica Moore for 2240 Mitchell Park LLC for Site Plan Amendment for office use at 2240 Mitchell Park Drive, Section 4, Bear Creek Township, tax parcel 24-01-19-04-201-001, as shown on the site plan dated Dec 11 2015 because the standards of Article 10 and Section 2102 have been met, the office building meets the setback standards and on condition that 1) the dumpster be screened and that 2) signage and any exterior lighting must be reviewed - both in accordance with the Zoning Ordinance standards and because the township has recommended approval. The motion was supported by Noteesteine and passed on the following roll-call vote: Yes: Eby, Neal, Noteesteine, Scott, Laughbaum, Urman, Plasencia, Alexander. No: None. Absent: Wonnacott.
IV Public Comment:

V Other Business:

- Proposed Ordinance amendments
  - Airport Overlay District – Doernenburg stated that she has met with civil counsel and will be reviewing recommended changes and also discussing them with the airport manager as to how to move forward with the consultant that they use for the airport plans. Mark Drier asked if the approach has changed since the 60s-70s as the actual sweep of the approach appears to have been changed. Doernenburg stated that this is a question for Kelly Atkins, airport manager.
  - Heliport and helipad –Doernenburg stated that she has provided several documents to the board to review. She has met with civil counsel who proposed some changes as well. Kevin Nelson provided ordinance suggestions and comments. She explained that the document with the highlighted title incorporated all of these suggestions. There are still questions that were brought up by Kevin Nelson that would need to be addressed before text could be advertised for a change. There is still work to be done on this.

Kevin Nelson stated that he is looking to help develop the ordinance for the area. He stated that he is not really clear where in the process this stands. He made the suggestions as to what was presented and what civil counsel had to offer. He can help answer any questions this board may have.

Alexander asked where the number of landings limits came from. Nelson stated that this gives the municipalities a number to look at. Most places have some sort of limit on takeoffs/landings or time of year if seasonal. This is a common technique to use. Neal asked if there is a risk to the County to have an ordinance that may contradict the FAA and State requirements. Since we don’t know what their regulations are, do we need to in order to make sure that our ordinance doesn’t conflict with them? Nelson stated that he would suggest limiting to general aviation and directing commercial operations to airport locations. When he read through the proposed ordinance, he didn’t see anything that would be contradictory to any of their regulations. He did note that discussion on aerodynamic principles such as ground effect should be removed. Debris and impact on neighboring properties can be discussed. Nelson asked if the difference between FATO and TLOF was clear. FATO is the path in which the helicopter will be seen coming in to land. TLOF is the specific space where they park. He explained that typically these are the same locations but there are times when they are not so setbacks should be based off of the FATO. Doernenburg stated that in terms of the process, she gathered different ordinances from Michigan and beyond and complied them to come up with the draft to consider. Civil counsel reviewed the proposed draft and she would also like Mead & Hunt to look at it as they do the airport planning for the County.

Plasencia stated that the discussion that we had last month was to not have helicopters in the Industrial district but they remain in this draft. Urman stated that he understood that they wouldn’t be in that district either; just in FF districts. Laughbaum asked if helicopters can land in FF zones now. Doernenburg stated that airports are allowed but there are no specific standards attached. Laughbaum stated that it seems that we are
taking rights away from people that already have them to allow for one or two people to have them where they want. It seems that there are enough places to land in the County now without being exclusionary. Alexander stated that there will probably be more helicopter uses coming into our area. Airports serve the primary focus for commercial use but it seems we could be more accommodating for certain instances. Laughbaum stated that we wouldn’t want to place limitations that would affect crop dusting.

Alexander stated that it seems that as we continue to grow and develop as an area, these uses will become more prevalent. There is a lot to look at and we are being proactive rather than reactive. Eby asked if this is a good basic ordinance as presented. Nelson stated that it seems to be in line with other ordinances that he’s seen. The big benefit is that anyone who operates regularly would have to come before the board whereas now they can land anywhere with the owner’s permission. Another thing that the FAA is looking into how to police drones. Nelson stated that he feels that there will be some growth but not dozens at a time. By having an ordinance in place, it shows that helicopters and those who utilize them are welcome in the area. He stated that there is no precedent to completely restricting helicopters. This ordinance seems basic and reasonable. There are limits on weight, time, and limiting to general aviation will be what the public has looked for in the past. He stated that he feels that the hours of operation should be reviewed. The shutdown times seem too early and there aren’t restrictions on other vehicles such as tractors to shut down at these times. Doernenburg stated that she did incorporate his comments and changed the restricted hours to 10pm-7am. Eby stated that if staff and civil counsel agree that this is a basic and reasonable ordinance, he would support it. Nelson asked about the reason for the restriction on Industrial zones. Eby stated that the discussion was due to unknown or potentially dangerous uses that are allowed in industrial parks like propane tanks. Nelson suggested instead of restricting them completely from these zones to have greater setback standards from certain facilities than they would have in FF zones. Plasencia stated that he can see where they are coming from and doesn’t believe that they would necessarily have to be banned from these areas but rather look at the plan and see where they could be allowed. Nelson’s client’s site may not necessarily fit. Notestine stated that he is concerned about what could be in the buildings within and industrial zone. Alexander stated that he would have no issues with turning down the case that is on the agenda but we do need to still come up with a structure for future requests. Notestine stated that it appears that the applicant is trying to do it right and feels that we should set reasonable standards to allow this use. Eby asked why we are looking at this if they can still land. Nelson stated that they want to do it right. Alexander asked about commercial vs. private usage. How would we know which type it is? Nelson stated that due to aviation rules this could be solved with a phone call. Eby stated that we have small industrial areas in the County most of which are surrounded by FF zoned land. Is the risk worth allowing in an industrial district rather than having them a few hundred feet away in an FF district? He has issues with allowing them in Industrial zones. Nelson stated that in the case of Mr. Huvaere, he could show all operations would be either in the FF area next door or on his property. Laughbaum stated that he doesn’t think that this use is an industrial use. Our industrial areas are very small and very few. We are negating the purpose of an industrial zone if this is allowed as it should give industry a place to be; many businesses may not want to locate if they view the area to be used as an airport. Plasencia stated that he is thinking about industries that may need to transport their people via helicopter. He stated that he is not sure the use should be completely restricted. Scott stated that he has no issue with leaving them in as long as we can control which parcels can be used.
Doernenburg stated that she feels that tweaks need to be made to the proposed text based on tonight’s conversation. She will bring these next month and then we can decide what to publish for public hearing. She added that the question was asked last month as to whether there is an overlay district required for helicopters and there is not.

Mark Drier stated that it seems if you restrict the specific areas, it will encourage them to take off and land in FF districts in which neighbors will not have a say. Plasencia stated that this would be regulated by the FAA. Nelson added that at this point they can be operated anywhere. Drier stated that they have issues in their area with helicopters flying low over their cattle.

- **West Traverse Township Zoning Coordinating Committee:** There are two changes that are being addressed. One is the C-1 district. There is only one business district in West Traverse Township and they want to change the language to prohibit warehousing and storage. They also included the phrase “Uses or structures not listed shall be prohibited in such a district” to the intent paragraph for this section. It was noted in the memo that this should be included in all introductory paragraphs throughout the ordinance. The memo includes an explanation of the levels of business zones that Emmet County and Little Traverse Township have which allow for these uses. Eby stated that it seems that there is already a lot of those types of uses in this area and he feels that they could set up their ordinance like the County does which would allow them to place extra restrictions on those uses. He stated that he is not opposed to the change but feels that we should send these comments and have them look at it again. Doernenburg stated that it makes sense and is consistent to what the County Board would do which is send it back for further review if it isn’t clear. Neal made a motion supported by Alexander to authorize the Chair to sign the memo to West Traverse Township. The motion passed by a unanimous voice vote.

The other change is in regards to reducing side-yard setbacks on non-conforming parcels. Alexander made a motion supported by Neal to authorize the Chair to sign the memo to West Traverse Township. The motion passed by a unanimous voice vote.

- **Enforcement Report**-Distributed. No discussion.

**VI Adjournment**

There being no other business Eby called the meeting adjourned at 8:58 p.m.

James Scott, Secretary __________________________ ______________

Date