EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING MINUTES **REVISED**
THURSDAY APRIL 7, 2016, 7:30 P.M.
EMMET COUNTY BUILDING
200 DIVISION ST
PETOSKEY, MI 49770

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

MEMBERS ABSENT:  David Laughbaum, Steve Neal

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
Laughbaum and Neal.

II   Minutes of March 3, 2016
Scott made a motion seconded by Wonnacott to approve the minutes of the March 3, 2016 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.
   Packet items: No new information

   The case has been deferred until May 5, 2016 meeting at the request of the applicant and township
   while the potential ordinance changes are discussed.

2. Case #PPUDF16-0001 Duane & Kristi Schuil, PUD-Amendment, 2800 E Mitchell
   Rd, Section 3, Bear Creek Township

   Legal Notice: A request by Duane and Kristi Schuil to apply a Planned Unit Development change to their property at 2800 E. Mitchell
   Road in Section 3 of Bear Creek Township. The property is currently zoned R-1 One and Two Family
   Residential with a PUD-1 Planned Unit Development-1 Overlay and is tax parcel number 24-01-19-03-100-014. The request is to
   allow the property to be used for R-1 One and Two Family Residential uses and including a winery and events for 99
   people or less. Review is per Article 17 of Zoning Ordinance #15-1.
   Packet items: Article IV excerpt, memo from Lipchik’s, zoning evaluation-revised, Fire Dept letter, 3/14/16 site plan,
   3/22/16 applicant notes regarding project

   This case was first heard in February. Bear Creek Township voted to deny the case at their March 30th
   meeting because the proposed uses are inconsistent with the surrounding residential land uses (R-1).
   Doernenburg explained that the request is for a PUD amendment which is a rezone according to the
   Zoning Ordinance. The request is to expand the uses on the property to include a winery and events
   center for 99 people or less. The zoning map was shown illustrating that all properties in the vicinity
   are zoned R-1. This parcel also has a PUD-1 overlay. The current approved PUD plan was shown.
   An amended plan was passed out tonight. Since the last meeting, a letter has been received from Little
   Traverse Conservancy approving of this proposed use. They also noted that drainage ponds are not
   allowed in the conservation easement and that the driveway can remain as proposed. Photos of the
property were shown. The non-motorized trail was added back to the plan. Changes have been made to the proposal in regards to frequency and hours of operation. The current proposal would require nonagricultural or educational events to end by 9pm Sunday-Thursday and 11pm on Saturday and Sunday. The proposal is now a period from the last weekend in May through the second weekend in October. Letters of opposition have been received as well as a letter of support. The applicant is out of the country and has requested postponement until next month so that she can represent herself.

Eby polled the Planning Commissioners first to determine if they were in support of postponement at the applicant’s request. The consensus was to allow the case to be postponed until May 5, 2016.

Jim Malewitz and Peter Schwartzfisher were present on behalf of the applicant. Schwartzfisher stated that the applicant has changed the times and frequency per comments from neighbors and the review boards. She would like to represent herself and since the township tabled her case last month, she already had plans to be out of the country this month. He stated that the Township board discussed tabling the case and they were fine with it. Urman stated that the Township Planning Commission’s decision was to deny but the Board felt that they could allow them the opportunity to represent themselves to the County Planning Commission.

Eby opened the floor to public comment.

Mark Lipchik stated that he echoes the sentiment of the township denial primarily because it is an R-1 zoned area that has been completely developed around the subject property and there are plans to potentially have another 150 residential units built. It is a high density residential area. He stated that he feels that it is an inappropriate use for the property. At the township meetings there was recognition that they did not have enough resources to enforce any potential noise issues or activities. Lipchik stated that he is concerned that there won’t be enough resources to enforce any of the parameters that would be placed on this project. The proposed uses greatly impact the surrounding neighborhoods. Wedding receptions typically include alcohol and you have the added issue of people leaving the property at late hours.

Gina Dunneback stated that she feels the same way as Lipchik. This is a residential area. Even Louie’s doesn’t sell alcohol. This proposal concerns her in many ways.

Jim Malewitz stated that he represents the applicant and has some issues with the township’s motion to deny. They say that the proposed uses are inconsistent with the surrounding area but there are lots of special uses within residential neighborhoods that have similar activities. The PUD uses include R-1 and R-2 uses. Special uses in R-2 can include sportsmen’s associations, recreation areas, religious institutions, dance studios, etc. Everyone has been focused on the noise issues. The event frequency has been pared way down from the original request; two events per month on weekends and three or four events during the week. She has listened to everyone’s concerns and is currently working on the barn structure to help reduce sound. The barn itself is 400’ from the road and some of the homes are 600’ back which makes it the length of two football fields away.

Alexander made a motion to postpone this case for one month at the applicant’s request. The motion was supported by Plasencia and passed by a unanimous roll-call vote.

Doernenburg advised those interested that the next meeting is scheduled for May 5, 2016. The township Planning Commission will not review this case again at their meeting and the Township Board supported their Planning Commission’s recommendation.
3. **Case #PPUDF16-0002**  
**Crooked Lake Yacht Club (Roger Winslow), SITE PLAN REVIEW-parking lot/boat slips, 3656 Oden Rd, Section 18, Littlefield Township**

*Legal Notice:* A request by Crooked Lake Yacht Club (Roger Winslow) for a Site Plan Review for a proposed parking lot for boat slips at 3656 Oden Road in Section 18 of Littlefield Township. The property is zoned R-2 which is part of the Windjammer Planned Unit Development Overlay (PUD-1) and is tax parcel 24-07-18-451-015. The request is to allow a parking lot for additional boat slips and the review is per Article 17 of the Zoning Ordinance.

*Packet Items:* Email from Kurt Hoffman with deed info, 3/14/16 site plan

Doernenburg presented this case. The property is located on the east end of Windjammer on Crooked Lake. This area was originally approved for six multiple family units including garages and pedestrian open space/public areas. Originally there was to be a bridge over the lagoon area. The current proposal is to create a 30 space parking lot for 12 boat slips and elimination of the residential units. The public walkway is still proposed but has been moved. The bridge has been eliminated from this plan. There is some concern regarding the public area which was required by the original PUD. The township did review this case at their Planning Committee and Board level and requested postponement so that they could review it again asking for further documentation to include letter from the fire department, information on PUD management and management/allocation of the eight parking spaces, and trash management information. Photos of the site were shown. The existing access drive is planned to be used and shared access will continue. Doernenburg noted that the Crooked Lake Yacht Club owns the adjacent parcel to the east which is outside of the PUD.

Rik Lobenherz stated that this amendment and the site plan review (case #PPUD16-03) somewhat go hand-in-hand. He stated that they are working through the issues with the marina and need to have further discussion which is why they wanted the cases postponed. They came to the township’s meetings and to this meeting to put the cases out for comments from the boards. The township was receptive to moving the public walkway and for the reduction of the total residential units from 18 to 13 and the additional parking. They wanted some sort of written agreement between the parties and answers to the other issues.

Plasencia noted that he is a yacht club member but has no financial interest.

Plasencia inquired about riparian rights which extend from the slip to the center of the lake. It seems that some would be blocked by the lighthouse structure. This may cause an issue when those portions are sold. Lobenherz stated that the club owns the riparian rights and that they aren’t selling those.

Kurt Hoffman read from the one of the documents which says that only Windjammer Cove Marina has the right to construct and maintain docks adjacent to the condo project and other properties.

Because the township requested postponement, this case was deferred back to the township for further review and will be heard at the May 5, 2016 Emmet County Planning Commission meeting.

Because the final case on the agenda is related, Eby heard that case next.

4. **Case #PPUDF16-03**  
**Boathouse Village LLC (Rik Lobenherz), PUD-1 Amendment/Site Plan Review, 3656 Oden Rd, Section 18, Littlefield Township**

*Legal notice:* A request by Boathouse Village LLC (Rik Lobenherz) for a Planned Unit Development Amendment to allow a single family dwelling at 3656 Oden Road in Section 18 of Littlefield Township and for Site Plan Review – Amendment for the 12 multiple family dwellings on the same property. The
property is zoned R-2 which is part of the Windjammer Planned Unit Development Overlay (PUD-1) and is tax parcel 24-07-17-18-451-015. The review is per Article 17 of the Zoning Ordinance. 
*Packet Items:* Request & location map, application, tax parcel map, impact statement, zoning evaluation, 3/14/16 site plan

Because this case related to the previous case under old business, Eby heard this case after PPUDF16-0002.

Doernenburg stated that this is a second request on the same PUD. This location is on the west end of the property owned by Boathouse Village LLC, represented by Rik Lobenherz. She pointed out the parcel on a map. The site was originally approved for twelve 2-bedroom multiple family dwellings. The current proposal is for 12 multiple family dwellings (number of bedrooms not identified) and one single-family dwelling (unit 13 on the plan). There is a reduction of public area which in the original approval was required to be kept as public area in order to maximize density. Since that time, the ordinance has changed. They are proposing to extend the units using the existing pilings back towards the garages making the units somewhat larger than originally approved. Two parking spaces are shown for the single family dwelling. Doernenburg stated that she thinks that allowing the 12 units fits within the Ordinance standards, because they were previously approved, but doesn’t think that density can be met if the single family residence is added. By taking away the public space there is an issue. The parking area proposed on the previous case cannot be used in density calculations because it is not residential space. 12,000sf is needed for the single family unit alone. The township reviewed this case as well and had the same questions/issues as the previous case in addition to the issues with density calculations. The original proposal was for two bedroom units with dens, which are required to be counted as bedrooms when calculating density. Photos of the site and the site plan were shown.

Lobenherz again stated that they are just looking for input from this board. He stated that he is having a problem understanding how reducing the units puts him in violation of the density; he shouldn’t be penalized for reducing the density. The units are not larger; they are actually 20% less in square footage of living area. They have the same number of rooms as originally approved. The reason for moving them back partially over the water and partially over the land is so that the bathroom can be located over the land which is preferred by the DEQ and Army Corps. It also makes building easier because the majority of the building could be done from the land rather than in the water. The township did not have an issue with moving the walkway and didn’t have an issue with the 13th unit either. Lobenherz stated that he is reducing density in the overall project that stopped 13 years ago.

Plasencia asked what the decks will be made of. Lobenherz stated that the plan is to pour a concrete ceiling on the boathouses for fire rating which then becomes the deck for the units. Plasencia stated that during the township discussion it was requested that a clear laminate be placed on the railings to help protect the lake from any debris that may come off of the deck. Plasencia stated that he thinks this is an improvement over having the additional units there and other than the questions mentioned by the township they were in favor of the project.

Because the township requested postponement, this case was deferred back to the township for further review and will be heard at the May 5, 2016 Emmet County Planning Commission meeting.

5. **Case #PSUP16-0001**  
**Jason Saddison, SPECIAL USE PERMIT-Level III Resource Mining, 179 Garber Rd, Section 22, Bliss Township**

*Legal notice:* A request by Jason Saddison for a Special Use Permit for a Level III Resource Mining Operation for top soil removal on property located approximately 700 feet east of Canby Road and north of Garber Road in Section 22 of Bliss Township. The property is zoned FF-2 Farm and Forest and is tax parcel 24-02-05-22-300-011. The request is to allow top soil removal with controlled work within the 50 ft. perimeter setback per Sections 8.01 and 26.10 of Zoning Ordinance #15-1.
Eby asked if there was anyone in the audience interested in this case. Hearing none, Doernenburg quickly synopsized the case as the township has requested postponement so that they can review it. She stated that the applicant has given authority for the property to be entered to review his case and the access is from Garber Road. The Road Commission has reviewed and accepted the location of the drive but a new permit is required. This case originally came through as an enforcement case and the topsoil has been stripped at the top of the hill. The applicant is requesting permission to mine within the 50’ setback. The township does want to hear this case.

Because the township requested postponement, this case was deferred back to the township for further review and will be heard at the May 5, 2016 Emmet County Planning Commission meeting.

6. Case #PPUDF16-04 Reg Whitcomb on behalf of R&R Development of Northern MI, PUD-1 Amendment, Red Oak Way, Section 7, Bear Creek Township

Legal notice: A request by Reg Whitcomb on behalf of R&R Development of Northern MI to amend a Planned Unit Development-1 (PUD-1) south side perimeter setback from 50 feet to 20 feet on property located within the Maple Creek residential development located on Red Oak Way, Section 7, Bear Creek Township. The property is zoned R-2 General Residential with a PUD-1 Overlay and includes tax parcels 24-01-19-07-495-114 through 120. The request is per Article 17 of Zoning Ordinance 15-1.

Packet Items: Request & location map, application, tax parcel map, impact statement, email from applicant, zoning evaluation, 3/14/16 site plan

The applicant has withdrawn this case.

7. Case #PPTEXT16-01 Emmet County Planning Commission, TEXT AMENDMENTS

Legal notice: Attached plus: A request by Emmet County Planning Commission to amend Zoning Ordinance 15-1 as follows: Add to Section 5.01 the following notation after “Single Family Dwelling” to read “as regulated in the R-1 Zoning District”.

Packet Items: 3/22/16 red-line text document

Doernenburg noted that revised text has been provided based on comments received from the townships and the conversation from last month. If acceptable, the amendment is ready to go.

Scott stated that he is still confused on the size limit of 8,000 maximum gross weight. The explanation that Mr. Nelson gave didn’t make sense to him. The FAA considers 7,001-12,000 maximum gross weight to be mid-sized. Why is the break at 8,000 and not following the FAA guidelines? Alexander stated that the number came from the recommendations from Mr. Nelson. Notestine stated that it was stated that there was better electronics in that sized aircraft. Scott stated that he had said that the larger aircraft with the upgraded electronics are quieter than the smaller older ones. Plasencia stated that he thought that the purpose of adding this section was to service the smaller aircraft and the larger ones would utilize the airport. Wonnacott stated that there is the concern that if we put 8,000 as the maximum someone could make the argument that the FAA goes to 12,000 for that size category and want to do that as well. Doernenburg stated that the size could be changed to be consistent with the FAA. Eby stated that Mr. Nelson has a reason but isn’t sure if that reason opens up more liability. Alexander stated that he would prefer to be in line with the FAA but would like to give Mr. Nelson an opportunity to answer this question. Plasencia stated that it makes sense to wait another month.

There was a short discussion on the rest of the amendment with no issues brought to light.
Since this is advertised as one amendment, the whole thing will be postponed and heard again at the May 5, 2016 meeting.

IV  Public Comment: None

V  Other Business:

- Cherry Capital Connection-presentation:
  Tim Maylone, General Manager of Cherry Capital Connection, presented a PowerPoint presentation: “Understanding the Changing Landscape of the Telecommunications Industry” in which he reviewed the way that the industry is changing. He explained that the industry is changing from the way it’s been in the past with telecom and cellular being the only ones classified as telecommunications providers to the present where cable, satellite, and WISP (wireless internet service providers) are also classified as telecommunications providers. He explained that his mission as a member of WISPA is to promote them and their members to whomever will listen in government, private sectors, neighbors, educators, etc. Their primary national focus is to create a presence by meeting with various State representatives to promote their goals. A map of Emmet County was shown to illustrate where their business has made a significant financial investment in the region and county. He stated that they are not in the business of building towers but do so when necessary. During this process, Maylone stated that they run into many delays with permitting. He explained that there is new legislation that should be reviewed by planners in order to understand the impacts on zoning. Maylone noted that there are some areas in which WISP have attached to utility poles which have been erected in the right-of-way with little to no review or oversight. This is something that should be noted and discussed to see where the county would stand on this activity as it could significantly change the look of the area. He also noted that as of 2017 telephone companies can abandon the ‘land line’ market. The biggest influence in this market is the consumer who is always connected. Satellite, telephone companies, and cellular are all subsidized and also are the most expensive services. Cable and WISP are primarily privately invested which drives down the price. He explained the impact that having affordable high-speed internet can have on the consumer. They can combine services such as utilizing streaming services for their TV viewing and save money; many $150/month or more. The compliance process with local regulations is expensive and slow. He has found many area inspectors have different interpretations of the State codes which is extremely frustrating as there should be statewide compliance. This extra time and money prevents the consumer from getting affordable high-speed internet. He would like to see their towers looked at differently from conventional cell towers as this could streamline the process. Maylone illustrated the differences between their towers and traditional cellular towers both in size and how many customers are needed for sustainability. He would like the encouragement of fiber to be looked into by encouraging the release of ‘dark fiber’ (parts of already installed fiber that is not being used) in order to allow companies such as Cherry Capital Connection to lease the right to use that fiber. He explained that there is a lot of ‘dark fiber’ in Emmet County that could be utilized this way. Also, by encouraging developers, road commissions, etc. to notify companies when a project like road work, bike trails, etc. and a ditch is being dug so that they can install fiber at that time. Maylone stated that he would like the discussion on these issues expanded to make sure that we are ready and informed by discussing with the providers who are the experts in this area and encourage interconnection of properties which saves money in the long run.
Eby commented that an issue that the townships have had in regards to road repairs is that if there are underground fiber or cables that have to be moved during a road project the township is being held liable to put these lines back in. These issues should be looked at as well in discussions with the Road Commissions and/or MDOT. There was some discussion on the various ways that one could get fiber under already improved roads that don’t have a current improvement project going on.

- **Proposed Ordinance amendments**
  - **Airport Overlay District:** Doernenburg stated that she has received word from Mead & Hunt who asked that they be provided a draft so that they can review it. It then has to go to the Michigan Aeronautics Commission before we can approve changes to our ordinance.

- **St. Francis X Federal Credit Union:** Doernenburg noted that she has been contacted by the credit union asking if they could change from the screening of evergreens to vinyl fencing where it was required on their site plan. They also requested to be able to leave the dumpster at the approved location but to enclose it. These were both approved as minor modifications. They then asked to be able to only screen part of the area in which they were required to screen because of the fact that there are no residences and because of the lower topography. Doernenburg stated that she didn’t feel comfortable approving this administratively. She showed their proposed revised site plan. There aren’t houses there now but it is zoned residential so there could be in the future. After a short discussion, it was determined that if they want to request the change in screening location, they will have to come to the Planning Commission for a Site Plan Review - Amendment.

- **Density:** Doernenburg noted that properties within a PUD must meet density standards, even if the township agrees with their plan, they must still comply with density. Removal of a portion of the property from residential use, removes it from being used for residential density calculations.

- **Enforcement report:** Distributed. No discussion.

**VI Adjournment**

There being no other business Eby called the meeting adjourned at 9:16 p.m.