EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING MINUTES
THURSDAY MAY 5, 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, David Laughbaum, Steve Neal

MEMBERS ABSENT: None

STAFF: Tammy Doernenburg, Monica Linehan

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

II Minutes of April 7, 2016
Scott noted that the FAA midsize range should be quoted at 7,001-12,000 pounds on page five, paragraph two. Alexander made a motion seconded by Notestine to approve the minutes of the April 7, 2016 meeting as amended. The motion passed unanimously by voice vote of the members.

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 24-01-16-27-275-108. The request is per Sections 1301-8 and 2405 of the Zoning Ordinance.

   Packet items: No new information

   This case is on hold until the ordinance amendment is resolved. There is no new information and no public comment on this case.

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 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.

   Doernenburg presented this case. It has been on the agenda for four months. The request is to amend the existing PUD which in the current Zoning Ordinance constitutes a rezone. The parcel is zoned R-1 with a PUD 1 overlay. The subject parcel is 20 acres of the 80 acre PUD. The zoning map was shown. The permitted uses on the PUD are residential and related accessory uses south of the subject parcel and residential, agricultural, open space, and trail uses on the subject parcel. It is being utilized for residential and agricultural
The proposal is to add an event center for up to 99 people in the existing barn and a winery. The parcel is affected by wetlands which are identified on the site plan. The access exists but does need to be brought up to required standards per the Road Commission. The fire chief required a driveway to withstand 75,000 pounds with a minimum of 20' wide clear drive access. The proposed site plan was shown. Parking is indicated on the plan. Letters of support and opposition have been received as well as objections voiced at meetings. A petition of support with added signatures was passed out tonight. A letter from Haggard’s Plumbing & Heating supporting the project was also received. Letters of opposition/concern have been received from neighbors. The Bear Creek Township Planning Commission recommended denial at their meeting. The proposal was changed when it went to the Township Board by further limiting the number of events per month, but the Township Board also recommended denial stating that the proposed uses are inconsistent with the surrounding land uses and the underlying Zoning District as identified in Article 4.

Jim Malewitz, Performance Engineers, stated that they have been working on this project for several months. They first met in January and there was a lot of concern with noise. The township brought up issues with parking, Fire Department concerns with the access drive, conservation easement issues, and Health Department issues all of which have been resolved. The original motion to postpone at the township level requested hours of operation and number of events to be established, non-motorized path added back to site plan, have the Road Commission review the access drive, and address neighbors’ concerns in regards to the number of events and the hours of those events. In February, there was a lot of discussion regarding noise and hours as well as storm water retention. Malewitz stated that Mackinaw Trails Winery had been mentioned during that meeting and was approvable at that time due to the way that the Right-to-Farm Act was written. Because that has changed, this type of use is no longer covered and the Schuil’s have to go through this process. By approving this request, the County and Township get an opportunity to control hours and noise levels. Private parties are not controlled and this is what has upset neighbors last year. Due to the neighborhood comments regarding noise levels and amount of events, they pared them down after listening to their concerns. Malewitz stated that during the March Township Planning Commission meeting, Urman read from the ordinance Section 17.04.7-Modifications to Design Standards and Article 4, R-1 stating that there are two black and white documents that state that this use should not be there. Malewitz stated that the design standards are not applicable as they should be looking at the use not the design. The other article does not look at sound. The motion itself was based on inconsistency with the surrounding land uses as defined in Article 4 which states the intent of this district is ‘…to promote a compatible arrangement of land uses for homes, with the intent to keep residential areas relatively quiet and free from detrimental use influences.’ Malewitz stated that a PUD is looked at differently, it is like a special use request. In the R-1 district there are special uses that can be approved which would have similar noise such as a country club, recreational areas, schools, religious institutions, police/fire departments, etc. He stated that it is unfair to say that this proposed use is inconsistent as it is similar to these other special uses in the district. The Emmet County Master Plan talks about retaining farming and farmlands and encouraging new agricultural activities, promoting businesses and allowing for business incubators, and balancing property rights. Kristi has gone and talked to a lot of neighbors and was able to come back with 16 names on the petition that are in support of her project. Those who are opposed have sent in letters or discussed concerns at meetings. The hours and number of events have been pared down after listening to neighbors’ concerns. One thing that keeps coming up is that this operation is too close to neighbors. Malewitz passed out three maps, the first shows the distances from the barn to the neighbors
plotted out. He stated that the closest neighbor is about 512' from the barn. There are 31 homes within ¼ mile. The second and third gave similar examples of the area surrounding Castle Farms in Charlevoix and the Knights of Columbus hall in Petoskey, respectively. Malewitz stated that Castle Farms can do up to five wedding per day and there are 20 homes within a ¼ mile from there which is comparable to the Schuil's neighborhood. There are 63 homes within ¼ mile of the K of C hall. Malewitz stated that he hasn't heard of any complaints in these areas. He stated that he did these diagrams in order to show that this is not right on top of residential uses. There is indeed residential surrounding it and the proposed development behind it, but this area has not been built and there has been no opposition from that property owner. Malewitz explained that the green boxes on the first diagram are those in favor of the project, red is opposed, and the others are of unknown opinions. The problems and concerns that they were asked to resolve by the township have been resolved. Hobby farms need supplemental income to keep them viable longer. The Bear Creek Township Planning Commission did not have a chance to weigh in with the reduced hours as the Township Board ruled not to go back to the Township Planning Commission. Nuisance and noise are relative. Malewitz stated that he feels strongly that this will be a great project in the community and the site has been improved.

Laughbaum asked what the farm traffic would be if there were no weddings or events. Schuil stated that it would be educational workshops, meetings, U-pick raspberries and apples, and wine tasting in the future. Laughbaum stated that he could see this line easily get blurred. Would 99 people attend a wedding and then have another 100 people there for farm use activities? Schuil replied no.

Alexander stated that he loves the graphics provided but wonders what the people in the other two communities actually think about the events put on. There's not much that they can do now after the fact. Malewitz stated that there is a much larger event center doing similar activities as what the Schuil's want to do on Norwood Road in Charlevoix, Blackcat Farms which has been doing events for 10 years and haven't had any complaints. They are a bit more remote but they also do concerts and have 500 person events. Malewitz stated that there were events that got out of hand and shouldn't have happened at the Schuil's but feels that she will operate within the rules set up and not operate this way in the future. Urman commented that none of these other examples are in an R-1 zoning district. Malewitz agreed but noted that they are still fairly densely populated with residences.

Notestine stated that the other examples (Castle Farms, K of C hall) have been there for a long time and are both on busy highways. Many people will expect a bit more noise in these areas because of the highway traffic rather than the Schuil's location.

Laughbaum asked about parking and the standard amount of people in a car. Malewitz stated that they figure two people per car and has 50 parking spaces. Overflow parking can park along the entrance road.

Urman stated that he specifically advised the boards at the Bear Creek Township meetings to look at the request specifically as a rezoning first. The plans were there and were tweaked along the way but he kept reminding the board that whether this rezone is proper for the R-1 district should be looked at first. This is why he used the intent section of Article 4 in his motion to deny. Malewitz stated that he cited design standards during the meeting; only the use should have been looked at. They spent time and effort to resolve these issues. People were looking for things that could be used to turn down the request other than the noise. The
biggest issue was the noise factors so they spent a lot of time on reducing hours to be similar to the noise ordinance within the City of Petoskey limits.

Eby opened the floor to public comment.

Becky Lipchik stated that she and her husband Mark both agree with the Township’s motion for denial and they appreciate the time and effort that was put in on this issue. They decided that the rezone wasn’t appropriate in the R-1 district. She stated that she doesn’t want to cater to the idea that it’s only about sound; she also doesn’t like the idea of spot rezoning similar to the issue that Whitecaps just went through in Petoskey. It opens up Pandora’s Box. Lipchik stated that if last summer wasn’t what it was she probably wouldn’t be here. The township has no way to enforce the stipulations that would be put on the operation; there is no one to call to enforce the potential issues. There is no sound ordinance in the township. Actions speak louder than words. Last summer was not fun. Lipchik stated that she loves summer with her family and her peaceful neighborhood but doesn’t trust that noise will stop at 11pm and that it will be limited to 99 people. She stated that she feels that it is a fantastic idea but doesn’t think that this is the right location. Although it may not be right next to their houses, sound travels quickly and it doesn’t take long to reach the houses. Changing the hours and frequency doesn’t change the use which isn’t a proper use in the R-1 zoning district.

Gina Dunneback stated that she feels the same way. Her house is on Little Cedar Drive and her bedroom is on the side of the barn. If permission is given to this project who monitors it and what legal options do they have. She stated that she feels that a person shows their character and asked that the Planning Commission think of the neighbors. Castle Farms has been there forever; how many of those houses were there then? She didn’t move into a neighborhood with an event venue.

Bret Huntman, Orchard Ridge Drive, stated that this is a rural area. There are farming activities nearby that sometimes operate around the clock as well as animal noises in the area. He stated that he sees that the residential uses have encroached on the farmland surrounding Petoskey. He urges the Planning Commission to support this concept and plan and feels that it supports the rural nature surrounding Petoskey.

Dalton Miranda stated that he had a party at the Schuil’s last year. There was a contract signed that had rules to follow. He was to be done at midnight. At 11pm the police came. They turned down the music and finished up their party. It wasn’t a big deal, they finished at midnight and he cleaned up until 1am. He doesn’t see that the Schuil’s will have an issue following whatever rules are set up for them.

Terry Verda stated that he is a Bear Creek Township resident but not a neighbor of the Schuil’s. He stated that he has experience in urban planning for over 40 years. He is not here as a professional, rather a county resident. He stated that he doesn’t feel that this would be spot zoning. This place is a true jewel in the area and you can see the effort and the labor of love that has gone into the property to preserve and enhance it. They aren’t trying to put in a box store, they are attempting to preserve and enhance an agricultural production facility. There is always concern about change but allowing the use ensures that there are maximums placed on it. There is nothing to say that every single date will be booked. They have imposed limitations on their times and frequency in response to concerns. He supports the request.
Kristi Schuil, applicant, stated that she did host a party for Dalton Miranda as a friend. The party was toned down when the police came. They accommodated to the neighbors as there is no noise ordinance. She stated that the party for her son’s 21st birthday got carried away. She apologized to the neighbors and stated that she is sympathetic to their concerns. She doesn’t want the property torn up and overused, she wants it to be enjoyed. Schuil stated that she has many people come weekly or call to tour the property. She would like to keep it beautiful. Pictures were passed around to show the barn, property, and improvements that have been made to help with the sound barrier.

Julie Holber, resident of the county and friend of Kristi Schuil, stated that the site is amazing and an asset to the community. She feels that it is being used in a proper way. It is about being a good neighbor and about noise. Kristi has taken steps to accommodate the neighbors and be a good neighbor.

Peter Schwartzfisher stated that he has done some building work at the property. They are not trying to have concerts there. He has attended weddings at other similar facilities and he doesn’t feel that it’s intrusive. A church use could be allowed here and they could have weddings. This is not far outside of the norm. Mitchell is a busy road with nearby schools, churches, and commercial uses; he feels it is pretty far-fetched to say that this is spot zoning. It should be regulated to see that it is done right. Schwartzfisher stated that when they first brought this to the township, members had some positive comments and requested more information, then they ended up denying it. He thought the members’ decisions were swayed by one member’s comments. He doesn’t feel that the township gave the project a good look.

Becky Lipchik stated that she feels that the township did spend a lot of time thinking on it and doesn’t feel that they were swayed by one member as previously stated. She stated that she feels that they were diligent with their research on the case. They are asking for a rezoning to have events. How are weddings agricultural uses? She stated that she is all for the agricultural uses. She appreciates Schuil’s apology and accepts it but still doesn’t see a wedding as an agricultural event; it’s a party. Another concern that she and the neighbors have discussed is drinking and driving after the receptions. Lipchik noted that it would actually be 4-5 events per month not the 2-3 events that have been stated tonight. It is a residential zoning district and allowing this would be spot rezoning.

Walter Rosenthal stated that he lives across the street from the Black Cat venue in Charlevoix. It is approved for 500 people and holds concerts. He can hear the music across the way but he is in support of this request as he can’t see how this really affects the neighbors this much. Castle Farms is a nice place. Schuil’s property is a huge asset for the County. A farm has to generate extra revenue as they can’t sustain themselves on just the agricultural uses. The applicant is diversifying to make it sustainable. If denied, the whole operation could end. Rosenthal stated that the County should be asking for this to come into the County and they don’t understand what they have. Would you change anything about what is there? Lipchik stated that she would change the location.

Malewitz noted that Becky Lipchik stated that if she hadn’t gone through what happened last year, she wouldn’t be here tonight. Those in green on the diagrams were here last summer. There was a party that went beyond what it should have. Most people seem to think that if she followed the rules, this wouldn’t have been as big of a deal.
Michelle Rosenthal also lives directly across from the Black Cat barn and doesn’t have a problem at all with this wonderful venue. The venue being reviewed tonight is much smaller. When Black Cat was being reviewed, Rosenthal stated that they didn’t go to the meetings because it wasn’t a problem with her. She stated that those that have been silent in the neighborhood should have a voice as well and if opposed they would have said something. If they are silent they must not have a problem with it but they should have just as much voice in the issue. As a farmer, if a farm doesn’t have additional money coming in it won’t survive. There is a beautiful farm here with a very small venue requested.

Gina Dunneback stated that if they were worried about money they should have looked into the rezoning first.

Becky Lipchik stated that at least two of the neighbors in green are hard of hearing.

Doernenburg stated for clarification that the current proposal states that there will be no more than four non-agricultural/educational events Sunday-Thursday and music hours would end at 9 p.m. On weekends (Friday & Saturday) there would be up to two per month with a four weekend month or up to three with a five weekend month and music hours for these would end at 11 p.m. This would be 6-7 times per month maximum. She also clarified the term rezoning. There is a PUD-1 overlay on this property. Overlays were eliminated with the new ordinance adopted in October 2015. It is not a derogatory term in this case, rather a change to the standards.

Eby stated that the uses are agricultural and residential not commercial. Laughbaum stated that it is not a continual use, it’s intermittent and has restricted hours. They aren’t asking for rezoning to commercial and just letting it go from there. It is similar but a totally different animal.

Scott asked if there was a way that we could phrase a motion that the activity could be stopped immediately if the rules are not followed other than through the normal violation process. Doernenburg stated that the process would be the same as any other violation. Something could be put in the motion that indicates that the quickest avenue to resolve the violation would be used which would likely be tickets written and court. Wonnacott stated that zoning restrictions placed on the project would have more teeth as there is no noise ordinance. She could do whatever she wants right now. If we approve we can set limits to the activity. Notestine stated that he thinks that this is a beautiful facility but the request is for a commercial venture not agricultural use. The ordinance is clear on this. If the Right-to-Farm guidelines are changed, they may again fall under them but as of now they do not which is why we are reviewing this request. Alexander stated that he agrees that this is a nice facility and they are probably wonderful folks who do a wonderful job but this request is a commercial venture.

Eby stated that these terms that we are looking at are police power regulations which are specifically given to townships, it is not our job to enforce police power ordinances, nor do we have the ability to adopt such ordinances. Neal asked about the status of the remaining 60 acres of the PUD. Doernenburg stated that there is an access drive into the development, but there are no other apparent improvements. The original approval was contingent on sanitary sewer and water which they weren’t able to obtain. Laughbaum stated that he went to the property and it is beautiful and they have done a good job. Farms will need help to make it because regardless of the crop, it comes in once a year and there are 365 days of
taxes that take a whack at most farms. It is hard to comprehend how much farming has changed. He stated that he doesn’t think that the wedding events will be as noisy as the road running by the property and the barn seems to be a long way from any houses. Laughbaum stated that he was impressed with the buildings and the upkeep. A lot of people don’t get the chance to touch the country. Laughbaum stated that there is a Mark Twain quote that says something to the effect of I’ve had lots of fears in my life, most of which have not happened. Laughbaum stated that he would support this request. Alexander stated that there are folks that have had issues. Laughbaum stated that zoning is based on facts, not fears and doesn’t think this will be an issue. Plasencia stated that there are a lot of wineries in the area that do similar events but are not regulated the same. In regards to some of the facts that Jim Malewitz brought up about the other venues, he’s not sure if the houses were there first or not but 500-700’ is not that far as noise travels. The County has weddings almost every weekend in the summer at Camp Petosega with no complaints but there is a lot more property there too. Plasencia stated that he is not sure that this is the right place for this request. Urman stated that he doesn’t feel that there was any persuasion from any one individual on the township planning commission. Everyone formed their own opinions as illustrated in the township minutes. He agreed that it is a beautiful facility but we need to look at the use within an R-1 district. There are residential lots there already and over 100 potential others on the remainder of the PUD. They are asking for a rezoning in order to make their farm viable but when someone makes an investment in a property, we shouldn’t need to rezone it in order to be sure that they make their investment back. Agricultural uses fall under the Right-to-Farm act. Urman stated that he supports this but this request is for an events center. How do we guide these things? Eby stated that the original presentation alluded to special uses in residential zones. He noted that the previous Kingdom Hall in Maple River Township was requested to be turned into an events center and was turned down. It then went on to be the Friendship Center which was embraced. The uses that are being requested are light industrial and commercial. This is a rezoning request to add industrial and commercial uses in an R-1 district. Scott stated that he cannot buy into these uses being industrial. There are a number of uses that could go into these areas that have the same impact. Eby stated that many of those uses wouldn’t be allowed on a 20 acre parcel when reviewed. Neal stated that he is not sure of how many of these events have already occurred and how many resulted in complaints. If the events occurred within the parameters that we are looking at, Becky Lipchik has stated that she wouldn’t be here.

Malewitz stated that a country club could be put in here as a special use, this is not industrial. These have the same types of noises. Integrity of the applicant and noise are the issues. Becky Lipchik has said that she wouldn’t be here if the other parties hadn’t happened. If this board believes that Kristi Schuil isn’t going to follow the rules then she should be turned down. The hours and number of events have been limited. The potential noise is twice a month. The other events are birthday parties or events until 9 p.m. People have purchased homes near Castle Farms in the last 10 years of them having weddings and events. This is not a bad fit they just didn’t plan ahead for this. Everyone has dreams and this is an opportunity to make theirs economically viable. This is a special use.

Eby stated that he would be taking a long look at a request for a country club on a parcel of this size. Plasencia stated that we have an ordinance in place. All of the other mentioned potential special uses would have to come before this board for review. This board is here to judge each individual use request when requested. In looking at this situation he doesn’t think that 500’ from residences is very far. We are here to decide the cases and this is why special uses exist. Wonnacott noted that Notestine mentioned that the request is for
commercial uses. Any level of agri-business is commercial including if they had a farm market stand. He could support this request. Notestine stated that he doesn’t see this request as being an agricultural use. Laughbaum stated that he doesn’t see that it is any more intrusive than many home occupation uses that could be there such as a hair salon. It is less of a use because it is not a continual use. He stated that he doesn’t feel it is very intrusive and they should be able to take a shot at it. Alexander stated that he does not question the honesty and integrity of the applicant. She obviously cares about her cliental and making sure they have a good time. A good wedding reception does involve a good time. It comes with the territory but it is hard to control and is opening a can of worms in the area.

Notestine made a motion to deny Case #PPUDF16-0001, Duane and Kristi Schuil, for a PUD Rezoning on property located at 2800 E. Mitchell Rd, Section 3, Bear Creek Township, tax parcel 24-01-19-03-100-014, as shown on the “Site Plan” dated Received April 6, 2016 for the following reasons: the proposed uses are inconsistent with the surrounding residential land uses and because denial was recommended by both the Bear Creek Township Planning Commission and the Bear Creek Township Board. The motion was supported by Alexander and passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Urman, Plasencia, Alexander. No: Scott, Wonnacott, Laughbaum.

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 24-07-17-18-451-015. The request is to allow a parking lot for additional boat slips and the review is per Article 17 of the Zoning Ordinance.

Doernenburg explained that the applicants are still working through their differences with a land owner within the PUD. A letter from Crooked Lake Yacht Club to Kurt Hoffman was passed out. Hopefully new information will be available next month.

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.

Doernenburg explained that the applicant has requested postponement. Hopefully new information will be available next month.

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.
Packet Items: Township recommendation

Doernenburg explained that this came up as an enforcement case. The request is to allow top soil removal on approximately 10.9 acres of the parcel. The township has recommended approval on the conditions that the loads be covered (which is required by law) and with the recommendation that a couple of ‘trucks entering roadway’ signs be temporarily placed at the Garber/Canby Road intersection to help with safety when they have a lot of hauling. Doernenburg noted that a draft permit was distributed in the packet. There is a typo under item five, hours of operation. It should include Saturdays (Monday-Saturday 8am-6pm, prohibited on Sundays and National holidays). They have also requested to be able to mine 6-12” of topsoil up to the property line. If allowed, Doernenburg suggested that they be required to identify the property line. Soil Erosion permits are not required as long as the earth disturbance remains below one acre. The existing access drive was approved by the Road Commission for a one year permit. They’ll need to obtain a driveway permit. Photos of the site and the site plan were shown. The parcel is very well screened from Garber Rd. but not from Canby Rd. Doernenburg noted that this case is a result of a complaint and applying for this approval is a means of coming into compliance. The applicant did contact Doernenburg and advised that he could not attend tonight’s meeting but asked that a decision be made in his absence.

Alexander asked how long they remained in operation since the complaint was received. Doernenburg stated that the complaint came in about two years ago but she wasn’t able to confirm it as we aren’t able to go onto the property without permission. When the Google Maps were updated, it was apparent that work had been started without permits. Neal asked if it is common to mine topsoil up to the property line. Eby stated that he can see allowing to do so within the 50’ perimeter setback but is unsure about a 0’ setback. Doernenburg read from the ordinance (26.10.4-A) in which it states ‘All excavations or extractive work shall maintain a minimum perimeter setback of 50 from road right-of-way and all property lines. Controlled work in the 50 feet setback area may be permitted if spoils, over burden, or other earth fill material replaces the resources removed as the work progresses (in cases of a pit)’ Doernenburg noted that the area of top soil removal is vegetated. Alexander stated that it seems that so many start prior to permits being issued perhaps thinking that it would make it harder to deny; can they be penalized? Doernenburg stated that they can and in this case, tickets were issued and paid. Eby stated that requiring the signage that the township requested wouldn’t be a bad idea to have the signs there and could make a recommendation to do so. It wouldn’t have the weight of law but of liability. Wonnacott stated that it is good stewardship and the responsible thing to do. Doernenburg stated that the township recommended it as well.

Toni Drier stated that she was at the meeting and the township supervisor indicated that they knew it was to be a suggestion not a requirement.

Plasencia made a motion to approve Case #PSUP 16-0001, Jason Saddison for a Special Use Permit for a Level III Resource Mining and Extraction operation to be located on the north side of Garber Rd. Near the corner of Garber and Canby Rd. Section 22, T38N-R5W, Bliss Township. The parcel is approximately 19.7 acres, zoned FF-2 Farm and Forest with tax parcel number 24-02-05-22-300-011 because it meets the standards of the Zoning Ordinance as shown on the Site Plan dated received 3/7/16, because the township has recommended approval, and, subject to the conditions of the Draft permit dated 4/7/16 as amended, and the following: the property line is required to be marked, a 10’ perimeter setback is to be required from the property lines, temporary warning signs are
recommended to be placed at the Garber Rd/Canby Rd intersection. The motion was supported by Wonnacott and passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Scott, Wonnacott, Laughbaum, Urman, Plasencia, Alexander. No: None.

6. 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”.

Doernenburg stated that there was a question last month in regards to the chosen weight limits when the helicopters were discussed. The FAA says that helicopters 7,001-12,000 lbs. are mid-sized. The recommended weight cutoff from Kevin Nelson was 8,000 lbs. He is here tonight to discuss. Scott stated that he brought up the FAA numbers being different last month; is there a reason to cut it off at 8,000 lbs. instead of following the FAA specifications for mid-sized aircraft? Nelson stated that through technology, the industry is moving away from the noisiness of older models. The numbers from the FAA are somewhat arbitrary numbers. New technology can allow a larger, twin engine helicopter to be rather quiet and some of the older, smaller models are actually louder. Using strictly weight as the guideline may be limiting for the wrong reasons. There is currently very little difference between 8,000 and 10,000 lbs. Allowing the larger aircraft at 8,000 lbs will welcome someone who is higher net worth and could bring industry to the County. There is currently a model that will be 9,200-9,400 lbs that is in development but it is 12-15 years out yet. Nelson stated that 11,000 lbs is where we’d want to stay away from. Neal asked if we should marry the ordinance to the FAA language or to the industry norms. He’s not sure what is best. Nelson stated that the FAA numbers can be arcane and somewhat random and it can be hard to keep up with technology. He added that there are severe Federal violations if someone is operating aircraft above the maximum weight which is listed in the manual that is required to be carried on the aircraft. Alexander asked if this is all based on commercial aircraft; no military? Nelson stated that military has its own sets of rules. Civilians can purchase military aircraft for experimental usage but do not receive a full license which doesn’t allow for passengers.

Doernenburg stated that if we leave the draft #8 as is, if someone could illustrate a need for a larger aircraft they could come back to this board at that time.

The other amendments listed (Home Occupations, Outdoor Sales, Height Variances, Single Family Homes) were discussed at the last meeting and there was no further discussion on them.

Plasencia made a motion to recommend approval to the Emmet County Board of Commissioners the Zoning Ordinance text amendments included in Case #PPTEXT16-01 (Draft #8 of Helicopter Landings and Takeoffs). The motion was supported by Wonnacott and passed on the following roll-call vote: Yes: Eby, Neal, Notestine, Scott, Wonnacott, Laughbaum, Urman, Plasencia, Alexander. No: None.

IV Public Comment: None

V Other Business:
• Proposed Ordinance amendments
  o Airport Overlay District: Doernenburg noted that she has met with Mark Drier to go over the redline document and will send it on to the consultant and civil counsel. Once they've reviewed it will be sent to the Michigan Aeronautics Commission. They are trying to make this section more consistent with other districts. She noted that Mark Drier has done a lot of legwork on this.
  o Administrative Reviews:
    ▪ St. Francis Credit Union: Doernenburg noted that the question was posed last month regarding the screening on this site. She met with them on site. The site drops off considerably and a 6’ fence or hedge would not adequately screen the neighboring properties. There are large pines on adjacent parcels and currently the sites are vacant. She explained that she has requested deer-resistant evergreen trees to be planted. They agreed to plant 7 Norway spruce. This will help with the lights from the drive-thru as well. Alexander asked if the trees are required to be maintained and replaced if they die. Yes. Doernenburg showed the site plan and noted that the fence is to be an almond colored vinyl and will screen from the commercial uses and the residences on the east. They are retaining as many large trees as they can on the site. The Planning Commission, by consensus agreed with the administrative approval of the revised site plan.
    ▪ Change of use; old Holton’s LP building on US 31: Doernenburg stated that she went through the plan as if she were preparing for a Planning Commission meeting. The change will be into a diesel repair shop with two bays. Two additional parking spaces are provided on existing paved surface. Vehicle storage is proposed to be behind where the tanks are which will be removed. A protective and screen mesh will screen. Signs are proposed at the same location and size as the current signage. The ordinance requires that dumpsters have concrete or brick along three sides. Doernenburg stated that this may be a bit restrictive here as there is no concrete on the site, other than the foundations. They may be adding on to the building in the future so she gave them some time to either construct the enclosure or for the ordinance to change as long as the dumpster is behind the building. There was some discussion on the ordinance standard regarding dumpsters and there wasn’t any interest in looking into changing it at this point. It was put in place to avoid the fence enclosures that get knocked down.

• Enforcement report: Distributed with some discussion.

VI Adjournment

There being no other business Eby called the meeting adjourned at 9:40 p.m.

James Scott, Secretary _____________________________ Date _____________________________