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

MEMBERS ABSENT:

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 November 3, 2016
Alexander made a motion seconded by Wonnacott to approve the minutes of the November 3, 2016 meeting as presented. The motion passed unanimously by voice vote.

III Cases

1. Case #PSUP16-010 STD Holdings, LLC, SPECIAL USE PERMIT/SITE PLAN REVIEW-Drive-thru restaurant/retail sales, 1099 N US 31, Section 33, Bear Creek Township

Legal notice: A request by STD Holdings LLC on property owned by FH Inc for a Special Use Permit and Site Plan Review to allow a drive-thru restaurant and retail sales on property located at 1099 N US 31 HWY, Section 33 of Bear Creek Township. The property is tax parcel 24-01-16-33-202-036 and is zoned B-2 General Business and P-T Parking Transition. The review will be per Articles 11 and 13 of the Emmet County Zoning Ordinance.

Packet items: Request & location map, application, impact statement, site plan review checklist, 11/10/16 email from MDOT, 11/8/16 Zoning evaluation, 11/7/16 site plan & elevations, 11/29/16 letter from Haggard’s P&H

Doernenburg presented this case. The parcel is located along N US 31 bordering Kent Street and Old Tannery Creek Rd. It is the current location of Alan’s Northside restaurant. Zoning on this parcel is B-2 and PT. The aerial was shown. The current use is a sit down restaurant. There was a site plan for a drive-in A&W restaurant in 1974 that was approved under site plan review. The site plan was shown as well as the elevation plan. The current proposal is to allow a drive up window along the side of the building. A small addition (13’x4’) is proposed along the west side of the property. The façade is to be changed as shown on the elevations plans. The large roof extension in the middle of the building is to be eliminated and replaced with a flatter roof which would meet height standards. The Road Commission wants curbing installed along Kent St and pavement into the right-of-way. The applicant does have the option to apply for a waiver to the Road Commission if they wish. Doernenburg reported that at the township meeting a drainage issue (complaint of a drain not working) was brought up by a neighbor. She stated that she has forwarded this information onto the Road Commission for
them to determine whether this is within the right-of-way. Parking exists in the front and side within the setbacks and this parking is proposed to be used. There were some concerns about the parking along the highway and the potential of people backing into the highway. The applicant did agree at the township meeting to look into parking on the back or possibly deferred parking. The ordinance standards for a drive-thru requires 60’ to an intersecting street. The applicant has requested an interpretation and waiver to this standard to the ZBA. The proposal is to use the two existing US-31 accesses as well as the Kent St. access. There are four large maples that exist already on the property. The screening requirements in the parking transition district will be met with a 6’ wooden fence. The dumpster exists on site and will be screened with concrete block. The signs proposed do not meet the ordinance standards. They and any outdoor lighting would need to be reviewed by the Sign & Lighting Committee. Photos of the site were shown. Doernenburg stated that a neighbor, Frederick Hoffman, called and stated that he is satisfied with the plan but would like to see green plantings along the fence. Haggard’s Plumbing & Heating sent a letter of support for the project. MDOT reviewed the proposal and stated that they would prefer no ingress/egress on US-31 and that the Kent St. entrance be utilized for both but would also be ok with an entrance off of Kent St. with a single egress-only onto US-31. The Fire Department will require a Knox box. There were two petitions that were emailed to the members yesterday. One was related specifically to this site and one was not. The speed/traffic concern on the one petition is a township issue. The other petition listed seven reasons for denial of this request and stated if it were to be approved they would like tall greens and fence screening similar to what the gas station has. This petition was signed by 59 people 18 years of age or older. Doernenburg reported that the township reviewed this proposal extensively at their meeting. They did recommend postponement to allow the ZBA time to review the requests that they need to review, and time for the applicant to revise their site plan to show revised parking and screening, and time for the access issues to be discussed with MDOT and the Road Commission.

Scott Tuck, owner of Little Caesar’s, stated that they are currently running their business out of the Kmart plaza. They hope to have an increase in staff at their new location. He stated that a lot of people are using the term ‘drive-thru’ which he feels is somewhat misleading as this will be ran more like a pharmacy pick up window. Tuck stated that 80% of their sales are the ‘Hot and Ready’ pizzas which means that the customers are in and out very quickly. He questioned why A&W was allowed a 60 car drive-in area under this large canopy for fifteen years and he now has to request a small drive up window. He thought that the approval ran with the land. He realizes that technology has changed but these people were either eating at their vehicles or taking it home with them. Tuck asked for some clarification. They have concerns with the MDOT’s suggestion to eliminate access along US-31. The costs would be substantial and he believes it makes access to the site more difficult.

Bill Trahan, Mann Construction, contractor for the project and designer of site plan showed an aerial photo of the existing site and parking. He stated that there is already directional parking and the drive operates already as a one-way drive maintaining an ingress and egress. MDOT likes to remove drives when they can and he could understand if it were a new site as it would be much easier to accommodate their request. There is not enough room to negotiate the site.
Keeping the drives as it allows them to have good traffic flow on the property.

Tuck added that eliminating an access would likely cause more traffic on those side streets that the neighbors were concerned about.

Trahan stated that their plan expands the sidewalk around the perimeter from 4' to 5'. They will also have a ramp for accessible access. Parking is planned to remain as is but would like the option to defer parking if needed. There is a proposed 18' wide additional strip of asphalt that would be added along the area of the drive up window. Trahan stated that the drive thru is 60' off of the property line. He stated that the 60' requirement was put into the ordinance for good reason so that there aren’t cars backing up out of the property. He believes it is being misinterpreted. He stated that he has some other ordinances that have diagrams and ask for 50'. It makes sense to safeguard people from backing onto the highway but the drive-thru requirement is about property. He pointed out the loading zone with ramp into the back of the building. Tuck noted that typically they have one weekly delivery around 9am and Pepsi a few times a week. Trahan noted that this is much less often than Alan’s has and they’ve never had any issues. The snow storage and dumpster were shown on the plan. They didn’t have any plans to change the driveway along Kent Street and don’t feel that the curbing as requested makes sense as there isn’t anything along this street that is curbed. They would rather put grass back there and close it off than pay for those improvements. Trahan stated that they are willing to work together on this site but are also asking for clarification on this requirement from the Road Commission. He stated that he’s asking the Planning Commission to potentially look at section 26.14.2 A. He showed the elevation plans and explained the updates that they have planned for the building. Tuck asked again why if this large canopy drive up section is shown on the original site plan, a small drive up window wouldn’t be approvable. Seems to make more sense.

Neal asked what happens if someone pulls up to the pick-up window and there isn’t a pizza ready for them. Tuck stated that they would pull them out of line to wait and take it out to them. Alexander asked how many spaces would be designated for these pull out customers. Trahan stated that the goal is to have everything ready so that this isn’t an issue. There aren’t spaces designated on the plan but they could; likely two designated spaces would do especially since there is so much parking there anyway. Alexander asked if there is any recommendation or requirement from corporate. Trahan stated that he has never designated pull out spaces on the 8-9 plans he’s done for Little Caesar’s in the past. Tuck stated that there could be 3-4 spaces designated if need be. Alexander asked if people can still park and go in to get pizza. Yes. Alexander asked why the Road Commission review is marked as not applicable on the checklist. Trahan stated because they didn’t think there was any reason to change the entrance. If the code ends up being interpreted as they feel it should be then there should be no need for an MDOT permit either.

Doernenburg explained some of the history on this parcel. The review in 1974 was a site plan review for a principle use on the property and there is no record of a special use being reviewed. Since it was the site plan that reviewed and the canopy has been gone for 30 plus years, the approval doesn’t carry on with the property. The current ordinance requires a special use permit for a drive-thru in the B-2 zoning district. As to section 26.14.2 A, her
interpretation is that the drive thru has to be a minimum of 60’ from the intersecting street which in this case is Kent Street. If the Planning Commission feels that this standard is met they could approve as is. It isn’t a standard, however, that they can waive. It would be a variance that would go to the ZBA.

Neal asked where the stacking spaces start. Trahan stated that there is enough space for six cars. Scott stated that this section of the ordinance doesn’t reference stacking or anything related to stacking at all. It references the distance to the intersecting street which is Kent Street. Tuck stated that it is in the drive-thru section which is why they are interpreting it as they do. Scott stated that our ordinance doesn’t say this at all.

Alexander asked about the storm water issues that were brought up at the township meeting. Doernenburg stated that the Road Commission will review the complaint. The applicant has also asked that the drainage plan be waived. This can be waived by the Planning Commission under the Site Plan Review. Their reasoning is that they are not increasing the impervious surface as the asphalt is to be added where gravel already exists.

Tuck asked if they wanted to go back to the A&W plan would they still have to be here. Doernenburg stated that we would still need to review under today’s Site Plan Review standards. Scott stated that once it is gone, it can’t just be brought back just because. Alexander added that there are an awful lot of things that were approved and were common but we may not approve them today. Tuck stated that he thought the usage goes with the land. Doernenburg stated that this was not approved as a special use.

Notestine stated that he would be in favor of MDOT’s driveway proposal if it were a new build but he is afraid we won’t gain much by eliminating the drive in this case. He doesn’t think that there have been many accidents there in the past. Scott stated that he isn’t sure that there is a big advantage to utilizing the Kent Street access rather than the existing highway access. Notestine stated that the first few spaces would be better as green space as it would prevent people having to back out into the path of vehicles turning in off of the highway preventing potential broadside accidents as well. Kent Street should remain for delivery trucks as it is used now.

Laughbaum asked where the proposed single drive off of the highway would be located. Urman stated that we’re not sure. It was discussed at the township but should have professional help if it did end up needing to be addressed. They didn’t want to try to engineer their plan. Another thing that would be a big change is the hours of operation. They proposed to be open 8am-10pm seven days a week; currently the restaurant closes at 2 pm. Urman stated that the applicant should look into discussions with MDOT and Road Commission to come up with a plan that works and works within the Access Management plan as well.

There was some further discussion as to how the site could be changed to accommodate different entrance/exit points. The option of eliminating some parking in the front and putting in a pass through lane similar to some of the other fast food places have was discussed. The potential of a right-turn only drive was also discussed.

Eby opened the floor to public comment.
Alan Harrington, current property owner, stated that he feels limiting access to one drive on the highway is a major mistake. What happens if everyone wants to turn at once? He added that for twenty years, they were open 6am-11pm and it has just been in the last few years that they’ve closed earlier. He doesn’t see the Kent Street access being useful. People are familiar with drive layout now. Harrington stated that they have been here for 32 years and have tried to be good citizens. He feels that the proposal is 90% of what the board and the township wants; if he were to stay, the building and the site will stay as is. Under this proposal, the neighbors get a much improved building and site. The drainage issue that was mentioned is due to the drainage issues that the golf course has. Harrington stated that they can watch it flow right from the golf course down the side streets. There is a drain that isn’t maintained that causes the issues.

Laughbaum stated that if the parcel was only accessed via Kent Road it seems that the lights from cars would be worse in the neighborhood and would impact them more.

Eby stated that he doesn’t like the single drive option. Every fast food place has two drives. It is much more confusing to have single drives. He likes the idea of the wrap around drive in the front and eliminating the first few parking spaces.

Alexander stated that he would like some clarification from MDOT as to why they feel their option is better and what they feel they will achieve. Neal stated that they are likely only looking at the number of access points on the highway.

Doug Nowels, Real Estate One, stated that he drove through all of the fast food places in town before the meeting. The only one he had an access or exit issue with is the new McDonald’s on the south side of town that has the single driveway. It seems to make common sense for this request to be approved. The drives here are wide and the traffic flow makes sense on the property.

Urman noted that the township did want more clarification and input on the discussed issues and also noted that if approved for a drive-thru, it could be any drive-thru if the property were to be sold to someone else in the future.

Eby stated that he feels that this can work. The site plan needs work.

Trahan stated that he feels that it is workable as well and they have some good direction as to what to bring back. He will work on the parking and showing deferred parking on the site plan, landscaping along the fence line, and will talk to the Road Commission and MDOT. He noted that they still would like the requirement of the drainage plan waived. Eby stated that once they come back with the revised site plan we can discuss this request but feels that the other entities need to look at the plan first to figure out what they are going to require.

Doernenburg asked if the Planning Commission would like to make a recommendation to the ZBA in regards to the request that they will be reviewing on December 20th.

Scott made a recommendation to the ZBA that the variance to section 26.14.2 A be granted to allow the existing driveway to remain within 60’ of the intersecting street and the case move forward with two driveway curb cuts onto US-31 based on the fact that the use has been there for over 40 years with the current configuration therefore less confusion would occur, the site plan will be altered to make the existing drives safer, and because the speed limit in that area is 35mph. This motion was supported by Neal and passed unanimously by voice vote of the members.

Doernenburg suggested that a special meeting be held since there will be three new members on the Planning Commission in January. The township will meet on December 28th. Wonnacott made a
motion to set a special meeting to review this case. The motion was supported by Alexander and passed unanimously by voice vote of the members. The special meeting was set for December 29, 2016 at 7:30 p.m.

IV Public Comment: None

V Other Business:

- **Right to Farm Act discussion:** Doernenburg stated that an ordinance amendment was drafted for review based on the discussion from last month. It was modeled after the contractor’s use section of the ordinance and allows social events including weddings/receptions as an accessory use on FF-1 and FF-2 zoned properties. She reviewed the draft requirements. Neal asked about the amplification systems mentioned. They would need to be used inside at any time? Yes. Plasencia state that he feels that 11pm. is too late. Would they be reviewed by the Planning Commission each time? Yes. Laughbaum asked where the 20 acre minimum came from. Doernenburg stated that it is somewhat arbitrary. The contractor’s uses require a 10 acre parcel. Eby stated that it would be nice to allow these types of uses within historical buildings to allow them to be used and not deteriorate such as old churches or schools. This draft would not allow that as they aren’t accessory uses and typically are not on that large of a parcel. Wonnacott asked if an applicant would have to apply every time they wanted to do an event. Doernenburg stated that they would apply once and it would be approved for the property. Eby stated that he feels that some of these requirements could be waived if deemed appropriate during review. After some further discussion, it was determined that we will continue to look into drafting an ordinance amendment and review again at the next regular meeting.

- **Bakers Acres off of Miller Road, Littlefield Township:** Doernenburg noted that a Special Use Permit was approved for this subdivision with conditions. In 2006 a letter was sent to the owner advising them that there are still conditions that need to be satisfied including affidavits of use, screening, and paving and that not satisfying these conditions would hold up zoning permit approvals. The current owner has applied for a zoning permit on one of the lots here and is looking to start construction right away. Doernenburg stated that following a recent site visit, it appears that the remaining issues are an affidavit of personal use and paving to the “Y” in the development. The applicant has asked that a conditional zoning permit be issued on the site allowing him until June 1, 2017 to finish the required paving. Laughbaum asked what recourse we have if it isn’t done. Doernenburg explained that it would revert back into an enforcement issue at that time. Neal asked what the current road conditions are. Doernenburg stated that it is currently gravel. There was a consensus of the board to allow Doernenburg to issue the zoning permit on condition that the paving to the “Y” be completed by June 1, 2017. Staff is to follow up around May 1, 2017 to check on the progress.

- **2017 Meeting dates & times:** Dates were accepted as printed. These may need to potentially be changed once we have new board members. The time of the meetings will be discussed as well at our first meeting with the new members present.

- **Resolutions of appreciation:** Doernenburg stated that she has resolutions of appreciation for Plasencia, Wonnacott, Notestine, and Civil Counsel Kathy Abbott. Alexander made a motion supported by Scott to authorize the chair to sign the resolutions. The motion passed unanimously by voice vote.

- **Enforcement report:** Doernenburg reported that she has been able to remove five or six ongoing enforcement issues.
VI Adjournment

There being no other business Eby called the meeting adjourned at 9:06 p.m.

James Scott, Secretary

Date