EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING MINUTES
THURSDAY JULY 6, 2017, 7:30 P.M.
EMMET COUNTY BUILDING
200 DIVISION ST
PETOSKEY, MI 49770

MEMBERS PRESENT: Kelly Alexander, John Eby, Tom Urman, Toni Drier, Jonathan Scheel, Betsy White, James Scott, Steve Neal, David Laughbaum

MEMBERS ABSENT: None

STAFF: Tammy Doernenburg, Monica Linehan

I Call to Order and Attendance
Chairman Eby called the regular meeting to order at 7:30 p.m. All members were present.

II Minutes of June 1 & June 8, 2017
Alexander made a motion seconded by Neal to approve the minutes of the June 1 & June 8, 2017 meeting as presented. The motion passed unanimously by voice vote.

III Cases
1. Case #PSUP17-005 Christine Parker, SPECIAL USE PERMIT-Level III Resource Extraction operation, 1675 Intertown Rd, Section 18, Bear Creek Township

Legal Notice: A request by Christine Parker for a Special Use Permit for a Level III Resource Extraction operation on property located at 1675 Intertown Road, Section 18, Bear Creek Township. The property is tax parcel 24-01-19-18-300-001 and is currently zoned FF-1 Farm and Forest. The request is per Article 21 and Section 26.10 of the Emmet County Zoning Ordinance.

Packet Items: BCPC minutes, letter from Patrick & Mary Wilson

Doernenburg presented this case explaining that it has been reviewed over the last four months. The request is for a Level III resource mining operation. The aerial and site plan were shown. The parcel is 13.44 acres of which 12 acres are proposed for the mining project. The property is FF-1 zoned and has frontage on both Cemetery and Intertown Roads. A house and accessory building exist on the property. The original request had access drives on both Cemetery and Intertown Road. The Road Commission has only approved one access on Cemetery Road. This location was shown superimposed on the site plan. The hours of operation were proposed from 8am-6:30pm M-F and 8am-2pm on Saturday. No lighting has been proposed. The berms and vegetation are to remain within the 50’ setback area. There is no impact to groundwater expected. The top soil is proposed to be retained and used in reclamation of the site. A soil erosion permit would be required if there were to be more than one acre of earth disturbance at a time. Bear Creek Township has reviewed and recommended denial. Doernenburg explained that the motion was not very clear in the Bear Creek minutes. She has revised the draft motions and passed out tonight (motions for approval, denial, and postponement). A new letter of opposition has been received from the Willsons who own property at 2993 Cemetery Road. An email from the applicant referencing an article from Brad Neumann of MSUE along with the link was emailed to the board members. Photos of the site were shown. Doernenburg
stated that a draft SUP permit was distributed early on in this case review.

Christine Parker, applicant, stated that she has reviewed the site plan requirements in the Zoning Ordinance and respects that it is a reasonable test. Article 8 defines the permitted and special uses. She has made changes to her site plan that were recommended and approved by the Road Commission, she has agreed to two phases, and is going to install a ‘right turn only’ sign at the driveway exiting the pit. Parker stated that you can see the evidence in the elements of the plan. The Neumann article towards the end says that government should be aware that sand and gravel are important to be mined. Parker stated that the article states that it is the applicant’s responsibility to follow the ordinance but that it is the government’s responsibility to prove that very serious consequences or evidence of this. Parker stated that the minutes of the Bear Creek Township meeting inaccurately reflected access issues since she plans on having the right turn only sign. Local government can regulate but not prohibit resource extraction. The application and changes that she’s made meet the zoning standards. If very serious consequences are to be considered it must be proven. Parker stated that she has researched the traffic crash information from 2012-2016. There were 58 total accidents, 15 occurred within her expected times and months of operation (late April-October). Of these accidents, zero had any CDL operators involved, 90% had no injuries, and there were no fatalities. Parker stated that she called 10 mining operations to ask about accidents, need, and value. Between 8 operations they have 234 years of operation and one accident involving a truck. CDLs require training, re-training, and medical reviews. They are professionals, the trucks are inspected for safety. Parker stated of the 12 companies she talked to none have had complaints of property values being lowered. Six of the 12 companies told her they would like to do business with her as there are some without sand and others that purchase sand from other companies. Parker stated that she reviewed 17 applications that have been reviewed over the last 12 years. None of these were denied for very serious consequences. She would like approval of her request.

Alexander asked about the revised draft motions. In the motion to deny it stated that there was no proof of actual resource on the site. He doesn’t understand this point. Doernenburg stated that the information that we’ve received is a well log that shows that there was sand when the well was dug. This is the only information that we have on the resources on the site. Parker showed Alexander the section on the permit that states this. She also pointed out the location of the well on the site plan. She stated that it is a low point and there is likely more sand around the top as it has boundaries of the land that sand was removed from in order to put in the Strathmore Development.

Laughbaum asked why the Road Commission denied it. Doernenburg stated that the Cemetery Road location, where the driveway is shown on the plan revised by staff, was the only location on the property where a commercial driveway could meet the minimum site distances required by the Road Commission.

Drier asked about the hours as they are different than what is in the draft permit. Doernenburg stated that there was a verbal request during the township meeting to modify the hours.

Urman asked Parker to explain where she felt the Bear Creek Township minutes were inaccurate. She stated that she had already said she would install the right turn only sign but the data that was presented and reviewed by one of the neighbors included crashes on Kemp and Williams Roads which is not the route they would take. They likely would go to Intertown, Anderson, Lears, and to the highway or they would go Cemetery to Lears and turn right. There is a divider in the road that direction that may make it more difficult to maneuver a truck. All of the drivers she talked to said they would go to the light.
White asked Parker if the driveway is where she wanted or the only location that the Road Commission would approve. Parker stated that it is the only location that they would approve as the sight distance is not obtainable anywhere else. White asked about the closeness of the approved driveway location to the residence there. She knows there is adequate sight distance but is concerned about the impact of truck noise to the residential neighborhood. Parker stated that it is noisy now. She hasn’t opened her windows during the week for the last five years due to the noise. She stated that she doesn’t feel that there will be a measureable difference with this request. She is willing to operate within the requirements. Parker showed the list of the mining operations that she has looked at files on and noted that there was only one complaint in 17 operations. White stated that she feels that the house closest to the driveway on Cemetery Road would have a noise issue. Parker asked if she also noticed the forest between. There is a lot of land between the driveway location and the house and truck traffic will be going north. She stated that she will be able to see from her office if the drivers are following the directional sign or not. She showed the location of her office on the site plan.

Neal stated that he is concerned about the impact on existing land uses in the area. Noise, dust, traffic, and the fact that accelerating from a stop is frequently louder is concerning. The case where the top of the hill on the other side in this area was removed was a one shot deal for a specific project. He is not a real estate expert but he imagines if one had to sell during that project they would have had an issue. Since the proposed project could go on for years, the impact on property value will likely occur as long as the mining project occurs. We’ve had cases in which an existing mining operation is there and people have complained after the fact. This project drastically alters a small group of homes for the potentially foreseeable future. Parker stated that he cannot say that property values have gone down, it is something that needs to be proven and is not her burden to prove.

Eby opened the floor to public comment.

Barbara Diefenbach, 2677 Cemetery Rd, stated that they just did a refinance on their home and had an appraisal about a month ago. She asked the appraiser about how the proposed mining operation could affect their valuation. He told her that the property values will tank and that they can kiss their property values goodbye. This is not speculation and it wouldn’t just be affecting her property but also all of the neighbors and their quality of life. They will get sand, noise, and all of the trees will be cut except for the 50’ buffer. They live on a blind hill and sit at their driveway and count ten seconds before even attempting at pulling out. Diefenbach stated that even if the trucks and drivers are safe there are people who hit these trucks. Parker has stated that her comments at the Bear Creek Township Planning Commission meeting were incorrect in regards to accident information. Diefenbach stated that she pulled the information up on MDOT website. There are lots of young children and families in the apartments across the road. There is no protection for them. She stated that she is concerned with them playing after hours. It is very dangerous. She may have the right to mine her property but it still has very serious consequences.

Lonny Konkus, 1523 Intertown Rd, stated that when the Strathmore project went in their property values took a dive. They will take another if this is approved. He is concerned about the noise. He can hear the traffic, the garbage trucks, kids playing and 50’ of trees won’t cut into that noise. He is concerned with safety down the road. The trucks may be fine but there are other vehicles on the road and they are going very fast by the time they hit Cemetery Road.

Jared Urman, 2795 Cemetery Road, stated that if you go just past the approved driveway location, the road drops into a gully. His driveway is in that gully and he picks up a dead animal weekly at this spot. People are driving fast in both directions. If you take the average of the number of years that the eight...
operations that Parker referred to operate, we are looking and listening to this project for the next 29 years. They will degrade the roads with the trucks. You have to wait the ten seconds before pulling out onto Cemetery Road or someone will get hurt. He stated that he is not sure that the drivers are going to want to wait this time leaving on a Friday night. There are going to be very serious consequences to the neighborhood. Urman stated that when they were house shopping they looked at a house near the Daniel’s pit. Once they went to the road and saw the pit, they didn’t even bother to look at the house so he highly doubts those people got what they wanted out of their sale.

Parker stated that the sight distance from the approved entrance south down Intertown Road is 720’ which exceeds the requirement of 615’. There were 58 total traffic accidents, all cars, and no CDL drivers. She stated that she is glad the neighbors are being safe, others in the area may not be. She stated that she only counted accidents that would occur during her time of operation; there are more accidents in the winter than the summer. If you look at just the intersections and time frames that is not an accurate look at the traffic and potential results. Parker stated that she has met all of the site requirements and it is a permitted use in the FF-2 district. She is asking for approval.

Doernenburg stated that she wanted to clear up a few things that were stated. The property is zoned FF-1 not FF-2. The information distributed from MSUE refers to the Michigan Zoning Enabling Act which she read parts of Section 125.3205.

(3) An ordinance shall not prevent the extraction, by mining, of valuable natural resources from any property unless very serious consequences would result from the extraction of those natural resources. Natural resources shall be considered valuable for the purposes of this section if a person, by extracting the natural resources, can receive revenue and reasonably expect to operate at a profit.

(4) A person challenging a zoning decision under subsection (3) has the initial burden of showing that there are valuable natural resources located on the relevant property, that there is a need for the natural resources by the person or in the market served by the person, and that no very serious consequences would result from the extraction, by mining, of the natural resources.

(5) In determining under this section whether very serious consequences would result from the extraction, by mining, of natural resources, the standards set forth in Silva v Ada Township, 416 Mich 153 (1982), shall be applied and all of the following factors may be considered, if applicable:

(a) The relationship of extraction and associated activities with existing land uses.

(b) The impact on existing land uses in the vicinity of the property.

(c) The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.

(d) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.

(e) The impact on other identifiable health, safety, and welfare interests in the local unit of government.

(f) The overall public interest in the extraction of the specific natural resources on the property.

(6) Subsections (3) to (5) do not limit a local unit of government’s reasonable regulation of hours of operation, blasting hours, noise levels, dust control measures, and traffic, not preempted by part 632 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.63201 to 324.63223. However, such regulation shall be reasonable in accommodating customary mining operations.

(7) This act does not limit state regulatory authority under other statutes or rules.

Doernenburg stated that the initial burden to show that the resource is there and that there is a need for the resource is on the applicant. The way she reads the statute, the person challenging the zoning decision must show that there are no very serious consequences. In the Neumann document (2013) she read the section that states “In other words, if public interest in the landowner’s resource is relatively low, the landowner must make a very strong showing that no “very serious consequences” will result from the extraction of the resource. One cautionary note – many details related to the application of the no “very serious consequences” rule are unknown at this time and will likely be forthcoming through litigation and case law.”

Parker stated that she had spoken to Mr. Neumann in the last two hours and her report is what he said
to her, that the burden of proof for very serious consequences is on the county.

Scheel stated that one of the difficulties is the density of adjacent properties. The apartments across the street are probably some of the highest density in the County. With the information that Doernenburg just read, the routes of traffic will be right next to that complex and Lears/Anderson Road intersection is likely one of the busiest intersections in the County. This is a little different from most or all of the other pits that we’ve looked at. Scheel stated that he thinks the standards have to be a bit higher as there are more likely very serious consequences when dealing with the traffic and an apartment complex with children and families. Consistent heavy noise is detrimental to both children and adults. The applicant says that she hasn’t opened her own windows in years due to the noise; this doesn’t help her case as she will be adding more noise with her project. Scheel stated that we have heard fairly accurate testimony as to what life was like in this area during the Lowe’s project. Some of this board were here, he was on the Township Planning Commission during that project (Strathmore/Lowe’s) and know that there are some serious life quality issues. We have heard about the right turn only sign. Scheel stated that he is not sure that this helps at this level and would have to be part of the regulations on the pit; not sure that we can regulate this. He stated that he questions the need which is one of things that Neumann talked about in his article and if public interest is relatively low the applicant must make a good showing. There are likely those who are willing to buy but not sure that this is a rational argument in showing public interest. We have heard contradictory information from the applicant regarding the number of mining operations that she looked into; 8, 10, 12 mining operations were all mentioned. Scheel stated that it is his belief that there will be very serious consequences to health, traffic, potential bodily harm to drivers and children/families in the apartment complex across the street.

Alexander stated that there has been testimony as to the number of people impacted by this project; has there been any support from neighbors? Parker stated that one has supported the request.

Urman stated that there was a lot of discussion at the township level as to need. There is the Flynn pit about one-half to one mile east, the Daniels’ pit 6 miles east, Manthei’s to the south about 3 miles, and another to the west in Bayshore. Is there really a need? Everything that Scheel mentioned was discussed at the township as well; he was at the meetings. Many of the intersections were addressed. The right turn only sign may not stop left turns there. He is a CDL driver as well and agrees that they are safe drivers but there are others that are on the road too within the general public. This project was not taken lightly and was really addressed during the township meetings. The Township Board upheld the Planning Commission’s recommendation for denial. Urman stated that he doesn’t believe that this denial would degrade the value of the applicant’s property and we aren’t putting a burden upon her by not approving the project.

Scheel clarified that he was not at the township meeting in which the decision was made but was at previous meetings.

Laughbaum stated that he hasn’t heard enough to stop the project. He doesn’t see why both roads can’t be used. There is a need for the resource; look at all the places that have to be filled in before they are developed. They should be given the opportunity to do it. He thinks that this is overblown and it costs property rights. It isn’t all negative. The applicant may be becoming defensive because she doesn’t feel that she’s getting a fair hearing.

Scheel made a motion to deny PSUP17-005, Christine Parker, for a Special Use Permit for a Level III Resource Mining operation to be located at 1675 Intertown Road, Section 18, Bear Creek Township. The parcel is approximately 12 acres, zoned FF-1 Farm and Forest with tax parcel number 24-01-19-
18-300-001 because it does not meet the standards of the Zoning Ordinance as shown on the Site Plan dated received March 13, 2017 and for the following reasons: very serious consequences may result to pedestrians and vehicles on Cemetery Road, Intertown Road, and US-131 Hwy based on the crash data provided and available through MDOT; that the use could have a negative impact to the neighboring residences within the single family dwellings and multiple family dwellings including negative health impacts; and that there is no demonstrated need for the resource provided by the applicant; there would be negative noise impact to the neighboring residences and each are very serious consequences; and because both the Bear Creek Township Planning Commission and Board recommended denial. The motion was supported by White and passed on the following roll-call vote: Yes: Eby, Neal, Scheel, Urman, White, Alexander. No: Drier, Scott, Laughbaum.

2. Case #PSUP17-007 Adelbert Dell, SPECIAL USE PERMIT-Home Occupation; Small Engine Repair, 2153 Cedar Valley Rd, Section 15, Bear Creek Township

**Legal Notice:** A request by Adelbert Dell for a Special Use Permit for a Home Occupation for a small engine repair shop to be operated from the property owned by Richard and Charlene Fettig at 2153 Cedar Valley Road, Section 15, Bear Creek Township. The property is zoned FF-1 Farm and Forest, is tax parcel 24-01-19-15-100-001. The request is per Articles 8, 21, and 26 of the Emmet County Zoning Ordinance.

**Packet Items:** No new information

Doernenburg stated that this case has been on our agenda for several months. The site plan was shown. The property is actively farmed and this is not part of the request. There is an accessory building under 600sf that is proposed to be used for a home occupation of small engine repair. The applicant has received a waiver from the Road Commission for a commercial driveway access so there will be no curbs and paving on the site. The township has recommended approval and asked that the storage bin be removed from the site plan and property. Drost Landscaping is across the street with a commercial driveway. There are no residences immediately to the west. Photos of the site were shown. The site has been significantly cleaned up as requested. They have moved the business from a commercial site to this location.

The applicants were present for questions.

White asked what will be done with the vehicles outside. The applicant stated that they are fixing them and are trying to store them all within an enclosed area and the shop.

Urman stated that they have done what they were asked and have been upfront and honest through the process.

Urman made a motion to approve PSUP17-007, Adelbert Dell, Special Use Permit for a Home Occupation to operate a small engine repair business at 2153 Cedar Valley Road, Section 15, Bear Creek Township as outlined in the Home Occupation Use Plan dated 4/7/17 and as shown on the plot plan dated 4/26/17 because the use meets the standards of Section 26.11, the use will not conflict with the residential character of the neighborhood, only people living on the premises may be employees of the home occupation, hours of operation may be from 9AM to 5PM, M-F, and a 2 sq. ft. sign is permitted, no outdoor storage or display is permitted and because the Township Planning Commission and Board have both recommended approval. The motion was supported by Scheel and passed on the following roll-call vote: Yes: Eby, Neal, Drier, Scott, Scheel, Laughbaum, Urman, White, Alexander.
3. **Case #PSUP17-009** Boguslaw Gierek, SPECIAL USE PERMIT-Hotel/motel/motor inn, 5901 W Levering Rd, Section 34, Cross Village Township

**Legal Notice:** A request by Boguslaw Gierek for a Special Use Permit to allow development of a hotel/motel/motor inn on vacant property located at 5901 W. Levering Road in Section 34 of Cross Village Township. The property is tax parcel 24-05-04-34-151-043 and is zoned R-2 General Residential. The request is per Articles 5, 21 & 26 of the Emmet County Zoning Ordinance.

**Packet Items:** Township recommendation, Health Department review, revised staff report, 6/27/17 site plan

Doernenburg presented this case. This is the second month’s review. The property is located near the corner of W Levering and State Roads adjacent to an art studio. The parcel is zoned R-2 and is primarily wooded. The revised site plan shows that existing vegetation is to be retained on the south and east sides and on the west side in the setback area. There is a note on the site plan that additional evergreen trees to be added if required. The dumpster is shown on the site plan as screened and would need to be concrete as the ordinance states. The Health Department has preliminarily approved onsite septic and well. The Road Commission is requiring a commercial driveway. The township did review and there was a motion to approve but that motion was not supported and no other motions were offered. The site plan, elevation sketch, and photos were shown. There are to be three buildings for occupancy and a fourth building to be used as storage accessory to the commercial lodging use. A sealed drainage plan has been received and parking is adequate and shown on the site plan.

Bo Gierek, applicant, stated that he wants to improve the area. There were a lot of questions at the township meeting from people. This was the original site proposed for his restaurant. There was no support to the motion and he stated that he wasn’t sure what happened. No one was complaining at the meeting just had questions.

Gene Reck, Cross Village Township Supervisor, stated that there was no second to his motion.

Scheel stated that the only concern he has is the pea stone walking paths in regards to ADA compliance. Doernenburg stated that she checked with the building official who stated that it would have to be a compacted material. Gierek stated that he is willing to cooperate and will change the material as required.

Reck stated that the township meeting was an hour and twenty minutes of questions, most being irrelevant to zoning approval. Lighting is a big issue of concern to make sure that it is not bothersome. He has the shop next door to this property and has no personal objections. The residents behind the proposed use are concerned about the impact but there is proper setbacks between them including a large power line setback. This corner is technically residential but it is a very busy corner and Reck stated that he doubts it would ever be used residually due to the noise and busy nature of the area with the gas station, motorcycles, snowmobiles, logging trucks, etc. He stated that he tried to get it re-zoned to commercial in the past. After the presentation, Reck stated that he made a motion to approve but did not get a second. His interpretation is that the township made no action. As a person next door, he feels the development is useful for the area. When the restaurant was built, it took forever and he doesn’t want this to take forever too.

Gierek stated that he is looking at a low lighting plan. He is looking into builders scheduling to see who
can do the project. There is a lot of vegetation and he is trying to save as many of the beautiful trees as he can. He wants this to be a natural area and he would appreciate a decision from this board.

Reck stated that as Gierek is clearing out some junk trees they are revealing some very nice trees in the process.

Scheel stated that he is concerned that the two houses shown are screened once screening is complete. He wants to make sure that there is adequate screening. Gierek stated that most of the clearing is along W. Levering Road.

White asked if the neighbors expressed any concerns. When the township didn’t do anything, did they not want to act on it? Reck stated that he hesitates to speculate on what they were thinking. Alexander stated that after what they went through with the restaurant, he feels that inaction would be a resounding approval based on what they did at that point. Gierek stated that there were no complaints, just questions. Reck stated that he thinks that they hesitated to make a decision because they didn’t feel that they had enough information but the information that they wanted goes further than zoning. There were those who wanted full plans, discussed color schemes, security, etc. They may have been looking for reasons to deny but didn’t have any complaints.

Scott stated that specifics on screening should be in the motion.

Laughbaum stated that it is easier to approve when the applicant has a good project already in the area. Gierek stated that if there was an issue, there would be people at the meeting.

Scheel made a motion to approve Case #PSUP17-009, Boguslaw Gierek for a Special Use Permit for a hotel/motel/motor inn on property located at 5901 W. Levering Road, Section 34, Cross Village Township, tax parcel 24-05-04-34-151-043, as shown on the site plan dated Received June 23, 2017 because the standards of Article 5 and Sections 21 and 26.23.1 have been met and on condition that a performance guarantee for the drainage system in the amount of $2,500 be submitted prior issuance of a zoning permit, that signs and lighting be reviewed as required by the Ordinance, and additional screening may be required by the Zoning Administrator if deemed necessary. The motion was supported by Alexander and passed on the following roll-call vote: Yes: Eby, Neal, Drier, Scott, Scheel, Laughbaum, Urman, White, Alexander. No: None.

4. PSPR17-002 Kegomic Enterprises for Plane Care of Northern Michigan Jet Services LLC, 1193 N US 31 Hwy, Section 27, McKinley Township

Legal Notice: A request by Kegomic Enterprises for Plane Care of Northern Michigan Jet Services LLC for Site Plan Review for an airplane hangar at the Pellston Regional Airport located at 1193 N US 31 Hwy, Section 27, McKinley Township. The property is zoned I-2 General Industrial with a Planned Unit Development-1 Overlay and is tax parcel 24-10-10-27-100-001. The request is per Articles 15, 17, and 22 of the Zoning Ordinance. Packet Items: Request & location map, application, impact statement, zoning evaluation, 6/9/17 site plan and elevations, 6/27/17 revised site plan, Fire Chief review.

Doernenburg presented this case. The parcel is on the Pellston Airport property of over 800 acres owned by Emmet County. This building will be a leased building. The zoning on the property is I-2, FF-1, R-2B, and PUD. This location is south of the majority of the hangars on the west side of the highway but east of the runways. The building proposed is 271’x100’ and would be used as an airplane hangar/office/repair facility. This would be located within the secure area of the airport. An
aerial was shown. A small hangar building will be removed and was pointed out on the aerial. A sealed drainage plan has been provided. The elevation was originally proposed at 33’ but now will be within the standards at 30’. The parking is identified on the revised plan. There will be no new access from US-31 Highway. No signage or lights are proposed but if they were, would be reviewed by the Sign & Lighting Committee. The request meets the setbacks. The Fire Chief would like a copy of the plans, but has supported the site plan. The township has recommended approval of the revised plan. The dumpster is to be screened; location can be determined by staff. Photos of the site were shown. Elevation sketches were shown and details will be provided during the permitting process.

David Schroeder, applicant and the owner of Plane Care of Northern Michigan Jet Services LLC, Ali El-Mohandes, were present. Schroeder stated that as of yesterday the building has been re-engineered with a maximum height of 31’ at the peak and 29’ at eaves which will meet the average height requirement of 30’.

Laughbaum asked how big of planes can be serviced. Schroeder stated that the largest fully enclosed would be the CRJ however the next sized jet could fit except for the nose. This will allow them to do maintenance work on the plans such as tires, oil changes, etc.

Scheel asked about parking. Doernenburg stated that parking was not shown on the original plan but is shown on the revised plan and is adequate.

There was no public comment on this case.

Scott made a motion to approve Case #PSPR17-004, Kegomic Enterprises for Plane Care of Northern Michigan Jet Services LLC for Site Plan Review for an airplane maintenance facility/office/hangar at 1193 N US 31 Hwy, Located in Section 27 of McKinley Township, tax parcel 24-10-10-27-100-001 as shown on the site plan dated Received 6/27/17 and elevation plan based on the facts presented in this case: the use is a permitted use within the zoning district and the PUD, the site plan meets the standards of the Zoning Ordinance, the height standards will be met and on condition that a performance guarantee be in place prior to issuance of a zoning permit for the drainage system and will be returned upon compliance with the Zoning Ordinance standards, no outdoor display is permitted (or proposed), and no outdoor lighting or signs are permitted unless reviewed as required by the Zoning Ordinance and because the township has recommended approval. The motion was supported by White and passed on the following roll-call vote: Yes: Eby, Neal, Drier, Scott, Scheel, Laughbaum, Urman, White, Alexander. No: None.

5. Case #PTEXT17-002  Emmet County Planning Commission, TEXT AMENDMENT- Section 22.02; Parking Standards

**Legal Notice:** A request by Emmet County Planning Commission to replace the existing Parking Standards section of the Emmet County Zoning Ordinance with an entirely new text for Section 22.02. The revised text includes changes to the definitions as well as to the standards. The changes reflect the county’s desire to update the parking standards to reflect current trends and guidelines. Copies of the entire text are available on the county’s web-site: www.emmetcounty.org or by calling the Planning and Zoning office. **Packet Items:** Memo, red-lined text amendment proposed, current text.

Doernenburg reported that McKinley Township recommended approval, Friendship Township deferred to Emmet County, and Springvale and Bear Creek Township will review at a future meeting. We typically allow two months for review of text amendments. Civil Counsel has reviewed and made some
small grammatical changes to the draft.

There was no public comment.

Alexander made a motion supported by Scott to postpone this case to allow time for further review. The motion passed by unanimous voice vote. This case will be heard again at the August 3, 2017 regular meeting.

V Public Comment: None

VI Other Business:

1. Farming-Accessory Uses-Update: The proposed drafts were passed out which were a result of the working meeting of June 8th along with the previous drafts, the list of uses which can be regulated locally, and the matrix which shows the currently regulated uses from the list. Laughbaum asked where the number of people was limited to 50 people. Doernenburg stated that none of the Emmet County proposals show a limit to number of people. David Coveyou had presented an option in the past that had a limit on it. This was included in the background information.

Wineries are proposed to be allowed in any district that permits commercial farming. The farm would have to be at least 20 acres and 600’ in lot depth/width, as well as being actively farmed. The winery would need to be an accessory use to the farm with all proper permits. A minimum of 10 acres of active production would be required. The alcohol served should only be tasting room quantities and should not function as a bar. Food may be served supplemental to the winery. Hours of operation could be 10am-10pm. Building limitations would be that retail uses could be no more than 25% or less than 2,000sf. Parking, screening, and signs and lighting would be subject to ordinance standards. The Planning Commission would be able to modify items B-J during review if applicable. Neal asked who determines whether it is a bar or not. Scott asked what use would determine parking. Retail. Laughbaum asked if it would be specifically on-site parking and not street parking. Scott added that this is sometimes an issue with wineries as they are staying longer, people are outside, etc. Perhaps the parking should be looked at more closely. Alexander stated that it would also depend on the licensing that the business has. Scott feels that enforcement will be an issue.

Drier stated that she doesn’t feel that these uses should be pigeon holed and that these items should be reviewed on a case-by-case basis. This is not a one-size-fits-all scenario. Scheel stated that we need to have basic standards. This will be somewhat subjective to a degree as to how it affects the neighborhood but there has to be basic standards in place. Doernenburg added that this is partly why the last sentence allowing the Planning Commission to make modifications is in place. If someone wanted to change the hours of operation they could propose that during their review. Drier stated that as long as the applicant’s realize that they are able to request modifications to the standards. Doernenburg stated that this is used in other places in the ordinance as well such as the contractor’s use section. Neal asked if these standards are appropriate throughout Emmet County. Scheel stated that it is a good starting point and when we look at the different applications we will hear the differences between the individual businesses. Neal asked if all of the standards are met by an applicant, would that mean that we couldn’t deny the application. Doernenburg stated that this is the baseline. It would still be a special use permit. Scheel stated that if these minimum standards are too
lenient we may want to change them now since they will be minimum standards. If they are met we likely would not be able to deny an application. White asked if onsite parking should be included to avoid any on-street parking. Doernenburg stated that we typically don’t allow on-street parking. The minimum is 10’ from the road right-of-way; this would be a greater distance but it could be reiterated in the text as well. White stated that if neighbors had issues this could be an enforcement issue. The vehicles of guests should fit on the site. Eby asked if cider mills should be included in this section. Doernenburg agreed stating that it should be added to the title and the permitted uses section. Scheel asked where the 20 acre and 10 acre requirements came from. Doernenburg stated that she looked at Leelanau County standards; they are not scientific and could be changed if desired. Alexander asked if it is a standard used in most areas. Doernenburg stated that it isn’t that she knows of. Scheel stated that he has seen more often a requirement that a percentage of crops be used on site for the product. He stated that he isn’t necessarily suggesting this but just would like feedback on where the numbers came from. Laughbaum stated that there used to be a 10 acre minimum for farming before the Michigan Right to Farm Act was adopted. Doernenburg stated that it is much easier to have an acreage requirement for enforcement and site plan review purposes. White asked if the parking could be dirt/grass parking. Yes. Scheel stated that he thinks we will be reviewing somewhat like a home occupation is reviewed; keeping the feel and ambiance of a farm. He stated that he thinks this is a great starting point but would like some more time to review. Doernenburg stated that she has taken notes on the requested changes and can provide a red-lined version for review. Eby asked that the townships also be given this copy as an informal review to get their feedback and opinions.

Weddings/social activities require anything that has sound or amplification to be inside an enclosed structure although this may have to be reviewed because they may have a tent structure for these events. The property must be owner occupied and a minimum of 10 acres with 600’ in lot depth/width. A minimum of 100’ setback would be required. The social activities would have to be an accessory use to the farm. Hours of operation would be 8am-10pm with a maximum number of events of one per week but not more than three per calendar month. One festival per year could be allowed of not more than three days. There would be a limitation of buildings or tents of 2,400sf. Parking, screening, signs & lighting would all be subject to ordinance standards. The Planning Commission would be able to modify items B-J during review if applicable. Neal asked if we could use decibel levels for noise/music. Doernenburg stated that we don’t have any way to enforce it. Alexander stated that bass and low frequency noise is the annoyance anyway so sound meters won’t help that. Drier stated that her family has outdoor events all of the time and she isn’t going to take music into an enclosed structure. These requirements would never work where she lives. Scott stated that this is discussing commercial situations. Eby stated that it needs to be clearer that this is only commercial. Scheel asked if the times could be changed to 11pm. Doernenburg stated that the 10pm time was chosen to be in-line with County quiet time hours at parks. This could be changed on a case-by-case basis. Eby asked that the townships be allowed to review this on an informal basis as well.

Eby opened the floor to public comment.

Wendy Casteel stated that she has issues with vehicles parking on sand/dirt/grass because any leaking oil or gas can get absorbed into the ground and into the wells. As to the noise, keeping it inside would be great. Several neighbors in her area would have been here
because they have an issue with functions in the neighborhood but they just found out this would be discussed. They have issues with large tents, food trucks, and busloads of people. They used to live in town but moved outside of the city limits for more quiet. How would this be regulated to know if it is commercial or family/friends?

2. Enforcement: 2800 E Mitchell Rd: Doernenburg stated that the history of reviews and enforcement on this property have been distributed. The site is actively farmed and is part of a larger PUD. Residential uses have been approved but not built beyond this property. In 2015 our office received several complaints of weddings and events being held here. Notices were sent to the property owner and she went through the process to amend the PUD to allow for activities during the year. This request was denied in 2016. During this process, a commissioner did note that personal parties/events cannot be regulated by zoning. Since then, Doernenburg stated that the property owner has sent her notices that she will be holding private events. There are other farming related events that are held here as well such as Master Gardener programs. That she feels are part of farming activities. Late last year after the third event, Doernenburg stated that she issued a stop work order for no commercial uses. A notice of violation was issued but was dismissed per Civil Counsel. An event was held on June 15, 2017 and after complaints from neighbors were received, she contacted Civil Counsel to advise that she had been informed that this was a private event but takes on the characteristics of a commercial event. Civil Counsel asked that the Planning Commission give some direction on the original PUD, the farm, and whether private events constitute a violation or is it something that you’d expect to see on a private farm property. A summary of all of this and minutes from meetings have been provided. Doernenburg stated that she informed Mrs. Schuil and two individuals via phone and text that there would be discussion tonight but this is not a formal public review. Neal asked if the complaints are based upon noise or it going past a certain hour. Wendy Casteel stated that they have issues with both. There are families that live in their subdivision that have issues with noise and were there before these activities started. Drier asked if the owner is charging for events. Casteel stated that she has heard that they have their customers buy things for the farm instead of charging them. Eby stated that he is not sure why the Planning Commission should be giving Civil Counsel direction. Scheel stated that if they are indeed having private functions they are allowed. Alexander agreed that this would be outside of our jurisdiction. Scheel stated that if there is evidence that this is not private then we could move forward, if there isn’t, then they are private parties and we can’t get involved. The neighbor complaints may be completely valid but if it is private, it’s private and we do not have jurisdiction. Doernenburg stated that this is what happened last year; she had no evidence that it was commercial activity. Casteel stated that she did provide advertisements from a wedding magazine. Doernenburg stated that she will provide this to Civil Counsel and it has been provided tonight to the PC members. Mr. Casteel stated that he works for the hospital and gets up at 4:30 am for work. They have an air conditioner, air purifier, and fans just to block the noise. Laughbaum asked if this is part of the farm operation. Eby stated that it is not an accessory use to the residence or to the agricultural operation. Kristi Schuil stated that there are events on Little Cedar Drive as well. Casteel stated that they have reported them as well. White stated that she thinks a time limit is helpful because it seems that many of the issues are time related and might limit problems to begin with.


4. Boat Well Covers: Text has been drafted regarding boat wells in the Devil’s Elbow area. A ZBA member requested that side poles be not greater than 8’ or 12’ overall and that poles be not more than 4’ apart. Draft number two was provided which does not include the distance between the posts as this is determined based on building code and we shouldn’t be involved
in that portion. This would only allow boat well covers over boat wells approved by the State. Draft three is to be reviewed. Scheel stated that one of the biggest concerns is that it is very specific as to area. The Devil's Elbow area is the only intended area for this section and it is not the intention of the ZBA to allow this anywhere else within our jurisdiction. Alexander made a motion supported by Scott to allow publication of Draft 3 to be published for public meeting. The motion passed by unanimous voice vote.

5. **Medical Marijuana update:** Doernenburg reported that Bear Creek Township is the first to adopt a resolution relating to medical marihuana businesses. They adopted a resolution to not allow commercial medical marihuana facilities in the township (relating to Public Act 281 of 2016). Alexander stated that he thought if nothing was done would be the same outcome. Eby stated that you don’t have to have a resolution against it but they recommend that you do. Doernenburg noted that this does not affect patient/caregiver relationships.

6. **RV Camping Update:** Mr. Fouty came in during previous meetings to ask us to change the ordinance due to RV trailers parked up in Wawatam Township. This is being looked into this month to compare to see if any have been placed in the last couple of months. Drier stated that the port-a-potties have been placed.

7. **Upcoming cases:** Doernenburg noted that she has been in contact with a company that is interested in applying for a gravel pit in Bear Creek Township. Monday July 10th is the deadline for submittal. The company asked if a special meeting could be held between the August and September meetings because their time frame on a purchase agreement was running out. After discussion, there was no support for a special meeting.

8. **Litzner property mining:** Laughbaum asked what is going on with this permit. Doernenburg stated that they have a Level II resource extraction permit for work behind the church for the road construction project. This has a maximum duration of one year. She has heard that they may want to operate longer but has not received an application. Eby asked if they were exempt because of the highway project. Doernenburg stated that they were not.

**VII Adjournment**

There being no other business Eby called the meeting adjourned a 10:06 p.m.

James Scott, Secretary ___________________________ ___________________________ Date