EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING MINUTES
THURSDAY OCTOBER 4, 2018, 7:30 P.M.
EMMET COUNTY BUILDING
200 DIVISION ST
PETOSKEY, MI 49770

MEMBERS PRESENT: Kelly Alexander, John Eby, Toni Drier, Jonathan Scheel, Tom Urman, Steve Neal, James Scott, Charles MacInnis

MEMBERS ABSENT: David Laughbaum

STAFF: Monica Linehan, Nancy Salar

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

II Minutes of September 6, 2018
Alexander made a motion, seconded by Urman, to approve the amended minutes of the September 6, 2018 meeting as presented. The motion passed unanimously by voice vote of the members present.

III Cases

1. Case PSPR18-009 Northern Excavating & Topsoil Inc, SITE PLAN REVIEW-Amendment, 4150 Wressel Rd, Section 23, Friendship Township

Legal Notice: A request by Northern Excavating & Topsoil for Site Plan Review - amendment at 4150 Wressel Road, Section 23, Friendship Township. The property is zoned FF-2 Farm and Forest and includes tax parcels 24-06-12-3-400-022 & 023. The request is to allow expansion of the shop at a Contractor's Use per Article 8 and Section 26.32. The review includes an addition of 720 sq. ft. to an existing contractor’s use building.

Packet Items: Fire Department recommendation, 9/18/185 Zoning Evaluation Form, 9/13/18 site plan, Friendship Township recommendation

Salar presented an overview of this case including the location and aerial maps. The applicant proposes an addition on the north end of the existing building. The site plan was shown as well as photos of the site. She noted that the parcel is well screened from the road. There have been complaints about and the aerial photos support, an expansion of the business activity which has not been approved.

The applicant was not present.

Cynthia Donahey, Friendship Township, noted that the site plan has been revised since the last meeting and that the new proposed site plan is not on the PowerPoint presentation. Eby noted that all members had a copy of that revised plan in their packets.

MacInnis stated that the limitations seem to be exceeded on the new site plan. Urman noted that the township has made a recommendation to deny. Drier asked why it was pointed out that the land use to the east is resource extraction. Linehan explained that we typically list the surrounding uses when looking at a request.

Donahey explained that they felt that the new site plan expands the area of the business that was approved and includes sheds and other buildings that have been placed on the property without
approval. The Township is not interested in them expanding the use and the applicant seems to be under the impression that the entire parcel is approved for the excavation business use, not just the portion that was actually approved for it. They stated that they felt that the sheds and other buildings placed without permits are temporary and didn’t need approval or permits. Donahey explained that the township felt that if the revised site plan was approved, they would be approving the expansion, the larger building, and the sheds on the site plan.

Scheel asked Donahey if the applicant was in attendance at their meeting. Yes. He asked how we can accept an application for something that isn’t allowed. It is a bigger size than allowed for a contractors use.

MacInnis stated that his inclination is to take the township’s recommendation and deny.

Scheel asked what the contractor’s use is as he feels that it hasn’t been explained very well. Donahey stated that it is an excavating business. It was approved originally as a staging area and storage of rock, rubble, and other materials. When they originally looked at it, they thought given it was located next to an approved mining operation it didn’t seem that far-fetched. They then got complaints about machinery running all of the time not just during the hours of operation. They are moving dirt around and maybe digging, trees have been removed. The application is for the addition to the building. She stated that the applicant thought that when he received permission for a contractors use, that means the entire piece of property. He had no understanding at the Township meeting that the site plan reflects what was approved for the parcel.

There was no public comment on this case.

Scott made a motion to deny Case # PSPR18-009, Northern Excavating for Steve Aquila for Site Plan Review – amendment for an addition, on property located at 415 Wessel Road, Section 23, Friendship Township, tax parcel 24-06-12-23-400-022, as shown on the site plan dated Received Sep 13, 2018, for the following reasons: the proposal exceeds the standards of the Zoning Ordinance based on the size of the property and the proposed size of the buildings, the character of the proposed addition is industrial and not in keeping with the Farm and Forest intent and because the Friendship Township Planning Commission recommended denial. The motion was supported by Neal and passed on the following roll-call vote: Yes: Eby, Neal, Drier, Scott, Scheel, Urman, MacInnis, Alexander. No: None. Absent: Laughbaum.

2. Case PPUD18-003 Friendship Township, PUD-2 Amendment-Use Clarification, Corner of S State Rd and W Stutsmanville Rd, Section 14 & 23, Friendship Township

Legal Notice: A request by Friendship Township to amend the Planned Unit Development-2 (PUD) to clarify the uses permitted within the mixed-use PUD located at the corner of S State Road and W Stutsmanville Road in Friendship Township. The PUD amendment includes only those portions of tax parcels 06-12-14-300-016, 300-018, 300-019, 300-020, 300-049, 300-050, 400-006, 400-007, 400-008 and 06-12-23-100-017 zoned PUD-2. A complete list of uses includes specific accommodation and food services, agriculture and forestry, arts, entertainment and recreation, commercial, communications, construction/contractors, educational services & religious institutions, human care and social assistance, resource extraction, public facilities, residential uses, transportation/warehousing/wholesale/storage/shipping, and utilities/energy. A detailed list accompanied the application and is available upon request. The request includes a specific definition for mini-storage within this PUD only.

This case has been postponed and will be heard at the November 1, 2018 Planning Commission meeting.
3. Case PSPR18-010  Grady Graham for Graham Construction Corp. for Jim Fabiano II, 5G Properties LLC, SITE PLAN REVIEW-AMENDMENT, 5692 US 131 Hwy, Section 32, Bear Creek Township

**Legal Notice:** A request by Grady Graham of Graham Construction Corp. for Jim Fabiano II of 5G Properties LLC for Site Plan Review – Amendment at 5692 US 131 Hwy of Bear Creek Township. The property is tax parcel 24-01-19-32-300-005 and is zoned I-1 Light Industrial. The proposal is to construct a commercial storage building per Articles 14 and 22 of the Emmet County Zoning Ordinance.

**Packet Items:** Request & location, aerial, application, impact statement, site plan review checklist, 9/17/18 Zoning Evaluation Form, 9/10/18 site plan packet, BCPC minutes, Email correspondence and volume calculations, HD site evaluation

Salar showed the location of this parcel located south of Petoskey. This is the old Parker Motor Freight site. It is zoned I-1, Light Industrial. The surrounding parcels are zoned FF. The topographical map and existing buildings were shown. The proposed site plan includes an 80x200’ storage building. The elevations and photos of the site were shown. The parcel is 13.06 acres and the proposed usage of the building is for commercial storage. Three buildings exist on the property; this would be the fourth building proposed. The height would be 22’ at the eaves which meets the height requirements and also meets all setback requirements. The township has recommended postponement until next month for a more detailed site plan. The Health Department evaluation has been supplied. Storm water calculations were submitted. The original were not sufficient and new ones were submitted but there is no new drainage plan to support them. The parking meets the ordinance standards. The Fire Department has approved with conditions. MDOT has not provided feedback but they are using an existing commercial access. If new lighting is proposed, it would need to go to the Sign & Lighting Committee. There is some discrepancy as the sign and lighting plans indicate no lighting but then discuss relocated parking lot lights. The existing sign would be used. Snow storage is not addressed on the site plan. There is a dumpster location designated which appears to meet standards.

Jim Nichols, representative for the applicant, stated that they presented a plan at the Township meeting. The postponement was primarily because the drainage plans were just received. Urman stated that the plans had been revised as well. Nichols stated that they meet all zoning ordinance requirements. Additional landscaping was discussed and agreed to at the township meeting. There were some questions brought up regarding the road berm on the property. From his understanding, it was created by the soil that was pushed back from the original building but was never a requirement to have this in place. There is 1-2’ coming off of the berm where the new driveway is proposed and they have offered to plant additional trees along that driveway to provide a better entryway along US 131. Nichols stated that he would like to see this board make a conditional approval so that they are able to get the contractors lined up and moving on the project.

Scheel asked if the main issues are that there is missing snow storage and the drainage plan doesn’t match up with the new calculations? Salar stated that no revised plans have been submitted to the County offices. Nichols explained that as far as lighting, it will be submitted separately along with the landscaping addition. He pointed out an area on the site plan that can be used for snow storage.

Urman stated that part of the reason for the township requesting postponement is that they received an incomplete site plan and received it at the last minute. They felt that since we’ve talked about not reviewing information submitted at the last minute, the applicant could take the next 30 days to get a corrected site plan to us in time to make a judgement on it. There were concerns brought up at the township level and although they think it will be done correctly they wanted to be sure a correct site plan is in place to review. They were concerned about the berm and how it was originally approved and built. They also discussed parking and driveways, drainage easements, retaining wall heights, and
truck well radiuses. Urman noted that the use fits into the I-1 zoning district but wanted to see a complete site plan.

Drier asked if the space that Nichols pointed out is the same area on the plan that Bear Creek Township has for drainage. Nicholas pointed out the two different locations. He also pointed out the location in which they verbally said that they would increase landscaping at the township meeting to minimize the impact of the building. Urman added that they were also concerned with the view from Walloon Lake and they would like extra screening on that side as well.

Eby opened the floor to public comment.

Cynthia Donahey noted that the last minute site plans have been an issue in their township as well. It is very hard to review if it is turned in last minute and if you don’t have an approved plan in the file you have nothing. She stated that she would not vote to approve something because of a verbal agreement only.

MacInnis stated that Nichols commented on getting construction started prior to winter; he presumes that these details are not something that staff can approve administratively? Urman stated that they discussed this at the township and felt that it goes back to having appropriate time to review the plans.

Scheel stated that there were comments/concerns about tree sizes. If this board or the township are concerned about this type of thing, it’s not appropriate to let the applicant guess on what we might approve. Most of the concerns he’s heard could be done conditionally and could have started the conversation with the type and sizes of trees and the size of berms. He agrees wholeheartedly that we are getting things at the last minute but we shouldn’t necessarily punish applicants because of this. There is a well thought out list from the township and it was discussed there. He stated that we have some culpability as well because we don’t have a plan that was available a week ago but perhaps that is because Doernenburg is on vacation. Urman stated that it is not their intention to delay but didn’t feel that all of these items should be put on staff either. Neal stated that procedurally we are supposed to have the site plan in hand two weeks prior to the meeting and this is our practice. He asked if the applicant feels that they have directives for the revised site plan. Nichols stated that they will meet the requirements. The tree sizes are on the landscape plan. They are not planning to start construction in 30 days but do need to have the building ordered which is why they were hoping for conditional approval. Nothing can be done until the County signs off on the approval anyway. There are critical timing issues.

Scott asked about the building use; it’s described as a warehouse. Will there be distribution out of it as well? Nichols stated that it will operate the same way as Bayside Beverage did, storage of the product and taking them out on semis to distribute.

Urman made a motion to postpone Case # PSPR 18-010, Grady Graham of Graham Construction for Jim Fabiano II of 5G Properties, Site Plan Review amendment for a commercial storage at 5692 US131 Hwy., located in Section 32 of Bear Creek Township, tax parcel 24-01-19-32-300-005 to allow the applicant time to prepare a sealed drainage plan and a complete revised site plan as required by the Zoning Ordinance and as requested by the Township Planning Commission and Board. The motion was supported by Scott and passed on the following roll-call vote: Yes: Neal, Drier, Scott, Urman, MacInnis, Alexander. No: Eby, Scheel. Absent: Laughbaum.
This is the second public hearing on this proposed text amendment.

David Coveyou stated that he is glad to see a document that encompasses all of the township reviews and he hopes that this will be brought to the Board of Commissioners. This can be used to help farms stay active, alive, and grow. He thanked the Planning Commission for their work on this amendment.

Duane Schuil stated that he and his wife Kristi’s biggest breaking point is the restriction on these activities to FF-1 and FF-2 zoning districts. They feel that if an applicant meets all of the other requirements, it should be encompassed into all zones. The criteria are nicely outlined in the proposed text.

Wendy Wieland thanked the Planning Commission for working diligently on this and added that she was preparing a presentation yesterday and the statistics reiterated to her the importance of these activities and the support of these activities. A farm in the area made well over $400,000.00 with these extra activities. They are doing amazing things.

Rosalie Wiegand, Readmond Township Planning Commission, stated that their Planning Commission discussed the text amendment and also thought that anyone that could meet the requirements should be able to do these things no matter which zoning district they are in.

Urman asked Mark Drier who was in the audience, which text amendment McKinley Township opposed as per the documentation that we received from the clerk. Drier stated that they oppose both text amendment requests and feel that the ordinance should be left as it is.

Alexander made a motion to recommend approval of Case PPTEXT18-001, Emmet County Planning Commission, Text Amendment, Accessory Uses to Farm Operations Draft #6 as proposed. The motion was supported by Neal but failed based on the following roll-call vote: Yes: Neal, MacInnis, Alexander. No: Eby, Drier, Scott, Scheel, Urman. Absent: Laughbaum.

Scheel stated that he still believes that because we allow farming in all zoning districts and we put a long time into the discussion to determine criteria to protect the neighbors, that districts don’t matter. It seems that we are restricting what we set out to do based on letters and numbers and not based on any sort of criteria.

MacInnis stated that Scheel has some valid points regarding the restriction.

Neal stated that if this doesn’t work, we could change the Ordinance again.

Eby stated that MacInnis stated that he didn’t want a PUD for these activities but he believes that a targeted PUD, which would allow other uses rather than a specific use would still provide direction as to how and why.

Scheel stated that it would be helpful if the no votes gave their reasons why.

Scott stated that he doesn’t think there is any reason why it has to be FF zoned properties only and he also doesn’t see why it should be directed only at existing farms.

Drier stated that she agrees with Scott and added that she has been so disappointed that we have been so far one way and so far the opposite way during the discussion. She is not positive what we
are trying to pass on to the Commissioners.

Urman stated that he has similar feelings. He doesn’t like the hours of operation in this draft because it is hard to enforce. We have swung back and forth on discussion. Early on we discussed reviewing on a case by case basis. There are certain things that may fit and the dynamics are different in different parts of the County.

MacInnis asked Eby what he was referring to earlier. Was it not wanting to review on a case by case basis? The issue he has with making rules one case at a time is that people like to have some certainty. Maybe this is an issue that has to be like that but it puts a lot of pressure on the Planning Commission and creates precedence.

Neal stated that part of the objective is that we want farms to succeed and we want to give guidance. If there are basic guardrails that an applicant can’t fit into then they need to find something else. There will still be special uses or exceptions but we should have a ‘stake in the ground’ that they can work from. Personally, if you can’t see, smell, or hear it, he thinks you should be able to do it. He thinks that these criteria are in place and voted yes to pass it along. It seems like the right thing to do. We have been all over the map in regards to the discussion. Case by case may seem right to us but sends an inconsistent message or no message to applicants. This may not be perfect but it is not a bad ‘stake in the ground’.

Eby stated that this case will be heard again at the next meeting. Scheel asked that the members please read what we have again. It seems to focus and get pretty close. Spend time looking at it and understanding it. We may not all agree about all of the line items but they are protections for the community. He doesn’t want to start over. Even in a PUD criteria has to be there for a legal basis.

Cynthia Donahey suggested reaching out to neighboring communities to see how they are handling this. Eby stated that this has been done.

5. Case PPTEXT 18-03 Emmet County Planning Commission, Text Amendment-Accessory Building Exceptions

**Legal notice:** A request by Emmet County Planning Commission to add to Section 22.01 a new paragraph: “Section 22.01.4 EXCEPTIONS Where it can be demonstrated to the Planning Commission by the applicant that no good purpose would be served by strict compliance with the provisions of this Section 22.01, the Planning Commission may waive or modify said standards subject to a Public Hearing and approval of the Site Plan by the Planning Commission and notifications to adjoining property owners as required for a Special Land Use.”

This is the second public hearing on this proposed text amendment.

David Coveyou stated that he feels that it is a good step but lacks some of the guardrails previously discussed. Who determines ‘no good purpose’? It seems that more should be added to it to capture what we see and hear. He feels that there can be height issues in residential areas.

Cynthia Donahey stated that she agrees.

Neal asked that the text be changed to read affected property instead of adjoining. Linehan explained that that is just explaining that a case under these guidelines would have to be publically notified in the same manner as a special use permit and that is notified to adjoining parcels within 300’ of the subject parcel. This cannot be changed as it’s part of the Zoning Enabling Act.

Alexander stated that he thought we had guidelines and guardrails in place and the issue is that the ZBA has no way to approve them using their criteria. Linehan pointed out that the text to be added is
just to the exception section of Section 22.01.4; the standards looked at during a review are in Section 22.01. Salar read the standards from that section.

Coveyou stated that there are issues with height and screening and this should be made clearer.

Scott stated that when the Planning Commission reviewed these cases in the past there were often times when they were denied because they couldn’t properly screen the building. Eby added that often people would work within these guidelines to make their proposal acceptable.

Scott made a motion to recommend approval of PPTEXT18-03, Emmet County Planning Commission, to a sentence to Section 22.01.5, Accessory Building Exceptions, as proposed based on the facts presented in this case and the facts presented during the Planning Commission meetings of July 5, 2018, August 2, 2018, and September 6, 2018, the text is supported by the Emmet County Master Plan and will allow the necessary flexibility desired when reviewing residential accessory buildings. The motion was supported by Alexander and passed on the following roll-call vote: Yes: Eby, Drier, Scott, Urman, MacInnis, Alexander. No: Neal, Scheel. Absent: Laughbaum.

IV Public Comments: None.

V Other Business:

1. Enforcement Report- Distributed with discussion on a few cases.
2. Wineries: No new information
3. LIAA Workshop, November 2, 2018 Little Traverse Township Hall

VI Adjournment

There being no other business Eby called the meeting adjourned at 9:05 p.m.

James Scott, Secretary Date