

MEMORANDUM

To: Elk Rapids Township Planning Commission
Date: November 4, 2016
From: Larry Nix, PCP
RE: Rezoning Request - Nowak and Perry Property, 11744 US 31 South and 11690 US 31 South

The Elk Rapids Township Planning Commission is considering rezoning property owned by Joseph A. Nowak and Charles W. Perry. These properties are adjacent to one another and located at 11744 and 11690 US 31 South. Both are currently within the R2-Residential zoning district. The Nowak property has been operating as a business since 1988 when it was originally approved as a Special Land Use and expanded in 2010. The Perry property is a 10+ acre parcel zoned and used for residential purposes. Initial investigation has indicated the frontage of the Perry parcel contains frontage adjacent to US 31 and divides the Nowak parcel from the Nelles parcel which is immediately north of the Nowak property.. A recent application for site plan approval by Mr. Nowak spurred the Planning Commission to consider rezoning the Nowak parcel and the frontage of the Perry parcel to Commercial consistent with the use of the property. Following is our review and recommendation for this application.

Existing Situation

The use of the Nowak property for commercial purposes was originally approved in 1988 by the Planning Commission as a Special Use in the R2 Residential Zone. On October 19, 2010, the Planning Commission approved a 50'x60' expansion to the existing business based on the 1988 approval. The current zoning ordinance does not permit a commercial operation in the R2 Residential Zone, thus the use of the Nowak property today is considered a legal non-conforming use.

Mr. Nowak desired to rezone the property in 2010 in conjunction with the business expansion, but the Planning Commission determined this would delay the expansion and approved the expansion based on the 1988 Special Use approval. The business, Nowak Cabinets, operates a retail business in the front of the building and assembles, modifies and stores cabinets in the back portion of the building. The Planning Commission has determined this business is appropriate for the US 31 corridor and approved the use in 1988 and 2010. Uses permitted in the Commercial Zone of the Elk Rapids Zoning Ordinance include the following:

Section 11.02 - PERMITTED USES

No building or any part thereof in a Commercial Zone shall hereafter be used, erected, altered, or converted, or land used, in whole or in part, except the following:

Antique store, Automotive accessories, Baked goods or pastry store, Bank, Barber, beauty or grooming shop, Book, stationery or gift store, Bowling alley, Candy store, soda fountain, ice cream store, Clothing and dry goods store, Decorators shop, Delicatessen

store, Dress shop, Drugstore, Electrical supply store, Fast service restaurant, Florist, Fruit stand (enclosed), Furniture store, Grocery store and/or meat market, Hardware store, Hotel/motel (excluding waterfront property), Household appliance store, Ice vending machine, Jewelry store, Museum, Nursery school, Office (business or professional) - including medical, Paint and/or wallpaper store, Parking lots, Photographers, Radio, television and/or video store, Restaurants and cafes (excluding those permitting dancing, floor shows, and the consumption of, intoxicating beverages unless otherwise approved by the Township Board), Self-serve laundry, Service stations (including minor automobile repairs), Shoe repair shop, Tailor, Variety store, including notions, Veterinary clinics (with no boarding facilities).

Other similar retail business or service establishments which supply convenience commodities or perform services primarily for residents of surrounding neighborhood, provided, however, such uses shall be found to be similar by the Planning Commission.

It is my opinion that a cabinet shop and retail outlet is consistent with the Commercial uses listed above and the Planning Commission should find that Nowak Cabinets is a similar retail or service establishment which supply convenience commodities or perform services primarily for residents of surrounding the neighborhood. We also note that the use of this property by Nowak Cabinets has not generated any concerns or problems to adjacent neighbors or the Township since it was established.

The US 31 frontage of the Perry parcel (approximately 93'x112') was included with this rezoning request to provide continuity of zoning between the Nelles commercial zoned property to the north and the Nowak parcel, if approved by the Township. A review of Antrim County mapping information indicates the Perry parcel is between the Nowak and Nelles parcel. The Township Attorney, William F. Derman, Jr., researched the property of these three parcels and found that Mr. Perry has no interest in property abutting US-31, so there is no need to consider rezoning any portion of the Perry property as part of this rezoning process.

The Township Master Plan states that Commercial/Manufacturing operations in Elk Rapids Township should include uses that are not disruptive to residents and natural resources. Mr. Nowak's operation is a prime example of implementing the spirit of the Master Plan even though the property is on the edge of the Commercial designation on the Future Land Use Map. I suggest that this property be included as a commercial future land use designation in the next update of the Master Plan.

Recommendation

The public notice and public hearing for this rezoning request included two parcels owned by Joe Nowak and Charles Perry. Legal research has indicated Mr. Perry does not own property adjacent to US-31, thus there is no need to consider rezoning any of the Perry parcel for Commercial purposes.

The Nowak parcel is used for commercial purposes and has been since 1988 when the use was approved as a Special Use in the R2 Residential Zone by the Planning Commission. It is my opinion that the Planning Commission should approve the rezoning of the Nowak property for the following reasons:

1. The use of the parcel at 11744 US-31 South has been used for commercial purposes since 1988.
2. The use and operation is compliant with the Commercial Zone requirements of the Elk Rapids Zoning Ordinance.
3. The Township Master Plan indicates that commercial uses should not be disruptive to residents and natural resources. This use has demonstrated consistency with this objective for many years.
4. The Planning Commission finds that Nowak Cabinets is consistent with the Commercial uses listed in the Zoning Ordinance as it is a similar retail or service establishment which supply convenience commodities or perform services primarily for residents of surrounding the neighborhood.