

**ELK RAPIDS TOWNSHIP
PLANNING COMMISSION**

Meeting Minutes – Tuesday January 20, 2009

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, William Larson, Jim Lundy, Emile Sabty Shen Smith and Renee Mischel.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant and audience of 3.

Adoption of Agenda: Agenda for 1-20-2009 meeting was adopted by consensus.

Approval of Minutes: M/S – Lundy/Amos. Minutes for 12-4-2008 meeting were approved unanimously with correction.

Public Forum: ~~None.~~ *Mr. P. Brady asked that the Planning Commission allow a “Public Comments” agenda item at the end of meetings. The suggestion was adopted.*

ZBA Amendment Request:

A request from the Zoning Board of Appeals, dated December 19, 2008 was reviewed. It involved changing the text of the first paragraph in Zoning Ordinance Section 18.01 that covers the selection process and background of the Board Members. The current text does not reflect the recent Michigan Statute in Act 110 of 2006 Article 6. The ZBA proposed a suggested text reflecting the Statute, and requested the Planning Commission to review and incorporate. A suggestion was made that, in the suggested text, the sentence defining all the Regular Members should appear ahead of the individual member positions text. This was presented in an Alternate Suggested Text as follows:

Section 18.01 - MEMBERS, APPOINTMENT, TENURE, PER DIEM EXPENSES AND REMOVAL

There is hereby created a Township Zoning Board of Appeals of seven (7) regular members. All the regular members of the Zoning Board of Appeals shall be selected by the Township Board from among the electors of the unincorporated areas of the Township residing within the zoning jurisdiction of the Township. One of the regular members of the Zoning Board of Appeals shall be a member of the Township Planning Commission appointed by the Township Board. One regular member of the Zoning Board of Appeals may be a member of the Township Board appointed by the Township Board, provided that a regular member of the Zoning Board of Appeals who is also a member of the Township Board shall not serve as Chairman of the Zoning Board of Appeals; provided, that no elected officer of the Township nor any employee of the Township Board may serve simultaneously as the additional regular member of the Board or as an employee of the Township Zoning Board of Appeals.

With no further discussion the Chair asked for a vote.

M/S – Mischel/Sabty. Move to approve the Alternate Suggested Text to amend Zoning Ordinance Section 18.01 First paragraph, based on the current applicable Michigan Statute.

Vote – Yes to approve. Amos, Derenzy, Larson, Lundy, Sabty, Smith & Mischel.
Motion passed 7-0-0. Public Hearing will be scheduled for the February 17, 2009 meeting.

Old Business:

Pine Hollow Group Retreat – Preliminary Review & Outline Of Steps

Mr. R. Clark representing the Pine Hollow Estate, made a slide presentation reviewing the proposed Pine Hollow Group Retreat Special Exception Application. It covered a site plan map of the property, the vicinity and existing zoning maps, pictures of existing structures, and the anticipated application process for the Group Retreat to be followed by the rezoning applications.

Discussed was the applicant's intent in making three cohesive applications within the same process, and not wanting to lose any of the existing basic elements involved in the tri process should one fail. If one or the other is not approved the whole package stays as is. It was realized that the three parts involved in the process will not proceed together; the Retreat Special Exception is handled at the Planning Commission level while rezoning goes through the Planning Commission, County and Township. Accordingly there was consensus to proceed first with the application for the Group Retreat Special Exception, and after it is approved, then move on to the rezoning requests. Because the Group Retreat Special Exception process involves a lengthy review of sections 17.04, 19.07 and 7.06 it was suggested that the first step would involve holding a preliminary review, a sketch plan review, at which time reports from the Planning Consultant and the Zoning Administrator would be helpful in shortening a lengthy review.

Mr. Clark indicated that the applicant wishes to move fast on the process, and then requested that the Planning Commission hold a Special Meeting for the preliminary review then move on to the public hearing soon after.

By consensus, the Chair set the preliminary meeting for Tuesday February 3, 2009 at 6:30 PM

Future Planning – Goals & Outline of Steps

The Chair reviewed a memo (copy on file) which dealt with the subject of collecting various studies and surveys that address the Community vision for moving forward into the future. The Planning Consultant will use the input gathered to attempt to prepare a future vision document for review when completed.

New Business

Upon review by the Township Board on 1-13-2009, The Zoning Ordinance amendment to include a reference to Environmental Assessment Guidelines when needed was denied. Briefly stated, it was felt that the guidelines would create hardship and are duplication, and that the Zoning Ordinance includes enough language to address this subject.

As there was no further pertinent discussions Chairwoman Mischel adjourned the meeting at 9:00 PM.

The next scheduled meeting will be on Tuesday February 17, 2009 at 6:30 PM at the Government Center, 315 Bridge Street.

E. S. Sabty, Secretary
1-20-2009

Minutes Approved 2-17-2009

Minutes are subject to approval at the next regular Planning Commission Meeting.

**ELK RAPIDS TOWNSHIP
PLANNING COMMISSION**

Special Meeting Minutes – Tuesday, February 3, 2009

Chairwoman Mischel called the meeting to order at 6:40 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, William Larson, Jim Lundy, Shen Smith and Renee Mischel.

Absent: Emile Sabty

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant and audience of 4.

Adoption of Agenda: Agenda for 2-3-2009 meeting was adopted by consensus.

Public Forum: None.

Old Business:

Pine Hollow Group Retreat – Preliminary Site Plan Review

Mr. R. Clark, applicant's planner, distributed an addendum to the proposed site plan on hand. The Planning Commission proceeded to review the site plan in accordance with the Zoning Ordinance prescribed standards.

Mr. L. Nix, Planning Consultant reviewed his memo of concerns dated 1-28-2009.

- Is there concern regarding set-back problem at the edge of the tennis court / well house encroachment? Planning Commission is not concerned as it will still be deemed non-conforming through a motion at approval date to cover the non-conformance.
- Building height at top of roofline? 27-1/2 feet (a new drawing was presented for the review).
- Mr. Harrett, Zoning Administrator, confirmed that there are in fact 11 bedrooms/14 bathrooms through a physical inspection and count.
- Water Supply – Wells/Water; Village water supply is within ¼ mile, but not readily available. Mr. Clark indicated that the "open ponds" may suffice for the Fire Department. Mr. Harrett advised that open ponds, as existing, do not suffice. This concern will be resolved with the Fire Department. Currently the water wells on the property are sufficient to meet the needs of the proposed facility other than any requirements by the Fire Department.

Other concerns discussed were:

1. Commercial Use vs. Residential Use. Antrim County determines a use by the fact whether the owner is actually living on the property which is the test for commercial use vs. residential use. Antrim Co. requires building & occupancy permits for all commercial uses. A Corporate Retreat Center, being a Commercial use, will require these permits to be issued by the County.
2. Mr. Clark added to the review that, "All lights & fixtures above the entrance are 'dark sky' shielded".
3. Mr. Clark stated that a meeting is currently scheduled for 2/4/09 with the Elk Rapids Fire Dept to discuss and work out a process for solutions to the Fire Department concerns.
4. The Planning Commission requested that the "Commercial Kitchen located in the Barn" be certified by the Antrim Co Health Department and a copy of the certification be provided to the Planning Commission.
5. As to a question regarding the use of the kitchen within the house – Mr. Clark responded that all meals are to be prepared in the "Barn" and served in the house.
6. Discussion regarding the combining of three lots into one lot – Mr. Nix indicated this would be a condition of approval on the final site plan.
7. Section 19.07 Concern – Mr. Clark provided supplemental information that service vehicles at the property would be no more than 1-5 vehicles per week.

8. Section 19.07 Concern – Emergency Access - Mr. Clark stated that there would be NO parking on any of the driveways or in the circle drive. All guests are to be shuttled to/from the facility.
9. Outside Entertainment & Day Uses was discussed. It was noted by the Planning Commission that there are no provisions or descriptions indicated on this subject within the paperwork documents received to date. The Planning Commission requests a position statement indicating that there shall be no outside entertainment activities, all events are limited strictly to the operation of a corporate retreat with no leasing of premises or grounds for outside activities i.e. weddings, picnics, etc.
10. Ordinance Sec 7.06-C was reiterated, “Jet Ski rental or use shall be prohibited by guests and/or employees at the Group Retreat Center.”
11. Ordinance Sec 17.04 Concerns addressed:
 - Legal description is present in the distributed addendum.
 - Re-alignment drawing was submitted with the 2-3-2009 addendum.
 - Photo of buildings was submitted to fulfill sub sec B-6.
 - Sub Sec B-10; there is no grass parking, all parking to be on surfaced areas.
 - Sub Sec B-13, 14; addendum of 2-3-2009 provides for the additional information as requested on utilities.
 - Sub Sec B-17; re outside lighting was covered under Mr. Nix statements and in item #3 above.
12. Mr. Sabty Concerns items were reviewed:
 - Bedrooms/Bathrooms are covered by Mr. Harrett statement above.
 - The dates on the Site Plan Map should read 2009 not 2008; the typo should be corrected.
 - Service & Facility loads covered elsewhere are not applicable.
 - Seven acre minimum parcel size, covered earlier by Mr. Nix.

In order to complete the review process, it was determined that the applicant should supply the following information to the Planning Commission:

1. A determination from Antrim County regarding the water system proposed by the Group Retreat project.
2. Issuance of building & occupancy permits by Antrim County upon the rezoning of the property to R-1.
3. Sign off from the Elk Rapids Fire Department that all concerns and issues raised have been resolved.
4. Outdoor Activities & Day Uses – A statement of intent reflecting the concerns of the Planning Commission with indication regarding no jet ski use, no non related day activities allowed, and the proposed intent of any or all outdoor activities provided for or by the guests of the corporate retreat.
5. Tax roll merger – letter of intent from the property owner indicating the proposed merger of the three property tax numbers into one R-1 tax number upon the Planning Commission approval of the site plan.

The applicant had requested that the Group Retreat Center, Special Exception be approved prior to proceeding with the rezoning process. When the review process gets completed with all the concerns resolved, and as the process proceeds to a Public Hearing, then an approval should include these conditions:

1. That the existing Tennis Court/Pump Well House encroachment into the South 30-ft setback continues and be designated a nonconforming structure.
2. That those sections of the existing property currently zoned R3 are to be rezoned to R1 zoning classification, so that the total property included in the Group Retreat Center, Special Exception Use is zoned R1.

3. That no Building or Occupancy permit should be issued until after the total property that is included in the Group Retreat Center, Special Exception Use is rezoned to an R! zoning classification.
4. That after the expiration of nine (9) months from the date of granting this approval with conditions to operate a Group Retreat Center, Special Exception Use, if the property is not totally rezoned to R1 zoning classification the Group Retreat Center, Special Exception Use shall become void.
5. That as long as the Group Retreat Center, Special Exception Use operation has not lapsed, the three (3) contiguous lots comprising the Group Retreat Center, shall always be grouped into one parcel that meets the standard requirement minimum parcel size of seven (7) acres for the operation of a Group Retreat Center, Special Exception Use.

Mr. Clark stated that there was to be an open house at Pine Hollow and invited the Planning Commission to attend. Mr. Nix cautioned that no more than three Planning Commission members were allowed to attend.

New Business

A Memo received from Mr. Nix dated 2-2-2009, "Report on Elk Rapids Township Community Character," was tabled until a later date.

Chairwoman Mischel indicated that the primary agenda item for the Feb. 17th Regular meeting will be the continuation of the Pine Hollow site plan review after completing the scheduled Public Hearing.

Correspondence None.

As there were no further discussions Chairwoman Mischel adjourned the meeting at 8:40 PM.

Shen B. Smith
Acting Secretary
2-3-2009

Minutes Approved 2-17-2009

Minutes are subject to approval at the next regular Planning Commission Meeting.

**ELK RAPIDS TOWNSHIP
PLANNING COMMISSION**

Meeting Minutes – Tuesday February 17, 2009

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, William Larson, Jim Lundy, Emile Sabty and Renee Mischel.

Absent: Jean Derenzy and Shen Smith.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant and audience of 5.

Adoption of Agenda: Agenda for 2-17-2009 meeting was adopted by consensus.

Approval of Minutes:

1. M/S – Amos/ Lundy. Minutes for 1-20-2008 meeting were approved unanimously after correcting the Public Forum to include - *Mr. P. Brady asked that the Planning Commission add a “Public Comments” section at the end of meetings. The Chair approved the suggestion.*

2. M/S – Lundy/Sabty. Minutes for 2-3-2009 Special Meeting were approved unanimously.

Public Forum: Mrs. B. Mullaly, ER Village Planning Commission suggested a joint meeting with the Township PC to discuss common concerns such as big box stores, US-31 corridor and other common subjects of interest to the two Commissions. The Chair was thankful for the suggestion and would take it under consideration.

Public Hearing

ZBA Amendment Request:

Chairwoman Mischel opened the Public Hearing.

Mr. Sabty outlined a phone conversation with the Township Attorney, during which it became apparent that using the applicable Michigan statute text in Act 110 of 2006, Article 6 (highlighted in italics below) in place of the last part of the amendment as written (highlighted below) would make for simpler text with no loss in meaning. Mr. Nix, Planning Consultant concurred and added that no change in the Public Hearing procedure would be required.

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such a member shall not serve as Chairperson of the Township Zoning Board of Appeals. An employee or contractor of the Township Legislative Body may not serve as a member of the Township Zoning Board of Appeals.

As there was no public input the Chair closed the Public Hearing. With no further discussion on the amendment the Chair moved for a motion.

M/S – Mischel/Lundy. Move to approve the Zoning Ordinance amendment to Chapter 18, Zoning Board of Appeals, Section 18.01 Members Appointment, first paragraph, using the suggested applicable Michigan Statute text to read:

Section 18.01 - MEMBERS, APPOINTMENT, TENURE, PER DIEM EXPENSES AND REMOVAL

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Vote – Yes to approve. Amos, Larson, Lundy, Sabty & Mischel.

Motion passed 5-0-0. The amendment will be forwarded to the County for review.

Old Business:

Pine Hollow Group Retreat – Preliminary Site Review – Continued from 2-3-2009

The Chair identified five memos received and distributed which pertained to this review:

1. State of Michigan Health Dept. license to operate a food service establishment – Expiring 4-30-2009.
2. Antrim County Health Dept. adequacy of water supply.
3. Pine Hollow memo, 2-11-2009, proposed parking controls on the premises circular drive.
4. Pine Hollow memo, 2-11-2009, statement of intent regarding parties and social events.
5. Elk Rapids Fire Dept. memo of concerns, 2-12-2009, re the received site plan proposed changes to use Pine Hollow as a Group Retreat Center.

Items of concern from the last meeting that were addressed by the received memos were reviewed, water supply, kitchen license, parking concerns, and statement of intent re parties and social events. The Fire Dept concerns are being addressed with compliance to be reviewed at the time of issuing building and occupancy permits. A suggestion was made to include conditions that address the Fire Dept. concerns in the approval process.

Mr. Ken Orkert, representing the applicant, spoke of the Fire Dept. Memo of concerns, relative the number of guests allowed outdoors on occasions, that during those outdoor events, they can allow more than 50 people outside the building and still meet the safety concerns, that they want more latitude and would rather not put a number to the outdoor events. To that effect, the Fire Dept. had asked the applicant for a number, when then, they will determine if they are comfortable with the safety aspect. He went on to say that in the past Ms. Lee stated that they have had up to about 200 people on the premises with no safety problems.

Mr. Sabty stated that to the Planning Commission the number of people is not the concern. The issue is that during the meeting of 2-3-2009, after discussing Outside Entertainment and Day Use activities, the Commission determined that, "The Planning Commission requests a position statement indicating that there shall be no outside entertainment activities, all events are limited strictly to the operation of a corporate retreat with no leasing of premises or grounds for outside activities i.e. weddings, picnics, etc." Further this determination was one of five items the applicant was to supply information on to the Planning Commission; it stated, "Outdoor Activities & Day Uses – A statement of intent reflecting the concerns of the Planning Commission with indication regarding no jet ski use, no non related day activities allowed, and the proposed intent of any or all outdoor activities provided for or by the guests of the corporate retreat."

Mr. Orkert responded that they still would like to have more latitude, and that it is a question if the Commission would allow that, and if they can revisit that from a safety stand point.

Mr. Sabty stated that the applicant's request is for a Group Retreat Center to be used by the people using the facility. When it becomes a use by 100 or 200 or more people on the premises, that is not the Group Retreat Center that was described in the application.

There were expressions of agreement on the position conveyed above.

Mr. Nix, Planning Consultant, advised that the Commission should make sure that it is understood what this operation is, and how it was originally drafted. The definition is clear of what a Group Retreat is and what the intent of it is, but when one starts moving away from that intent, you start experiencing what happens. We have to balance that if a normal resident is having a wedding reception in their yard, that may happen once a year or once in a lifetime, it is not something that may occur 4 or 5 times every summer. Apparently what the applicants are telling us, they would like to potentially have those events on the property on a more frequent basis. They can offer that, if it is what they want to do, they should state that intent and make it part of their application, and then after a Public Hearing the Planning Commission can make the determination whether to permit that or not. It is better if they fully disclose what they want to do going in, as opposed to addressing it during this preliminary review process by telling them they can or can't do something at this point in time. At this time we are only establishing whether they met the submission requirements or not. The application, or what they want to do, is not being evaluated now. Just because they ask for something now, it does not mean they are going to get it.

Mr. Orkert reiterated that they don't want to be restricted by the 50 number appearing in the Fire Dept memo, and that the number is not in their application at all, nor was it mentioned in their discussions.

Mr. Sabty stated that the proposed Group Retreat mentions 24 guests, and an outdoor activity accommodating those guests may include somewhat more guests, but not 100-200 or more. In the past when such a large outdoor activity took place, the premises were a private single family residence, but in a Group Retreat Center the premises becomes a special exception commercial use, and that type of outdoor activity is not in the Ordinance.

Mr. Harrett, Zoning Administrator, stated that in the Ordinance, Group Retreat Center, Section 7.06-B, the text does not mention number of people participating in outdoor activities. Chairwoman Mischel responded that is why the letter of intent from the applicant is required for clarification. Mr. Amos added that based on a Group Retreat Center use, is what determines the activities on the premises. Mr. Larson added that there is latitude in the ordinance for more than 24 guests as long as it is related to the Group Retreat Center. Chairwoman Mischel added that the premises would be R-1 overlaid with a special use special exception for a Group Retreat Center permit, it would not be opened for outside functions that are not in the Group Retreat Ordinance.

Mr. Orkert stated that the Group Retreat Center definition does not limit the number of guests as shown in the Fire Department memo. Further Ms. Lee wants to pursue outdoor events.

Mr. Nix advised that at this time there are two outstanding questions for the applicant to address; working with the Fire Dept. to review the concerns in their letter, and to provide additional information to clarify their intention in the special exception use that is acceptable, given the parameters of the Zoning Ordinance. At this time the Planning Commission is not regulating, nor are they in a final review mode, just trying to understand what the applicants are doing; we can agree or disagree with what they are proposing to do, and at the same time try to have clear information to make a decision on this after holding a Public Hearing.

Mr. Amos asked if the Group Retreat is a commercial use or not? Mr. Nix responded that it is a Group Retreat, and emphasized going over its definition very carefully. If the applicant interprets it to mean another thing, then they need to make that very clear. The Township does not want to have problems down the road where all these events are going on every weekend thus creating unforeseen problems. At this juncture we are trying to make sure that we have all the information and all the details to our satisfaction of what they want to do. The discussion taking place here is to clarify all those points. Further, Mr. Amos asked if we are reviewing a Group Retreat or a commercial event. Mr. Nix responded that it is a Group Retreat. To which Mr. Amos emphasized that then we should stick by the Group Retreat premises.

Chairwoman Mischel stated that at this time it seems more documentation is needed so that we can continue the site plan review; we do need further clarification on:

1. Fire Department concerns expressed in their memo of 2-12-2009.
2. Outdoor activities issues.
3. Tax rolls merger agreement issue.

Mr. Orkert asked if a Public Hearing process can be started now, while they would work on and have the required information supplied before the hearing. The response was that time is very short to process for a public hearing and at the same time review the requested information.

Chairwoman Mischel asked for a motion to continue the tabling of the preliminary site plan review until the next meeting on March 17, 2009 at which time the three requested items are reviewed. To that effect a motion was made by Amos/Lundy and approved 5-0-0.

New Business

Elk Rapids Township Community Character

Mr. Nix explained the memo report of 2-2-2009 on this subject. It summarized five surveys from this community and is complimentary to the Township Master Plan. The surveys describe who we are, what we are and what we like to be here in the Elk Rapids Township community. The report brings out six pertinent statements for Planning Commission review. Any other pertinent areas of interest would be added for inclusion in the guidelines for Community Character for Growth.

Discussion brought out other areas of interest to be included:

- Other non mentioned criteria being very important to the development of this study are the preservation and encouragement of agriculture and its related endeavors affecting farming tourism.
- Encourage growth that creates jobs in the community.
- The fact that the Elk Rapids community area is a unique place to live in.
- Preserving an existing ideal atmosphere for living in this community.
- The feeling for property value preservation that is an economic vitality in this region.
- Good school system.
- A residential community for surrounding work areas, a Cottage Industry community and a unique retirement community.

At this time the Commission was asked to list what would be on the negative side. Things that we want to avoid going into in the future. An example was Big Box Stores. The brain storming brought up the following:

- Changes in landscape.
- Strip malls and fast food drive in.
- No affordable housing available in this area.
- No jobs, low pay.
- Change in residential concepts and future character of the area.
- Security and feeling safe as the community grows.
- Smart growth.
- Destruction of natural features and natural resources.
- Large size industry in a small township.
- Rising cost of land and housing has a negative effect on the young starters.
- Loss of open space.
- Trailer Parks and very low value housing under the guise of affordable housing.
- Lack of walking and bicycle trails within the community to move around easily and safely.
- Increase in taxes may have adverse effect on farm preservation.
- Lack of development of *Control Option*.

Mr. Nix advised that he will be sending out a list of the pros and cons that may have an effect on the community in the coming 20 years. It is to be ranked and returned for compiling and review at the next meeting.

Correspondence None.

Public Comments

Mr. P. Brady thanked the Planning Commission for including a Public Comment period at the end of each meeting.

Members Comments

The Chair brought the subject of a joint meeting with the Village Planning Commission. It was suggested that the Chairpersons from both Commissions meet to explore the feasibility and content of such a meeting. It was also suggested that we wait until after we get going with the Township Community Character study, as the study itself was prompted by the Village concerns about big box stores and the US-31 Corridor, that once we get the feel for the study we will be in a better position to have a joint meeting in which we can all participate productively.

The Chair will try to find more about the subject and go from there.

As there were no further discussions Chairwoman Mischel adjourned the meeting at 8:10 PM.

The next scheduled meeting will be on Tuesday March 17, 2009 at 6:30 PM in the Government Center, 315 Bridge Street.

E. S. Sabty, Secretary
2-17-2009

Minutes Approved 3-17-2009

Minutes are subject to approval at the next regular Planning Commission Meeting.

**ELK RAPIDS TOWNSHIP
PLANNING COMMISSION**

Meeting Minutes – Tuesday March 17, 2009

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, William Larson, Jim Lundy, Emile Sabty, Shen Smith and Renee Mischel.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant and audience of 3.

Adoption of Agenda: Agenda for 3-17-2009 meeting was adopted by consensus.

Approval of Minutes:

M/S – Lundy/Larson. Minutes for 2-17-2009 meeting were approved by the Planning Commission unanimously.

Public Forum: None.

Old Business:

Pine Hollow Group Retreat Center

M/S – Sabty/Lundy. Move to remove from table the Group Retreat Center review deliberation. **Yes 6-0-0.**

The Chair advised the Planning Commission that Mr. Russ Clark on behalf of the applicant for Pine Hollow Group Retreat Center (Special Exception) called the Chair and the Planning Consultant Mr. L. Nix and informed that the applicant officially withdraws their request for a Group Retreat Center, and that this case is to be dropped by the Planning Commission. The Chair then asked for a motion to that effect.

M/S – Sabty/Lundy. As the applicant Ms. Leslie Lee, owner of Pine Hollow Estate, 10400 S Bayshore Drive, Elk Rapids, MI, through her agent Mr. Russell Clark has requested the termination of their application for a Group Retreat Center (Special Exception). Move that the termination request for the Group Retreat Center at Pine Hollow Estate be granted effective this date of March 17, 2009 and that this case is considered closed by the Planning Commission.

Vote – Yes to terminate. Derenzy, Larson. Lundy. Sabty, Smith & Mischel.
Motion passed 6-0-0. Approved termination is in effect.

Elk Rapids Township Community Character – Visioning

The Chair asked Mr. Nix, Planning Consultant, to review the Visioning Statement Memo of 3/10/2009.

Mr. Nix stated that past studies on hand were reviewed to identify those ideas that the Township holds important for the future, also the visioning exercise just completed. The 15 items each on opportunities and threats were prioritized into three levels of response from which two visioning sample statements were prepared for review.

Discussion, statements (**S**) and questions (**Q**) followed to which Mr. Nix responded (**A**):

Q – Even though good schools ranked high, what can the Planning Commission (PC) do about that and should it be included in the visioning statement?

A – The school system here is part of the positive opportunities in this community. The PC doesn't want to do anything that adversely affects that. The PC would be creating opportunities that complement the good schools system. It opens a positive channel of communications with the schools system should they be affected.

Q – Are those prioritized items in the exercise significant to what we do?

A – The exercise was intended to create a base on which the PC can move on. The thoughts focused on having a target to head for, more so than what the Master Plan tells us. These thoughts can become a guide to check against as we plan future actions and make sure that we are avoiding these threats and bolster these opportunities.

Q – Why not expand the survey and include the Township residents rather just the PC members?

A – The summary memo of Feb 2, 2009 covered the five past community surveys on hand, they are representative of this community, and they include the Township, the Village and the Elk Rapids Community. Out of that review the current vision 15/15 items ran parallel.

Q – What value an additional survey might have if there was a court case regarding a problem that may arise?

A – The value of a survey is to supplement the PC collective knowledge. PC members represent the various segments of the citizenry in the community. A survey only gives the PC a degree of affirming what is believed the citizens want. Repeated surveys basic results do not change that much and can be predictable especially with the same people participating. As to a court case, if the PC is so far off in what they are doing that they are not representing the people, it could help. A new community survey would not help at all unless there is a reason where there is a real shift in attitude in this community regarding land use items, and past surveys are not telling that.

S – Mr. Harrett, Zoning Administrator, suggested changing a text phrase in the visioning statement from ‘quality farm land’, to ‘active agriculture’.

S – Ms. Derenzy suggested changing the visioning statement opening phrase ‘In the year 2025’ to ‘In the future,’ which would cover the near and far future.

S – Mr. Sabty suggested, in the visioning statement to delete the phrase ‘absent of large land developments.’ The Township Government and the owners should be free to consider such a development if it is proposed, we should not be restrictive into the unknown future. Currently we have enough in our Ordinance to cover that. If it looks like it may become an issue then we can work on it in terms of when and where it is happening.

Q – Why was farm land listed in the visioning statement but not under opportunities?

A – It appears under threats and shows high; the intent of the visioning statement is to protect and preserve it.

Q – Why was open space preservation left out of the visioning statement?

A – Open space preservation was discussed including farm preservation and housing clustering. The Township is not deeply into that area. The intent is to try to balance all the involved elements to achieve that. Nothing in the visioning statement says we shall preserve that, we just value these things and we are going to work towards maintaining those to the greatest extent possible.

Ms. Smith inquired as to how would any of the items discussed equate to better schools, and what can we possibly do when writing an ordinance that would lead to creating better schools?

Ms. Derenzy expressed her thought by saying that a good healthy school system is a valuable asset to this community, to the families, to recreation and other aspects of residing here. A healthy school system does not necessarily have anything to do with how we act, we can’t influence it, but a healthy school system helps us plan for the future of this area, because it brings people to our area. It is an important asset to this community and we don’t want to do anything to jeopardize it, but we want to make sure that we are doing everything we can to help maintain it. It is not necessarily that we include it in the visioning statement, but it should be upfront and in front of us as we move forward because it is an important aspect of how the Elk Rapids Community is viewed as a whole.

The Chair told Mr. Nix, that with all this discussion we look forward to a revised vision statement, and to direction and steps we can take, and how we can apply it to our Zoning Ordinance and Master Plan.

Mr. Nix stated that a refined visioning statement draft may read, 'Elk Rapids Township will strive to balance future growth and development with active agriculture, magnificent views and high quality natural resources.' From this we would try to see how these vision elements can enhance the Zoning Ordinance and if need be make revisions to preserve and protect the Township should there be zoning challenges. That our rules and regulations need to promote what we feel are valuable and compliment the Community that is here.

Mr. Amos summed up with a statement that as he grew up in this community, this whole area at one time was farm land supported by farm businesses. At some point there was change that brought us to where we are now. For the past hour discussion covered how we are going to stop change or change patterns. I do agree with change controls that may preserve and protect, but regardless, change will continue as we go into the future, that is the human nature.

By consent the Chair tabled this subject to be continued at the next meeting.

New Business – Postponed for time constraints.

Correspondence - None.

Public Comments - None.

Members Comments

The Chair brought up the subject of the received Village invitation to the Twp PC to hold a joint meeting with the Village PC on Tuesday March 24, 2009 at 6-7 PM. Mrs. B. Mullaly, ER Village Planning Commission, expressed hope that by reviewing the common concerns and finding solutions the Elk Rapids Community would benefit from this. It was brought up that the Village would notice the meeting on the Bulletin Board of the Government Center. The Chair encouraged all members to attend the joint meeting

As there was no further discussion Chairwoman Mischel adjourned the meeting at 8:00 PM.

The next scheduled meeting will be on Tuesday April 21, 2009 at 6:30 PM in the Government Center, 315 Bridge Street.

E. S. Sabty, Secretary
3-17-2009

Minutes Approved 4-21-2009

Minutes are subject to approval at the next regular Planning Commission Meeting.

**ELK RAPIDS TOWNSHIP
PLANNING COMMISSION**

Meeting Minutes – Tuesday April 21, 2009

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Jean Derenzy, William Larson, Jim Lundy, Emile Sabty, Shen Smith and Renee Mischel.

Absent: Dorance Amos

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant and audience of 2.

Adoption of Agenda: Agenda for 4-21-2009 meeting was adopted by consensus.

Approval of Minutes:

M/S – Derenzy/Lundy. Minutes for 3-17-2009 meeting were approved by the Planning Commission unanimously.

Public Forum: None.

Old Business:

Elk Rapids Township Community Character – Visioning Statement

The Chair advised of two joint meetings with the village on 4-27-2009 and 5-19-2009 and encouraged the members to attend, then asked Mr. Nix, Planning Consultant, to review the revised visioning statements. After the last meeting, two statements were reworked to choose from:

- Elk Rapids Township will be characterized with a quality school system complemented with high quality natural resources, sensitive to the community's history while maintaining active agriculture and attractive views and plentiful open space.
- Elk Rapids Township will be similar in character as the past 25 years maintaining a quality school system, high natural resources, and pristine water bodies, with complementing active agriculture and magnificent views.

A newly developed blend statement can also be utilized, it reads:

- Elk Rapids Township will strive to balance future growth and development with active agriculture, magnificent views and high quality natural resources.

Further work on the visioning project will be done after the two joint meetings take place and input is obtained.

The Chair discussed the joint meeting of 3-24-2009 for update review. Those who attended spoke of their impressions of the meeting, but that there were no definite conclusions attained. The Chair read a letter received from Mr. S. Francis, Village PC, in which he wrote of reporting to the Village Council two identified need areas brought up at the joint meeting. There is need for a second Industrial Park, and there is need for expanding the waste treatment facility. He felt that there could be a cooperative effort.

It was brought out that the Village owns approximately 40 acres next to the waste treatment facility, that it would be an ideal location and size for an industrial park with Village facilities. The Village can prepare it with needed infrastructure that would attract potential users. This subject was discussed in past years but not of late.

Through the Chair, a motion by Smith/Lundy was approved to table the subject until further input from the joint meetings becomes available. Passed 6-0-0.

New Business:

Sign Lighting Standards

Mr. Nix discussed the memo of 4-20-2009 on the subject. Four sections in the Zoning Ordinance are related to sign lighting, 3.04-G, 3.05-F, 17.04-B-10 and 17.04-B-17; they are generic in nature. Proposed text was discussed which would replace Sec 3.05-F.

The subject of signs with internal lighting was brought up. Mr. Nix stated that a standard can be added dealing with the intensity of the lighting. Such lighting can be observed in the new electronic billboards. It was expressed that definitely there is a need for a standard on intensity of lighting.

Through the Chair a motion by Sabty/Lundy was approved to table the subject for further update and review at the next meeting. Passed 6-0-0.

Plat of Juniper Hill – Board Overview

A lot split at the Juniper Hills platted area is contemplated. Because of the many unanswered questions the Township Board asked the PC to review and report their findings and recommendations. Mr. Harrett, Zoning Administrator gave a background review of the area being discussed. A paved trail running northward from the end of Lakeshore Rd through eight lots is not found on any of the Township records. The question would be what is it and how much regulation can we impose on it, if it is felt necessary?

The Owner of Juniper Hills Lot #3 had expressed a desire to split his one lot into two; then build a second house on the eastern new lot against a back embankment. The trail/driveway would be used to access the two lots.

South Bayshore Dr. is the access road of record to the existing lots. In a lot split, one of the two lots will not have an official access road, and this would not comply with Township regulations. Considering setbacks, lot requirements and a private road in between the lots, would hardly meet the required lot measurements needed. The trail is too close to the foot of the back hill drop to meet adequate lot measurements required. All existing deeds of all the properties do not show any easements for a trail.

Mr. Nix stated that the Juniper Hills area is considered a subdivision. We should consider what process this has to go through. A Subdivision Ordinance would cover the applicable standards including access private roads. It is recommended, to write a letter to the involved party and point out the pertinent section of the Subdivision Ordinance, provide them with a copy of how the properties there are zoned, provide a copy of the Private Roads Standard and advise them that they should submit a package of required information to the Township illustrating how they are going to comply with these regulations that are applicable to this situation so that the Township can work on approving the lot split.

Through the Chair a motion by Smith/Lundy was approved to have Mr. Nix write a letter as discussed and send it to the Township Supervisor for further action. Passed 6-0-0.

At this time Mr. William Larson excused himself and departed the meeting.

R-3 – R-1 Rezoning Overview

It was suggested that the R3-R1 properties along S Bayshore Dr. be all rezoned to R1. This would eliminate potential and existing zoning problems that did come up in past years and recently. Should such a change be made how should the property at the SE corner of this area be treated as it is zoned R3 but is not part of the R3-R1 split zone lots. It was also brought up that should a change be made we would have to find new R3 replacement area.

Mr. Nix advised that if an R3-R1 rezoning is done by the PC it would go thru a rezoning public hearing followed by County review and then Township review. As to the R3 corner lot; it is zoned R3 residential and is used as such

now, and there is no need to change it. The other changes can be completed without it. As to R3 replacement, should the R3-R1 rezoning take place we would not need to find a new R3 replacement area to be rezoned immediately. The R3 replacement can be done independently at a later time.

A motion by Mischel/Lundy was approved to table the discussion to the next meeting. Passed 5-0-0.

Correspondence: None

Public Comments:

Mr. Harrett, Zoning Administrator stated that a recent question was raised as to what the Zoning Ordinance contains about Alternate Energy, both private and commercial which includes wind, solar and geothermal? It is a subject that is gaining more recognition. At present the Ordinance would consider such items as structures.

A motion by Mischel/Smith was approved to put the subject on the agenda for future discussion. Passed 4-1-0.

Members Comments:

The Chair was informed that the Township SOB Ordinance might not be totally current with existing statutes and should consider reviewing it for possible necessary revisions.

Through the chair a motion by Smith/Derenzy was approved to have Mr. Nix review the SOB Ordinance and advise if a change is needed. Passed 5-0-0.

Ms Smith stated that the Tower Ordinance need to be reviewed and should be added under Future Review Items.

Ms Derenzy requested, if possible, to have an agenda prepared for the coming joint meeting on 5-19-2009. She also asked if there is a budget for the Planning Commission and the possibility of reviewing it.

As there was no further discussion, Chairwoman Mischel adjourned the meeting at 8:22 PM.

The next scheduled meeting will be on Tuesday May 19, 2009 at 6:30 PM in the Government Center, 315 Bridge Street.

E. S. Sabty, Secretary
4-21-2009

Minutes Approved 5-19-2009

Minutes are subject to approval at the next regular Planning Commission Meeting.

**ELK RAPIDS TOWNSHIP
PLANNING COMMISSION**

Meeting Minutes – Tuesday May 19, 2009

In the absence of Chairwoman Mischel, Vice Chair Smith called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Jean Derenzy, William Larson, Jim Lundy, Emile Sabty and Shen Smith.

Absent: Dorance Amos and Renee Mischel

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant and audience of 6.

Adoption of Agenda: Agenda for 5-19-2009 meeting was adopted by consensus.

Approval of Minutes:

M/S – Lundy/Derenzy. Minutes for 4-21-2009 meeting were approved by the Planning Commission unanimously.

Public Forum: Richard Bantien and daughter Sarah are attending this meeting for her work on a school project studying about local government. They were welcomed by V Chair Smith.

Old Business:

Elk Rapids Township Community Character – Visioning

This was a tabled item pending further input from the TWP/Village joint sessions. As the sessions are still taking place, it was determined to continue tabling the visioning until further information becomes available.

Sign Lighting Standards

Mr. Nix, Planning Consultant, reviewed the revised new text in the memo of May 19, 2009. Intensity of light in an illuminated sign and the size of an internally illuminated sign were presented. At the ensuing discussion questions were raised about certain specific sections of the write up as well as adding some words to the text for defining and clarity such as adding “and Billboard” to Section 3.05 Title. From the audience, Mr. S. Francis made some suggestions for which some were incorporated. The final proposed text as agreed to would read:

Section 3.05 – GENERAL REGULATIONS RELATING TO SIGNS AND BILLBOARDS

F. Illumination. When illumination ~~of~~ of a sign or billboard is proposed, or the sign is illuminated, illumination

shall comply with the following requirements:

1. Illumination of the sign shall not adversely affect any neighboring residence.
2. Illumination shall not be flashing, blinking, intermittent, video, or an on-and-off type of lighting.
3. Illumination shall be arranged so that light is directed away from adjacent properties and away from any public right-of-way, and so that no direct sources of light are visible to any motorist or pedestrian located in a public right-of-way or street easement or from any adjacent property.
4. Any external lighting ~~of~~ of signs shall be downward facing or otherwise directed to illuminate only the sign face.
5. Illumination shall be of a continuous white light.
6. The light from any illuminated source shall be designed so that the light intensity or brightness at the property line shall not exceed one (1) foot candle.

With no further discussion V Chair Smith asked for a motion to approve the text for a Public Hearing.

M/S – Derenzy/Smith. Move to approve the new revised text for Sec 3.05 title and 3.05-F and move to a Public Hearing at the June 16, 2009 Planning Commission meeting. **Approved 5-0-0.**

Plat of Juniper Hill

Mr. Harrett, Zoning Administrator, advised that pursuant to the last meeting a letter was sent to the property owner. They advised that they will be attending this meeting, which they did not.

M/S – Sabty/Lundy. Move to table this item until we hear from the property owner. **Approved 5-0-0.**

R3-R1 Rezoning Overview at S Bayshore Drive.

There was nothing new on this item. Discussion took place as to possible replacement properties for R3 zoning that could be used for replacement. It was mentioned that R3 replacement can take place at a future time after the rezoning is completed rather than simultaneously. It was suggested to obtain a copy of the Village Master Plan, their Ordinance and a map showing how their properties are zoned as well as any limitation maps to the service areas of the sanitary sewer system. These items would be basic in considering where we may locate R3 zoning that would be compatible. It was determined to table the discussion at this time.

Review SOB Ordinance

Mr. Nix reported on the existing Ordinance that it is not clear in several areas. At the time it was adopted it was copied. Modern ordinances are more clear and simpler to follow. He pointed to several areas of the Ordinance that create a problem in interpretation. Replacing this ordinance would be a positive thing to do. It was brought up that we should review other available ordinances on the subject for a best fit. Mr. Nix would be reviewing the new Village SOB Ordinance and would be making a recommendation.

New Business

- V Chair Smith reviewed the 5/19/09 joint meeting between the TWP/Village. On June 2, 2009 a joint meeting will take place at 6:00 PM at which the County Planner Mr. P Garwood will be invited to discuss 'septic system inspection'. At 7:00 PM there will be a presentation on 'wind energy'. A notice will be posted and forwarded to all members.
- A New Tart Trail map along US-31 was reviewed.
- Septic System Inspection was added to future agenda items.

Correspondence, Public Comments, Member Comments. None.

As there was no further discussion, V Chair Smith adjourned the meeting at 7:50 PM.

The next scheduled meeting will be on Tuesday June 16, 2009 at 6:30 PM in the Government Center 315 Bridge Street.

Emile Sabty, Secretary
5-19-2009

Minutes Approved 6-16-2009

Minutes are subject to approval at the next regular Planning Commission Meeting.

**ELK RAPIDS TOWNSHIP
PLANNING COMMISSION**

Meeting Minutes – Tuesday June 16, 2009

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: William Larson, Jim Lundy, Emile Sabty, Shen Smith and Renee Mischel.

Absent: Dorance Amos, Jean Derenzy.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant and audience of 3.

Adoption of Agenda: Agenda for ~~5-19-2009~~ 6-16-2009 meeting was adopted by consensus.

Approval of Minutes:

M/S – Smith/Lundy. Minutes for 5-19-2009 meeting, as corrected, were approved unanimously.

Public Forum: None

Public Hearing

Amendment of Zoning Ordinance Chapter 3 'SIGNS,' Section 3.05 –GENERAL REGULATIONS RELATING TO SIGNS and Sub Section 3.05-F Sign Lighting Standards.

Chairwoman Mischel opened the Public Hearing, and with no public input, Sabty/Lundy moved to close Public Hearing. Approved 5-0-0.

Mr. Lundy inquired about the significance of sign lighting facing downward vs. upward? Mr. Nix explained that the light directed downward would eliminate visibility distraction. At the same time would adhere to the dark sky lighting principals recently approved in Ordinance Section 17.04-B-17. Another factor in this area would be snow effect on ground upward lighting.

With no further discussion the Chair asked for a motion to approve the Amendment.

M/S – Smith/Sabty. Move to recommend the approval of Zoning Ordinance Amendment Section 3.05 and 3.05-F on Sign Lighting Standards as written.

Amend Chapter 3 'Signs,' Section 3.05 – GENERAL REGULATIONS RELATING TO SIGNS to read:

Section 3.05 – GENERAL REGULATIONS RELATING TO SIGNS AND BILLBOARDS

Amend Section 3.05-F to read as follows:

F. Illumination. When illumination of a sign or billboard is proposed, or the sign is illuminated, illumination shall comply with the following requirements:

1. Illumination of the sign shall not adversely affect any neighboring residence.
2. Illumination shall not be flashing, blinking, intermittent, video, or an on-and-off type of lighting.
3. Illumination shall be arranged so that light is directed away from adjacent properties and away from any public right-of-way, and so that no direct sources of light are visible to any motorist or pedestrian located in a public right-of-way or street easement or from any adjacent property.
4. Any external lighting of signs shall be downward facing or otherwise directed to illuminate only the sign face.
5. Illumination shall be of a continuous white light.

6. The light from any illuminated source shall be designed so that the light intensity or brightness at the property line shall not exceed one (1) foot candle.

Vote. Yes – Larson, Sabty, Smith and Mischel.

No – Lundy.

The motion passed 4-1-0. Recommendation will be sent to the County. (Amendment #2009-2)

Old Business

Elk Rapids Township Community Character – Visioning

Mr. Lundy gave a brief summary on the community informational meeting held on June 2, 2009. Two presentations on Septic Tank Inspection and Wind Energy were made. Mr. Peter Garwood from Antrim County addressed Septic Tank Inspections; that few communities have implemented such rules, but it is not predominant. Extensive studies as to who performs the inspection and at what stage of use, who pay for that and who has ultimate control of the process, would be needed to develop a comprehensive and equitable process. At this stage such a process leaves more questions unanswered than what is known so far.

Septic Tank Inspections was brought up during the 4-27-2009 Elk Rapids Community Visioning Meeting. The meeting survey results were distributed for Commission review. Mr. Harrett, Zoning Administrator, addressed who might incur the cost, and that should such an ordinance be developed it should be on a Township Board ordinance level.

The Chair brought the discussion back to the initial Commission visioning approach and emphasized staying the course to a conclusion. During the discussion it was determined that at this time there is no need to continue with the village/Township joint sessions, and that we should work on our initial approach to Township visioning. Should there be a joint need for directional approach, it should come from the Township and Village Boards and not from the Planning Commission.

Mr. Nix, Planning Consultant, reviewed the three vision statements discussed during the 4-21-2009 PC meeting and suggested that he would develop a summary review memo on the subject for the next meeting.

A question was raised about leaving out large developments from the visioning statement? Mr. Nix advised that the Commission did not want to include that term into a defined terminology which could prove problematic. The Commission wanted to focus on what we want to achieve rather than on what we don't want, by making a positive statement and keeping the negative out of it.

The Chair emphasized that this visioning would be our goal as we move forward in our work. We would make sure that in the decisions we have to make and future planning we may be looking at, we would extenuate the positive things we have been told by various surveys and the community resources that we have. This vision would be our guide for the Elk Rapids Township into the future. The Chair would communicate with the Township Board concerning joint meetings and their views on that.

With that the discussion was tabled until the next meeting.

Plat of Juniper Hills

The party involved did receive a Township letter outlining the proper procedure and zoning requirements involved in proceeding with their request. They had requested to attend the PC meeting of 5-19-2009 to go over their request but did not come to the meeting. The PC tabled the item to this meeting. They still did not show up. It was suggested that the PC drop this item from the agenda. If the party involved decides to pursue this item they can apply through the proper procedure. This item is now dropped from the agenda.

R3-R1 Rezoning Overview at S Bayshore Drive

This item was put on the agenda to resolve reoccurring problems of rezoning between R3 & R1 in that area. During the last meeting it was determined that should the process go forward there would be no

urgency to find immediate R3 zoned replacement. The Township Board did not originate this request; rather it came about as result of discussion with Board members. There was Planning Commission consensus to drop this item from further consideration as there were no apparent current problems in this regard. Should there be future need, it can be addressed then.

A motion by Smith/Larson to drop the item from the agenda was approved unanimously 5-0-0.

SOB Ordinance Review

Mr. Nix stated that since the previous month review he has been working on acquiring from Mr. Francis from the village their current ordinance so as to come up with compatible language. It was suggested to contact Mr. Steve Ravizzani, Village Zoning Administrator, for the necessary information. Once completed a review report will be prepared.

A motion by Lundy/Smith to table this item until the next meeting was approved unanimously 5-0-0.

New Business

Alternative Energy Zoning

The Chair opened the discussion as to what direction we should take relative to an ordinance on this subject as it is a subject that is in the front lines of discussions and on all fronts.

Mr. Nix stated that there is State legislation that was passed recently forming a study group to study the best state locations for large wind farms. In Antrim County, Banks Township was one such location. Because Elk Rapids Township is not a prime location, it does not follow that nothing should be done, just in case some one chooses to locate here.

Discussion included energy wind mill structures and height; wind mill recognized noise, density and individual units. The energy wind mill development is on a fast moving track and we should not o commit to an ordinance until the subject becomes more firm. We should utilize the Special Exception Special Use approach which is already in the Ordinance as well as the Residential Structure Ordinance approach.

At this time there was consensus among the Members that for the time being the existing Special Exception Special Use Ordinance will address the Alternative Energy Zoning Requirements.

Wireless Telecommunications Towers and Antennas

A motion by Smith/Mischel to have the Planning Consultant review the existing Tower Ordinance for necessary updates was approved unanimously 5-0-0.

Correspondence, Public Comments, Members Comments None.

As there was no further business Chairwoman Mischel adjourned the meeting at 8:10 PM.

The next scheduled meeting will be on Tuesday July 21, 2009 at 6:30 PM in the Government Center, 315 Bridge Street.

E. S. Sabty, Secretary
6-16-2009

Minutes Approved 7-21-2009

Minutes are subject to approval at the next regular Planning Commission Meeting.

ELK RAPIDS TOWNSHIP PLANNING COMMISSION

Meeting Minutes – Tuesday July 21, 2009

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Jean Derenzy, William Larson, Jim Lundy, Emile Sabty, Shen Smith and Renee Mischel.

Absent: Dorance Amos.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant and audience of 2.

Adoption of Agenda: Agenda for 7-21-2009 meeting was adopted by consensus.

Approval of Minutes:

M/S – Smith/Lundy. Minutes for 6-16-2009 meeting, as corrected, were approved unanimously.

Public Forum: None

Old Business

Sewer & Water Joint Planning Update

Ms. Barbra Mullaly from the Village PC spoke of a joint TWP/Vlg cooperative work effort on sewer & septic systems. A forum on the subject is potentially scheduled for September 22, 2009 during the Village Planning Commission meeting. Speakers on the subject are scheduled for the forum. Once firmed, notices will go out.

The Chair apprised the Commission that as requested, she spoke with the TWP and advised them of informative talks about sewers and our roll in that, and it will not be an applied sewer discussion at all. The TWP was hesitant about the Planning Commission getting involved in 'sewers' as it is really a Township Government function.

Elk Rapids Township Community Character – Visioning

Upon the Chair request, Mr. Larry Nix, Planning Consultant, reviewed a Summary of 4-27-2009 Visioning Meeting and past result summaries of different surveys 1994-2007. The Visioning Meeting summary review included participants profiles and the most pertinent elements of the survey:

- Controlled Growth, 63.3%.
- Encourage Commercial & Industrial Growth, *along US-31.*
- Preferred Development US-31 outside Village, *more agriculture 43.5%, mixed use 30.4%.*
- Expand Water & Sewer to accommodate growth outside Village, 73.3%.
- Keep agricultural land the same, 65.2%.
- More Local agricultural products in local stores, 44.4%

In as much as the Township never advocated industrial use along US-31, it was felt that the answer to that part of the survey on encouraging commercial and industrial growth along US-31 was misleading. The survey did not differentiate between commercial and industrial use which leads us to believe that this answer may have resulted from past Village related surveys in which emphasis was put on additional industrial space in the Village. This emphasis may have carried and influenced the thinking of the same Village participants in the current visioning survey. With minimal differentiation between commercial and industrial growth those same participants may have carried forward the thought that the only available land for industrial development is on US-31.

Mr. Nix continued with the summary review of the five past studies conducted 1994-2007 that would influence the community character:

- Elk Rapids Community Attitude Survey – 1994.
- US-31 Corridor Study – 1995.
- Antrim County Visioning Session - 2003.
- Elk Rapids Township Master Plan – 2006.
- Elk Rapids Area Community Character Council Report – 2007.

There is a commonality between the different studies that can be utilized, such as:

- People and the residential use is a major asset.
- The natural beauty is another primary asset.
- Mixed uses south of the Village are a common theme that can be looked at from different approaches.
- Maintaining the current character and how to do that, maintaining a fine balance of encouraging growth development, commercial, manufacturing, job opportunities but maintain our world character.

We would look at the Zoning Ordinance rules and regulations and find if they reflect those kinds of ideas. If it does not capture those ideas that are part of our community character which we find important to us, we do not have to respond immediately to rectify them. If the discussed summary makes sense, then we move to identify areas in the Zoning Ordinance that we need to gradually start working on so that our rules are ready to respond to different developments that come our way.

Ms. Smith stated that with the current economy and the near future outlook, mixed use would be important to identify and address. People wanting to earn to maintain their living and pay their expenses can utilize it in a hurry and not have to go through a slow process. By clarifying it, people will be encouraged to venture within that use. Whatever we do, mixed use should maintain the character of our area heritage.

Ms. Derenzy reiterated the need for the inclusion of mixed use in the Zoning Ordinance to be utilized as needed, which is lacking now. Another area lacking, and need inclusion in the Zoning Ordinance is the "Saving Agricultural Land"; this was a high positive response item in the Visioning meeting summary.

Mr. Harrett stated that the Zoning Ordinance includes an extensive chapter on Site Plan Review; but is short on 'architectural specifications and standards' which reflects our community character, that a developer can use.

Chairwoman Mischel stated that some parts of the Zoning Ordinance are done right, others can be improved on. She looks for a more detailed list of what we are doing correctly vs. those we are not, or need improvement. So far three items were identified, but there might be others to be identified and worked on.

Briefly stated, Mr. Nix said that the acceptance of the parameters that make a community character, and the various elements involved, and wanting to see the rules updated to include those ideas and visions is a primary requirement before a Zoning Ordinance and Master Plan list of pros and cons and what is needed to be done is developed. Without that, there would be no need to embark on such an extensive process.

Chairwoman Mischel spoke of what Mr. Nix could prepare for the next meeting. The summary statement reviewed earlier covered different surveys and studies. Considering our discussion, were the important thoughts that should be included resolved, and are we firm about those thoughts? We can start from there.

Mr. Nix stated that his next step would be to take what has been discussed and put together a one page summary showing what the primary elements are of a would be character vision of Elk Rapids Township. After that, he would look at the Zoning Ordinance and the Master Plan to create a review list for making changes that would hopefully update the documents to a desired order.

Mr. Harrett spoke about the visioning study saying that, in general he doesn't think Elk Rapids is ever going to see a huge size retail store. We are a bedroom community, and we are an agriculturally law abiding community. We don't have a huge factory type business; we are not on any cross roads or any major highways intersection. If we are to do anything, we should focus more on the small single owner type of development. I don't fear that we are going to be faced with the huge type retail store in this community; we

are too small to support that. Local support would be practically nonexistent for at least 6 months of the year. Let us not waste our effort writing developmental type language and creating major restrictions on such developments, I don't see it happening in this community. It is small businesses and industries that should be encouraged. Our time and effort should be focused and concentrated in that direction because they are the ones that seek communities like ours to locate at.

SOB Ordinance Planning Consultant Review

Mr. Nix stated that the Village had adopted an SOB Ordinance with a Licensing Ordinance. The intent is to coordinate our Ordinance with theirs on this subject. Other studies will be considered for best results and affirmative findings. Mr. Francis of the Village who is well versed on this process has volunteered to speak to us, hopefully at the next meeting. I'll also have items for review at that time.

Wireless Telecommunications Towers and Antennas

Mr. Nix stated that upon review of the Ordinance Chapter 15, basically it is good, with a few things to look at. The ordinance improperly uses special use permits, which as a rule we do not use, we call them special exceptions. A few modifications have to be made to make it work, which would not take long, but would bring it up to date.

M/S – Smith/Mischel. I make a motion to authorize the Planning Consultant to put together for review the required changes and corrections to update the Ordinance Chapter 15 for the next meeting. **Yes 6-0-0.**

New Business None.

Correspondence

Chairwoman Mischel informed the Commission of two meetings taking place in surrounding areas and invited any one interested to attend.

Mr. Sabty read a letter received from Ms. Lesley Lee of Pine Hollow thanking the Planning Commission for the time they spent working on the Pine Hollow project.

Public Comment None.

Members Comments

Mr. Sabty apprised the Commission of the Sign Lighting Standards Ordinance Amendment which was approved by the County on 7-7-2009. The Township Board will review it for approval on 8-11-2009.

As there was no further business Chairwoman Mischel adjourned the meeting at 8:10 PM.

The next scheduled meeting will be on Tuesday August 18, 2009 at 6:30 PM in the Government Center, 315 Bridge Street.

E. S. Sabty, Secretary
7-21-2009

Minutes Approved 8-18-2009

Minutes are subject to approval at the next regular Planning Commission Meeting.

**ELK RAPIDS TOWNSHIP
PLANNING COMMISSION**

Meeting Minutes – Tuesday August 18, 2009

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, William Larson, Jim Lundy, Emile Sabty and Renee Mischel.

Absent: Jean Derenzy and Shen Smith

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant and audience of 2.

Adoption of Agenda: Agenda for 8-18-2009 meeting was adopted by consensus.

Approval of Minutes:

M/S – Lundy/Amos. Minutes for 7-21-2009 meeting were approved unanimously.

Public Forum: None

Old Business

The Chair asked Mr. Nix, Planning Consultant, to review the tabled items that are in process of discussion. Earlier in the day, Mr. Nix had e-mailed and hand distributed a set of seven extensive memos and Village Ordinance documents for review. During this meeting the subjects will be reviewed in brief and after members had the time to study them; will be discussed further at the next meeting(s).

Outline Of Procedure -- A memo summarizing the handout content and the general approach to the suggestions and ideas in review.

Implementing the Master Plan into Our Zoning Ordinance: -- A memo of combined summary of the various visions studies 1994-2009 and the Vision Statement. It further included different subjects appearing in the Master Plan that need to be addressed in the Zoning Ordinance. The evaluation listing would be reviewed by the PC with a Yes/No to each item as to whether it should be addressed.

The present members reviewed and evaluated each item; Mr. Nix tabulated the summary review showing the general consensus of the group. This gives a direction on the items in the Master Plan that potentially should get into the Zoning Ordinance.

Zon Ord Chapter 15, Wireless Telecommunication Towers And Antennas – A memo summarizing the eight observations that need attention in this chapter as well as the actual affected text of the Ordinance showing how it is to be implemented. The eight items were individually reviewed with an explanation of the changes made. The existing text and the revised text were also presented.

Upon discussion two items were agreed to. Revise item #8 equipment cabinet size to be at least 10'x10'. Also it was recommended to encourage pursuing "monopole towers" rather than the existing "guided towers". The current existing guided tower becomes a legal nonconforming tower.

Write up modifications will be prepared for the next meeting and will be coordinated with the Township attorney.

SOB Ordinance: -- The cover memo outlined suggestions to be followed in making a review on this subject. The second memo provided a general review of various research material, studies and typical Ordinance provisions on the subject. The hand out also included a copy of the adopted Elk Rapids Village SOB Ordinance and the Licensing Procedure. It was emphasized that the Village and Township should be very similar in how they treat this subject. Mr. S. Francis from the Village will attend our next meeting and share his knowledge on the

subject with us. A copy of various research materials used as references had been collected on this subject and will be made available for Township review as desired (7-8 in thick). Work on this Ordinance will involve the PC and the Zoning Administrator to identify locations and other aspects that are needed in such a review.

Zoning Ordinance Audit: -- A key to having an efficient Ordinance is to run an Ordinance Audit, something that has not been done in the past, it will cut down on the constant reworking of individual topics, which in many instances have a chain reaction change effect. It will be an inventory of what is to be worked on to bring the Ordinance up to modern standards; it gives you a general picture view. The PC makes the choice.

Discussion brought up that there is nothing in the past Minutes that refer to an Audit that all amendments which took place were on individual items as they came along. That any audit should dwell on what we don't have at present rather on what we already have. There is no perfect Ordinance that would cover every single potential situation. There are ways to structure an Ordinance so that when a situation comes up, it brings it to the attention of the Township that something should be done about it rather than facing a blank situation.

It is felt that the Ordinance as written is not a problem unless a specific problem comes up. It gives adequate protection unless something unforeseen does come up. Our worry should be about what is not in there.

Mr. Amos inquired about the cost of an Ordinance Audit. The work to be done by Williams & Works would cost \$1,500. He further suggested that work done on the Wireless and SOB Ordinances should be reviewed by attorney.

New Business

Mr. Harrett, Zoning Administrator received an inquiry as to what zoning requirements does the Township have relative "Class 1 Injection Wells." The response was that this being a sort of commercial work it will be located in a Commercial Zone and will require a Special Exception that entails a review. Any further communication would be brought to the attention of the PC.

Correspondence None

Public Comment None.

Members Comments

Mr. Sabty stated that the Lighting Ordinance 2009-02 was approved by the Township Board on 8-11-2009 and will become effective seven days after publication.

As there was no further business Chairwoman Mischel adjourned the meeting at 8:05 PM.

The next scheduled meeting will be on Tuesday September 15, 2009 at 6:30 PM in the Government Center, 315 Bridge Street.

E. S. Sabty, Secretary
8-18-2009

Minutes Approved 9-15-2009

Minutes are subject to approval at the next regular Planning Commission Meeting.

**ELK RAPIDS TOWNSHIP
PLANNING COMMISSION**

Meeting Minutes – Tuesday September 15, 2009

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, William Larson, Jim Lundy, Emile Sabty, Shen Smith and Renee Mischel.

Absent: Jean Derenzy.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant and audience of 2.

Adoption of Agenda: Agenda for 9-15-2009 meeting was adjusted and adopted by consensus.

Elections of Officers: Ms. C. Boals, TWP Clerk presided to elect the Chairman after which the elected Chairman continued the election of officers for the coming year. All officers were approved unanimously.

Chairman – Renee Mischel
Vice Chairman – Shen Smith
Secretary: Emile Sabty

Approval of Minutes:

M/S – Amos/Lundy. Minutes for 8-18-2009 meeting were approved unanimously.

Public Forum: None

Old Business

Sexually Oriented Business (SOB) Ordinance Review

Professor Steve Francis, Elk Rapids Village Council Member/Planning Commission who had done extensive research in developing the Village SOB Ordinance, was invited by Mr. Nix, Planning Consultant to participate in the review. Mr. Nix reviewed the outline and emphasized that an SOB Ordinance is one of the most complicated ordinances to update. Legally the law states that SOB is not an unlawful use, and rules can be developed by local entities as long as they do not infringe on the constitutional rights involved in running such a business. Various types of SOB are all considered uses and would fall under such developed regulations. At the same time, current court decisions and regulations in use should be considered in order that a developed ordinance does not fall outside of the tried and accepted rules in use. Because the Township and the Village are physically and closely associated, and the Village developed their SOB Ordinance after extensive effort; it was felt that the Township can benefit from that experience and would develop their Ordinance parallel and compatible to that of the Village.

Prof. Francis spoke about the Village SOB Ordinance of 2009 being a new Ordinance replacing the original Ordinance of 1995 which was never updated. Because of the constant changes in law, those in SOB constantly challenge existing ordinances that are not updated to circumvent them, which make it important to update the ordinance on regular basis. He stated that SOB has its roots in the first amendment, freedom of speech, which does not lend itself to exclusion as would be for other type businesses. On the other hand, there are secondary effects brought on by SOB that carries substantial risks for a community. The Courts in dealing with SOB gave communities a road map to follow very carefully. The end result would be a long ordinance because it takes into consideration all the details of various aspects that the courts allowed. To do it outside the road map would become a basis for challenge. In a road map the steps involved would be:

1. Throughout the process there should be clear intent that one is not trying to eliminate SOB.
2. Acknowledging that SOB has to be here in a designated place, then establish what the problems of having them here might be. This knowledge is gained from reviewing various nationally assembled case studies that give insight into the problems and would give guidance when developing an ordinance.

3. One should consider the nature of the community (The Township) and how it relates to the courts three prong approach when developing an ordinance that will be allowed by the courts.
 - a. Using the Township powers to enforce reasonable restrictions on speech. They can't control speech, but can say that, 'here is where you can do it, here is when you can do it, and here is how you can do it', which is constitutional.
 - b. They can have licensing requirements, because SOB has a high risk of undesired behavior. Objectively it would be said that we will give you a license unless there is a reason not to. It should all be done in a short and reasonable time frame allowing for due process.
 - c. Many problems in SOB have to do with what goes on inside of them. There can be regulations about what the inside of these businesses is to be like, such as open viewing rooms, managers on site, comingling etc.

It is important to have periodical review of the SOB ordinance, just to make sure that it stays current with the most recent court law.

During the discussion Prof. Francis and Mr. Nix responded to the questions asked.

A question was asked about the Village Public Hearing input. Prof. Francis responded that there was no input at the public hearing itself. However, initially there was hesitation from businesses and PC members as to why we even need such an Ordinance. Later as the process progressed and all the elements were put forward, the thinking changed and there was general consensus that, yes we do need the ordinance.

A question was raised about the relationship of case studies from big cities to our very small community. Mr. Nix responded that the courts have found that the size of a community, large cities vs. small townships, is not a major issue; the secondary effect of these uses was found to be very similar on both. Reviewing the court cases on hand would give an insight to the review process. It was determined that throughout the Country various crimes around SOB are much higher than in other areas. This would lead to separating these uses when applying them to the Township. Another aspect to consider would be the effect on property values being decreased. The Township could reasonably permit this type of use so it minimizes the impact in the community. A map needs to be established that would indicate where such a use can be located. All those findings would be kept on file to be used if needed and to become a basis for future ordinance update

A question was asked about the distance allowed for SOB from certain types of community establishments. In answer it was stated that the courts have used the 1000-ft limit to be utilized; but when establishing such a limit the court would look at what is found to be tolerable and is it a functional number. When the 1000-ft limit is used, would it eliminate any potential location within the community. The key is to have a location within the community where this can occur.

A point was made that the Township should be notified and be aware of any change in ownership at any time. The Village Ordinance as written requires a yearly license issued to one party to operate and needs to be identified yearly. It was suggested that between years, if there is change in ownership, they must disclose the ownership to the Township such as was developed in the Group Retreat Ordinance (Sec 7.06-J).

Mr. Nix reviewed the Village SOB Ordinance. It consisted of two parts, an SOB Zoning Ordinance and a General Law Ordinance on Licensing (copies on file). He went over the various parts of the Zoning Ordinance, the relationships between them and why the need for adopting such an ordinance. The Definitions part pertained to specific SOB definitions. Under permits required the Township would use the Special Exception approach. PC review, hearings and issuing a permit or not. How measurements are made and are they reasonable and possible. Zoning regulations used for operating different types of SOB. Regulatory aspect affecting the operation of an SOB, one must have a license, and to get a license one must have a special exception approved; it's a two prong approach, one cannot operate using only one without having the other. The ordinance would include details as to what can go on and what cannot go on in that business. An SOB cannot have material visible from outside the establishment. Signage requirements, age limits, hours of operation, and notices process. Another important part pertains to violations, whether they are considered 'municipal civil infractions' vs. the other Zoning Ordinance violations being 'misdemeanor'.

Using the Village SOB Zoning Ordinance is a good basis for updating the Township SOB Ordinance. Should the PC so approve, an ordinance can be developed on that basis using the zoning elements of a special exception.

M/S – Mischel/Smith. Move to have the Planning Consultant revise and revamp the Village SOB Zoning Ordinance for Township use format. **Approved 6-0-0.**

The Licensing Ordinance was reviewed by Mr. Nix starting with the section on definitions pertaining to SOB. Reviewing the licensing section indicated that the SOB license is issued by the Township Clerk. Also all personnel and workers within the SOB have to obtain a license to work there. A license had to be issued or denied within a specified period of time (20 days) of filing. It carries its own fee schedule independent of the Township normal fee schedule. The Ordinance would include many operational procedures, facility content and appearance, as well as behavioral requirements that affect licensing. It also would include a section on penalties and certain Township responsibilities when dealing with SOB.

General discussion dealt with explaining certain parts of the Licensing Ordinance criteria. How an adult motel differs from a normal motel, use of the term 'knowingly' in conjunction with infractions and the need for a licensing requirement of all employees and workers.

M/S – Lundy/Larson. Moved to authorize the Planning Consultant prepare a Township SOB Licensing Ordinance for review, using the Village SOB Licensing Ordinance as basis. **Approved 5-0-0**

Mr. Nix will use a write up format, supplied by Prof. Francis, of the Court Case Study Folder to select two full case write ups for review, and summaries of the balance of the cases for use by the PC members. The master folder will be kept at the Zoning Administrator Office for review as needed.

The Chair tabled the SOB Ordinance discussion until the next meeting.

Sign Lighting Amendment – Update: The Township Board reapproved the amendment and is due to be noticed on 9-17-2009 after which it will become effective on 9-24-2009.

Zon Ord Chapter 15, Wireless Telecommunication Towers and Antennas – Update: As was requested, the completed text was forwarded to the Township Attorney for review and report when ready.

Elk Rapids Township Community Character – Visioning: The Chair tabled this item until the next meeting.

New Business, Correspondence, Public Comment, Members Comments - None

As there was no further business Chairwoman Mischel adjourned the meeting at 8:40 PM.

The next scheduled meeting will be on Tuesday October 20, 2009 at 6:30 PM in the Government Center, 315 Bridge Street.

E. S. Sabty, Secretary
9-15-2009

Minutes Approved 10-20-2009

Minutes are subject to approval at the next regular Planning Commission Meeting.

**ELK RAPIDS TOWNSHIP
PLANNING COMMISSION**

Meeting Minutes – Tuesday October 20, 2009

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, William Larson, Jim Lundy, Emile Sabty and Renee Mischel.

Absent: Shen Smith

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant and audience of 2.

Adoption of Agenda: Agenda for 10-20-2009 meeting was adopted by consensus.

Approval of Minutes:

M/S – Lundy/Amos. Minutes for 9-15-2009 meeting were approved unanimously.

Public Forum: None

Old Business

SOB Ordinance – Review Mailed Draft

Mr. Nix, Planning Consultant, started reviewing the SOB Land Use Case Studies on hand, concentrating on the Ellicottville, NY, and New Hanover CO., NC, which parallel the Elk Rapids Township Community. Following a 1997 study, Ellicottville, concluded that the esthetics and economic values of their community are interrelated, and SOB would have adverse effects on their community; leading them to develop an SOB Ordinance. As the PC Members review the case studies, they can determine if there is a relevant need to revise the current SOB ordinance.

Mr. Amos inquired if in Michigan there are such cases that had been tried or are similar to the situation we are contemplating. **Mr. Nix** responded that most cases in MI are in large cities, and are different than ER TWP. The case studies in review, are based on freedom of speech and expression, and are tried in a federal court rather than local court. It is appropriate to review national litigation studies rather than concentrate on MI studies. **Mr. Amos** observed that with the small size of ER Twp, locations for SOB would be very limited, which comes down to identifying an area in which SOB can be located. **Mr. Nix** stated that what is said is true, but should it happen, it is important to have regulated what can be done, and to make sure it become part of the TWP record, and also show that sample case studies were reviewed.

Chairwoman Mischel advised that it is imperative that the PC review some of the case studies and their effects, and note that in the minutes for future reference in case it is needed.

Mr. Amos stated that the Twp Board had Attorneys Varnum Riddering Schmidt & Howlett of Grand Rapids (Varnum) do all the SOB work on the existing SOB Ordinance, they usually defend this work in MI. Most probable, the TWP Board will ask Varnum to review what we are doing, then look at what they suggest; because they are the ones who would defend the Twp if needed.

Chairwoman Mischel stated that the intent of the PC review is to make sure that we are totally up to date on this subject, because it was realized that the existing SOB Ordinance is lacking.

Mr. Amos suggested using Varnum to review this ordinance and see what their advise would be, they are the ones who have been writing SOB Ordinances in MI and doing the defending; they wrote our current ordinance, see how it differs, we can then review their report and decide if we want to address this ordinance. It is my strong belief that using someone who tried such cases in MI would be more important and advantageous than looking outside the state at this point.

Prof. Francis commented that the case studies in review would somehow apply to the state of Michigan, and their outcome effect would be reasonably similar to that affecting this TWP. This review would show the court that a reasonable review of past case study has taken place in preparing an Ordinance.

Mr. Amos emphasized that regardless of what the Planning Commission does at this time; eventually the TWP Board would be going through Varnum. My suggestion is to go to them at this early stage, see what they are suggesting for MI or our TWP, and start from there before we go too far with it, specially if we have to alter it. At this time, if all what we are doing is going through the exercise of an SOB study, then that is fine; but when it comes to changing the SOB Ordinance, we at the TWP Board will go to Varnum and look for their support, such as we did the last time when we adopted an SOB Ordinance.

Chairwoman Mischel stated that the suggestion is well taken; however, it is important that we continue this exercise and establish that this Commission feels that the case studies are similar in showing us the effects of SOB on our community so that we have the ground work established properly for why we need to have an SOB Ordinance.

Prof. Francis commented that using the developed Ordinance and sending it to Varnum for review and comparison to the SOB Ordinance they have developed would be a good step to take at this stage.

Mr. Nix advised that in his conversation with Twp Attorney Derman, he was told that SOB was not his specialty and that he would defer it to others in that field. As such, there should be no problem in taking this draft to Varnum for their review and advice. He then asked the Planning Commission, if there is reasonable belief that the reviewed case studies make sense, that the impacts of SOB, if one is established in Elk Rapids Township, would have the same type of effects on the community as indicated in these case studies? After discussion, **Mr. Lundy** expressed the PC consensus saying that it is possible, that something may not happen now, but down the road, several years from now, it might. There is reasonable belief that ill effects of an SOB shown in the studies would be similar here in Elk Rapids Twp.

Chairwoman Mischel related that while reading through the case studies, it became obvious that the findings are almost the same no matter where the location was. That, anywhere a study was done, negative impact to the community was found; concluding that the PC should establish the need for continuing the work of improving our Ordinance.

Mr. Lundy observed that many of the case studies were in big cities and those situations are not going to happen here. **Chairwoman Mischel** responded that the case studies did show a net effect that the impacts on smaller towns or villages, when they happen, were greater than in a large city.

Mr. Nix advised that locating an SOB in ER Twp could happen, and the likelihood may be limited. But if it does happen, we need to be prepared properly so that we give our attorneys any tools they need through our minutes, our actions, and what we have in our files, so it becomes a straight shot for them and they can defend us and minimize the pain and suffering of the cost incurred by this Twp in defending our position.

Mr. Amos asked where the current location of the designated SOB area in the Twp is, and if it was changing. It was pointed out that the location remains the same, south of the Water Tower, and the measuring distance used will be 750-ft rather than the 1000-ft. **Mr. Amos** then observed that with no change in location it becomes a matter of utilizing the most up to date Ordinance language.

Mr. Nix advised that with Mr. White's, Twp Supervisor, approval he can provide Varnum with a copy of the draft Ord.

The **Chair** asked for a motion on reasonable belief that SOB impacts The Twp as indicated in the case studies.

M/S – Sabty/Lundy. Move to make a motion that the Planning Commission supports the idea of reasonable belief that the impact indicated in the National Case Studies would be similar here in Elk Rapids Township if an SOB is established. **Voice Vote - Passed 6-0-0**

Discussion of the SOB Ord. followed. **Mr. Sabty** presented a list of concerns in the Ord. text draft, (copy on file), Sec 16.07-B states ... "within 500-ft of boundary of any residential zoned district or any residential structure", Sec 16.07-D mentions, "measure for SOB structure in straight line to the nearest property line". This need clarification when the 500-ft measurement is associated with residential zoned district, residential structure, property line or lot line etc. On the subject of offenses, in Sec 16.08-B. "commits a civil infraction", in Sec 100.16-A, "is deemed guilty of a misdemeanor", and "repeated operation in violation is public nuisance", then in Sec 16.09-B&C, "appearing in nude commits an offense". There is need for clarification in use of terms. It would be advantageous to take a look at the draft text and adjust it as needed for clarity. Another concern was, the SOB draft did not show what the PC approved to require a new owner of SOB to come to the Township when a change of ownership is made similar to the existing Zoning Ordinance Sec 7.06-J. **Mr. Nix** stated that he will add this list of concerns to the draft as he sends it on for Varnum review. **Chairwoman Mischel** reiterated that she look forward to seeing clear language and clear understanding of the text that will evolve.

A question on the source of the SOB 25% in store merchandise being acceptable was explained as being court originated. A question related to how fees were established was explained to be based on reasonable cost. A question related to Elk Rapids Township Code Enforcement Officer, was explained that the Zoning Administrator would enforce the Zoning Ordinance part, however with the licensing being a standalone ordinance the Twp would designate a person, and because the two ordinances are related it would be the Zoning Administrator.

Chairwoman Mischel asked for a motion to authorize Mr. Nix to obtain Mr. White's permission to send the draft and comments to Varnum for review and report.

M/S – Mischel/Amos. Move to table the SOB study, have Mr. Nix make the changes we have discussed this evening, and obtain Mr. White's permission to send the draft to Attorneys Varnum, Riddering, Schmidt & Howlett for their review and report. **Voice Vote - Passed 6-0-0**

Zon Ord Chapter 15, Wireless Telecommunication Towers And Antennas – As determined in the 8-18-2009 meeting the ordinance draft was forwarded to the Township Attorney for review and comment. **Mr. Nix** advised that the Attorney found no problem with the draft. However, as to the term Special Exception which is used in certain parts of the Ordinance while other parts use the term Special Use, the Attorney suggested modifying the term Special Exception in Sec 1.03 – DEFINITIONS to read Special Exception (Special Use). This will indicate that the uses of Special Exception (Special Use) mean the same thing. The draft was modified to reflect the suggestion.

Other items the Attorney addressed were recognizing the addition of monopole use to the Ordinance. How will the term opaque evergreen hedge be interpreted? There is no size or height limitation on a storage structure next to a tower. PC discussion of the storage structure as written took place. The PC did not see a need to make further text changes.

M/S – Amos/Derenzy. Move to amend the Zoning Ordinance Sec 1.03 – DEFINITIONS, **Special Exception** to read **Special Exception (Special Use)** as written, and to approve Chapter 15 Ordinance amendments Sections 15.04-D-1 and 15.07 as written.

Special Exception (Special Use) - A use that meets the intent and purpose of the zoning district, but which requires the review and approval of the Planning Commission in order to ensure that any adverse impacts on adjacent properties or public services and facilities that may be generated by the use can be, and are, mitigated; as prescribed in Section 19.07.

Section 15.04 – GENERAL REQUIREMENTS, sub sec D-1

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standard of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. A monopole design is preferred and the design and appearance of the support structure and all accessory buildings shall be reviewed and approved so as to minimize distraction, reduce visibility from off site, maximize aesthetic appearance including at and from ground level, and ensure compatibility with surroundings.

Section 15.07 – BUILDINGS OR OTHER EQUIPMENT STORAGE

Buildings or other equipment cabinet's accessory to an antenna or tower shall be unmanned. Buildings or other equipment cabinets shall not exceed the maximum height for accessory structures and shall be located in accordance with the minimum setback requirements for the zoning district in which it is located. Buildings or other equipment cabinets shall be screened from view from any nearby residential properties by an opaque evergreen hedge. The provisions of this subsection may be modified by the Planning Commission to encourage collocation.

Voice Vote – Passed 6-0-0

Elk Rapids Township Community Character – Visioning, in Process – Tabled to the next meeting.

New Business None

Correspondence None

Public Comment None.

Members Comments None

As there was no further business Chairwoman Mischel adjourned the meeting at 8:05 PM.

The next scheduled meeting will be on Tuesday November 17, 2009 at 6:30 PM in the Government Center, 315 Bridge Street.

E. S. Sabty, Secretary
10-20-2009

Minutes Approved 11-17-2009

Minutes are subject to approval at the next regular Planning Commission Meeting.

**ELK RAPIDS TOWNSHIP
PLANNING COMMISSION**

Meeting Minutes – Tuesday November 17, 2009

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, Emile Sabty, Shen Smith and Renee Mischel.

Absent: William Larson and Jim Lundy.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant and audience of 3.

Adoption of Agenda: Agenda for 11-17-2009 meeting was adopted by consensus.

Approval of Minutes:

M/S – Derenzy/Smith. Minutes for 10-20-2009 meeting were approved unanimously.

Public Forum: None

Public Hearing

Amendment of zoning Ordinance Chapter I, Section 1.03 – DEFINITIONS, Special Exception, and Chapter 15, WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS, Sections 15.04-D-1 and 15.07.

Chairwoman Mischel opened the Public Hearing, and with no public input, Smith/Sabty moved to close the Public Hearing. Approved 5-0-0

As there was no further discussion Chairwoman Mischel asked for approval of the amendment.

M/S – Smith/Sabty. Move to recommend the approval of the amendment to Zoning Ordinance Chapter1, Section 1.03 – DEFINITIONS, Special Exception, and Chapter 15 WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS, Sections 15.04-D-1 and 15.07 as written.

Section 1.03 – DEFINITIONS

Special Exception (Special Use) - A use that meets the intent and purpose of the zoning district, but which requires the review and approval of the Planning Commission in order to ensure that any adverse impacts on adjacent properties or public services and facilities that may be generated by the use can be, and are, mitigated; as prescribed in Section 19.07.

Section 15.04 – GENERAL REQUIREMENTS, Sub Section D-1

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standard of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. A monopole design is preferred and the design and appearance of the support structure and all accessory buildings shall be reviewed and approved so as to minimize distraction, reduce visibility from off site, maximize aesthetic appearance including at and from ground level, and ensure compatibility with surroundings.

Section 15.07 – BUILDINGS OR OTHER EQUIPMENT STORAGE

Buildings or other equipment cabinet's accessory to an antenna or tower shall be unmanned. Buildings or other equipment cabinets shall not exceed the maximum height for accessory structures and shall be located in accordance with the minimum setback requirements for the zoning district in which it is located. Buildings or other equipment

cabinets shall be screened from view from any nearby residential properties by an opaque evergreen hedge. The provisions of this subsection may be modified by the Planning Commission to encourage collocation.

Vote. Yes – Amos, Derenzy, Sabty, Smith and Mischel

Motion passed 5-0-0. Approved amendment #2009-03 will be sent to County for review and concurrence.

Old Business

SOB Ordinance Review Update

Mr. Nix, Planning Consultant advised that he had a phone discussion Varnum, suggestions were made, and the cost of review would be substantial. He spoke with Mr. White, TWP Supervisor, and is waiting for directions. He noted that some modifications may have to be done, but will wait until after he hears from Mr. White.

M/S - Mischel/Smith. Move to table the SOB discussion until after receiving direction from the Township on how to proceed. **Passed 5-0-0.**

Elk Rapids Township Community Character – Visioning

Chairwoman Mischel stated that to arrive at a plan of action to address improving the Zoning Ordinance, Mr. Nix did review the Master Plan and the Zoning Ordinance for items that need addressing; he also reviewed the old priority charts and lists for review. In his memo of Nov 17, 2009, he put together a plan of action to consider. Mr. Nix was asked to review his memo on the subject.

Mr. Nix stated that he merged the what has been done thoughts and to do lists together and arrived at the 24 items listed in the memo. Some were completed, some are being worked on, and others have not been addressed. From a planning point of view, a list of the five top items was derived, Contract Rezoning, Mixed Use, Variance Discussion, Open Space and Home Occupations.

The Zoning Enabling Act permits Contract Rezoning which is not in the Zoning Ordinance. If someone applies to build on a piece of property a certain business, we can recognize it, but can't put conditions on its rezoning. The Act allows the applicant to bring forward an offer in writing, in a proper form, stating that they will rezone this property for a commercial specific use. They would tie a site plan to it and it becomes a contract rezoning. We can't do that now because we don't have guidelines in the Zoning Ordinance that permit that. It is a powerful tool from that stand point on both parties. It helps achieve the desired rezoning request for that particular use, rather than being obligated to accept any commercial use. We look at it now as being straight rezoning, but we can't guarantee it to be that one specific use only.

Text would be drafted for the Zoning Ordinance which allows an applicant to offer a contract rezoning. The TWP Board has the ultimate decision to accept or reject the contract offer; it is not a public negotiations. Suggestions can be made by outsiders for some changes in the contract, but not in a negotiation. The public advantage in this process is that it limits the choice to that specific use contracted for and only that. Under the current commercial rezoning any business can be put there. To make a change in use they would request a contract change from the one use to another through the rezoning process. Contract rezoning would apply to any kind of rezoning.

Chairwoman Mischel asked the PC for their approval to pursue the selected items as we move forward.

M/S – Smith/Derenzy. Move to adopt the selected top items of priority to be worked on by the PC with other items to be looked at later. **Passed 5-0-0.**

New Business

Site Plan Review – Twin Bay Medical

Mr. Harrett, Zoning Administrator, gave a brief review of the request. There is an urgent need to add 2400 sq ft of warehouse type space at the back end of the existing building for additional equipment use and storage. The addition becomes an extension of the existing building. There are no changes to the previously approved site plan. He saw no problem with the addition nor any issues envisioned.

Mr. Nix reviewed his summary memo stating that this request is somewhat different from the normal process of a site plan review. The site plan approved on April 3, 2008 has not changed except for the requested addition to the west side of the building. The space is needed soon for new business. The area affected has no criteria that would require additional study. Some of the established reserved parking area will be affected, but there is ample space to handle that. Should the request be approved, he would suggest that before the applicant proceeds with the original phase, that a site plan be submitted that would show the revised reserve parking area. For key questions involving building height and illumination, he suggests that the Zoning Administrator review those before issuing a permit.

Questions were raised about the six suggested conditions in Mr. Nix memo. These were tailored to be similar to the Site Plan Review of April 2008, they are to be looked at as a reminder for review before the fact, and they are basically a repeat of the contents of the approved Site Plan Review of April 3, 2008.

Mr. Albert Werth, applicant, stated that the current economic conditions delayed completing the major expansion to the facility. Currently they have been awarded five new drug projects that created the urgent need for the addition hoping to complete it within 90 days to keep the new business. The addition request is referred to as phase one and the original request as phase two. They hope to work on phase two as soon as the economy improves. The addition height will be identical to the existing building: there will be only one light over the north side door.

Mr. Sabty suggested a two phase approach to proceeding with the request. In the first phase, the original Site Plan approved on 4-3-2008 did expire on 4-3-2009, before being put in use and less than a year ago. He proposes a motion to extend the original Site Plan for another year expiring on 4-3-2010. Prior to that time the applicant may apply for an extension on a yearly basis. That way the original Site Plan would be reactivated. In the second phase, we would consider amending the original site plan to include the addition requested.

Mr. Nix advised that using this approach will utilize the Ordinance which does allow the PC to approve a yearly extension of a site plan as long as there are no changes to the original approved site plan. In this case on hand, there is nothing in the Ordinance rules that have changed which will prohibit us from doing what is suggested. It would be acceptable to do that.

M/S – Sabty/Amos. Move that the approved Twin Bay Medical, Inc Site Plan Review of April 3, 2008 for the property located at 11590 US-31 South, Williamsburg, MI be granted a one year extension that expires on April 3, 2010.

Vote. Yes - Amos, Derenzy, Sabty, Smith, Mischel.

Passed 5-0-0.

Mr. Sabty proceeded with the second phase of the suggestion to authorize the expansion stating that, as the current general economic conditions has had a slowing effect on business expansion. As this slowdown affected the proposed expansion of the Twin Bay Medical, Inc facility as proposed in the Site Plan Review of April 3, 2008. As at this time, the applicant is requesting approval to expand the approved Site Plan to include constructing a 40'x60' basic building addition on the back side of the existing building that will also meet all the standards and conditions agreed to in the Site Plan Review of April 3, 2008, a motion is proposed to this effect.

M/S – Sabty/Amos. Move to revise the approved Site Plan Review of April 3, 2008 for Twin Bay Medical, Inc, 11590 US-31 South, Williamsburg, MI to include expanding the existing building by constructing a 40'x60' addition on the rear side of the existing building, with the condition that all the standards, requirements and conditions agreed to in the Site Plan Review of April 3, 2008 shall stay in effect and be totally applicable to said addition. Further conditions are:

- Building elevations, lighting details, and dumpster screening details for the phase 1 addition shall be submitted to the Zoning Administrator for review and approval prior to issuance of any Township permits.
- The future potential parking space plan and ultimate storm water calculations will need to be submitted for review and approval prior to the start of any phase 2 elements of the site plan and issuance of any Township building permit.

Discussion addressed the need to show the additional parking space in the back and its inclusion in the revised site plans of phase 2. The three site plan drawings on hand came into question that not all three prints show the requested addition on the prints. Mr. Nix explained that the 1st print shows what is there now plus the addition, the 2nd print shows the site plan as approved on 4-3-2008, and the 3rd print shows the comprehensive picture of all phases. There will be a new submission of plans when phase 2 takes place.

Vote – Yes. Amos, Derenzy, Sabty, Smith, Mischel.

Passed 5-0-0.

Correspondence Non received.

Public Comments Non

Members Comments Non

As there was no further business Chairwoman Mischel adjourned the meeting at 8:10 PM.

The next scheduled meeting will be on Tuesday December 15, 2009 at 6:30 PM in the Government Center, 315 Bridge Street.

E. S. Sabty, Secretary
11-17-2009

Minutes Approved 12-15-2009

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday December 15, 2009

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, William Larson, Jim Lundy, Emile Sabty, Shen Smith & Renee Mischel

Absent: Jean Derenzy

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant and audience of 1

Adoption of Agenda: Agenda for 12-15-2009 meeting was adopted by consensus.

Approval of Minutes

M/S – Smith/Amos. Minutes for 11-17-2009 meeting were approved unanimously.

Public Forum: None

Old Business

SOB Ordinance – Review Update

Mr. Nix advised that after coordination with Mr. White, TWP Supvr. he will contact Varnum for cost estimate to update the existing SOB Ord that they previously developed; then compare it to the price quoted previously to update the draft being reviewed.

Contract/Conditional Rezoning

Mr. Nix prepared a review memo and a potential Ordinance on the subject including language from the MI Enabling Act as to the parameters we have to comply with if we decide to put that in the Zoning Ordinance. A question and answer discussion followed. Some of the pertinent points that came out of the discussion were:

- The Text in the proposed amendment does include pertinent sections of the Enabling Act rather than just mentioning it in reference. This makes for a more user friendly text.
- It applies only to residential zones and does not affect the “A” zone.
- In Contract Rezoning, the time length of a rezoning change process is not affected. If the TWP accepts the rezoning they have the ability to put a time limit to accomplish what is proposed. The TWP controls that and dictates it.
- As to what happens to the rezoning if the agreement expires and one party chose not to go ahead? Then if the parties agree not to extend it, the TWP initiates the rezoning of the property to where it was before.
- Once perfected the agreement with the rezoning and completing the structure, it stays there. It only expires if it is not perfected or the property is not developed.
- If an owner sell the property and the new owner wants to change the use; Conditional Rezoning stays with the property, the use does not change. If the use is to be changed the owner will have to go back to the TWP and request permission to change the conditional rezoning to allow a change of use. The TWP can refuse that use.
- In a scenario where there is a very large project that was agreed to and the TWP commit their resources to fulfill their part of public improvement and the applicant starts on their share, then the project does not

continue; in such case there is still a contract and the zoning of the project. If the developer owner defaults and it goes to a 'tax sale', the new owner may not want to do the existing agreement; then it becomes a renegotiation. For that kind of situation the conditional rezoning might be a better mechanism. But then with all the public improvements a TWP commits to in a large project, the TWP sometimes may not want to use contract rezoning and in place use the traditional approach.

- As to the legality of contract rezoning, the Act of 2006 specified the legality of contract rezoning and made rules for that. Until 2006 contract rezoning was illegal in Michigan by court decisions and not by statute. Traditionally In a rezoning request a TWP cannot put conditions or form a contract with the applicant that they will rezone the property as long as the applicant puts in a specific use. The courts have found that to be illegal. With the 2006 amendment, if the developer offers that with the rezoning he commits to a specific use, the TWP has the prerogative to accept that or reject it, but cannot negotiate. It is a one way offer by the developer, but cannot be counter offered by the TWP. The latitude the TWP has is in the length of time they allow the applicant to perfect that agreement. They can grant that for a set period of time, and allow the applicant to develop that. If it is not done in that time frame the TWP has the ability to rescind and pull back the offer. Nowadays developers hold informal meetings with TWP authorities and see what is feasible and acceptable before coming with a formal offer and request a rezoning to develop what is offered on the rezoned property. If a conditional rezoning offer is made it still goes through a PC public hearing where it is agreed to or rejected, then on to the TWP Board where it is agreed to or rejected.
- In rezoning, conditional rezoning is contrary to anything used in the past before the Act came along. As to the background of Conditional Rezoning, it came about from the Developing Community in Lansing. They felt that sometimes they have good ideas and municipalities want to approve them, but because of the abuses permitted in a zone district, they could not perfect it. Because of that the State suffers. With the new legislation they can make an offer that is negotiable which an entity can accept or not.
- An applicant cannot offer to develop a piece of land for a use that the zoning ordinance does not contemplate. The use has to be something permitted in the zoning ordinance. Hypothetical examples were discussed and already permitted zoned uses were brought up as to how the conditional rezoning would have applied or not in such situations or would it have been an easier process to use or not use conditional rezoning. It was also brought up that the Act itself has not been challenged in courts and that a few legislative amendments to the Act were tried but none did go through yet.
- An discussed example was a Corporate Retreat that recently required a combination of a detailed ordinance amendment then a special exception permit and rezoning. An applicant wanting to put a Corp Ret on a property that they want to have it zoned R-1; the Corp Ret has to be permitted in an R-1 district. If the applicant have a Corp Ret that is only permitted as by example in the 'A' district only, or wants to rezone this to R-1 and pulling this use from the 'A' district and stick it in R-1, they can't do that. They can't make that offer because it is not a proper offer to the TWP. An applicant can't put any use as a condition in a rezoning situation.

In another example an applicant wants to rezone something commercial where they want to put a factory in that commercial area. They cannot do that. The use they are proposing with the rezoning has to be permitted in that zone district.

- Under the current rezoning system, once rezoning is approved the owner can change the use from one kind to another as long as it is permitted in that district, such as from light manufacturing to a heavy industrial. In conditional rezoning the use is set at the time the property is rezoned.

The Chair suggested that further discussion should be deferred until the next meeting, and for Mr. Nix to discuss the subject with the TWP attorney for a guiding opinion.

M/S – Amos/Lundy. Move to table the discussion to be continued at the next meeting and have the Planning Consultant discuss the subject with the TWP Attorney for an opinion. **Passed 6-0-0**

Mixed Use Development

Mr. Nix memo of 12-7-2009 outlined a different outlook to mixed use than what previously was perceived. He sought the PC members' guidance to the approach the TWP should follow. In discussion, at ER TWP, mixed use had its origin in applicable uses along the west side of US-31 South, with reference to the Master Plan. The idea was to avoid developing a commercial strip along US-31 South similar to that on the same Hwy in Traverse County. The idea was to have residential combined with commercial and light manufacturing, all in the same strip making for a mixed community, rather than only one zoned use area.

Mr. Nix stated that the current mixing at the west side of US-31 South is not the intent of his memo. Discussion brought up to stay off the east side and concentrate only on the existing area on the west side. It was felt that this does not require a major ordinance change; it is a simple process. There can be a mixture of zoning districts with applicable use on the west side, not mixed uses that have two or more different uses. On the west side of US-31 South area we have now a mixture of zoning districts together with mixed use.

There was consensus that there is no need for a Mixed Use Development process. We should not pursue it further. We would continue to operate in accordance with the present process we are now utilizing in that area when needed. That process, though not perfect, is working now and we do have control over it.

M/S – Sabty/Amos. Move to remove the Mixed Use Development item from the agenda. **Passed 6-0-0**

Open Space Development

M/S – Amos/Lundy. Move to table the Open Space Development item until the next meeting. **Passed 6-0-0**

New Business

Criteria for Variance for ZBA

Mr. Sabty explained that after all, and upon further study it was found that the current Zon Ord Ch 18 on ZBA dates back to 1979 when the first Zon Ord was adopted creating a Zoning Board later changed in 1982 to a Zoning Board of Appeals. This chapter needs to be updated to current times and procedures. Such an update would be very beneficial to the current ZBA members where most of them are recent appointees. He asked that it be reinstated to the agenda of priority list for review.

M/S – Sabty/Smith. Move that the Criteria for Variance for ZBA, Zoning Ordinance Chapter 18, be added to the Priority Review List. **Passed 6-0-0**

Correspondence: None

Public Comments: Mr. Brady asked for more detail review of conditional rezoning and the legal ramifications when it is discussed at the next meeting.

Members Comments

Mr. Sabty gave a status summary of the Towers Amendment 2009-03 that it was approved by the Township Board on 12-8-2009, will be noticed in the paper on 12-17-2009 and becomes effective on 12-24-2009.

As there was no further business Chairwoman Mischel adjourned the meeting at 8:00 PM.

The next scheduled meeting will be on Tuesday January 19, 2010 at 6:30 PM in the Government Center, 315 Bridge Street.

E. S. Sabty, Secretary
12-15-2009

Approved 1-19-2010

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday January 19, 2010

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Jean Derenzy, William Larson, Jim Lundy, Emile Sabty, Shen Smith & Renee Mischel

Absent: Dorance Amos

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience of 2.

Adoption of Agenda: Agenda for 1-19-2010 meeting was adopted by consensus.

Approval of Minutes

M/S – Smith/Lundy. Minutes for 12-15-2009 meeting were approved unanimously.

Public Forum: None

Old Business

SOB Ordinance – Review Update

Mr. Nix reported on contacts made to secure legal advice on the draft SOB Ordinance being reviewed.

- Varnum did not write the existing ordinance, back then, as an official one. It was derived from legal papers on hand and was written to satisfy their customer. For lack of SOB ordinances then, communities adopted it for their own. They can't render an opinion on our draft without researching all the way back on its details. That was expensive.
- The draft ordinance overlaying the ER Village one is comprehensive with minor changes. A Traverse City law firm of Olson, Bzdok & Howard did the legal review for ER Village. Contacting them revealed they have experience with SOB ordinances, and worked with Resort Twp in reviewing their ordinance. They are a local firm with experience in this field. The cost would involve 8-10 hours at \$130/hr.

Going through another review of basically the same ordinance was requested by a member, with PC concurrence, that this draft ordinance go through a proper legal review before official consideration. The Chair stated that we now have an alternative that ER Village used. Mr. Nix stated that with PC approval he will take the proposal to the Twp Supervisor to coordinate with the Twp Attorney and make a determination on having Olson, Bzdok & Howard do the legal review. If they think it's OK, we can proceed from there.

M/S – Smith/Lundy. Move to have Mr. Nix coordinate with the Township Supervisor to determine the appropriate legal firm to perform the SOB Ordinance review. **Passed 6-0-0**

Contract/Conditional Rezoning

Mr. Nix reported on his contacts with Twp Attorney Derman re legal advice on this subject. None of Mr. Derman's clients have this item in their ordinances. When it first came up in 2006 his clients did not express any interest in adopting it. As a result it was put aside. To give an opinion now would entail going back to basics and building up on the subject before an opinion is rendered. Mr. Nix's research on the subject showed a scattered use with pros & cons on the topic. No litigation on this topic is found in Michigan since 2006. If any, it was used sparingly and did not create any litigation to date. In the coming week the MTA will hold their convention in Grand Rapids, Mr. Derman may suggest to Mr. White, Twp Supervisor making some inquiries at the convention and see, if any, what the current status is on Contract Rezoning in Michigan.

M/S – Lundy/Sabty. Move to table this review until after input, if any, resulting from inquiries made at the MTA Convention about Contract Rezoning. **Passed 6-0-0**

Mr. Nix will coordinate making the contacts with the appropriate parties for their findings.

Open Space Development

Mr. Nix referred to the Dec 7, 2009 memo on this subject concept originating in the Master Plan with the idea of having residential developments with significant areas of open space and natural features. The memo listed a number of approaches.

Review and discussion:

- The current Zoning Enabling Act allows for an open space development on half of the land normally required for the same number of homes with the other half left for open space. It is believed that there is no change in the impact on infrastructure, nor change in the tax base, which in some situations might increase because of enhancements. The zoning standards would change for such a development.
- In 2002, when it first came up, the subject was put on the PC to do list. Townships with population less than 5000 are exempt from this statute. Elk Rapids Township, a community of approximately 1500 is far back from the requirement; so why do we need now to adopt it in Elk Rapids Twp?
- This process provides another tool in the ordinance for someone to develop a property, if legal. A developer with a unique property and want to preserve part of it, but at the same time want to get their value out of it uses this tool to preserve half the land area and still achieve the same density on the whole piece of land, same cost, preserve a segment of the environment and enhance the community. In such situations the total property has to be developable. It would not apply if part or half is wetland and the other half is upland. The existing law does not allow that.
- Mrs. Smith raised the question of how does this affect shoreline property access? If the open space is on the shore, does that allow access for all the properties owned in the back? Would this defeat funneling zoning even if this statute does not apply to funneling per se? This could be a serious problem with open space when we take into account the considerable amount of shoreline properties in Elk Rapids Twp even though the idea itself might be a positive attribute in our community if done correctly.
- Originally the open space idea was utilized in developing large tracts and leaving a certain area for group use. It could be a forested tract, or farmland, and in other situations the open space was used for common septic field etc. The idea somewhat parallels a condo arrangement use process where the open space is valuable to the homeowners living there. This idea of living in a compact situation with open space is not applicable to everyone; it is not mandated for everyone in the community. It is just a different option if found applicable that it can be used.
- There was no factual showing that Open Space would have a change on home values.
- As mentioned before Open Space was not required in Elk Rapids Twp when brought up in 2002; it is still not required, why are we considering it now? When the Twp reaches a level of a large Twp, then we can apply an Open Space Development Ordinance. It is going to be a long wait before we reach a 5000 Twp population. People move to ER Twp because of open and spacious lots. The bulk of 20 acre parcels belong to a few owners in the Twp and mostly into farming.
- The Chair stated that Open Space Development is intended to look at different tools and options to maintain our world class character and maintain our open space environment planning.

- Mr. Nix explained that an Open Space Development is one devised method of owning land and having rules and guidelines to be followed in comparison to a Condo Site. The idea of clustering can happen under a lot of different zoning techniques; the Twp Zoning Ordinance does not have good guidelines for clustering. We don't have such rules other than the ones we make as we go along. So far we have never been in that situation. We have to plan for the future; we have to anticipate what may happen.
- The Chair asked if there was a way to look at other rural Townships Open Space Development and get a feedback from them as to why they did it, how it went and would they do it again? Mr. Harrett, who briefly mentioned other Townships Open Space, was asked to make contacts with such Townships and see if he can find answers to the question.
- There seemed to be diverging discussion and thought on Open Space Development in Elk Rapids Township, with no apparent consensus in exploring the Open Space Development subject.

M/S – Mischel/Lundy. Move to table this item to the next meeting. Have Mr. Nix bring more information on the subject, and ask Mr. Harrett, Zoning Administrator, to follow up with other townships and get feedback. **Passed 6-0-0.**

ZBA Chapter 18 – Review for Update

No information was available at this time.

M/S – Derenzy/Lundy. Move to table this item to the next meeting. **Passed 6-0-0.**

New Business, PC Correspondence, Public Comments & Members Comments: None.

As there was no further business Chairwoman Mischel adjourned the meeting at 7:50 PM.

The next scheduled meeting will be on Tuesday February 16, 2010 at 6:30 PM in the Government Center, 315 Bridge Street.

E. S. Sabty, Secretary
1-19-2010

Approved 2-16-2010

Minute are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday February 16, 2010

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, William Larson, Jim Lundy, Emile Sabty, Shen Smith & Renee Mischel

Absent: None

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience of 2.

Adoption of Agenda: Agenda for 2-16-2010 meeting was adopted by consensus.

Approval of Minutes

M/S – Derenzy/Lundy. Minutes for 1-19-2010 meeting were approved unanimously.

Public Forum: None

Old Business

SOB Ordinance – Review Update

Mr. Nix reported that he is in contact with the Olson et al group regarding the SOB Ordinance review. They have sent a letter of engagement to the Township that was signed authorizing them to start the review which would involve 10-12 hours. It is hoped to have it ready for review by the PC at our next meeting.

M/S – Amos/Mischel. Move to table this item until the next scheduled meeting. **Passed 7-0-0.**

Conditional/Contract Rezoning – Review Update

Mr. Nix, reported on his contact review with the Twp. A question was raised whether we really need to do this now? Is it something that is mandated during this economy and the current state we are in now that we have to do it? To that Mr. Nix responded that, “No it is not.” He pointed that the intent is to set this Ordinance as a tool to be used in the future if needed. It was concluded that if so, then why not the PC consider taking a pass on it at this time as this is not the right time for it. There was consensus by the PC that the concerns are reasonable and it can be considered at a later time if needed.

M/S – Sabty/Lundy. Move to table the Conditional/Contract Rezoning review from current consideration by the PC until future time, when this subject might be more appropriate to discuss. **Passed 7-0-0.**

Open Space Development – Review

Mr. Harrete reported on his findings on the subject with neighboring Townships. An example site plan in East Bay Twp was distributed showing the formed lots and the open space within a designated agricultural acreage area used for farming. Elmwood Twp had two unsuccessful experiences. Empire open space development utilized a downtown and home mix effect maintaining all their activities in the downtown area. In general Various Zoning Administrators and Planners indicated, the idea was that the Site Condo tool is almost always used in conjunction with Open Space Development for land preservation. It seems to work well for some but it does not seem to work well for others.

Mr. Nix, sited the Grand Traverse Resort as a large scale Open Space Development, with clustered condos and housing around golf courses and surrounding open space which would probably stay that way. He went on to say

the East Bay example would work well in ER Twp on a similar large plot provided the idea is something the Twp would want.

Mr. Harrett cited an area east of Elk Lake Road that might be a good fit. It would utilize the lake side of the ridge for housing while the back side of the ridge to the road stays open space. Other parcels might also meet the standards. The community might like that. While such land is in A-Zone, leave it in that zone and then offer it making ½ acre lots, and leave the rest in open space.

Chairwoman Mischel asked who owns the open space land when it is farmed. Though the land is being farmed, the development owners own it and share in paying the taxes, similar to an association concept.

Mr. Larson asked who takes care of the land if it is not farmed. Mr. Nix stated that the association can put it into a lawn, plant trees, plant it with wild flowers etc. It does not have to be a mowed play field. There would be no need for a maintenance plan for the open space; it can be just left alone to become a nature wild space.

Chairwoman Mischel said that if the open space stays as described around someone's backyard it would be acceptable as long as it does not develop later into more housing.

Mrs. Smith asked if there was a way to tie the open space to a site condo ordinance requiring that having an association would be mandatory in such a development.

Mr. Nix advised that a site condo takes a different form of development, so does a PD. Attaching open space to the existing parts of the Ordinance whether site condo or PD would not be the efficient approach, as each section have its specific rules for its specific use. When attaching open space to those ordinances, though they may sound alike, yet the inherent difference and requirements may not be compatible and may come short of the intended standards

Mrs. Smith went on to say, why not clustering without an open space ordinance? Site condo or subdivision Ordinance does not allow for clustering and must have 100'x100' lots, they don't allow for nonconforming lots. Is there a method in order to create clustering without doing open space development? I see a problem with the funneling issue and also every developer is going to have our cost of incorporation in a Master Plan for that development because it is not required. Unless it is required in our site condo Ordinance which it is for a condo development they must have a condo paper; the Twp must approve them before a development can be built.

Mr. Nix responded that we do not dictate what form of ownership condo development process takes, it is not our choice. If we want to say how the land is developed in terms of a site condo or subdivision, that requires them to have negotiations if we are going to have open space, we can certainly do that. In open space, the statutory requirements is that the applicant need to demonstrate how and what is going to happen to the dedicated open space, they have to provide documents that are filed and registered with the County Registrar of Deeds showing who is going to own it, how it is going to be maintained, and what are the rules applying to it.

Mr. Nix referred to the Master Plan which said, "Open space preservation is something we like to pursue and protect better in this community." This would be a tool that we can implement in our Zoning Ordinance that allows that to happen, it does not take away property rights, but it still allows a person to put some housing on some acres, while saving open space.

Funneling is addressed in our Zoning Ordinance and it should apply to open space. However, it was brought out that funneling as written was to have been updated 4-5 years ago but was never done. At that time neighboring Townships were working on funneling Ordinances and we opted to wait and look at what they may develop before we proceed with ours. That never materialized on our part.

Mr. Amos stated that having a site plan review on open space development is a useful tool. He could see this process working in ER Twp as we do have large tracts in our A-Zone that can accommodate housing and open space. The concerns would be for property protection if such a development is started then goes uncompleted with different infrastructures and homes in place. If done right I can see this becoming a positive thing in an A-Zone area. Maybe we can devise this only to be applicable in the A-Zone area, and not in waterfront area nor at

the R-1 and R-2 Areas, Just in the A-Zone area where the Ag areas do have the opportunity to take advantage of this idea, such as the ridge area mentioned earlier.

Chairwoman Mischel asked that in the discussion concept in zoning where the applicant brings forward the agreement, how it works differently in this concept? Mr. Nix advised that if open space was in our Zoning Ordinance then the 50% rule for developing homes and open space would apply to that property, while under the condo development or similar ordinances the developer is not obligated to preserve any open space. With this in the ordinance it gives us some control.

The Chair stated that open space would be a positive in our Zoning Ordinance. We have been working on being proactive in what we do and this seems to be that. We should be moving forward to have it in or Ordinance.

Mrs. Smith stated that in an open space ordinance she would like to see more control and rules over the open space area of the development as it belongs to all the members; there should not be a single or a small group of owners forcing a monopoly on the open space area use.

It was noted that Mr. Nix was to consider how this concept would apply to different Zoned areas.

A Motion was made to move forward to a preliminary Ordinance formatted text review on Open Space Development at Elk Rapids Township by the next scheduled meeting. **Passed 7-0-0.**

The Chair tabled this subject until the next scheduled meeting.

ZBA Chapter 18 – Develop an Update & Review

Mr. Nix explained that he is working with Mr. Sabty on revising this Ordinance Chapter. We would keep the current chapter format and text rather than a rewrite; it would be supplemented to address what is needed as brought out in the Zoning Enabling Act. When we reach a reasonable degree of completion we would review it with the ZBA for their comments as it would bring the Ordinance up to date.

The Chair stated that since this is a ZBA Ordinance, when ready, it would be better to review it first with the ZBA members then bring it for PC review.

M/S – Amos/Lundy. Move to have the developed ZBA Ordinance reviewed by the ZBA first before a PC review. **Passes 7-0-0.**

New Business

Mr. Amos spoke of the current Twp Budget. Tax collections are down from last year. Preliminary review of expenses possible savings for this year included the PC budget. Maybe we can cut back on the frequency of meetings to every other month, however, should there be a need for a public request for a meeting during the off interval we can hold a meeting then.. Potentially this would reduce the budget allocation in half. This is not a done deal, it is just preliminary advisory information to think about should the budget be reduced.

Correspondence & Public Comments: None.

Members Comments

It was brought up that the current Site Plan Review Ordinance (Ch17) is written to deal with a major development or a large commercial business entity. To go through the process is costly. At present a small store in a commercial zone wanting to add a minor expansion to the structure is forced to go through the expensive and lengthy process of a Site Plan Review. We should have an Ordinance update, if possible, to include a special section that applies to such small commercial businesses that request such minor changes.

There was consensus that such a change to the Ordinance would be beneficial and it was believed that such an addition to the Ordinance would be possible.

The Chair asked Mr. Nix to review this proposal and prepare a preliminary Ordinance update for a review at the next scheduled meeting.

As there was no further business Chairwoman Mischel adjourned the meeting at 8:35 PM.

The next scheduled meeting will be on Tuesday March 16, 2010 pending a quorum, otherwise it will take place on April 20, 2010 in the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
2-16-2010

Approved 4-20-2010

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday April 20, 2010

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Jean Derenzy, William Larson, Jim Lundy, Emile Sabty, Shen Smith & Renee Mischel

Absent: Dorance Amos

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience of 3.

Adoption of Agenda: Agenda for 4-20-2010 meeting was adopted by consensus.

Approval of Minutes

M/S – Derenzy/Lundy. Minutes for 2-16-2010 meeting were approved unanimously.

Public Forum: None

Public Hearing

M/S – Lundy/Smith. Move to open the Public Hearing. **Approved 6-0-0.**

Mr. Richard A. Rudisel, owner of Ken's Body Shop, Inc., 16172 Wanigan Drive, Elk Rapids, MI, Tax ID # 05-06-029-008-00 applying for approval of a site plan review to build a 16'x24' addition to the SE front side of the existing shop structure to be used for an office/computer room. The Site Plan and application were submitted earlier for Planning Commission review.

Mr. Nix, in a prepared memo, addressed his review findings of the site plan and application. This considered a minor change, and as indicated in the memo, three items need clarification by the applicant, building elevation, site illumination and the septic system. Approval is recommended after clarifications are made by the applicant.

- Fire and Soil Conservation letters of approval were received.
- Mr. Harrett advised that to his findings there is no indication of additional septic requirements as there is no added restroom anticipated.
- Work on the addition will be started ASAP.
- Sign – No new sign is considered. The rock mound was a sign site anticipated in the past. The only sign at present is the existing one over the shop door. A new sign in the future would go through the Zoning Administrator for application and approval per Zoning Ordinance.
- Dumpster – located at the rear of the shop with a screened fence at an angle to allow the truck to pick up the dumpster yet keep it out of sight. Any future changes would keep the dumpster screened and out of sight.
- Addition Elevation – is described as low and would not go above the existing structure,
- Site Illumination – no new outside lighting is anticipated. Only light added is over the office door and is recessed per code.

With no further discussion the Chair asked for a motion.

M/S – Smith/Lundy. Move to approve the site plan as submitted.

Approved 6-0-0.

New Business

Twin Bay Medical – Request for Site Plan Extension

Mr. Sabty advised that on November 17, 2009 Twin Bay Medical addressed a request to add 2400 sq ft to the back side of the building in addition to the originally approved site plan for the front and south side of the existing building. This was done in a two phase approval process. The first approval was to extend the original site plan for another year. The second approval was to revise the existing site plan to add a 2400 sq ft on the back end of the building without altering any changes to the original site plan. The year would have expired on April 2, 2010, but since there was no Planning Commission meeting scheduled during March 2010 the request was presented for the April 20, 2010 meeting.

M/S – Larson/Lundy. Move to approve extending the site plan for another year as submitted. **APPROVED 6-0-0.**

Budget Overview & Discussion

The Chair stated that in the absence of Mr. Amos questions concerning the approved budget would have to wait until the next meeting to be answered. A copy of the approved budget figures was distributed for members review and discussion at the next meeting. It was stated that in view of the fact that the Township budget as a whole was reduced, the Planning Commission has to determine how to save cost. Accordingly the subject was tabled until the next scheduled meeting.

Old Business

SOB Ordinance

Mr. Nix advised that Attorney J.L. Jocks of Olson Bzdok & Howard had completed the review of the suggested SOB Ordinance. He went over the memo from Attorney Jocks in which he made a few suggestions and indicated that overall the Ordinance was a good one.

During discussion a few questions were raised as to change in word usage and intent, which were answered.

Mr. Nix then reviewed the three minor changes made to the Licensing Ordinance. He emphasized that the SOB Ordinance will be an amendment that becomes part of the Zoning Ordinance while the Licensing Ordinance would become part of the Township Board Operating Ordinances after they approve it.

It was agreed to hold a Public Hearing on the SOB Ordinance during the June 15, 2010 meeting.

M/S – Smith Lundy. Move to approve the SOB Ordinance as presented for a Public Hearing on June 15, 2010.
Passed 6-0-0.

Mr. Harrett observed that Section 16.07-A of the SOB Ordinance specifies a distance of 1000-ft, and he thought that it was agreed that it should stay at 750-ft. After discussion Mr. Sabty quoted from the October 20, 2010 meeting minutes, that were approved unanimously on November 17, 2009, “and the measuring distance used will be 750-ft rather than the 1000-ft.”

Mrs. Smith asked to amend her previous motion.

M/S – Smith/Mischel. Move to amend the SOB section 17.06-A to correct the 1000-ft distance to read 750-ft.
Passed 6-0-0.

Open Space Development – Review

The Chair stated that this subject would be reviewed during the next meeting.

ZBA Chapter 18 –Update & Development

Mr. Nix advised that working with Mr. Sabty, the review is finalized and that Mr. Sabty will present the updated Chapter and the Conflict of Interest section to the Zoning Board of Appeals for concurrence.

Correspondence

Chairwoman Mischel circulated various invitational notices received from different entities.

Public Comments – None.

Members Comments

Mr. Sabty stated that while the Zoning Administrator was working on updating the Township Zoning Map. It was noticed that the past minutes did not show a change in the status of a previously zoned designation that expired without any work being initiated on the project. Accordingly the following corrective statement w suggested:

Let the record reflect the following: The property along US-31 South, known as the “Altonen Property”, Tax ID# 05-06-032-014-00 which was approved for PD designation on May 28, 1966 was reapproved for renewal yearly upon request. On May 2, 2006 the request for PD renewal included a lot split with an added owner. Per Ordinance section 13.03, as there was no further renewal requested for both parcels, the whole property PD designation reverted back to its original R-2 zoning designation on May 28, 2007.

Chairwoman Mischel advised that she will not be able to attend the next meeting.

As there was no further business Chairwoman Mischel adjourned the meeting at 8:25 PM.

The next scheduled meeting will be on Tuesday May 18, 2010 in the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
4-20-2010

Approved 5-18-2010

Minutes are subject to approval at the next regular Planning Commission Meeting.

Elk Rapids Township Planning Commission

Meeting Minutes – Tuesday May 18, 2010

Vice Chair Shen Smith called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, William Larson, Jim Lundy, Emile Sabty & Shen Smith.

Absent: Renee Mischel

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience of 2.

Adoption of Agenda: Agenda for 5-18-2010 meeting was adopted by consensus.

Approval of Minutes

M/S – Derenzy/Larson. Minutes for 4-20-2010 meeting were approved unanimously.

Public Forum: None

Old Business

Budget Overview & Discussion

Mr. Amos advised that the Township budget reductions for this year are proportioned to the expected income. In time the budget is adjusted when needed to avoid shortages. The same applied to the Zoning and Planning budget.

Mr. Sabty advised that should the PC go to alternate month meetings for the balance of 2010 the total expense would just fall under the budgeted amount for the year. Following a shorter meeting schedule would work if subjects that come up for review are presented in a final Ordinance format going in, rather than memo format that usually drags into multiple reviews and updates. A final format would cut on un-necessary discussion.

Mrs. Derenzy stated that considering the circumstances, she would advocate quarterly meetings. Another area to consider would be combining with the Village the two Planning Commissions. In a quarterly meeting setup there would be a need for more efficient presentation and discussion of subjects that require review.

Vice Chair Smith said that she sense a move towards holding quarterly meetings; then polled the Commission for consensus, after which, she asked for a motion on the subject.

M/S – Sabty/Larson. Move that the Elk rapids Township Planning Commission scheduled meetings be changed to be held on quarterly basis starting with the meeting of June 2010. **Passed 6-0-0**

Mr. Harrett asked how Special Meetings would be handled on a quarterly meeting schedule, as their cost is double a regular meeting to an applicant. There will be no change to the current procedure. An applicant not wanting to wait until the scheduled quarterly meeting can request a special meeting, which if approved, it would be held on the third Tuesday of a the non scheduled meeting month, provided that all the scheduling requirements are met and the appropriate fees are paid.

SOB Ordinance

A change to the SOB Ordinance text, previously approved, was made showing a previously missed text. The missed text was added to the chapter title and Section 16.04-A to show that SOB is only allowed in a Commercial Zone. The SOB Ordinance will be on schedule for a public hearing on June 15, 2010.

ZBA Chapter 18

On May 17, 2010, Mr. Sabty presented to the ZBA the new Chapter 18 – ZONING BOARD OF APPEALS. After detailed discussion and minor changes the new ZBA Ordinance was approved by the ZBA unanimously.

After PC discussion Vice Chair Smith asked for a motion to approve the proposed new ZBA Ordinance for a public hearing.

M/S/ - Lundy/Larson. Move to approve the new Chapter 18 – ZONING BOARD OF APPEALS and schedule it for a public hearing on June 15, 2010. **Passed 6-0-0**

Section 2.20 – Conflict of Interest

On May 17, 2010, Mr. Sabty presented the ZBA the new proposed addition to Chapter 2 – GENERAL PROVISIONS & DEFINITIONS, Section 2.20 – CONFLICT OF INTEREST. After discussion the proposed amendment was approved.

During the PC Discussion it was suggested that within the text the use of “Board” should be changed to “Zoning Board of Appeals” which would eliminate misunderstanding and would refer to the entity by its known name. It was pointed that the use of “Board” comes from the Definitions Section 1.03 which states, “**Board** – The Zoning Board of Appeals for the Township.” This definition is found in the original Zoning Ordinance of 1979. Others in the PC concurred that a change would be useful.

With no further discussion Vice Chair Smith asked for a motion to approve the proposed amendment.

M/S – Lundy/Larson. Move to approve the new Section 2.20 – CONFLICT OF INTEREST and schedule it for a public hearing on June 15, 2010. **Passed 6-0-0**

Section 1.03 – Definitions – Planning Commission

Mr. Nix advised that the existing Zoning Ordinance definition of Planning Commission does not meet the new statute. He presented a proposed amendment to change that.

With no further discussion Vice Chair Smith asked for a motion to approve the proposed amendment.

M/S – Lundy/Larson. Move to approve the proposed amended text to Section 1.03 – Definitions, **Planning Commission**, as presented, and schedule it for a public hearing on June 15, 2010. **Passed 6-0-0**

New Business

Section 17.11 – Amendments to Approved Site Plans

Mr. Nix addressed the request made by the PC to derive a short approach for processing a site plan which is considered of minor nature. This was accomplished by adding to the existing seven items in Sub Section 17.11-A; for a total of 13 items for review and consideration.

After discussion, Vice Chair Smith asked for a motion to approve the amendment to Section 17.11-A.

M/S – Lundy/Larson. Move to approve the proposed added text amendment to Sub Section 17.11-A as presented and schedule it for a public hearing on June 15, 2010. **Passed 6-0-0**

Section 2.21 – Open Space Development

Mr. Nix reviewed the finalized proposed new ordinance Section 2.21 – OPEN SPACE DEVELOPMENT. It was apparent that it was satisfactory and that it did address the major concerns specifically having it applicable to only R-3 and A Zones.

With no further discussion Vice Chair Smith asked for a motion to approve the newly formed Section 2.21.

M/S – Smith/Lundy. Move to approve the new Section 2.21 – OPEN SPACE DEVELOPMENT and schedule it for a public hearing on June 15, 2010. **Passed 6-0-0**

Correspondence – None.

Public Comments

Mr. P. Brady inquired about the requirements for holding a special meeting and would there be a public notice? The question was satisfactorily answered including the fact that traditionally in the TWP all meetings related to subjects listed at the bottom of the Meeting Schedule will be noticed in the paper. Meetings of an administrative nature do not require a public notice in a paper but would be noticed at the Township Bulletin Board.

Members Comments

Mr. Harrett brought the subject of work being done on revising the Township Zoning Map. Mr. Nix had been working on updating the map. To finalize it, showing the roads in darker lines, would still need more work. When completed it would be the property of the Township and would be used in Zoning and Planning related work. The project would cost approximately \$350-\$400. Mr. Harret requested the Planning Commission to approve the expenditure.

Vice Chair Smith requested a motion to approve expenditure for the work performed on the Township Zoning Map.

M/S – Lundy/Derenzy. Move to authorize the addition of defined roads to the Township Zoning Map and the potential cost of \$350-\$400 to complete the project. **Passed 6-0-0**

Mr. Nix indicated that he will try to have the completed work available at the next meeting in June.

As there was no further business Vice Chair Smith adjourned the meeting at 7:45 PM.

The next scheduled meeting will be on Tuesday June 15, 2010 in the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
5-18-2010

Approved 6-15-2010

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday June 15, 2010

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, William Larson, Jim Lundy, Emile Sabty, Shen Smith & Renee Mischel.

Absent: Jean Derenzy.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience of 4.

Adoption of Agenda: Agenda for 6-15-2010 meeting was adopted by consensus.

Approval of Minutes

M/S – Smith/Lundy. Minutes for 5-18-2010 meeting were approved unanimously.

Public Forum

Mr. P. Brady inquired about the requirements in a Notice of Public Hearing for publishing the detailed text to be addressed in the hearing. In answer, it was brought up that, when the volume of text to be addressed during a Public Hearing is too large, the Notice would include a note to the effect that the detailed text can be reviewed at the Township office where a copy would be on display for public review. The new Zoning Act does not require the full text to be published in the newspaper.

Public Hearing

The Chair opened the public hearing for review of the four amendments noticed:

Amendment # 2010-01

Part 1. Delete existing Chapter 16, Sexually Oriented Business – Regulations and Requirements For Operation Within A Commercial Zone in its entirety.

Part 2. Adopt New Chapter 16, Sexually Oriented Business – Regulations and Requirements For Operation Within A Commercial Zone in its entirety.

A question was asked regarding the potential location of an SOB use in the Township. The Chair responded that an SOB may only be located in the Commercial Zone adjacent to US-31. There were no other public comments.

M/S – Sabty/Lundy. Move to approve adopting Zoning Ordinance Chapter 16, Sexually Oriented Business – Regulations And Requirements For Operation Within A Commercial Zone, in its entirety as presented and send it to County for their approval. **Passed 6-0-0**

Amendment # 2010-02

Part 1. Delete existing Chapter 18, Zoning Board Of Appeals in its entirety.

Part 2. Adopt New Chapter 18, Zoning Board Of Appeals in its entirety.

No public comments were received.

M/S – Sabty/Larson. Move to approve adopting Zoning Ordinance Chapter 18, Zoning Board Of Appeals, in its entirety as presented and send it to County for their approval. **Passed 6-0-0**

Amendment # 2010-03

Add new sections to the Elk Rapids Township Zoning Ordinance as described below:

Part 1. Amend Chapter 2, General Provisions, adding new Section 2.20 – Conflict of Interest.

Part 2. Amend Chapter 2, General Provisions, adding new Section 2.21 – Open Space Development.

Part 3. Amend the TABLE OF CONTENTS to add new Sections 2.20 & 2.21 as titled.

A question was raised regarding the publication of the proposed amendments with the Chair responding that the Michigan Zoning Act does not require the publication of a proposed zoning ordinance change, only a general description and the location and time when the entire amendment is available for review. Another question was in regard to the type of dedication required for the open space in an open space development. It was pointed out the draft ordinance required a conservation easement, plat dedication, restrictive covenants, or other legal instrument that would run with the land. There were no other public comments.

M/S – Amos/Lundy. Move to adopt Zoning Ordinance Chapter 2, General Provisions new Sections 2.20 – Conflict of Interest, and 2.21 – Open Space Development as presented; and revise the Table of Contents to add new Sections 2.20 and 2.21 as titled and send to County for their approval.

Passed 6-0-0

Amendment # 2010-04

Part 1. Amend Chapter 1, Title, Purpose & Definitions, Section 1.03 Definitions, “Planning Commission.”

Part 2. Amend Chapter 17, Site Plan Review, Section 17.11 “Amendments To Approved Site Plans,” Sub Section “A”, adding text to allow for considering minor Site Plan changes.

A question was asked if the zoning ordinance contained a ‘dark sky’ provision and the Chair responded YES. There were no other public comments.

M/S – Lundy/Amos. Move to approve revising the Zoning Ordinance Chapter 1, Title, Purpose & Definitions, Section 1.03 – Definitions, **Planning Commission**, and Chapter 17, Site Plan Review Section 17.11 – Amendments to Approved Site Plans, Sub Section “A”, adding new text to allow for considering minor Site Plan changes, and send it to County for their approval.

Passed 6-0-0

A motion made by Mischel/Smith to close the Public Hearing was **Passed 6-0-0**.

Old Business: None.

New Business

Township Zoning Map

Mr. Nix reviewed his memo of June 4, 2010 on updating the Township Zoning Map. The revised map included minor updates to the current Township Zoning boundaries and included naming public and private streets. After discussion additional minor adjustments were proposed and accepted for inclusion in the final copy to be scheduled for adoption at a Public Hearing during the next scheduled meeting.

M/S – Sabty/Amos. Move to approve the Elk Rapids Township Zoning Map as revised, and schedule it for a Public Hearing at the next scheduled PC meeting.

Passed 6-0-0

The Chair opened for discussion Mr. Nix's memo of June 10, 2010 titled "Things To Do Review" and the five (5) items listed with the potential of becoming future Agenda review subjects. Each of the items listed were discussed individually with final disposition as follows:

1. Fee Schedule update, escrow provision – Motion by Smith/Amos to delete the Fee Schedule part but retain the escrow provision for future needs was **Passed 6-0-0**.
2. Home occupation/home business zoning regulations to maintain the rural residential character - Motion by Smith/Mischel to keep for future review was **Passed 6-0-0**.
3. Subdivision and condo ordinance – As the two items require separate ordinances it was concluded to address each one independently.
 - Subdivision Development ordinance – Motion by Smith/Sabty to keep for future review was **Passed 6-0-0**.
 - Condo Development ordinance – Motion by Smith/Sabty to keep for future review **Passed 6-0-0**.
4. Mobile homes outside mobile home parks – Motion by Mischel/Lundy to Table **Passed 6-0-0**.
5. Wind power standards – Motion by Mischel/Larson to keep for future review was **Passed 6-0-0**.

Discussion ensued as to which of the items should be reviewed next.

M/S – Sabty/Lundy. Move that the order of items for review is to be the Subdivision Development Ordinance followed by the Condo Development Ordinance. **Passed 6-0-0**.

Correspondence

Mr. Harrett brought to the attention of the PC that he received an e-mail from the owner of the lot at 10424 Lakeshore Drive concerning a previous request for a lot split. After discussion it was concluded that the previous request to the Township which was forwarded to the PC for review was completed and a letter from the Township Supervisor to the owner was sent out then. Any further communications should go to the Township Board.

Public Comments

Ms. B. Mullaly brought up the subject of Septic System review and study by the surrounding areas and the involvement of the PC in it. The Township Board is involved in this subject and they would arrive at any conclusions in time.

Members Comments: None

As there was no further business Chairwoman Mischel adjourned the meeting at 8:10 PM.

The next scheduled meeting will be on Tuesday September 21, 2010 in the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
6-15-2010

Approved 9-21-2010

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday September 21, 2010

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Jean Derenzy, William Larson, Emile Sabty, Shen Smith and Renee Mischel.

Absent: Dorance Amos and Jim Lundy.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience of 4.

Election of Officers:

Smith/Derenzy moved to reappoint Emile Sabty as Secretary. **Passed 5-0-0.**

Sabty/Larson moved for to reappoint Renee Mischel for Chairwoman and Shen Smith for Vice Chairwoman. **Passed 5-0-0.**

Adoption of Agenda: Agenda for 9-21-2010 meeting was adopted by consensus.

Approval of Minutes: M/S – Smith/Larson. Minutes for 6-15-2010 meeting were approved unanimously.

Public Forum

Mr. Mark Helveston from the Village of Elk Rapids Planning Commission stated that they are starting the process of revising their Master Plan, and asked if the Township PC would want to consider a joint effort work process for arriving at compatibility between the two. Mr. Sabty stated that to his knowledge the Village Zoning Administrator was to communicate with the Township on this subject, after which it will find its way to the appropriate party. Ms Mischel stated that the TWP Master Plan became effective in April 2007 and is not due for revision until 2012.

Public Hearing

The Chair opened the Public Hearing for review of adopting the updated TWP Zoning Map.

Mr. Nix advised that the map is basically the same with three minor zoning adjustments. Emphasized on the map are the TWP boundary, property line information, public and private streets and zoning districts.

With no further public input, Mischel/Smith moved to close the Public Hearing. **Passed 5-0-0.**

A question was asked why the County would have to act on the Map approval process. Mr. Nix responded that re-adopting the Map follows a Zoning Amendment procedure requiring County Planning Commission involvement.

M/S – Derenzy/Smith. Move to approve the revised September 2010 Township Zoning Map as presented and forward it for processing as necessary. **Passed 5-0-0.**

Old Business

10424 Lakeshore Road – Lot Division

Chairwoman Mischel stated that Mr. Richard Hults, owner, wish to split his lot into two (2) lots so he can utilize both lots for his family. Earlier, upon request from TWP, on 4-21-2009 PC did a preliminary review and a summary letter was sent to the applicant requesting further information. The applicant after supplying further documents, asked for PC input information regarding his proposal.

Mr. Harrett summarized that after last year submission, and because of the accessibility issues associated with a split, PC was asked to review it. Juniper Hills Subdivision consists of five lots, this being lot #3. It is a long lot approx 655'x104', or 68,000 sq ft. The split would consist of two R1 lots well above the 20,000 sq ft minimum. The five lots of Juniper Hills Subdivision currently utilize a 12' paved non-designated access trail extending from Lake Shore Road through the middle of their lots. The issue that need resolving is what constitutes access, what

documentation is needed, and what standards should be followed for access requirements. The owner is here to find out about the issues and what is needed to proceed with the split.

Mr. Nix explained that the TWP need to look at the issues arising from this lot split. In making the division the existing and the new lots have to comply with the zoning dimensional requirements. All lots need to have frontage on a designated public road or a permitted private road. Current access is from Lake Shore Road extension, but that is not a dedicated road. That access came about on a “hand shake” agreement among the neighbors, and that is a problem. The legal access to the subdivision lots is from S. Bayshore Drive (Old 31); that access area has never been defined or brought up to date, because for a long time there has never been a reason to do that. When a lot split comes up, it triggers the compliance with the rules and regulations. If there was a request for a private road for access, it would not be problem, but that is not the case.

Mr. Sabty stated that in discussing this subject with the TWP Supervisor, he understood that the current access from Lake Shore Road is a “hand shake road”. Checking further this so called hand shake road is the legal mailing address recognized by the US Post Office and by the Tax and Voting records. The three deeds copies submitted recognize an easement to the lot from S Bayshore Dr. The Certificate of Survey submitted on April 2009 describes the “New Drive-Way Easement” at the north side of the lot. The access easement was recorded in 1955 which should give it a Grandfather privilege. In doing a split the two lots would be sharing the same driveway. The two lots would have ample space for a common recorded driveway serving the two lots without creating a public road or private road. Further looking at Lot #1 in that Subdivision, it was split earlier by the Township, setting a precedent. The applicant supplied all the necessary documents, with a practical driveway easement that can be used to access both split lots, not a road. Just look at the history, there is an element of grandfathering privilege, with an added precedent used in dividing lot #1, justifying a driveway access. Why then is a road requirement with all its entanglements being advanced?

The discussion took on a general information format to find details about the property and what can be done to accommodate the applicant.

- Mr. Hults distributed maps and pictures of the property showing lines and areas of access.
- Ms. Smith asked who actually owns the vacated property known as S Bayshore (Old 31); is it the Township or a neighbor? Also, why not have an easement to Lake Shore Road that all can use? Or an easement to Old 31 on the east side?
- The Chair indicated that we may still need additional information. Mr. Nix, Harret & White could review the information on hand and advise us where the easement comes out & the accessibility as it applies to this property.
- Mr. Sabty asked why we need more study, when the documents submitted and past precedent, provide us with the detail about the easement and its location. If anything, you may want to find out if when the Juniper Hills Subdivision was created with its five lots, long before the Roads Ordinance was written, what constituted acceptable access, how was it established in place, and does it establish a grandfathered privilege in that subdivision?
- The Chair stated that, still we need to make sure of what we are looking at, since we are having two different views of information presented.
- Mr. Tom Dame (audience) stated that he would not agree to a road through his property, and that enough documents are submitted and an established access is in place.
- Mr. Hults stated that he has an easement on record in the deeds whether it is used or not, it is there. He offered to have another survey done of all the property lines and easements etc on the property.
- Mr. Harrett stated that the easement comes in to the vacated Old 31. We should take Mr. Hults’ offer for a survey. Further, the primary issue requirement appears in Ord Sec 2.18 & 2.19. Is it possible that if everybody in the neighborhood is comfortable with, (a) what is there now? And (b) what is being proposed? Could then the ZBA grant a variance regarding the road standard in the Zoning Ordinance?
- Ms Smith stated that we should stay with the Ordinance stated requirements for a solution.
- The Chair asked Mr. Nix as to what he would recommend? He has not reviewed the documents thoroughly, as well as the survey document. However the subdivision now has frontage on Old 31 and it is the legal access. The existing access being utilized is an extension of Lake Shore Road, which is not a legal access. How lot #1 split was made is not available to us here, it could have been based on the ordinance or not. Our concern is to decide on lot #3. It has a legal frontage on Old 31, but when split, the

legal frontage on the west side creates the issue of what is the legal access point which the applicant has to answer. Where is that access? Lake Shore Road current extension is not a legal road. Can make extension from S Bayshore and make a private road with its required width and setback; but that would reduce the minimum lot width drastically, even on a long but narrow lot with ample sq ft. The concern is with access to create a legal lot. We can advise the applicant of the options in a message that also goes to the TWP, advising him of the requirements to create a legal lot that complies with the ordinance. This makes the final decision for the TWP Board and their attorney to make. In reality, because of physical logistics, the options we reviewed are not necessarily practical. To have the applicant do more research, it may not resolve the problem.

- Ms. Smith stated that there is no opposition to what the applicant wants to do; it is just that we don't know how to do it in adherence with the ordinance requirements.
- The Chair asked Mr. Nix to compose a letter to the TWP Board advising them that we have reviewed the legal egress options with Mr. Hults and what our conclusions on this matter are. This was put into a motion by Mischel/Smith which **passed 3-2-0**. (Yes -Derenzy, Smith & Mischel. No – Larson & Sabty).
- Mr. Larson explained the No vote; that with a described driveway easement on the north side and the owner owning both properties that the driveway easement goes through, that should settle the issue.
- The Chair stated that this is an option that the TWP Board can consider.
- Mr. Larson asked if that is going to be included in the letter to the TWP.
- The Chair stated that the letter will state what the legal options are.
- Ms. Derenzy asked to state what those legal options are.
- Mr. Nix stated that the legal options in the letter would be: (1) Lake Shore Road to become a legal private road. (2) Make a private road on the north side of the lot from S Bayshore Drive; though this reduces the lot width to keep it useable. (3) The TWP Board to look at lot #1 split and considers if that philosophy applies to lot #3. The Options do not include the No Vote explanation or a ZBA approach. On paper the current access used and on the ground situations are not going to change, but to affect a split we have to have a legal lot.
- In a question to Mr. Harrett if there was similar situations like this in the TWP. Yes is on the south side of Winters Road between US 31 & GT Bay.

Mr. Sabty had asked Mr. Nix if this situation can be appealed to the ZBA. Considering that this situation deals with dimensional problems, yes it can be appealed to the ZBA.

New Business

Subdivision Control Ordinance & Land Division Ordinance

Mr. Nix referring to distributed draft copies explained the need for updating the two ordinances even though they were adopted by the TWP Board and is not part of the Zoning Ordinance, but is referred to in name. With the New State, Act it made it necessary to update the two ordinances. The review time frame has been reduced. There is no need for a public hearing when adopting the two ordinances. The Subdivision Control Ordinance requires substantial changes, while the land Division Ordinance requires minor ones. We may have not used these ordinances in the past, but it is important that we make the necessary updates in case needed.

M/S - Mischel/Smith. Move to table the review until the next scheduled meeting. **Passed 5-0-0**.

Correspondence, Public Comments, Members Comments: None.

As there was no further business Chairwoman Mischel adjourned the meeting at 8:15 PM.

Next scheduled meeting will be on Tuesday December 21, 2010 in the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
9-21-2010

Approved 10-19-2010

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Special Meeting Minutes – Tuesday October 19, 2010

Chairwoman Mischel called the Special Meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Jean Derenzy, William Larson, Emile Sabty, Shen Smith and Renee Mischel.

Absent: Dorance Amos and Jim Lundy.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience of 3.

Adoption of Agenda: M/S – Derenzy/Smith. Agenda for 10-19-2010 meeting was adopted unanimously.

Approval of Minutes: M/S – Derenzy/Mischel. Minutes for 9-21-2010 meeting were approved unanimously.

Public Forum - None

New Business - Public Hearing

The Chair opened the Public Hearing for a Site Plan review, requested by Mr. Joseph A Nowak of Nowak Cabinets, 11744 US-31 South, Elk Rapids, MI Tax ID# 05-06-032-014-10.

Mr. Nix gave a summary review of the Site Plan documents presented, indicating that the site plan looks adequate and the request complies with the Zoning Ordinance requirements. He pointed to the “Truck Backing Cut” into the Vegetation buffer at the west side, which the Zoning Administrator advised that the remaining vegetation is adequate. Outside lighting is in the eaves and points down using the recessed “can type” that were installed recently for security purposes.

Chairwoman Mischel referred to the site map and pointed out that the water retention basin in the south area is located partially over the septic field. Mr. Nix advised that location changes are expected during the licensing process at which time the retention basin/septic field would be determined for best location.

Mr. Sabty brought up the lighting of the parking area, which at present is not contemplated, but should it take place in the future, it should be noted that the PC expects that it should be of the pole shoe-box type.

Mr. Nowak addressing the PC stated that the truck backing cut area was the safest and least problem for the building and its surround. The eaves lighting was added recently for security purposes after a break-in.

Mr. Harrett stated that he had long meetings with the owner during which all the elements of the Site Plan Review Ordinance were addressed satisfactorily. The existing property is zoned R-2 with a legal Special Use granted in 1988 for manufacturing small wood products and sales, and retail sales of other like items. The same existing conditions were extended to the present owner, being in the wood work business, and are the same as when the property was earlier sold to Mr. Brown in 1988. Outside of this meeting, at some point, he would like to see the property zoning change to a “C” designation, similar to the existing properties to its north.

Ms. Smith asked about the Special Use stipulation of Light Manufacturing in a Commercial zone requiring a retail sales outlet, which did not appear on the site plan. Mr. Nowak responded that the front of the building is dedicated to an office and retail sales and will continue to be that way.

With no further discussion and with PC concurrence the Chair closed the Public Hearing and asked for a motion on the requested Site Plan.

M/S – Smith/Mischel Move to approve Nowak Cabinet site plan review request as presented with the supporting documents and confirm the existing 1988 Special Use permit granted for light manufacturing commercial use in R-2 Zone with the continuation of the wood work business with retail sales.

Vote: Yes – Derenzy, Larson, Sabty, Smith, Mischel.
Motion passed 5-0-0. The Site Plan Review was approved.

Old Business, Correspondence, Public Comments – None.

Members Comments

Mr. Sabty advised

- That at the Township Board meeting on 10-12-2010 the Zoning Map was approved. Mr. Nix did supply an electronic copy of the map for inclusion on the TWP Web.
- The TWP Board tabled the Hults lot split request for further review and advice by the TWP Attorney.
- The TWP Board thought it worthwhile, and approved that the TWP Planning Commission work with the Village Planning Commission in a joint effort on their Master Plans for updating those areas of their Master Plans where common grounds are identified and worked on to serve both parties.
- It is felt that the PC quarterly meetings are too far apart. In conversations with the TWP it was indicated that meeting every other month would have been more reflective of TWP view on the frequency of meetings. A motion was proposed.

M/S – Sabty/Derenzy. Move to change the PC meetings in 2011 to every other month starting in February 2011, this would reflect the TWP view.

Vote, Yes – Sabty, Smith
No – Derenzy, Larson, Mischel.
Motion Failed 2-3-0.

In the Nay vote it was explained that if the TWP see it more appropriate that the PC meet bimonthly they should so communicate in writing. That PC change to quarterly meetings was due to reduced budgets; there is no budget information on hand to review or find out if the TWP budget objectives are being met, and this should be addressed if we were to increase our meetings frequency.

Chairwoman Mischel tabled the discussion on meetings until the December 2010 scheduled meeting. She will contact the TWP regarding a written view on meeting frequency and budget review.

A motion to this effect was approved by the PC.

Passed 5-0-0

As there was no further business Chairwoman Mischel adjourned the meeting at 7:15 PM.

Next scheduled meeting will be on Tuesday December 21, 2010 in the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
10-19-2010

Approved 3-15-2011

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday December 21, 2010

Chairwoman Mischel called the meeting to order at 6:40 PM at the Government Center, 315 Bridge Street.

Present: Jim Lundy, Emile Sabty and Renee Mischel

Absent: Dorance Amos, Jean Derenzy, William Larson and Shen Smith

A meeting quorum was not established to hold an official public meeting.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience of 1.

With no quorum established the official scheduled public meeting did not take effect. With the concurrence of the PC members present, the Chair used the meeting time for general discussion of the Agenda items. No decisions would be made during this meeting. All official discussions of the Agenda items will take place at the next scheduled meeting.

Mr. Nix gave an overall review of the proposed revision of Subdivision Control and Land Division Ordinances. He explained the Legislative Acts that made it necessary to revise of the TWP Ordinances. Brought up during the discussion was the intertwined relationships between the many facets of how land is used and regulated, whether it is Subdivision Control, Land Division, Site Review, Condo Development, PD Development, etc..., and where such subjects relate to their use in this TWP. Some of the comments that were made may be adopted to improve on the proposed Ordinances.

The recently adopted TWP Zoning Map was discussed for correcting two typographical mislabeled areas; The Nature Conservancy in Sec 9 along GT Bay labeled "A" should be labeled "E", and the Bay View Condo part of lots 33 & 34 in Sec 16 east of N Bayshore Dr labeled "R-1" should be labeled "R-3". Past rezoning approvals appearing in "Minutes of Record" show the correct zoning labeling. Since this is a typographical labeling change, it would not require a public hearing. Once PC agrees to the change the corrected Zoning Map goes to the TWP Board for approval and an effective date.

The budget for TWP Zoning and Planning was discussed and is in the positive through December 2010.

The PC Meeting Schedule for 2011 was discussed. At the next scheduled meeting on March 15, 2010 PC would determine whether to meet quarterly or bi-monthly and the posted schedule will follow that decision. Meanwhile the current posted schedule for 2011 will show quarterly meetings.

As there was no further business Chairwoman Mischel adjourned the meeting at 7:55 PM.

Next scheduled meeting will be on Tuesday March 15, 2011 in the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
12-21-2010

Approved 3-15-2011

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday March 15, 2011

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, William Larson, Jim Lundy, Emile Sabty, Shen Smith and Renee Mischel.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience of 2, Tom Brady & Marshall Wright

Adoption of Agenda: A question was raised regarding whether the minutes for the December 21, 2010 meeting, during which a quorum was not established, should be included in the agenda; because a meeting took place, it was decided to amend the Agenda to include the December 21, 2010 minutes for approval.

Approval of Minutes: M/S – Derenzy/Lundy. Minutes for October 19, 2010 meeting were approved unanimously.
M/S – Lundy/Sabty. Minutes for December 21, 2010 meeting were approved unanimously.

Public Forum

Mr. Marshall Wright stated that he chairs the Birch Lake Owners Association. He received a copy of a letter addressed to Mr. Harrett, TWP Zon Adm from a resident on Timber Lake Drive in which he complained about his next door neighbor who is selling his house, but at the mean time has been renting it on short time basis. Because the area is zoned R-1, he wish to see that the renting practice is stopped. Mr., Marshall would be talking with the complaining owner when he comes up for the summer. In the interim, he asked the PC to make this an urgent Agenda Item, and to revise the R-1 & R-2 Zoning Ordinances to allow renting in those two zoned districts, where now it is not allowed, with a condition that no signs are to be allowed that advertise rentals.

After discussion, there were no indications of a positive reception to the proposal. Chairwoman Mischel stated that she will get in touch with the Township Attorney and ask for an opinion.

Old Business

Subdivision Control Ordinance & Land Division Ordinance Review:

Mr. Nix, referring to the newly distributed draft copies, explained the few changes made recently to improve on the proposed ordinances. He again emphasized that the updated two ordinances are TWP Board Ordinances and are not part of the Zoning Ordinance, though they are referred to in name only. The New State Act made it necessary to update the two ordinances. The review time frame in the ordinances has been reduced. Being Township Board Ordinances, there is no need for a public hearing when adopting the two ordinances. The Subdivision Development Ordinance required substantial changes, while the land Division Ordinance required minor ones. We may have not used these ordinances in the past, but it is important that we make the necessary updates in case they are needed.

Ms Smith advised that on the last page, the last entry in the document under **Effective Date**, the newspaper name should be left blank or show only “Local News Paper”. There was concurrence.

M/S – Smith/Sabty. Move to approve the update amendments to the Subdivision Control Ordinance as presented, and the Land Division Ordinance as presented with a change to the Effective Date Section, leaving the newspaper name blank or referring to it as Local News Paper.

Vote. Yes – Amos, Derenzy, Laarson, Lundy, Sabty, Smith, Mischel
Motion passed 7-0-0.

Mr. Nix will supply a finished document of the approved ordinances to be passed on to the Township for their review and approval.

New Business

Township Zoning Map:

Mr. Nix advised that the two suggested typographical adjustments, brought up earlier, were completed and the current map reflects that. Four enlarged copies brought over will be forwarded to the Township.

Ms. Smith brought up the correction made for lots 33 & part of 34 to R-3 “Bayview Cottage Condos” on North Bayshore Drive. Though the previous Zoning Maps in the Township showed this property zoned R-3; she felt that it is in error; it should be R-1 like the rest there. That the Township has only one area designated R-3 on S Bayshore. Keeping the R-3 zoning designation on lots 33 & part of 34 might create a future problem should someone acquire the property to build a Condo complex on such a small area. The Township past records may have an answer; if not, the adjustment to the R-3 zoning designation should be considered.

It was explained that the adjustment research done involved the past minutes between 12-18-1986 and 6-29-1990 for both the Planning Commission and the Township Board meetings as listed in the letter of 12-6-2010 on the subject (copy on file). Past minutes of 1989-11-7 state that this property and the Lamb/Kalis PD property are to be excluded from the change of E to R-1 for that area. Since that time all past Township Zoning Maps used for various reasons show lots 33 & part of 34 “Bayview Cottage Condos” to be R-3. Over the past 21 years if that was in error it would have been corrected by now. At the same time, the Antrim County parcel numbering system show the five structures on lots 33 & part of 34 numbered as 05-06-160-001-00 thru 005-00 and with 160 to be “Bayview Cottage Condos”. The same is true of the PD designation of 360 for “Elk Rapids Beach Resort”. Those who voted then to make the zoning change must have viewed the two designations as being different from all the other parcels around them that were changed to R-1 and were identified in the parcel numbering as 350 for “Elk Rapids Shores”.

2011 Update Budget and Meeting Dates

The new 2011 budget for the Township Zoning & Planning was discussed. It was brought up that the PC budget has funds to cover six meetings. Other budget items for legal and contract services were adjusted accordingly. As to the frequency of holding meetings, the consensus was that because of Township general budget overall reductions the Planning Commission should keep their scheduled meetings at quarterly frequency with the ability to hold a special meeting if it becomes necessary.

M/S – Larson/Smith. Move that for 2011 the Planning Commission continue to hold their regular meetings on quarterly basis and to call for a special meeting if it is deemed necessary. **Approved 7-0-0.**

Medical Marijuana

Lately more attention has been given to this subject at various communities with some of them writing new ordinances while others putting a moratorium on the subject. It was felt that the ER TWP PC should bring up Medical Marijuana for discussion and a possible approach.

Mr. Harrett, Zoning Administrator explained that he was approached by a resident inquiring about adding medical Marijuana distribution to their business. As medical Marijuana was not an approved business in the TWP he referred them to various parts of the ordinance that would deal with site plan review process and related subjects.

General discussion of the subject “sale of medical Marijuana” brought up that at present this is still a small issue, but could grow to massive proportions if not kept under control. As to its legality, though Michigan voted its approval in 2008, there is little doubt that allowing a federally banned drug to be sold is problematic. Similar to

the Montana experience since 2004 on medical Marijuana, Michigan seems to be moving on the same track to repeat that experience. In time the problem would expand. If it is to remain legal, it needs to remain strictly medical, and nowadays that is a problem facing many local governments on how to regulate their ordinances to keep it under control. No one entity has a complete answer. On the State level, not much is being funneled down. Ordinances written on this subject have left many questions unanswered. Others chose the moratorium approach with the hope that the questions would be answered by the end of the moratorium and they can proceed to writing their ordinances. But what if the moratorium expires with no new guidance? Would they be obligated to write an ordinance that would be short of their anticipations? What if the State Legislators did not write new laws? These are problems facing municipalities as they consider medical marijuana, which is a new subject to cope with. Using the "What If" shield does not solve the problem on hand. Under these circumstances, what approach should the ER TWP Planning Commission take?

Mr. Nix was asked to express his views and recommendations. He advised that, in considering the discussion and without trying, it seems that moving in the direction of writing an ordinance on this subject or go the moratorium approach, may not produce a comprehensive answer. At present the Elk Rapids Township Zoning Ordinance does include one remedy to this subject if it was to become a reality. The recently revised Section 19.07, Special Exception, would become the basis for an application review when properly submitted, and Sec 19.07-H, when it is determined that the use is not addressed by the ordinance, would authorize the development and adoption of specific review standards for that proposed special exception. In other words, a Special Exception approach to a business request, would within the scope of the process require the development of an Ordinance on the subject, should it come to that.

With that, the subject phased out without going into exploring and discussing regulating by ordinance of Medical Marijuana/Home Occupation/Primary Caregiver, as related to the Michigan Medical Marijuana Act of 2008 (MMMA).

Correspondence

Chairwoman Mischel made available received circulars and notifications announcing various planning related meetings or seminars by different organizations in the area. Those interested can call for reservations.

Public Comments: None

Members Comments

Chairwoman Mischel asked for input on which future agenda item should be brought forward for review at the next meeting. Of the agenda items that were approved for future review on June 15, 2010; and by a majority vote of **4-3-0**, "**Home occupation/home business zoning regulations to maintain the rural residential character**" was selected as an agenda item for the next regular meeting.

As there was no further business Chairwoman Mischel adjourned the meeting at 8:35 PM.

Next scheduled meeting will be on Tuesday June 21, 2011 in the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
3-15-2011

Approved 3-28-2011

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Special Meeting Minutes – Tuesday March 28, 2011

Chairwoman Mischel called the Special Meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Emile Sabty, Shen Smith and Renee Mischel.

Absent: Jean Derenzy, Jim Lundy and William Larson.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience of 2.

Adoption of Agenda: The agenda was adjusted to list “Twin Bay Medical” under Public Forum and delete “Township Zoning Map” from the agenda.

M/S – Smith/Amos. Agenda for 3-28-2011 meeting was adopted, as revised, unanimously.

Approval of Minutes: M/S – Amos/Smith. Minutes for 3-15-2011 meeting were approved unanimously.

Public Forum

Ms. Cheryl Werth addressed the Planning Commission on behalf of Twin Bay Medical, Inc. 11590 US-31 South, Williamsburg, MI. The original site plan approved 4-3-2008 and extended yearly thru 4-3-2011 was expanded on 11-17-2009 to include an addition of 2400 sq ft to the existing approved structure. Currently, Twin Bay Medical realized that they need a larger expansion than what was previously approved. Their plans show increasing the previously added space from 2400 to 6400 sq ft for an addition of another 4000 sq ft. They request setting up a PC site plan review meeting date, at the earliest, for the new revision and approval of, hoping that with the approval they can start the work soon after. At the same time they request that the Planning Commission extend the original approved site plan for one year.

M/S – Amos/Sabty. Move that the Twin Bay Medical, Inc Site Plan approved 4-3-2008, and expanded 11-17-2009 for the property located at 11590 US-31 South, Williamsburg, MI be granted a one year extension that expires on 4-3-2012.

Vote. Yes – Amos, Sabty, Smith, Mischel

Passed 4-0-0

The Chair advised that when the expansion blue prints are ready, to work with the Zoning Administrator on the procedural requirements for holding a site plan review of the proposed expansion changes. Considering a pre meeting review of the finished plans and other necessary formalities, it was estimated that a PC meeting to amend the existing site plan may be feasible for a May 2011 meeting at the earliest.

New Business

Medical Marijuana

Chairwoman Mischel stated that Inquiries are being made at the Township level with potential requests to using Marijuana. The Village is moving into a moratorium and developing an Ordinance, and adjoining Township is going into a moratorium to gain enough time to develop an Ordinance. During the last meeting, commercial aspect of this subject were discussed; we looked at the Special Exception/Special Use Ordinance as an approach to deal with that, but apparently it is not enough. The discussion then did not include patients and caregivers and how they would be dealt with. During this Special Meeting the intention is to discuss that part of the Medical Marijuana pertaining to patient/caregiver and its relation to the subject as a whole.

The meeting was opened for general discussion that took the form of a discussion, opinions, statements and questions.

During a recent PC Village meeting on MM, the Ordinance being developed follows the Michigan Medical Marijuana Act (MMMA) in addressing patient and caregiver. It is limited to a home use as long as a caregiver complies with the law; if not then the police will get involved. Collective outlets are not addressed. The Act allows the privacy of a house in R area vs. C area. Patients in a C area are not patients outlined in the privacy of the MMMA, such places are dispensaries or collectives etc. What is the difference between private home activities vs. those in a commercial area?

Planning Consultant explained that MMMA of 2008 resulted from the vote to legalize the MM use in Michigan. The Act in regulating the MM use, resulted in many unanswered questions. The Act definition of a qualified patient and caregiver were reviewed and discussed. That a permit is needed and issued for each patient & or caregiver. That each can grow up to 12 plants for each user: and a caregiver can care for five patients.

It was stated that it is accepted that the law allows a patient to grow 12 plants, and that can't be regulated, however with a caregiver who would be growing more plants, we should be able to regulate where they would grow and then should be able to direct where it can be grown with some exceptions if need be.

It was brought up that if you grow for personal use it is OK, when you grow for others use, then on many occasions it leads to dispensaries and collectives etc.

A primary caregiver can play a dual role, can be a licensed patient, but in being a caregiver, would need registered patients, no more than five, before making an application to the State to become a caregiver who will grow and provide. A grower should meet the conditions of the growing area, and should not have marijuana consumption on the premises.

Questions were raised about how many plants are there on the premises at one time, Is it 12 matured plants, 12 partially grown, and 12 seedlings? How is the count configured to have a product available at all times?

By Statute a caregiver can grow and distribute from one location, not separated into two locations. What happens if a group of caregivers combine their operations into one growing area, creating collectives or dispensaries?

At our Township we should keep it at a patient/caregiver level with no more than six patients. If the Act permits that we should work on staying at that level and regulate to keep it there. Right now many forms of distribution are being explored by MM proponents, creating many loopholes to the MMMA to be exploited.

Another concern is that there are different law professionals with different views as to caregivers coming together in a commercial zone and whether we can say no to that.

Mr. Nix, Planning Consultant, stated that so far we have had different opinions on an Ordinance, but not how to do it. Pass a moratorium, get the attorney involved, share the opinions they have on hand with the attorney, and put together something like the ER Village did. Without a meeting schedule; if a moratorium is passed, we have to do our best to utilize the time as needed to arrive at a workable conclusion:

The Chair made a summary of the discussion that took place:

- Request a moratorium from the TWP Board.
- Work on an Ordinance.
- Have the Ordinance inclusive to address the six patient/caregiver area and location if possible. Concentrate on regulating using one caregiver in R zone avoiding the commercial approach.
- If possible include the best approaches for the various aspects of the MM subject. If the Act does not address commercial, then it should not be allowed.

- Address the subject that, I am allowed to grow the product if I have patients. In a business, several caregivers combine together to move large quantities out of one place for many patients, which is not acceptable.

Chairwoman Mischel asked for a motion on what the Planning Commission do should at this stage.

M/S – Smith/Sabty. Move to recommend to the Elk Rapids Township Board to approve a six (6) month moratorium so that the Planning Commission can consider all the ramifications of the Michigan Medical Marijuana Act to create an applicable Ordinance for the Township.

Vote: Yes - Amos, Sabty, Smith, Mischel.

Motion Passed 4-0-0.

A recommendation letter to the TWP will be prepared and delivered ASAP.

Old Business, Correspondence - None.

Members Comments

Mr. Harrett, Zoning Administrator, advised that Mr. Richard Hults owner of Lot #3 in Juniper Hills Subdivision, who previously had requested a lot split and was asked to submit further information and details, did so recently and the information answered satisfactorily all the questions and concerns raised by the Township.

As there was no further business Chairwoman Mischel adjourned the meeting at 8:00 PM.

Next scheduled Quarterly meeting will be on Tuesday June 21, 2011 in the Government Center, 315 Bridge Street. Should a PC meeting be called at an earlier date, it would be so noticed.

E.S.Sabty, Secretary
3-28-2011

Approved 5-17-2011

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Special Meeting Minutes – Tuesday May 17, 2011

In the absence of Chairwoman Mischel, Vice Chairwoman Smith presided over the meeting.

Vice Chairwoman Smith called the Special Meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, Jim Lundy, William Larson, Emile Sabty & Shen Smith.

Absent: Renee Mischel.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience of 4.

Adoption of Agenda: M/S – Lundy/Amos. Agenda for 5-17-2011 meeting was adopted unanimously.

Approval of Minutes: M/S – Lundy/Amos. Minutes for 3-28-2011 meeting were approved unanimously.

Public Forum - None

New Business

Site Plan Review Hearing – Twin Bay Medical, Inc.

The Vice Chair Smith opened the Hearing for a Site Plan review, requested by Albert and Cheryl Werth, owners of Twin Bay Medical, Inc., 11590 US-31, Williamsburg, Michigan, Tax ID# 05-06-032-009-20, Zoned Commercial.

Mr. Nix gave a summary study of the Site Plan documents presented, indicating that the site plan looks adequate and the request complies with the Zoning Ordinance requirements. He referred to the earlier approved site plan with conditions for the property and that this request is to expand the approved storage area from 2400 to 6400 sq ft. In his memo he referred to the earlier approved conditions as well as new ones that have to be addressed if the approval process goes through. He did not see any problems to hold back this plan.

Mr., Sabty stated that the distributed additional site plan documents were received after the original distribution was made, they answer some questions raised about elevations, surrounding area, lighting with a letter from the Fire Department recommending that Twin Bay Medical participate in their key lock box program and to install and maintain a fire rated door between the existing structure and the new addition. He then presented for Commission review a summary document combining the 4-3-2008 approved conditions with those in the current memo and added the Fire Dept. recommendation for a total of eight (8) conditions should a motion be approved.

With no further discussion and no public input, Vice Chair Smith asked for a motion on the requested Site Plan.

M/S - Sabty/Lundy. Move to approve the Site Plan as presented for Twin Bay Medical, Inc. to expand the previously approved addition to the west side of the original structure from 2400 to 6400 sq ft with the following Conditions:

1. Building elevations, lighting details, and dumpster screening details for the phase 1 addition shall be submitted to the Zoning Administrator for review and approval prior to issuance of any Township permits.
2. Site illumination for all lighting improvements shall be downward oriented and fully cutoff to avoid glare onto neighboring properties or the roadway.
3. Storm water provisions shall be reviewed and approved by the Zoning Administrator or designee prior to issuance of any Township building permit.
4. The applicant shall either secure a permit or a letter of acceptance of the onsite septic system from the County Health Department.

5. Landscaping shall be installed prior to the Township issuing a certificate of occupancy.
6. Future potential parking spaces should be preserved and stay opened; the future parking plan and ultimate storm water calculations will need to be submitted for review and approval prior to the start of any phase 2 elements of the site plan and issuance of any Township building permit.
7. The Elk Rapids Fire Department two recommendations, that Twin Bay Medical participate in their key lock box program, and that they are required to install and maintain a fire rated door between the existing structure and the new addition to the west; this should be satisfactorily completed as recommended.
8. Other uses and conditions previously approved by the Elk Rapids Township that are not associated with Twin Bay Medical, Inc. operations are hereby voided, except for perimeter Cedar hedge screening as existing.

At the motion discussion it was suggested to adjust condition #8 to ensure that the existing Cedar hedge continues and is not removed. The suggested change to condition #8 was approved by the PC unanimously.

Vote: Yes – Amos, Derenzy, Larson, Lundy, Sabty, Smith.

Motion passed 6-0-0. The Site Plan Review was approved.

Old Business

Medical Marijuana – Informal Update

Mr. Nix was asked to review the suggested Zoning Ordinance amendment draft on Medical Marijuana (MM). He stated that the draft includes a section of definitions related to MM to be added to Chapter 1, and a new section 2.22 titled Medical Marijuana to be added to the Zoning Ordinance. He went over the content of the draft explaining that this ordinance stays within the limits of the Michigan MM Statute that was adopted in 2008. He brought up the practice of other localities adopting ordinances that are not based on the statute content, which creates legal state or federal problem, localities find themselves in. The definition section is very detailed and inclusive, under each subject addressed, so that there is no doubt of what is accepted practice under the statute and that which is not permitted. Localities are adopting ordinances allowing MM dispensing in commercial or manufacturing zones rather than personal dwellings, which is not legal under the Michigan statute, and are causing the federal government to start taking action against such practices.

Questions from the audience were answered regarding the interpretations and functions of a caregiver or a patient and how they relate to some of the MM dispensaries found in neighboring communities. The draft ordinance was used as basis for answering such questions and how and where they are allowed, which adheres to the MMMA. The Act deals with caregivers supplying their registered patients out of their dwelling, that there are no such things as a commercial dispensary or cooperatives, or the like, regardless of what some lawyers might say.

It was expressed that the draft is well prepared; after this discussion, the PC would further study the draft for next meeting.

Vice Chair Smith advocated tabling the MM draft to be discussed at the next meeting, which was approved by the PC unanimously.

Correspondence, Public Comments – None.

Members Comments

Mr. Sabty advised that the Land Division Ordinance and the Subdivision Ordinance were adopted by the Township on 5-10-2011 and should become effective thirty days after being noticed in a newspaper; the effective date would be 6-19-2011.

Mr. Amos advised that at the last Township Board meeting, a question came up regarding the Land Division Ordinance, Private Road width requirement. The TWP Board is asking the Planning Commission to review the

Ordinances on Private Roads and insure that what is there is in compliance with standard practices. Private Roads appear in the Land Division Ordinance Section 7-F-2-(a thru f), and the Zoning Ordinance Chapter 2, Section 2.19.

Vice Chair Smith said that this should be an agenda item for the PC June 21, 2011 meeting, and asked Mr. Nix to review the request and report at the meeting.

As there was no further business Vice Chair Smith adjourned the meeting at 7:33 PM.

Next scheduled meeting will be on Tuesday June 21, 2011 in the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
5-17-2011

Approved 6-21-2011

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday June 21, 2011

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Jean Derenzy, Jim Lundy, Emile Sabty, Shen Smith & Renee Mischel

Absent: Dorance Amos, William Larson,

Also Present: Leonard Harrett, Zoning Administrator. Audience, Tania Lorenz, Nicole Parsons & Pat Brady.
Absent, Larry Nix, Planning Consultant.

Adoption of Agenda: M/S – Lundy/Derenzy. Agenda for 6-21-2011 meeting was adopted unanimously.

Approval of Minutes: M/S – Derenzy/Lundy. Minutes for 5-17-2011 meeting were approved unanimously.

Public Forum: None

Old Business

Medical Marijuana Zoning Ordinance. At the last meeting after discussing the MM ordinance draft memo dated 5-5-2011 it was tabled to be continued at this meeting. Chairwoman Mischel opened the subject for general discussion by the PC members. It was pointed that the existing draft text was adequate and concentrate on staying within the limits of the State statute in addressing MM. That the definition section was thorough in addressing what the statute covered, and what is not. It was prepared with consideration of the PC members input as to its content.

A suggestion was made in reference to proposed Sec 2.22-A-11 where it says that it does not protect those involved in MM from federal prosecution, to change the text to state, "...from *local or* federal prosecution." In response, it was brought up that the opening of the same paragraph gives local jurisdictions and the right to prosecute. The Planning Consultant would be asked to review this point and report on it.

The Chair opened the discussion for public input. Ms.Tania Lorenz and Ms. Nicole Parsons who seemed to be interested in pursuing a local MM outlet submitted a pkg hand out to the PC Commission, copy on file. The pkg included an 8 page copy of the MMMA and 9 individual letters in support of MM use, compassion clubs, dispensaries & benefits to the local economy. Most of the letters were addressing the Elk Rapids Village MM ordinance, and none of the letters showed the writers names and addresses.

Ms Lorenz and Parsons raised several questions including:

1. Considering the Elk Rapids community why would the TWP pursue a different ordinance than what the Village is pursuing? The TWP does not allow MM in commercial district. It was briefly explained that the original Village proposed ordinance was to be in residential districts as specified in the MMMA, since then they have changed it to be located in commercial and manufacturing districts. The TWP, in preparing their ordinance are following the MMMA and staying with the prescribed districts allowed under the law. There are many pro and con opinions about locating MM outside of a single family dwelling, and there are court opinions about the MM in general, but as long as the law is officially unchanged, the TWP chose to stay within the approved limits of the State law that is on the books.
2. The confidentiality rights of a caregiver were brought up; that the caregiver should not be obligated to disclose the names of their MM patients, and that if a patient of a care giver is a legal card carrier the ordinance is not clear enough to show their rights protection.
3. The ordinance is not clear enough on the subject of the care giver requirement of growing the plants at the dwelling or obtaining them from another source to supply their patients.

4. The ordinance is not clear enough as to the necessary space between two or more MM care givers, or as to space between two patients in the same local. It was brought up that a care giver operation would come under the Home Occupation part of the ordinance and would be treated as a Special Exception as outlined in Sec 19.07. The closeness of one operation to the other and separation districts would be addressed then before a permit is issued. Be it a patient or a care giver, the dwelling they operate from in the R-1 or A zone will have to adhere to the dwelling requirements in those areas; no external alterations, no change of house character, sign requirement adherence, no use of other structures on the property outside of the primary dwelling from where the care giver operates.

The Chair thanked Ms Lorenz & Parsons for their input and that the points presented are well taken: The Planning Consultant would be advised of these concerns and hope to have his response at the next meeting. With no further discussion a motion by Lundy/Smith to table the subject until the next meeting was approved unanimously.

New Business

Private Road Setbacks: During the TWP Board approval process on 5-10-2011 of the Subdivision Control and Land Division Ordinances a question was raised about private roads and the need for the required road width and ROW measurements as specified in the Ordinance. The question was forwarded to the PC for review and response. It was found out that when a private road is permitted in Antrim County it must adhere to the specified applicable measurements as required by County. Should in the future, that road become a County Road, its measurements would then meet the County required standards. It was also brought up that when the TWP Private Road Regulation Ordinance Sec 2.20 was approved on November 4, 1997,"the Planning Commission members indicated the feeling that the Private Road Ordinance was good for the Township & would be conducive to orderly development." The consensus of the PC was that the Private Road Ordinance and requirements are good as they are, should stay as is, and should not be changed. Mr. Sabty stated that he will apprise the TWP Supervisor of these findings.

Correspondence

Mr. Sabty appraised the PC of a Michigan Court of Appeals recently released ruling concerning the DEQ jurisdiction regarding setback of structures along the Great Lakes and concerning the Ordinary & the Natural Ordinary High Water Marks OHWM & the NOHWM. He questioned if this has any effect on what is in our Ordinance?

Mr. Harrett advised that the request of Mr. Hults for lot split is still in process. In a TWP meeting with Mr. Hults, some options were discussed and it was indicated that any work involving private roads or easements would include setback requirements as established in the ordinance. An option was discussed entailing an overlay zone which would use the setbacks as existing providing all involved area residents are in agreement and the PC/ZBA approves such a change if required.

Public Comments – None.

Members Comments _ None.

As there was no further business Chairwoman Mischel adjourned the meeting at 8:20 PM.

The next scheduled quarterly meeting will be on Tuesday September 20, 2011 at the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
6-21-2011

Approved 9-20-2011

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday September 20, 2011

Vice Chair Smith called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, William Larson, Jim Lundy, Emile Sabty, Shen Smith

Absent: Renee Mischel

Also Present: Leonard Harrett, Zoning Administrator. Larry Nix, Planning Consultant. Audience 2.

Adoption of Agenda: M/S – Amos/Lundy. Agenda for 9-20-2011 meeting was adopted unanimously.

Election of Officers:

Sabty/Amos moved to reappoint the current Planning Commission officers for another one year term:

- Renee Mischel for Chairwoman
- Shen Smith for Vice Chairwoman
- Emile Sabty for Secretary

Passed 6-0-0

Approval of Minutes: M/S – Lundy/Amos. Minutes for 6-21-2011 meeting were approved unanimously.

Public Forum: None

Old Business

Medical Marijuana Zoning Ordinance

Vice Chair Smith reported about a meeting she attended at the County, in which a presentation by the County Prosecutor was made on Medical Marijuana. It was stated the County Prosecutor would challenge any zoning ordinance adopted by an entity within the County which regulates the processing of MM in a residential district. He believes that such an ordinance would affect the property values in the residential district.

Mr. Nix advised that much activity is going on now relative MM. Right now the adoption of MM Ordinances is in a slow process mode until the subject is put in prospective and is more clarified. More interpretations are taking place especially after the Michigan Court of Appeals weighed in on the subject. The current law does not address where MM is dispensed or how. This has to be settled by the Supreme Court and/or the Legislators. What will be decided then, we hope that it is clear, and then be able to apply it to our work.

Mr. Sabty raised some questions about the growing and dispensing of MM which he felt that the process did not address. Should growing and dispensing of MM be done only in the confines of the primary residence? A caregiver for five patients can grow 60 plants, 12 per patient; should the 60 plants be separated at all times into five independent groups, including separate storage of finished product for each patient? Where is the product sold to the patient, is it inside the house, outside the primary residence, or off the premises? A caregiver having 5 patients would be raising 60 plants, suppose two patients drop out, what would happen to the 24 plants on hand, who gets them, do two new patients inherit them, how is this handled?

Vice Chair Smith asked Mr. Nix to review the concerns raised and report on the findings at the next scheduled meeting.

New Business

Medical Marijuana Moratorium Extension

Mr. Sabty reported that at the last TWP Board meeting on September 13, 2011 a new six month Medical Marijuana Moratorium extension was adopted, "Township Ordinance 4-2011" will take effect on October 14, 2011.

Correspondence - None.

Public Comments

Mr. Lawrence Nemshick, a neighbor of Mr. Richard Igo, asked about the disposition of Mr. Igo's letter to the Zoning Administrator and if it is going to be discussed at this meeting.

Vice Chair Smith responded that this item is not on the agenda for PC discussion, the letter does not ask that it be included on the agenda; that there is a process for doing that which any resident can use. Mr. Harrett stated that Mr. Igo indicated verbally, that with his wife they were going to be present at the meeting to ask questions.

Mr. Nix was asked to comment, and stated that this item is not on the agenda. Upon reviewing the letter of 8-22-2011, Mr. Igo raised a couple of questions, and is asking the PC to render an opinion on them. From a procedural aspect the PC does not interpret the Zoning Ordinance. The Zoning Administrator is responsible for answering such concerns by the public. In such a case a person asking a question can ask for a written response from the Zoning Administrator. If he does not agree to the answer he receives, he can appeal the determination of the Zoning Administrator to the Zoning Board of Appeals. Interpreting the Zoning Ordinance is not the responsibility of the Planning Commission.

Mr. Nemshick continued to reiterate that the letter sent to the Zoning Administration should be considered for discussion at this meeting.

Mr. Sabty stated that earlier in the Year, Mr. Marshall Wright attended a PC meeting and during the Public Forum spoke of a complaint he received from Mr. Igo about rentals, and the possibility of changing the ordinance. Now, we are receiving a copy of a communication from the Zoning Administrator about such a complaint that he received. Is this something that is going on in the background, or is it something that ought to be handled upfront and through the proper procedure? Until then, and as was indicated so far, this is not a PC agenda item, nor is it an item to be handled by the PC. We should let it end here.

Members Comments

Vice Chair Smith opened a discussion about the two "Future Agenda Item,"

Home occupation/home business zoning: It was brought out that the Ordinance Section 2.12 addresses this subject as permitted in an R Zone upon approval as a special exception as provided in Section 19.07. With that it was determined that what is in the Ordinance is sufficient and the item should be dropped from the agenda.

M/S – Derenzy/Lundy. Move that "Home occupation/home business zoning" be removed from the Future Agenda Items. **Passed 6-0-0**

Mobile homes outside mobile home parks: Mr. Nix advised that the Ordinance Section 2.04 "Mobile Homes and House Trailers" and the Definition of "Dwelling, Single Family" adequately covers this subject. Arbitrarily, single wide mobile homes are not permitted in the TWP; only double wide ones can be located in any place where single home dwellings are allowed. Mobile homes not meeting those standards are allowed in a mobile home park, provided for in the PD Zone. Currently this procedure handles this subject and it should be dropped from the future agenda items.

M/S – Sabty/Lundy. Move that "Mobile homes outside mobile home parks" be removed from the Future

Ms. Derenzy asked that the agenda include an update on the Village/TWP joint PC committee doing work on the Master Plan.

Discussion on the function and duties of the formed joint committee ensued:

It was stated that TWP PC Members, Renee Mischel, Jean Derenzy and Dorance Amos are on the joint committee and that beyond the first joint meeting nothing had transacted yet. That there is no desire what so ever by the TWP to merge the two Planning Commissions together, which is contrary to what was thought up at the meeting then.

It seems that the Village had a grant to perform such a study. Statute indicates that where there are two adjoining entities, they can form a joint PC for a specified purpose, which is being done here for the purpose of preparing a common grounds part of the Master Plan that serves both municipalities. There seems to be confusion as to preparing one document that serves both entities or is it to have two.

Mr. Amos stated that at the first joint meeting, we went in to talk about common interests and try to come up with common solutions, but what was presented then was for one Planning Commission, one Zoning Administrator, one formula. The Village was looking in that direction and was surprised that the TWP was not. There was conversation about how much the Village and TWP were alike, but in reality they are not. We may share common boundaries, but that is all. They were surprised that we were not there to work on consolidation but that we were there to work only on common interests within the Master Plan. The Village had a grant to work on such a project and they were pursuing it.

Mr. Harrett stated that it seems that a common Master Plan book is still alive for both units of government.

Ms. Derenzy stated that when asked to serve on the joint committee it was her understanding that it would be for the purpose of one master plan for the Village and TWP with common interest, but not for one entity.

Mr. Sabty stated that his understanding of the joint committee when it was initiated that they wanted to discuss the Master Plan, that it seemed that there are areas that are common and serve a common interest and can be handled jointly up to a point beyond which each entity would go their own way to serve their different interests.

Mr. Larson indicated that yes, a Master Plan can have an opening section that deals with common grounds, but as to the whole Master Plan it does not fit to be so.

Vice Chair Smith stated that the TWP is a very nice and coherent place to live in. Over the years the TWP Planning Commission had done an excellent job of protecting this area to make it a desirable place to locate and live in it. As a PC group we have over 70 years of combined service that is devoted to serving and improving the TWP and its resident's interests. If the service score is in the "excellent" category, why would we want to merge with another entity with no apparent positive improvement over what we already have now?

As to the suggestion of a joint committee update to be included on the agenda, it was indicated that it should not be a problem to have a PC member serving on the joint committee give a report.

It was brought out that the TWP Master Plan of April 2007 needs to be updated every five years, or by April 2012. It is suggested that the Planning Consultant should start the review process if we expect to meet the due date.

M/S – Smith/Sabty. Move to have the Planning Consultant review and recommend any updates needed to the TWP Master Plan of April 2007.

Discussion:

Ms. Derenzy stated that she would prefer waiting for the joint committee to report on the Master Plan before we update the TWP Master Plan.

Mr. Sabty stated that by statute, we need to update the Master Plan every five years, and that date is approaching. When and what is decided at the joint committee, if acceptable, can be applied to the updated Master Plan.

Vote - Yes to approve. Amos, Larson, Lundy, Sabty, Smith.
No. Derenzy

Motion passed 5-1-0.

As there was no further business Vice Chair Smith adjourned the meeting at 7:45 PM.

The next scheduled quarterly meeting will be on Tuesday December 20, 2011 at the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
9-20-2011

Approved 12-20-2011

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday December 20, 2011

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Jim Lundy, Emile Sabty, Shen Smith & Renee Mischel

Absent: Dorance Amos, Jean Derenzy, William Larson

Also Present: Leonard Harrett, Zoning Administrator. Larry Nix, Planning Consultant. Audience 1.

Adoption of Agenda: M/S – Smith/Lundy. Agenda for 12-20-2011 meeting was adopted unanimously.

Approval of Minutes: M/S – Smith/Lundy. Minutes for 9-20-2011 meeting were approved unanimously.

Public Forum: None

Old Business

Medical Marijuana Zoning Ordinance

Elk Rapids Village Adopted Ordinance – Mr. Nix, Planning Consultant gave a brief review of the recently adopted Medical Marijuana Zoning Ordinance by the Village of Elk Rapids. Basically, the Village allowed the growing of Marijuana only in the Industrial District of the Village, only by a care giver and that consumption can only be done by a card holder in their own home. Otherwise the rest of the Ordinance mirrors the State Act. In advocating the use of an Industrial Area, space should be available.

A question was raised that being in an Industrial area and operated by a Care Giver, how many can locate in one building? Only one cultivating facility (single care giver person) per one lot was the answer. In comparison to the 5-5-11 draft Ordinance the TWP considered cultivating the product as a Home Occupation.

It was brought up that earlier; the Antrim County Prosecuting Attorney stated that he would take a Township to task if they were to approve the location of a MM facility in a residential area which may lead to property reduced values. Some commented that locating a facility in a residential area may not be the best of options for the TWP. Considerations should also be given to children living near the facility.

A reason for locating a facility in a residential area is to try to stop locating a “Collective there. The Village is on a better track than what the TWP is trying to do in advocating the industrial zone, but would that hold up in court? It was stated that the Village residential lot sizes and their closeness to each other had influenced their decision.

In the TWP there are two industrial areas, both are located along Herman Road, one at the corner of Herman and Cairn roads designated as wetlands. The other at the west end of Herman Rd. named “Ancient Mariner East Dry Dock Condo Association.

Attorney General Medical Marijuana Seminar – Mr. Nix briefly described the MI Attorney General seminars on the subject, and that the presentations were made by experts in their fields. In summary, nothing has changed; the subject continues to be more confusing than ever. In the process they are hoping to slowly dismantle the MM participants expansions. One presenter, Mr. Fisher, from Cooley Law School suggested some solutions to the problems facing the governing entities. He proposed three approaches. (1) Do nothing. (2) Regulate it by saying, if it is not regulated by the Federal Government, you can't do it here. (3) Regulate it consistent with State Law and the MMMA. The ER TWP proposed draft ordinance basically parallels the third option. Questions have

emerged that tie to all the short comings of the current MMMA. Proposals for revising the Act were made at the seminar that would resolve many of the ambiguous sections in the Act.

Mr. Sabty continuing the above seminar review stated that at the conclusion of the presentations there was a section on "Suggested Changes to the Medical Marijuana Law." It showed the current text of the Act and next to it a revised suggested text with all the added text appearing in bold print. Copies were distributed to the Planning Commission Members. It was hoped that the suggested revision would close the loopholes in the Act. He went on to present a summary of the main changes appearing in the suggested Act which included:

- Emphasis on the Federal Law.
- Emphasis on a valid ID card for a caregiver and patient.
- What a Doctor should include in a written certificate.
- Details of a Doctor responsibility in his relationship with a patient.
- Expanded definition of using or administering MM for a medical use.
- Patient and caregiver penalties for engaging in non-medical use of MM.
- A list of what a Physician shall not do.
- An applicant must specify their residence location, must give the address of the enclosed locked facility and give consent for the Department to conduct warrantless Administrative inspections.
- Emphasis on the confidentiality of information at the Department and when that information can be accessed.
- A revoked permit is only appealed to Circuit Court.
- Things not permitted under the Act such as harm to others, use in school facilities, public areas, cultivation in a located facility in violation of local zoning ordinance, and that there is no reimbursement to a person for costs associated with MM medical assistance, health insurance, health care etc.
- A request for a card not approved in 20 days grants the applicant a permit for 120 days but if it is determined that the application is not valid the permit is not reissued.

In one area of the seminar on "use of marijuana" it was emphasized that only the leaves are considered eligible for use in Michigan, the stem, bark and seeds are not permitted under marijuana definition in Michigan.

Mr. Nix stated that at present the TWP has a MM moratorium in place expiring on April 14, 2012, that would be a one year of review, which is the accepted length of time to review and develop an ordinance. With the current information on hand there is a lot to look at. What the village did is acceptable and is appropriate for them. The TWP does not have an industrial area parse to follow the Village approach. The effect on neighboring children is an item of contention. We are dealing with the marijuana as a crop but what about the byproducts of it such as pills, food products, liquids, etc. A one year moratorium is acceptable, but beyond that, only if there is actually an ordinance being worked on, then an extension beyond the year would be accepted to finish the work on hand. Maybe the draft of 5-5-2011 which parallels the State Act should be the basis for going forward from here, and if later a Revised Act comes along, we can change the ordinance then. Mr. Nix pointed that the way for going through the discussion is to review the current draft of 5-5-2011 and how it would fit in with the concerns raised here, with adjustments made as needed.

A suggestion was made to locate a facility only in an Agricultural Area where the residential homes are on a 1½ acre lots, and leave it out of the R-1 Area.

The Chair stated that it is important to consider certain areas in the TWP that MM can be fitted in similar to the approach taken for the SOB area where it can happen in.

Mr. Nix stated that the way the law is written, it allows a person who is the primary caregiver to grow and distribute from their home, and that appears to be the original intent of the law. The Village has taken a position, and other communities did that too, that "NO," we want the growing facility to be in a separate growing district and that they select the individual district to do that in. To consider a commercial district would lend itself to retailing and selling to the public, and using a commercial district for MM is less comfortable to live with. Here at the TWP we don't have the adequate industrial district option choice, but then what are the restrictions associated with the industrial/Manufacturing area Condo Complex or Wetlands.

It was mentioned that caregivers do transport the product to their customers, but then transporting the product or to sell it is not a zoning jurisdiction.

The Chair stated that we need to realize that now we are examining a whole different way of looking at part of this subject as to where we are going to grow it. The village approach limited the location to lots in their industrial area which takes it out of residential areas and we should see if at all possible the TWP can take a similar approach. She then asked Mr. Nix for his recommendation as to how to proceed from here.

Mr. Nix advised that he can draft various alternatives to the limited options we have, including one on an industrial option and its being tied to a Condo Association, but he would need to review the Condo Association rules before going into that area. The other option being the residential/agricultural option the way it is proposed currently in the draft. As to a commercial option we would have to be extremely cautious about that approach for it is not a clear avenue to pursue. It was suggested then to wait until the next meeting, meanwhile would look at the draft ordinance, and would look at the different options and what they mean and have them available for the next meeting.

M/S –Lundy/Smith. Move to table the MM discussion until the next scheduled meeting. **Passed 4-0-0**

M/S – Mischel/Lundy. Move to have the Planning Consultant prepare different options on MM for PC review at the next scheduled meeting. **Passed 4-0-0**

New Business

2012 PC Meeting Dates

A listing of a 12 monthly 2012 meeting dates was presented for selection of meeting frequency. The TWP had advised that the PC budget could cover every other month meetings rather than the current quarterly cycle. It was mentioned that we have a few agenda future work items that will be coming up after the MM work is completed. Also it was pointed that at present our work load is not such to justify six scheduled meetings. It was felt that we should continue to hold quarterly meetings with the option to call extra special meetings as needed. At the same time it was felt that holding quarterly meetings in January, April, July and October would avoid holiday disruptions.

M/S – Lundy/Smith. Move to hold PC quarterly meetings during 2012 in January, April, July and October with the option to call additional meetings as needed. **Passed 4-0-0**

Adequate Zoning Administrator Determination on Nonconforming Use

Mrs. Smith stated that she brought this subject up for review by the PC to see if there was something that should be added to the Zoning Ordinance that will assist the Zoning Administrator and strengthen his position when making a decision in that area that might avoid a court case.

The Zoning Administrator advised that usually something is there to base a nonconforming determination on, and he considers that to be part of the Zon Adm job, not the Zoning Ordinance. In his work, he documents his observations at all possible times, right from the start of all noticeable changes when something is changing or is being worked on, which gives him a reference history when needed to handle a nonconforming activity. This is not something that can be put in an ordinance, it is something that can be required or expected from the Zon Adm.

M/S – Smith/Lundy. Move to have the Planning Consultant do a quick review of the Township Zoning Ordinance as to the recent Court Case Law on the “Adequate Zoning Administrator determination on nonconforming use.” **Passed 4-0-0**

Joint Village Township Master Plan Coordinating Committee - Update

Chairwoman Mischel apprised the PC on the activities of the joint Coordinating Committee working on a joint Master Plan project. At the meetings different views were presented. The Township emphasized that they prefer to stand alone, independent, as a Township Planning Commission. They agreed to work jointly with the Village in developing a joint Master Plan to be approved independently by the Township and the Village Administrations.

Originally a grant was obtained by the Village for such a study and an outside company was hired to assist in the project. The hired company has left. At the last joint meeting the joint Committee requested the services of Williams & Works to develop a joint Master Plan. Williams & Works, the Township Planning Consultants are currently reviewing the Township Master Plan for an update if needed. Williams & Works were approved and are now the Plan Consultants for the joint project and would be coordinating the combining of the two Master Plans into one plan that both can use without infringing on one another jurisdictions.

Mr. Nix added that briefly put, there will be the common goals and the separate goals within the document. As to the future land use portion, there is to be a coordinated effort of what each one wants. Within the document there will be two documents that each deals with one group but not the other, each will approve their section. The document recognizes that the two are working together as a community in a coordinated effort to use the document as it applies to their jurisdictions. He emphasized that a Master Plan is not regulatory and is amendable to accommodate a zoning change of use that was not considered in the Master Plan. A change prior to a zoning change would usually avoid community conflicts.

The Chair stated that as progress is being made by the Coordinating Committee in developing a Plan the intent is that the developed parts would be brought for review by the Planning Commission as they are developed and the work progresses.

Future Agenda

Agenda items were considered as to which items should be moved up for the next meeting discussion. Easement Setback was discussed. When easements are granted they create setbacks. The Zoning Ordinance should include a segment or a definition on easements so that it is clear to a person what is involved when a request is made for an easement.

M/S – Smith/Sabty. Move to include Easement Setbacks in the January 17, 2012 meeting and have the Planning Consultant prepare the subject for review. **Passed 4-0-0**

As to the agenda item, “Antrim County Soil Erosion and Stormwater Control Ordinance,” it was explained that the subject does not require a TWP Ordinance work. The County has developed a County Ordinance on this subject and it is customary that such an Ordinance is presented to all Townships within the County for their consent. The County requested from the Township that ER PC set a time to have Ms. Heide Lang, Antrim County Soil Erosion Control, come to the meeting and make a presentation on the subject. The set time should be coordinated with Ms Lang.

Correspondence – None

Public Comment

Mr. Pat Brady asked about the length of time it would take to complete the Joint Master Plan? The first meeting coming up should be on January 12, 2012. As to the total project, a good guess would be approximately one year.

Members Comments – None

As there was no further business Chairwoman Mischel adjourned the meeting at 8:35 PM.

The next scheduled quarterly meeting will be on Tuesday January 17, 2012 at the Government Center, 315 Bridge Street, Elk Rapids MI.

E. S. Sabty, Secretary
12-20-2011

Approved 1-17-2012

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday January 17, 2012

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: William Larson, Emile Sabty, Shen Smith & Renee Mischel

Absent: Dorance Amos, Jean Derenzy & Jim Lundy

Also Present: Leonard Harrett, Zoning Administrator. Larry Nix, Planning Consultant.

Adoption of Agenda: M/S – Smith/Larson. Agenda for 1-17-2012 meeting was adopted unanimously.

Approval of Minutes: M/S – Smith/Larson. Minutes for 12-20-2011 meeting were approved unanimously.

Public Forum: None

Old Business

Medical Marijuana Zoning Ordinance

Mr. Nix was asked to apprise the PC on the proposed MM Ordinance draft presented in the December 29, 2011 memo. Mr. Nix stated that one concern raised during the last meeting was whether a caregiver person should be allowed to grow Marijuana in their home especially with children around. In that case there is hardly any information available and whatever information there is, it is not conclusive.

He went on to suggest keeping the proposed Ordinance language the same as currently suggested and only permit what the State law states and intends to have occur. A person can use Medical Marijuana (MM) but can't have a dispensary; he can be a caregiver and have up to five patients, six including one's self and can grow the Marijuana at the home in accordance with State rules and regulations. A patient can come to a caregiver home and pick up the product. A caregiver does not have to go out to a public place or transport it to them, which is not what the Act really says.

Inquiry was raised pertaining to the Ordinance draft Section 2.22-A-8 that states, "*The cultivation or manufacture of medical Marijuana shall not occur in connection with or at a location at which any other commodity, product, or service that is not related to the medical use of Marijuana is also available.*" Mr. Nix expanded on the inquiry by example and explained that a person engaged in some other kind of business out of their home is prohibited by law under item #8 from selling or being a caregiver of MM. That would constitute two businesses at the home. MM is being done as a home occupation out of the same residence. Also in #8 it does not prohibit a caregiver who is also a home occupation provider, if s/he goes to someone's house, pick up an item to work on, bring it back to their home, do the work on it and take it back to the customer; because that customer does not come to the home for that service and is not exposed to the MM caregiver operation taking place at the home. Further discussion took place and questions were asked and examples cited to make sure that the #8 statement is clear. The explanation given above was the basis for the answers given. It was the consensus of the PC to leave the #8 statement as is.

Again a question was raised about locating MM caregiver operation in a Commercial Zone. During the December 2011 meeting it was determined by PC that MM should not be allowed in a Commercial Zone because the disadvantages far outweigh the benefits. It would not be right to have a business in a Commercial Zone, and restrict it from the privileges accorded to other businesses in the Zone. As to allowing the operation in the TWP Commercial Zone, there is a very limited area there that can be used. At the same time the strict rules would have to apply to MM there because it would not be considered a commercial business. MM is not a commodity

that is being retailed. MM is a commodity that the State of MI had authorized a caregiver to sell primarily out of their home, but the law is not specific or clear on that; MM is not a business. MM is an operation licensed by the State that a caregiver can have five (5) patients. The TWP don't want to limit somebody in the Commercial District to only five customers (patients), which the TWP will be doing if MM is put in a C Zone. MM now can happen in a single family home and that complies with what the law states; follow this principle and have something on the books that gives the TWP some sort of control over MM. That is what municipalities are doing now; they are trying to get some kind of a handle on MM.

A question was raised as to the difference between Growing & Distribution vs. Consumption of MM and if that affects the ordinance? A caregiver/grower has five patients who come to the home to pick up the MM product and leave. They can consume the MM in the privacy of their home with no problem. The law does not say anything about two or three getting together to consume, nor does the ordinance try to control that.

The discussion moved on to having the MM in R-1 and Ag residential districts. It was questioned if the PC really wants to see MM caregivers in R-1 Residential district, why not locate it only in the Ag Residential district where the homes are few, spread out and are located on 1½ acre minimum lots as compared to many homes on many smaller lots in the R-1 Zone. At least it would limit the number of MM caregiver growers for five patients in the TWP. It was pointed out that, as proposed, it would be a home occupation in R-1 and Ag Residential districts. By definition of Home Occupation in the Zoning Ordinance, it says that the Home Occupation person is a resident of that dwelling. So the caregiver is the resident who lives in the dwelling where the MM is located. After discussion It was determined to revise Section 2.22-A-3 to add "*and the primary caregiver shall be a resident and occupy the dwelling.*" It was also pointed out that there are no limitations to the distance between caregiver locations, the only distance limitation is the 1,000 ft which pertains to public places, schools etc. Later another point raised drew attention to the draft Ordinance text in Section 2.22-A, "permitted as a *matter of right*" and that the Ordinance does not have anything in it that defines that as we deal with home occupation. It was determined to replace the text to read "permitted as a *permitted use.*"

It was pointed out that the MMMA of 2008 proved to have many shortfalls and lacked clarification and guidance. The MI Legislators have not shown the initiative to rectify that problem and revise the Act. The Courts and the Attorney General are doing that now; but what they do does not officially affect the existing Act until the Legislators take action and revise it. The PC now have a draft of a MM Ordinance, and it is well prepared and stays with the Act. We should adopt it and move on. If the Act gets to be revised, then we can revise our Ordinance if needed, but until then let us adopt the MM Ordinance with minor adjustments as discussed. At the same time it is apparent that the PC is not much in favor of utilizing the R-1 Zone for MM, rather it is more inclined to having it in the Ag Residential district. If that is the decision, then we follow that direction. There are many things we wish we could do one way or the other, but in the long run if we stay with the Current MMMA, it would be the least of problems for the TWP.

The discussion reverted back to locating MM in Ag Residential and must it stay in the R-1 district? Mr. Nix explained that the Act implies "Residence," and in the TWP we have R-1 or Ag Residence districts where a single family residence is found, however the Act is not clear on that. If the R-1 is not desirable then limit it to the Ag Residential, and adopt it that way, but first be certain that a community problem does not evolve. It was determined to ask Mr. Nix to contact the TWP Supervisor Mr. White and Mr. Amos the TWP PC representative and discuss this with them, if there is consensus, then we move in that direction, and bring it up at the next PC meeting. This process might go beyond the April 14 moratorium date limit, but it is felt that since we have an ordinance on the table and it is being worked on, we should be able to complete the work without a problem.

M/S – Smith/Larson. Move to ask the Planning Consultant to discuss with the TWP Board members White and Amos and get their opinion on limiting the MM caregiver location to the Ag Residential area.

Passed 4-0-0.

New Business

Adequate Zoning Administrator Determination on Nonconforming Use

Mr. Nix was asked to apprise the PC of his memo of 12-29-2011 on Nonconformities. He referred to the Court case that brought forward this subject and stated that our Ordinance is adequate on this subject. As to whether we should be adopting rules on the detailing of the enforcement and notification process in the Ordinance when a nonconforming use has been abandoned; it was noted that with the Zoning Administrator's explanation of the current process used and after discussion, it was determined that this subject is not needed.

M/S – Mischel/Sabty. Move to remove this item from our agenda for any further discussion. **Passed 4-0-0.**

Easement Setbacks

Mr. Nix was asked to review his memo of 12-20-2011 on Easements. He stated that easements here pertain only to Private Roads and Access Easements. The Ordinance does not explain the access easement concept clearly and the proposed added new text would make it easier to be clear on what is meant by Access Easement and how that fit in the Ordinance. Briefly put, when one creates an Access Easement they also create a Setback. The PC felt that the proposed text would be beneficial to the Ordinance and should be adopted.

M/S – Smith/Mischel. Move to put forward the Access Easement definition and new Section 2.19-G on Setback for a public hearing at the next Planning Commission meeting. **Passed 4-0-0.**

Correspondence – None

Public Comment - None

Members Comments

Ms. Smith brought up an advisory question as to the procedure followed should there be a major fire problem with a structure on a Hardship Lot where insurance is involved. The Zoning Administrator responded that it starts with his involvement; he calls the insurance Co. on the damage extent & severity degree, then the owner is advised of that. To rebuild he would go by Chapter 4 of the Zoning Ordinance and whether there would be a ZBA involvement as to requirement. Usually the ZBA would consider the Hardship Lot as a unique situation that the ZBA would look at in such situations.

Future Agenda Item

The Chair advised that the Antrim County Soil Erosion and Stormwater Control Ordinance is being presented to the Townships for Review and would coordinate with the Soil Erosion Control Office to have them make their presentation at our Next meeting.

M/S – Mischel/Sabty. Move to schedule an Antrim County Soil Erosion and Stormwater Ordinance presentation at the ER TWP PC meeting on April 17, 2012. **Passed 4-0-0**

As there was no further business Chairwoman Mischel adjourned the meeting at 8:35 PM.

The next scheduled quarterly meeting will be on Tuesday April 17, 2012 at the Government Center, 315 Bridge Street, Elk Rapids MI.

E. S. Sabty, Secretary
1-17-2012

Approved 4-17-2012

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday April 17, 2012

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, William Larson, Jim Lundy, Emile Sabty & Renee Mischel.

Absent: Jean Derenzy & Shen Smith

Also Present: Leonard Harrett, Zoning Administrator. Larry Nix, Planning Consultant. Audience 6.

Adoption of Agenda: M/S – Lundy/Amos. Agenda for 4-17-2012 meeting was adopted unanimously.

Approval of Minutes: M/S – Lundy/Larson. Minutes for 1-17-2012 meeting were approved unanimously.

Public Forum: None

Public Hearing

Amendment #2012-01 – Chapter 1, Sec 1.03 DEFINITIONS, Access Easement, and Chapter 2, Section 2.19 PRIVATE ROAD REGULATIONS Add Sub-Section 2.19-G.

Chairwoman Mischel opened the Public Hearing.

Mr. Nix, Planning Consultant, upon request from the Chair, reviewed the amendment as written. With no public input, Sabty/Amos moved to close the Public Hearing. **Approved 5-0-0**

As there was no further discussion Chairwoman Mischel asked for approval of the amendment.

M/S – Mischel/Amos. Move to recommend approving amendment #2012-01 to the Elk Rapids Township Zoning Ordinance Chapter 1 Section 1.03, adding Access Easement and Chapter 2 Sections 2.19 adding Sub-Section 2.19-G as written.

Chapter 1; Section 1.03 – DEFINITIONS – add “Access Easement” to read as follows:

Access Easement – A portion of land intended for the sole purpose of ingress/egress to a parcel. For the purposes of this Zoning Ordinance, an access easement shall be considered a private road, as defined herein.

Chapter 2, Section 2.19 – PRIVATE ROAD REGULATIONS, add Sub-Section “G” to read as follows:

- G. Where a private road or access easement is present on a lot, minimum required yard setbacks shall be measured from the private road or access easement right-of-way, regardless of whether the right-of-way provides frontage for the lot.

Vote. Yes – Amos, Larson, Lundy, Sabty and Mischel

Motion passed 5-0-0. Approved amendment #2012-01 will be sent to County for their review and concurrence.

New Business

Twin Bay Medical, Inc. A letter from the applicant dated March 20, 2012 was received requesting that the Planning Commission extend the approval of the existing 5-17-2011 Site Plan as is for another year.

Mr. Sabty stated that upon receipt of the letter and in a discussion with the applicant they advised that they have completed the rear addition as requested in the Site Plan of 5-17-2011 and it is now in use. Now they are working on completing the South addition to the structure as planned as soon as work details become feasible. There will be no changes to the approved site plan.

M/S – Amos/Sabty. Move to grant a one year extension, which expires on 5-17-2013, to the Twin Bay Medical, Inc Site Plan previously approved on 5-17-2011 for the property located at 11590 US-31 South, Williamsburg, MI. **Approved 5-0-0**

Site Plan Review – Joseph A. Nowak/Mark Blackmore – Blackmore Property Management

The Chair asked Mr. Nix, Planning Consultant to review his application findings.

Mr. Nix stated that the basic Zoning Ordinance standards have been complied with in this Site Plan. The property ownership documentation by Mr. Nowak was received. An impact statement on infrastructure and natural environment of adjoining lands would not be needed since this request is considered an existing situation and the applicant would just be moving in and would not have any additional impact on the area except what they might be doing outside, particularly the storage bins and the Black Diamond Sealing business and how that is going to work on this property. On the application, Black Diamond is noted as an office for that use, but there were no details as to what is involved and the equipment involved. These need to be addressed by the applicant.

Mr. Blackmore, lessee, advised that the bins as shown on the Site Plan are opened and would be used to store mulch and similar landscape material, and are four (4) feet high. Black Diamond would only have their office there; the work location will continue to be on the existing property at Milton Township. Work trucks will not be stored on this Site Plan location.

Ms. Mischel asked about retail sales and displays and how that will be handled, would things be viewed outside while the actual sale is transacted inside the office? Mr. Blackmore explained that most of the material in the bins and the tree and plant displays are hauled to the work site on the landscape vehicles/trailers. Should someone ask to buy it on site they would load the customer car/trailer and the transaction is completed in the office.

Ms. Mischel asked about the plants display area locations? Mr. Blackmore responded that the trees and plants would be displayed in the designated berm areas and replaced as they are sold.

Mr. Sabty asked where the company vehicles would be stored and what goes inside the building? Mr. Blackmore responded that the vehicles would be stored behind the building (west) and in front of the bins area and that equipment related to landscaping goes inside the building, and at times a vehicle as needed.

Mr. Sabty stated that he was informed of and is making the Planning Commission aware of the fact that there is a 40' ingress/egress easement on the north side of the building. The Site Plan recognizes the 33' easement as well as the 10' north side setback; probably that is how the number 40 came about.

The Chair asked Mr. Harrett, Zoning Administrator to comment on the easement. He stated he views the 33' easement on the Site Plan as an easement for the Electric lines.

Mr. Sabty, in response, stated that when viewing the Site Plan it is noticed that the electric lines are located outside the 33' easement, to the south, so is the water well. For the record, there are three ingress/egress easements to the three Cooper properties located west of this property. The one showing on the Site Plan runs along the north side and continues thru the neighboring Mylone property accessing the Cooper property house to the west. The second easement runs in conjunction with the access road north of this property and serves the trailer house on another Cooper property. The third easement starts around the Nowak Cabinets property and runs north behind the commercial area to access the third Cooper property there. These three ingress/egress easements are registered with the property deeds.

Mr. Nix addressed the Site Plan signs. A total of 50 sq ft of signs is allowed with no more than two signs. One is the existing road sign which is 30 sq ft. The other is the Canopy sign over the door for Blackmore Property Maintenance and Black Diamond Asphalt; the actual canopy size makes for a bigger sign there, however, if we look at the Sign Ordinance and follow by drawing a rectangle around the words on the canopy, then the sq ft area is fine; but if the words on the canopy get any larger than what is illustrated in the Site Plan, then the sign will exceed the limits allowed.

Ms. Mischel asked Mr. Nix and Mr. Harrett about the parking of Company Vehicles in the back of the building; it was indicated earlier that there might be a Black Diamond vehicle there at some times, and since Black Diamond there is just an office and not a business, what are the regulations covering that?

Mr. Harrett stated that the Ordinance does not address the existence of a company vehicle parked outside in a commercial zone. Mr. Nix concurred with the statement and went on to state that from Mr. Blackmore's letter to the Planning Commission he intends to preserve the good appearance of the area and the PC efforts to maintain that good appearance as that section of US-31 is the entry to the Elk Rapids area. Mr. Harrett suggested putting a Site Plan condition to limit how many work vehicles could be found on site.

Ms. Mischel stated that at this time of review this business can be accommodated on the premises without a problem. We don't know now if the company becomes too big which might mean more vehicles would be needed. How many? Or if it happens we can deal with that when it happens. At present we can deal with the facts on hand but not some future unknown.

Mr. Harrett stated that there are six marked parking spaces in the back area, if three are for employees and three for company vehicles, it would be OK. But if all have trailers, what then? I hope the business will prosper, but when that happens and they have many company vehicles, we might have problems then.

Mr. Sabty said that it seems the discussion is shifting into a probability of unknown rather than the facts on hand, but to pursue that line. The business now have three or four vehicles with which they do all the work in Elk Rapids, and from their impressive list of customers they are now able to do it; unless they end up doing the landscaping and property maintenance for every home and business in Elk Rapids, then that becomes a different story, and would the current space be adequate for such an expanded business? We cannot look at a Site Plan for today and dwell on what they might do in the future, we don't know, and that is why the Site Plan review dwells on the facts on hand.

Mr. Nix suggested that a condition might be added that all parked work vehicles must be parked in the back side parking area near the bins and that they cannot be parked in front of the building or between the building and the road.

A Statement for an added condition by Sabty/Mischel, "As a condition to Site Plan approval all work vehicles are to be parked in the back (west) area of the building."

Mr. Harrett inquired about a Special Exception for allowing outside sales and displays? Ms. Mischel responded that this business does not require a Special Exception because they will not have outside sales and displays. Mr. Harrett then asked about displays of lawn equipment? Mr. Amos responded that the Planning Commission is considering material in the bins, trees and plants, there is no mention in the request of displays or other things located outside, to consider that we would be going outside the limits and we should stay within and deal with what is on hand.

Mr. Nix suggested that to avoid a Special Exception and clarify the approval, that if the outdoor display area goes beyond the bins and berms, they may have to, upon judgment of the Planning Commission, seek a Special Exception to allow the outdoor area to expand beyond what is indicated on the current Site Plan.

Chairwoman Renee concluded that another added condition to the approval shall be that all outside display areas be confined to the berms and the current landscape plans as proposed.

Mr. Sabty stated that the Zoning Ordinance section 11.02 lists the permitted uses in a Commercial Zone. Landscape and Property Maintenance business is not listed as a permitted use. However, at the end of that section the Ordinance states, “ *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.*” In our Site Plan approval process we have to find that we authorized Landscape and Property Maintenance as a use similar to the uses permitted by right in a Commercial Zone.

Mr. Sabty provided a statement for adoption during the Site Plan approval, that because in the Zoning Ordinance Section 11.02 under permitted uses, Landscape and Property Maintenance is not listed as a permitted use, therefore the Planning Commission does authorize Landscape and Property Maintenance as use similar to uses permitted by right in a Commercial Zone.

Mr. Fox, audience, commented on clarifying the allowed parking on the south side of the building as to overnight and weekend parking there. It was brought out that parking on the south side of the building was intended for customer parking and not for overnight or weekend parking.

The Chair summarized the review findings that the standards are met and that there are three areas to be addressed for approval, one that this business is similar to permitted uses by right, the other two are conditions that work vehicles be parked in the back parking area on nights and weekends, and that outside display areas be limited to what is currently on the Site Plan.

With no further discussion, the Chair asked for a motion on the Site Plan.

M/S – Amos/Lundy. Move that the Planning Commission find that Landscape and Property Maintenance is a use similar to uses permitted by right in a Commercial Zone and to approve the Site Plan for Blackmore Property Maintenance as submitted with the following conditions.

1. That work vehicles be parked in the back parking area west of the building for overnight and weekend parking.
2. That outside display areas be limited to what is shown currently on the Site Plan.

The Motion was **Approved 5-0-0.**

Shoal's North Site Condo – Request for Review

The Chair stated Mr. D. Ireland requested a review for this property and a possible easing of the involved restrictions. Mr. Harrett, Zoning Administrator had requested including this as an agenda item, he was asked to brief the PC on the request.

Mr. Harrett stated that in 2005 Mr. Shoal proposed a six lot site condo on that property on Elk Lake Road. The Planning Commission after extensive reviews made all six lots conforming lots. One existing accessory structure by itself on lot #2 would have made that lot nonconforming which by Ordinance rules cannot be created. To solve the problem, the PC on 6-7-2005 approved the Site Plan with 17 conditions, two of which pertained to lot #2 accessory structure and said it could not be used for anything and must remain locked and out of use until such time when a primary structure is built on that lot. This became part of the legal registration of the deed registered at the County. Recently the Shoal Site Condo property was taken over by the bank and is trying to sell the lots. They indicated that the restrictions in the deed on lot #2 make it hard to sell. The people here tonight are asking for a compromise language that will help them sell this lot.

Mr. D. Ireland, Real Estate Agent, stated that lot #2 has a restricted accessory structure on it, and the restriction says that even if a home is to be built on it, the home must be well in progress before the barn/garage goes into use. An owner would not be able to use the structure to store construction material inside of it while preparing to build a house on the lot. With the bank, we are proposing a lesser restrictive language on lot #2. That as to the barn/garage, the buyer is the only user of that building, that everything must be kept inside it, that it could not be

rented to anyone, and that it could not be put into commercial use. Making that modification to the agreement, we can get the property sold and a house built on it.

Mr. Amos stated that to avoid buying the lot with the barn/garage on it and not putting up a primary structure, a time limit can be put in place when the building permit is issued. If not completed in time, the building permit will go away and it becomes in violation.

Mr. Sabty stated that any zoning change goes with the land and not with the owner. The restriction was put in place to avoid creating a nonconforming lot. Any change to the restriction rules would create a nonconforming lot, regardless of the intentions of facilitating a sale which may not occur. Consider the situation where one gets a building permit for a house, digs a hole in the ground for starting a foundation then goes on and start using the accessory structure, the following year he pays \$25 for the permit renewal and continues to use the accessory structure but no house, is that right? Any change in the restrictions on the deed will go with the land, and to go the violations way is an expensive burden on the Township when now it is not. When the restrictions were put there, it was to avoid creating a nonconforming lot and the restrictions allowed the total project to proceed. The restriction language avoided the pretence of building a primary structure by stating that the project should be well on its way before the accessory structure is put back in use.

Mr. Amos stated that to use the barn/garage in the interim, the building permit would be tied to the completion of the primary structure within a set time, if that does not happen, then the building permit goes away and with it the use of the building.

Mr. Lundy stated that modifications may look alright, but how can you get to do something without building a house on the lot.

Mr. Fox, Bank Representative, stated that it will be used by an owner who intends to build on it. In these hard economic times, the restrictions on the lot do create a difficulty in selling the lot. A lesser restriction will help even with time limits.

The Chair stated that this subject is just been presented to the Planning Commission. The Chair suggested that Mr. Harrett and Mr. Nix review this subject further and come back with a recommendation.

M/S – Mischel/Amos. Move to authorize Mr. Harrett and Mr. Nix to take a closer look at this property and bring back a recommendation if there are changes that they would recommend to the Planning Commission at the next meeting.

During discussion Mr. Sabty stated that at this stage, this is the wrong place for the request to come to the Planning Commission. The Planning Commission in 2005 recommended approving the Site Plan with 17 conditions. A second motion then recommended to the Township Board that they approve the Site Condo with the conditions as is. The Township Board then with the attorney made a final approval after which it became part of the Site Condo lot split property deed. This request now should be made to the Township Board (Approved Site Plan Condition #3) because they were the ultimate decision makers for the Site Condo and the lots split. Between them and their attorney, if they agree with the proposal they can recommend sending it to the Planning Commission for a review and report back, they can make the modification at the Township Board level, or they can reject the request for modification. It is their call. But to start this request at the Planning Commission level is just not right because it will be bypassing the legal authority process and ultimately it is going to end up legally at the Township Board, so why not do it right to begin with.

The Chair stated that this should be something that Mr. Harrett and Mr. Nix will be considering in their review.

Vote. Yes – Amos, Larson, Lundy and Mischel
Abstain – Sabty

Motion Approved 4-0-1

Old Business

Medical Marijuana – Zoning Ordinance

The Chair acknowledged that the Township Board had extended the MM Moratorium for 6 months through October 14, 2012. Mr. Nix was asked to give an update review of the Medical Marijuana Ordinance under study.

Mr. Nix – During the past meeting a couple of text changes were approved to the MM draft ordinance, also locating it in the A & R-1 Zones was discussed. He was asked to review with Messer's White and Amos the notion of allowing it only in the A Zone. Mr. White thought that the idea of locating it in the A Zone would not go anywhere at all and he was very concerned about even the TWP moving forward with MM ordinance at all, given the County Prosecutor opinion on the topic of MM. He also had further discussion with Mr. Amos who will be sharing that with the Planning Commission.

Mr. Amos concurred with Mr. Nix statement. First, we believe and agree from what our attorney had told us and the County Prosecutor position on the sales of MM that it will stand and not go forward. Second, we also believe that we cannot enforce it financially or legally. We get an individual who is a card carrier and have the right of the Privacy Act to do it in his home, so there is no enforcement there. We really feel that we keep the moratorium in place until it runs out and then see what happens by the next month if something changes, by what the Attorney General is doing and by what the Prosecutor believes. We are certain that taking a move forward now would be going in the wrong direction because, above all, we believe we cannot enforce it and we don't have the enforcement tools to do it right.

Ms. Mischel asked if there was any State Legislative move on the subject. Mr. Nix responded that there is none to date. Mr. Sabty advised that in a current News Paper column concerning Doctors dilemma with MM it was mentioned that the legislators heard testimony recently and are now considering a package of bills

Mr. Nix suggested that given the state of where the State of Michigan is at concerning MM, the position of the County Prosecutor and also on the advice of Messrs White and Amos who conferred on this subject, that we table this issue until so directed by the Township Board as to when they want to move forward on it at some time in the future. We do have a good solid draft ordinance on hand that we can come back to if so needed.

The Chair, based on advice from the Township and the Planning Consultant, moved to table further discussion on Medical Marijuana Ordinance until so directed by the Township. **Approved 5-0-0**

Correspondence - None

Public Comment - None

Members Comments - None

As there was no further business Chairwoman Mischel adjourned the meeting at 8:05 PM.

The next scheduled quarterly meeting will be on Tuesday July 17, 2012 at the Government Center, 315 Bridge Street, Elk Rapids MI.

E. S. Sabty, Secretary
4-17-2012

Approved 5-15-2012

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Special Meeting Minutes – Tuesday May 15, 2012

In the absence of Chairwoman Mischel, Vice Chairwoman Smith presided over the meeting.

Vice Chair Smith called the Special Meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, Jim Lundy, William Larson, Emile Sabty & Shen Smith.

Absent: Renee Mischel.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience of 9

Adoption of Agenda: M/S – Amos/Larson. Agenda for 5-15-2012 meeting was adopted unanimously.

Approval of Minutes: M/S – Lundy/Amos. Minutes for 4-17-2012 meeting were approved unanimously.

Public Forum – None

Old Business – None

New Business

Presentations – Backgrounds:

Prior to 4-24-2012 Ms. Heidi Shaffer from Antrim County Soil Erosion Control, and Mr. Bob Kingon from Skegemog Lake Association, met with PC Chair Mischel to encourage reviewing the Elk Rapids Township Zoning Ordinance on Shoreline Protection. They also requested a Special Meeting in May 2012 with the Planning Commission to address their concerns.

At the same time Ms. Shaffer was to make a presentation to the Planning Commission on the County Soil Erosion and Storm Control Ordinance. This presentation did not occur as a standalone at the meeting.

Ms Shaffer spoke using slides about the National Shoreline concept and how she believes that it is a positive approach to the re-establishment of native vegetation and native shoreline. It is a group concept that she is involved with to achieve common goals to develop technology that restore the shorelines to more natural stage.

Primarily there is new technology that can be used. The National Lake Association did a survey and found that the number one problem with fisheries is poor shoreline habitat such as predominant grass right to the edge of the water which does not provide any habitat or stabilization. They are urging people to plant the shoreline with plants and shrubs. The second problem they found was the high input of nutrients that come from fertilizing grass lawns at the water edge which keeps washing into the lakes. The native protection strip that is utilized is alright, but they would rather see plants there rather than just grass. Grass has roots of a couple of inches while plants have 2½ - 4 ft roots. The deep roots preserve the shoreline and help absorb the nutrients.

Elk Rapids Township has a Buffer Ordinance to protect the shoreline by leaving the designated Nature Strip undisturbed. When shoreline stabilization takes place it ends up hardening the shoreline that has vertical walls at its edge which become skewered by the incoming wave action and ultimately affecting and weakening the area behind the walls. The State now recognized that they no longer want to have seawalls or vertical rock walls because of the impact of the waves churning that area up in front of the shore. If someone wants to have a sea wall put in, it is now considered a major project category with a \$500 fee, while the natural shoreline concept which the DEQ is encouraging is considered a minor category with a \$50 fee. What happens with the seawall and the vertical rock wall is that the rear shore area habitat is destroyed as the shoreline becomes eroded and the fish habitat becomes destroyed.

Ms Shaffer proceeded to review picture slides of examples of seawall and vertical walls that are affected, and how hardened ice accumulation has had definite adverse effect in reducing the natural protection. Other slides and drawings showed how sloped shorelines are preferred as they do not show the adverse affect. Most of the slides in this part of the presentation came from a Site Plan Presentation folder to the ZBA that was prepared by Mr. Polinke on how the Coir Rolls with Cobble Stone would protect the shoreline, of Mr. Easton's lake property, but that in order to have complete shore area protection from the ice erosion effect, it would be necessary to remove the existing two mounds with their definite walls, grade the shore adjacent to the Coir Rolls placement and re plant it which at present is not permitted in the protection strip (see attached drawings). The presentation drifted towards Mr. Easton's proposed work on his shoreline and how it is a good example of what they are proposing. Mr. R. Easton was present at this meeting with his agent Mr. Mark Polinke of J P Landscape Architect.

Background to Referenced ZBA Case – Mr. Easton is the owner of property in ER TWP at 11191 Mattes Drive which was the subject of a ZBA variance request. A variance request ZBA-108 for this property was denied by the ZBA on March 19, 2012. A summary of the ZBA case is: Mr. Easton had requested that the ZBA grant him a variance to, a) Reconfigure and rebuild the lake water edge area and install a shoreline erosion control system, b) Reconfigure and grade the soil and remove existing stumps within the 25-ft wide by 102-ft long Native Protection Strip adjacent to the lake shoreline. The ZBA advised the applicant that the first part of the request falls under the jurisdiction of the County/State with Township concurrence as needed. As to the second part of the request, the Ordinance Section 2.11-C, in particular, prohibit such work in the protected strip. Before the ZBA meeting Mr. Easton had met with Ms. Shaffer regarding the work he is contemplating and she encouraged the work he is proposing and expressed that in a letter she forwarded to the ZBA to that effect. The presentation she made ran parallel to the content of her letter to the ZBA promoting Mr. Easton effort. A copy of the letter is attached.

Ms Shaffer went on to say that Elk Rapids Township had been firm in enforcing their protection ordinance which she appreciate and admire, but she would like to see the ability to be able to see these natural shorelines come into play. She did not believe that very often they would be needed to change the contouring of the shoreline, but occasions would happen requiring some work. She said that Mr. Easton's Site Plan documentation to the ZBA was highly commendable on its detail, completeness, diagrams and pictures. She used that document in making her address and indicated that what is contemplated to be done there should be a model of what she is advocating. It showed the ice effect on the ridge at the shoreline when left alone. In their proposal the slope fix of 3:1 at the shore and eliminating the vertical wall ridge would stop the ice jams from eating up the ridge. If left alone the ridge will eventually disappear, but it will end up in the water as sediment, something they are trying to avoid. She went on to state that they are asking the Planning Commission to review and if possible make changes to the Zoning Ordinance which would permit allowing some leeway when enforcing the Protection Strip Ordinance such as in Mr. Easton's case to allow installing the Natural Shoreline concept. She does not like to see someone reworking the shoreline and planting grass all the way down to the water, which would not benefit the lake. If someone putts in native plants acclimated to this area then that will provide habitat life. The need is for a stable shoreline that does not wash into the water. When the shoreline is stable we don't get active erosion occurring into the water ways.

Mr. Bob Kingon, from the Skegemog Lake Association (ESLA) and a participant in Zoning and Planning at Milton Township, made a brief address on shoreline protection supporting Ms. Shaffer presentation. He advised that their intent is not to have a common ordinance among the Townships on the Lake, rather, each have their own ordinance language that would allow an applicant requesting basic change or improvement to the shoreline area to be able to do such reasonable work. Some of the ordinances now in use forbid any such work. He spoke of the Milton Township new Zoning Ordinance and such changes adopted which they think that in the long run will benefit the lake shoreline. He reemphasized the points made by Ms. Shaffer and dwelt some on Mr. Easton's desire to work on his shoreline. Modifying the Zoning Ordinance to allow the new technology to be applied would be helpful to Mr. Easton.

He referred to the Ordinance at East Bay Township that utilize a managed buffer strip of 100 ft consisting of three tiers each allowing more gradual clearing inland. In resolving related problems from standards or dimensional restrictions applicable to the buffer area that cannot be reasonably developed, the Planning Commission would evaluate the site plan in accordance with their Ordinance and determine that the proposed site plan provides the maximum possible buffer strip while permitting a reasonable use of the property. The Planning Commission is used to resolve such problems.

Mr. Kingon stated that because the ER TWP PC meets quarterly, they requested this May Special Meeting so that if any changes are made they can be made before the end of summer giving Mr. Easton time to work on his project.

Mr. Sabty made a statement to clarify the ZBA decision process. The request for variance by Mr. Easton was denied by the ZBA which is final. That decision as it now stands is not appealable to the Planning Commission or to the Township Board. The applicant can only appeal the decision to Circuit Court. The Zoning Ordinance as written would not allow for a rehearing based on new undisclosed evidence. If what is being advocated at this meeting, to revise the Ordinance, is adopted and Mr. Easton seek to pursue his request, then the ZBA will consult with the Township Attorney as to the best process to follow.

Discussion ensued. Mr. Harrett the Zoning Administrator stated that should the ordinance easing of restrictions go into effect there will be no knowing of what shoreline work will be proposed in each case. Handling such a variety of requests will require a shoreline specialist to address such scientific reviews similar to a Site Plan Review Engineer who has to put his seal on and sign the Site Plan. The Township is not set up for that, and there may not be an inclination to get into that field. Most probable if such a suggested path is to be followed, then this work will end up going to the County for their review and approval, this being their suggestion.

Ms. Shaffer stated that with her background in this area, she would be helping out. Mr. Kingon stated that ESLA may have some members knowledgeable in this area that might help out. Mr. Mark Polinke of J P Landscape Architect, spoke briefly of certified people in that field that can do such work.

Mr. Nix, Planning Consultant stated that if there is consensus that the Planning Commission would want to pursue this meeting intent, review the current Zoning Ordinance and see if any change is appropriate to make shoreline preservation easier to accomplish and see if the Protection Strip requirement as it stands now can be reviewed to make the rules possible to work with in some areas, then he can study this and possibly have something for the Planning Commission to look at during the next meeting.

Vice Chair Smith with PC concurrence approved Mr. Nix suggestion and asked him to first coordinate and consult with others and then with the Township Attorney as to the feasibility of what has been proposed. He can email what the consultation decision is as to whose jurisdiction, how the various elements involved would fall in place, what would be expected and required from the Elk Rapids Township if we are going to proceed into this in the future. This would be needed before any such review and study is started.

Correspondence, Public Comments – None

Members Comments - None

As there was no further business Vice Chair Smith adjourned the meeting at 7:50 PM.

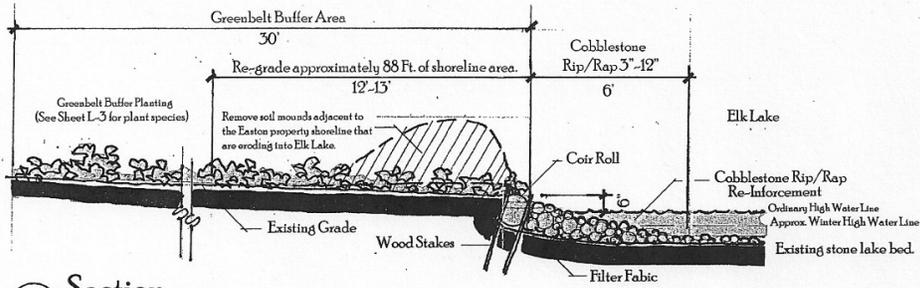
Next scheduled meeting will be on Tuesday July 17, 2012 in the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
5-15-2012

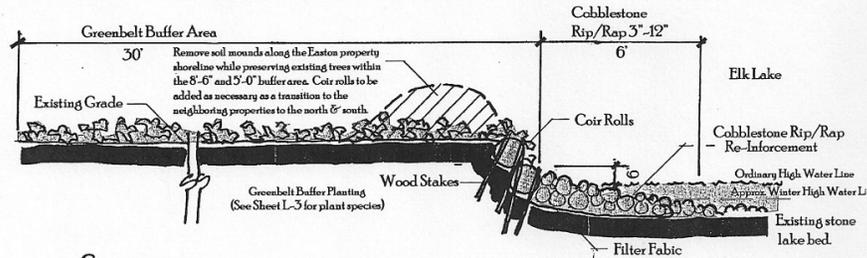
Approved 7-17-2012

Minutes are subject to approval at the next regular Planning Commission Meeting.

Two Attachments



1 Section



2 Section

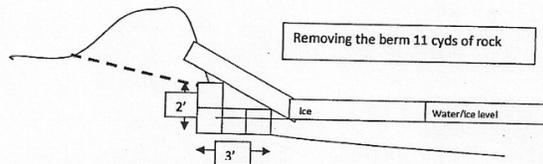
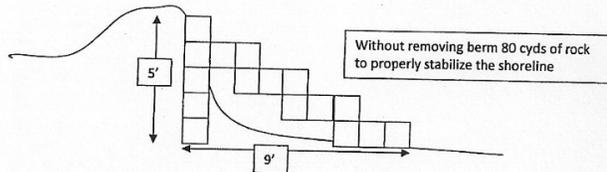
Easton Residence

11191 Mattes Road
Williamsburg, MI
Elk Rapids Township

J.P. LANDSCAPE & IRRIGATION
a Design/Build Company
Traverse City, Michigan, 49684
www.jplandscapeandirrigation.com
Phone (231) 922-0859 Fax: (231) 922-0644

Scale: 3/8" = 1'-0"
Design: MWP
Project No.: 2012.001

Date: 2/4/12
Revisions:
Revisions:
Sheet: L- 4



The concern with leaving the ice berm is that the ice will further jam and degrade the shoreline. The goal with this shoreline design is to have the ice ride up the rock and break off when it reaches the end of the rock. The plants that are planted at the shoreline will be dormant in the winter, so won't be damaged with the ice flow and the roots would help hold the bank.



March 19, 2012

Elk Rapids Township
Zoning Board of Appeals
315 Bridge Street
Elk Rapids, MI 49629

Re: Ray and Jacquelyn Easton property; 11191 Mattes Drive, Williamsburg, MI 49690

To Whom It May Concern:

As a member of Michigan's Natural Shoreline Partnership, a certified teacher of natural shorelines for property owners, and soon-to-be certified Natural Shoreline Professional, I am a strong proponent of the natural shoreline stabilization JP Landscape & Irrigation is proposing for the Easton property. Zoning administrator Len Harrett should be commended for his dedication to enforcing ERT's greenbelt/buffer ordinance. Requiring lakefront property owners to maintain trees and minimize shoreline manipulation within the first 30' of the lake is critical to the protection of the lake's water quality and the edge habitat it provides.

The Eastons' plan is to plant an extensive native plant buffer at their shore, place coir bundles under the eroding bank, then front the coir with rock sloped to allow ice and waves to roll up the bank instead of causing erosion. Functionally, this will: filter stormwater, provide "up-north" aesthetic integrity, shade the lake, provide habitat for fauna, and stabilize the shoreline. My hope is the Zoning Board of Appeals will grant the variance and this project can be a model from which to base future development.

I have talked with Mark Polinko, JP Landscaping & Irrigation, about erosion control during construction. A turbidity curtain will be used to control sedimentation. We have also talked about possible staging and the use of silt fencing to further eliminate erosion during construction. DEQ Inland Lakes and Streams and Soil Erosion Control permits will be secured before the project begins. I also plan to be on site during critical phases of this project.

I apologize for not being able to attend tonight's meeting as my Conservation District Board meeting was rescheduled for tonight. Please feel free to contact me with any questions you may have.

Sincerely,

A handwritten signature in cursive script that reads "Heidi".

Heidi L. Shaffer
Soil Erosion Control Officer, Antrim County

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday July 17, 2012

Chairwoman Mischel called the Meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Jean Derenzy, William Larson, Jim Lundy, Renee Mischel, Emile Sabty & Shen Smith.

Absent: Dorance Amos.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience, one.

Adoption of Agenda: M/S – Smith/Lundy. Agenda for 7-17-2012 meeting was adopted unanimously.

Approval of Minutes: M/S – Derenzy/Lundy. Minutes for 5-15-2012 meeting were approved unanimously.

Public Forum – None

Old Business

Shoal's North Site Condo – Lot #2

The Chair noted that the current owners of this property Bank/Agent are not present. At the last meeting they were seeking relief from the property deed restrictions to allow the use of the existing pole barn on the property before a dwelling is constructed. Len Harrett and Larry Nix were to study this matter and consult with the TWP, then bring back a report on a possible approach.

Mr. Nix reviewed his Memo to PC of 7-13-2012 (copy on file). He noted that, (1) the TWP did all possible within the Zoning Ordinance to save the structure from being torn down when they approved the lot creation. (2) With the barn door missing, they can put up a 6-ft chain link fence around the pole barn to secure it until it is OK to use it. (3) It can be sold or moved. (4) It can be demolished. (5) The agreement states that it can be used after a new residence built is well in progress; any other change would defeat the deed agreement.

Mr. Harrett reported of an interested party who would put a double wide mobile structure on the property and use the pole barn for his own use if feasible. He was informed of the 960 sq ft dwelling area requirement, have a septic system, a well, pass the County Building Dept. standards and it would have to meet the 'energy codes. The County advised that the roof has to be built to support 30-lb snow load, and if it is built after 1976, when the codes were improved, they would have no objections to it. It must be anchored down properly. The interested party was enthused that he would be able to rent the dwelling and use the pole barn for his own use and still meet the TWP requirements.

Mr. Sabty inquired about the Master Deed written when the Site Condo was developed, and if it would still apply? And if so, must a prospective buyer abide by those rules? Using a 'double wide' in such a plat may not work if the Master Deed is still in effect. Mr. Harrett advised that the TWP does not enforce or take any notice of a Master Deed, that the other lot owners would be the ones to take notice and enforce it.

Mr. Nix advised that it seems that on this whole issue we need to do nothing. This matter was discussed by the Planning Commission and no one from the Bank/Agent is present. Options were explored and no action should be taken nor required. Should the Bank/Agent contact the Zoning Administrator, it should be OK to share with them the Memo of 7-13-2012 about this subject.

The Chair summarized that it is the consensus of the Planning Commission that we should not change the existing deed conditions for this property, and that no action is required.

Shoreline Protection Zoning Rules

Mr. Nix reviewed briefly the Special Meeting of May 15, 2012 and the circumstances leading to the draft ordinance. Then, it was noted that our ordinance is restrictive when dealing with shoreline protection. It basically states that one can't do any groin wall, build a vertical wall or do anything within 25' of the shoreline and can't exceed 30% of tree work. An applicant through the ZBA requested approval to fix his badly deteriorated shoreline and was not permitted. He approached the County Soil Erosion Officer for relief, which prompted the Officer to request the Planning Commission to review the restrictive rules and see if they can be modified to help in some situations. In requesting an environmental change they wanted to keep it as natural as possible, create a filtering system for fertilizer and runoffs while at the same time would keep it natural when working to get rid of some bad areas like ice dams, big earth mounds and dead trees etc; it has to be compatible with what the water does to the shoreline in terms of wave action, ice action and the erosion process that affects the habitat of fish, while at the same time avoid an adverse effect on the neighboring shorelines.

It was pointed that we are not experts in that field, this being a new field to approach, the proposed draft ordinance was kept simple, and tried to reach out to experts in that field to assist us when we get into such work and extend their assistance beyond the completion stage to make sure that the work was done right. The draft ordinance kept all what was in the existing ordinance, and added new section "D" which covers the added approach. Section D allows the applicant who wants to remove more than the 30% rule, to use the Site Plan Review and approval process at the Planning Commission to waive some of the restrictions. The work requested needs to be prepared by someone who is certified by the Michigan National Shoreline Partnership, which is an official existing certification position. After a submission is made the request is to be reviewed by the Soil Erosion Officer at Antrim County for their expert input, then we do the Site Plan Review at the Planning Commission. If the process is approved, It is suggested that the Planning Commission request a Performance Guarantee on the work to make sure that after one year of completing the work, the Zoning Administrator and the County Soil Erosion Officer can inspect the work to make sure it is working and the vegetation is alive, at which time the applicant would get back the performance guarantee and the case comes to a close.

The draft ordinance covers the process described; it addresses the land side issues and the water side issues when going through a Site Plan Review. It does not include technical standards as to what natural vegetation, or what we do specifically in the water; that we send to the County Soil Erosion Officer for assistance, who happens to be an expert in that field. This approach will take care of the concerns expressed during the Special Meeting of May 15, 2012. Such a project will be costly to an applicant attempting to do a thorough job.

Discussion followed about the restrictions on removal of dead stumps already on the water shoreline edge. Some people understand it that the Zoning Ordinance allows such removal outside of the 30% rule. Mr. Nix stated the draft ordinance approach on that appears in the added paragraph D, that if a property owner want to remove those tree stumps and/or those natural ice dams then paragraphs D comes into play, even if it is not more than 30%, one has to go through the Site Plan Review approval process.

Chairwoman Mischel suggested that it may be preferable to see that if more than 30% of living trees and shrubs and/or the removal of natural ice dams or tree stumps are proposed, then the Site Plan Review and approval process is appropriate.

Ms Smith pointed that there might be a problem with the "more than 30% part," that it might open the door to removing all the trees on a property. Mr. Nix advised that the Ordinance pertains to the area from the shoreline and 25' inland, that beyond the 25' we don't control what happens there. Ms Smith added that in the strip, if more than 30% is cut, it would blight that strip

Mr. Sabty stated that during the Special Meeting East Bay Township was mentioned as an example of a Township that uses the Planning Commission Site Plan Review in those special situations. Mr. Nix advised that the draft language also covers the removal of the natural ice dams, when the ice dams and tree stumps are causing environmental damage to the water side.

Ms Smith stated that we should not allow someone to take out more than 30% of the trees in the 25' strip. The draft wording may need some clarification. Mr. Nix advised that if more trees were to be removed they have to come to the Planning Commission for permission; why would an owner want to take out more than 30% in the 25'

strip? If one is removing trees that are in the ice dam, why not leave some there specially beyond the ice dam if they are not a problem, which would keep the property shoreline appearance blending in with the area around it. Cutting the trees for a "view" should not be an acceptable reason. The Planning Commission can get into such details during the Site Plan Review approval process.

Mr. Sabty stated that the draft ordinance is specific that a person who wants to make a dimensional change such as building a deck in the 25' strip would go to the ZBA for approval. If the request is turned down they do not qualify to go to the Planning Commission for such a change using the proposed Site Plan Review. Only extensive work that is the product of the shoreline water edge and the strip damage would come to the Planning Commission for review.

Mr. Nix pointed that as he sees it, either one of the water work and land work repair or both together would trigger a Site Plan Review by the Planning Commission with professional input. Not in all situations would the 30% work apply, an example would be, when one have only three trees and one is in an ice dam. We can put in the ordinance that the property owner should strive to maintain as much of the natural trees as possible to achieve the objective of the National Shoreline that is being promoted with some limitations that would still meet the objectives; but that may not be practical because there are so many different situations out there and seldom one shoreline is the same as the other.

Mr. Harrett commented that Sec. D-2 in the draft does show that the Planning Commission is concerned about the character and impact of the proposal. The Planning Commission does not have to clearly define what their likes and dislikes are, what a detailed 30% is, or the variety of trees to be cut and which ones to stay. The Planning Commission should be performing a sort of general "artistic" review to maintain the character of the shoreline. They should go into a Site Plan Review openly and not be limited by pre prescribed numbers and conditions. Such things are hard to define in advance except on a case by case basis as it happens, which keeps the Planning Commission free to make a decision on that case and would control excess and unwarranted tree removal in the 25' strip.

Mr. Larson stated that we are trying to write an ordinance that we are not even into its content yet. The lot in question that came up, the presentation that followed and the program in review are basically a PILOT program; it warrants some consideration for an individual Site Plan Review and approval by the Planning Commission, but I don't think we should rewrite all the laws we have right now. Basically the draft ordinance is a very good start. If we were to consider a Site Plan and say yes to something that should be or could be done, but we really don't know how, we have the expert that would come and do it with us. It would be just that individual Site Plan for which we would do something. I don't agree with what the discussion is leading to. Some of what is being said is true and some is not. So, if one would come for an individual Site Plan Review, we would seek the help of the expert in that field who would be the one to guide that effort; we repeat that that through 1, 2, or 3 years, after that, when we know more about what we are doing, then if we need to put something concrete in the Ordinance, then do it. But as far as stumps go it should be the least of our worries, because in 10-12 years the stumps would be rotted and gone. Briefly put I feel that something should be done, but don't destroy what we have, yes create a Site Plan Review program on an individual basis approach, and monitor it for more than one, two or three years, then make changes to the ordinance based on factual experience.

Chairwoman Mischel pointed that our current ordinance says that one can't remove more than 30% nor can disturb the root system. Draft section 2.11-D says if more than 30% of living trees and shrubs will be removed..., it is felt that the statement opens up the possibility of actually weakening our Ordinance that says one can't go more than 30%.

Ms Smith stated that any work that is done should fit into and not change the forested shoreline of our lakes; we want to keep that look.

Chairwoman Mischel said that in whatever approach we take, our responsibility is two folded; (1) Environmental Protection, and (2) Fixing a deteriorating shoreline while still maintain the environmental protection. How we accomplish both at the same time is the challenge. Then she asked the members for their comments on the discussion.

Ms Derenzy stated that we should keep what we have, but should not allow removing more than 30%. The County Officer will review everything that we do. When they want to improve the shoreline condition under existing Ordinance Section 2.11-C they are prohibited from doing any work.

Mr. Sabty pointed that under the proposed draft we would involve the professionals including the County Officer when one has to work the shoreline to improve it. But as far as someone wanting just to remove trees in the strip, the Zoning Administrator has been handling that all along when working within the 30% rule. There is no reason to change that responsibility.

Mr. Harrett advised that in almost every case, the owner thinks that they can cut 30% of the trees, to which my response is that they can't cut any trees, because the previous owners already cut the trees. The 30% rule does not apply every time the property changes hands and our shorelines are on tape as they existed in 1999.

Chairwoman Mischel advised that it needs to be in the ordinance and clearly stated that the 30% removal of trees would apply only once to a property.

Ms Derenzy stated that there should be a limit put into the ordinance, we need to keep the natural character of what we are trying to achieve in Elk Rapids Township, and we don't want people to automatically think that if they go the 30% cutting they can go for a 100%. We should have a limit that they could not go above; whatever we think that limit shall be but we should not keep it open.

Ms Smith stated that we should allow removing the stumps within the 30% cut trees without getting a Site Plan Review.

Mr. Nix advised that removing an ice dam or breaker is part of land issues, and removing that and the stumps would be part of the Site Plan Review process and what it involves. If we do restructure the draft on hand and work with Paragraph "C", we can remove the part addressing the 30%; but then in the 25' strip we will be taking out the ability to cut trees up to 30%, and replace all that with language that basically says, if one wants to remove living trees and shrubs including the removal of natural ice dams, one has to go through the Site Plan Review and approval process, which in essence is saying one can't cut anything in the 25' strip, we are going to take away the 30% ability. This does not cover how many trees can a property owner cut down or what is the top limit. Should it be more than 50% of the trees that existed prior to 1999 that can be removed from the 25' strip?

Ms Smith stated that very few properties in the TWP shoreline area still retain the original trees. May be we should be writing the Ordinance geared towards protecting the portion of the trees that exist today. Since most properties have gone through the 30% cutting, there should be no tree cutting permitted. The Ordinance should be dealing only with the shoreline ice dams and tree removal.

Mr. Nix advised that we want to maintain that no more than 30% is cut. We don't want to lose the natural view look of the tree lined Elk Rapids TWP shoreline. But because almost all the properties on the lake shore are different, we would have a hard time writing the rules, we don't know where the trees are, we don't know how the trees are affected by the presence of ice dams, some trees have grown out through the ice dams, if one can't remove the tree, how can the ice dam be removed? Every piece of property needs to be reviewed without limits other than the Planning Commission judgment, and that is how the draft ordinance is structured, there is no limit to how much the Planning Commission will be the judge as they review each case on its own. They would work out with an applicant so that after the work is done, they would restore the view from the water side to maintain the existing natural look.

Chairwoman Mischel stated that when focusing on the issues on hand, the issue is not what we want to see on some ones property, the issue is environmental, and shoreline erosion control. Mr. Lundy concurred with the statement, and added that we don't have the right to tell those people that what we have to see there is what we want to see there, so you can't do too much on your property.

Chairwoman Mischel stated that in 1979 the existing Ordinance was written to preserve the shoreline, and we don't tell an owner that they can't cut the trees because we want to see trees on your property, this is not proper. But the official Environmental Experts have told us that in the 25' strip of natural vegetation that exist there, it is

important to saving the quality of a lake and the environment. How do we keep that where it is supposed to be? That should be our goal.

Ms Derenzy stated that the discussion is getting there, but the property owner should have to come to the Planning Commission for a Site Plan Review and the County Officer would have to review it. Then if they do cut down all the trees, and we approve that, it is because they would be protecting the shoreline and that is an environment choice there, that would be our decision, but it has to go to the County Officer for approval, then they come here, and we are OK with it. What we are saying now is that everybody has to go to a Site Plan Review.

Mr. Sabty stated that through the years the County Officer has worked on preserving the shoreline water side related problems, but said that beyond that any work on the land side should go to the Zoning Administrator. Yes It is recognized that our current Zoning Ordinance is restrictive; let us keep the draft ordinance as written, brief and to the point, without going into the individual details of its components, because then there is no limit to where it would end once it is opened up. We have a general draft ordinance in which they have to come here for a Site Plan Review, and then we are open to look at it and make a decision on the facts presented. One case at a time based on its own merits. An ordinance straddled with technicalities could not be properly applied to properties of different natures, but a general ordinance such as the draft on hand would apply, because we can review and judge each case on its own logical merits. We have a good draft ordinance, don't choke it.

Chairwoman Mischel stated that being in Northern Michigan, there must be some groups that have looked at what we are studying and have adopted some rules; it would be helpful if such information was made available for review.

Mr. Nix noted that we have gone over some areas of concern and we are now back to our starting point. We started talking about the view from the water, cutting down the trees, and that is not the purpose of what we are doing, which is really saying that we can't accomplish some of what is being advocated because our mission of water quality and having the shoreline land issues in the 25' strip to work as an environmental system, to act as a filter into stabilizing the shoreline as the inner action of the shoreline land and the water work together. In some instances that may be the 25' strip, it may mean the removal of all trees in that area because it makes sense; we don't know that, it may mean everything in the 1st 10' of the property where everything gets cleaned from the ice dams, stumps, etc. There might be trees in the back 15' that would not have to be touched or maybe have to be cut up to varying degrees depending on each case. Setting a "limitation percentage" would be worrisome and may be regretted later because we would start to compromise the best environment solution on that property that has to be achieved because we want to have a different look. We want to make sure it looks "woody". Beyond the 25' strip they can cut all the trees they want as they may have done in other Townships for whatever reason.

Chairwoman Mischel with the member's concurrence tabled the discussion and asked Mr. Nix to review the discussion and bring back an update at the next scheduled meeting.

Combined Village Township Master Plan Update

Mr. Nix gave a brief review of the visioning process that took place involving the TWP/Village Combined Master Plan work shop. He addressed the subjects that were brought up and how addressed. Tallies are still being worked on and a report will be prepared for the Joint Committee for their review. Future processing of the Combined Master Plan would follow.

New Business - None

Correspondence – None

Public Comments – None

Members Comments

Mr. Sabty advised that Amendment 2012-01 was approved by the TWP Board on 7-10-2012, and will become effective 7 days after it is noticed in the local newspaper, (Effective 7-26-2012).

As there was no further business Chairwoman Mischel adjourned the meeting at 8:10 PM.

Next scheduled meeting will be on Tuesday October 16, 2012 in the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
7-17-2012

Approved 10-16-2012

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday October 16, 2012

Chairwoman Mischel called the Meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, William Larson, Renee Mischel, Emile Sabty & Shen Smith.

Absent: Jean Derenzy, Jim Lundy.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience: Ms. Heidi Shaffer, from Antrim County Soil Erosion Control, Mr. Bob Kingon from Elk, Skegemog Lake Association, and Mr. Pat Brady.

Adoption of Agenda: M/S – Smith/Sabty. Agenda for 10-16-2012 meeting was adopted unanimously.

Election of Officers:

Chairwoman Mischel indicated a preference to have another person become the Chairperson.

M/S - Mischel/Sabty moved to elect Shen Smith Chairwoman.	Passed 5-0-0
M/S - Smith/Sabty moved to elect Renee Mischel Vice Chairwoman.	Passed 5-0-0
M/S - Smith/Amos moved to reelect Emile Sabty Secretary.	Passed 5-0-0

The Planning Commission expressed appreciation for the past services of departing Chairwoman Renee Mischel and welcomed new Chairwoman Shen Smith.

Approval of Minutes: M/S – Mischel/Larson. Minutes for 7-17-2012 meeting were approved unanimously.

Old Business

Shoreline Preservation Zoning Rules

Chairwoman Mischel had invited Ms Heidi Shaffer and Mr. Bob Kingon to participate in this meeting and express their thoughts on the Shoreline Preservation draft on hand.

Mr. Nix reviewed the proposed draft stating the main concern at the last meeting was that we should not allow someone to remove all the trees in the 25-ft shoreline strip. Determining the amount of trees to be removed is the hard part because every situation is different. Paragraph #4 was added based on the essence of the consensus as expressed at the last meeting. Each case would be handled on its own merits.

Chairwoman Mischel inquired as to what roll we have in this preservation effort, and our dependence on outside experts in this area, being the County.

Ms Shaffer raised a point for clarification, recommending in item D-3 that the TWP coordinate the communication with the County on notification for inspections. She also advised that the 30% limitation on removal of trees and shrubs in the 25-ft strip might end up being a problem, and it is better to not have it in the Ordinance.

Mr. Nix explored an alternative; at present the Ordinance state that no more than 30% can be removed; if there is land alteration, one still can't remove more that 30%. If more than 30% is to be removed, the only action then is to go to the ZBA for a variance. Having the 30% in item D then items D-1 thru 4 have to be met, if land is changed, removed, then ZBA approval will have to be used, because in item C it is fixed saying no more than 30% can be removed.

Mr. Harrett stated that maybe items D-3 & 4 would apply to water side properties that have not been developed yet; over the years, all others properties have taken advantage of the 30% and more. Owners look to the 30% rule today and do not pay attention to previous owners who already took advantage of the 30%. Taking out the 30% would eliminate this problem.

It was brought up that item D is giving permission to alter items A, B & C by doing something and asking permission to do it.

The Chair asked if the 30% is removed from item D, should it be also be removed from item C?

Mr. Nix pointed out that deleting the whole reference to the 30% and establishing that from this day forward, in the 25-ft strip, trees and shrubs shall not be cut; but then we go to item D and strike the 30% reference, with explanation that any alterations have to follow the Ordinance requirements.

Mr. Sabty stated that should the 30% be deleted, and an owner want to cut some trees, who would they ask? If the Zoning Administrator says no cutting, that decision is then appealed to the ZBA, and if they say no, it could end up in Court. But if to start with, if an application come to the Planning Commission, then they would say yes or no, with input from the Zoning Administrator or other experts. It is not appropriate to say just no cutting, there should be a step approach like coming to the PC for a special permit when upon review the work is approved or denied.

Mr. Nix pointed that to have a process it has to be quantifiable; otherwise it becomes a problem with different applicable numbers. A standard should be quantifiable. The ZBA is one approach. We need a plan or standard to be followed if the 30% rule is changed.

Chairwoman Mischel brought up the subject of wetlands that at present there is no Ordinance provision that would stop the removal of trees from wetland areas, and what can the TWP do to the Ordinance, or is that a DEQ regulation that we can't overthrow.

Ms Heidi Shaffer stated that a TWP Ordinance can be more restrictive than a DEQ one, but it can't be less restrictive.

The question was raised that if a wetland Ordinance is included would it fall within section 2.11 which is being worked on now or would it fall in some other part of the Zoning Ordinance. It was stated that it would be appropriate to include within section 2.11, that if it was in some other area it might create a misunderstanding in interpretation and application.

Mr. Amos stated that to work with wetlands we need to identify the wetlands in the TWP. Defining the wetlands would be a very difficult process. First we find the wetlands, identify them, then make all the property owners aware of it, and then move forward with an Ordinance. To do it backward is not a right approach.

It was suggested that an Ordinance can state, "Wetlands as identified by the DEQ", which eliminates the research work by the TWP. The response to that was that in identifying wetlands, the work has to be done and researched within the TWP, it is not appropriate to say, "Wetlands as identified by some Government entity." Developing a wetland survey is not a cheap project; it is very involved and is expensive involving specialized work.

Ms Smith suggested adding wetlands to section 2.11. But not forest management, leave it for future time. We already determined we need a standard requiring that no trees on shoreline 25-ft strip can be cut. We need a standard to state what they can do if they need to cut down trees, or what trees are allowed to be cut without any permission.

Mr. Larson stated that we should address the draft on hand without expanding on it. If we are going to do something, let's just do that. Maybe just change the 30% statement and say, "none". It was determined that we are addressing a subject that we don't know much about, and we are relying on Ms Heidi Shaffer as being the expert, take advantage of the current opportunity, put it under a site plan and leave the proposed Ordinance as is unless you want to take the 30% out of it at this time, run it as a pilot program, if it succeeds, and Ms Schaffer

confirms its success and we are convinced that it succeeded, then is the time to move and make changes that need to be made. Don't upset the whole thing now based on "if" come basis. Leave the laws the same, just create an exception for the pilot and let it test out, then after a preset period of time, if it is working, if the ice dam is working, then maybe the whole thing can be put under a Site Plan. Don't keep changing the whole thing.

Mr. Amos stated that he agrees with this approach, but still like to see some language included on the 30% for the undeveloped lots, because he estimates that there are more than just 3 or 4 undeveloped lots. Those lots should not lose the existing opportunity, and an allowance should be made when development is contemplated.

Ms Shaffer indicated that this project should work as long as we are into it together and is approached jointly.

Chairwoman Mischell summarized the pertinent points made so far that Mr. Nix should consider in reviewing and updating the draft for the next meeting

- The Ordinance would only deal with the 25-ft strip.
- Keep the draft text as is in section 2.11 without including wetlands.
- Remove the 30% language.
- Develop a standard for site plan application to cut trees and shrubs.
- In item D-3 add that the Zoning Administrator is the time keeper on the applicable progress.
- Move item D-4 to become D-2
- Include a provision dealing with undeveloped lots.
- No one is allowed to cut any trees within the 25-ft strip without a site plan.
- At some time in the future, the Planning Commission would work on adding a section on tree cutting in a wetland management program, either by itself or to be added to section 2.11.

M/S – Smith/Mischel. Move to ask the Planning Consultant to incorporate the summary suggestions made by the Planning Commission into the draft on hand for review at the next scheduled meeting. **Passed 5-0-0.**

Mr. Harrett pointed out that the Site Plan, Ch 17 is very extensive, much of which is not required for shoreline protection 25-ft strip. Mr. Nix advised that it can be geared towards the affected area only. Mr. Harrett added that such a reduced one can be made part of Ch 17 so that all Site Plan Ordinance language is in one chapter.

The Chair asked how neighbor properties would be affected in a site plan. Mr. Nix responded that some language can be included that the site plan work will not be of substantial detriment to the neighboring property and will not be contrary to the spirit and purpose of the Ordinance.

Combined Village Township Master Plan Update

Mr. Nix gave a brief review on the project progress so far. Most of the basic work has been completed and the project is getting ready to be put in a draft form which will then be reviewed by the Planning Commissions, to be followed by the approval stages.

New Business

Accessory Structure Ordinance.

The Chair introduced the subject for review, and then asked Mr. Sabty to review the draft Ordinance. Mr. Sabty stated that at a recent ZBA appeal in which the applicant was represented by an Attorney, much of the violations that took place in building a detached accessory structure in a residential zone were defended on the premises of, "Show me where in the Ordinance it states that such an action is not permitted." The TWP took the position that over time the ZBA had interpreted the Ordinance to mean that such actions are not permitted, and had applied the same interpretations to cases as they came up. It was pointed that if the ZBA had interpreted the Ordinance to mean as such, and had applied the same ruling to cases as they came up, the court would consider such action like an Ordinance even if the text is not in the Ordinance.

The suggested draft Ordinance would avoid any unclear situations like what took place, and would make it clear to an applicant what they can or can't do. The areas emphasized in the draft Ordinance are:

1. The detached accessory structure shall not be used for dwelling purposes.
2. There will be no plumbing in the structure. However if the applicant want plumbing in the structure, it would be allowed on the ground floor only and is limited to a half bathroom with two plumbing fixtures only, a sink and a toilet.
3. The attic or 2nd story is used for storage purposes only.
4. Access to the attic or 2nd story is by interior access only; exterior access or stairs shall not be permitted.
5. A site sketch to scale and with full details that meet the zoning ordinance requirements is to be submitted when requesting a zoning permit.

In addition, and to be consistent with previous zoning and planning decisions, The Attached Accessory Structure Ordinance section 2.06-D-2 was expanded to state that, access to the second story shall be by interior access only; exterior access or stairs shall not be permitted.

Mr. Sabty also made the observation that in 2004 when the current Accessory Structure Ordinance was revised, the PC tried to avoid penalizing large lot owners when building a detached accessory structure with a set height of no more that 18 ft to the peak, this was resolved then by having the 18 ft apply to lots of 20,000 sq ft or less, and lots larger than that were not limited and could go as high as 35 ft. In the ZBA case, the lot in question was 20,909 sq ft and located in the midst of a neighborhood of similar lot sizes, and the newly built 20'x24' two story garage with high rise roof became the object of complaint by the neighbors. If the PC did have this example then, probably they would not have used the 20,000 sq ft break point. Because most of the TWP platted lots are in that magnitude and much of the future work would fall into the remodeling or addition category, to avoid this situation in the future, a suggestion is made to raise the break point from 20,000 sq ft or less, to one (1) acre or less. The suggestion was accepted by the PC and would be added to the draft per submitted text.

During the discussion it was pointed out that the proposed plumbing on the first floor should not be limited to a small ½ bathroom as suggested. Garage owners usually would use sinks of various sizes and for different work or hobby purposes. It was suggested to delete reference to the ½ bathroom text and just state that no more than two fixtures are allowed and only on the first floor. Mr. Nix suggested changing the text on plumbing in the draft section 2.06-C-3 to read that no more than two internal plumbing fixtures, such as a toilet and a sink, are allowed and located only on the first floor.

Mr. Amos felt that the plumbing text is too restrictive as written in the use of a detached accessory structure. That the consensus is, no living quarters are allowed in such a structure; but people use garages to do various work and choose various fixtures for that, a ½ bathroom does not serve such a purpose.

Mr. Nix stated that the point being made here which the ZBA has made over time is to legitimize what they have been doing for the past decade; not allowing these accessory buildings to be converted or to be built as living quarters.

Mr. Harrett stated that traditionally he views zoning as not about rooms inside a house, but nowadays we get into the definition of a single family zone with seasonal rental above detached structures or apartment spaces over garages are starting to overlap. We can't police people from building a storage space above their garage, and then after all the inspections are completed, put living space upstairs. We can somehow deter rentals by not allowing exterior stairways. Regulating that plumbing has to be restricted to the first floor is a good idea. But after that it will be nice to be able to stipulate that it should be limited to only sanitary type toilet and sink, no showers. This would then require a floor plan of the building for which zoning has never been used. It has been the placement and the growth and the development of property so that a neighbor does not have to look at that structure next door.

Chairwoman Mischel asked Mr. Nix for his recommendation. He advised to change paragraph 3 to say, "No more than two interior plumbing fixtures. Rather than mention what kind of plumbing fixture, just say you are limited to two on the first floor or ground floor, any combination of two. This would not be regulating the interior aspect of it. This way we don't lay it out, we only say that you can have only two fixtures. When the Zoning Administrator

reviews the Zoning Permit Application, it is up to him to determine to the applicant what two fixtures are you using. Yes you can have plumbing; it has to be on the first floor, what are they?

Discussion went into section C-8 and the detailed site sketch requirement. Mr. Nix explained that a detailed sketch would eliminate any guessing or unforeseen things that might be added. It gives the Zoning Administrator the latitude to ask for the information to make sure there is compliance. It gives the tools to enforce the Ordinance.

Chairwoman Mischel asked Mr. Nix to review the suggestions, and revise the draft accordingly for the next meeting. M/S – Amos/Mischel made a motion to that effect which was unanimously approved 4-0-0.

Zoning and Planning Applications – Update: To be reviewed at the next meeting.

Correspondence – None

Public Comments – None

Members Comments

Mr. Sabty distributed a Quarterly PC Meeting Schedule for 2013 which will be posted before the next scheduled quarterly PC Meeting on January 15, 2013. It was mentioned that at the next scheduled meeting the Planning Commission will consider holding their regular meetings every other month.

The Quarterly Meetings Schedule was approved unanimously 4-0-0.

As there was no further business Chairwoman Mischel adjourned the meeting at 9:10 PM.

Next scheduled meeting will be on Tuesday January 15,, 2013 in the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
10-16-2012

Approved 1-15-2013

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday January 15, 2013

Chairwoman Smith called the Meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, William Larson, Jim Lundy, Emile Sabty & Shen Smith.

Absent: Renee Mischel.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience, 4.

Adoption of Agenda: M/S – Lundy/Amos. After a new entry to Item “G”, Agenda for 01-15-2013 meeting was adopted unanimously.

Approval of Minutes: M/S – Lundy/Amos. Minutes for 10-16-2012 meeting as amended for name correction were approved unanimously.

Zoning Administrator Report

Mr. Harrett apprised the PC of a land division application submitted to the TWP for part of 47 acres on Orchard Road, a private road, owned by Mr. Don Hayden Jr. The plan includes a Private Access Road connecting to Orchard Road. Zoning Ordinance Sec 2.19-A-13 & 14 state that PC should review the private road plan in a land division and if it meets the standards, then forward the findings to the TWP Board. At the same time the applicant in considering future expansion into the rest of the property planned the private road to be built exceeding the required standards. Nothing in the engineering aspect of the Plan show any fault in meeting the Zoning Ordinance standards.

Mr. Nix was asked to brief the PC on his findings. He stated that the plan illustrates seven (7) lots around Orchard Road which is too narrow to accommodate all the proposed lots. Orchard Road will be widened by 2-ft to comply with the standard for serving more than 12 lots. The proposed cul-de-sac will be built to meet the ordinance standards. The maps on hand show lots 1, 2 & 3 on the left side of the proposed road with open space at their end. Actually the open space does not exist there. There is a provision in the Ordinance and the Land Division Act that say the depth of a lot can't exceed four times its width (4:1 ratio); unless there is a difficult situation on the property, then it can exceed the 4:1 ratio. The designated open space area on the map is actually an environmental sensitive and swampy area that can't be built upon. The lots as shown on the updated map do meet the 4:1 ratio but because there is no reasonable way to deal with the environmental sensitive open space, and this being a land division, not a condominium, it creates a lot of open space; accordingly it was found that the 4:1 ratio can be exceeded.

The TWP involved personnel and the Plan Engineer all agreed that the best approach is to make lots 1, 2 & 3 a little deeper and to document this on the Plan that the area there is an environmentally unbuildable property; that will provide the TWP personnel with a reason to exceed the 4:1 ratio when they deal with approving the land division.

It was emphasized by Mr. Amos that the environmental sensitive area is not a recognized wetland area and should not be referred to as such.

Ms. Smith asked whether we should be requiring that it be designated as wetland because of the environmental sensitive area on this map. Mr. Nix responded that all what is needed is for the applicant and the engineer to tell us and for us to verify that it is actually a low wet area; that would comply with the provisions of the Land Division Act and is sufficient documentation. Ms. Smith went on to say that since future expansion was mentioned, should we be designating that part of the map as designated wetlands or unbuildable or unplatable from the rest? Mr. Nix responded that there is no need for that, however if a deed restriction is contemplated, then it can be there. In a land division, at a future date, they can re split any of these lots provided they comply with the lot size regulation of the zoning district in which they fall. That is when it will be looked at.

Ms. Smith asked isn't that a good reason to get a deed restriction on it now, so that a future split is restricted? Mr. Lundy in response stated that this is something for the TWP Board to handle, not the Planning Commission.

Mr. Sabty stated that according to the Zoning Ordinance Section 2.19-A-13 & 14, a land division plan that include a private road would come to the Planning Commission for review of the proposed private road that it meets the ordinance standards. In this particular case the land division part is neither our problem nor our responsibility; it is a TWP Board responsibility.

Mr. Nix advised that lots 1, 2 & 3 are designated as Agriculture "A" zone and exceed 1 ½ acres, that for them to be split they need to have road access which does not exist; so discussing their split is hypothetical at best. Other than that change between the map on hand and the submitted updated map, and based on the discussion, the plan before us should have a positive recommendation and be sent forward.

Chair Smith asked Mr. Derman, Township Attorney who was in the audience if there was any other thing that the PC should look at before coming to a conclusion. He responded that what was discussed was adequate.

As there was no further discussion the Chair asked for a motion.

M/S – Sabty/Lundy. After review move to recommend to the Township Board that the proposed private road construction plans for the Lake View proposed project does meet the standards outlined in the Zoning Ordinance Section 2.19-A-13 & 14. **Passed 6-0-0**

Mr. Harrett distributed a copy of his Annual Report of Zoning and Planning activities which was submitted earlier to the TWP Board.

Old Business

Proposed Zoning Ordinance Amendment

Mr. Sabty presented two locations in the Zoning Ordinance that needed correction as follows:

Amend the Elk Rapids Zoning Ordinance as follows:

1. Chapter 1; Section 1.03 – DEFINITIONS – Delete:
"Board – The Zoning Board of Appeals for the Township".
2. Chapter 18; Section 18.05 – POWERS OF THE ZONING BOARD OF APPEALS, Subsection B – Change the last sentence text to read:
"the literal enforcement of the requirements of this Ordinance would involve practical difficulty or would cause undue hardship"

Mr. Sabty stated that the word **Board** was used back in 1979, for "the Board of Zoning Appeal for the Township" that Board was later replaced by a Planning Commission and a Zoning Board of Appeals (ZBA). Board is not used any more for reference. As to Section 18.05-B, the current text uses the word "difficulties" in the plural form and should be "difficulty" in the singular form.

M/S – Lundy/Amos. Move to approve amending the Zoning Ordinance text as presented and schedule the amendment for a public hearing. **Passed 6-0-0**

Shoreline Protection Standards Ordinance Amendment

The amendment draft text was opened for discussion.

Mr. Amos stated he does not agree with the draft text on shoreline undeveloped properties. He doesn't agree to have the Zoning Administrator in the position of writing special permits for what can or can't do at those lots. At this point most of the shoreline lots have been developed and most everyone has exercised the 30% rule. There exists some shoreline undeveloped areas that would be denied that privilege when reading the text as propose; and that should not be so.

Mr. Harrett stated that there are few shoreline undeveloped lots in the Township, and so far he did not have a problems with those vacant lots when they are brought up, and usually after using the Ordinance standards they end up with an equitable solution. There should be an ordinance standard to follow, otherwise the Township would lose control.

Ms. Smith stated that we did spend much time working on this draft ordinance with assistance from Ms. Shaffer from the County and Mr. Kingon from ESLA, that there are two issues to consider, the area below the HWM and the 25-ft strip. How did all this mesh in with what Ms. Shaffer was originally proposing.

Mr. Nix stated that recalling the presentation made last May on ice dams, stumps and shoreline erosion on the water side because our Zoning Ordinance as written forbids the removal of anything in that area of the shoreline. The presentation then brought forward a viable solution to this situation that would in the most preserve the shoreline and also assist an owner in doing the same. With that this draft ordinance was developed outlining the steps to be taken by utilizing a site plan approach. An applicant who wants to remove trees, shrubs or ice dams etc. would submit a site plan covering the 25-ft protected area. We would coordinate that with Ms. Shaffer from the County and our Zoning Administrator would work with her. It then comes to PC for review and approval based on those outside recommendations. The plan has to be prepared by a person that is certified with the Michigan Shoreline Partnership. If it is an undeveloped lot, we know that there is a 30% unwritten standard we would use even if it is not in the ordinance text. Our goal is to keep that natural shoreline look, and allow owners to improve bad situations when the shoreline if deteriorating. The 30% was deleted from the text because outside of a few undeveloped shoreline lots the 30% vegetation removal in the 25-ft strip had been done already. The few undeveloped lots would exercise that privilege even though it is not mentioned in the text.

Ms. Derenzy stated that she approves the draft text as written; however we should be able to add a statement about the undeveloped shoreline lots rather than rely on unwritten rules.

Mr. Nix made a suggestion to revise the text in section 2.11-C to address the undeveloped lots, It was accepted. Then he went on to address the concern about the Zoning Administrator coordinated work with Ms. Shaffer. Section 2.11-D-3 pertains to inspection after the work is done. Ms. Shaffer gets involved because it is a soil erosion problem while the Zoning Administrator is involved because it is within the TWP and he has to keep tabs on the work being done. That is why a coordinated process is advanced here. In the past inspection would be made by the County without the Zoning Administrator being involved. Now the two would be working as a team, call it an oversight committee. This coordinated effort would be for TWP approval of the work done in the 25-ft strip and the County approval on work done on the water side. If there was a disagreement, the applicant would still have to abide by the rules of the disputed one side or the other to secure both approvals. In general the way this ordinance is written and with the help from people supplying the input, we have a good Ordinance. Yes there might be a situation that raises a future question, that is normal, but let's adopt this Ordinance, and use it; if you see that it is raising questions or disagreements, and then we can address that through a change.

Mr. Nix stated that Mr. Lundy did bring up a point about Section 2.11-D concerning the removal of the 30% rule and the need for clarification of the remaining text. He made a suggestion to change the text to address that point. The suggestion was accepted. The completed revised Ordinance Amendment text would read as follows:

Amend Section 2.11, RESTRICTIONS APPLICABLE TO PROPERTY ABUTTING LAKES, RIVERS OR STREAMS, as follows:

Many lands within the Township are connected to, adjoin or abut lakes, East Arm of the Grand Traverse Bay, rivers, streams, and wetlands. In the interest of protecting the water quality, controlling erosion, and preserving the natural setting of the shoreline, the following provisions are applicable:

- A. No permanent groin wall structure, as defined by the Michigan Department of Natural Resources, shall be installed as a shore land erosion control device on any of the inland lakes, rivers and streams within the Township.

- B. Man-made extensions from the shoreline into or over said inland lakes, rivers and streams shall have an open sub-structure construction so as to allow the free and unrestricted movement of the inland waters natural current.
- C. A strip of natural vegetation shall be maintained paralleling the shoreline or streambed and traversing the property in question for a depth of twenty-five (25) feet beginning at the edge of surface loam soil or a contiguous root system, whichever occurs nearest to the shoreline. For underdeveloped lots only no more than thirty (30) percent of all living trees and shrubs may be removed by cutting them to grade level. Trees and shrubberies may be trimmed and pruned for a view of the water from the property. No land alterations including the removal of tree stumps and natural ice dams shall be allowed within this native protection strip.
- D. If living trees and shrubs are proposed for removal in excess of those permitted in Section 2.11-C above or if land alterations will occur within the native protection strip specified above, the following requirements must first be met:
 1. The applicant shall submit a site plan in accordance with Chapter 17. The submission requirements for the site plan shall include items 17.04-A 1-14, and 17.04-B 1-7 and item 22. The site plan shall be prepared by a Natural Shoreline Professional certified by the Michigan Natural Shoreline Partnership and shall detail the proposed modifications to the property to enable the Planning Commission to determine the extent and potential impacts of proposed changes. In addition to the review process outlined in Chapter 17 and prior to Planning Commission action on the request, the applicant shall submit the site plan to the Antrim County Soil Erosion Control Officer for review. The Planning Commission shall not approve the site plan unless the Soil Erosion Control Officer recommends approval in writing.
 2. The shoreline erosion design shall make every effort possible to maintain a forested/wooded shoreline character by maintaining existing trees and shrubs in the design and construction of the new shoreline protection system.
 3. The Planning Commission may require a performance guarantee as outlined in Section 17.08 to insure completion of any restoration, native landscaping or other features of the proposed modifications. An inspection, coordinated with the Township Zoning Administrator, conducted by the Antrim County Soil Erosion Control Officer shall take place after the modifications have been completed to determine whether stipulations have been met and whether Township permits can be issued. A second inspection, coordinated with the Township Zoning Administrator, shall be conducted by the Antrim County Soil Erosion Control Officer one year after Township permits have been issued to determine whether any required performance guarantee can be relinquished to the applicant. If the condition of the site is in compliance with approved plans, any such performance guarantee shall be returned to the applicant.
 4. The Planning Commission shall consider the recommendation of the Soil Erosion Control Officer, the extent of proposed vegetation removal or land alteration, proposed restoration, existing and proposed topography, and the location of any nearby structures. The application shall be approved where it is shown that the proposed modifications will not be injurious to shoreline on adjacent properties, and where the plan demonstrates an intent to improve a situation that is dangerous to the general public or harmful to water quality because of unchecked or potential shoreline erosion, sediment runoff or water pollution.

The Chair asked for a motion.

M/S – Sabty/ Derenzy. Move to approve the new revised text as written and amended, for Zoning Ordinance Chapter 2, General Provisions, Section 2.11 Restrictions Applicable to Property Abutting Lakes, Rivers or Streams and move it for a Public Hearing at the next scheduled Planning Commission meeting. **Passed 6-0-0**

Accessory Structures Ordinance Amendment

As the draft amendment text was opened for discussion, Mr. Sabty stated that the amendment text as written meets all the required standards that were contemplated.

Mr. Lundy asked about the allowed size of a detached accessory structure built on single family lots of over one acre. Mr. Harrett responded that Zoning Ordinance does not restrict the size of such a structure.

The complete ordinance amendment text would read as follows

Part 1. Amendment of Section 2.06, C.

- C. Detached Accessory Structures
 1. May only be built on a lot upon which there is a principal structure.

2. Are prohibited in the front yard, as defined in Section 1.03-Yards-Front Yard, or in either of the front yards on a corner lot, unless the following conditions apply:

On a waterfront lot, one (1) detached accessory structure may be located on that Portion of the lot between the water and the principal dwelling provided the following criteria are met:
 - a. It shall not exceed one hundred (100) square feet in area and ten (10) feet in height to the peak.
 - b. Shall meet all setback requirements of the zone district in which it is to be located.
 - c. The area of such accessory structure shall be counted as part of the overall lot coverage on the lot.
3. Shall not be used for dwelling purposes. If plumbing facilities will serve the structure, the structure shall be limited to no more than two (2) internal plumbing fixtures located on the ground or first floor of the accessory structure.
4. Shall maintain a minimum of ten (10) feet of separation from each other and from the principal structure.
5. Shall comply with all yard, setback and lot coverage requirements applicable to the permitted principal structure, except for accessory structures on lots less than or equal to one (1) acre (43,560 sq ft), the following shall apply:
 - a. The accessory structure shall not exceed eighteen (18) feet in height to the peak.
 - b. Within any zone district that permits a residential use, a maximum of two (2) detached accessory structures are permitted, one of which shall not exceed one hundred (100) square feet in area and ten (10) feet in height to the peak.
 - c. When a lot is less than or equal to one (1) acre (43,560 sq ft), the total ground level gross square footage of all detached accessory structures shall not exceed the gross square footage of the first floor of the principal structure, exclusive of all attached accessory structures.
6. Lots under common ownership that are adjacent to one another or separated only by a public road (e.g. lots are directly across from one another) may be legally combined to form one lot. Once combined, an accessory structure may be erected across the street from the principal building lot provided all yard requirements for a principal structure are maintained.
7. If the detached accessory structure has an attic or second story, it shall be used for storage purposes only and access to the attic or second story shall be by interior access only; exterior access or stairs shall not be permitted.
8. A site sketch shall be submitted along with a zoning permit application and approved by the Zoning Administrator prior to erection of a detached accessory structure. Such site sketch shall be drawn to scale and shall illustrate information necessary to determine compliance with applicable Ordinance requirements, including but not limited to dimensions and height of the structure, setbacks from lot lines and other structures on the property, location of the structure, and elevation renderings.

Part 2. Amendment of Section 2.06, D-2 and D-3.

2. An attached accessory structure may include second floor living space provided that such living space is a contiguous extension of living space within the primary structure. Access to the second story shall be by interior access only; exterior access or stairs shall not be permitted.
3. Attached accessory structures shall comply with all yard, setback, height and lot coverage requirements applicable to the permitted principal structure, except accessory structures on lots less than or equal to one (1) acre (43,560 sq ft), the following shall apply:

An attached accessory structure, including a garage, shall not exceed sixty (60%) percent of the ground floor area of the attached single family dwelling. Notwithstanding the above, an existing single family dwelling less than 960 square feet is permitted an attached garage up to five hundred and seventy six (576) square feet, or 24'x24', in area regardless of the ground floor area, subject to standards within the applicable zone district.

Chair Smith asked for a motion.

M/S – Lundy/Derenzy. Move to approve the revised text, as written and amended, for Zoning Ordinance Chapter 2, General Provisions, Section 2.06 Accessory Structures, Sub Section C Detached Accessory Structures, and Sub Section D-2 & 3 Attached Accessory Structures, and move it for a Public Hearing at the next scheduled Planning Commission meeting.

Passed 6-0-0

New Business

Collaborative Master Plan Review

The Collaborative Master Plan draft was opened for discussion.

Mr. Lundy referring to the appendix asked why we have the appendix appearing in the Master Plan. Mr. Nix stated that it represents a study of public ideas that were collected and to avoid losing them were included under the appendix.

Ms. Smith stated that one would not be able to refer back to the appendix if somebody was challenging something in the Master Plan.

Mr. Sabty stated that this appendix does not belong in the Master Plan. In 2007 when the TWP published their Master Plan, we used three different studies, and we did not include any of them in the Master Plan. Such studies are no more than thoughts. They are collected statements by a narrator who summarizes what a person says into a useable sentence. Basically they are opinions put into readable sentences to aid the Plan writer. A Plan gets input from multi sources and they don't get to appear in an appendix. The appendix should be deleted.

Mr. Nix asked if the Planning Commission would like to remove the appendix from the Collaborative Master Plan. The consensus was in the affirmative to remove the appendix.

After further discussion the Chair asked for a summary of the PC concerns expressed in the review of the Master Plan including the Village part.

1. Remove the appendix from the Master Plan.
2. Opening page – Acknowledgements - under Elk Rapids Township Board – update the listed names to show current members, Shelley Boisvert and Aaron Isenhart.
3. Page 21 – Conservation Recreation – 2nd paragraph – property opposite the generator building is now a Village Park. (The old Mustard Bldg.) Should be included.
4. Page 35 – Future Land Use, 7th line – “...one of the Planning Commissions may determine...” Does one PC overrule or override the other? Maybe some more clarification is needed.
5. Page 21 – Future Land Use – 3rd paragraph re golf course use. Why identify specifically that one private property for potential future use. Should be left out.

The Chair asked Mr. Nix about the next step to take. Mr. Nix explained that the changes requested would be incorporated. With joint agreement on the text, a recommendation is made at the same time yet independently by each PC to the legislative bodies to have them authorize the Master Plan distribution to adjacent communities and the Regional County PC for review. After a 63 day waiting period for review, any comments received are addressed, and then the Planning Commissions can hold a Public Hearing. I would encourage the potential of a joint Public Hearing for both Planning Commissions at the same time and place. That way if there are further changes to the text that need to be addressed, we can do it jointly at that time. Then the document can be approved subject to those changes at that time, and forwarded to the legislative bodies for final approval.

With no further discussion the Chair asked for a motion.

M/S – Smith/Lundy. Move to approve the draft of the Collaborative Master Plan as presented with the suggested additions, corrections and deletions and forward it to the Township Board for distribution authorization. **Passed 6-0-0**

Planning Commission Application Form Update Review

Mr. Sabty explained the suggested PC Application update as presented in the draft. In addition further revisions were made, to delete the word Form from the title, to revise the Numbering system following the Zoning Ordinance sequence, to add page numbers, In item 1 to delete the entry “Non-Conforming USE/STRUCTURE Upgrade, and add text to item B-9. A completed copy would be presented at the next PC meeting. With no further discussion, the Chair asked for a motion:

M/S – Lundy/Amos. Move to approve the Planning Commission Application as updated. **Passed 6-0-0**

2013 Meeting Dates

Traditionally the Planning Commission would hold monthly meetings on specific dates and time; but must hold a minimum of four (4) meetings each year. On May 18, 2010 the Planning Commission changed their scheduled meeting frequency from monthly meetings to quarterly meetings. The dates of the eight (8) months designated as “NO MEETING” months would continue to be listed on the Meeting Schedule, to be used as a regular special meeting when needed.

After review of holding the PC meetings on a bimonthly schedule, it was determined to continue having four (4) scheduled (Quarterly) meetings, but can also call a regular Special Meeting as needed on any of the eight monthly “NO MEETING” dates during a year.

A Special Meeting was scheduled for March 19, 2013 to hold a Public Hearing on the three Zoning Ordinance amendments that were approved today. Notice will be published as required.

Correspondence – None

Public Comments – None

Members Comments - None

As there was no further business Chairwoman Smith adjourned the meeting at 8:50 PM

Next special meeting will be on Tuesday March 19, 2013 in the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
1-15-2013

Approved 2-28-2013

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Special Meeting Minutes – Thursday, February 28, 2013 (Rescheduled from 2-19-2013)

Chairwoman Smith called the Meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy (6:45 PM), William Larson, Jim Lundy, Renee Mischel, Emile Sabty & Shen Smith. (All are present).

Also Present: Leonard Harrett, Zoning Administrator, Brian Wegener, Planning Consultant, William Derman, Township Attorney and William White, Township Supervisor

Adoption of Agenda: M/S – Amos/Mischel. Agenda for 2-28-2013 meeting was adopted unanimously.

Approval of Minutes: M/S – Amos/Lundy. Minutes for 1-15-2013 meeting were approved unanimously.

Zoning Administrator Report

Mr. Harrett informed that a permit to build a new two story house was recently issued to an applicant; the house has a small foot print which also includes a garage. Also, a Site Plan Review request might be scheduled for the April 16, 2013 meeting pending that all the required documents are received by March 4, 2013.

New Business

Collaborative Master Plan Review

Chairwoman Smith opened the Collaborative Master Plan previously approved draft for further review and discussion. Mr. Sabty went over the information and findings distributed for the meeting in order.

Wetlands:

The Wetlands Map #3 in the Plan draft, when compared to the 2007 TWP Master Plan Wetlands Map #2, show a 4-5 fold increase in the designated “Wetlands” (green color); that raised the question as to why such a dramatic increase in wetlands in the Township. It was explained that Map #3 labeled “Wetlands”, actually represents “Hydric Soils” which may include wetlands. Further study of Hydric Soils indicates it could include 15-16 different soils, one of which may be wetlands. To determine any of the soils present, would require on-site investigation by professional soil or wetland scientists familiar with local conditions who would be the best equipped to make an onsite Hydric Soil determination and would include MDEQ involvement and permits.

This approach is not what the Township expected. It was explained that the 2007 Map #2 showing Wetlands is adequate and is more appropriate for wetlands designation in the TWP. It continues to be used without any problems and as such should be used in the Collaborative Master Plan in place of Map #3.

The Chair inquired if the Draft Master Plan can be amended by the Planning Commission at this stage or is it to stay as is. It was determined that the Study Committee was dissolved and the Plan now is in the hands of the respective Planning Commissions to make changes if any, and after final approval to pass it on to the Township Board for further processing.

The Chair asked the PC Members and the TWP Attorney for comments. It was brought up that Map #3 was included in the Plan for being the most updated and recent map on hand; but if the PC wants it replaced by the 2007 Map #2, there should be no problem in doing that. There was consensus to using the 2007 Map #2. The Chair then asked for a motion.

M/S – Lundy/Larson. Move that Map #3 “Wetlands” in the Collaborative Master Plan Draft be removed and replaced with Map #2 “Wetlands” from the 2007 TWP Master Plan. **Passed 6-0-0**

US-31 Corridor:

Referring to Attachment #5, it shows that the New Plan was using the Scenic Corridor designation but the 2007 Plan Scenic Corridor text was left out. Attach. #9, Page 28 with 5 text lines on US-31 Corridor compared to the 2007 Master Plan pages 3, 4 & 24 showing 40 text lines; the question is what happened to the 87% of that text when it was supposed to flow into the new plan. That led to further study of the Plan draft. In Attach. #7 comments, and from comparing the two Plans text, we were not aware of the changes being made in the New Plan. The TWP had said that the 2007 Master Plan is a good Plan and we would like to keep it as we go into a collaborative Plan, without many changes. Comparative study identified the unexpected changes that took place.

Attach.10 does explain and define a Scenic Corridor as being a Zoning District with its own regulations. That is not what the TWP was looking for.

Between April 2006 and December 2008 extensive studies, discussions and various suggested plans of action took place on implementing a US-31 Scenic Corridor Overlay, but this was brought to a halt, with no action taken, for lack of public support. However, during the discussions there was always an expressed interest in maintaining the enhancements and esthetic applications that were utilized there.

When we look at the draft text pg 28 we notice the use of "Scenic Corridors". I would suggest replacing it with "View Corridors" which by definition means, "*The route that directs the viewer's attention.*" It would be more appropriate to refer to US-31 & Elk Lake Road as View Corridors. The draft Map #2 and the 2007 Map #3 titled Community Facilities & Resources does use the View Corridors designation pointing to US-31 and Elk Lake Rd. This designation is already in use and should apply in all references. The draft Map #5 shows US-31 and Elk Lake Rd with hash marks identified under the TWP Key as Scenic Corridors. That should be deleted. Once the designation Scenic Corridor is removed, the esthetic enhancements text in that section that we continue to apply to that area should stay to be used as a general guide to that area when developments take place.

The non Overlay text from the 2007 Master Plan pgs 3, 4 & 24 should be put back in the draft Plan. That core of the text was written before a US-31 Scenic Corridor discussion took place. The proposed text in attach. #9 is now shown with alterations that eliminate the restrictions associated with a Scenic Corridor. It is a more friendly text that would keep the suggested esthetic enhancements and improvements along US-31 that we now use. If this is accepted, the Planning Consultant would be asked to have it reformatted into one complete statement.

Also on pg 31 of the draft Plan, under Table 8 – TWP Zoning Plan Table, the last item in the list is "Scenic Corridors". That should be deleted from the table.

Chairwoman Smith stated that what was presented would bring back the text from the 2007 Master Plan to become part of the draft Collaborative Plan. Then asked for comments.

It was brought up that the TWP representatives on the Combined Study Group were not aware of the above mentioned changes made as presented and that they were under the impression that the 2007 Plan would flow into the new one as intended. It was suggested that it could be that the omissions experienced were no more than a diction oversight, and after our review it would be rectified while the Plan is still in draft category.

The Planning Consultant explained that while writing the draft, he tried to low key the US-31 Corridor text because the TWP back then tried the overlay district policy and it did not happen, thus the thought was that the Old US-31 Corridor text is no longer pertinent, and most of it was left out. If the PC feels they want the original text put back in, it can be done, but would recommend that it be softened. Accordingly the text would be changed from a future language designation to just a generalized policy statement; that way under the Act it can be removed from the Zoning Plan in Table #8 pg 31.

The Chair summarized that the process would first return the original 2007 Plan text as published to the New Plan. Once returned we would modify it as agreed to. A motion was requested.

M/S – Amos/Larson. Move that the text in the TWP 2007 Master Plan pertaining to US-31 Corridor on pages 3, 4 & 24 be added to become part of the Collaborative Master Plan draft. **Passed 7-0-0**

The Chair then referred to the proposed amended US-31 Corridor text presented earlier in Attach, #9 and asked for a motion to have it replace the just added text.

M/S – Amos/Lundy. Move to amend the US-31 Scenic Corridor text that was added to the Collaborative Master Plan and replace it with the amended and modified text presented in Attach. #9 then merge the modified text into one statement. **Passed 7-0-0**

The Chair brought up the situation that we are in a bind for time to move on with this project to the next level before the TWP Board meets. The Planning Consultant was asked how fast he can move in making the changes and would we have to call another meeting to approve the changes made. He responded that it can be finalized right now. He proceeded to state that this change becomes a general policy text, which is all right. In the amended text, the 1st paragraph is OK, but the 2nd one does not seem to belong there as it talks about mixed uses as allowed in the Zoning Ordinance; the rest would be fine. All can be combined into a cohesive statement. As to the 2nd paragraph deletion the discussion was in favor of keeping it in place, and the same was expressed by the TWP Attorney; keeping it in the Plan would be a clearer guide policy when dealing with mixed use in that area.

The Chair referred to pg 31, Table 8 in the Collaborative Master Plan draft and to removing the Scenic Corridors item listed in the TWP Zoning Plan table. At the same time in Map #5 would remove the hash marked designation for Scenic Corridors from the map and from the reference TWP Legend. A motion was asked for.

M/S – Lundy/Amos. In the Collaborative Master Plan draft move to delete the Scenic Corridor item listed in the TWP Zoning Plan Table 8 on pg 31 and in Map #5 remove the hash marked section referred to as Scenic Corridors on the map and in the reference TWP Legend. **Passed 7-0-0**

Chapter 3 Community Input

Reference was made to attach. #5 re Chapter 3 in the Collaborative Master Plan asking if this chapter is needed to be included in the Plan or could the work done be briefly acknowledged in a Plan introduction or an acknowledgement section. At the same time if it was to stay in, then paragraph 4 should be identified as being a Village function or study.

The Planning Consultant explained that Chapter 3 was put in to show that there was an opportunity for public comment. A Master Plan is an expression of who we are, Chapter 2, and what we want to be and how we get there, Chapter 3 fits in the middle of how this document is outlined. A Master Plan is more defensible if it is based on public input. For that reasoning I would recommend that we keep it in. As to the 58 page Village Recreation Plan referred to in the 4th paragraph and appearing in Appendix B; that was added on by a Village member's emphatic insistence. The Village insisted that it stay in. True, it may not belong in the Plan. In a conversation with the Village, they indicated that they don't care if we take paragraph 4 out. As to the first three paragraphs I would recommend you leave them in. As to the Appendices, we have three of them:

- A. A summary listing of input information sources.
- B. Village Parks & Recreation Master Plan. Originally the Village wanted it merged into the Master Plan. That did not happen because this is a Combined TWP/Vil. Plan. The compromise was to locate it in Appendix B, and the content would only be detailed in the Village Plan Copies.
- C. Adopting Resolutions as required by the Act to include them in the Plan.

As there was no further discussion, the Chair advised that we should have a motion to approve the updated Collaborative Master Plan draft as revised and amended and send it on to the TWP Board for further processing.

M/S – Amos/Derenzy. Move to approve the Collaborative Master Plan draft as revised, amended and updated and send it on to the TWP Board for further processing. **Passed 7-0-0**

Scheduled Special Meeting

It was brought up that the Special Meeting, scheduled for March 19, 2013 to hold a Public Hearing on the three Zoning Ordinance amendments that were approved on 1-15-2013, should be cancelled, as we have a regular scheduled meeting on April 16, 2013 during which the review can take place. A motion to that effect was made.

M/S – Sabty/Lundy. Move to cancel the PC Special Meeting on March 19, 2013 for amendments review and reschedule it for the April 16, 2013 regular meeting. **Passed 7-0-0**

Correspondence – None

Public Comments – None

Members Comments

The updated Planning Commission Application finalized format that was distributed is for information only. It will be processed to go on the TWP Web for public use.

Next regular scheduled meeting will be on Tuesday April 16, 2013 in the Government Center, 315 Bridge Street.

As there was no further business Chairwoman Smith adjourned the meeting at 7:55 PM.

E.S.Sabty, Secretary
2-28-2013

Approved 4-16-2013

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday April 16, 2013

Vice Chair Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, William Larson, Jim Lundy, Renee Mischel, Emile Sabty.

Absent: Shen Smith.

Also Present: Leonard Harrett, Zoning Administrator. Larry Nix, Planning Consultant. Audience 12.

Adoption of Agenda: M/S – Lundy/Amos. After adding item, “Zon Adm Comments,” Agenda for 4-16-2013 meeting was adopted unanimously.

Approval of Minutes: M/S – Derenzy/Lundy. Minutes for 2-28-2013 meeting were approved unanimously.

Public Forum: None

Zoning Administrator Comments: Mr. Harrett informed of his contact with the Michigan Natural Shoreline Partnership (MNSP) to find out who qualify as certified professionals in this area. A certification involves attending an 8 hour class on the subject. Quite a few in this area have qualified, and more are attending the class. To their knowledge Elk Rapids Township is the first entity to adopt such an Ordinance, which they hoped others would follow. Mr. Harrett informed the MNSP that we specified an MNSP certification so that the blueprints we get are proper and the preparer is familiar with the new approach to shoreline protection.

Public Hearing

The Vice Chair opened the Public Hearing for review of amendment 2013-01 as Noticed.

With no public input, Sabty/Lundy moved to close the Public Hearing.

Passed 6-0-0

Amendment Number 2013-01

Amend the Elk Rapids Zoning Ordinance text to read as follows:

1. Chapter 1; Section 1.03 – DEFINITIONS – Delete: “**Board** – The Zoning Board of Appeals for the Township”.
2. Chapter 18; Section 18.05 – POWERS OF THE ZONING BOARD OF APPEALS, Subsection B – Change the last sentence text to read:

“...the literal enforcement of the requirements of this Ordinance would involve practical difficulty ~~or would cause undue hardship.~~”

It was noted that the text at the end of the sentence, “*or would cause undue hardship*” appear in error in the current Ordinance. Amendment 2007-01 effective 8-23-2007 deleted this text per MI Act 110 of 2006. Today it is hereby corrected.

M/S – Sabty/Lundy. Move to approve revising the Zoning Ordinance Sec 1.03 & 18.05-B per Amendment 2013-01 as written and corrected, and send it to County for their approval.

Roll Call - Passed 6-0-0

The Vice Chair opened the Public Hearing for review of amendment 2013-02 as Noticed.

With no public input, Sabty/Lundy moved to close the Public Hearing.

Passed 6-0-0

Amendment Number 2013-02

Part 1. Amend Chapter 2, General Provisions, Section 2.06 Accessory Structures, Sub Section C Detached Accessory Structures to read as follows:

C. Detached Accessory Structures

1. May only be built on a lot upon which there is a principal structure.
2. Are prohibited in the front yard, as defined in Section 1.03-Yards-Front Yard, or in either of the front yards on a corner lot, unless the following conditions apply:

On a waterfront lot, one (1) detached accessory structure may be located on that Portion of the lot between the water and the principal dwelling provided the following criteria are met:

 - a. It shall not exceed one hundred (100) square feet in area and ten (10) feet in height to the peak.
 - b. Shall meet all setback requirements of the zone district in which it is to be located.
 - c. The area of such accessory structure shall be counted as part of the overall lot coverage on the lot.
3. Shall not be used for dwelling purposes. If plumbing facilities will serve the structure, the structure shall be limited to no more than two (2) internal plumbing fixtures located on the ground or first floor of the accessory structure.
4. Shall maintain a minimum of ten (10) feet of separation from each other and from the principal structure.
5. Shall comply with all yard, setback and lot coverage requirements applicable to the permitted principal structure, except for accessory structures on lots less than or equal to one (1) acre (43,560 sq ft), the following shall apply:
 - a. The accessory structure shall not exceed eighteen (18) feet in height to the peak.
 - b. Within any zone district that permits a residential use, a maximum of two (2) detached accessory structures are permitted, one of which shall not exceed one hundred (100) square feet in area and ten (10) feet in height to the peak.
 - c. When a lot is less than or equal to one (1) acre (43,560 sq ft), the total ground level gross square footage of all detached accessory structures shall not exceed the gross square footage of the first floor of the principal structure, exclusive of all attached accessory structures.
6. Lots under common ownership that are adjacent to one another or separated only by a public road (e.g. lots are directly across from one another) may be legally combined to form one lot. Once combined, an accessory structure may be erected across the street from the principal building lot provided all yard requirements for a principal structure are maintained.
7. If the detached accessory structure has an attic or second story, it shall be used for storage purposes and access to the attic or second story shall be by interior access only; exterior access or stairs shall not be permitted.
8. A site sketch shall be submitted along with a zoning permit application and approved by the Zoning Administrator prior to erection of a detached accessory structure. Such site sketch shall be drawn to scale and shall illustrate information necessary to determine compliance with applicable Ordinance requirements, including but not limited to dimensions and height of the structure, setbacks from lot lines and other structures on the property, location of the structure, and elevation renderings.

Part 2. Amend Chapter 2, General Provisions, Section 2.06 Accessory Structures, Sub Section D Attached Accessory Structures to read as follows:

D. Attached Accessory Structures

1. Shall comply in all respects with requirements of this Ordinance applicable to the permitted principal structure.
2. An attached accessory structure may include second floor living space provided that such living space is a contiguous extension of living space within the primary structure. Access to the second story shall be by interior access only; exterior access or stairs shall not be permitted.

3. Attached accessory structures shall comply with all yard, setback, height and lot coverage requirements applicable to the permitted principal structure, except accessory structures on lots less than or equal to one (1) acre (43,560 sq ft), the following shall apply:

An attached accessory structure, including a garage, shall not exceed sixty (60%) percent of the ground floor area of the attached single family dwelling. Notwithstanding the above, an existing single family dwelling less than 960 square feet is permitted an attached garage up to five hundred and seventy six (576) square feet, or 24'x24', in area regardless of the ground floor area, subject to standards within the applicable zone district.

M/S – Sabty/Lundy. Move to approve revising the Zoning Ordinance Sec 2.06-C & D per Amendment 2013-02 as written, and send it to County for their approval. **Roll Call - Passed 6-0-0**

Vice Chair Mischel opened the Public Hearing for review of amendment 2013-03 as Noticed.

Mr. R. Kingon, President, ESLA spoke favorably of the proposed Ordinance and suggested that in addition to using a Natural Shoreline Professional certified by MNSP when preparing a Site Plan, to also include the use of a qualified professional to do the work.

Ms. Heidi Shaffer, Antrim County Soil Erosion Control Officer, spoke of the Amendment as being a great step in the right direction. She addressed the Hi and low energy sites on our lakes and the traditional Vertical Rock Shoreline fixes. She cautioned to be careful not to limit the Ordinance to using the Natural Shoreline Providers; because we have Hi energy lakes that sometimes need to be armored. That they are trying to get contractors to modify the vertical shoreline approach and get them to angle the rocks so that the wave action is not hurting the vertical faces head on and the side effect that can impact a neighboring property. Their goal is to have them change the angle when installing rock on the shoreline. The shoreline providers must be exposed to the new concept of technology so that they would know what they are doing in performing an effective job. She cautioned of going only to the natural shoreline providers, and to make sure that people attempting to protect their shoreline are using a certified professional to work on the project.

Again she reiterated that the Ordinance is wonderful, and not to limit it only to the natural shoreline concept because it would not work in all cases; at the time of conducting a Site Plan Review such determination can take place. The DEQ and the County are trying to promote the new concept, but the final approval is in the Township Review Process. Make sure that the rocks are put in on an angle and are rounded at the edges.

She distributed a sample of a DEQ application (3 pgs), with added pictures of a shoreline, drawings of a Site Plan with cross sections etc and different suggested plantings. The process is not a simple one; but done right, the application would cost \$50 as compared to \$500 cost for a vertical wall with large rocks.

With no more public input, Sabty/Lundy moved to close the Public Hearing. **Passed 6-0-0**

Derenzy/Sabty moved to amend the proposed text in section 2.11-D-1 to add "*or a qualified professional*" **Roll Call - Passed 6-0-0**

Amendment Number 2013-03

Amend Chapter 2, GENERAL PROVISIONS, Section 2.11, RESTRICTIONS APPLICABLE TO PROPERTY ABUTTING LAKES, RIVERS OR STREAMS, as follows:

Many lands within the Township are connected to, adjoin or abut lakes, East Arm of the Grand Traverse Bay, rivers, streams, and wetlands. In the interest of protecting the water quality, controlling erosion, and preserving the natural setting of the shoreline, the following provisions are applicable:

- A. No permanent groin wall structure, as defined by the Michigan Department of Natural Resources, shall be installed as a shore land erosion control device on any of the inland lakes, rivers and streams within the Township.

- B. Man-made extensions from the shoreline into or over said inland lakes, rivers and streams shall have an open sub-structure construction so as to allow the free and unrestricted movement of the inland waters natural current.
- C. A strip of natural vegetation shall be maintained paralleling the shoreline or streambed and traversing the property in question for a depth of twenty-five (25) feet beginning at the edge of surface loam soil or a contiguous root system, whichever occurs nearest to the shoreline. For undeveloped lots only no more than thirty (30) percent of all living trees and shrubs may be removed by cutting them to grade level. Trees and shrubberies may be trimmed and pruned for a view of the water from the property. No land alterations including the removal of tree stumps and natural ice dams shall be allowed within this native protection strip.
- D. If living trees and shrubs are proposed for removal in excess of those permitted in Section 2.11-C, or if land alterations will occur within the native protection strip specified above, the following requirements must first be met:
 1. The applicant shall submit a site plan in accordance with Chapter 17. The submission requirements for the site plan shall include items 17.04-A 1-14, and 17.04-B 1-7 and 22. The site plan shall be prepared by a Natural Shoreline Professional certified by the Michigan Natural Shoreline Partnership *or a qualified professional* and shall detail the proposed modifications to the property to enable the Planning Commission to determine the extent and potential impacts of proposed changes. In addition to the review process outlined in Chapter 17, prior to Planning Commission action on the request, the applicant shall submit the site plan to the Antrim County Soil Erosion Control Officer for review. The Planning Commission shall not approve the site plan unless the Soil Erosion Control Officer recommends approval in writing.
 2. The shoreline erosion design shall make every effort possible to maintain a forested/wooded shoreline character by maintaining existing trees and shrubs in the design and construction of the new shoreline protection system.
 3. The Planning Commission may require a performance guarantee as outlined in Section 17.08 to insure completion of any restoration, native landscaping or other features of the proposed modifications. An inspection coordinated with the Township Zoning Administrator, conducted by the Antrim County Soil Erosion Control Officer shall take place after the modifications have been completed to determine whether stipulations have been met and whether Township permits can be issued. A second inspection coordinated with the Township Zoning Administrator, shall be conducted by the Antrim County Soil Erosion Control Officer one year after Township permits have been issued to determine whether any required performance guarantee can be relinquished to the applicant. If the condition of the site is in compliance with approved plans, any such performance guarantee shall be returned to the applicant.
 4. The Planning Commission shall consider the recommendation of the Soil Erosion Control Officer, the extent of proposed vegetation removal or land alteration, proposed restoration, existing and proposed topography, and the location of any nearby structures. The application shall be approved where it is shown that the proposed modifications will not be injurious to shoreline on adjacent properties, and where the plan demonstrates an intent to improve a situation that is dangerous to the general public or harmful to water quality because of unchecked or potential shoreline erosion, sediment runoff or water pollution.

M/S – Sabty/Lundy. Move to approve revising the Zoning Ordinance Sec 2.11 per Amendment 2013-03 as written and amended, and send it to County for their approval. **Roll Call - Passed 6-0-0**

Old Business - None

New Business

Twin Bay Medical, Inc. - A letter from the applicant dated March 25, 2013 was received requesting that the Planning Commission extend the approval of the existing 5-17-2011 Site Plan, as is, for another year.

Mr. Sabty explained that Twin Bay Medical, Inc was recently purchased by Saint-Gobain Performance Plastics. A letter on hand from Mr. John Duston, Plant Manager requests the extension of the existing Site Plan as is. The pending Site Plan work is to complete the south addition to the structure as planned and with no changes to the approved Site Plan. Mr. John Duston was introduced to the PC.

M/S – Mischel/Sabty. Move to grant a one year Site Plan extension, without change, that would expire on 4-16-2014, to the existing Twin Bay Medical, Inc. Site Plan approved on 5-17-2011 for the property located in Elk Rapids Township at 11590 US-31 South and currently owned by Saint-Gobain Performance Plastics. **Passed 6-0-0**

Site Plan Review. – 365 Outdoor Inc.

Applicant: Property Owner, Michael A. Young (Linden Point Farm LLC). Business Owners, Scott Felker and Eric Rubert.

Location: 11550 S US-31, Williamsburg, MI 49690, a.k.a. part of Lot #2 W F Stepke Subdivision, Tax ID# 05-06-650-002-00.

Request: Site Plan Review including, but not limited to, proposed updates and improvements for their landscape and irrigation business on the site as required by the Zoning Ordinance.

History:

- 3-24-1988, National Fence Co. requested a Public Hearing, Special Exception use permit for a C-1 zoned property for outside holding area of commercial fence material and RV storage at the rear of the property. Special Exception was approved with 4 conditions, two of which expounded on a green belt
- 11-15-1993, Traverse Brewing Co. received a Site Plan Review approval. Ordinance requirements were discussed with 9 conditions and modifications recorded including the existing green belt.

Vice Chair Mischel asked Mr. Harrett to review his written report on the application.

Mr. Harrett stated that of concern is the new proposed large building to be located on over 10' elevated grounds next to the existing main structure. Also, the existing green belt buffering plants around the property do not maintain their leaves throughout the year as required by ordinance. Of concern is the front setback area that contains the existing fence. The ordinance addresses things above the ground; it regulates structures but not driveways, sprinkler systems etc. The ordinance does exclude fences from structures. Also masonry or solid fences are also mentioned in the ordinance, anything that basically screens need to be as high as the material or objects within the site that needs to be screened.

Mr. Amos asked what was required earlier on the green belt on this property. Mr. Harrett responded that in 1993 when the Brewery, the previous owner, started their business there, the fence and green belt already existed, and was put there probably by the previous owner The Nationwide Fence Co., The Site Plan Review for the Brewery included a condition for the Green Belt requirement which referred to adding evergreen plantings. The evergreens were not added.

Mr. Nix went over his memo of 4-15-2013. The 365 Outdoor Inc. needs a Site Plan, and because of outdoor storage also needs a separate Special Exception Use approval. At this meeting we are dealing with the Site Plan only:

- The applicant indicated that April 2014 would be the official business startup date; which needs clarification.
- The non evergreen existing screening was mentioned earlier.
- The circle drive in front encroaches into the ROW. It also dead ends into the three parking spaces upfront where it becomes a dead end street if the three spaces are in use.
- The mentioned upfront gate location needs to be defined.
- Number of parking spaces is adequate, but need to be designated properly on the Site Plan as 10'x20' spaces rather than the 10'x15' spaces currently indicated.
- The sign is adequate.
- There are three proposed future buildings mentioned to be built during 2015-2018 time period; they are provided for in sketches. If they are to be included with the Site Plan, it should be conditional upon that those buildings are going to be built in the future, that we get more detailed building plans to review prior to authorizing their construction.

He hoped that the applicant can clarify some of those points then go back and update the Site Plan with the conditions of approval where missing items are shown.

Vice Chair Mischel pointed that the discussed memo included reference to lighting which is not addressed on the Site Plan and need to be included when the Site Plan is updated.

Mr. Amos reiterated that the proposed future buildings would come about at a different time, and that this Site Plan addresses only the current items contemplated.

Vice Chair Mischel asked about a typical site plan time frame limitations. Mr. Harrett responded that typically the applicant submits a clear and detailed Site Plan within a one year time frame to start the work. If the work is not started before one year elapses, they would have to start over. If the submissions are complete and to standards, they may request one year extensions.

Mr. Sabty stated that this Site Plan mentions future buildings still in the sketch category; nothing is factual or is based on certified engineering drawings. Today we would deal with the facts on hand, but we cannot approve what is not a fact nor phase it into an unknown future.

Vice Chair Mischel expressed her concerns about the ground elevations in the Site Plan and asked Mr. Harrett to address that. Mr. Harrett stated that higher elevations were observed at the area where the proposed large building would be located, it is over 10' higher when compared to the existing building;. If the large building is approved with its proposed height, it would be a concern that has to be addressed within a commercial area. Elevation concerns are shown on a side view of a structure and this Site Plan need much more details to address proposed structures.

Mr. Sabty distributed and went over a summary of needed conditions to approving the Site Plan for the time frame through April 2014 that would address the concerns. *The summary appears on page 7 at the end of the discussion as updated during member discussions to reflect the group consensus.*

Vice Chair Mischel asked the applicant (Mr. Scott Felker and Mr. Eric Rubert) to comment about their application? They stated that they don't need all the designated parking spaces for their business. Mr. Nix advised that they don't need to physically establish all those parking spaces except show them on the Site Plan and designate them as such. The designated area would stay as open space.

The Applicants addressed the part of the front setback area west of the front fence. They hope to use it as a temporary storage for plants in season, and hope to be allowed to do that. Mr. Nix advised that as the applicant is not asking for structures in that location, so long as it is a temporary plant material storage, it would not hurt being an in transit location. The Applicant stated that as to the area at the South west corner of the property, it is not paved to use for such storage. The circular driveway is to facilitate customer usage of the traffic area. MDOT has no problem with the driveway encroachment. The higher elevation mentioned resulted from the excavations placed there when the current structure was built and would be addressed at the time of new construction.

Vice Chair Mischel stated that we need a letter from MDOT allowing the encroachment. There is also a need to show the location of the "gate" on the Site Plan. The applicant pointed the would be location during discussion

Mr. Sabty suggested that the applicant move the indicated circular driveway to the west approximately 10' which will put it out of the ROW area and the PC then would not have to deal with MDOT approval. However that would be up to the applicant to do.

Vice Chair Mischel inquired about the kitchen and fire pit area referred to on the Site Plan, and if the area is for show case only. The Applicant responded that it would a functional show case area because they would be selling those features.

Vice Chair Mischel asked Mr. Nix about his recommendations on what transacted so far. Mr. Nix stated that so far we have established what the applicant wants. The suggestions to move the circular drive out of the ROW is a good one. In terms of the proposed front setback conditions, I agree that there should be no trailers or equipment parked there. However I don't think plant material, landscaping or other material should not be allowed to be there temporarily as long as there are no buildings or structures there; it is a low area which makes it convenient to irrigate; it would blend in with that part of the property landscape. We can add as part of the Special Exception submission for the Public Hearing that the applicant have a revised Site Plan prior to the meeting that reflects these changes, comments and conditions that we have been discussing here, and also have an updated date on the Site Plan as to the date completed.

Vice Chair Mischel referred to the memo part on lighting, that lighting poles are not to be higher than 25 ft and site lighting not to exceed 20 ft candles, precisely how high are each of the proposed lights fixtures; the same for the fixtures on the building, that this should be a condition added to the Site Plan.

Mr. Sabty asked about using the area south of the bins wall to store the compost and plant material currently indicated to be stored in the open area in the west side. The Applicants explained that the piles there would be landscape refuse material rather than commercial material.

Mr. Sabty went through the process for holding the Special Meeting for the Public Hearing, Special Exception Use, and the need for the completed Site Plan to be approved prior to going into the Public Hearing. We would need the updated Site Plan on hand in time for the Planner to review it and be able to distribute it with any findings to the PC members with the Special Exception pkt.

Mr. Amos asked Mr. Nix to summarize his needs to keep the process moving forward. Mr. Nix stated:

- Within the coming two weeks the applicant should submit a revised and dated Site Plan to be able to go through the Special Exception Use Public Hearing.
- It needs to show the location of the gate.
- Show revising the circular drive out the MDOT ROW.
- Probably note the proposed plant holding area for spring to fall use in the front setback and indicate no trucks or trailers to be stored in this location, and also include no plant landscape material to be stored there.
- The Site Plan should show more information on the proposed lighting at the yard and building; height of poles and explain the photometric set and cutoffs.

Mr. Harrett spoke of earlier PC Minutes that discussed the existing screening belt as being acceptable, and that evergreen trees would be added as stated in the ordinance to enhance the area in the future. He quoted from the 11-15-1993 PC minutes, "*The last item to be resolved was the greenbelt requirement, and it was decided the present screening was acceptable. The Commission did decide the Brewing Co. would add evergreen trees approximately a foot (12") high and spaced as stated in the ordinance to enhance the area in the future.*" This was not done at that time. Then he went on to say that since we are including a condition to void past approvals, should it not also apply to the existing green belt.

Mr. Sabty responded that voiding previous conditions and uses had dealt with operations. To apply the voiding condition to an existing screening plant belt that has been there since 1988 and is 15-25 ft wide and runs around the perimeter of the property approximately 1500 ft, is not a practical or desirable approach. The plants existed, have been growing there and were accepted throughout the years, they were never disputed by the TWP. Now to come and tell the new owners that they have to uproot the non evergreen plants and redo it planting evergreen type plants is neither fair nor desirable. He then asked the Chair to ask for the members input on this.

Vice Chair Mischel stated that based on the premise that past approved conditions are voided, what we did in the past may or may not pertain to what the PC would like to do in 2013, then asked the members for their input.

Mr. Amos stated that he agrees with Mr. Sabty; he is comfortable with what is there now, however if some plants should die off, that they be replanted to meet the specification in the Zoning Ordinance. Mr. Lundy, Ms Derenzy and Mr. Larson concurred with Mr. Amos statement.

4-16-2013 Site Plan Review – Conditions

1. **Void Past Approvals:** Other uses and conditions previously approved by the Elk Rapids Township that are not associated with 365 Outdoor, Inc. operations are hereby voided.
2. **Outdoor Functions:** No outdoor functions are allowed on the premises that are not considered in the landscape and irrigation category.

3. **Septic System:** The applicant shall either secure a permit or a letter of acceptance of the on-site septic system from the County Health Department.
4. **Sewer Line Hook-Up:** The property owner warrants and agrees to hook up to the Township sewer system if and when it would become available to the property.
5. **Outside Lighting:** To prevent glare from traveling onto neighboring properties, or cause traffic problems, outside lighting located on the property is to be Zero Degree down mounting.
6. **Front Set Back:**
 - a. Should adhere to the deeper front setbacks in practice by the US-31 Corridor Commercial Zone businesses as advanced by the Master Plan.
 - b. The 15 parking spaces located west of the front set back line should be separated from it by "Parking Blocks" or anchored "Rail Road Ties"
 - c. No trailers or equipment is to be parked in the front setback area behind or in front of the existing fence. Living landscape material may be temporarily stored at the front setback area west of the fence.
 - d. The circular driveway in the front, around the sign, should not encroach into the MDOT ROW.
7. **Site Plan Time Frame:** This Site Plan covers proposed changes contemplated and completed by 4-16-2014. Future proposed structures should be applied for at such time with the required engineering drawings and other required standards.
8. **Outside Storage:** Landscape Material should be stored in bin blocks, especially any piled material, pending a Special Exception Use Permit.
9. **Parking On Site:**
 - a. All 42 customer and employee designated parking spaces should be configured on a 10'x20' parking area per vehicle.
 - b. Any customer and employee parking spaces that would not be currently developed are to be noted as "Available Future Parking Spaces," and should be preserved and their space stay opened.
10. **Greenbelt Requirement:** The present plant screening is acceptable, however if some plants should die off, that they be replanted to meet the specification in the Zoning Ordinance.

With no further discussion, Vice Chair Mischel suggested tabling the Site Plan until the May 21, 2013 Special Meeting where approval would take place in advance of the Special Exception Use request for review.

Amos/Lundy moved to table the Site Plan until the next meeting.

Passed 6-0-0.

Collaborative Master Plan

Mr. Sabty gave an update on the status of the Plan. It was distributed and 63 days from that date June 3, 2013 we can hold a joint public hearing. He will work on scheduling the Public Hearing and hope to have more information on hand at the next meeting.

Correspondence: None

Public Comment: None

Members Comments: None

As there was no further business Vice Chair Mischel adjourned the meeting at 8:50 PM.

The next meeting will be a Special Meeting to be held on Tuesday May 21, 2013 at the Government Center, 315 Bridge Street, Elk Rapids MI.

E. S. Sabty, Secretary
4-16-2013

Approved 5-21-2013

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday May 21, 2013

Chairwoman Smith called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Jean Derenzy, William Larson, Jim Lundy, Emile Sabty & Shen Smith.

Absent: Dorance Amos, Renee Mischel.

Also Present: Leonard Harrett, Zoning Administrator. Larry Nix, Planning Consultant. Audience 4.

Adoption of Agenda: M/S – Lundy/Derenzy. Agenda for 5-21-2013 meeting was adopted unanimously.

Approval of Minutes: M/S – Derenzy/Lundy. Minutes for 4-16-2013 meeting were approved unanimously.

Public Forum: None

Zoning Administrator Comments: Mr. Harrett advised that all the information required for completing the Site Plan Review/Special Exception Use for 365 Outdoor is now on hand.

Site Plan Review. – 365 Outdoor Inc.

M/S – Lundy/Derenzy. Moved to take from table the 365 Outdoor Inc, Site Plan for completing the review.

Passed 5-0-0

Mr. Nix addressed his memo of May 15, 2013 which covered all the items that changed or were discussed at the last meeting. The memo also listed the ten (10) conditions outlined at that meeting. All other requirements for the Site Plan Review have been met.

The Chair asked for comments from the members. Mr. Sabty distributed a copy of that part of the Site Plan that showed the Reserved Future Parking with seven (7) new added spaces. The Site Plan required 48 parking spaces but showed only 41 spaces. The suggested seven new spaces to be added to the Future Parking area would satisfy the requirement. The applicant had received a copy and was satisfied with the suggestion. The members indicated satisfaction with requested Site Plan. With no further discussion the Chair asked for a motion.

M/S – Sabty/Derenzy. Move to approve the Site Plan as presented for 365 Outdoor, Inc. with the following ten (10) conditions:

1. **Void Past Approvals:** Other uses and conditions previously approved by the Elk Rapids Township that are not associated with 365 Outdoor, Inc. operations are hereby voided.
2. **Outdoor Functions:** No outdoor functions are allowed on the premises that are not considered in the landscape and irrigation category.
3. **Fire Department Recommendations:**
 - a. Install a key lockbox at the gates that complies with the Elk Rapids Fire Dept. requirements.
 - b. All flammable liquid is to be stored in an out-building that is at least 10' from a main structure.
4. **Sewer Line Hook-Up:** The property owner warrants and agrees to hook up to the Township sewer system if and when it would become available to the property.
5. **Outside Lighting:** To prevent glare from traveling onto neighboring properties, or cause traffic problems, outside lighting located on the property is to be Zero Degree down mounting. Lighting details shall be reviewed and approved by the Zoning Administrator prior to issuance of Township permits.

6. **Front Set Back:**
 - a. Should adhere to the deeper front setbacks in practice by the US-31 Corridor Commercial Zone businesses as advanced by the Master Plan.
 - b. The 15 parking spaces located west of the front set back line should be separated from it by "Parking Blocks" or anchored "Rail Road Ties."
 - c. No trailers or equipment is to be parked in the front setback area behind or in front of the existing fence. Living landscape material may be temporarily stored at the front setback area west of the fence.
 - d. The circular driveway in the front, around the sign, should not encroach into the MDOT ROW.

7. **Site Plan Time Frame:** This Site Plan covers proposed changes contemplated and completed by 4-16-2014. Future proposed structures after 4-16-2014 should be applied for separately at such time accompanied with the required engineering drawings and other required standards.

8. **Outside Storage:** Landscape Material should be stored in bin blocks, especially any piled material, based upon the Special Exception Use Permit.

9. **Parking On Site:**
 - a. All 48 customer and employee designated parking spaces should be configured on a 10'x20' parking area per vehicle.
 - b. Any customer and employee parking spaces that would not be currently developed are to be noted as "Available Future Parking Spaces," and should be preserved and their space stay opened. Seven (7) additional parking spaces need to be added to the 'future parking area' to total 48 parking spaces.
 - c. Future parking shall be reserved as such and not developed for other purpose.

10. **Greenbelt Requirement:** The present plant screening is acceptable, however if some plants should die off, they shall be replanted to meet the specification in the Zoning Ordinance.

Vote: Yes to approve. Derenzy, Larson, Lundy, Sabty & Smith.

Passed 5-0-0

Public Hearing

Special Exception Use – 365 Outdoor, Inc.

Mr.Sabty read the official notice for the public hearing that appeared in the local newspaper. The members were satisfied with the application. Mr. Nix emphasized that the outside storage area in the NW corner of the site is where the trailer and equipment would be parked and at no other place on the site. Previously in that area of the Site Plan it showed storage of compost, plant and material, that was removed from there and it is now exclusive for parking.

The Chair asked for Public Comment. Mrs. Mary Cooper, a resident neighbor expressed concern with noise created from parking trailers and equipment. The applicant responded that they do not have large trucks, that their cars are no larger than a pickup. She was also concerned with dumping refuse there which might cause bad smell, something she experienced with the previous owner. It was mentioned that the previous owner might have been dumping fermented mash.

With no further Public Input Lundy/Derenzu moved to close the Public Hearing.

Passed 5-0-0

As there was no further discussion, The Chair asked for a motion.

M/S – Sabty/Lundy. Move to approve the application by 365 Outdoor. Inc. for Special Exception Use for open space storage of landscape material and equipment; with emphasis that the stored material or equipment stay screened and the surrounding green belt around the property is maintained, and any dead

plants are replaced as required by the Zoning Ordinance.

Vote: Yes to approve. Derenzy, Larson, Lundy, Sabty & Smith.

Passed 5-0-0

New Business

Collaborative Master Plan

Mr. Sabty advised that the distributed Master Plan review period ends on June 3, 2013 after which a Public Hearing can take place. The original plan was to hold a joint Public Hearing with the Village, but after review and discussion with the Township it is suggested that the Township should hold an independent Public Hearing for the Township only. This proposal is for the members to consider and decide if we would go that way. He further suggested that when the TWP Planning Commission holds their review, that the final copy of the TWP Master Plan would be printed with the traditional Master Plan Cover used by the Township, but keep the internal content as is. He presented a proposed calendar of events for the suggested process:

- End of 63 day Advisory period June 3, 2013.
- Notice sent to Local Paper on June 20, 2013 for the TWP Jul 16, 2013 Public Hearing.
- TWP Public Hearing Notice appears in paper on June 27, 2013
- Public Hearing can be held 15 days after the Notice in the paper, after July 12, 2013
- TWP Public Hearing July 16, 2013 which is the scheduled PC Meeting date.

M/S – Lundy/Sabty. Move to hold a Township Public Hearing on July 16, 2013 for approving the Collaborative Master Plan.

Passed 5-0-0

Correspondence: None

Public Comment: None

Members Comments:

Mr. Sabty advised that the Zoning Amendments forwarded to the County for review and approval should be back after their June 4, 2013 meeting in time for the TWP meeting on June 11, 2013.

Chairwoman Smith stated that the only item so far scheduled for July 16, 2013 meeting is the Master Plan. She asked Mr. Nix to prepare a list of items to work on in the future. Mr. Sabty went over his records and read the last working list the PC used which included some completed items and others still not worked on. It was concluded that he would mail the list to Mr. Nix for his use in preparing a suggested future to be worked on list.

As there was no further business Chairwoman Smith adjourned the meeting at 7:30 PM.

The next scheduled meeting will be held on Tuesday July 16, 2013 at the Government Center, 315 Bridge Street, Elk Rapids MI.

E. S. Sabty, Secretary
5-21-2013

Approved 7-16-2013

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday July 16, 2013

Chairwoman Smith called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Jean Derenzy, Jim Lundy, Renee Mischel. Emile Sabty & Shen Smith.

Absent: Dorance Amos, William Larson. Also Absent: Leonard Harrett, Zoning Administrator.

Also Present: Larry Nix, Planning Consultant. Audience 6.

Adoption of Agenda: M/S – Mischel/Lundy. Agenda for 7-16-2013 meeting was adopted unanimously.

Approval of Minutes: M/S – Derenzy/Lundy. Minutes for 5-21-2013 meeting were approved unanimously.

Public Forum: None

Zoning Administrator Report: None.

Public Hearing

Collaborative Master Plan

The Chair asked for a brief of the Public Hearing and purpose.

Mr. Sabty went over the Hearing Notice stating, “The required public hearing is to acquire public input prior to final approval of the proposed Collaborative Master Plan. The proposed Plan has already gone through the necessary advisory approvals from the surrounding entities. After public input at the public hearing the Plan would be approved and forwarded to the Elk Rapids Township Board for their final approval and adoption.”

The Chair then opened the Public Hearing and asked for a brief on the Advisory Responses.

Mr. Sabty proceeded to state that three letters of support to the Collaborative Master Plan were received, (copies on file), One from Grand Traverse County, and one from Acme Township. The third was from Antrim County Planning Commission, in support with some minor advisory suggestions for possible Village inclusions. The overall response was positive and supportive.

He then proceeded to review the Elk Rapids Village Approval, stating that the Village PC met on June 25, 2013 and approved the proposed Collaborative Master Plan with minor suggested changes that mainly pertained to the Village part of the Plan. The changes are shown on the distributed copy of the affected pages in the Plan. In general there are no problems with the suggested changes, however the one change on page 5, Figure 1, 1st Column under Community, suggesting changing the column label from “Elk Rapids Township” to “Elk Rapids Township (Less Village)” is felt to be an objectionable method of labeling and is out of place. Much discussion took place with participation from the audience on the labeling, including that a major change would have to go through a new hearings process by both entities, while a minor change that does not alter the intended meaning can be made and still proceed with the approval process.

Mr. Nix was asked to comment, he stated that the title under the population column for the Township could stay the same as is, but to add an asterisk to it with a footnote at the bottom that reads, “**Does not include Village population,**” with this there would be no need to change the title and we can move forward with the approval process.

The Chair polled the PC members and it was felt that it would be OK as is, and can be lived with as adopted by the Village, but would add a foot note that gives the same meaning just in a slightly different format.

Ms. Mischel asked about the statement in the County letter cautioning that there is a non compatible zoned small area between the Elk Rapids and Milton Townships boundary off Birch lake Road. In response it was pointed that the condition has existed for many years with no problems and that the County letter is only advisory not requiring any specific action.

Mr. Nix pointed out that on page 6, Table 2, the column labeled Township % Change, Vacant/seasonal units should be corrected to read 23.0% and not 10.3%.

The balance of the Village changes were discussed as noted, and it was pointed out that they are OK as noted. It was also pointed that Maps 2, 3 & 4 shows a light Orange color boundary surrounding the Village limits which was requested by the Village to be changed to a distinct color and also to be identified under the Legend.

Mr. Nix stated that on page 8 the County suggested adding to item #3, "Walk of Art," while the Village revised text shows, "Sculpture Park." This was explained that the Village Planning Commission preferred the use of Sculpture Art.

Further it was pointed that the distributed pkg included the approved sample of the Township Cover page for the Master Plan followed by an inside descriptive cover page that showed the Township Resolution number and adoption date.

The Chair asked if there was more public input. As there was no more input, the Public Hearing was closed.

Mr. Nix explained that after approving this Plan here, the Village PC would forward the adopted Plan to the Village Council for final approval, at the same time this approved Plan would be forwarded to the Township Board for their final approval.

Chairwoman Smith thanked the Committee members who worked with the Village members on developing the Collaborative Master Plan, as well as the Planning Consultant Larry Nix, and the Village Planning Commission for the total joint effort. She went on to say that this effort showed that two different entities can work well together, that this was good for the Elk Rapids Community as a whole. Our thanks to all the contributors.

The Chair then asked for a motion to approve the Collaborative Master Plan with inclusion of a footnote on page 5, and other changes adopted by the Village Planning Commission.

M/S – Derenzy/Lundy. Move to adopt the Collaborative Master Plan as presented including the suggested changes made by the Village, and on page 5 to add an asterisk foot note to the title of the first column in Table #2 that reads. "Does not include Village population."

Vote. Yes to adopt – Derenzy, Lundy, Sabty, Mischel & Smith
Motion passed **5-0-0**. Collaborative Master Plan adopted.

Explaining the next step in the process, Mr. Nix stated that he would use this motion and would craft a resolution that would reflect it for inclusion in the back of the document. With the Township Board making the final approval, he would check with the Township Attorney for the proper process to follow.

Old Business

Amendments in Process: Zoning Ordinance Amendments 2013-01, 02 & 03 as amended were approved by the TWP Board on 7-9-2013 and would become effective seven days after a publication notice appears in a local newspaper. Once completed a copy of the updated Zoning Ordinance would be forwarded to the TWP Web Master for inclusion on the TWP Web Site.

New Business: None

Correspondence: None

Public Comment: None

Members Comments: None

As there was no further business Chairwoman Smith adjourned the meeting at 7:10 PM.

The next scheduled meeting will be held on Tuesday October 15, 2013 at the Government Center, 315 Bridge Street, Elk Rapids MI.

E. S. Sabty, Secretary
7-16-2013

Approved _____

Minutes are subject to approval at the next regular Planning Commission Meeting.

Elk Rapids Township Planning Commission
Meeting Minutes – Tuesday, August 20, 2013

The meeting of the Elk Rapids Township Planning Commission was called to order by the Chairman Shen Smith at 6:30 PM at the Government Center, 315 Bridge Street, Elk Rapids, Michigan 49629. With the resignation of the recording secretary Shen Smith volunteered to take the minutes for this meeting. “Pug” Sliger was welcomed to the Planning Commission as the newest appointee of the Township Board.

Present: Jean Derenzy, William Larson, Renee Mischel, “Pug” Sliger & Shen Smith.

Absent: Dorance Amos & Jim Lundy, prior commitments

Present Township Staff: Len Harrett, Zoning Administrator and Brian Wegener, Planning Consultant.

Audience: Antrim Soil Erosion Heidi Schaffer, Ray Easton, Brian Easton, Martha Reid, Traver Wood, Robert Wilhelm and four others in attendance.

Adoption of Agenda: The proposed agenda was reviewed with a motion by Renee Mischel, 2nd by Jean Derenzy to approve the agenda as presented. Motion was adopted unanimously.

Approval of July 16, 2013 Planning Commission Minutes: After review a motion was by Jean Derenzy, 2nd by William Larson to approve the minutes of the July 16, 2013 meeting as presented.
Motion was approved unanimously.

Public Forum: None

Zoning Administrator Report: None.

Noticed Public Site Plan Review Hearings:

Three applicants are applying for approval of their site plans to make shoreline alterations according to the provisions of **Section 2.11 C and D-1 thru 4**. It is the Planning Commission members’ authority to evaluate if any of the individual proposed alterations will negatively impact either: the character of the Elk Rapids Township shoreline, or disadvantage adjacent neighbors.

#1 Becker Site Plan Evaluation Public Hearing: A motion was made by Renee Mischel, 2nd by Jean Derenzy to open the Becker Public Hearing, **motion was approved unanimously**. The Planning Commission members reviewed a Site Plan submitted per Ordinance Section 2.11 by **John and Ellen Becker** of Glenmont, New York current owners of an unplatted 82’ wide waterfront property at 10305 Elk Lake Road, Williamsburg, MI 49690. **Tax ID#05-06-028-028-10**, Zoned R-1 Residential. The owners are requesting approval of plans to make land and vegetation alterations along and within the 25’ wide strip of natural Elk Lake shoreline traversing their property.

The site plan and presentation was presented by Robert Wilhelm (Wilhelm Landscaping Williamsburg, MI). Williams & Works consultant, Brian Wegener, reported that all missing information from the site plan has been provided, boulder rip rap will be added and he recommended final inspection per Sec. 2.11.D-3. The Zoning Administrator, Len Harrett reported no unusual conditions except a sandy (w/ grass) 5’ embankment 60-odd feet from lakeshore not clearly shown on site plan. Alterations are low impact to existing character. Renee Mischel questioned the need for performance guarantee – members agree that project is too small to require one.

A motion was made by Jean Derenzy, 2nd by William Larson to close the Becker public hearing, **motion was approved unanimously**. After review and discussion a motion was made by Renee Mischel, 2nd by William Larson to approve the Becker’s request, finding that the proposed shoreline alterations will not negatively affect the existing character of the Township; conditional on compliance with DEQ and Soil Erosion Permit by inspection. **Motion was approved unanimously**.

#2 Easton Site Plan Evaluation Public Hearing: A motion was made by Renee Mischel, 2nd by Jean Derenzy to open the Easton Public Hearing, **motion was approved unanimously.** The Planning Commission members reviewed a Site Plan submitted per Ordinance Section 2.11 by **Ray and Jacquelyn Easton** of Bath, Michigan, current owners of platted property at 11191 Mattes Drive, Williamsburg, Michigan 49690 (aka Lot #6 of Elk View Terrace Subdivision, **Tax ID#05-06-675-006-00**, zoned R-1 Residential. The owners are requesting approval of plans to make land and vegetation alterations along and within the 25' wide strip of natural Elk Lake shoreline traversing their property.

Ray Easton presented the site plan and the presentation, Brian Wegener, of Williams & Works Planning Consultants recommended final inspection per Sec. 2.11.D-3. Zoning Administrator, Len Harrett reported that the plan satisfies the requirements; but noted that several dead tree stumps exist along shoreline but no trees are proposed in the alteration/restoration plan. Antrim County Soil & Erosion Officer Heidi Schaffer added that the lower bushy type plantings have equal quality for stabilization. Mr. Easton pointed out that mature trees are 50' – 75' from the shoreline and should maintain the character of the neighborhood.

Mr. Easton indicated that there were no trees remaining in the area under site plan review on this consideration but there exist large trees just outside of the review area. A question was raised by Shen Smith addressed to Brian Wegener and Heidi Schaffer as to whether the Zoning Ordinance and/or Planning Commission might be allowed to request that additional trees be planted when reviewing such site plan reviews in the future. The answer was that such a request is admissible as a condition of approval under various conditions of a site plan review.

A motion was made by Jean Derenzy 2nd by Renee Mischel to close the Easton Public Hearing, **motion was approved unanimously.** After review and discussion a motion was made by Jean Derenzy, 2nd by Renee Mischel to approve, finding that the proposed shoreline alterations will not negatively affect the existing character of the Township; conditional on compliance with DEQ and Soil Erosion Permit by inspection. **Motion was approved unanimously.**

#3 Reid Site Plan Evaluation Public Hearing: A motion was made by Renee Mischel, 2nd by Jean Derenzy to open the Reid Public Hearing, **motion was approved unanimously.** Planning Commission members will review a Site Plan submitted per Ordinance Section 2.11 by **Gary and Martha Reid** of Dublin, Ohio, current owners of an unplatted 100' wide waterfront property at 11005 Mattes Drive, Williamsburg, Michigan 49690 **Tax ID#05-06-033-002-10**, Zoned R-1 Residential. The Owner's are requesting approval of plans to make land and vegetation alterations along and within the 25' wide strip of natural Elk Lake shoreline traversing their property

Trever Wood, the landscape architect presented the site plan and the presentation, Brian Wegener of Willams & Works Consultants recommended final inspection per Sec. 2.11.D-3; and noted that no DEQ permit, Soil Type or phasing plan is included with application. ZA Harrett notes that the plan includes a personal boat ramp and a new/replacement tree. Renee Mischel questioned the materials to be used on the personal boat ramp and the purpose of the proposed boat ramp. Mr. Wood indicated materials will consist of flat natural stones and the purpose to be for the removal and temporary storage of watercraft items such as kayaks. Trever Wood stated that a DEQ permit had been applied for (Heidi Schaffer confirmed that DEQ permit was approved on 08/19/2013) and that site work will commence when all approvals are received. Trever Wood also pointed out that numerous trees exist further from the shoreline and will maintain a vegetated character.

A motion was made by Jean Derenzy 2nd by Renee Mischel to close the Reid Public Hearing, **motion was approved unanimously.** After review and discussion a motion was made by Jean Derenzy, 2nd by Renee Mischel to approve, finding that the proposed shoreline alterations will not negatively affect the existing character of the Township; conditional on compliance with DEQ and Soil Erosion Permit by inspection. **Motion was approved unanimously.**

Chairwoman Smith thanked the property owners for taking their time and energy to improve their shorelines, also Heidi Shaffer, Len Harrett, Larry Nix and Brian Wegener for the joint efforts that went into bringing these three initial plans to the public hearing stage. Heidi Shaffer, Antrim County Soil & Erosion officer requested to be notified of the date and time for all such site plan review hearing coming up in the future.

Old Business:

Medical Marijuana - Does Medical Marijuana need to be resolved – should the Ordinance have regulations? W&W Brian Wegener comments that the attorney general, Michigan courts, and legislature have added to or modified medical marijuana laws. Registered patients can grow in the privacy of their homes. He will provide information on what other municipalities are doing (or not doing) re having MM zoning regulations regarding caregivers. Chairman Smith asked William & Works to review and advise as to a closeout on the MM Moratorium or if any additional actions will need to be

taken to amend the Township Zoning Ordinance based on any new information coming out of the State of Michigan regarding MM.

Collaborative Master Plan Discussion regarding the number of copies that will need to be printed for the Township and distributed. It was pointed out that with the Township having a different cover the costs of printing would be higher; a motion was then made by Renee Mischel, 2nd by Jean Derenzy to return to the original joint master plan cover as originally proposed by William & Works. **Motion was approved unanimously.** Len Harrett will discuss with the Township board and then let the printer know the final number the Township will be printing and distributing.

New Business:

The Elk Rapids Township Planning Commission takes this time to issue a heartfelt thank you to retired Planning Commission member **Emile Sabty** for his many long years of dedication in the services of the Planning Commission - his shoes will be very hard to fill and he will be missed.

The **Zoning Board of Appeals** appointee from the Planning Commission to the Zoning Board of Appeals board was discussed, with **William Larson** indicating that he would be willing to accept appointment from the Township Board if they were so inclined to appoint him to the ZBA. Chairman Smith indicated that she would advise the Township Board as to Mr. Larson's willingness to serve if appointed.

2013-2014 Planning Commission Officers: – After discussion for the coming year officers, a motion was made by Renee Mischel, 2nd by Jean Derenzy to nominate and approve for officer positions - Shen Smith, Chairman, Renee Mischel, Vice Chairman and to hold off appointment for the office of Recording Secretary until the next meeting. **Motion was approved unanimously.**

Township Zoning Ordinance Amendments Needed:

Len Harrett reported that **Section 2.11** of the Elk Rapids Township Zoning Ordinance will need amendment based on a legal matter that needs to be corrected; and, "**In-Home Businesses**" has no review criteria if a resident applies to have an in-home business was discussed with a decision that any such in-home occupations to be referenced within the Township Zoning Ordinance will need defined descriptions and to be clearly spelled out.

As motion was made by Renee Mischel, 2nd by Shen Smith to authorize Len Harrett to work with Willams & Works to create and present amendment text for review. **Motion was approved unanimously.**

Correspondence: None
Public Comment: None
Members Comments: None

As there was no further business Chairman Smith adjourned the meeting at 8:42 PM.

The next scheduled meeting will be held on Tuesday October 15, 2013 at the Government Center, 315 Bridge Street, Elk Rapids MI.

Shen B Smith, Acting Secretary
8-20-2013

Minutes are subject to approval at the next regular Planning Commission Meeting.

**Elk Rapids Township Planning Commission
Meeting Minutes – Tuesday October 15, 2013**

The meeting of the Elk Rapids Township Planning Commission was called to order by the Chairman Shen Smith at 6:30 PM at the Government Center, 315 Bridge Street, Elk Rapids, Michigan 49629.

Present: Renee Mischel, Pug Sliger, Shen Smith, Jim Lundy

Absent: Dorance Amos, Jean Derenzy, William Larson

Present Township Staff: Len Harrett, Zoning Administrator and Larry Nix, Planning Consultant

Adoption of Agenda:

M/S – Mischel/Lundy: Agenda for 10/15/2013 meeting adopted by the board unanimously.

Approval of the minutes:

M/S – Lundy/Mischel: Minutes for the 8/20/2013 meeting were approved unanimously.

Zoning Administrator's report:

*Len Harrett told of 3 past approved requests. 2 of which were finished. The last applicant wasn't sure what they were going to do and called to ask what the expiration date was. When he was informed it was 12 months, he indicated they would make a decision by then.

*Len also told of the request that was discussed and denied at the September 16th 2013 meeting of the ZBA. Also told of how the applicant planned to make some property changes to make his request adaptable.

*There are new 2013 Ordinance Books available.

*Renee Mischel asked Len about a property on Elk Lake Rd. that was issued a violation. He went over the 3 notices that were issued and that if the violations weren't taken care of at the end of 21 more days, legal action would be taken. The Township board has approved the funds to be spent on the legal pursuit. There is one more week left until that action needs to be taken.

Public Form: No members of the public in the audience.

Old Business:

Medical Marijuana: Larry Nix of Williams and Works indicates that nothing has changed from the last meeting. State regulations remain the same. After some discussion, it was decided that there were two options – Do nothing – Put something in the ordinance.

Shen Smith asked the board to “think about it”. Talk to their friends and neighbors about their feelings. Revisit the discussion at the next Planning Commission meeting.

Section 2.11: Len Harrett recommends (per VARNUM Attorneys) that the text be modified by removing portions of the Ordinance text, specifically A. & B. and then re-identifying Sections 2.11 C & D to be A & B.

M/S - Lundy/Smith

In Home Business: After discussion about making some amendments to the ordinance, it was suggested by Larry Nix to wait until the next meeting in January when hopefully all the board members might be present. It was decided that this would give him the time to modify the current definition of “Home Occupation” as follows:

A: Rewrite to say “must be owner occupied”. Remove “F” altogether – G: Amend to remove everything after “the lot”. The discussion about In Home Businesses would be re-opened in January.

New Business:

The office of Planning Commission Secretary or Recording Secretary, appointment, roles and duties: Last time duties were written was in February 2008. It was decided that Larry Nix would make suggestions to modify the By Laws to be logical and reasonable by the next meeting in January 2014.

Correspondence: None

Public Comments: None

Member’s comments: Larry Nix let the Board know that Brian Wegner is no long with Williams and Works and for the time being he will be the one working with them.

Len Harrett let the Board Members know that there is a new “Master Plan” printed and if anyone wanted one to let him know.

Adjourn:

M/S – Mischel/Sliger 8:15 pm

Township Staff Recorder
Lori Dawson

Jim Lundy
Planning Commission Secretary

Minutes approved January 21, 2014

**Elk Rapids Township Planning Commission
Meeting Minutes – Tuesday, January 21, 2014**

The meeting of the Elk Rapids Township Planning Commission was called to order by the Chairman Shen Smith at 6:36 pm at the Government Center, 315 Bridge Street, Elk Rapids, Michigan 49629.

Present: Shen Smith, Renee Mischel, Pug Sliger, Jean Derenzy, William Larson, Jim Lundy

Absent: Dorance Amos

Present Township Staff: Len Harrett, Zoning Administrator and Larry Nix, Williams & Works-Planning Consultant

Public attendance: 1 – Patrick Brady

Adoption of Agenda:

M/S – Mischel/Derenzy: Agenda for January 21, 2014 meeting adopted by the board unanimously.

Approval of Minutes:

M/S – Mischel / Sliger: Minutes for the October 15, 2013 meeting were approved unanimously.

Zoning Administrator’s Report:

- Len Harrett submitted an “Annual Report” for the Township of Elk Rapids – Zoning for 2013
- Regarding the Public Hearing for the amendment (elimination) of paragraphs 2.11-A & 2.11-B: It will be on the agenda for the April meeting rather than this meeting due to the “closure for vacation” of the Elk Rapids News and was unable to report the hearing in the paper.
- Harrett indicated that there has been a meeting requested with a representative of an engineering firm from Grand Rapids regarding a possible site condominium/Open Space Development vision for a 47 acre parcel accessed by Orchard Drive off Elk Lake Road.

The 47 acre parcel was presented in 2012 as a 7-parcel Land Division proposal. A new road was included in the plans. The development project stalled at the time that actual road work was to begin. If it is determined that some kind of development greater than the original 7 proposed lots can be achieved, and if the development is possible as an Open Space Development (Section 2.21) the Planning Commission may likely be meeting more than 4 times in 2014.

Chairman Smith questioned “How many residential units are planned for the Orchard Drive development. Harrett indicated that it was limited to 13 because it’s a private road and there are already 12 there. (25 being the limit)

Mischel asked the status of the burned out house on Elk Lake Road. Harrett indicated that the owner is being sued for removal.

Public Forum: One person in the audience (Patrick Brady). He declined any comments.

Old Business:

Home Occupation text amendment:

Larry Nix was asked to change the wording of the beginning of Section 2.12 to:

A home occupation may be “permitted” in a dwelling unit, provided that: (rather than “conducted”)
The intent of this is so the home owner needs to fill out an application for the Home Occupation.

- A. Mishcel expresses concern about being sure that the home is “owner occupied”. Must be sure that the in home occupation is being run by the owner of the home and that said owner lives in the home. Harrett wanted to be sure that the Board did not write things into the ordinance that could not be enforced.

Larry Nix was asked to change Section 2.12 A as follows: Leave out any reference regarding the employess of the business, but include that the owner of the home occupation shall reside at the dwelling of the home occupation.

- B. No changes
- C. The Board has no concerns, leave as written.
- D. Sliger indicates that he knows of home occupations that exist in an accessory building. At this point, there have been no complaints. It was decided that since there has been no abuse or complaints, the ordinance will stay as written.
- E. Consesus of the board: Leave as written.
- F. Chairman Smith is concerned about the amount of cars parked in the driveway, that there should be a ratio for the size of the driveway. It was decided that if there are any complaints, the ordinance will be changed then.
- G. No changes

Chairman Smith motioned for approving section 1.03 definitions and the text for public hearing with the April meeting.

M/S – Derenzy / Mischell 5 approved, 1 opposed (Jim Lundy)

Review revised Planning Commission Bylaws:

- 2.2 Larry Nix indicates that in section the wording says “At its first regular meeting in **“September”**. As there is not a “regular” meeting in September, Larry would like to change the month to **“the first meeting of the fall”**. All Board members agreed.
- 2.3 **Remove** the references to the **“Zoning Administrator”** indicating **“Township staff”** would be responsible for public records, minutes, public hearing notices, etc.
- 3.3 Questioning that the “time limit” on the meetings possibly change to no more than 3 hours. After discussion, it was decided to leave the rule as is.

M/S - Derenzy/Lundy Approved unanimously with changes.

Harrett questioned Larry Nix about his Annual Report. Nix indicated it was appropriate.

Review of 2014 Planning commission Meeting Schedule:

Possible changes were discussed, but it was decided to leave it at 4 scheduled meetings a year. If there is a special meeting requested, then it will be planned at that time.

Chairman Smith added to Old Business, the case of appointing a Planning Commission Secretary:

Larry Nix indicates that the most important part of this position is the signing of the minutes for the official records.

Harrett is concerned about time sheets for the Board members as well. Chairman Smith volunteers to do it for February.

Chairman Smith proposes to the Township Board: Changing the Secretary pay to the same as the rest of the board (\$30.00)

M/S – Lundy/Derenzy Approved unanimously

Chairman Smith proposes to increase all the Planning board members pay to \$35.00 per meeting. Harrett suggest \$10.00 more.

Chairman Smith calls the question to request approval by the Township Board to increase all Planning Commission members pay by \$10.00 member per meeting.

Sliger is opposed, Mischell opposed, Larson opposed. Motion failed.

Jim Lundy volunteers for the Planning Commission Board Secretary position:

M/S – Derenzy/Mischell Motion approved unanimously

Lundy starts his position as Board Secretary by signing the minutes of the October 15, 2013 meeting.

New Business:

Mischell questions the October meeting minutes regarding a note to “think about” the Medical Marijuana issue.

It was decided there was a moratorium on it. It was the consensus of the board to remove it from the agenda and make no changes.

Harrett let the board know that Bill White advised him that there is some interest in the Leslie Lee property as a possible “group retreat” by the Crooked Tree Arts Council. He will keep the board informed.

Correspondence: None

Public Comments : None

Members Comments:

Mischell motions to request from the Township that the Planning Commission Chairperson’s stipend be raised to \$60.00 per meeting.

M/S - Mischell/Lundy 4 approved, 2 opposed (Smith, Sliger) Motion approved

Motion to adjourn:

M/S – Lundy/Mischell Unanimously approved 8:30 pm

**Elk Rapids Township Planning Commission
Meeting Minutes – Tuesday, April 15, 2014**

The meeting of the Elk Rapids Township Planning Commission was called to order by the Chairman Shen Smith at 6:30 pm at the Government Center, 315 Bridge Street, Elk Rapids, MI 49629.

Present: Shen Smith, Renee Mischel, Pug Sliger, William Larson, Jim Lundy, Dorance Amos

Absent: Jean Derenzy

Present Township Staff: Len Harrett, Zoning Administrator and Larry Nix Williams & Works – Planing Consultant

Public Attendance: Rick Pulaski – Nederveld (Property planner for Donald Hayden/property owner)
Dale Hull, Pat Brady, (Elk Rapids Twp) Ray Easton, (resident of Mattes Dr.)
Heidi Schaffer (Antrim Cty Soil & Erosion Officer)

Adoption of Agenda:
M/S – Lundy / Sliger: Agenda for April 15, 2014 meeting adopted by the board unanimously.

Approval of Minutes:
M/S – Lundy /Sliger: Minutes for the January 21, 2014 meeting were approved by the board unanimously.

Public Forum: None

Zoning Administrator’s Report:

Len Harrett submitted information on the Lake View, Parcel Tax I.D 05-06-033-002-50 in Section 33, T22N R9W Elk Rapids Township, MI, property owner, Donald Hayden, Jr. for a proposed-site condominium development on a portion of a 47 acre parcel located on Orchard Lane, Williamsburg, MI.

Rick Pulaski an engineer with Nederveld presented an informal sketch plan to the Planning Commission on behalf of the property owner, Donald Hayden, Jr. who was not present.

This project has been in the design stages for approximately 1.5 years.

Although the whole 47 acre parcel is intended to become buildable lots, the plan focused on the land north of Orchard Drive.

The following Chapters regulate the review and approval of this plan:

Chapters 2.18 – Land Division and Condominium Development

Chapter 2.19 – Private Road Regulation

Chapter 2.21 – Open Space Development

Chapter 17 – Site Plan Review – this meeting is per Chapter 17.03 – Sketch Plan.

The blueprints that were submitted accurately show: Orchard Drive, a new proposed N/S road, (10) proposed lots, topography, and 14+ acres of proposed permanent Open Space.

The remainder of the blueprint was artistry to help clarify the intent of the plan. Mr. Harrett asked members to disregard this as it is not currently part of the plan....simply for looks at this presentation.

The engineers need to fine-tune the plan so that they can submit complete and accurate formal plans.

Elements of the plan that Planning Commission members inquired about were:

Vegetation / Plantings, signage, lighting, drainage, utilities, road maintenance, phasing of the road construction, excavation and adequacy of drainage and retention basins, building restrictions (if any), unique Condo Association by-laws, possible uses of the Open Space, and anything else that may impact the development of Elk Rapids Township per Section 1.02.

Another consideration that was discussed is the cost to the Township to review this. Altogether, the cost of professional reviews by Larry Nix, Bill Derman, and possibly Antrim Soil Erosion, may amount to \$5000. Professional engineering to verify the road construction compliance (Sec 2.19 B) will be paid by the developer.

Mr. Harret has spoken with the Township Treasurer regarding this matter and he is willing to set up an Escrow Account for this plan.

Chairman Shen Smith asked if any of the members had any concerns about this plan:

At this point, Rick Pulaski, of Nederveld began his presentation. He indicated that this property has been in the Hayden family for approximately 30 years. He showed an aerial view of the property and the other roads that border the property. (Mattes, Hanel, Shore and Clearwater). Focusing on the north side of Orchard Dr. There is an easement off of the North end of Mattes Dr. that was not platted. Residents of this road and Mr. Hayden have access to the easement. Mr. Pulaski indicated that Orchard Dr. will be widened 2 feet. This property is zoned R1 and Ag. They are proposing an open space development plan due to a ridge on the property that will provide nice views for the property owners. They are proposing to develop a 10 lot, private road cul-de-sac, site condominiums. This will have by-laws, an association, with dues, etc. (approximately 2 acres each) positioned on the highest point of the property. Due to the Ag portion of the property, they will give ½ of the property (approx 14 acres) as dedicated open space. They are working with Heidi Schaffer of Soil and Erosion for storm water management. Chairman Smith asked about a storm water management plan to go over. Mr. Pulaski indicated that they are still working on one and will provide it when it available.

Chairman Smith asked about the 4 parcels on the North end of Mattes Dr. Mr. Pulaski indicates that Mr. Hayden owns the property and ultimately does have access to the easement. Chairman Smith was concerned about the splitting of lots in the future and that it was showed in the master deed and by-laws. She would like to see this at the next meeting. Mr. Pulaski indicated that part of the by-laws will be that no one will be able to split their property; this will be a 10 lot, original size lot, site condominium to eternity.

Chairman Smith is concerned about the barren wasteland look of the road along Orchard Dr. and would like to see a landscaped plan and hoped it is dressed up.

Renee Mischel asks if there will be any restrictions of use in the "Open Space". Mr. Pulaski indicates that they want to leave it as open space that's accessible for the site condominium owners for "passive recreation"....no football fields, etc. Possibly allowing individual garden lots for the owners to utilize. Mischel just wants to be sure there will be documentation (master deed/by laws). They were assured it would be.

Mischel also asks Nix or Harrett to explain the incorporation of the Ag-R1 into one project. How do they go about approving that? Nix explains that this will not create a problem because the proposal applies only to the Ag district.

Sliger, questioning why the site condo is not required to meet the width in the zoning area of the Ag (200 ft width continual) Harrett responds that the open space provisions enable shrinkage to up to 50%. By donating that 14 acres and setting it permanently aside to keep the rural character within the township, the board should be happy because there is open space and a subdivision. It will be manageable for up keep and giving the township perpetual open space, but in trade they will need to make narrower lots than what the Ag zone would require.

Amos compliments Pulaski/Nederveld on the plan, well thought out.

Larson, questions whether there is any proposed vegetation, trees or shrubby planned along Mattes Rd. He was informed there is not.

Chairman Smith questions the Escrow Account and how it's handled. The Planning Commission can make it a condition that needs to be fulfilled before the formal review and will verify that the material that has been submitted is complete. The Township Treasurer is prepared to administer the account. Nix explains the ordinance to the board and recommends it be done. After some discussion, it was decided that \$6000.00 should be placed into an escrow account.

Chairman Smith entertains a motion to establish an escrow fund to cover the expenses for professional planner, legal team, an engineer for the interest of the township, and the Antrim County soil and erosion reviews:

M/S -Mischel / Larson Motion to setup an Escrow account for the Lakeview/Hayden development was unanimously approved.

Chairman Smith asks Harrett to let the Township Treasurer know that the vote was approved to set up the account and the funds should be deposited along with the submissions of the plans/master deeds. (possibly June or July)

Chairman Smith lets Pulaski know that the summer months are extremely busy for the board members and to let them know as soon as possible when they will be submitting their request.

Mishcel asks Larry Nix and Len Harrett to put together a wish list of requests to the developer. Larry Nix indicates that over the next 4-5 weeks when the rest of the material comes in, there will be items that will be reviewed and the issues will be addressed at that time. Smith indicates that Jean Derenzy has some comments, and she was directed to get with Larry Nix or Len Harrett with her concerns.

At this time, Heidi Schaffer, Soil and Erosion, was asked about any questions or concerns. She is excited about a landscape architect helping with the plan. That the plans won't impact the neighbors to the east and feels this is a good plan so far and that they are maximizing what they have to work with.

Old Business

Public Hearing #1: Amendment # 2014-01

Part 1. Amend Section 2.11-A No permanent groin wall – delete in entirety

Part 2. Amend Section 2.11-B – Man-made extensions from shoreline – delete in entirety

Part 3. Re-identify Sections 2.11-C and D to become Section 2.11-A and B

M/S - Lundy/Amos : To open the public hearing

No Public letters or comments.

M/S - Smith/Lundy: To approve the amendment.

Roll Call: Unanimously approved by all attending members.

Public Hearing #2: Amendment # 2014-02

Home Occupation: An Ordinance to amend Section 1.03 definitions and section 2.12 Home Occupations of the Elk Rapids Township Zoning Ordinance, related to Home Occupations.

Section 1. Amendment of Section 1.03 Definitions. The existing definition of the term Home Occupation is hereby amended in its entirety as follows:

Home Occupation: Any occupation, profession or activity carried out for gain from a residential property that is clearly subordinate and incidental to the residential nature of the property.

Section 2. Amendment of Section 2.12 Home Occupation. Section 2.12 is hereby amended in its entirety as follows:

Section 2.12 Home Occupations

A home occupation may be permitted in a dwelling unit, provided that:

- a. The owner of the property shall reside at the dwelling of the home occupation;
- b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the gross floor area of the dwelling unit shall be used in the conduct of the home occupation;
- c. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding one (1) square foot in area, non-illuminated, and mounted flat against the wall of the principal building.
- d. No home occupation shall be conducted in any accessory building;
- e. There shall be no sale of goods on the premises in connection with such home occupation, with the exception of ancillary products sold associated with the home occupation. For example, shampoo sold by a beautician.
- f. Parking generated by the conduct of such home occupation shall only be permitted in the driveway of the dwelling.
- g. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.

M/S – Lundy/Mischel To open public hearing
Motion approved and carried unanimously

Public Comments: None

M/S – Lundy/Mishcel To close public hearing
Motion approved and carried unanimously

M/S – Mischel/Lundy To open disucssion of Amendment #2014-02

Discussion: Lundy indicates he doesn't recall approving the parking in the driveway only. Nix lets them know that the Ordinance is clear, parking should be in the driveway only, as opposed to yard or street, if there is a problem, the zoning administrator can refer to the ordinance if needed.

Lundy also has an issue with the Accessory building section. There was discussion and clarification that these ordinances are being put in to place to "prevent a problem" as opposed to "fixing a current problem"

Nix asks Planning Commission, is there anything anyone would like to change before it is submitted to the Board.

Chairman Smith indicates that possibly removing the (F.) parking. Lundy indicates that he could pass the parking section, but not the Accessory Building.

Chairman Smith asks for a roll call vote:

Mischel – Y, Smith – Y, Lundy – N, Sliger – N, Amos – N, Larson – Y

Motion – Tie vote

Amendment # 2014-02 The Amendment will now go to the Township Board with no recommendation from the Planning Commission.

New Business: None

Correspondence: Correspondence was received from the White Water Township Planning Commission informing the Elk Rapids Township Planning Commission of a notice of intent to prepare a Township Master Plan.
Harrett suggests that the Planning Commission indicate to White Water Township that they take into consideration any abutting properties. For instance, if they decide to put a commercial district next to one of our residential districts, to please be aware that all the abutting Elk Rapids Township land is zoned agricultural and hopefully they will take that into consideration when they do their future land use map.
It was decided that Mr. Harrett would write a letter to White Water Township with that information.

Public Comments: Thanks to Len Harrett for copies of the new By-Laws

Member comments: None

Adjourn: M/S – Amos/Lundy Unanimously approved 8:17pm

Elk Rapids Township Planning Commission
Draft Meeting Minutes – Tuesday June 17, 2014

The meeting of the Elk Rapids Township Planning Commission was called to order by the Chairman Shen Smith at 6:30 pm at the Government Center, 315 Bridge Street, Elk Rapids, MI 49629.

Present: Shen Smith, Pug Sliger, Jim Lundy, Dorance Amos, Jean Derenzy

Absent: Renee Mischel, William Larson

Present Township Staff: Len Harrett, Zoning Administrator, Larry Nix , Williams & Works – Planning Consultant
William Derman – Attorney, Pete VanDen Berge – Elk Rapids Fire Chief

Public Attendance: Dale Hull, Pat Brady, Joe Fisher and 21 other people.

Adoption of Agenda:

M/S – Lundy/Derenzy: Agenda for the June 17, 2014 meeting adopted by the board unanimously.

Approval of Minutes:

M/S – Lundy/Sliger Minutes for the April 15, 2014 meeting were unanimously approved by the board.

Public Hearing: The Special Use Permit is being requested by Pine Hollow Institute located at 10400 South Bayshore Drive (Tax I.D. numbers 05-06-450-006-00, 05-06-029-015-00, and 05-06-029-011-00) Elk Rapids Township, Michigan. The Special Use being considered is for a Group Retreat Center as defined in Elk Rapids Township Ordinance Section 7.06; and review will be per Township Ordinance Sections 17.06 and 19.07.

M/S – Lundy/Sliger Open the public hearing. Unanimously approved.

Dale Hull of Pine Hollow Institute began with PHI's "Mission Statement".

Pine Hollow Institute strives to heal people and planet Earth through intelligence, creativity, compassion, and Imagination for the benefit of all, now and into the future.

Mr. Hull spoke to the board and the audience, sharing possible situations that could take place on the property, ie, seminars, classes, retreats. This could draw anywhere from 5 to 100 people. Hull cited several meetings have already taken place on the site, and several that are already planned for the future. He informed the group that PHI is a "private" institute, and not a "public" one.

Board members questions and concerns:

Chairman Smith: If children are in attendance, where do they come from? (Under the impression that they could possibly be distressed from abusive situations)

Mr. Hull indicates that this was not necessarily the goal. However, whenever there are children under the age of 18 on the premises, they would be chaperoned at all times, by adults that come with them.

PHI's plan is to target adult retreats with the major focus on helping organizations plan for the future.

He gave an instance when a group of terminal patients came for the afternoon to use the pool at no charge to them, and the City Opera House was able to hold a meeting there, at no charge. This would not always be the case, these were just examples.

Several of the Board Members feel that PHI's business plan is too vague. More definite details are needed.

Derenzy questions how PHI plans to handle parking, traffic and protecting the surrounding home owners?

Hull indicates that if it were to be an overload they would ask the local police for help. They could also possibly rent a local parking lot and shuttle people onto the grounds.

Lundy questions noise control.

Public correspondence is provided: Pixley/opposed, Schluentz/opposed, Muller/opposed, Hultz/opposed

Shen Smith requested comment from Fire Chief Peter VanDenBerge. Chief VanDenBerge went through a lengthy list of issues with the PHI proposal including inadequate access for emergency vehicles and problems generally associated with changing the use of an existing building to another purpose. Once the Special Use Permit is issued, the house will no longer be considered a family residence and the rules for public access buildings apply. Those rules require substantial renovations to the Pine Hollow Institute building. He mentioned exits to the outdoors from bedrooms, fire safe doors, panic bars on exit doors, sprinkler systems, and pull alarms as safety features that are normally not present in a family residence but are required in buildings used by the public. He talked about parking, specifically on PHI's narrow driveway, and that he had previously asked PHI to post signs "No Parking in Fire Lane".

Mr. Hull insisted the building would continue to be a single family residence used on occasion as group retreat center. The Fire Chief said it's not true that the house will be a single family dwelling after approval of the special use permit. Shen confirmed that "the Special Use, if approved, would be an overlay zone on the R-1 and that therefore the building must meet code for publically used buildings", and pointed out to Mr. Hull that the main building on PHI would no longer be considered as a single family house for Planning Commission considerations.

Mr. Hull also indicated that there are 35 parking spots available on the property and then people can also park along S. Bayshore Rd. He also referred to the "Dry Hydrants" that are on the ground that would be brought up to code and properly maintained.

Floor is opened for public comment:

David Leghorn – 1000 ft south of Pine Hollow. Allowing this would "destroy" the quiet neighborhood and it would be unacceptable. "Please turn it down".

Joanie Braun – An artist. Recalling when she and other artists have gone on the grounds to paint. Also, how Mill Creek students were able to walk the grounds seeing native species in person that were in a book they were studying. Without places like this available to them they might not be able to experience this.

Joe Fisher – Speaking on behalf of Jessica Hatch – 1500 ft from Pine Hollow. Citing zoning issues on the property and the buildings there in.

Susan Pixley – South Bayshore – concerned it would decrease their property value and change the character of the area. Feels Hull is being "disingenuous" citing inconsistencies in the plan.

Bob Strait – Immediately north of the property – Can't imagine the noise ever being excessive. To date, he has never heard anything. He wonders how the Township would ever be able to keep anyone who might be too noisy from buying the property. He feels if the property and owners are able to use it to help people, why would anyone not want that?

Tom Dame – 10956 Lakeshore Rd. – He was surprised to hear that there had already been meetings taking place on the property. It's not a legal business until the proper paperwork is final and Hull should be served a citation.

Richard Pixley – South Bayshore – They lived through the prior construction of the property, which then became an "attraction". The traffic promotes stress to the neighbors and the noise will change the character of the neighborhood. Please keep this an R-1 Single Family Residence and do not approve this request.

Judy Fishbeck – 10512 Lakeshore – Please keep this a single family residence.

Betty Frederixon – 2 doors from property – they have a “little log cabin”. Please keep this a single family residence.

Richard Fishbeck – 10512 Lakeshore – This will change the character of the area. Feels Hull is “elusive”. Strong opposes.

Margaret Hultz – 3 houses south – She know that zoning is strictly adhered to. This rezoning would affect their way of living. Please deny this request.

-3-

M/S – Lundy/Amos Approved unanimously to close the public hearing.

Planning Coordinators recommendation:

What was initially written to the Board for approval is now different. Does this meet the ordinance? Why is this already in operation? Is this a violation? The majority of the Barn facility is for group activities that is zoned R-3. If Hull wants to go forward, the zoning needs to be changed to R-1.

PHI needs to * apply to re-zone the property, * define exactly what purpose the property will support, *public safety, fire hazards, site plan, signs, * outdoor speaker systems – very detailed plan needs to be addressed in writing.

Table the request for now so applicant can re-configure his proposal. Its category, from a Building code stand point could change immensely.

Amos feels applying for re-zoning should be first and foremost.

Bill Derman (Legal opinion): Table until the property owner can re-submit a more detailed plan. He prompts the public to “talk” with Hull, so they would know the plan up front and would not be surprised at what is proposed. Maybe they can come to a compromise.

Len Harrett: If no cash has changed hands, he doesn’t feel there has been a violation at this point. So far the property has just been offered up as a “marketing statement”.

Harrett supports re-zoning. This would be the best for all and the most practical starting point.

Chairman Smith asks Larry Nix (Planning Consultant) what his recommendation is, Table or Deny?

Nix feels tabling to give the applicant time to rectify the issues (mostly re-zoning). He asks applicant if he plans on resubmitting his request. Hull indicates that he hopes the Board tables the request so he can do so.

M/S – Smith/Derenzy Table the motion until the applicant can present a better, more detailed business plan including descriptions of activities, address the comments and concerns made at the meeting, detailed plan for fire and rescue issues and an application for rezoning approval.

Roll Call: Amos – no, Smith –yes, Lundy-yes, Derenzy-yes, Sliger-yes

 Tabled indefinitely until requested material is received.

Zoning Administrator Report: Nothing new to report on the Hayden – Lakeview plan.

Chairman Smith questioned anything to report on the Home Occupation ordinance. Larry Nix stated that it has not been submitted to the Township Board as of yet, so it can then be passed back to the Planning Commission.

Public Forum: Susan Pixley, owner of property abutting the south boundary of PHI expresses concern that they would not be able to be present when the PHI issue comes back to the board. Chairman Smith assures her that their comments and concerns tonight are now a matter of public record and will be taken into consideration when it is presented to the board again.

-4-

New Business: None

Member Comments: None

Adjourn:

M/S – Lundy / Amos 8:30 pm

**Elk Rapids Township Planning Commission
Amended & Approved –
Minutes For Tuesday July 15, 2014**

The meeting of the Elk Rapids Township Planning Commission was called to order by the Chairman Shen Smith at 7:00 PM at the Government Center, 315 Bridge Street, Elk Rapids MI 49629

Present: Shen Smith, Jim Lundy, Bill Larson, Jean Derenzy, Renee Mischel, Dorance Amos, Pug Sliger

Absent: None

Others present: Len Harrett - Zoning Administrator, Larry Nix, Williams & Works - Planning Consultant, William Derman – Attorney and 27 other people, 22 of whom signed in.

Adoption of Agenda:

M/S – Lundy/Mischel Agenda for the July 15, 2014 meeting unanimously adopted by the board.

Approval of Minutes:

M/S – Lundy/Larson Minutes for the June 17, 2014 meeting were unanimously approved by the board.

Public Forum: None

Zoning Administrator's Report:

Lake View Project:

There has been no communication from the development firm related to the Lake View Project as of now. Chairman Smith questioned Len Harrett about the possibility of the necessity of a Planning Commission meeting in August, and what would be the latest the Board could be informed of a meeting. She was told that Friday July 18th is the deadline for getting the necessary paperwork turned in for the August meeting.

PHI Special Use Permit

Mr. Hull has been in contact with Len Harrett, questioning exactly what the Planning Commission is looking for as far as information/details. Harrett feels Mr. Hull understands the specifics as to what might be scheduled at this group retreat and what might not be scheduled. He has brought information today to ask if he can present more specifics or not. (although he was informed prior, that this was not on the agenda for this meeting).

Public Hearing:

M/S – Lundy/Mischel Opening of the public hearing: Unanimously approved

Chairman Smith requested Len Harrett read a letter received from Mr. and Mrs. Richard Pixley. (See Attached). Chairman Smith asks Dale Hull if he has anything to say. He let the Board know that he only wants to tell them what they are prepared to listen to in this meeting. Hull told of his history and qualifications and what brought him to this area. After some information, there was a request by other people in the audience that his story be stopped (what did this have to do with anything?) Mr. Hull was asked to shorten his story. He is the new President /CEO of the Pine Hollow Institute, a non profit organization being scrutinized to be recognized as a 501C3 status with the IRS. He has applied for a change of status of the R-3 zoning to R-1 specifically so they can be eligible under the current interpretation of Chapter 17-706 which requires at least 7 acres of property . He wants to make it known what PHI intends to do and what it does not intend to do. Chairman Smith told him that would be a part of the Special Use Permit, and that they would need that in writing. Hull indicates he has this in writing and will submit it. Smith told him, not at this meeting. He can present it after the public hearing.

Chairman Smith asks the audience for their comments and to please stick with the Re-zoning request only, as this meeting is not for the Special Use Permit.

Next, Joe Fisher spoke on behalf of Jessica Hatch. He told of his representation of Leonard Herman who bought the property and came before the Board to have it rezoned to R-3, and how the public was against his multifamily Condo proposal and the eventual discontinuation of his request and sale the property. He requested that when the Planning Commission was making a ruling on the change of the R-3 to R-1 ruling, to do so on the basis of sound zoning principals. Fisher spoke of a conversation that he had with Larry Nix and quoted him as saying that from a zoning principal, it should all be R-1 because all of the property running along the bay to the south ,there are other parcels that are also zoned R-3.

Next, Richard Pixley spoke, reiterating the points on his letter along with other comments.

Mr. Hull says that the reason he was here is because he was told it would be necessary for all the property to be zoned R-1. The application is contingent on the approval of the original request for the Special Use Permit. Smith told him, the Planning Commission is not allowed by law to enter into contractual zoning. You made a request that makes a contract. The Planning Commission is not allowed, by law, to hold off on approving the zoning contingent upon the special use permit. It is either rezoned or not. It would have nothing to do with the special use permit.

Hull indicates that if this is the case, he will remove the contingency. He asks the Planning Commission to rezone the property from R-3 to R-1.

Chairman Smith asks Bill Derman if they need something in writing for him to retract his application? Yes, he could cross out the language and initial it. Mr. Hull is asked to handle that with Len Harrett right then. The meeting is placed on a 5 minute break while the application is amended. (see attached)

The application is now amended and meeting continues with a request for any additional public comments. As there were no additional public comments Larry Nix was asked to discuss his memorandum.

Williams and Works provides the following positive recommendation:

As the zoning of R-3 to R-1 request is consistent with the area the request should be approved for 4 reasons:

1. The rezoning will eliminate the current situation of split zoning on those parcels.
2. The request rezoning is consistent with the Townships Master Plan, future land use for the subject property to the extent the plan suggests that the rural preservation of the community be championed.
3. The proposed rezoning would not be incompatible with the parkland to the North and the village of Elk Rapids.
4. The requested R-1 is consistent with the use of land in the area.

At this point, Chairman Smith tells of coming across all of the paperwork and letters regarding the Herman development, particularly requests from the Juniper Hills subdivision requesting their land be re-zoned to R-1. They were all upset with the idea of Condos and apartments being built on the R-3 property and they wanted to take the steps to rezone all the Juniper Hills R-3 and all of the Herman property to R-1, to stop any future condominium development that could utilize the lakeshore and to funnel into the lake. This happened in the early 90's, and Mr. Herman folded on the project. It became a single family home. The PC at that time was going to undertake an overall total rezone of all of that the R-3, minus the small apartment on US31. It was put on hold because it became an R-1 home.

Chairman Smith discussed this with Bill White (Township Supervisor and Tax Assessor) for some guidance. The PC has for years talked about rezoning all the R-3 to R-1. The neighbors in that area are under the misassumption that if rezoned to R-1, it would be an automatic stamp of approval for a corporate retreat. It must be realized that these are two separate items. Based on what has happened with this property in the past, Chairman Smith's personal opinion is that in order to protect the township, all of the property should be re-zoned to R-1 and be done with it.

The PC needs to re-identify where would be the best place to R-3 in the township. She referred to Ms. Lee's 20 acres that back up to Lamoreaux as a possibility. That would connect to sewer. Or a parcel on Cairn Hwy that would connect to sewer that would support R-2 and R-3 development. This is for future discussion. Just informing the public that the decision that is made this evening is not a pre-cursor to approving the Pine Hollow Project.

Bill Derman spoke of discussing this with Larry Nix. As the current discussion is to potentially convert 40-45% of the R-3, that leaves all of the Juniper Hills property still R-3. Why not back up and do a public hearing and zone it all R-1 at one time. He suggests refunding Mr. Hull his application fee and have a public hearing to rezone all to R-1. Smith indicates that this was also a suggestion from Bill White.

Renee Mischel, wonders how did the property become R-3 in the first place? She was told of the previous Pine Hollow Resort as it was a Motel. At that time the PC took into consideration this was a motel area. It has changed over the years. She also questioned some of the wording in Mr. Pixleys letter. It was explained to her satisfaction.

After several discussions regarding the Herman project, rezoning, other properties and their future possibilities, the public hearing was closed.

M/S – Lundy/Amos Unanimously approved

Larry Nix now indicates the two key issues presented to the Board:

1. Public hearing at hand to rezone the R-3 portion of Pine Hollow to R-1
2. Drop the re-zoning as Bill Derman has suggested and the Planning Commission initiate on their own, the rezoning of Pine Hollow and all of the R-3 property south of Pine Hollow (with the exception of the apartment building that is there on US31) from R-3 to R-1. Look at the bigger picture, take no action at this time, refund the money to PHI, initiate a rezoning application of all the R-3 by S.Bayshore to R-1.

Amos, feels it makes sense. Michel, agrees, Lundy, agrees, Sliger, agree, Derenzy, Agrees, Larson, agrees.

After discussion from Larry Nix and Bill Derman, it was decided to allow Mr. Hull to withdraw his application altogether.

Mr. Hull has requested of the planning commission to withdraw his application, it was accepted, and his application will be refunded.

A public hearing was then set for August 26th at 7pm.

M/S – Mischel/Lundy

A motion for a public hearing on August 26th at 7pm rezoning the Juniper Hills R-3, all R-3 lots, and the Leslie Lee R-3 and her Juniper Hills R-3 property to R-1; leaving the apartment at the top of the hill as R-3. Unanimously approved.

Old Business: After some discussion by the Board, it was decided the issue of the Home Occupation should be dropped.

New Business: None

Correspondence: None

Public Comments:

Mr. Pixley asked about the next time the issue of the PHI will come back to the Board. He was informed it will be posted on the website. Chairman Smith lets the public know that if any of them wants to know when the PHI becomes untabled for reconsideration to give her their email address and she will let them know when she posts the agenda. It was also suggested that he keep in touch with Len Harrett.

Mr. Pixley also questioned the process of the Re-zoning request. The question was answered. Two other comments were also given.

Member comments: None

M/S – Lundy/Mischel Meeting adjourned at 8:25pm

Elk Rapids Township Planning Commission
Draft Meeting Minutes – Tuesday, August 26, 2014

The meeting of the Elk Rapids Township Planning Commission was called to order by the Chairman, Shen Smith at 7:00 PM at the Government Center, 315 Bridge Street, Elk Rapids, MI 49629

Present: Shen Smith, Jim Lundy, Jean Derenzy, Renee Mischel, Dorance Amos, Pug Sliger

Absent: Bill Larson

Others Present: Len Harrett – Zoning Administrator, William Derman – Attorney
9 other people

Adoption of Agenda: Agenda for the August 26, 2014 meeting unanimously adopted by the board.
M/S - Derenzy/Lundy

Approval of Minutes: Minutes for the July 15, 2014 meeting unanimously adopted by the board with
M/S – Lundy/Derenzy changes correcting wording of a statement from Bill Derman regarding the zoning R-3 properties to R-1. (it stated R-3 to R-3)

Public Forum: None

Zoning Administrator Report: Status and updates on **Hayden-Lake view Project**.
There has been no communication regarding this project. Mr. Harrett made contact and was told they were not ready to proceed at this point.
It was decided that this request would be removed from the agenda until further notice.

Follow up on the Tabled **PHI Special Use Permit**:
Harrett passed out a copy of an article that was in the Elk Rapids News submitted by Dale Hull of PHI - It was a letter of information for the public.

Chairman Smith let Mr. Hull know that the board will need to see a Business Plan, what, when, how, and where before this becomes untabled.

Public Hearing: Opening of Public Hearing unanimously approved.
M/S – Lundy/Mischel

The Elk Rapids Township Planning Commission will hold a public hearing on Tuesday August 26, 2014 at 7:00 PM at the Government Center, 315 Bridge Street, Elk Rapids, Michigan to consider the following amendments to the Elk Rapids Township Zoning Map as follows:

Amendment #2014-3 The Elk Rapids Planning Commission will consider rezoning portions of ten (10) parcels of property west of South Bayshore Drive and/or US-31 and located north of Sunset Shores Subdivision.

These properties include:

Parcel Tax I.D. #05-06-029-014-10 - at 10482 Lakeshore Road
Parcel Tax I.D. #05-06-029-013-00 – at 10468 Lakeshore Road
Parcel Tax I.D. #05-06-029-013-10 – at 10460 Lakeshore Road
Parcel Tax I.D. #05-06-450-001-10 – at 10455 Lakeshore Road
Parcel Tax I.D. #05-06-450-002-00 – at 10434 Lakeshore Road
Parcel Tax I.D. #05-06-450-003-00 – at 10424 Lakeshore Road
Parcel Tax I.D. #05-06-450-004-00 – at 10404 Lakeshore Road
Parcel Tax I.D. #05-06-450-005-00 – at 10392 Lakeshore Road
Parcel Tax I.D. #05-06-029-015-00 – at 10400 South Bayshore Drive
Parcel Tax I.D. #05-06-029-011-00 – at 10354 South Bayshore Drive

The listed properties are either partially or completely zoned for R-3 (Multi-Family Apartment) use.

The Planning Commission proposes to rezone the listed parcels to be entirely R-1 (Single-Family Residential), to eliminate the existing split-zoned condition.

Planning commission consultant, Larry Nix, submitted a Memorandum to the Board in his absence regarding the proposed rezoning of the above 10 parcels. (please find it attached). His recommendations are as follows:

1. The rezoning will eliminate the current situation of split-zoned parcels. Split zoning can be problematic and confusing for property owners.
2. The requested rezoning is consistent with the Township Master Plan's future land use recommendation for the subject property, to the extent that the Plan suggests that the rural preservation of the community be championed.
3. The proposed rezoning would not be incompatible with the parkland to the north in the Village.
4. The requested R-1 zoning is consistent with the use of land in the area.

There was some discussion about deed restrictions on the Juniper Hills properties, but no further comments after that.

There was no correspondence received regarding this, and one comment made by Richard Pixley.

M/S – Lundy/Derenzy to close the Public hearing. It was unanimously approved.

M/S – Lundy/Mischel To approve the rezoning of the 10 properties from R-3 to R-1.

M/S – Derenzy/Lundy To amend the original rezoning motion to include the **4 bullet points that were in the Planning Commission Consultants Memorandum.**

Amendment to the original motion unanimously approved.

Old Business: None

New Business: None

Correspondence: None

Public Comments: One question: What happens if the County Planning Commission does not approve the rezoning request. She was informed that they cannot approve or disapprove, but can recommend what they feel should be done. Ultimately, it's up to the Township.

Members Comments: As of this date, there will not be a September 2014 meeting . There will be an October 21st, 2014 meeting, unless there is not a **quorum**. At this point, there is only the possibility of untabling the PHI request, but that will only happen if the requested material is submitted. Mr. Hull indicates he will be in contact with Len Harrett so his request can be untabled in time for the October meeting.

Chairman Smith points out that a written notice will be sent to the surrounding property owners if this PHI's request will be on the agenda.

M/S – Mischel/Derenzy Meeting adjourned at 7:38 pm

Elk Rapids Township Planning Commission
-Meeting Minutes – Tuesday October 21, 2014

The meeting of the Elk Rapids Township Planning Commission was called to order by the Chairman, Shen Smith at 6:27 PM at the Government Center, 315 Bridge St. Elk Rapids MI 49629

Present: Shen Smith, Jim Lundy, Renee Mischel, Dorance Amos, Pug Sliger, Bill Larson

Absent: Jean Derenzy

Others Present: Len Harrett – Zoning Administrator, William Derman – Attorney
Larry Nix – Consultant, Williams & Works & 8 other people

Adoption of Agenda: Agenda for the October 21, 2014 meeting unanimously adopted by the commission.
M/S - Mischel / Amos

Approval of Minutes: Minutes for the August 26, 2014 meeting unanimously adopted by the commission,
M/S - Lundy / Amos

Public Forum: None

Zoning Administrator Report: Mr. Harrett reported the status and updates on **Hayden-Lakeview Project**. They are hoping to do a land division of the property on the south side of Orchard Dr. They were informed that the current roads will only support the properties that are there. The roads must be improved, made wider, etc. according to the ordinance. Then Mr. Harrett received correspondence from the engineer indicating that they would like to begin road work this year so that things will go quicker next year. They were reminded of Sec 2.19-B indicating this has to be done to certain standards. Need to be sure the blue prints are correct and that the roads are done as the blueprint specified. There has been no further correspondence since then.

Follow up on the status and updates on **PHI (Pine Hollow Institute) Special Use Permit**: Management at PHI is aware of the request for more details. Also aware that the Fire Chief is concerned about accessibility and compliance regarding emergency egress and they have not submitted anything to date.

At this point in the meeting, Chairman Smith provided an explanation of why that the Commission was redoing the Public Hearing. The Commission was unaware of changes to the Zoning Enabling Act that require the owners of property that is proposed to be rezoned, as well as all owners with property within 300 feet of the proposed rezoning, needed to receive a written notice. This step was not taken at the August meeting, so the hearing is being repeated, and all the property owners have now received this information in writing.

Public Hearing: Opening of Public Hearing unanimously approved.

M/S - Mischel/Amos

Larry Nix was asked if there were additions to the August 18th memorandum. He indicated that all of his recommendations still stand.

Chairman Smith the reviewed the public hearing notice as follows: The Elk Rapids Township Planning Commission will hold a public hearing on Tuesday October 21, 2014 at 6:30 PM at the Government Center, 315 Bridge Street, Elk Rapids, Michigan to consider the following amendments to the Elk Rapids Township Zoning Map as follows:

Amendment #2014-3 The Elk Rapids Planning Commission will consider rezoning portions of ten (10) parcels of property west of South Bayshore Drive and/or US-31 and located north of Sunset Shores Subdivision.

These properties include:

Parcel Tax I.D. #05-06-029-014-10 - at 10482 Lakeshore Road
Parcel Tax I.D. #05-06-029-013-00 – at 10468 Lakeshore Road
Parcel Tax I.D. #05-06-029-013-10 – at 10460 Lakeshore Road
Parcel Tax I.D. #05-06-450-001-10 – at 10455 Lakeshore Road
Parcel Tax I.D. #05-06-450-002-00 – at 10434 Lakeshore Road
Parcel Tax I.D. #05-06-450-003-00 – at 10424 Lakeshore Road
Parcel Tax I.D. #05-06-450-004-00 – at 10404 Lakeshore Road
Parcel Tax I.D. #05-06-450-005-00 – at 10392 Lakeshore Road
Parcel Tax I.D. #05-06-029-015-00 – at 10400 South Bayshore Drive
Parcel Tax I.D. #05-06-029-011-00 – at 10354 South Bayshore Drive

The listed properties are either partially or completely zoned for R-3 (Multi-Family Apartment) use.

The Planning Commission proposes to rezone the listed parcels to be entirely R-1 (Single-Family Residential), to eliminate the existing split-zoned condition.

Bill Derman was asked if he had any concerns. He had none.

Len Harrett was asked if there was any correspondence. There were two letters received. One was from Richard Pixley indicating he didn't feel the rezoning was necessary, but he didn't oppose the action. The second was from Tom Dame, he indicated that he supports the action.

Harrett was asked if he had any input or concerns as the Zoning Administrator regarding this rezoning. He said that the thing that hasn't been mentioned is during the course of exploring the elimination of the R3 parcels, the Planning Commission did speak about the appropriateness of the property across US31, from the boat condos, there is a 20 acre parcel that abuts the village and any apartment development would have to have water and sewer and should be rezoned R3 for future use. He mentioned this land to the County Planning Commission earlier and they felt this piece of property would make sense zoned as R3.

Chairman Smith reminded the Commission and audience that there will still be R3 in the township and asked if there was any comment from the audience on the issue?

No comments from the public.

M/S Mischell/Amos

Close the public hearing. **Unanimously approved**

**M/S
Mischell/Lundy**

To approve rezoning the 10 parcels from R13 to R31 for the reasons indicated:

1. The rezoning will eliminate the current situation of split-zoned parcels. Split zoning can be problematic and confusing for property owners.
2. The requested rezoning is consistent with the Township Master Plan's future land use recommendation for the subject property, to the extent that the Plan suggests that the rural preservation of the community be championed.
3. The proposed rezoning would not be incompatible with the parkland to the north in the Village.
4. The requested R-1 zoning is consistent with the use of land in the area.

No discussion. Roll Call vote. All Commission members vote yes. **Unanimously approved**

Old Business: Mischel previously requested that the Consultant, Larry Nix review the "To-do List" And to come back with what he had found. A copy of his email was passed out to the members. Find it attached.

The list was put together in June of 2010. There were 5 elements that had been addressed between then and now. All had been completed or there was a determination that nothing would be done.

New Business: Election of officers

M/S Mishcel/Amos To keep the officers that are currently in place:

Chairman: Shen Smith
Vice Chair: Renee Mishcel
Secretary: Jim Lundy

Board Member, Bill Larson, who is the Planning Commission representative to the ZBA would like to resign from the ZBA.

Pug Sliger was recommended for the position. He accepted the responsibility.

M/S Lundy/Amos Unanimously approved.

Bill Larson was informed that as soon as the Township Board approves the change, he will be free to leave.

Chairman Smith requests that Larry Nix do a total review of the Enabling Act and our ordinance to bring the Township in to compliance and to also create a check list of what needs to be done and when. He indicates he will go through the ordinance to see if there is anything that has or needs to be changed he will report back at the next meeting. He feels a “check list” would be appropriate for each rezoning issue.

Correspondence: None

Public Comments: Dale Hull – Pine Hollow Institute (PHI) is wondering how long the rezoning will take so he knows when his request would go in front of the Planning Commission so it could become un-tabled. He was informed that first the Commission needs to see his Business Plan and written specifications that were requested. As the next Planning Commission meeting is in January, the Planning Commission would need that material before a “Special Meeting” could be planned. Also, there would need to be a public announcement (Not required though) and a mailing to all property owners within 300 feet of PHI.

It was decided that the meeting still would possibly, most likely not be until January due to the holidays.

A member of the audience questioned all the activity at PHI. Mr. Hull indicates that there are feasibility studies taking place. They were also a part of the Traverse the Magazine Home Tour.

There was a question from the audience, directed to Mr. Hull, was he having events there and charging people? (Meaning he was doing business) Mr. Hull responded “No”. There has been activity on the grounds however. There was a comment from the audience about her concern that they are “snowbirds” and would it be possible to receive an email about the un-tabling rather than a post card? She was told to go to the website and send her email information to Len Harrett so she can be emailed.

There was a question regarding the Public Hearing. He was told the Public Hearing was closed. Will Len Harrett provide the information that Mr. Hull submits. It was decided when they see what is being submitted, it will either be on the Website, or possibly a copy of it will be available at the Township Desk for review, if they want a copy, it will be \$0.25 per page.

M/S Amos Mischell Meeting adjourned 7:22PM

**Elk Rapids Township
Joint Planning Commission & Zoning Board of Appeals
Meeting – Tuesday, January 21, 2015
Draft**

A joint meeting of Elk Rapids Township Planning Commission and Zoning Board of Appeals was called to order by Chairman of the Planning Commission, Shen Smith, at 6:30 PM, and by Chairman of the Zoning Board of Appeals, Julia P. Amos, at 6:31 at the Government Center, 315 Bridge St., Elk Rapids, MI 49629

Zoning Board of Appeals:

Present: Julia P. Amos, Vince Cooper, Aaron Isenhart, Steve Francis, Pug Sliger
Marshall Wright arrived at approximately 6:45pm
Absent: Richard Hultz

Zoning Board of Appeals General Business:

Adoption of Joint Agenda:

M/S – Cooper/Sliger Agenda for the January 20, 2015 meeting unanimously adopted by the Zoning board.

Approval of Minutes: Minutes for the December 15, 2014 meeting unanimously adopted by the Zoning board.

M/S – Sliger/Cooper

Planning Commission:

Present: Shen Smith, Jean Derenzy, Pug Sliger, Jim Lundy, Bill Larson,
Renee Mischel arrived at approximately 6:45
Absent: Dorance Amos

Planning Commission General Business:

Adoption of Joint Agenda:

M/S – Lundy/Larson Agenda for the January 20, 2015 meeting unanimously adopted by the Planning commission.

Approval of Minutes: Minutes for the October 21, 2014 meeting unanimously adopted by the Planning commission.

Others Present:

Len Harrett, Zoning Administrator, Larry Nix, Planning Consultant
Mike Szymanski, Elk Rapids Township Treasurer, Kelly Kerlin-Ropposch architect for the Blinstrub request and approximately 12 others in the audience.

Zoning Administrator's Report for both Planning Commission and ZBA:

1. 2014 Zoning Administrator's Report. As stated (attached)

2. Follow up on Pine Hollow Institute (PHI) Special Use Permit. Nothing new submitted.
3. Follow up on Hayden Development Project. Nothing new submitted.
4. Harrett brought up reconsideration of removing some wording in the Zoning Ordinance Section 2:11 Preamble & Section 17.05 D2. To be discussed at a future meeting.
5. No Correspondence.

Planning Commission Public Hearing:

M/S - Mischel/Derenzy Open the public hearing on the Debra Blinstrub shoreline alteration site plan, motion unanimously approved.

The legal notice of this hearing was read into the minutes by attachment. Reports were received and read into the minutes from Len Harrett, Twp Zoning Administrator, Larry Nix, Twp Planner, Antrim County Health Department, and Antrim County Soil Erosion Department. Input was requested from the audience with no input received.

M/S - Lundy/Derenzy Close the public hearing, motion unanimously approved

A motion was made to approve shoreline alterations as illustrated and notated on blueprints presented at the meeting by ARCHKINETIKS, architects for Debra Blinstrub of Troy, MI, owner of waterfront property at 10915 Shore Drive, Williamsburg, MI 49690, Tax ID# 05-06-285-003-00. Alteration approval is subject to three conditions - 1) The applicant will comply with the requirements of any DEQ permit and Antrim County soil erosion permits, 2) Inspections as required in Section 2.11. D.3 of the Zoning Ordinance, 3) the Township zoning administrator shall be provided with a completion date of the specific approved alterations.

M/S – Mischel/Larson Unanimously adopted by the commission.

Old Business:

Planning Commission – Tabled Pine Hollow Institute and Hayden Development. Nothing to report. Mischel questions Larry Nix about how long is it necessary to keep dormant issues on the agenda? His reply was that as long as the Zoning Administrator is in contact with them and they do not remove their request, there is no time frame.

ZBA No old business

New Business for both Planning Commission and ZBA:

A joint Elk Rapids Township Planning Commission and Zoning Board of Appeals review of the current status of the Township Zoning Ordinance presentation by Larry Nix of Williams & Works, Session 1. “Nutz & Bolts of Planning & Zoning”. As presented, documents attached to these minutes.

Chairman Smith invited the Elk Rapids Township ZBA & Planning Commission and the Elk Rapids Village Planning and Zoning Boards to attend training workshops, possibly with the 1st scheduled for 3rd Monday in March 2015 to be presented by Larry Nix, Williams & Works. The Township PC & ZBA will coordinate the workshops with Larry Nix and distribute agendas as determined at a later date.

Emile Sabty identified 18 Elk Rapids township properties that may meet standards to become potentially new R-3 (apartment/multiple family dwellings) zones within the Township. As presented. (attached)

Mr. Sabty was thanked and applauded for his work on this project.

The Township PC & ZBA would wish to include the Village PC & ZBA in decisions to create an addendum to the joint master plan regarding the identification of appropriate sites in the township where potential higher density residential projects (R-3) can be approved. As members of the Village board were now in the audience, Smith requested the possibility of the 4 zoning boards jointly meeting for a review of Mr. Sabty's possible site identifications. With agreement from the Township PC & ZBA, it was suggested that possibly 2 representatives from each of the four boards come together for joint sub-committee meetings on the 18 identified high density sites thus making a final decision as to the most logical sites for an addendum to the master plan.

Wallace Hibbard, Village Planning Commission Chairman and Steve Ravezzani, Village Zoning Administrator, both indicated they would take the suggestion to their respective Boards.

Item #3 on the agenda had already been covered in earlier discussions regarding land owner rights. The Planning Commission will be creating an Addendum to the joint master plan instead of proposing any rezoning of properties to R-3.

Zoning Board of Appeals:

Public Forum - None
Public Comments - None
Member Comments - None

M/S – Cooper/Wright to adjourn Unanimously approved. **Meeting adjourned at 8:20 pm**

Planning Commission:

Public Forum - Paula White asked about the Pine Hollow Institute status. She held up a newspaper clipping that stated that they were operating and questioned how that could be if they had not completed their Planning Commission review. The Zoning Administrator let her know that the request remains "Tabled" at this time and pointed out that the photos on their web site were staged with actors not people attending an actual event

Member Comments - None

M/S – Lundy/Mischel to adjourn Unanimously approved. **Meeting adjourned at 8:25 pm**

**Elk Rapids Township/Village Joint Meeting
 Planning & Zoning Suggestion Committee – R-3 Selection Area**

DRAFT Meeting Minutes – Monday February 16, 2015

Chairwoman Julia Amos called the meeting to order at 6:30 PM at the Government Center, 315 Bridge St.

Present: Township – Julia Amos, Shen Smith, Renee Mischel, Jean Derenzy, Pug Sliger and Marshall Wright.
 Village – Lauaren Dake, Becky Lancaster, Matt Webb and Mike Szymanski.

Also Present: Steven Ravezzani, Village Plan/Zon Adm. Leonard Harrett, TWP Zon Adm. Patrick Brady and Emile Sabty.

Adoption of Agenda: Agenda for 2-16-2015 meeting was adopted unanimously.

Compilation – Top 5 Parcel Choices: Upon arrival each of the eight members had marked their selection of the top 5 parcels on a parcel list board. The Chair added to the list parcels #19-21 which was suggested prior to the meeting. There were no further changes to the list as it stood. Selection tabulation showed:

<u>Parcel--Select</u>		<u>Parcel--Select</u>		<u>Parcel--Select</u>	
1	1	7	6	13	0
2	0	8	7	14	0
3	0	9	5	15	1
4	2	10	2	16	4
5	2	11	2	17	3
6	3	12	2	18	2

The top four parcels were identified for selection in order #8, 7, 9 & 16. Mentioned but not selected were parcels # 6 & 17 which received three selections each.

The Chair asked the members to briefly mention what influenced their selection of the parcels. This showed that there were common grounds in general for the location of an R-3 area, such as sewers and water, access to amenities, or a choice between utilizing agricultural designated land or residential land.

The Chair read an email she received from Vince Cooper about his findings on R-3 taxing and zoning. Taxes will not change because they are based on land use, not as zoned. That, in a rezoning process, property owners and neighbors would be notified. Those buyers of non R-3 property will find it unlikely to be changed to R-3.

The Chair asked Emile Sabty to comment on why parcels #19-21 were not considered in his study for R-3 possible parcels?

Parcels #20 & 21: Originally when he started the study, he reviewed the Elk Lake Rd area, from parcel #20 down to Townline Road, which included a vast farmland area. But after going through the Collaborative Master Plan of 2013, “**Township Future Land Use**”, Pg 26-30, it became clear that this community was determined to preserve the farmland and open space. This was repeated in several places within the text. Further they concurred that intensive development should be concentrated in or near the Village. The Master Plan goes on to discuss in particular the Elk Lake Rd area and the emphasis on preserving it as a Scenic Corridor with the replanting of Maple Trees, a bike path, greater setbacks and the preservation of agricultural lands along the roadway.

After that, and in making his selections, the study would try to answer, who would be the residents who would choose the R-3 environment to locate there. It became apparent that the existing “R-3 type” locations do have commonalities. Adjacent to US-31 there are Bay Breeze, Sands, The Lodge & Bay Shore Condos. Adjacent to Cairn Hwy there are Vacation Village & Meadow View Commons. They have similar user amenities such as close medical facilities, Food Market, shopping facilities, eating facilities, a Post Office, parks and Walking to amenities vs. driving.

Parcel #19: This parcel is only 2.5 acres. It forms an island among roads. US-31 on the West, Williams Rd. on the North, Woodland Dr. on the East and half way on the South. After allowing for the US-31 ROW and the setbacks all around, there is hardly any suitable land left for an R-3 development.

The Chair with concurrence from the members deleted parcels #19-21 from the list. Discussion ensued as to the common priorities that can be attached to the selected parcels. There was consensus, such priorities would be:

1. Availability of water & sewers.
2. Preservation of Agriculture and Farming.
3. Location & walk ability.
4. Parcel size.

The members expressed that the Master Plan was a guide in making such selections, but how would this study connect with the Master Plan?

Shen Smith advised that the study would become an Addendum to the Master Plan listing the potential R-3 areas to be used by a developer; then the selected parcel would be rezoned to R-3. The Addendum becomes an addition to the Master Plan until it is updated.

Steve Ravezzani, Village Plan & Zoning Adm, gave a brief explanation of the Village sewer system and future outlook and posted a Gosling Czubak Engineering drawing of the current system. . He brought up its availability from the Village if an R-3 development is contemplated. The Village is going through updating the facilities and how it will end up is still being considered. The Chair asked him to try and answer some of the concerns and report back by the next meeting. Committee members with specific questions regarding water and sewer should direct those questions to Steve and he will compile them and forward them on to Gosling Czubak.

Len Harrett, Twp Zoning Admin, questioned what the Village's position might be on extensions into the township. Further discussion with them is needed.

The Chair, then asked if there would be any changes to the top parcel selection list. There was no change to the selection of parcels #8, 7, 9 & 16.

As there was no further business the Chair adjourned the meeting at 8:10 PM.

The next meeting will be held on Monday March 9, 2015 at the Government Center, 315 Bridge Street, Elk Rapids, MI.

Respectfully Submitted
Shen Smith
Secretary

pp: Emile Sabty

Elk Rapids Township & Village Joint Meeting
Planning & Zoning Suggestion Committee – R-3 Area Selection

The Joint Committee Chair Julia Amos called the meeting to order at 6:30 PM, Monday, March 9, 2015. Township and Village Sub-Committee members in attendance were:

Township PC: Jean Derenzy, Renee’ Mischel, Shen Smith & Pug Sliger (alternate)
Township ZBA: Vincent Cooper, Marshall Wright, Julia Amos & Pug Sliger (alternate)
Village PC: Lauren Dake & Becky Lancaster
Village ZBA: Matt Webb & Mike Szymanski

Bob Bassett, Chair of the Village ZBA addressed the Joint Committee Chair advising that he was in attendance strictly as a private citizen to observe and was not acting in any official capacity.

AUDIENCE: Bob Bassett, Mike Spence, Emile Sabty, Bill White, Patrick Brady, Steve Ravezzani & Len Harrett.

AGENDA: Discussion regarding changing the order of business resulted in a motion by **Marshall Wright**, 2nd by **Matt Webb** to approve the agenda as written. **MOTION CARRIED.**

MINUTES OF FEBRUARY 16, 2015: **Chair Amos** thanked **Emile Sabty** for acting as sub-committee secretary for the last meeting. She asked for any additions or corrections to those minutes as presented. **Jean Derenzy** proposed a correction to paragraph 4, page 2 asking that this paragraph be revised to read as follows:

“Shen Smith advised that the study **will be considered as becoming** an Addendum to the Master Plan listing the potential R-3 areas to be used by a developer, then the selected parcels would **later** be rezoned to R-3. ~~The Addendum becomes an addition to the Master Plan until it is updated.~~”

A motion was made by **Renee’ Mischel**, 2nd by **Jean Derenzy** to approve the February 16th minutes as amended. **MOTION CARRIED.**

RECAP OF DETERMINING CRITERIA: **Chair Amos** outlined the previously determined consensus of priorities being used during Sub-Committee discussions as the availability of water & sewers, the preservation of agriculture & farming, the location & walk-ability and the parcel size.

A recap of parcel selections from the preliminary straw poll indicated parcels of most initial favor were numbers 7, 8, 9 & 16 with parcel numbers 6 & 17 tied for 5th place. Also, that parcels number 19 & 21 had been deleted from further consideration. The Chair asked if anyone had changed their mind or had additional information to offer since the last meeting.

Vince Cooper asked a question regarding selling developmental rights and Farmland Preservation, specific to parcel #7, a 30 acre commercially zoned parcel on US31 for this parcel will resume some agricultural production in the near future. Vince was asking if developmental rights were sold would the underlying zoning need to be A-Agricultural or could it remain zoned C-Commercial? **Bill White** responded that he wasn’t clear on the exact rules and this should be checked, but likely the rights if sold stay with the land.

WATER & SEWER EXTENSION AVAILABILITY: The Chair asked **Steve Ravezzani** if any questions from the Sub-Committee regarding the sewer system were asked of him to direct to the Gosling Czubak Engineering firm? He responded that he had not received any questions.

In answer to previously asked questions regarding availability from the Village for new water and sewer extensions to areas outside of the Village limits for higher density development; **Bill White** provided copies of two Village of Elk Rapids resolutions which address this subject:

Resolution 96-69 of August 9, 1996 - Water Extension / Improvement Policy

Article II Proposed Policy Statement, Sub-Section A. New Service Areas, Paragraphs #2 & #6 which reads:

" 2. Requests for water system extensions beyond the Village limits will be reviewed and approved or denied by the Village Council on a case by case basis.

#6. All project costs for water system extensions to previously unserved areas including road crossings and crossing of Village right-of-ways will be borne by the special assessment district formed for the project."

Resolution 96-70 of August 19, 1996 – Sewer Extension / Improvement Policy

Article 1 Policy Statement, Sub-Section A New Service Areas, Paragraphs #2 & #5 which reads:

" 2. Requests for sewer system extensions beyond the Village limits will be reviewed and approved or denied by the Village Council on a case-by-case basis.

#5. All project costs for sewer system extensions to previously unserved areas including road crossings and crossings of Village right-of-ways will be borne by the special assessment district formed for the project."

Bill White, Township Supervisor also provided a copy of a letter to the Township dated February 27, 2015, from **Marcia Price, Village Manager/Clerk** on the subject of sewer & water extensions outside of the Village limits which reads:

"The Village of Elk Rapids would be willing to discuss the extension of sewer services outside of the village limits should a developer be interested in pursuing that option and willing to pay for the related costs. We currently service the Birch Lake area through an agreement with the Elk Rapids Township. In addition, several residents outside of the Village have entered into private "Contracts for Sanitary Sewer Services Extension" with the Village of Elk Rapids to tie into the Village sanitary sewer system. The upgrades to our WWPT, currently under construction, have built in capacity for future growth of this nature."

Renee Mischel asked based on the parcels under consideration in the northeastern section of the Township how many parcels on our current list would qualify for sewer extensions based on distance from the nearest line – specifically in the Birch Lake Sewer District area? **Bill White** responded the original allocation was for 210 hookups with 150 currently being used leaving 60 hookups remaining on that line, but the line is currently running close to capacity and the Maple Harbor waterfront properties are in need of sewer system hookups.

Marshall Wright asked if Parcel #16 (26 acres West off Cairn, opposite Wandawood) could be connected to the Birch Lake Sewer District. **Bill White** went on to say that he has assurance from the Village that they are willing

to negotiate with a developer and there may currently be room on the existing system and definitely on the renovated system for new growth in the Township. By written agreements and past precedent new sewer and water extensions should not be an issue if all terms and conditions imposed by the Village are met by a developer.

When asked about “Off the Grid” stand alone sanitary systems Bill indicated that though not optimal, it is always an option if the soil conditions are right to support in-ground systems and there is sufficient land for the fields. Off the grid systems must meet all conditions of the Antrim County Health Department.

TOPOGRAPHY AND SOIL TYPES: **Bill White** discussed how soil conditions play a large part in which parcels in the Township are truly of agricultural value. Many parcels can be deemed unsuitable for agricultural production because of high water table and/or clay layers, and these parcels could be more suitable for residential uses. Bill stressed that no parcel should be precluded just because it may have an agricultural use today, for that use could change over time. **Renee’ Mischel** indicated based on the information she has received so far, all of the parcels under consideration could be deemed as suitable for R-3 which bring in her opinion the decision down to proximity to water & sewer and highway access. **Becky Lancaster** stated she was very pleased with Bill White’s comments and insight on current agricultural property and indicated there should be 4-5 or more parcels selected for higher density consideration. **Marshall Wright** feels 1 or 2 parcels is enough to put R-3 on the map. **Shen Smith** indicated that putting parcels on a map is not what this committee is charged with, for the goal is about actually putting thought into real planning for the future of the Township. **Julia Amos** indicated if we were just placing parcels “brown” on a map then we could rezone just about any parcel in the Township and that would suffice. She stated that real planning and thought by all have come out of this Committee and she is pleased with the progress so far.

FURTHER DISCUSSIONS: **Marshall Wright** read a paragraph from the Master Plan (Section 3.2) which indicates higher density should be located nearer to the Village for infrastructure. **Shen Smith** spoke regarding the clustering of several higher density parcels within the same area so development could be concentrated into specific areas of the Township and not to just single parcels scattered here-and-there in the township. She exemplified the higher density developments currently located along Cairn Highway as an identified higher density area where the clustering of R-3 would layer out gradually from the village progressing from R-1 to R-2 to R3. The other area for clustering is the large area of lands located between US31 and Elk Lake Road ideal for a southern clustering of higher density. **Jean Derenzy** concurred that clustering of R-3 makes more sense. Both the Kewadin area and south of the Village area could be screened nicely from the major roads for aesthetics and preservation of the rural character. She feels clustering of development is in keeping with the Master Plan and that we should also be considering parcel #8 as part of that south cluster. **Matt Webb** indicated he was also in agreement with the idea of defining clustered areas where the higher density already exists. He feels we should be look to define two separate areas one toward the Kewadin area and one to the south of the Village. **Becky Lancaster** indicated that she concurred with adding parcel #8 to a cluster and went on to state that the Committee is charged with the two fold assignment of creating mixing higher residential uses along with the aesthetics and infrastructure of any development. She indicated her original choices were for parcels 7-8-9 clustered for all of the reasons already mentioned. **Lauren Dake** indicated she was of the same mind with her initial choices by clustering higher density to the south side close to the Village, but feels parcel 6 might be to far away. She also indicated that we should be picking parcels that would be desirable for R-3 and not just picking for the sake of have some R-3 identified. **Bill White** when asked about parcel #6 indicated that it is quite wet in areas but would support the growing of hay. He also indicated the Committee should not base their decisions solely on a parcels current use as of today even if the current use is agricultural for over time and different economy a property’s use could likely change.

Renee' Mischel stated we are to remember that parcels selected need to be the best use of our communities' resources, and felt it is a good idea to encourage developers into areas in the Township where sewers are already needed. She feels we should be looking more closely at parcels 16-17-18 for these very reasons. **Matt Webb** indicated he was also in agreement with Renee' and Shen with the idea of defining clustered areas where higher density already exists would be of benefit. He feels we should be looking to define separate areas one toward the Cairn Highway area (parcels 10-11-12) and the other to the south of the Village (7,8 & 9). **Pug Sliger** indicated he feels parcels 7-8-9 are ideal for clustered developments. **Vince Cooper** indicated he likes parcel #9.

OTHER COMMENTS: **Chair Amos** asked if the audience had any comments or suggestions. **Emile Sabty** recapped why various parcels were placed on his list being highway, infrastructure and size of the parcel. Higher density requires larger parcels so that more open space can be created within a development if there is sufficient land to start with. Discussion regarding the number of units that could be placed on a single acre resulted in 6 units per acre but doesn't take into account parking or open space. **Patrick Brady** when asked if he had an opinion replied "the thrust of development should be built in and not thrust out". **Steve Ravezzani** indicated he is in favor of parcel #9 as it is compatible with the Village. **Bob Bassett** stated he was impressed with the Committee and pleased with the work being put into this project.

Chair Amos indicated the Committee should now, based on all they have learned so far, begin the process of working toward a final list. Discussion on parcels 6,7,8 & 9, with a comment from **Marshall Wright** that 6 & 8 might be considered as viewsheds. A motion was put forth by **Marshall Wright, 2nd Matt Webb** to place parcels 7 and 9 on the master list. By roll call vote the **MOTION CARRIED** (unanimous). **Chair Amos** indicated she will add parcels 7 and 9 to the list being compiled toward the final recommendation list. As the time was getting late **Chair Amos** stopped further consideration of additional parcels at this time.

Discussion of a date for the next meeting resulted in **Monday, March 30th, 6:30 PM** as the next meeting.

ADJOURN: A motion was made by **Jean Derenzy, 2nd** by **Marshall Wright** to adjourn. **MOTION CARRIED**

Meeting adjourned at 7:55pm.

Respectfully submitted,

Shen Smith, Secretary
R-3 Joint Committee

Elk Rapids Township & Village Joint Meeting
Planning & Zoning Suggestion Committee – R-3 Area Selection

The Joint Committee **Chair Julia Amos** called the meeting to order at 6:30 PM, Monday, March 30, 2015. Township and Village Sub-Committee members in attendance were:

Township PC: Renee' Mischel, Shen Smith (non-voting) & Pug Sliger (Alternate for Jean Derenzy)
Township ZBA: Vincent Cooper, Marshall Wright, Julia Amos (non-voting) & Pug Sliger (non-voting ZBA)
Village PC: Lauren Dake & Becky Lancaster
Village ZBA: Mike Szymanski & Bob Bassett (Alternate for Matt Webb)

AUDIENCE: Emile Sabty, Patrick Brady, Steve Ravezzani & Len Harrett.

AGENDA: A motion by **Bob Bassett**, 2nd by **Marshall Wright**, to approve the agenda as written. **MOTION CARRIED.**

MINUTES OF MARCH 9TH, 2015: **Chair Amos** asked for any additions or corrections to the minutes as published. A motion was made by **Becky Lancaster**, 2nd by **Bob Bassett** to approve the March 9th minutes as published. **MOTION CARRIED.**

RECAP OF MEETING OF MARCH 9TH: **Chair Amos** recapped that **Parcels #7 and #9** had received majority votes with the last meeting placing them the final list. The Chair asked if any committee member had reconsiderations or had a change of mind regarding any of the parcels under consideration.

Bob Bassett indicated that parcel 8 is in the right geographical area but he would like just part of the parcel not the entire parcel. **Chair Amos** indicated that we would not be splitting any of the parcels with those decisions being made by the property owner and/or the potential buyer. **Mr. Bassett** then cautioned the committee that the Township should be aware of possible litigation on unreasonable parcels. **Emile Sabty** indicated that establishing two areas in the Township for higher density development was a very good idea. **Marshall Wright** indicated he had taken a closer look at parcels 6 and 8 in regards to them being previously discussed as "viewscape property". He felt they don't contribute to any scenic view making them more in keeping with the committee clustering goal. He indicated that he has reconsidered parcel 8 and would be in favor of having it on the final list. **Pug Sliger** indicated that he was in favor of adding parcels 16 and 17 in the Kewadin area of the Township to the final list as these parcels do meet the requirements for higher density. **Renee` Mischel** indicated that she was in favor of adding parcel 6 and 8, and also adding parcels 16 and 17.

Becky Lancaster indicated she would view favorable parcels 16 and 17. **Bob Bassett** also suggested adding parcels 8 and 6 to the list as they are closer to the Village. **Lauren Dake** questioned as to why the committee seemed to be avoiding the parcels in the north east section of the Township. **Bob Bassett** spoke that none of the parcels suggested in the north east portion of the Township are in keeping with the Master Plan. **Chair Amos** took the time to review with the committee the exact wording of the Master Plan in relation to the placement of higher density development. All committee members were then in agreement that the Master Plan doesn't mention walk-ability, or a requirement that projects be only adjacent to the Village. It was then a consensus that grouping "like parcels" in the two identified areas of the Township would be allowable by the Master Plan. **Becky**

Lancaster then proposed adding parcel 6, 16, 17 and 18 as they are ideal for residential development. **Patrick Brady** indicated he feels development should be built in closer to the Village.

A motion was then made by **Renee' Mischel**, 2nd by **Lauren Dake** to add parcels 6 and 8 to the final master list. **MOTION CARRIED** unanimously. Discussion regarding parcel 7 with the commercial value and it's possible proposed agricultural use garnered a motion by **Bob Bassett**, 2nd by **Renee' Mischel** to delete parcel 7 from the currently approved final list. By roll call vote – **MOTION CARRIED** unanimously.

Becky Lancaster indicated that parcels 16, 17 & 18 being in keeping with the Master Plan should be added to the final list giving future developers more options within the Township. **Pug Sliger** then made a motion, 2nd by **Mike Szymanski** to add parcels 16, 17 and 18 to the final approved list thus identifying two separate cluster areas in the Township for higher density developments. **MOTION CARRIED** – one member voting no.

Chair Amos reported the final approved list for presentation to the Elk Rapids Township Planning Commission. The following parcels having received review and approval by the R-3 Committed for use as higher density residential development parcels within the Township of Elk Rapids:

Deleted

Parcel 7 Added to the list March 9th and removed from the list on March 30, 2015

Final Approved List

Parcel 6	Added March 30, 2015	South of the Village of Elk Rapids
Parcel 8	Added March 30, 2015	South of the Village of Elk Rapids
Parcel 9	Added March 9, 2015	South of the Village of Elk Rapids
Parcel 16	Added March 30, 2015	North East in the Township (Kewadin Area)
Parcel 17	Added March 30, 2015	North East in the Township (Kewadin Area)
Parcel 18	Added March 30, 2015	North East in the Township (Kewadin Area)

Chair Amos indicated her satisfaction with the workings of the R-3 Committee and thanked them for their interest in the project, their hard work and due diligence in identifying potential R-3 development property within the Township. She recapped that the committee has met in sessions and deliberations on **February 16, March 9th** and finally with project completion on **March 30th**. She indicated that approval of this final set of minutes will be by email approval and presentation of the R-3 Committee findings will be given to the Elk Rapids Township Planning Commission for their next meeting.

As there was no further business at this time a motion was made by **Vince Cooper**, 2nd by **Mike Szymanski** to adjourn. **MOTION CARRIED**

Meeting was adjourned at 7:15 PM.

Respectfully submitted,

Shen Smith, Secretary
R-3 Joint Committee

Elk Rapids Township Planning Commission
Meeting Minutes – Tuesday, April 21, 2015, 6:30 PM

Present: Shen Smith, Jim Lundy, Pug Sliger, William Larson, Dorrance Amos

Absent: Jean Derenzy and Renee Mischel

Others Present: Len Harrett , Zoning Administrator, Julia Amos, Pete VanDenBerge, Tom Wiltse
And 4 others

Adoption of Agenda: Agenda for the April 21, 2015 meeting unanimously adopted by the Commission.
M/S – Lundy/Amos

Approval of Minutes: Minutes for the January 20, 2015 meeting unanimously adopted by the Commission.
M/S – Sliger/Lundy

Public Forum: Pat Brady: Regarding “Old Business” on the Agenda G 1&2. His observations on the R-3 committee were that it is not a plan by “Community, but by Committee”. As there were few people present other than the Village and Township committee members at the joint Committee meetings, he questioned whether there were notices sent out to the 18 property owners that were being considered. He is also concerned about the haste in which this is being done. Chairman Smith indicated that the township has only one small less than one acre R-3 Parcel available at this time and it is important that the Township have more identified parcels to offer a potential developer.

Zoning Administrator Report:

1. Mr. Harrett reported Dale Hull of the Pine Hollow Institute submitted additional paperwork he felt necessary to un-table his project on April 6, 2015, but the un-tabling of the PHI proposal with this meeting on April 21st, was declined for the material received was after the date require for the submission of a newspaper notice and for individual mailed notices of PHI un-tabling to the adjoining property owners within a 1000’ radius of the Pine Hollow Institute property. Mr. Harrett requested the Planning Commission determine a May date for a Special meeting.
2. Regarding the Hayden-Lakeview Project - Has run into “perk test problems”. It was requested of Mr. Harrett to waive the site size/perk test requirements but that request was denied. There has been no contact since from the proposed project owner or staff.
3. There was no correspondence received regarding this meeting’s Special Use Permit on the Pad Lock Storage expansion project..

Open Public Hearing: Opening of Public Hearing unanimously approved
M/S – Lundy/Amos

A Special Use Permit is being requested by Tom Wiltse, dba Pad Lock LLC located at 10405 US 31-South (Tax ID #05-06-029-006-00), Elk Rapids Township, MI 49629. The Special Use being considered is for the enlargement and upgrade of an existing Mini-Storage facility as described in Elk Rapids Township Ordinance Section 11.05-C ; and review criteria will be per Ordinance Sections 17.06 and 19.07. Proposal is as stated on the Zoning Administrators report. Nothing is unusual about this property with all requested material being submitted is necessary.

There was discussion about removing the requirement for exterior fencing as the project backs up to Commercial property but as the Township Zoning Ordinance does require both fencing and evergreen plantings the only relief to these requirement being an amend the Ordinance. Further discussion about the “evergreen screening vegetation” , the spacing required between the trees , and the color of the slats required to be installed within the perimeter fence indicate that the applicant was in agreement to space the evergreen trees on 8’ centers and the color for the fencing slats to be white. Per the Township Fire Department’s request for the rear wall of Building “F” to be constructed of cement block. The applicant acknowledged

that if they are contemplating new signage a permit will be required. It was confirmed that when the existing buildings are repainted, they would be painted the same color as the new buildings (the applicant suggested a tan color, with white doors and the required 6' chain link fencing will contain slat colored white.

The applicant informed the commission that they plan to begin the building Phase One process as soon as their Special Use Permit is approved and they hope to have Phase One ready as soon as possible. Mr. Wiltse is also prepared to "permit" the entire development at this point, rather than wait and request a permit for the second phase when that time arrives. He acknowledges that the permit expires in 1 year and he will have to file for an extension if building is not finished in that time frame. It was agreed that the fencing and Screening vegetation will be in place before the units are ready to rental.

Reports were read into the minutes from the Zoning Administrator, Township Planner and a verbal report by the Township Fire Chief which identified their finding in regard for of this project (copies will be attached with the final minutes).

Close the Public Hearing: Closing of Public Hearing unanimously approved
M/S – Amos/Sliger

Motion to approve:
M/S Amos/Lundy

To approve a Special Use Permit for Tom Wiltse, dba Pad Lock LLC located at 10405 US 31 South (Tax ID #05-06-029-006-00) Elk Rapids Township, MI 49629 for the enlargement and upgrade of the existing Mini-Storage facility as described in Elk Rapids Township Ordinance Section 11.05-C; and the criteria per Ordinance Sections 17.06 and 19.07 Approval of the Special Use Permit is contingent upon the following conditions:

1. That the required evergreen screening plantings be on 8' centers and 3-5 feet in height at the time of planting with installation prior to October 1st, 2015.
2. Perimeter 6' security fencing will contain slats of white in color.
3. All new buildings will be of a tan color with white doors.
4. The rear wall of proposed Building "F" shall be constructed of cement block.
5. At the time when the existing buildings are repainted they will then match all new building colors of tan.
6. If new signage is to be consider it will require a Township Sign Permit.

No further discussion. All commission members voting yes. **Unanimously approved.**

Old Business: Township & Village R-3 Selection Committee

Julia Amos, ZBA Chair and Joint R-3 Committee Chair presented a recap of the three committee meetings. Amos publicly thanked all the committee members for their dedication to this project, as well as Township Supervisor, Bill White and Emil Sabty for their help. There were 21 parcels taken into consideration and 6 of them are being recommended by the Committee. South of the Village: Tax I.D 05-06-028-015-00, 05-06-028-001-00, 05-06-029-003-00; and North of the Village: 05-06-010-014-20, 05-06-175-026-00, 05-06-175-025-00.

Chairman Smith commented on how pleased she was with the received Village information as to future development of the sewer system. Mentioning that if R-3 were to be developed in the Kewadin area, then the much needed sewer hook-ups in the Maple Harbor and surrounding areas could be satisfied. There were no further comments from any of the Commission members regarding this presentation.

Chairman Smith questioned how to move forward in the creation of an Addendum to the Master Plan. She indicate she has been in contact with the Township Planner, Larry Nix, regarding the preparation of an Addendum to the Master Plan but as he was not available for this meeting further discussion on the Addendum will be tabled until a meeting where Mr. Nix will be available to answer questions about the proceedings required for adding an Addendum to the current Master Plan.

M/S Lundy/Sliger A motion was made to accept and approve the Joint Elk Rapids Township & Village committee findings and to begin the process of creating an Addendum to the Master Plan reflecting the six parcel recommended as potential R-3 development properties within the Township. Roll call: Amos/yes, Lundy/yes, Sliger/yes, Larson/yes, Smith/yes
Unanimously approved

New Business: None

Public Forum: **Pine Hollow Institute:** Dave Hults, a property owner 200 ft south of Pine Hollow Institute addressed the Planning Commission and requested to be read into the minutes of this meeting an advertisement that appeared in the “**Traverse City Business News**”, February 2015 for the Pine Hollow Institute. Mr. Hults requested of the Planning Commission why PHI has been allowed to operate without the required Special Use Permit, and without being in compliance with the proper building and fire department requirements. On behalf of the adjacent property owners, he is requesting that PHI be cited and asked to cease all operation until all approvals for a Special Use Permit, building department and fire department codes have been granted. He questioned why PHI would publicly advertise a business that is operating without the proper permits. Chairman Smith asked if the Zoning Administrator would comment to that, and he declined at this point.

Special Meeting in May: Chairman Smith requested the determination of a May meeting date for the un-tabling of the Pine Hollow Institute’s request for consideration of a Special Use Permit for a Corporate Retreat as outlined in the Elk Rapids Township Zoning Ordinance. She indicated that a full board (all 7 members) in attendance was desirable for this meeting and asked each PC member to mark the May dates they would be available on a calendar. Pending confirmation from the absent members the Special Meeting date will likely be Wednesday, May 20th .

Material regarding the newest submissions from the Pine Hollow Institute project will be available to the public from the Township, by either downloading from the Township website or by requesting a print copy from the Township Clerk (with a cost for the printed copies). The Zoning Administrator will be sending written first class notices to all of the residents within 1000 feet of the Pine Hollow Institute.

Member comments: None

Meeting unanimously adjourned at 7:54 pm

M/S Amos/Lundy

Jim Lundy, Elk Rapids Township Secretary

**Elk Rapids Township Planning Commission
Meeting Minutes – Wednesday, May 20, 2015
DRAFT (6/1/15)**

- Present:** Shen Smith, Jim Lundy, Pug Sliger, William Larson, Dorrance Amos, Jean Derenzy
Renee Mischel
- Absent:** None
- Others Present:** William Derman, Matt Zimmerman, Len Harrett, Larry Nix, William White,
Ken Williamson, Pete VanDenBerg, Mike Szymanski and approximately 80-100 others
at various times during the meeting.
- Adoption of Agenda:
M/S – Mischel/Amos** Agenda for the May 20, 2015 meeting unanimously adopted by the Commission
with the amendment to move item “F” Zoning Administrator’s report between
Item H and I
- Public Comments:** None
- Approval of Minutes:
M/S – Lundy/Mischel** Minutes for the April 21, 2015 meeting unanimously adopted by the Commission.

Un-tabling of Special Exception Use Consideration for Pine Hollow Institute:

A Special Exception Use to operate a Group Retreat Center was originally requested by Pine Hollow Institute in May, 2014. The property is located at 10400 South Bayshore Drive (Tax I.D. numbers 05-06-450-006-00, 05-06-209-015-00 and 05-06-029-011-00) Elk Rapids Township, MI. The Public Hearing was conducted on June 17, 2014 and the item was tabled pending the submission of additional inform by the applicant and the rezoning of the subject property. The rezoning was accomplished in December 2014 and the applicant submitted additional information in March 2015.

**Motion to Un-Table PHI Special Exception Use Application unanimously approved by the Commission.
M/S – Amos/Sliger**

1. Larry Nix, Township Planning Consultant had nothing to add to Memorandum Dated May 18, 2015
2. Len Harrett, Township Zoning Administrator, stated to the Commission that 19 letters regarding PHI were received on the PHI project of which 3 were opposed.
3. The Township Legal staff (William Derman and Matt Zimmerman) had nothing additional at this time.
4. Dale Hull spoke on behalf of PHI: Mr. Hull asked if the meeting was being taped. (yes) Mr. Hull also asked if it was ok to tape it for PHI records. (yes) He went over PHI’s Mission Statement and past history of what has taken place so far with the Special Use Permit request.

Mr. Hull told of several events that were hosted by PHI in the last several months, including how the Commission needed to, and did, change the zoning to this property to R-1. He also spoke of the “feasibility studies” that took place on the estate and indicated that these were done with the full knowledge of the Township officials.

Mr. Hull then received April Memo from Larry Nix of Williams and Works.
Hull went down the list of the conditions and commented on each. Hull sited that this list of conditions are a “deliberate attempt” to make PHI fail.

Chairman Smith responded to clarify a couple of the statements made by Mr. Hull. She pointed out the Planning Commission has never once been advised or had any prior knowledge of the ongoing illegal business operations which were taking place at PHI.

Larry Nix was asked for any comments at this point. He declined to debate the issues.

Fire Chief Pete VanDenBerg was asked for comments;

Chief VanDenBerg brought forward correspondence that he had sent to Pine Hollow Institute, dated April 9, 2015 which stated the Fire Department's recommendations and conditions for the Pine Hollow Institute project.

5. **Public Comments:** The following people spoke in support of Pine Hollow Institute:

Dr. Christine Petersen, Trish Pearlman on behalf of Jody Braun, Pamela Walls, Bob Strait, Paul Hrizko, Don Marker, Brenda Miller, Barb Mullaly, Bill Holland, Mike Hover, Eric Okerstrom, Tony Wittbrodt, , Carolyn Hoover, Braden DeCamp, Denise Mann, Trish Pearlman, and Michelle Laslow

The following people spoke opposed: Richard Pixley, Paula White. Tom Schlintz indicated that he is not opposed to the work that PHI does, that is not the issue being addressed but he is concerned with the daily operations and their impacts on the neighborhoods. Mike Frederickson was not necessarily opposed he just has some concerns regarding the over-all operation of the PHI.

Larry Nix, Township Planner listed reasons for the conditions stated in report on the PHI Special Use application. Matt Zimmerman agreed that the Planning Commission could not base their final decision on the nature or content of PHI's cause as the nature of the activity is not something the Planning Commission should pay attention to, unless it has an impact on the character of the neighborhoods. The Planning Commission must base their review on the impact of that business in that neighborhood and making sure the business is to be operated and run in accordance to the Ordinance and conditions imposed. He also suggested that if PHI wanted to use the accessory barn/kitchen for preparing meals that would be transported to the main building for consumption, then it would have to provide an explanation on how that meets the standards in Section 7.06 and 19.07 of the zoning ordinance.

6. **Planning Commission Comments:** Bill Larson , Jean Derenzy, Dorrance Amos stated comments, concerns and questions addressed to Larry Nix and Matt Zimmerman.

Bill Larson stated that as PHI has been operating illegally over the past two years so what makes us believe they can operate legally in the future.

Jean Derenzy commented she was in agreement with the conditions listed in the Planning Memo regarding PHI submitted by Larry Nix.

Pug Sliger & Jim Lundy indicated they had nothing further to add.

Renee' Mischel stated that as PHI is proposed for a residential neighborhood she believes the outside activities need to be regulated, i.e.

1. How many times per year/month?
2. Hours of outside activities?
3. No use of additional tents or other items for entertainment or cooking.
4. No outside speakers, microphones, etc.
5. No camping, tents or rv's etc.
6. No use of the beach.

In addition to the six points above, also discussed that there would be no parking on South Bayshore Drive for any overflow of cars, no large outside public gatherings such as weddings, picnics, concerts, etc., no fires on the beach, firework displays banned except on the days firework displays are allowed by the County and State laws and the hours for any outside event held at PHI would be between the hours of 8am-11pm. Also discussed was submission of a new site plan showing the placement of the proposed new driveway, the sign description/placement, and any other conditions required to be on the final site plan.

Dorance Amos indicated he was in agreement with the Planning Memo and with of Renee's points. He stated that care must be taken to make sure the neighborhoods receive the conditions and protections they deserve.

The Commission then discussed the next steps needing to be taken to finalize an approval of the PHI special use permit with specific concerns regarding the "Barn/Commercial Kitchen", Parking, Outside activities and all changes that are required per the Fire Department requirements, compliance with the Antrim County Building Department and a resolution of the current PHI zoning violations. Matt Zimmerman indicated the Commission has the legal authority to approve the PHI special use permit with conditions.

Chairman Smith asked Mr. Hull if he would be opposed to allowing the Planning Commission to table the PHI application for a period of about one month thus allowing the Planning Commission a bit more time to make final adjustments to approval conditions. Chairman Smith explained to Mr. Hull that if he is not in favor of allowing the Planning Commission the extra time on this proposal and if the Commission were to make their final decisions this evening, PHI might in fact be granted a final approval with conditions this night, but PHI could not be granted the use of the accessory barn/kitchen for the preparing or serving of any meals, all of which would have to take place in the main structure for that issue does need additional consideration and review by the planning and legal staff. She pointed out that at no time in the past, on any documents submitted, or in the original application was there any mention of the accessory barn/kitchen structure being proposed for the purpose of serving meals within that structure.

Chairman Smith told Mr. Hull the Planning Commission is trying to work with PHI regarding all of the issues discussed but they do need more time. Chairman Smith then asked the Planner Larry Nix's his opinion. Mr. Nix stated he felt the Planning Commission was on the right track with this request.

Mr. Hull again indicated he would not allow the Planning Commission permission to table final determination on the PHI proposal to the next meeting. Chairman Smith indicated the Planning Commission would then proceed with a final review of all proposed conditions for approval of the PHI special exception use permit following a 10 minute recess.

Following the recess, Mr. Hull asked to address the Planning Commission and stated after further consideration PHI was in fact requesting the final review to be tabled until the next Planning Commission meeting. Chairman Smith then polled the Planning Commission members for a quorum date in June, and scheduled the next Planning Commission meeting to be held at **6:30 PM, on Tuesday, June 16, 2015**. A request was made to Larry Nix to discuss the proposed conditions for the special exception use to permit the staff some direction for the next meeting.

Conditions discussed include the following:

- * Detailed site plans, with parking and driveways
- * Resolution of all zoning violations,
- * Limited number of guests, tied to the number of parking spaces,
- * Restriction on parking along South Bayshore – none on side of the roads,
- * Determine number of overnight retreats per month/per year
- * Determine number of day workshops, meeting events per week/per month
- * Perpetual compliance with Ordinance Section 7.06 (Corporate Group Retreat Center) revocation if violations,
- * Compliance with the building and fire department requirements,
- * Frequency - Zoning Administrator will review the property (possibly every 3 years?)
(Mr. Lundy suggested annually, unless there is a complaint or violation in between)
- * Submission of monthly Event Logs, or at least annually.
- * Special exception to run with the property
- * Overnight retreats maximum of 24 people at a time.
- * The Barn building/Commercial Kitchen, possible amendment to Section 7.06 B or other,

- * Create an escrow account per Section 19.08 Zoning Ordinance cover all planning and legal expenses
- * Outdoor Music/amplification should not be allowed (see all points covered by Renee' Mischel above)
- * Outdoor lighting should be residential in character. (this is already noted on PHI application)
- * Timing of the day event s(start and stop time, outdoors only no activities between 11pm-8am).
- * Fireworks only allowed per County and State laws.

M/S - Lundy/Derenzy Motion unanimously approved by the Commission to Table the PHI application until June 16, 2015 at 6:30 pm

Zoning Administrator Report: Hayden Project - There has been no communication.

M/S – Mischel/Lundy Motion to Table the Addendum to the Master Plan (R-3) until the next quarterly meeting likely in July 2015 unanimously approved by the Commission.

Public Comments: There were 4 additional comments regarding PHI requesting the Planning Commission pay very close attention to the number of one day events that might be allowed at PHI.

Motion to Adjourn: Motion to Adjourn at 9:37 was unanimously approved by the Commission
M/S – Amos/Mischel

Elk Rapids Township Planning Commission Meeting Minutes – Tuesday, July 21, 2015

Present: Shen Smith, Pug Sliger, Renee’ Mischel, & William Larson

Absent: Dorance Amos, Jim Lundy & Jean Derenzy

Others Present: Len Harrett, Twp Zoning Admin., William Derman, Twp Legal, Larry Nix, Twp Planner and approximately 7 other people in attendance.

Called to order: Chair Smith called the meeting to order at 6:30 pm with a quorum present. As Bill Larson was then going to be absent for about 10 minutes the **New Business** item was moved forward for informal discussion.

New Business: **Altonen Orchards, Brian Altonen**, discussed their vision for a winery production facility and tasting room on the Altonen Orchards agriculturally zoned lands. He inquired about the zoning process necessary to produce cider and perry (which are both considered wine by the State of MI and the federal government). Mr. Altonen indicated they have no plans to use this facility for anything other than production and tasting. They propose to use all of their own fruit (unless a shortfall), then they could possibly use other area produce. He indicated that at this time there are no plans to grow grapes. He indicated this proposed plan would provide approximately 4-6 new jobs for the Township in the beginning and potentially 8-12 as the facility becomes more established. The production facility and tasting room would be placed approximately 800-1000 ft off Us-31 in a new building with no overnight accommodations (Chateau) being proposed. (quorum re-established 6:50pm)

Mr. Nix discussed putting together sample zoning ordinance text language for Commission consideration which would permit the operation of a small winery as part of a farm. The Ordinance would need to be amended to either allow it as a “Special Land Use” or “Use by Right” to include certain qualifications such as, size, parking, setbacks, etc. Following further discussion Chair Smith asked each Commission member if they were in agreement to move forward on this project. A comment from Renee’ Mischel was a request that special land use and use by right amendment text be created for review. Consensus of the four members then present was to authorize Larry Nix to create two sample drafts on the subject for further review.

Mr. Altonen asked what the timeframe to completion of the amendment process would be as he would wish to start construction this fall if possible. Discussion over the timeframe indicated that on the Commission normal schedule it would likely be in the Spring of 2016. Mr. Altonen stated he was willing though special meetings to expedite the time needed to completion. When asked, Mr Nix indicated he could have sample text drafts ready by the end of the week of July 31st. Mr. Altonen expressed that he would greatly appreciate it if the Commission could accelerate the process to completion.

Chair Smith let the Consultant, know the Commission is in consensus to go forward with drafts for both a “Use by Right in an Agricultural district” and a “Special Land use” . Chair Smith informed Mr. Altonen she would let him know when the drafts are received and at that time will scheduled a special meeting to review the proposed text.

Adoption of Agenda: Agenda for the July 21, 2015 meeting unanimously adopted by the Commission with an
M/S – Mischel/Sliger amendment which moved item I. (New Business) to the top of the agenda. **MOTION CARRIED**

Public Comments: None

Approval of Minutes: Minutes for the May 20, 2015 meeting unanimously adopted, as published, by the Commission.

M/S – Sliger/Larson MOTION CARRIED

Zoning Administrators Report: The Hayden Development Project: The Zoning Administrator informed the Commission about an update on the 47 Acres on Orchard Dr. They have updated their blueprints and Harrett feels he will be issuing a permit for them to widen the road 2 feet and re-surface it so that it meets the ordinance requirements for 25 properties, rather than 12 by the end of the coming week. Chairman Smith questioned the perk ability and Dual zoning of the properties. That is something they are working on, but it will not keep them from widening the road. Mr. Harrett informed Smith that they will eventually be in front of the Commission again regarding an Open Space Development.

Mr. Harrett also informed the Commission about a request that was presented to the Commission earlier this year and was approved. (Debra Blinstrub). He was at the property that morning, as he didn't recognize any of the contractors that were part of the initial proposal. He had to stop unauthorized excavation that was taking place. Harrett found out that Blinstrub abandoned the whole project and sold the property. With that, the alterations were being ordered by the new owner who has owned it since June 30, 2015. Mr Harrett and Heidi Schaffer (Soil Erosion) stopped all the work and let them know they needed permits and possibly would need to come in front of the Planning Commission. It's unclear at this time whether they will use the original plans, or want new ones. If they use the original plans that were approved for the property they will not need to come before the Planning Commission as the approval goes with the land, not the property owner. The new owner is now aware that they need to submit plans. If they are the same as the original ones, Mr Harrett can issue a permit immediately, if they are not, or they are modified, they will need to begin the approval process.

Unfinished Business: Un-tabling of Special Exception Use Permit Consideration for Pine Hollow Institute: Chair Smith stated for the record that Pine Hollow Institute had sent a letter of withdrawal for their Special Exception Use Permit, the record first needs a motion to un-table the tabled application, then to accept their letter of withdrawal and finally vote to take the application off the table completely. **M/S Mischel/Sliger** To un-table the Pine Hollow Special Use Permit Application. Unanimously approved by the Commission. **MOTION CARRIED.** **M/S Sliger/Mischel** To accept the Pine Hollow Institute letter of withdrawal for a Special Exception Use Permit and to terminate their application (copy of withdrawal letter attached with these minutes). Unanimously approved by the Commission. **MOTION CARRIED**

Chairman Smith asked Larry Nix for an update on the current status of the Pine Hollow Institute project. Mr. Nix reported there was an informal meeting with Pine Hollow Institute after the last meeting, there was a lot of public input and discussion. Mr. Nix worked with attorneys Bill Derman and Matt Zimmerman to draft a "Finding of Fact" with conditions on the Pine Hollow Institute application, which was then shared with their attorney. Pine Hollow Institute decided they could not live with the conditions the Planning Commission was considering assigning to the project. With that, on June 5, 2015 PHI issued a "Letter of Withdrawal" for their application for a Special Exception Use Permit. After several weeks went by there was some initiation of discussion with Pine Hollow Institute representatives and the Township. Very informal for questioning what went wrong, what PHI wanted, and where the mis-communication between the Township and PHI came from, etc. Dale Hull is no longer with PHI. Last week, Nix met with Leslie Lee, the owner of the property, and her assistant. She outlined what she wants to accomplish on the property. Ms. Lee wanted to review the "Findings of Fact" and wondered about any leeway. Nix feels Ms. Lee is now heading in the right direction with her discussion to pare down the magnitude of the operation, in terms of the size of events, the purpose of the events, and the clientele. It sounded like she is addressing the concerns of the public. At this point, Ms. Lee is unsure if she will move forward and re-apply. Ms. Lee did inform people at the meeting that there would not be any "Substance Abuse Retreats". Ms. Lee also said, she did not realize that parking was one of the major issues. If she reapplies, there will be no parking at all on the road. Until there is a new application, at this point, the PHI project is a closed project.

Chairman Smith asked if there any questions from the public in attendance. Mrs. Pixley (neighbor to PHI) expressed her concern, that if there is a public hearing regarding PHI, could it take place in the summer, when they are present. That will be addressed at the time.

Old Business: **Addendum to the Master Plan (R-3):** As presented. Memo Attached. If the Master Plan is to be amended, there is a process that must be followed. The memo outlines all the steps necessary. Mr. Nix indicated that we are currently 2 years into the every five year review. If there are any changes to the Master Plan now, then the 5 years would start again in another 5 years. Pug Sliger questioned if someone wants to put in a R-3 development, should we amend the Master Plan then, rather than now? Larry Nix, suggests putting the Commission findings and recommendations into a formal "White Paper" stating the six properties identified as potential R-3 with the Commission Finding of Fact which supports those decisions regarding R-3, rather than creating an addendum to the master plan at this time. Renee' Mischel, asked what the benefit of doing that is rather than amending the Master Plan and getting it done with. Mr Nix explained that it is a long process to amend the Master Plan, and at this point, it's not necessary to "reset the 5 year clock" and with White Paper it is not necessary to go through the formal process, but it establishes the position of the Commission and if someone came forward with a project the Commission could at that time amend the Master Plan to make their position official. In 3 years time, the Master Plan can then be amended in sequence to reflect the Commission and the Village joint collaboration on the R-3 project. Chairman Smith supports the White Paper as opposed to a full amendment at this time and asked Twp legal counsel Bill Derman his opinion. He recommended "White Paper" at this time. After further discussion, there was a consensus of the Commission that a "White Paper" is a sound decision at this time. The Commission authorized Planner Larry Nix and Attorney Bill Derman to collaborate on a official "White Paper" document for use for Commission review.

M/S Mischel/Larson To authorizing the Township Planner (Larry Nix) with Attorney (Bill Derman) to collaborate on a official "White Paper" identifying and outlining the six approved properties identified and the reasoning for them to be considered as potential R-3 as they were identified by the Collaborative Committee which included the Village Planning, Village ZBA, Township Planning and Township ZBA with final review and approved by the Township Planning Commission. Unanimously approved by the Commission. **MOTION CARRIED.**

Public Comments: Patrick Brady - expressed his concerns about the potentially proposed R-3 property and with the process getting to the current point with a feeling the public wasn't included in the process. He indicated he was pleased the Commission was taking a step back with a white paper and not a full amendment at this time.

Dick Hultz thanked the commission for the second round of PHI meetings. He does hope that if it goes forward again, there will be a clause regarding the special use permit indicating that it is for the current owner only, not subsequent owners of the property. Mr. Nix indicated that Ms. Lee was aware of this problem and it will be addressed if she reapplies.

Member Comments:

Renee' Mischel questioned the timing regarding the Altonen application. The Planner should have a draft within the week. Then a special meeting will be scheduled as soon there after.

Motion to Adjourn: Motion to adjourn at 7:40 PM was unanimously approved the the Commission.

M/S - Mischel/Sliger

Elk Rapids Township Planning Commission

Special Meeting

Meeting Minutes – Thursday, August 13, 2015

Draft 1

- Present:** Shen Smith, Pug Sliger, Jean Derenzy, William Larson, Dorance Amos, Jim Lundy
- Absent:** Renee' Michel
- Others Present:** Len Harrett, Twp Zoning Admin, William Derman, Twp Legal, Larry Nix, Twp Planner, Brian Altonen and approximately 3 other people in attendance
- Called to order:** Chair Smith called the meeting to order at 6:30 pm with a quorum present.
- Adoption of Agenda:
M/S Sliger/Amos** Agenda for the August 13, 3025 Special Meeting unanimously adopted by the Commission **MOTION CARRIED**
- Public Comments:** None
- Approval of Minutes:** Minutes for the July 21, 2015 meeting unanimously adopted by the Commission With the correction of "though" to "through" in the third paragraph of "New Business". **MOTION CARRIED**

Zoning Admin Report:

RE: Hayden property/Orchard Dr. The road on Orchard Dr. is currently being widened in preparation for land division and creation of additional lots. They are currently planning on 3 lots, as soon as they can get approval, and then hope to build more road and create more lots, possibly next year.

An application for a Special Use Permit has been submitted by Rod Hammond (Uncle Rod's Auto Repair) on Wanigan Drive, in time for the September 15th 2015 meeting. He is requesting a Special Exception for Open Space Storage in Section 11. Mr. Hammond is now the owner of U-haul Franchise and needs the space for the rental trailers. Harrett cited Hammond for the amount of vehicles/trailers around the property and for not requesting a permit by the Planning Commission prior to taking this on. Harrett is providing the Commission Members with a copy of blue prints this evening. This will be a "use amendment".

Elk Rapids Township Zoning Ordinance text Amendment Review

Submitted by Williams and Works (Larry Nix) . Attorney William Derman submitted a "check list" in addition to Nix's memo. (see attached) Derman feels Nix's memo hit all points. The discussion was to decide to issue a Special Use Permit or a Use by Right for Altonen Farms request to open a Winery (making only Hard Cider and Perry at this time, however, leaving it open for wine in the future.) After Larry Nix's presentation and further discussion by the Commission (comparing to other communities) it was a **consensus that the Use by Right with Site Plan Review** is what should be done to best provide for this request. 9 particular points brought up for discussion were:

Being sure the request doesn't have a negative impact on the surrounding properties, set backs, parking, tasting room allowing for other types of sales on the property (i.e. food made on or off the property, rental rooms) and signage size to be put under the sign chapter 3 and in the Use by right. These points will be incorporated in the Use by Right with Site Plan Review.

Signs in an Agriculture Zone were also discussed. Nix brought up Section 303 which indicates that (2) two signs, not to exceed 50 Square Feet total is allowed.

A Motion to approve the amendment, adding section 1, 2, & 3. Section 2 will be regarding signage, that it will be in two sections of the ordinance, it will be item # 9 in the Use by Right and will be defined as follows: A winery in the ag district may be permitted two signs exceeding no more than a total of 50 square feet. Site Plan Review will be added to the items of condition in this motion as well.

M/S – Lundy/Amos Motion to put this proposed ordinance out for public hearing at the September 15, 2015 meeting.

Roll Call: Amos-yes, Lundy-yes, Sliger-yes, Derenzy-yes, Larson-yes, Smith-yes. Unanimously adopted.

Motion Carried

New Business: Chair Smith indicated that she feels that an item of new business over the course of the winter should be to possibly do an in depth study on the Elk Rapids Townships Ag zone. Other townships are far more progressive than ER. They are taking quite a few steps to encourage farmers to keep farming. She would like to add this as an item of new business to go through the ordinance with ideas to amend the AG zone. Larry Nix suggests before this is done, he feels a study group or invite some of the primary AG operators in the area to have a discussion with the Planning Commission. Asking them if they feel there are any problems with our current zoning regulations in this Township? Do our Township regulations limit them in any way? It was decided to possibly put it on the agenda for future discussion.

Public Comments: Brian Altonen thanked the Planning Commission for helping pull the ordinance text and the meeting together for his project very quickly. They appreciate the efforts by everyone.

Member Comments: Chair Smith thanked the Commission, Larry Nix and Bill Derman for their work on the project and meeting attendance on such short notice.

Adjourned: **Meeting adjourned at 8:01 pm.**

M/S Lundy/Amos

Elk Rapids Township Planning Commission

Meeting Minutes – Tuesday, September 15, 2015

Present: Shen Smith, Pug Sliger, William Larson, Dorrance Amos, Jim Lundy
Absent: Renee 'Mischel, Jean Derenzy

Others present: Len Harrett, Twp Zoning Admin, William Derman, Twp Legal, Larry Nix, Twp Planner and approximately 9 other people in attendance.

Called to Order: Chair Smith called the meeting to order at 6:30 pm with a quorum present.

Adoption of Agenda: Agenda for the September 15, 2015 meeting unanimously adopted by the M/S - Lundy/Sliger Commission. **MOTION CARRIED**

Public Comments: Scott Dennis who lives on Mattes Rd. questions why the residents have not received any written notices regarding the work that is taking place on Mattes Rd. regarding the Hayden Project. (There were approximately 5 people in attendance who reside on Mattes Rd.)

Approval of Minutes: Minutes for the August 13, 2015 meeting unanimously adopted by the Commission. M/S - Lundy/Amos **MOTION CARRIED.**

Zoning Admin Report:

Len Harrett updated Commission on the current status of the Hayden Property/Orchard Dr. which is mostly that the shoulders of the road are being updated and stabilized, because this is part of the requirements of the Ordinance.

Responding to Mr. Dennis's question regarding why there has not been a written notice to the residents on Mattes Rd. regarding the current road work. Harrett simply stated that there is nothing to inform the public about yet and that they should have already received a letter from the Attorney for the project. The people from Mattes Rd. acknowledged that they had. Further concerns are road maintenance and snow removal, and when there are new homes built, how would charging them work. Harrett stated that it is a "Private" road, and they would have to work that out between themselves.

The only correspondence received was a letter from the owner of the Wanigan Corp. supporting the work that Uncle Rods is requesting for extended parking/storage for his U-Haul Franchise.

Harrett also mentioned that he met with an Attorney regarding the building of a 3 story home. In the end, 2 ½ stories are the limit and it is not appealable to the ZBA.

Public Hearing: **M/S Lundy/Sliger** Opening of the Public Hearing for Amendment #2015-1 unanimously approved. **MOTION CARRIED.**

Larry Nix, Township Planner with Williams Works has written an Amendment to Sections 1.03, 3.03 and 6.01 regarding the request from Bryan Altonen of Altonen Orchards to open a Winery/Perry and Tasting room. The proposed Amendments are a separate attachment to these minutes.

There was some discussion between Commission Members, Mr. Nix and one of the members of the audience. After all questions were answered and the Commission members were polled, the public hearing was closed.

M/S Amos/Larson Unanimously approved. **MOTION CARRIED**

M/S – Lundy /Larson **Motion approved as written. Unanimously approved. MOTION CARRIED. (See Amendment # 2015-1 attached.)**

In order to expedite this change, Chair Smith asked the Zoning Administrator to prepare the paperwork and submit it to the county so it can be put on their next meeting agenda.

The Public Hearing for Special Use Permit for Open Space Storage at 16167 Wanigan Dr. has been cancelled as the hearing was not properly noticed. It will be rescheduled.

Chair Smith asked Rod Hammond to attend the meeting anyway just for preliminary review purposes. There was discussion about fencing placement, property lines, and easements.

Larry Nix suggested the possibility of changing this request into an “Overflow Parking Lot” rather than Open Space Storage.

This was received as a positive change and would simplify the process. Chair Smith asked for a sketch plan review for the parking and display garden area.

Rod Hammond officially withdrew his application for a Special Use Permit for Open Space Storage. There will be a decision at a later time what to do with the application fee.

Motion called to accept the application withdrawal.

M/S Lundy/Amos Unanimously approved **MOTION CARRIED**

Chair Smith expressed some concerns about the Wiltse Storage Project, green belt/fencing issues and wondered if any of the other Commission members would like to visit the subject at a later time. It was decided to put this discussion on a “To-Do” list .

Old Business: None

New Business: None

Public Comment: Pat Brady commented on the large storage buildings going up on US31 South.

Member Comment: None

Adjourned: Meeting adjourned at 8:05 PM

M/S Amos/Lundy

**ELK RAPIDS TOWNSHIP
ANTRIM COUNTY, MICHIGAN**

Ordinance No. _____

AN ORDINANCE TO AMEND THE ELK RAPIDS TOWNSHIP ZONING ORDINANCE; TO AMEND SECTION 1.03 TO ADD NEW DEFINITIONS; TO AMEND SECTION 3.03,A TO PROVIDE FOR ADDITIONAL SIGNS; AND TO AMEND SECTION 6.01 TO PROVIDE FOR A WINERY IN THE AGRICULTURAL ZONE.

ELK RAPIDS TOWNSHIP, ANTRIM COUNTY MICHIGAN, ORDAINS:

Section 1. Amendment of Section 1.03. Section 1.03 is amended to include the following definitions, in alphabetical order:

Tasting Room: A facility where the following activities take place; (1) tasting of fresh and/or processed agricultural produce such as wine, fruit wines, and non-alcoholic fruit juices; (2) retail sales of winery products by the bottle for off-premises consumption; and (3) sales of wine by the glass for on premises consumption.

Winery: A state-licensed facility where agricultural fruit production is maintained, juice is processed into wine, stored in bulk, packaged, and sold at retail or wholesale to the public with or without the use of a wine tasting facility. The site and buildings are used principally for the production of wine. A winery may also include a tasting room.

Section 2. Amendment of Section 3.03, A. Section 3.03, A is amended to read as follows:

A. Business Identification Signs – On premise signage that identifies a business or other commercial enterprise. A permanently fixed changeable copy sign may be used in combination as an integral part with a business identification sign.

- Number Limitation: Two (2)
- Size Limitation: Fifty (50) square feet total signage
- Time Limitation: Permanent
- Zones Allowed: C & M Zones

Winery Identification Sign – On premise signage that identifies a winery authorized in Section 6.01(O) is permitted. A permanently fixed changeable copy sign may be used in combination as an integral part of the signage provided the following standards are met.

Number Limitation:	Two (2)
Size Limitation:	Fifty (50) square feet total signage
Time Limitation:	Permanent

Section 3. Amendment of Section 6.01. Section 6.01 is amended to include a new subsection O, which reads as follows:

- O. Wineries, with or without a tasting room applying the following standards:
 - 1. An application for a winery shall include a site plan in accordance with this ordinance, Chapter 17, with detail on parking, sanitation, refuse and solid waste management, outdoor lighting, fencing, crowd control, on-site vehicular and pedestrian circulation, details on any public address system and equipment, signage and related existing and proposed facilities, as applicable. In addition, the application shall include a complete written description of the proposed use, the services to be provided, the maximum number of patrons anticipated on site at any time, hours of operation, activities to be conducted and any other information necessary to properly convey the nature of the facility proposed. Such written description shall be considered a part of the site plan application to be relied upon by the Township in granting any approval.
 - 2. The winery shall comprise only a small part of the property, so that the agricultural use of the site is predominant and the winery use is secondary. The Township may approve a proposed departure from this requirement if it finds that the proposed winery and its activities are substantially farm-related or that the establishment and its activities would not have impacts on the vicinity similar to impacts generated by a commercial business, including consideration of traffic, light pollution, noise, blowing trash, signage, odor, and aesthetics.
 - 3. A winery shall be located on a parcel of at least ten (10) acres.
 - 4. All buildings associated with the winery shall be set back at least 100 feet from any lot line.
 - 5. Tasting rooms and food service activities, if provided, shall at all times comply with any and all requirements of the Health Department of Northwest Michigan and the Michigan Liquor Control Commission and evidence of applicable agency review and approval shall be provided to the Township.
 - 6. The Township may require landscaping and other features to screen the use from adjacent properties and the Township may impose limitations on the operation of the facility to protect adjacent properties

from its impacts. Such limitations may pertain to hours of operation, outdoor lighting, outdoor activities, noise, and other elements.

7. The applicant shall demonstrate that all vehicular parking will occur on the site. A pervious parking surface is permitted, subject to demonstration by the applicant that dust would be controlled.
8. This section is not intended to regulate farming and associated farming related activities that are subject to the provisions of the Michigan Right to Farm Act, provided that generally accepted agricultural management practices (GAAMPs) are followed.
9. On premise signage that identifies a winery is permitted. A permanently fixed changeable copy sign may be used in combination as an integral part the signage provided the following standards are met.

Number Limitation:	Two (2)
Size Limitation:	Fifty (50) square feet total signage
Time Limitation:	Permanent

Section 4. Severability and Captions. This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

Section 5. Repeal. Any existing ordinance or resolution that is inconsistent or conflicts with this Ordinance is hereby repealed to the extent of any such conflict or inconsistency.

Section 6. Effective Date. This Ordinance is ordered to take effect seven (7) days following publication of adoption in *The Elk Rapids News*, a newspaper having general circulation in the Township, under the provisions of 2006 Public Act 110, except as may be extended under the provisions of such Act.

ROLL CALL VOTE:

YES:
NO:

Declared adopted on: [DATE].

William White, Township Supervisor

Shelley Boisvert, Township Clerk

Elk Rapids Township Planning Commission

Meeting Minutes – Tuesday, October 20, 2015 2nd Draft

- Present: Shen Smith, Jim Lundy, Pug Sliger, William Larson, Dorrance Amos, Renee' Mischel
- Absent: Jean Derenzy
- Others Present: Len Harrett, Zoning Administrator, Larry Nix, Planner, William Derman, Attorney
- Called to Order: Chair Smith called the meeting to order at 6:30 PM with a quorum present.
- Adoption of Agenda: Agenda for the October 20, 2015 meeting unanimously adopted by the commission.
M/S – Lundy / Mishcel **MOTION CARRIED**
- Public Comments: None
- Approval of Minutes: Minutes for the September 15, 2015 meeting were tabled until the next meeting of the
M/S – Amos / Lundy Planning Commission due to some changes the Zoning Administrator suggested but were not available at this meeting. **MOTION CARRIED**

Zoning Admin Report:

Len Harrett reported he has heard nothing from Pine Hollow.

Regarding the Hayden development, their application for Land Division has been approved and copies sent to Equalization and also to the applicant to create 3 buildable lots on the south side of Orchard Drive. A professional engineer has been verifying the road improvements and his findings have been completed. The engineer forwarded his report and his final billing to Shelley Boisvert, the Township Clerk. Chair Smith expressed some concern about a portion of the letter that indicated that the thickness of the blacktop was not up to the engineers standards, ie, how will it stand up to heavy trucks using the road. Harrett indicated that the thickness of the asphalt is to the Township Ordinance standards. The developer has also committed to putting another layer of asphalt on Orchard Drive when the future new north-south road is built that will service an additional 10 parcels. This development will require Planning Commission review.

Following up on the Winery Ordinance, Attorney William Derman put the amendment before the Township board the previous week and that he would publish the documentation in the Elk Rapids News. Chair Smith let the Commission members know that Emil Sabty offered to help Larry Nix codify the chapters for the amendment on the website.

There will be a ZBA meeting for property Williams Court (Wequagama Park Subdivision) in November.

Public Hearing:

Merchant Builders

M/S – Lundy/Amos Opening of the Public Hearing to consider a 72 x 40 ft warehouse to the back end of the Merchant property at 8692 Carin Hwy. Chair Smith is incorporating the official notice from the newspaper into the minutes. **MOTION CARRIED**

Pug Sliger abstained as his son is an employee of Merchant Builders and felt there would be a conflict of interest. Even though the Planning Commission determined there was not a conflict of interest, and as there were enough members in attendance for the vote, Sliger chose to abstain from voting.

Public Hearing:
Continued

The Zoning Administrator spoke of a couple of his initial concerns, but after further consideration he had no issues. Chair Smith asked if any members had any questions regarding the Williams & Works memo. There was a short discussion regarding the Public Health approval of the Septic System and whether or not it was necessary. It was determined this was matter of due process.

Larry Nix asked if the Zoning Administrator has a “sealed copy” of the site plan. (No, he does not.) Further requirements are, a letter from the Drain Office (Heidi Schaffer) , and a letter from the Fire Department (Pete VanDenBerg). Nix also questioned the “Dust Collector” that is located on the property and wondered where that will be relocated to as it wasn’t on the plans. (that was clarified).

The Planner recommended the approval of the plans, with the conditions that the following be submitted:

- 1) Sealed drawings be submitted to the Zoning Administrator,
- 2) A letter from the Antrim Cty Health Dept. regarding the suitability of the Septic System
- 3) A letter from the Township Fire Department signing off on the project.

Chair Smith spoke of a call she received from a resident on Spirea Drive and their concerns with the lighting on the new building. It was clarified that “Shoe Box” type lighting with no more than 100 watt bulbs will be used.

There was no Public Input.

Public Hearing Closed

M/S – Mischel/Larson

MOTION CARRIED

Chair Smith entertained a Motion to approve the **Merchant Warehouse** Site Plan be approved with the conditions of:

- 1) Sealed drawings be submitted to the Zoning Administrator (one original and two copies)
- 2) A letter from the Antrim Cty Health Dept. regarding the suitability of the Septic System and
- 3) a letter from the Township Fire Department signing off on the project.

M/S - Lundy/Smith

MOTION CARRIED

4- Yes 0-No 1-Abstain

Uncle Rod's Automotive Repair

The Commission will put this application on hold and requested new sealed, “to scale” site plans that show the property lines and required Green Belt.. Chair Smith let Mr. Hammond know that the Commission would schedule a special meeting if need be when he was ready. She also requested that the Township not cite Uncle Rods again, while this process is in motion.

Chair Smith then entertained a motion to waive the site plan requirements of topsoil types and topography of the lot.

M/S – Lundy / Sliger

MOTION CARRIED

The Commission asked Larry Nix to review the Elk Rapids Township Ordinance regarding fencing and green belt requirements, primarily between Commercial and Commercial and Ag and Commercial properties. Mischel also requested a short review of surrounding Township requirements for comparison.

New Business: Selection of Officers for the Elk Rapids Township Planning Commission
M/S – Amos/Sliger A motion was made to re-affirm the current officers for the next year (2016)
Shen Smith – Chair, Jim Lundy - Secretary, Renee’ Mischel – Vice Chair

MOTION CARRIED

M/S – Mischel/Lundy To amend the Agenda Format To delete the “Public Forum” from the Agenda, leaving the 1st “Public Comment” in the beginning of the meeting and the 2nd “Public Comment” toward the end of the meeting.

MOTION CARRIED

Public Comments: None

Member Comments: None

M/S – Lundy/Amos Motion to Adjourn at 8:03 pm

Elk Rapids Township Planning Commission
Meeting Minutes – Tuesday November 17, 2015 Corrected & Approved

Present: Shen Smith, Pug Sliger, Dorance Amos, Renee' Mischel

Absent: Jim Lundy, Jean Derenzy

Also Present: Len Harrett, Zoning Administrator, Larry Nix, Planner, William Derman, Attorney Rod Hammond, Brian Altonen and 5 others

Called to Order: Chair Smith called the meeting to order at 6:40 pm with a quorum present.

Adoption of Agenda: Agenda for the November 17, 2015 meeting unanimously adopted by the commission.
M/S – Mischel/Amos **Motion Carried**

Public Comments: None

Approval of Minutes: Minutes for the September 15, 2015 meeting unanimously adopted by the Commission
M/S – Mischel/Amos with the deletion of the word "equally" in the second paragraph of the Zoning Administrators Report. **Motion Carried**

M/S – Amos/Sliger Minutes for the October 20, 2015 meeting unanimously adopted by the commission, as published. **Motion Carried**

Zoning Administrators Report: Harrett has heard nothing on the Hayden Development project and has not received any correspondence regarding new requests.

#1 Review – Site Plan Modification /Expansion for existing site plan on approved Sept/2003 site plan for Rodney Hammond, Uncle Rod's Automotive on property located at 16175 Wanigan Dr. Elk Rapids Township MI. Review is to consider approval to add U-Haul rental and display activities to the site (Property Tax ID# 05-06-029-008-15) zoned commercial

Len Harrett, Zoning Administrator presented the proposed site plan to the Commission, along with his suggestion that the number of vehicles allowed in the area along Wanigan Dr. that will be used for displaying the vehicles that are available, be limited to a certain allowed number .

Larry Nix, Planning Consultant: As published, see Williams and Works recommendations attached. (approved with conditions) with the exception of a decision on how many vehicles can be parked on Wanigan Dr. at one time. Mr. Hammond is requesting 5 be allowed at one time.

Public Comment:

Gary Gretel representing the Grace Lutheran Church, located on the corner of US31 S and Wanigan Drive: voicing the concern of the Church members about the amount of vehicles parked along Wanigan Drive and could they be parked as such the that the tongues of said vehicles not be facing out as to impede church parking and grounds keeping. He also confirmed whether or not Uncle Rod's was planning to have a sign other than on their building. He is not.

Mr. Hammond indicated that he is willing to work with the church regarding the parking matter.

Chair Smith called for a motion to approve Review # 1 for the addition of parking and rentals of U-Haul Trailers and vehicles at the Uncle Rod's Automotive property located at 16175 Wanigan Dr. Elk Rapids Township, MI with the 6 conditions as outlined by our Township Planner, Larry Nix of Williams & Works. Specifically the amendment of #5, stating that any number of vehicles in excess of 5 at a time, would be moved to the overflow parking area.

- 1. All of the conditions and stipulations of the original site plan will remain in effect.**
- 2. The display of U-Haul vehicles shall be as indicated on the new site plan dated October 25, 2015.**
- 3. U-Haul vehicles may be parked on the overflow parking lot.**
- 4. There shall be no more than five (5) Uhaul products (trucks and trailers) displayed adjacent to Wanigan Drive on the Uncle Rod's Automobile Repair site.**
- 5. There shall be no more than 5 U-Haul products (trucks and trailers) parked on the Uncle Rod's Automobile Repair and U-Haul Rental site and the overflow parking area. (Need to work with the applicant to determine this number)**
- 6. All site signage shall be consistent with the provisions of the Elk Rapids Township Zoning Ordinance.**

M/S

Amos/Mischel Unanimously approved **Motion Carried**

Review # 2 – Site Plan Modification/Expansion for Existing Site Plan on approved site plan for the above described Uncle Rod's Automotive, Rodney Hammond, owner, to include a parking lot for the purpose of additional client repair auto parking and U-Haul rental trailers and vehicles. (Property Tax ID #05-06-385-016-00) & 05-06-385-017-00) located at 16167 Wanigan Drive, Elk Rapids, MI 49629.

Zoning Administrator questioned the Green Belt requirements, along with a time limit as to when the debris that is currently being stored outside belonging to Gordon Converse be removed. Additionally, what about outdoor down lighting in the future? Larry Nix indicated any additions to the approved site plan will require a future modification to the approved site plan. At this time, Chair Smith acknowledges a letter received to the Commission from Gordon Converse, current owner of the property, stating his support of the proposed use of the land and the objection to the required green belt requirements.

Zoning Administrator also let the Commission know that he is in receipt of the previously required "sealed" site plans.

Township Planner suggests approval of the request with outlined considerations:

- 1. There will be no outdoor storage on the parking lot site. All storage must be contained within the two existing buildings on the site.**
- 2. The parking area shall be maintained in a neat and orderly fashion at all time during the year.**
- 3. No inoperable or dismantled vehicles shall not be parked on the site.**
- 4. Vehicles shall not trespass on any adjacent property. All access shall be via Wanigan Drive.**

Zoning Administrator suggested #3 be changed to “No unlicensed vehicles” shall be parked on site. It was also suggested : # 5 and 6 be added to the conditions as follows:

5. The cleanup of all outside rubbish be removed by June 30, 2016 or risk being cited.
6. All planting and landscaping shall be accomplished by June 30, 2016. Which includes 5’ tall Blue Spruce trees on 8’ Centers spanning the south property line.

Chair Smith called for a motion to approve the **#2 Review – Site Plan Modification/Expansion for Existing Site Plan** as outlined by the Township Planner, Larry Nix, of Williams and Works as published, with modification to #3 and the addition of #5 and #6.

3. No unlicensed vehicles shall be parked on the site.
5. The cleanup of all outside rubbish be removed by June 30, 2016 or risk being cited.
6. All planting and landscaping shall be accomplished by June 30, 2016. This shall include 5’ tall Blue Spruce trees on 8’ centers spanning the south property line.

M/S # 2 Review is unanimously approved by the Commission.
Mischel/Sliger **Motion Carried**

Unfinished Business:

1. Brian Altonen regarding Township Zoning Ordinance Winery: After some discussion the Commission authorized, Larry Nix, Township Planner to meet with Mr. Altonen to discuss his questions and his options.
2. Township Greenbelt/Fencing Requirements for Commercial Property abutting Agricultural. After discussion, Commission consensus is to table the discussion until the Township Planner can provide a re-write of the proposed Greenbelt text amendments.
3. Township Planner update on status of the PHI project: There is nothing to report. At this point, the Commission should consider this issue closed.

New Business: None

Public Comments: None

Member Comments: Zoning Administrator asked if there will be a December meeting. Not at this time.

Bill Derman, Township Attorney commented on Green Belt and fencing requirements and the changes that are being made at 365 Outdoor Maintenance which have not been approved.

Adjournment: Motion to Adjourn at 8:49 PM
M/S – Amos/Mischel