ELK RAPIDS TOWNSHIP PLANNING COMMISSION
TOWNSHIP OF ELK RAPIDS - ANTRIM COUNTY, MICHIGAN
P.O. BOX 175 - ELK RAPIDS, MICHIGAN 49629
(616) 264-5855

DECEMBER 17, 1990

THE REGULAR MONTHLY MEETING OF THE ELK RAPIDS PLANNING COMMISSION WAS CALLED TO ORDER AT 7:35 P.M. ON DECEMBER 17, 1990, ELK RAPIDS TOWNSHIP HALL BY THE SECRETARY, SHEN SMITH IN THE ABSENCE OF THE CHAIRMAN AND VICE CHAIRMAN. THIS MEETING IS BEING TAPED TO HELP WITH THE COMPILATION OF THE MINUTES. NOTE: THIS MEETING WAS ORIGINALLY SCHEDULED FOR 12/3/90 BUT DUE TO WEATHER WAS RESCHEDULED TO 12/10/90, WHICH WAS AGAIN RESCHEDULED TO 12/17/90.

ROLL CALL PRESENT
BILL WHITE
SHEN SMITH
FELIX CASILLAS
DEAN VELIQUETTE
LEONARD KLEIN

ABSENT
DICK JOBE
TODD PARENT

A QUORUM WAS ESTABLISHED

A MOTION WAS MADE BY LEONARD KLEIN, SECONDED BY DEAN VELIQUETTE, TO APPOINT FELIX CASILLAS ACTING CHAIRMAN. MOTION CARRIED

FELIX OPENED THE MEETING WITH THE FIRST ORDER OF BUSINESS BEING DISCUSSION ON THE PENDING "PINES PROJECT". BRUCE ORTENBURGER, PLANNING CONSULTANT FOR THE TOWNSHIP READ HIS REPORT OF THE FINDINGS OF FACT AND THE STAFF COMMENTS FOR THE COMMISSION. AN ADDENDUM AS TO WHAT USE THE PROPERTIES IN QUESTION MIGHT HAVE IF PROJECT WAS NOT APPROVED WAS ACCEPTED AND ADDED TO HIS REPORT DATED 12/17/90.

THE PLANNING COMMISSION NOTED AND CORRECTED OMISSIONS FROM THE REPORT FROM BRUCE ORTENBURGER, DATED 12/17/90. TO BE ADDED BACK TO BRUCE ORTENBURGER'S REPORT ON PAGE 10 THE FOLLOWING SUBPARAGRAPHS TO BE CORRECTED:

3. OPEN SPACE - ALL OPEN AREAS ON THE FINAL SITE PLAN SHALL REMAIN OPEN IN THEIR NATURAL STATE. NO STRUCTURES OR IMPROVEMENTS SHALL BE ALLOWED IN THESE AREAS.

7. THE R-1 PROPERTY SHALL REMAIN ZONED R-1 WITH THE R-3 PROPERTY TO REMAIN ZONED R-3.

DISCUSSION ON THE MASTER DEED INDICATED THAT THE DEED RECEIVED WITH THE REVISED SITE PLAN AND STATEMENT FROM CDI, MR. TOM PHILLIPS WAS NOT THE SAME MASTER DEED THAT WAS ORIGINALLY SUBMITTED WITH THE DEVELOPER'S APPLICATION. JOE FISHER, ATTORNEY FOR THE PROJECT STATED THAT THEY WILL MAKE ANY EXTRACTIONS THE PLANNING COMMISSION FEELS NECESSARY AND WILL INCORPORATE ALL CONDITIONS OF THE PLANNING COMMISSION INTO THE DEED.

QUESTION WAS RAISED AS TO THE FEASIBILITY OF REQUIRING THE SEWER AND WATER HOOKUPS TO BE BROUGHT TO THE PROPERTY LINE PRIOR TO ANY CONSTRUCTION. JOE FISHER STATED THAT AN OCCUPANCY PERMIT WOULD NOT BE ISSUED UNTIL VILLAGE WATER AND SEWER HAD BEEN INSTALLED.

THE QUESTION OF THE TRESPASS FENCING WAS DISCUSSED. DEVELOPER SHALL MEET WITH THE ADJACENT PROPERTY OWNERS TO COLLECTIVELY DETERMINE THE TYPE OF AND LENGTH OF FENCING THAT WILL SATISFY THE NEEDS OF THOSE NEIGHBORS. IF THE DEVELOPER AND THE ADJACENT NEIGHBORS ARE UNABLE TO COME TO AN AGREEMENT, THE PLANNING COMMISSION SHALL MAKE THE FINAL DECISION AS TO THE TYPE AND LENGTH OF THE TRESPASS FENCING.

A QUESTION WAS RAISED AS TO ANY PRECEDENCE THE ULTIMATE APPROVAL OF THIS PROJECT WOULD HAVE ON THE APPROVAL OF ADDITIONAL PROJECTS OF THIS NATURE ON ADJACENT PARCELS OF LAND. IT WAS STATED BY THE PLANNING COMMISSION AND BY LEGAL COUNSEL FOR THE TOWNSHIP, THAT EACH PROJECT IS A STAND ALONE PROJECT AND WOULD BE DETERMINED ON IT'S OWN MERIT FOR APPROVAL OR REJECTION THUS NOT CREATING A SITUATION WHICH COULD SET PRECEDENCE.

A LETTER FROM ROBERT STREIT WAS RECEIVED AND MADE PART OF THE RECORD. CERTAIN REQUESTS HE DESIRES TO BECOME PART OF THE FINAL CONDITIONS WERE REVIEWED. IT WAS DETERMINED BY THE PLANNING COMMISSION THAT RESTRICTIONS SHALL BE PLACED IN THE FINAL CONDITIONS OF APPROVAL THAT WILL PROTECT THE ADJACENT PROPERTIES FROM THE RUNOFF OF WATER, SOIL, ETC., WHICH MIGHT OCCUR DUE TO ANY VARIATIONS OF FINAL GRADE LEVEL BETWEEN THE PROPERTIES IN QUESTION.

IT WAS NOTED THAT AT NO PLACE IN ANY DOCUMENTS RECEIVED TO DATE DOES IT TATE THAT ALL STRUCTURES OR IMPROVEMENTS EXISTING ON THE PROPERTIES ALL BE REMOVED. THE PLANNING COMMISSION SHALL ADD AS A CONDITION IN THE ULTIMATE FINAL APPROVAL THAT ALL STRUCTURES AND IMPROVEMENTS EXISTING ON THE PROPERTIES IN QUESTION SHALL BE REMOVED IN ACCORDANCE WITH THE FINALLY APPROVED SITE PLAN.

IT WAS FURTHER NOTED, THAT THE SITE PLAN WHEN IT RECEIVES A FINAL APPROVAL SHALL SHOW THE EXACT LOCATION OF ALL STRUCTURE AND ANY IMPROVEMENTS PLANNED FOR THE PROPERTY. IF A SWIMMING POOL WOULD BE DESIRED THESE IMPROVEMENTS SHALL BE SHOWN ON THE SITE PLAN AND APPROVED BY THE PLANNING COMMISSION PRIOR TO THE FINAL PROJECT APPROVAL.

THE GREENBELT WAS DISCUSSED TO DETERMINE IF THERE WAS REASON TO REQUIRE IT TO BE IN PLACE PRIOR TO CONSTRUCTION. BILL DERMAN AND KEN SMITH STATED THAT DUE TO THE PROBLEMS THIS TOWNSHIP HAS HAD IN THE PAST WITH GREENBELTS, THIS GREENBELT SHALL BE IN PLACE PRIOR TO THE START OF ANY CONSTRUCTION. A LATE APRIL START DATE IS PROPOSED BY THE DEVELOPER IF HE RECEIVES A FINAL APPROVAL.

A MOTION WAS MADE BY LEONARD KLEIN, SECONDED BY SHEN SMITH, TO ACCEPT "THE FINDING OF FACTS/STATEMENT OF CONCLUSIONS" DATED 12/17/90 (W/ADDENDUM OF 12/17/90) FROM BRUCE ORTENBURGER, FOR FURTHER STUDY SO AS TO NOT DELAY THE PROJECT. MOTION CARRIED

A MOTION WAS MADE BY LEONARD KLEIN, SECONDED BY DEAN VELIQUETTE, TO ACCEPT THE LETTER RECEIVED FROM CDI (MR. TOM PHILLIPS) AS PART OF THE VISED SITE PLAN BEING SUBMITTED FOR FINAL APPROVAL, WITH THE FOLLOWING RECTIONS TO THAT LETTER DATED 12/13/90.

SUBPARAGRAPH 2 - BE CORRECTED TO REPLACE 18% WITH 22% AND 26 UNITS WITH 24 UNITS.

SUBPARAGRAPH 3 - BE CORRECTED TO READ:

" 3. NO OUTSIDE STORAGE OF VEHICLES OR PERSONAL PROPERTY SHALL BE ALLOWED WITHOUT OBTAINING TOWNSHIP APPROVAL.

FACILITIES FOR THE OUTSIDE STORAGE OF VEHICLES OR PERSONAL PROPERTY ARE NOT PROPOSED AS PART OF THIS DEVELOPMENT.

SUBPARAGRAPH 7 - SHALL BE CORRECTED AND REPLACED TO READ:

"A GREENBELT DESIGNED TO ESTABLISH A SCREEN, AS DEFINED IN THE ORDINANCE OF 20-25 FEET IS RECOMMENDED ALONG THE NORTH AND SOUTH LINE IN THE VICINITY OF THE TWO EXISTING COTTAGES; BEGINNING AT THE FARTHEST WEST BUILDING LINE AND EXTENDING EAST APPROXIMATELY 360 FEET (THE LENGTH OF THE PARALLELING ACCESS DRIVE).

IN ADDITION, ALONG EACH SIDE LINE, A FENCE OR WALL BE ESTABLISHED TO PROTECT ADJOINING PARCELS FROM TRESPASS.

THE GREENBELTS AND FENCES SHALL BE ESTABLISHED BEFORE A TOWNSHIP LAND USE PERMIT FOR CONSTRUCTION IS ISSUED.

GREENBELTS AND LANDSCAPING CONCEPT ARE DESIGNATED ON THE REVISED SITE PLAN. DEVELOPER SHALL MEET WITH THE ADJACENT PROPERTY OWNERS TO COLLECTIVELY DETERMINE THE TYPE OF AND LENGTH OF FENCING THAT WILL SATISFY THE NEEDS OF THOSE NEIGHBORS. IF THE DEVELOPER AND THE ADJACENT NEIGHBORS ARE UNABLE TO COME TO A MUTUALLY SATISFACTORY AGREEMENT, THE PLANNING COMMISSION SHALL MAKE THE FINAL DECISION AS TO THE TYPE AND LENGTH OF THE TRESPASS FENCING.

SUBPARAGRAPH 10 - 2ND PARAGRAPH IN SUBPARAGRAPH 10 TO READ:

"MUNICIPAL WATER AND SEWER SHALL BE REQUIRED FOR THE PROJECT."

SUBPARAGRAPH 19 - 2ND PARAGRAPH TO BE REPLACE WITH

"A PERFORMANCE GUARANTEE WILL BE PROVIDED."

MOTION CARRIED

FELIX CASILLAS AGAIN NOTED THAT THE MASTER DEED SUBMITTED TO THE PLANNING COMMISSION WITH THE REVISED SITE PLAN WAS NOT THE SAME MASTER DEED AS PREVIOUSLY SUBMITTED AND THAT THERE WAS SUFFICIENT CONFUSION AS TO THE MEANING OF ARTICLE IX TO REQUIRE THAT IT BE REMOVED FROM THE MASTER DEED. JOE FISHER STATED THAT THE PLANNING COMMISSION WAS UNABLE WITHOUT LEGAL COUNSEL TO CORRECTLY INTERPRET THE MEANING OF ABOVE REFERENCED ARTICLE BUT THEY WOULD BE WILLING TO REWRITE SUBPARAGRAPH (H) FOR MORE CLARITY.

THE PLANNING COMMISSION SHALL REQUIRE THE REMOVAL OF ARTICLE IX FROM THE PROPOSED MASTER DEED AND THE INSERTION OF ANY ADDITIONAL SAFEGUARDS THAT 'LL GUARANTEE THAT THE PROJECT AND THE MASTER DEED AS FINALLY APPROVED ,LL NOT BE INJURIOUS TO THE SURROUNDING NEIGHBORHOOD AND NOT CONTRARY TO THE SPIRIT AND PURPOSE OF THE ORDINANCE.

THE PLANNING COMMISSION DETERMINED THAT "THE PINES CONDOMINIUM PROJECT" WOULD BE WITHOUT QUESTION A STAND ALONE PROJECT. THERE SHALL BE NO VAGUE OR AMBIVALENT TERMINOLOGY WHICH MIGHT POSSIBLY BE MISUNDERSTOOD BY ANY PEER GROUP IN THE FUTURE REVIEWING SAID FINALLY RECORDED MASTER DEED, WHICH WOULD DEVIATE THE SCOPE OF THE PROJECT FROM THE FINALLY APPROVED SITE PLAN, SITE PLAN DOCUMENTS AND CONDITIONS OF THE FINAL APPROVAL.

A QUESTION WAS RAISED AS TO ANY EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD CURRENTLY RESIDING WITH THE PROPERTIES IN QUESTION. JOE FISHER STATED THAT THERE MAY BE ONE EASEMENT ON ONE OF THE PARCELS AND OTHER THAN THAT HE WAS NOT AWARE OF ANY OTHERS. A COPY OF THE ABSTRACTS WILL BE CHECKED FOR ANY SPECIFIC EASEMENTS, RESTRICTIONS OR RESERVATIONS OF RECORD WHICH WOULD BE IN AFFECT ON THE PROPERTIES IN QUESTION WHICH MIGHT HAVE BEARING ON THIS PROJECT.

JOE FISHER STATED THAT THE REVISED MASTER DEED WITH DEED REFERENCED EXHIBITS A & B, BY-LAWS AND RULES, AND THE ARTICLES OF INCORPORATION WOULD BE AVAILABLE TO THE PLANNING COMMISSION DURING THE WEEK OF JANUARY 7TH. A TASK FORCE WAS CREATED TO REVIEW, MODIFY AND MAKE RECOMMENDATION TO THE PLANNING COMMISSION AS TO THE PROJECTS MASTER DEED ACCEPTANCE PRIOR TO ANY FINALIZATION OF THE PROJECT. THE TASK FORCE SHALL INCLUDE THE FOLLOWING PERSONS:

1. FELIX CASILLAS
2. BILL WHITE
3. BILL DERMAN
4. SHEN SMITH

A SUGGESTION WAS MADE THAT THE NUMBER OF UNITS BE DECREASED TO 20 UNITS INSTEAD OF 24. A LETTER WAS RECEIVED FROM TOM SCHLUENTZ WHICH WAS MADE PART OF THE RECORDS.

THE PLANNING COMMISSION HAS REVIEWED ALL MATERIAL SUBMITTED TO DATE AND HAS ACCEPTED THE FOLLOWING INTO THE RECORDS FOR CONSIDERATION OF THE FINAL APPROVAL.

1. THAT BRUCE ORTENBURGER'S FINDING OF FACTS/STATEMENT OF CONCLUSIONS (W/ADDENDUM) DATED 12/17/90 BE ACCEPTED AS CORRECTED WITHIN THESE MINUTES FOR FURTHER REVIEW. (EXHIBIT A)

2. THAT CDI (TOM PHILLIPS) LETTER DATED 12/17/90 BE ACCEPTED AS PART OF THE THE REVISED SITE PLAN AS AMENDED WITHIN THESE MINUTES. (EXHIBIT B)

3. THAT THE REVISED SITE PLAN MAP BE ACCEPTED AS SUBMITTED. (EXHIBIT C)

4. THAT THE TASK FORCE SHALL RECEIVE, REVIEW, MODIFY AND MAKE A RECOMMENDATION TO THE PLANNING COMMISSION AS TO SUFFICIENT GUARANTEES IN THE WORDING OF THE FINAL DEED TO BE RECORDED, THAT SHALL NOT BE DEEMED INJURIOUS TO THE SURROUNDING NEIGHBORHOOD AND NOT CONTRARY TO THE SPIRIT AND PURPOSE OF THE ORDINANCE.

5. THAT THE R-1 PROPERTY SHALL REMAIN ZONED R-1 WITH THE R-3 PROPERTIES TO REMAIN ZONED R-3 SHALL BECOME PART OF THE CONDITIONS OF FINAL APPROVAL.

6. THAT THE STATEMENT READ INTO THE MINUTES OF THIS MEETING BY BILL DERMAN SHALL BECOME PART OF THE CONDITIONS OF FINAL APPROVAL. (EXHIBIT D)

7. THAT RESTRICTIONS SHALL BE PLACED UPON THIS PROJECT TO PROTECT THE ADJACENT PROPERTIES FROM THE RUNOFF OF WATER, SOIL, ETC. WHICH MIGHT OCCUR DUE TO ANY VARIATIONS CREATED BY THE DEVELOPER IN FINAL GRADE DEVIATION BETWEEN THE PROPERTIES IN QUESTION.

8. THAT ALL STRUCTURES AND IMPROVEMENTS EXISTING ON THE PROPERTY SHALL BE REMOVED TOTALLY PRIOR TO THE COMMENCE OF ANY CONSTRUCTION.

9. THAT ALL OPEN SPACE SHOWN ON SITE PLAN FOR FINAL APPROVAL SHALL REMAIN OPEN WITH NO STRUCTURES OR IMPROVEMENTS ALLOWED, OR THE REMOVAL OF TREES AND VEGETATION FROM THIS OPEN SPACE.

A REPORT FROM THE TASK FORCE WILL BE RECEIVED AT THE REGULAR MONTHLY MEETING IN FEBRUARY.

UNFINISHED BUSINESS

THE CHECK BEING HELD ON TED VELIQUETTE'S APPLICATION WILL BE RETURNED TO MR. VELIQUETTE AS THE REQUESTED REQUIREMENTS FOR APPLICATION WERE NEVER RECEIVED ON HIS PROPOSAL.

KEN SMITH REPORTED THAT THE TOWNSHIP BOARD HAS ADOPTED THE ZONING ORDINANCE AMENDMENT REGARDING WORDING CHANGE ON THE NATIVE PROTECTION STRIP WHICH WILL TAKE EFFECT IMMEDIATELY UPON PUBLICATION.

NEW BUSINESS

IT WAS NOTED THAT THE PLANNING COMMISSION HAS NOT ELECTED NEW OFFICER'S FOR THE ENSUING YEAR. BILL WHITE WILL CONTACT TODD PARENT AS TO HIS PLANS FOR THE COMING YEAR. ELECTIONS TO TAKE PLACE AT THE REGULAR JANUARY MEETING.

AS THERE WAS NO FURTHER BUSINESS AT THIS TIME, A MOTION WAS MADE BY LEONARD KLEIN, SECONDED BY DEAN VELIQUETTE TO ADJOURN. MOTION CARRIED

MEETING WAS ADJOURNED AT 10:10 P.M.

RESPECTFULLY SUBMITTED,

Jean B. Smith
JEAN B. SMITH
SECRETARY

EXHIBIT A: BRUCE ORTENBURGER'S REPORT W/ADDENDUM DATED 12/17/90
EXHIBIT B: CDI (TOM PHILLIPS) LETTER DATED 12/17/90
EXHIBIT C: REVISED SITE PLAN DRAWING
EXHIBIT D: STATEMENT FROM BILL DERMAN, AS READ INTO THESE MINUTES