Elk Rapids Township Planning Commission
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May 3, 2007

The Regular Monthly Meeting of the Elk Rapids Township Planning Commission was called to order by Chairman, Emile Sabty, on Thursday, May 3, 2007, at 6:30 PM, at the Government Center, 315 Bridge Street, Elk Rapids, MI. Present: Emile Sabty, Shen Smith, William Larson, Brian Altonen, Jim Lundy, Renee Mischel & Don Glowicki, Jr. A quorum was established. Absent: Len Harrett. Also Present: Larry Nix, Patrick Brady, Mary Cooper & Jane White.

Minutes – April 2007 Meeting: The minutes from the April meeting were not available for this meeting.

Public Forum: No input from the public was received.

PUBLIC HEARINGS: Emile Sabty opened the public hearing on Elk Rapids Township Zoning Ordinance Amendments 2007 #01, 02 & 03. No letters or correspondence was received. Amendments were reviewed by the PC and the public was invited to comment on the proposed amendments.

Amendment # 2007- 01 (7-11-2006)

Amendments to the Elk Rapids Township Zoning Ordinance, to conform to the Michigan Zoning Enabling Act, Public Act 110 of 2006, effective July 1, 2006 as amended, which replaced the Township Zoning Act. The amendments incorporate the changes made necessary by the new legislation.

Part 1. The Zoning Ordinance, Opening Paragraph, is amended to read as follows:

An Ordinance to provide for the establishment of Zoning Districts in Elk Rapids Township, Antrim County, Michigan in accordance with the provisions of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, to provide for the administration of said Ordinance and penalties for the violation thereof. The People of the Township of Elk Rapids do ordain:

Part 2. Chapter 18, Sections 18.01 1st Paragraph, 18.05-B and 18.09-D, are amended to read as follows:

Section 18.01 – MEMBERS, APPOINTMENTS, TENURE, PER DIEM EXPENSES AND REMOVAL
There is hereby created a Township Zoning Board of Appeals of seven (7) members. The first member of the Zoning Board of Appeals shall be a member of the Township Planning Commission appointed by the Township Board, the second member may be a member of the Township Board appointed by the Township Board, provided that a 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, and the remaining members shall be selected by the Township Board from among the electors residing in the unincorporated areas of the Township; provided, that no elected officer of the Township nor any employee of the Township Board may serve simultaneously as the additional member of the Board as an employee of the Township Zoning Board of Appeals.

Section 18.05 – POWERS OF THE BOARD

B. Where by reason of the exceptional narrowness, shallowness, or shape of a specific piece of property on the effective date of this Ordinance, or by reason of exceptional topographic conditions, or other extraordinary conditions of land, buildings or structure, or of the development of property immediately adjacent to the property in question, the literal enforcement of the requirements of this Ordinance would involve practical difficulties.

Section 18.09 – PROCEDURE

D. When an applicant or appeal has been filed in proper form and with the required data, the Secretary of the Board shall immediately place the said application or appeal upon the calendar for hearing and publish and disseminate notices.

1. A notice shall be published once, at least fifteen (15) days prior to the date of the public hearing, in a newspaper of general circulation in the Township. A notice of public hearing shall be mailed by way of U.S. first class mail or personally delivered to the following persons, at least fifteen (15) days prior to the date of the public hearing:

   (a) The applicant.

   (b) All persons to whom real property is assessed within three hundred (300) feet of the property that is the subject to the application.

   (c) The occupants of all structures within three hundred (300) feet of the property that is the subject of the application. If the name of the occupant is unknown, the term "Occupant" may be used in making notification. If the above-described three hundred (300) foot radius extends outside of the Township's boundaries, then notice must be provided outside of the Township boundaries, within the three hundred (300) foot radius, to all persons in the above-stated categories.

2. The notice of public hearing shall include the following information:

(a) A description of the nature of the application or request.

(b) An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property.

(c) State when and where the application or request will be considered.

(d) Identify when and where written comments will be received concerning the application or request.

3. Any party may appear at a Zoning Board of Appeals hearing in person or by agent or attorney.

Part 3. Chapter 19, Sections 19.06-F-2 & 4 and 19.07-C, are amended to read as follows:

<u>Section 19.06 – AMENDMENTS</u>

F. Duties of Planning Commission and Township Board

2. When an application for rezoning has been filed in proper form and with the required data, the Secretary of the Planning Commission shall immediately place the said application upon the calendar for hearing and publish and disseminate notices.

a. A notice shall be published once, at least fifteen (15) days prior to the date of the public hearing, in a newspaper of general circulation in the Township. A notice of public hearing shall be mailed by way of U.S. first class mail or personally delivered to the following persons, at least fifteen (15) days prior to the date of the public hearing:

   (1) The applicant.

   (2) All persons to whom real property is assessed within three hundred (300) feet of the property that is the subject to the application; and

   (3) The occupants of all structures within three hundred (300) feet of the property that is the subject of the application. If the name of the occupant is unknown, the term "Occupant" may be used in making notification. If the above-described three hundred (300) foot radius extends outside of the Township's boundaries, then notice must be provided outside of the Township boundaries, within the three hundred (300) foot radius, to all persons in the above-stated categories.

b. The notice of public hearing shall include the following information:

(1) A description of the nature of the application or request.

(2) An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven (11) or more adjacent properties are being proposed for rezoning;

(3) State when and where the application or request will be considered.

(4) Identify when and where written comments will be received concerning the application or request.

c. Any party may appear at such hearings in person or by agent or attorney.

4. There after, the Township Board may adopt the same with or without any amendments or recommendations that have been previously considered by the Township or County Planning Commissions, and may make revisions in the same.

<u>Section 19.07 – SPECIAL EXCEPTION</u>

C. When an application has been filed in proper form and with the required data, the Secretary of the Planning Commission shall immediately place the said application upon the calendar for hearing and publish and disseminate notices.

1. A notice shall be published once, at least fifteen (15) days prior to the date of the public hearing, in a newspaper of general circulation in the Township. A notice of public hearing shall be mailed by way of U.S. first class mail or personally delivered to the following persons, at least fifteen (15) days prior to the date of the public hearing:

   a. The applicant.

   b. All persons to whom real property is assessed within three hundred (300) feet of the property that is the subject to the application.

   c. The occupants of all structures within three hundred (300) feet of the property that is the subject of the application. If the name of the occupant is unknown, the term "Occupant" may be used in making notification. If the above-described three hundred (300) foot radius extends outside of the Township's boundaries, then notice must be provided outside of the Township boundaries, within the three hundred (300) foot radius, to all persons in the above-stated categories.

2. The notice of public hearing shall include the following information:

a. A description of the nature of the application or request.

b. An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property.

c. State when and where the application or request will be considered.

d. Identify when and where written comments will be received concerning the application or request.

3. Any party may appear at such hearings in person or by agent or attorney.

<u>Amendment # 2007- 02 (10-3-2006)</u>

Amendments to the Elk Rapids Township Zoning Ordinance which conform to the Michigan Land Division Act, Public Act 288 of 1967, as amended (Act 591 of 1996). The amendments addressed are:

- Rename the Subdivision Control Act, as it appears in the Zoning Ordinance, to read the Land Division Act.
- Add reference to the Elk Rapids Township Land Division Ordinance of 1997 where appropriate.

Part 1. Chapter 2, Sections 2.18-A, 2.18-B. 2.18-C-5, and 2.18 D-3, 5 & 6 are amended to read as follows:

Section 2.18 - LOT CREATION, LAND DIVISION & CONDOMINIUM DEVELOPMENT

A. Approval Required - For the purposes of this Ordinance, the Township of Elk Rapids shall not recognize any lot which was not a lot of record as of the effective date of this Ordinance, or any amendment thereto, is not of sufficient size and configuration to meet all zoning requirements, or which has not been subsequently approved by the Elk Rapids Township Board as established under this Section. Subdivisions, site condominiums, or plats may be made only in accordance with the Michigan Subdivision Control\Land Division Act or the Michigan Condominium Act as amended and in accordance with the conditions of the Elk Rapids Township Subdivision Control Ordinance or the Land Division Ordinance and the Elk Rapids Township Zoning Ordinance

B. Application for Lot Creation, Land Division & Condominium Development -
Application for a lot creation, land division & condominium development shall be made to the Elk Rapids Township Clerk. If generally complete, the application shall be processed in accordance with this Ordinance and the Elk Rapids Township Subdivision Control Ordinance or the Land Division Ordinance. The application shall be signed by all parties of interest in the property.

C. 5. If the division or partition of the parcel will result in a lot size less than the requirements of the Land Division Act, Michigan Public Act 288 of 1967, as amended, and/or the applicable provisions of the Zoning Ordinance or its successor ordinance, if any, then the applicant shall submit in addition a fully executed affidavit in form legally sufficient for recording with the Antrim County Register of Deeds and signed by all persons who have any legal or equitable interest in the parcel, acknowledging that they understand the partitioned or divided parcel or parcels may not thereafter be developed or used separately, but only in conjunction with the adjoining parcel or parcels of land.

D. 3. All lots shall be provided with a satisfactory means of access to a public road or a private road complying with the provisions of this Ordinance and the provisions of the Elk Rapids Township Subdivision Control Ordinance or the Land Division Ordinance. Property lines shall be laid out to promote efficient development with shared access to roads available for future development.

5. No lot creations shall be granted which are contrary to, or in violation of, the Land Division Act, Michigan Public Act 288 of 1967, as amended.

6. No lot creation shall be approved if the division would reduce any required open space, yard space or off-street parking space below the minimums required by this Ordinance or if the division would effectively allow the avoidance of the requirements of this Ordinance and those of the Elk Rapids Township Subdivision Control Ordinance or the Land Division Ordinance.

Part 2. Chapter 2, Section 2.19-A amend to read as follows:

Section 2.19 – PRIVATE ROAD REGULATION

A. When private road development occurs in the Township of Elk Rapids and is not subject to the standards established under the Land Division Act, Michigan Public Act 288 of 1967, as amended, and the requirements of the Elk Rapids Township Subdivision Control Ordinance or the Land Division Ordinance, the following minimum private road standards shall apply. No person, firm, or corporation shall hereafter divide any land as hereinafter described without providing for public or permanent private easements for access to such divided lands with said private easements to conform to these minimum requirements:

Amendment # 2007- 03 (4-3-2007)

Amendments to Elk Rapids Township Zoning Ordinance adding new sections as described below:

Part 1. Amend Chapter 2, GENERAL PROVISIONS, adding new Section 2.20 to read as follows:

Section 2.20 - STANDARDS FOR PROPERTY ADJACENT TO US-31

This section applies to property adjacent US-31 from the Village of Elk Rapids southward to the Township line.

A. The Planning Commission will encourage use of Open Space Preservation techniques (as permitted under PA 110 of 2006) and a mix of uses as a development pattern adjacent this roadway corridor.

B. No building or structure shall be erected within 150 feet of the centerline of US-31, except that a lawfully existing single family home shall be permitted to construct an addition that does not increase any non-conformity with this setback requirement.

C. No off-street parking shall be provided within 150 feet of the centerline of US-31. Driveways, driveway connections, and frontage roads may be allowed within 150 feet of the centerline of US-31 as determined by the Planning Commission through the Site Plan Review process when required by Chapter 17 of this Ordinance.

D. The view of any solid waste containers, mechanical equipment, lighting fixtures or similar accessory structures or uses shall be effectively screened from view from US-31.

Part 2. Amend to add new Sections 6.04, 7.05, 8.07, 9.03, 10.06, 11.06 & 12.05 each titled GENERAL PROVISIONS and showing the same text as appearing below under Section 6.04.

Section 6.04 – GENERAL PROVISIONS

See Chapter 2, GENERAL PROVISIONS for supplemental requirements and height, area, and yard restrictions.

Part 3. Amend to add new Sections 2.20, 6.04, 7.05, 8.07, 9.03, 10.06, 11.06, & 12.05 as titled to the TABLE OF CONTENTS.

Part 4. Amend Chapter 12, Section 12.04 – PERMITTED USES BY SPECIAL USE PERMIT, to add

Septage Waste Storage or Treatment Facility - Only a closed septage waste storage tank or treatment facility regulated under Public Act 381 of 2004, as amended may be permitted upon approval of a special exception by the Planning Commission pursuant to Section 19.07.

Public Comments: Patrick Brady asked where Amendment Items 2007 01 & 02 came from as he could not remember them being approved for public hearing. Email Sabty indicated the dates they were approved for public hearing, and noted they would be included with the next set of public hearing amendments. Mary Cooper and Jane White spoke to the US 31 Corridor 150' setback issue. They indicated an unfairness with the loss of 28 feet with the proposed 150'as the US 31 right of way is deeper across their property abutting US 31. Mary Cooper was also concerned with the 150; setback for buildings and parking areas. Brian Altonen, also a property owner along US-31 indicated he felt the deeper setbacks were good he was not in favor of amendments that would deprive his neighbors of the use of less land than his property would be deprived. Brian indicated that if there was a fix for this particular problem then he would be in favor of the amendment. Larry Nix addressed these concerns by Mr. Altonen, Mrs. Cooper, and Mrs. White with a satisfactory solution

being found by amending the proposed text with the addition of a paragraph which would include wording of – "right-of-way centerline of US31" which clarifies the issue and the section. A motion was made by Shen Smith, 2nd by Emile Sabty to close the public hearing. **MOTIONCARRIED: Y-7, N-0**.

Discussion:
Larry Nix indicated the problems presented in the public hearing could be addressed though the addition of some text specific to the needs of those agricultural uses within the area. He then suggested that a provision be added to section 2.20C to permit parking areas between buildings and right-of-way for agricultural endeavors as follows:
"No off-street parking shall be provided within 150' of the right-of-way centerline of US-31. Driveways, driveway connections, and frontage roads may be allowed within 150' of the right-of-way centerline of US-31 as determined by the Planning Commission through the Site Plan Review process when required by Chapter 17 of this Ordinance. Upon review and approval by the Planning Commission, used permitted in the Agricultural Zone may locate gravel parking areas within the required setback for used that would be used on a seasonal basis."

A consensus of the Planning Commission was to amend the text in **Proposed Amendment #03 - US-31 Corridor** as stated above. A motion was made by Emile Sabty, 2nd by Jim Lundy to approve amendments 2007 01 & 02, and to table amendment #03 until the June meeting. **MOTION CARRIED: Y-7, N-0**.

ZONING ORDINANCE: Emile Sabty presented several photos in consideration for the cover of the Zoning Ordinance and indicated that the 1st inside page would contain a listing of all amendments and dates of amendment. The Planning Commission indicated Emile was to select the photo of his choice for the cover.

STANDARDS FOR ELK LAKE ROAD: Discussion of setback from right-of-way centerline was discussed regarding 100' of setback. A lesser setback may be more in keeping with any future development along Elk Lake Road. Shen Smith indicated she has heard that the Whitewater Township board may have been similarly discussing the replanting of maple trees along their section of Elk Lake Road, and she feels a meeting between the two townships might result in some uniformity along the roadway and a possible bike path jointly undertaken. Emile indicated that a Trail Summit meeting was being held on May 22nd in Traverse City. Shen Smith & Emile Sabty volunteered to attend this meeting. Larry Nix indicated it may be a good idea to contact Whitewater Township to determine what plans they currently have for Elk Lake Road.

A motion was made by Renee Mischel, 2nd by Don Glowicki, Jr. to authorize Larry Nix to research future road plans by MDOT, and to contact Whitewater Township regarding any possible programs they are currently discussing for improvements along this roadway. **MOTION CARRIED: Y-6, N-1**.

As there was no further business at this time, a motion was made by Shen Smith, 2nd by Jim Lundy to adjourn. **MOTION CARRIED: Y-7, N-0**

Meeting was adjourned at 8:15 pm.

Respectfully submitted,
Shen Smith
Secretary