Elk Rapids Township Planning Commission
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December 7, 2004

The Elk Rapids Township Planning Commission met in regular session on Tuesday, December 7, 2004. 6:30 PM, New Government Center, 315 Bridge Street, Elk Rapids, Michigan 49629. Present: Emile Sabty, Don Glowicki, Jr., Shen Smith, Renee Mischel, Jim Lundy and Tom Dame. Absent: William Larson. A quorum was established. Also present: Lukas Hill, Len Harrett & Carol Brady

PUBLIC HEARING – Zoning Ordinance Text Amendments:

Chairman Mischel opened the public hearing on Zoning Ordinance Chapter 17, Chapter 19, and the removal of roman numerals. No Correspondence was received , nor any comment from the public at large. The meeting notice was read into the minutes:

Proposed Zoning Text Amendments:

1. **Ordinance Wide** – Remove all Chapter Roman Numerals and replace with Chapter Numeric – i.e. Chapter V would become Chapter 5, etc.

2. Text Amendment - Chapter 17 – "Site Plan Review". Delete all current Chapter 17 text and replace it with the following proposed amendment text:

CHAPTER 17 - SITE PLAN REVIEW

Section 17.01 – DESCRIPTION AND PURPOSE

It is the purpose of this Chapter to require site development plan review and approval for buildings, structures, and/or uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels, and/or the character of existing and/or future development. The regulations contained in this Chapter are intended to promote:

A. Safe and convenient traffic movement, both within a site and in relation to access streets;

B. Harmonious relationships of buildings, structures, and uses, both within a site and with adjacent sites;

C. Conservation of natural amenities and resources; and

D. Compliance with the provisions of this Ordinance, the Master Plan and all other applicable Township, state, and federal laws.

Section 17.02 - SCOPE

Except as hereinafter set forth, the zoning administrator shall not issue a permit for any construction or uses until a site plan, submitted in accordance with this section, shall have been reviewed and approved by the Planning Commission.

A. Single or two-family homes under separate ownership on an individual lot for each one.

B. Interior, accessory and subordinate buildings requiring no new or additional means access thereto from adjoining public roads or highways and complying with all zoning ordinance requirements.

Section 17.03 - OPTIONAL SKETCH PLAN REVIEW

A. Preliminary sketches of proposed site and development plans may be submitted for review to the Planning Commission prior to final site plan review. The purpose of such procedure is to allow discussion between a developer and the Planning Commission to better inform the developer of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such sketch plans shall include as a minimum the following:

1. The name and address of the owner and applicant or developer, including the names of any officers of a corporation or partners of a partnership.
2. A legal description of the property and the tax number for each parcel thereof.
3. Sketch plans showing tentative site and development plans.

B. The Planning Commission shall not be bound by any tentative approval given at this time.

C. Requests for sketch plan review shall be made by filing with the Township Zoning Administrator with a completed application accompanied by ten (10) copies of a sketch plan. Fees as established in the Elk Rapids Township Fee Resolution Schedule must accompany the complete application.

Section 17.04 - APPLICATION PROCEDURE

Requests for final site plan review shall be made by filing with the Township Zoning Administrator a completed application accompanied by ten (10) copies of a detailed site and development plan which shall contain all information required in this ordinance. The Zoning Administrator shall review the submittal to determine that all the required information has been provided. Upon finding that the Site Plan is complete, the Site Plan shall be placed on the Planning Commission's agenda for the next meeting as per Township policy. The fees as established in the Elk Rapids Township Fee Resolution Schedule must accompany the complete application.

A. At a minimum, the application shall include the following information:

1. The applicant's full name, address and phone number including area code.

2. Proof of property ownership, and whether there are any options on the property, or liens against it.

3. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.

4. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).

5. The address and parcel (Tax Roll) number of each parcel contained in the proposed site plan.

6. The name and address of the developer (if different from applicant).

7. Name and address of the engineer, architect and/or land surveyor.

8. Project title.

9. Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation utilities to be provided, and related information as pertinent or otherwise required by the ordinance.

10. A vicinity map drawn at 1" = 2,000' with north point indicated.

11. The gross and net acreage of all parcels in the project.

12. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.

13. Project development phases and completion schedule.

14. Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools and existing utilities) and on the natural environment of the site and adjoining lands.

B. The site plan shall consist of an accurate, reproducible drawing at a scale of 1" = 100' or less, showing the site and all land within 150' of the site. If multiple sheets are used, each shall be labeled and the preparer identified. Each site plan shall depict the following:

1. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations.

2. Existing topographic elevations at two (2) foot intervals, proposed grades and directional drainage flows.

3. The location and type of existing soils on the site.

4. Location and type of significant existing vegetation, and how it will be altered to permit construction of the project.

5. Location and elevations of existing water courses and water bodies, including county drains, man-made surface drainage ways, floodplain and wetlands (as identified by the DNR in an official determination request).

6. Location of existing and proposed buildings and intended use thereof as well as the length, width and height of each building, and typical elevation views of proposed structures.

7. Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where required.

8. Location of existing public roads, rights-of-way and private easements of record and abutting streets.

9. Location and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes serving the development. Details of entryway and sign locations shall be separately depicted with an elevation view.

10. Location, design and dimensions of existing and/or proposed curbing, barrier-free access, carports, parking areas (including indication of all spaces and methods of surfacing) fire lanes and all lighting thereof.

11. Location, size and characteristics of all loading and unloading areas.

12. Location and design of all sidewalks, walkways, bicycle paths and areas for public use.

13. Location of water supply lines and/or wells, including fire hydrants and shut off valves, and the location and design of storm sewers, retention and detention ponds, waste water lines, cleanout locations, connection points and treatment systems, including septic systems if applicable.

14. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone and steam.

15. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings and swimming pools if applicable.

16. Location, size and specifications of all signs and advertising features showing all views.

17. Exterior lighting locations, areas of illumination depicted by a photometric layout, type, wattage and height of all fixtures, including sign lighting, and proposed shielding to be used.

18. Location and specifications for all fences, walls and other screening features with cross sections.

19. Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.

20. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.

21. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.

22. Identification of any significant site amenities or unique natural features.

23. Identification of any significant views onto or from the site to or from adjoining areas.

24. North arrow, scale and date of original submission and last revision.

25. Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan.

26. Building elevations for typical units of new buildings or exterior remodeling of existing buildings, illustrating exterior building materials, building heights, and proposed wall sign or window sign area. Samples of proposed color and materials shall be provided.

27. In addition to the written application and the plans, whenever the nature of the proposed development makes information or documents such as the following relevant, such documents or information shall be provided. The following is a representative list of the types of information or documents that may be requested:

    a) Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent.

    b) Certifications from the appropriate agencies, including the local fire department, that proposed utility systems are or will be adequate to handle the proposed development and that all necessary easements have been provided.

    c) Legal documentation establishing property owner associations or other legal entities responsible for control over required common areas and facilities.

    d) Bonds, letters of credit, or other surety devices.

    e) Time schedules for the completion of phases in the occurrence of a staged development.

    f) Calculations for drainage and storm water design detention/retention.

    g) Drainage - Site Plans shall fully conform to the Antrim County Drain Commission standards.

h) Erosion - Site Plans shall fully conform to the Antrim County Soil Erosion and Sedimentation Control Ordinance.

i) Hazardous Waste Management - Site Plans shall demonstrate that reasonable precautions will be taken to prevent hazardous materials from entering the environment.

j) Public Health - Site Plans shall fully conform to the requirements of the Michigan Department of Public Health and the Antrim County Health Department.

k) Statutory Compliance - Site Plans shall fully conform to all applicable state and federal statutes.

l) Conformance with Township Master Plan - Site Plans shall fully conform to the land use policies, goals and objectives of the Elk Rapids Township Master Plan.

C. Waiving of Requirements - The intent of this section is to allow an applicant to request that specific site plan requirements listed herein under Section 17.04-B be waived by the Planning Commission and not required on the site plan due to only minor improvements proposed on the site. The Planning Commission shall only waive requirements if the proposed development is not creating any new parking lots, creating more than 1000 square feet of impervious surface, including buildings, or is not changing the elevation or grade of the site. If the Planning Commission determines that previous waiving of any requirement impedes performing an appropriate review, the Planning Commission may require the applicant to provide such information prior to taking any official action. The Planning Commission may waive the following requirements under Section 17.04-B (2), (3), (13), (14), and (26).

Section 17.05 - ACTION ON APPLICATION AND PLANS

A. Upon receipt of the application and plans, the Zoning Administrator shall record the date of the receipt thereof and transmit one (1) copy there of to the Secretary of the Planning Commission; one copy to the Township Clerk, and one copy to the Township Consultant.

B. Planning Commission review shall be scheduled by the Secretary of the Planning Commission, or designated appointee, for review of the application and plans as well as the recommendations of the Township Consultant and the Zoning Administrator. The Secretary of the Planning Commission, or designated appointee, shall deliver copies of the application and plans to all members of the Planning Commission upon receipt of same for their preliminary information and study for the review. The Township Zoning Administrator shall schedule the review within 45 days following the date of receipt of a complete application and plans.

C. The applicant, members of the Planning Commission, the Township Consultant and the Zoning Administrator shall be notified of the date, time and location of the review at the time the date is established. A notice shall be placed in a newspaper of local circulation to inform the general public of a site plan review.

D. The Planning Commission shall disapprove, approve, or approve with conditions the Site Plan. The Planning Commission may impose conditions in addition to the specific requirements of this Ordinance. Conditions may be based on, but are not limited to, the following conditional criteria:

1. To insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.

2. To protect the natural environment and conserve natural resources and energy.

3. To maintain compatibility and character with the neighborhood, and to promote the use of land in a socially and economically desirable manner.

Any conditions required by the Planning Commission, together with the reasons for those conditions, shall be provided in writing to the applicant. The Planning Commission may approve the plans contingent upon

the required conditions, if any or may require a further review after the same have been included in the proposed plans by the applicant.

E. Two copies of the approved final site plan with any required modifications thereon shall be maintained as part of the Township records for future review and enforcement. One copy shall be returned to the applicant. Each of the three above mentioned copies shall be signed and dated by the Chairman of the Planning Commission and the applicant, identifying the same as the "OFFICIAL FINALLY APPROVED SITE PLAN FOR THE 'PROJECT TITLE'" as specified in Section 17.04-A-8. If any variances from the zoning ordinance have been granted or other action taken by the Zoning Board of Appeals pursuant to the project, the minutes concerning the same, duly signed, shall also be filed with the Township records as part of the site plan and a copy delivered to the applicant for his/her information and direction.

Section 17.06 - CRITERIA FOR REVIEW

In reviewing the application and site plan and approving, disapproving or modifying the same, the Planning Commission shall be governed by the following standards:

A. That there is a proper relationship between the existing streets and highways within the vicinity and proposed deceleration lanes, service drives, entrance and exit driveways and parking areas to assure the safety and convenience of pedestrian and vehicular traffic.

B. That the buildings, structures and entryway thereto proposed to be located upon the premises are so situated and designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.

C. That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.

D. That the adverse effects of the proposed development and activities emanating there from upon adjoining residents or owners shall be minimized by appropriate screening, fencing or landscaping.

E. That all provisions of the Township Zoning Ordinance are complied with unless an appropriate variance there from has been granted by the Zoning Board of Appeals.

F. That all buildings and structures are accessible to emergency vehicles.

G. That the plan, as approved, is consistent with the intent and purpose of zoning to.

1. Promote the public health, safety, and general welfare.

2. Encourage the use of lands in accordance with their character and adaptability.

3. Avoid the overcrowding of population.

4. Lessen congestion on the public roads and streets.

5. Reduce hazards to life and property.

6. Facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements.

7. Conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and property.

8. Conserve property values and natural resources.

9. Give reasonable consideration to the character of a particular area; its peculiar suitability for particular uses, and the general and appropriate trend and character of land, building and population development.

Section 17.07 - CONFORMITY TO APPROVED SITE PLAN

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Planning Commission. If construction and development does not conform with such approved plan, the approval thereof shall be forthwith revoked by the Zoning Administrator of the Township by written notice of such revocation posted upon the premises involved and mailed to the developer at his/her last known address. Upon revocation of such approval, all further construction activities shall cease upon the site, other than for the purpose of correcting the violation. However, the Planning Commission may, upon proposed application of the developer after an official review, approve a modification in the site plan to coincide with the developer's construction provided such construction complies with the criteria contained in the site plan approval provisions and with the spirit, purpose and intent of the Township Zoning Ordinance.

Approval of the site plan shall be valid for a period of one (1) year after the date of approval. If a building permit has not been obtained and on-site development actually commences within said one year, the site plan approval shall become void and a new application for site plan approval shall be required, and new approval shall be required and obtained before any construction or earth change is commenced upon the site. Any such new application for site plan approval shall be processed as a completely new request, requiring new fees, new copies of all information and plans, and full and complete review by the Planning Commission pursuant to any approval.

Section 17.08 - PERFORMANCE GUARANTEE REQUIRED

In the interest of insuring compliance with the zoning ordinance provisions, protecting the natural resources and the health, safety and welfare of the Township of Elk Rapids residents and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission may require the applicant to deposit or otherwise provide for a performance guarantee as set forth herein. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this ordinance, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping any interfacing with adjoining properties.

A. For the purpose of executing any performance guarantee, the date of such execution shall be established by the Planning Commission in their site plan approval by establishing the required completion date of such improvements, 180 days after which the Township shall execute the performance guarantee.

B. Performance guarantee as used herein shall mean a surety bond in the amount of the estimated cost of improvements to be made as determined by the applicant and verified by the Township Consultant, made payable to the Elk Rapids Township on the date established in accordance with Section 17.08-A.

C. The Zoning Administrator shall not issue a zoning permit until the required performance guarantee is received by the Township Clerk.

D. If the specified improvements have been completed within the time frame specified, the performance guarantee will be returned to the applicant upon approval by the Zoning Administrator.

E. In the event the applicant defaults in making the improvements for which the performance guarantee was required, the Elk Rapids Township Board shall have the right to execute the performance bond to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance bond is not sufficient to cover the costs incurred by the Township in completing the improvements, the applicant shall be required to pay Elk Rapids Township the amounts by which the costs of completing the improvements exceeded the amount of the performance bond.

Section 17.09 - APPEALS OF FINAL SITE PLAN

Persons aggrieved by a decision of the Planning Commission in granting or denying approval of a final site plan may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within seven (7) days of the

decision and shall state the factual basis for the appeal. An appeal shall stay action on the issuance of any permit pursuant to an approved site plan.

The Zoning Board of Appeals shall review the record of action taken on the final site plan and shall determine whether the record supports the action taken. No new evidence shall be presented. The Zoning Board of Appeals shall approve the final site plan if the requirements of this Section and other applicable ordinance requirements are met. The Zoning Board of Appeals shall make written findings in support of its opinion on the appeal.

Section 17.10 - LAND CLEARING

No person shall undertake or carry out such activities, or use, including any grading, clearing, cutting and filling excavating, or tree removal associated therewith for which site plan approval is first required by this ordinance. Nor shall such activity proceed prior to obtaining necessary soil erosion and sedimentation control permits, wetlands permits, or flood plain permits. Any violation of this provision is subject to the fines and penalties prescribed in Section 19.09 of this ordinance for each day of the violation from the day of discovery of the incident until an approved restoration plan, or an approved site plan is granted.

Section 17.11 - AMENDMENTS TO APPROVED SITE PLANS

Amendments to an approved site plan may be made as prescribed below provided that all proposed changes conform to the Zoning Ordinance.

A. Minor amendments to an approved site plan may be approved by the Zoning Administrator provided the applicant justifies the need for these changes and that the delay in making the changes by waiting for a Planning Commission meeting would seriously disrupt the ability of the project to be completed in a timely fashion and would endanger the public health, safety and welfare. The Zoning Administrator upon approving minor amendments to the site plan shall provide a report to the Planning Commission documenting the justification for approving any changes.

   Minor amendments approvable by the Zoning Administrator shall be limited to the following:

   1. Relocation of building entrances or exits, or shortening of building canopies.

   2. Changing the angle of parking provided there is no reduction in the amount of required off-street parking.

   3. Moving of ingress and egress drives a distance of not more than one hundred (100) feet if required by the appropriate State, County or other local road authority with jurisdiction.

   4. Substituting landscape materials or species provided a nurseryman, landscape architect, engineer or architect certifies the substituted species is similar in nature and will accomplish the same or an increased screening effect.

   5. Change type and design of lighting fixtures provided an engineer or architect certifies there will be no change in the intensity of light at the property boundary.

   6. Increase perimeter yards.

   7. Changing the location of an exterior building wall or location not more than ten (10) feet because of a natural impediment or hazard such as bedrock or muck soils, provided that in so doing no setback requirement of the Ordinance is violated and no significant reduction in safety or in the amount of open space is thereby affected.

B. Any other proposed amendment which does not meet the criteria in Section 17.11-A shall be considered a major amendment and require a resubmission, review by the Planning Commission and payment of fee.

3. <u>Text Amendment</u> – <u>Chapter 19 – ADMINISTRATION AND ENFORCEMENT, Section</u>

19.08 – FEES AND ESCROW DEPOSITS, Sub Section "B" - Delete Subsection "B" and replace text to read:

B. For any application for site plan approval, a Special Land Use Permit, Planned Development, variance, or other use, project, or activity requiring a permit under this Ordinance, the Zoning Administrator, Planning Commission, Zoning Board of Appeals, or Township Board may require the deposit of fees to be held in escrow in the name of the applicant.

1. An escrow fee shall be required for any project with more than ten (10) dwelling units, or more than ten thousand (10,000) square feet of enclosed space, or which requires more than twenty (20) parking spaces.

2. A schedule of fees as established by the Township Board, which may change from time to time, shall be maintained at the office of the Zoning Administrator.

3. Fees shall be paid to the Zoning Administrator prior to the processing of any application required under this Zoning Ordinance.

4. An escrow fee shall be required for any other application for the plan approval, special land use permit, planned development, variance, or other use, project, or activity requiring a permit under this Ordinance, to cover reasonable costs of reviewing such application at the discretion of the Zoning Administrator or reviewing body.

5. Escrow fees shall be used only to cover expenses including staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other professional and technical services required for a proper and through review of the application.

6. Professional review will result in a report to the Township indicating the extent of conformance or nonconformance with this Zoning Ordinance and to identify any problems which may create a threat to factors including, but not limited to, public health, safety, general welfare, and the overall environment. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. If requested, the Township will provide a copy of any professional review and a copy of the statement of expenses for the professional services rendered to the applicant.

7. If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any zoning or other permit issued by the Township in response to the applicant's request. Official action, at the discretion of the Zoning Administrator or reviewing body, for any application may be postponed if funds in escrow fund are exhausted and are necessary for further professional review.

8. The Township shall account for the expenditure of all such funds and shall promptly refund any unexpected funds within sixty (60) days of final action by the reviewing board or official.

A motion was made by Shen Smith, 2nd by Jim Lundy to close the public hearing. **MOTION CARRIED: Y-6, N-0**. A motion was made by Shen Smith, 2nd by Emile Sabty to approve the text as published and send it for review to Antrim County. **MOTION CARRIED: Y-6, N-0**.

SPECIAL THANK-YOU: Chairman Mischel took this time to thank Emile Sabty for all of the time and assistance that he dedicates to the Township and to the Elk Rapids Planning Commission. The thank you was seconded by all of the Planning Commission members.

TOWNSHIP ZONING ORDINANCE: Discussed was the need for the Township to have the

Zoning Ordinance retyped from scratch as the current document is filled with various word processor formatting all the way back to 1979 when it was originally typed. Working with the current document formatting has become more work for everyone than necessary.

MINUTES OF OCTOBER MEETING: A motion was made by Don Glowicki, Jr., 2nd by Tom Dame to approve the October meeting minutes as published. **MOTION CARRIED: Y-6, N-0**.

OLD BUSINESS:
Milton Township Master Plan – has been taken off the agenda.
Condo Storage Project – Nothing has changed except possible change of property owners.
Grace Lutheran Church – Now has obtained all permits and building is scheduled for a spring start. An additional variance will be needed as to current variances have expired.

NEW BUSINESS - New Agenda Items for 2005

Accessory Building Standards: Discussion regarding structures under 100 sf and over 100 sf, along with lot coverage percentages. 40% structure covered lots was discussed with suggestion that construction and materials of all outbuildings might match the exterior of the primary structure.

"Granny Flats" Discussed was a desire to allow additional housing attached to or in close proximity to a primary structure based on the facts that a large percentage of our population is moving toward tending elderly parent in Elk Rapids Township Discussed was allowing additional housing under the following suggested conditions: 1) 2nd residence would be under the same roof as the primary, 2) under XXX number of square feet, 3) door into 2nd residence would be from within the primary residence, 4) 2nd residence would be of a "studio" type, and 5) the property owner must reside as a permanent resident in the primary residence.

Master Plan: The current Master Plan was adopted in May/1997. The year 2005 will commence review and revision of the Elk Rapids Township Master Plan.

As there was no additional business at this time, a motion was made by Shen Smith, 2nd by Tom Dame to adjourn. **MOTION CARRIED: Y-6, N-0**. Meeting was adjourned at 9:10 PM.

Respectfully submitted,

Shen Smith, Secretary