

**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.