

**Elk Rapids Township Planning Commission
Regular Quarterly Meeting
Meeting Minutes - Tuesday, June 12, 2018**

The meeting of the Elk Rapids Township Planning Commission was called to order by Chairperson Shen Smith at 6:30 pm at the Government Center, 315 Bridge Street, Elk Rapids, MI 49629

Present: Shen Smith, Emile Sabty, Pug Sliger, James Lundy, Gary Pepler, Aaron Isenhardt, and Renee Mischel

Absent: Larry Nix, Zoning Administrator

Also Present: William Derman, Township Attorney
Audience: Rodney Hammond, Owner of Uncle Rod's and Pat Brady

Adoption of Agenda: Agenda for the June 12, 2018 meeting was unanimously approved by M/S Mischel/Lundy the Commission. **Motion Approved**

Public Comments: None.

Approval of Minutes: Minutes for the May 8, 2018 meeting was unanimously approved and M/S Mischel/Lundy adopted by the Commission. **Motion Approved**

Township Zoning Administrators Report: None.

In Larry Nix's absence, Township Attorney Bill Derman addressed Agenda item #2 of the Township Zoning Administrators Report.

Uncle Rod's – Discussion regarding the existing site plan for property #05-06-029-008-15 and #05-06-029-019-00. Property owner Rodney Hammond requested permission to address the Planning Commission to discuss his options on the fencing which is required and approved on the site plan.

- The site plan for these two pieces of property was approved by the Commission on November 17, 2015 with the exception of the buffering requirement.
- A public hearing was held on August 16, 2016 for a site plan modification made by Mr. Hammond to amend the buffering requirements from trees to a 6' wooden privacy fence along the south lot line.
- The site plan fence modification was approved by the Commission on August 16, 2016 with the condition that the fence barrier be installed by June 1, 2017.

Mr. Rodney Hammond addressed the Planning Commission. A summary of the comments and discussion during this meeting follows:

- Mr. Hammond told the Commission that he has not been able to afford the \$4,800 it would cost him to put up a 6' wooden privacy fence.
- Mr. Hammond asked for an extension, however, was unable to commit to a timeframe as to when he could afford to put up the fence requirement.
- The original approved site plan had a tree barrier along the property line. Mr. Hammond reported that planting trees would cost him just about as much as a wood privacy fence.
- Less expensive fence alternatives were discussed (wire/farm type fencing). However, it was determined this type of fencing would not appropriately address the buffering requirements of the Township Zoning Ordinance.

- The trespassing/privacy issue was discussed. The Planning Commission reported that the adjacent property owner had complained that Mr. Hammond's trucks were driving on his property and that in the winter, Mr. Hammond was plowing snow onto his property. The adjacent property owner indicated to the Commission that if Mr. Hammond put a fence up, he would build his own orchard road. Mr. Hammond claimed he was not aware that his neighbor had complained.
- The buffering/screening issue was discussed. It was noted, per the Township Zoning Ordinance, screening/buffering is required between commercial and agricultural zones as well as open space commercial storage areas. It was noted that Mr. Hammond has some vehicles stored behind his building and that a fence or some sort of greenbelt was required. (*Reference Elk Rapids Township Zoning Ordinance page 11-2 – 11-5 with specific reference to Section 11.04 D*)
- At this time Mr. Lundy made a **Motion** to issue a citation violation if the project is not completed in 90 days. The Motion did not receive **Support**.
- Mr. Sabty noted that in previous years, the Commission has given extensions to residents as requested, one year at a time when their site plan permit had expired.
- At one point, Mr. Derman asked Mr. Hammond if he thought he could have the fence built by June 1, 2019. Mr. Hammond responded that he could try to do that.
- The Commission acknowledged that this was a difficult decision because they recognize that a privacy fence is expensive. However, they also recognize that Mr. Hammond was originally supposed to have completed this requirement in November, 2016. Mr. Hammond is also unable to give the Commission a solid completion date and therefore, the Board is concerned if another extension is granted, this will be an on-going issue.
- For a second time, Mr. Lundy made a **Motion** to issue a citation violation if the project is not completed in 90 days. The Motion did not receive **Support**.
- The Board discussed the fees and legal ramifications of issuing a Zoning Ordinance Violation as well as what type of liability the Township could be subject to if this violation was not enforced in a timely manner.
- The Commission acknowledged that issues can arise with approving a site plan without completing all of the requirements. The Board noted the desire to work with property owners and giving them the benefit of the doubt on completing their project. The importance of property owners exhibiting "good faith efforts" that they are going to follow through on the requirements and conditions set forth with the site plan approval, was also important.

Summary of Discussion:

The Commission recognized the financial burden on Mr. Hammond to put this fence up as outlined and agreed upon in the approved site plan. The Commission also recognized the importance of enforcing the Zoning Ordinance and providing relief to the adjacent property owner.

M/S Lundy/Sabty Motion to mail a Zoning Ordinance Violation notice to Mr. Rodney Hammond stating the required fence project must be completed in 90 days.

Motion Unanimously Approved

Further Clarification and Discussion of Motion:

- The first two Motions made by Mr. Lundy were released because there was no Support.
- A notice of violation will be mailed to Mr. Hammond but enforcement of the violation will be held for 90 days, giving Mr. Hammond 90 days to complete the installment of the fence.
- Chair Smith encouraged Mr. Hammond to communicate with the Township Zoning Administrator to determine how this violation will affect him.

- Attorney Derman noted that the violation clearly states that Mr. Hammond has 90 days to get the fence installed. However, if Mr. Hammond happens to only get half of the fence up in the 90 days, he would need to come back to the Planning Commission to request an extension. At that time, the Commission could either grant or deny his request.

Township Legal Staff Report:

A summary of Attorney Derman’s report follows:

- Mr. Derman reported the Township Board met this morning and passed the Fee Schedule that was discussed and approved by the Planning Commission and Zoning Board of Appeals.
- The Board also passed the “Quality of Life” statement.
- Chair Shen and Attorney Derman agreed that the Fee Schedule will need a resolution as the fee schedule cannot be legally posted until a resolution is adopted.
- Legalizing Marihuana will be a proposal on the upcoming November 6, 2018 ballot.
- Short Term Rentals: Nothing new to report from the State. Traverse City, MI did recently pass a Tourist Home rental program - similar to the Township’s Bed & Breakfast ordinance. (*Property owner must be present and live in the house, etc.*) Unsure at this time how Traverse City will enforce this new program.
- Maple Harbor Sewer System: Sewer pipe and pump is installed and tested. Owners are starting to hook up to system. Hoping to complete paving by end of June. On a side note, nothing has been set up, and nothing has been put in writing, but there is talk that Milton Township may also be interested in hooking up to the system.
- Wilcox Park: Half of the tires have been removed from the site. Hopefully the rest of the tires will be removed by the end of June.

Unfinished Business:

- 1) **Public Hearing Clarification:** As discussed in the May 8, 2018 Planning Commission Meeting, the Board agreed to collaborate with the Village on the update of the Master Plan. Chair Smith took a survey of the members to determine if the Township should hold their own public hearings as has been done in the past. Each member agreed that the Village and the Township not collaborate on the public hearings.

M/S Lundy/Peppler Motion that the Township hold their own Master Plan Public Hearings.

Motion Unanimously Approved

- 2) **Special Meetings:** It was noted that the Planning Commission will most likely have to schedule some special meetings in order to meet the required deadlines to update the Township Master Plan. The Board referenced the “*Quick Steps to Adopt or Amend a Master Plan*” and discussed the time constraints and steps necessary for final approval of the master plan. (special meetings, mailings, postings, public hearings, etc.)

Mr. Derman reported that Zoning Administrator Nix has already completed the “Notice to Plan” and the changes Mr. Nix is proposing are considered minor amendments and therefore should only require 42 days instead of the 63 days required for a new master plan.

- 3) **R-3 (Multi-Family) Project:** As requested during the May 8, 2018 meeting, Mr. Sabty sent all Board members a copy of all the white paper documents related to the R-3 joint project meetings for their review. (*Ref: Sequenced Files ER TWP-Village PC-ZBA R3 Project*).

Mr. Sabty further noted that there were 6 government entities involved in this joint study in 2015 and the project was approved.

Chair Smith stated that it has been indicated to the Planning Commission that this work on the R-3 project was “zoning by committee not community”. She then asked Attorney Derman if the Planning Commission would need to hold a special public hearing on this issue, or is the Master Plan public hearing going to encompass all of it?

Attorney Derman’s opinion was, including the R-3 Project, (6 out of 18 parcels were identified), into this update of the Master Plan basically puts it on the table so the public can review, comment, agree, object, and get involved at the public hearing. It is the Planning Commission’s decision to include this piece, however, it is up to the public to get involved, comment and make suggestions.

Chair Smith asked each Board member for their input on if the R-3 project should be included in this Collaborative Master Plan update.

M/S Smith/Lundy Motion to include the 6 properties identified in the white paper into this version of the Township Master Plan.

Motion Unanimously Approved

4) **Review of modifications and changes to the current Master Plan:** Discussion and review by the Planning Commission of a document provided by Larry Nix, Township Planning Consultant.

- The Commission members confirmed that they had reviewed Mr. Nix’s Master Plan Update memo dated June 5, 2018.
- Mr. Sabty provided the following revisions for correction on Mr. Nix’s Master Plan Update memo:
- **Page 2 – 2nd paragraph – “The problem is the Environmental District”.** Suggest Environmental District be amended in the Zoning Ordinance to permit park facilities. (*Chair Smith requested this item be on the Planning Commission’s “To-Do List”*).
- **Page 3 – Item #9 – Future Land Use.** Ms. Mischel pointed out that Mr. Nix’s memo addresses this item on Pages 26, 27, and 28. Board agreed.
- **Page 4 – Maps.** Mr. Sabty referenced a number of mapping corrections that needed to be made to Township Map located on Page 33 of the current Master Plan.

Chair Smith asked Mr. Sabty to provide Mr. Nix and Mr. Derman with a copy of all his map corrections so that they can be reviewed and addressed for inclusion in the proposed draft of the Master Plan.

M/S Lundy/Mischel Motion to authorize Larry Nix and Bill Derman to create a draft that will include all the revisions and updates Mr. Nix has listed as well as all the updates and corrections Mr. Sabty has noted during today’s meeting in preparation for the Master Plan update.

Motion Unanimously Approved

Discussion: Mr. Derman noted that he will get with Mr. Nix on the updates for the proposed Master Plan draft as well as possible date to hold a special meeting so the Planning Commission can review and approve the draft. A tentative date of Tuesday, July 10th

to review the draft was discussed, but not confirmed. Once a draft of the Master Plan is complete, Mr. Derman will request that Mr. Nix email a copy of it to each member of the Commission.

New Business:

Authorize Planning Commission Application to be updated to reflect changes to the fees as approved by the Township Board.

- Mr. Derman will follow-up on the resolution requirement for the new fee schedule.
- The Township Planning Commission Application will need to be updated to reflect the new fee schedule.

M/S Lundy/Mischel Motion to authorize the updating of the Township Planning Commission Application to reflect the new fees once the resolution issue is resolved.

Motion Unanimously Approved

Public Comments: Mr. Pat Brady approached the microphone. A summary of his comments follows:

- Mr. Brady stated that he still has concerns regarding the R-3 zoning. He believes the high density residential developing zoning it is a controversial issue in the Master Plan. He agrees with Emile that 6 entities were involved; but all entities were governmental entities – missing the public. He believes he is the only public person expressing his feelings for 3-1/2 years about this issue and to date has not seen the white paper. Mr. Brady stated that he had talked to Larry after the last meeting and was told nothing untoward is going on. Mr. Brady said he trusts and has faith in Larry and the Planning Commission regarding this issue.

Chair Smith thanked Mr. Brady for his comments.

Member Comments: None

M/S Sabty/Lundy Motion to Adjourn.

Motion Approved.

Meeting was adjourned at 7:50 PM