

**Elk Rapids Township Planning Commission Meeting
Meeting Minutes – Tuesday, April 9, 2019**

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, Renee Mischel, and Aaron Isenhart
(Quorum Established)
- Absent:** Jim Lundy, Gary Peppler, Pug Sliger
- Also Present:** William Derman, Township Attorney, Larry Nix, Zoning Administrator,
- Audience:** Eric Rubert, 365 Outdoor, Scott Felker, 365 Outdoor, Vince Cooper, Tim Cooper, Alan Martin, Trisha Pearlman, Kathy Wittbrodt, and Alice Rubert

Adoption of Agenda: **Motion to approve the April 9, 2019 Agenda.**
MOTION/S - Mischel/Sabty **Motion Unanimously Carried.**

Public Comments: **None**

Approval of Minutes: **Motion to approve the January 8, 2019 meeting minutes.**
MOTION/S – Mischel/Sabty **Motion Unanimously Carried.**

365 Outdoor, Inc. – Special Exception – Special Use Public Hearing: Under consideration is a request for a Special Exception – Special Use permit for platted commercial zoned property at 11550 S. US-31, Williamsburg, MI 49690 a.k.a. part of Lot #2 W.F. Stepke Subdivision, Tax ID #05-06-650-002-00. The owner applicant ES Property & Development, LLC, (365 Outdoor, Inc.) request is for proposed additions and updates to their landscape business on the premises: Add Rentals Business on the location, make changes to the existing sign and add equipment display on the front of the premises. An application for Special Exception – Special Use permit is governed by Sections 11:05 and 19:07 of the Zoning Ordinance.

Open Public Hearing:
MOTION/S Sabty/Mischel **Motion to Open Public Hearing**
Motion Unanimously Approved.

Public Comments/Correspondence: None.

Planning Commission Comments: Mr. Sabty addressed the representatives from 365 Outdoor noting that it appears the property owner name or business name, has changed a number of times between 2011 and 2019. Mr. Sabty requested clarification, for the record, on the following applicant/application concerns:

- Who is the current property owner at 11550 S US-31?
- Who is the proper business on the premises and owner?
- The Township application should reflect the current owner and business name.

It was further noted that the applicant on the application dated March 1, 2019 is ES Property & Development, LLC; not 365 Outdoor, Inc.

Representative for 365 Outdoor, Inc. - Eric Rubert addressed the Planning Commission. A summary of his comments follows:

- In October 2018, 360 Outdoor, Inc. purchased the ER Rentals business from Jay Merchant.
- Mr. Rubert confirmed that 365 Outdoor, Inc. is still in operation.
- Mr. Rubert also stated that the rental business is incorporated into the 365 Outdoor landscape business and that both businesses are running out of the same location at 11550 S US-31.
- ES Property & Development, LLC is still the same owners; it is all one company.
- 365 Outdoor, Inc. is requesting a special exception land use to add an outdoor display of their rental equipment and make changes to their existing sign.

Township Zoning Administrator Report – Larry Nix – The Commission was provided with a copy of Mr. Nix’s memorandum dated April 4, 2019. A summary of Mr. Nix’s report on the requested special exception use permit follows:

- The site sketch submitted for consideration by 365 Outdoor, Inc. has not been sealed by a professional as required in the Zoning Ordinance.
- The applicant has altered the screening on the site of the outside storage area. It appears that the existing screening which was required in the 2013 plan approval, has been removed or cut down.
- The submitted sketch does not indicate the nature of the new screening or an accurate depiction of the layout of the landscape/screening area.
- There are no measurements or dimensions on the site sketch.
- Because the site sketch lacks dimensions and detail, it is difficult to clearly determine whether or not the rental equipment is in the front yard setback. In addition, it is unclear if some of the rock/stone on the landscaping may be in the ROW.

Applicants Response: Mr. Rubert responded to Mr. Nix’s report:

- Mr. Rubert stated that the only screening that had been removed on the property was the grape vines along the fence.
- The existing viburnums and existing hedge/vegetation is still in place, however, it looks different in the winter because it has to be pruned down in the fall as part of the proper maintenance to promote a healthy growth during the season.
- Mr. Rubert noted that it will never provide a screen during the winter because of the required pruning, however, the vegetation and greenbelt will be restored to its original height during the growing season.
- Mr. Rubert reported that he has actually added vegetation to the beds in front of the viburnum trees.
- Mr. Rubert was asked if he could display his rental equipment in the back of his property? He responded No – He could not do that.

Mr. Nix's report listed the 10 conditions that were required on the May 21, 2013 approved site plan. Mr. Rubert was provided a copy of this report. Planning Commissioner Mr. Sabty reviewed and summarized the conditions that are still required and are a concern on the current application and site plan:

- Condition #2 - No outdoor functions if not in landscape and irrigation category.
If a rental business is to be added and permitted to the existing business, it should adhere to the same conditions of the 2013 agreement.
- Condition #6 (a) - Front Set Back – Adhere to deep setback in zone.
Appears about 21' of the front setback east of the fence abutting the ROW was changed with different greenbelt and large rock/stone planters that filled the setback. The north & south end of the planters appear to encroach into the 75' ROW.
- Condition #6 (c) - No trailers or equipment parked in setback.
Any displays, trailers, equipment, etc., related to rental business should not be parked or displayed in any part of the front setback. The 2013 permit specifically states that there would be no trailers or equipment in the front setback.
- Condition #10 - Any greenbelt replacement needs to meet the specification in the zoning ordinance.
*The greenbelt is not consistent with the 2013 agreement.
(A mixture of coniferous trees, Zoning Ordinance Section 11.05-A & 11-05 C-4).*

Addressing the request for a sign change: Should the existing sign be changed; it should adhere to the requirements of the Zoning Ordinance – Chapter 3 for an approval and permit prior to making the change.

Questions raised regarding setback requirements: The Board referenced the 2007 US-31 Corridor Study and clarified that the MDOT right-of-way is 75' from the center line of the road. The Township requires a 50' setback from the ROW. 365 Outdoors, Inc. location (11550) current setback is 125 and the building setback is at 154'. (A copy of the US-31 Corridor Study was provided to Mr. Rubert).

Proposed Tart Trail: It has been brought to the Township's attention that the preliminary design of the proposed trail from Acme to the Village of Elk Rapids, will be located on the west side of US-31. Although the timing of the trail installation is uncertain, it was noted this paved trail will impact businesses and residents located on the west side of US-31. Therefore, it is important that the Township follow and enforce zoning requirements and ensure there is no encroachment on the setbacks and ROW.

Conclusion: The Planning Commission agreed that there are several inconsistencies and key elements missing on the application and sketched site plan submitted by the applicant. After further discussion among the members, it was determined that a decision on the Special Exception-Special Use permit could not be made without additional information and an accurate sealed site plan.

**MOTION/S Mischel/Smith Motion to adjourn the public hearing and set a future date of Tuesday, May 14, 2019 – 6:30 PM.
MOTION UNANIMOUSLY CARRIED**

The Commission encouraged Mr. Rubert to work quickly with Zoning Administrator Nix to obtain all the necessary new documentation in time for the May 14th meeting.

Township Zoning Administrator Report – Larry Nix – Continued:

Mr. Nix reported that he has issued some zoning permits, received a lot of inquiries regarding road-side markets, as well as numerous general questions regarding what residents can and can't do on their property.

Solar and Wind Farms: Zoning Administrator Nix noted that although there isn't a big demand for renewable energy farms in the Township at this point in time, Larry suggested that the Commission consider addressing the renewable energy issue in case this is an option that farmers might be interested in at some time in the future.

**MOTION/S Mischel/Isenhardt Motion to authorize Mr. Nix to draft a solar panel and windmill ordinance to bring to the Planning Commission for their consideration.
MOTION UNANIMOUSLY CARRIED**

The Commission requested that Mr. Nix also include residential settings in this ordinance and give special consideration to the Township's scenic corridors along US-31, Elk Lake Road and Cairn Highway to include screening and landscaping.

Acme Township Master Plan Update: Chair Smith reported the Township received a notification that Acme Township has approved a draft Community Master Plan and would welcome review and comment on the draft document.

**MOTION/S Smith/Mischel Motion to authorize Mr. Nix to act on behalf of the Township to review and comment on the Acme Township Master Plan and then share his comments/response to the Township Board and Planning Commission.
MOTION UNANIMOUSLY CARRIED**

Township Legal Staff – Bill Derman – Attorney Derman provided the following information to the Planning Commission:

- **Short-Term Rentals:** The short-term rental statute is supposed to move out of committee this month. Bill will keep the Commission updated with any developments. Milton Township is considering amending their vacation rental ordinance. A public notice will most likely be put in their newsletter which is usually included in their summer tax bill.
- **Sewer System:** Another informational meeting for Inwood Harbor/N. Bayshore Dr. area residents is planned for sometime around Memorial Day. Milton

- Township continues to work with the Village on a possible sewer extension.
- **MMR:** Five-year contract expires December, 2019. An increase in the cost of service is being proposed.
- **Small Cell Towers:** Statue has been passed – Effective March, 2019.
- **Possible Millage Requests:** Although a final decision has not been made by the Board, Township residents may see two proposals on the August ballot. 1) Farmland Preservation Millage - Proposing 1 mill for 10 years. 2) Cemetery Update - Proposing 5/10th mill for 10 years.
- **Wilcox Park:** Township decided to release interest in this property to the heirs. Family is also considering giving this property to the Conservancy. Township is waiting on the family’s final decision.
- **MTA Info:** Consumers and other utility companies are pushing for exemptions from personal property taxes.
- **Land Division:** Statue pending to require tax payment certification before any land division.
- **MTA Roads:** MTA supports the road repair program the governor has proposed, not in favor of the way dollars are proposed to be divided, uncertain regarding the proposed gas tax passing.
- **Moratoriums:** Court decision regarding moratoriums - they must now comply with all the procedures for adopting a zoning ordinance.
- **Recreation & Medical Marijuana:** 10 states have legalized recreational Marijuana, 33 states have legalized medical marijuana. Many challenges, uncertainties regarding interpretation, enforcement and testing. Licensing will begin in December.
- **Hemp Legalized:** Passed at the Federal level, Farm Bill legalized it and the State of MI legalized it January 15, 2019. Farmers can grow hemp just like corn, but they have to register with the Michigan Department of Agriculture. Law enforcement has a hard time telling what is legal and illegal hemp, as there is no way to test it on the road. There are also problems with transporting it between states.

Unfinished Business: None

New Business: Discussion regarding the feasibility of a 2019-20 Township Community Survey. The Commission agreed to move this topic to “Unfinished Business” and address at a future meeting.

Public Comments: Audience member asked where the Township stands on Recreational or Medical Marijuana. The Commission responded that the Township has opted out of allowing any recreational or medical marijuana business.

Member Comments: None

Adjournment:

MOTION/S – Sabty/Mischel

MOTION TO ADJOURN.

MOTION CARRIED.

Meeting Adjourned at 8:15 PM