

# MEMORANDUM

**TO:** Elk Rapids Township Planning Commission  
**FROM:** Larry Nix, PCP Consulting LLC  
**DATE:** May 2, 2019  
**RE:** **365 Outdoor Inc. Special Exception Use for Outdoor Display**



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Mr. Eric Rubert of 365 Outdoor submitted an application and site plan in 2013 to establish a “landscape and irrigation company” and to modify a developed site at 11550 South US-31. The property is located along the west side of the highway in the Commercial Zone. At the May 21, 2013 Planning Commission meeting, the Commission voted to approved the site plan with conditions and also to approve the Special Exception Use to permit open space storage and equipment. Those motions and conditions are attached for your information.

Mr. Rubert now desires to add an Equipment Rental Business, a display area for the rental equipment business and make changes to the existing sign. He has submitted a site plan for your consideration in this matter. Following are comments on the material submitted.

The primary subject of the public hearing is the application for Outside Sales and Displays are permitted by a Special Land Use in Section 11.05(B) of the Zoning Ordinance. At the public hearing conducted on April 9, 2019 the Planning Commission noted the proposed Outside Sales and Display areas encroached into the front yard site back area. The revised site plan dated April 23, 2019 illustrates three areas for the display of rental equipment and the area for proposed rental.

The proposed display areas have the following characteristics:

North side of entry drive:

- 15'x25' is area
- Approximately 30' west of the north/south fence separating the screening from the storage area.

South side of entry drive:

- 16'x20' area, north of the building face
- 20'x90' area adjacent to the front yard setback line.
- A proposed rental space. This area needs to be clarified as to intent for the use of this space.

These display areas are properly located, provide good visual exposure for the motoring public and will not hinder the aesthetics of the site. There are several situations/violations on the site that do cause concern.

1. Signage on the display items that indicate ‘Rent Me’. These signs are not permitted. See Chapter 3 of the Zoning Ordinance.

2. The vertical extension of equipment in the yard with 'Rent Me' signage. This is not permitted. The yard area is to be screened as noted in the 2013 approved site plan. This is not currently the situation. The applicant must address this issue. See Section 11.05A of the Zoning Ordinance.
3. Building signage that has not been approved or authorized. This must be removed immediately. See Chapter 3 of the Zoning Ordinance.
4. A new sign has been erected adjacent to US 31 that has not been authorized or permitted. An application for a Sign Permit must be pursued immediately. See Chapter 3 of the Zoning Ordinance.
5. The required screening of the approved outdoor storage area has been altered by the removal of/or cut down and different material has been planted. The site plan does not indicate the nature of the new screening or an accurate depiction of the landscape/screening area layout. There appears to be an encroachment of the new landscaping and stones into the highway right-of-way. This must be addressed by the applicant immediately.

Several of the items above were discussed at the April Planning Commission meeting and the applicant was requested to address those items. The sign problems are new in the past 30 days.

It is also noted the plan submitted has been sealed by a professional as required in the Zoning ordinance. (Section 17.04(A) (7)).

This initial intent of the public hearing in April was to hear and decide the Special Use application for Outdoor Sales and Display. In the process of reviewing the application material and the site, several situations were identified as not being consistent with the original approval (May 21, 2013) or just completely ignoring Township regulations. This makes action by the Planning Commission very difficult at this time due to the site violations.

There are several options that can be taken at this time.

1. Table the Special Use request until the above 5 situations/violations have been resolved.
2. Deny the Special Use request due to the site violations and revoke the 2013 approval due to the site violations in conflict with the 2013 approval. (Outdoor Storage Screening)
3. Approve the Special Use for the Outdoor Sales and Display areas as noted on the April 23, 2019 Site Plan with the condition the above 5 noted violations shall be corrected in the next 14 days.

**Planning Commission Action on 365 Outdoor Inc.  
May 21, 2013**

M/S – Sabty/Derenzy. Move to approve the Site Plan as presented for 365 Outdoor, Inc. with the following ten (10) conditions:

1. Void Past Approvals: Other uses and conditions previously approved by the Elk Rapids Township that are not associated with 365 Outdoor, Inc. operations are hereby voided.
2. Outdoor Functions: No outdoor functions are allowed on the premises that are not considered in the landscape and irrigation category.
3. Fire Department Recommendations:
  - a. Install a key lockbox at the gates that complies with the Elk Rapids Fire Dept. requirements.
  - b. All flammable liquid is to be stored in an out-building that is at least 10' from a main structure.
4. Sewer Line Hook-Up: The property owner warrants and agrees to hook up to the Township sewer system if and when it would become available to the property.
5. Outside Lighting: To prevent glare from traveling onto neighboring properties, or cause traffic problems, outside lighting located on the property is to be Zero Degree down mounting. Lighting details shall be reviewed and approved by the Zoning Administrator prior to issuance of Township permits.
6. Front Set Back:
  - a. Should adhere to the deeper front setbacks in practice by the US-31 Corridor Commercial Zone businesses as advanced by the Master Plan.
  - b. The 15 parking spaces located west of the front set back line should be separated from it by "Parking Blocks" or anchored "Rail Road Ties."
  - c. No trailers or equipment is to be parked in the front setback area behind or in front of the existing fence. Living landscape material may be temporarily stored at the front setback area west of the fence.
  - d. The circular driveway in the front, around the sign, should not encroach into the MDOT ROW.
7. Site Plan Time Frame: This Site Plan covers proposed changes contemplated and completed by 4-16-2014. Future proposed structures after 4-16-2014 should be applied for separately at such time accompanied with the required engineering drawings and other required standards.

8. Outside Storage: Landscape Material should be stored in bin blocks, especially any piled material, based upon the Special Exception Use Permit.
9. Parking On Site:
  - a. All 48 customer and employee designated parking spaces should be configured on a 10'x20' parking area per vehicle.
  - b. Any customer and employee parking spaces that would not be currently developed are to be noted as "Available Future Parking Spaces," and should be preserved and their space stay opened. Seven (7) additional parking spaces need to be added to the 'future parking area' to total 48 parking spaces.
  - c. Future parking shall be reserved as such and not developed for other purpose.
10. Greenbelt Requirement: The present plant screening is acceptable, however if some plants should die off, they shall be replanted to meet the specification in the Zoning Ordinance.

Vote: Yes to approve. Derenzy, Larson, Lundy, Sabty & Smith. Passed 5-0-0

M/S – Sabty/Lundy. Move to approve the application by 365 Outdoor. Inc. for Special Exception Use for open space storage of landscape material and equipment; with emphasis that the stored material or equipment stay screened and the surrounding green belt around the property is maintained, and any dead plants are replaced as required by the Zoning Ordinance.

Vote: Yes to approve. Derenzy, Larson, Lundy, Sabty & Smith. Passed 5-0-0