



Antrim County Planning Commission

The Antrim County Planning Commission meeting is scheduled for
Thursday, November 5, 2024 at 5:30 p.m.
Antrim County Building
Board of Commissioners Room
203 East Cayuga Street, Bellaire, Michigan

MEMBERS

Richard Friske, Jr.
12/31/2024

Leslie Elrod
12/31/2025

James Gurr
12/31/2025

Ron Tschudy
12/31/2026

Bill Hefferan
Annual
Appointment

STAFF

Jeremy Scott
County Administrator

Janet Koch
Deputy Administrator

Gayle Rider
Administrative Asst.

Margie Boyd
Secretary

OFFICE ADDRESS

P.O. Box 187
Bellaire, MI 49615

PHONE: 231-533-6265

FAX: 231-533-8111

SPECIAL ASSISTANCE

If you wish to attend a meeting and require special assistance, please contact the Administration Office.

AGENDA ITEMS:

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. Declaration of Conflict of Interest
5. Public Comment
6. Approval of [Minutes from October 1, 2024](#)
7. Old Business
8. New Business
 - Elk Rapids Township Rezoning
 - Antrim County Stormwater Ordinance
 - **Milton Township Zoning Amendment – Workforce Housing**
9. Various Matters
 - Communication – Banks Township (*Information Only*)
10. Public Comment
11. Adjourn

*If you have any questions or concerns, please contact the Administration and Planning Office at 231-533-6265.
We appreciate your cooperation in this matter. Thank you.*



Memorandum Administration Office

November 5, 2024

TO: Planning Commission
FR: Administration/Planning Office
RE: Approval of Agenda, Minutes

You should have received your agenda packets via electronic communication on October 28. If there are no changes or additions to the agenda, please consider the following motion:

Approve the November 5, 2024 agenda as presented.

You received the revised minutes from the [October 1, 2024 Planning Commission](#) meeting via electronic communication on October 28. If there are no corrections to those minutes, please consider the following motion:

Approve the minutes of the October 1, 2024 meeting as presented.



Memorandum Administration Office

November 5, 2024

TO: Planning Commission
FR: Administration/Planning Office
RE: Elk Rapids Township Rezoning

Following are items received in the Administration Office via email on September 26, 2024 from the Elk Rapids Township Planning Commission:

- 2024-06-26 letter from the Elk Rapids Township Planning Commission to the Antrim County Planning Commission regarding the rezoning of 16 parcels
- Rezoning review memo
- 2024-8-13 PC minutes approving a public hearing
- 2024-9-24 public hearing notice for Elk Rapids Twp. Planning Commission meeting
- Draft minutes for the 2024-9-24 public hearing

Also attached is a communication regarding the rezoning from two residents of Elk Rapids Township. Section 307(3) of the Michigan Zoning Enabling Act, Public Act 110 of 2006 as amended, states the following:

The county will have waived its right for review and recommendation of an ordinance if the recommendation of the county zoning commission, planning commission, or coordinating zoning committee has not been received by the township within 30 days from the date the proposed ordinance is received by the county.

Unfortunately, this agenda item was not included in the packets for your October 1 meeting. This means that the 30 day review period was considered waived. I contacted Larry Nix, the Elk Rapids Township Zoning Administrator, who noted that although the 30-day review period will be over at the time of your November 5 meeting, the township board meets on the second Monday of each month, thus allowing time for your motion and comments to be received ahead of their meeting.

If the Antrim County Planning Commission sees no incompatibilities between the county's master plan and the proposed rezoning, please consider the following motion:

That the Antrim County Planning Commission found no incompatibilities between the Antrim County Master Plan and the proposed rezoning of the parcels in Elk Rapids Township and recommends that the Elk Rapids Township Board approve the proposed ordinance.

ELK RAPIDS TOWNSHIP PLANNING COMMISSION

September 26, 2024

Antrim County Planning Commission
Mr. Jeremy Scott, County Administrator
P.O. Box 187
Bellaire, MI 49615

Re: Elk Rapids Township Planning Commission, TWP Zoning Map, Rezone 30 Environmental Parcels to R-1 Residential and Agricultural.

The Elk Rapids Township Planning Commission held a Public Hearing on September 24, 2024 and approved the rezoning of 16 Environmental parcels to R-1 Residential and 14 Environmental parcels to Agricultural, and is being forwarded to the Antrim County Planning Commission for their review.

To assist in your review process, attached are copies of documents related to the Approval:

1. Rezoning Review Memo, 8-2-2024 by Larry Nix, PCP Consultant.
2. 2024-8-13 PC Minutes Approving a Public Hearing
3. 2024-9-24 Public Hearing Notice for PC Meeting.
4. Draft Minutes for the September 24, 2024 PC Public Hearing Meeting.

We hope that this information will assist you in processing this request for the coming County Planning Commission Meeting. The Elk Rapids Township Board Monthly Meetings take place on the 2nd Monday of each month at 9:00 AM; we look forward to receiving your County response to this request soon. If you have any questions, please feel free to contact me or our PC Chairperson, Shen Smith.

Thank you.


ELK RAPIDS PLANNING COMMISSION

Emile Sabty
Phone: (231) 264-8537
Email: nesabty@charter.net

Elk Rapids Township Planning Commission
P.O. Box 365
Elk Rapids, MI 49629-0365

cc: Dorance Amos
Larry Nix
William F. Derman
Shen Smith (231) 264-6665

MEMORANDUM

TO: Elk Rapids Township Planning Commission
FROM: Larry Nix, PCP Consulting 
DATE: August 2, 2024
RE: Master Plan Wetlands Rezoning Parcels

The 2024 Master Plan adopted in the spring provided a new potential wetlands map. This map has been revised by the State of Michigan based on updated data and our changing environment. This map has historically been used to determine the areas in the Township to be zoned Environmental. This zoning district provided added protection for new development and reduces environmental impact. Since the wetland map change, this impacted several areas in the northern half of the Township currently zoned Environmental.

Attached is the wetland map in our 2024 Master Plan, the current Zoning Map, and the 2024 Future Land Use Map. The three major impacted areas are starred on these three maps. The majority of these three areas are out of sync with the story they tell. The wetland data does not support the underlying zoning in most instances and the 2024 Future Land Use Map reflects the future for these areas. For these reasons, it is suggested the Planning Commission consider rezoning the following impacted tax parcels for consistency with the Future Land Use Map.

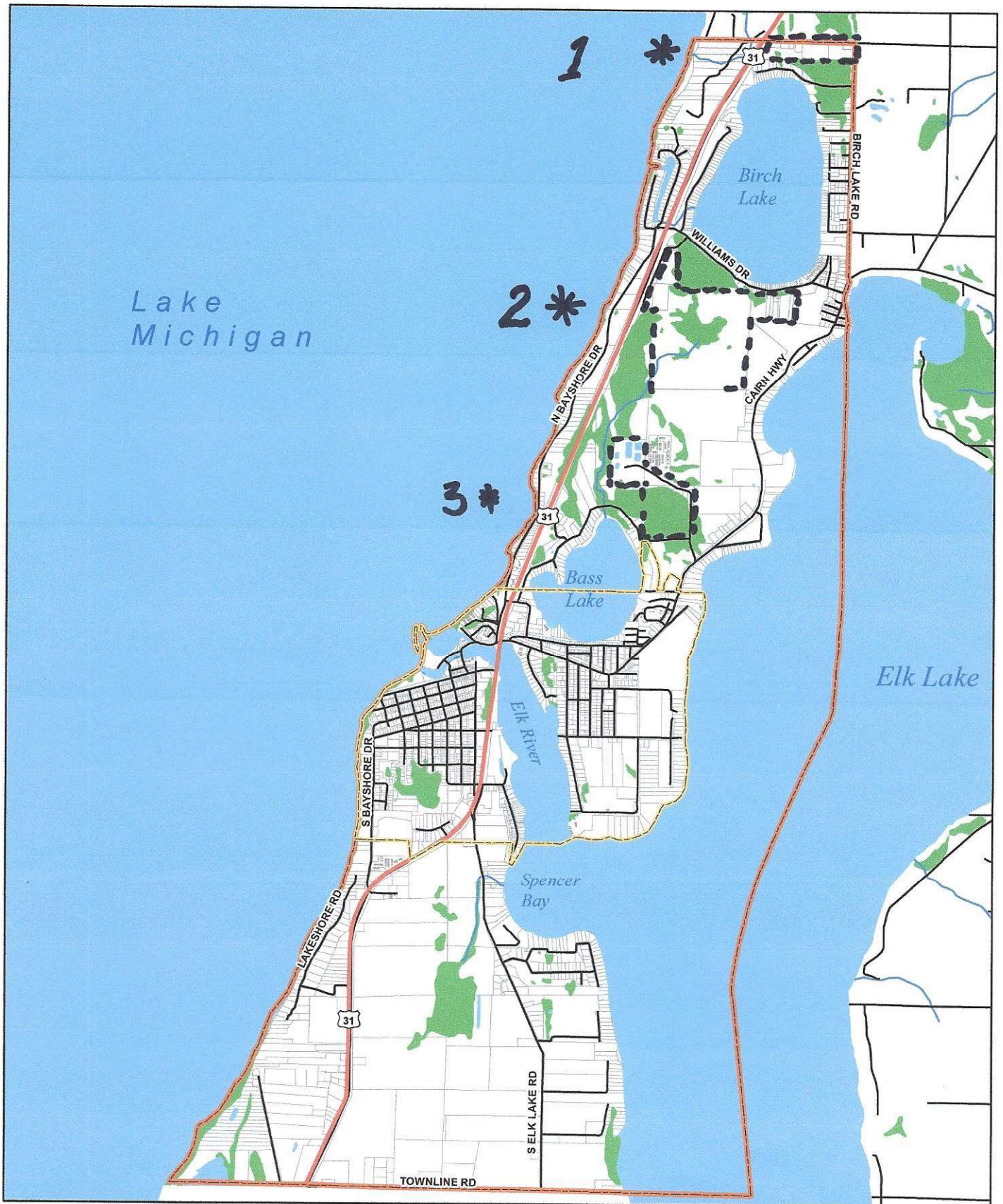
Environmental to R-1

05-06-003-001-10
05-06-003-001-20
05-06-003-001-00
05-06-003-002-10
05-06-003-002-00
05-06-003-005-00
05-06-003-004-00
05-06-003-003-00
05-06-015-028-00
05-06-015-028-15
05-06-015-028-30
05-06-015-028-10
05-06-015-028-20
05-06-015-028-25
05-06-015-028-35
05-06-015-028-40

Environmental to AG

05-06-010-005-10
05-06-009-013-00
05-06-010-005-10
05-06-010-010-00
05-06-010-006-10
05-06-010-006-01
05-06-175-033-00
05-06-175-032-00
05-06-175-029-10
05-06-175-031-02
05-06-175-028-02
05-06-175-028-21
05-06-175-028-10
05-06-016-011-00
05-06-015-002-00

We will discuss these changes at the August 13, 2024, meeting and consider setting a public hearing to amend the Zoning Map for the September or October Planning Commission meeting.



Elk Rapids Township

Antrim County, Michigan

Map 2. Wetlands

Legend

- Potential Wetland Areas*
- Village Boundary
- Township Boundary

williams&works
ENGINEERS SURVEYORS PLANNERS



*This Wetlands Inventory Map is intended to be used as one tool to assist in identifying wetlands and provide only potential and approximate locations of wetlands and wetland conditions.

This map is not intended to be used to determine specific locations and jurisdictional boundaries of wetland areas subject to regulation under part 303 Wetlands Protection Act, 1994 PA 451, as amended. Only an on-site evaluation performed by MDEQ in accordance with Part 303 shall be used for jurisdictional determination. A permit is required from the MDEQ to conduct certain activities in jurisdictional wetlands.

Elk Rapids Township









Antrim County, Michigan

Zoning Map

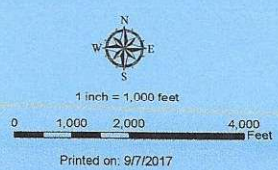
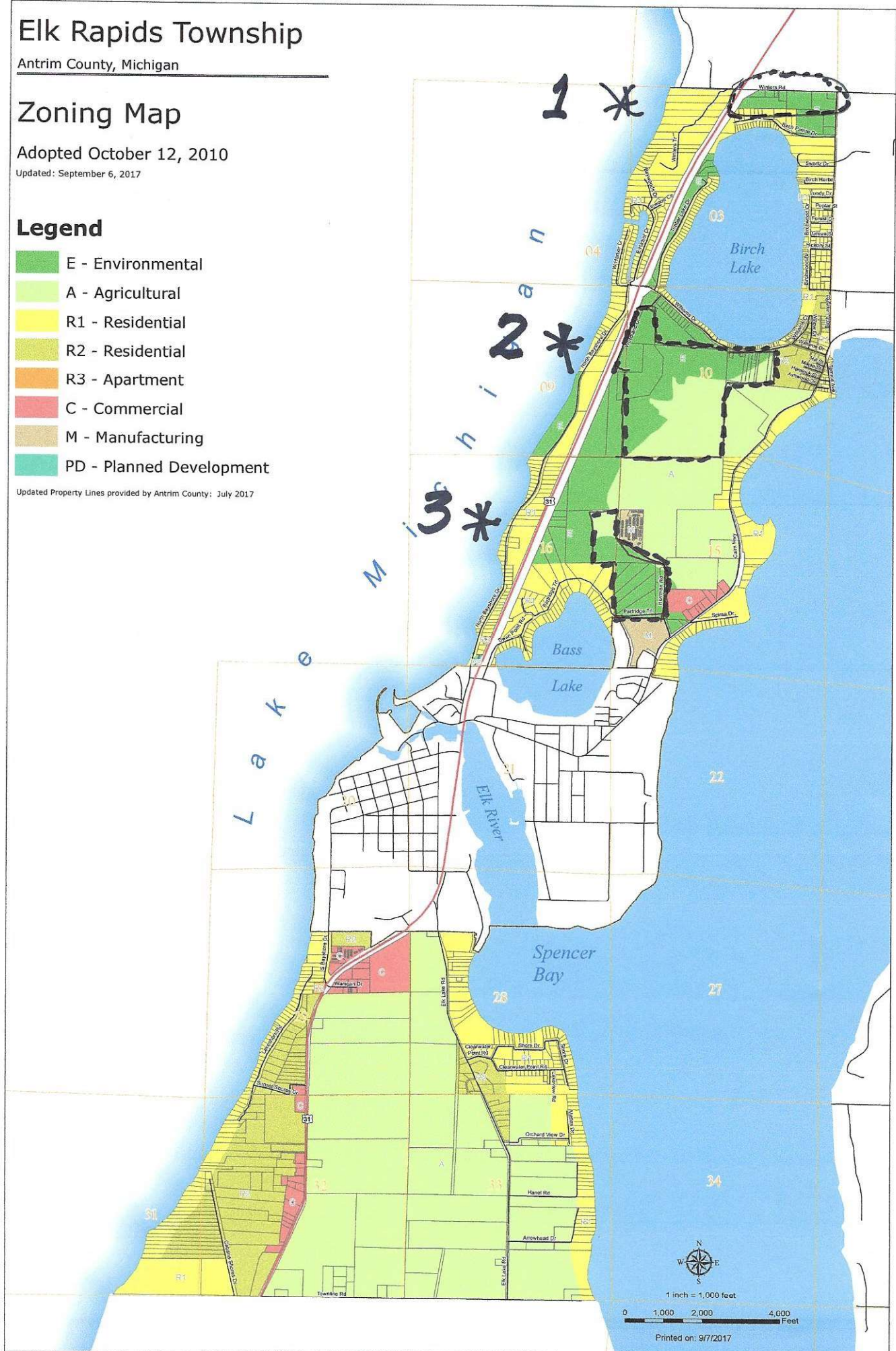
Adopted October 12, 2010

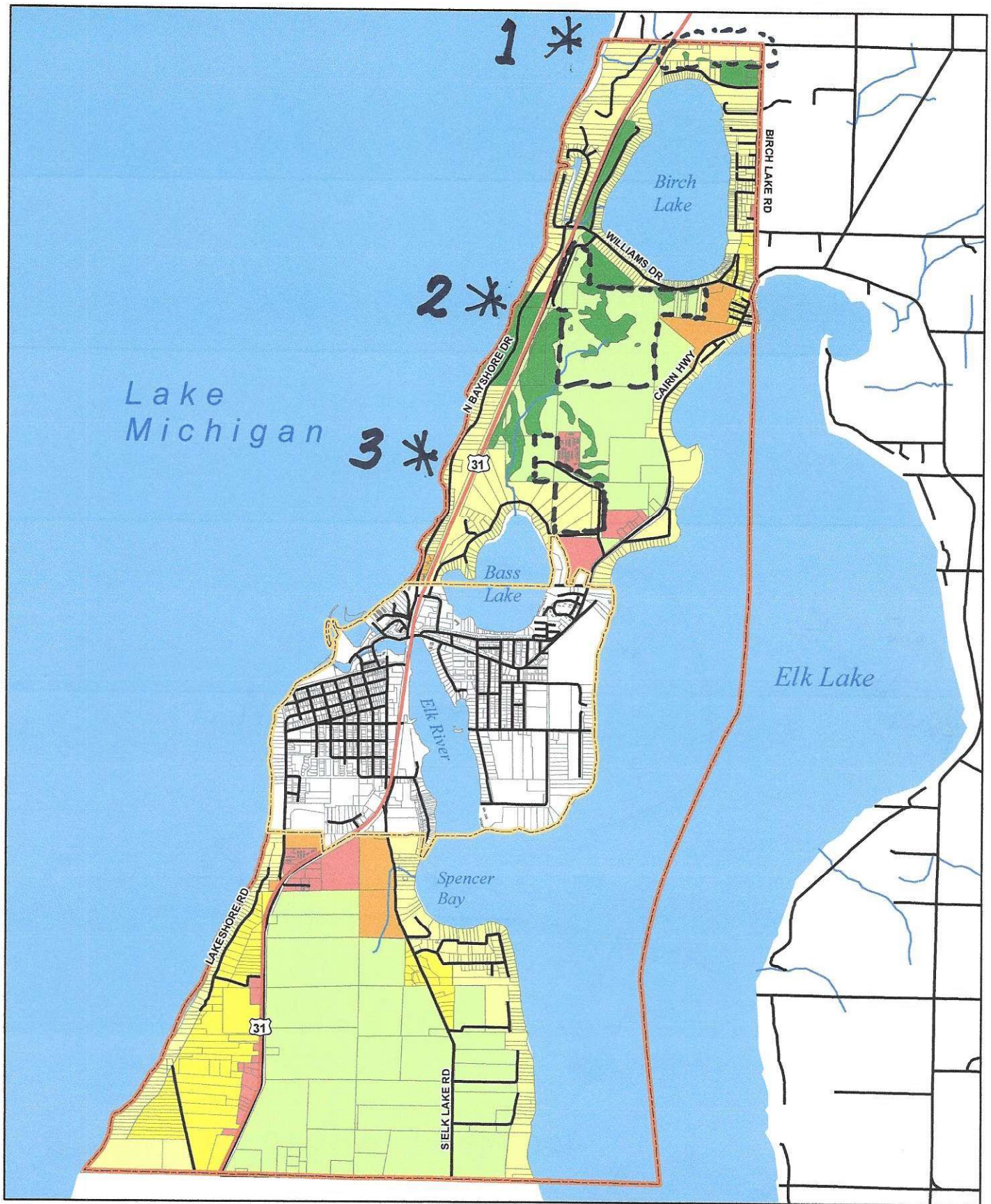
Updated: September 6, 2017

Legend

-  E - Environmental
-  A - Agricultural
-  R1 - Residential
-  R2 - Residential
-  R3 - Apartment
-  C - Commercial
-  M - Manufacturing
-  PD - Planned Development

Updated Property Lines provided by Antrim County: July 2017





Elk Rapids Township

Antrim County, Michigan

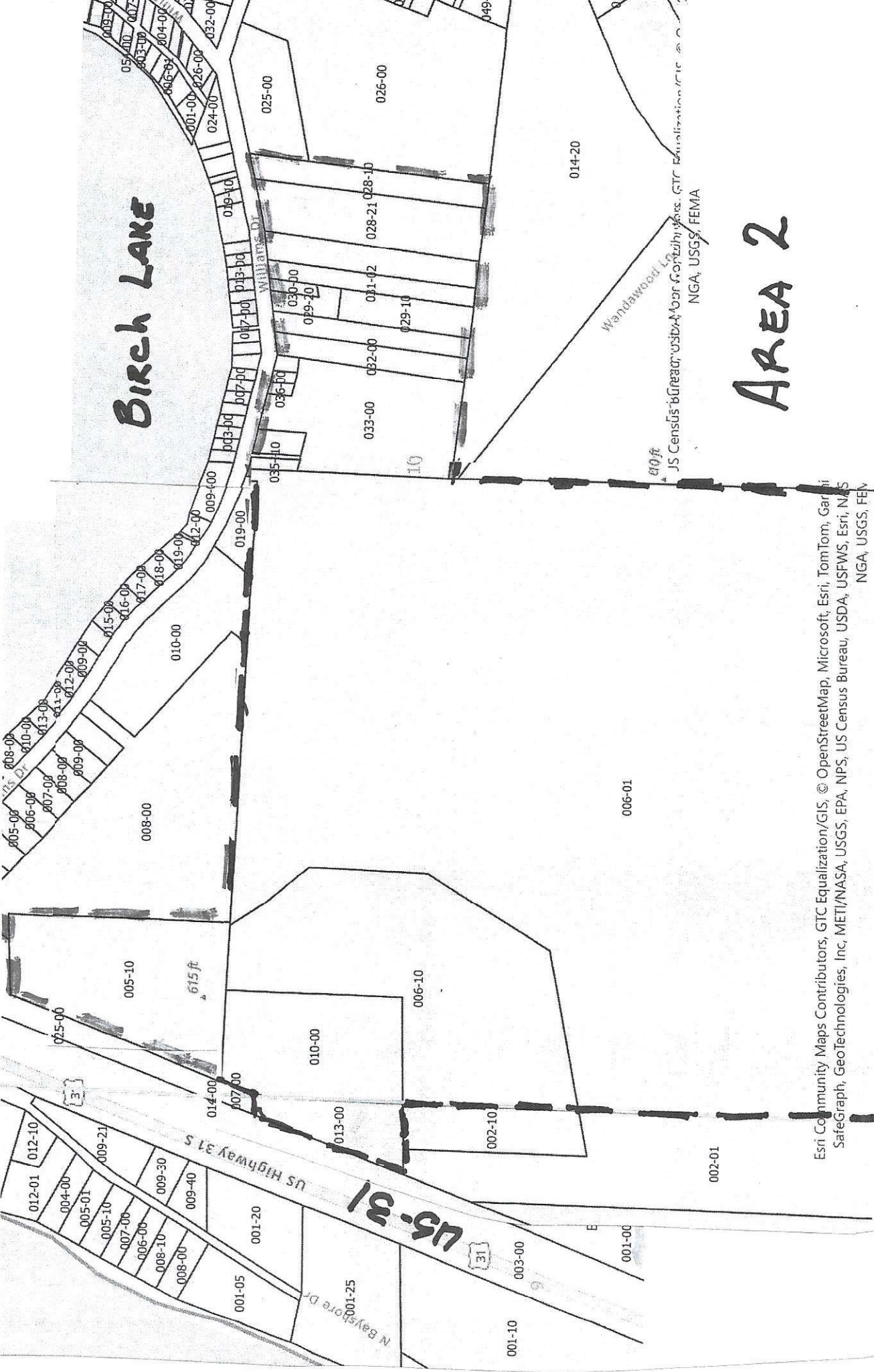
Map 5. Future Land Use

- Future Land Use (Township)**
- Significant Natural Areas
 - Agricultural
 - Low Density Residential
 - Medium Density Residential
 - High Density Residential
 - Manufacturing / Commercial
 - Village Boundary
 - Township Boundary



BIRCH LAKE

AREA 2



014-20

Wandalwood Ln
NGA, USGS, FEMA

10 ft

JS Census Bureau, USB, Moor, Wozniak, GTC Equalization, Esri, NGA, USGS, FEMA

Esri Community Maps Contributors, GTC Equalization/GIS, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, Geotechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS, Esri, NGA, USGS, FEMA

009-10
003-00
004-00
001-00
024-00
026-00
032-00

025-00

026-00

005-00
006-00
007-00
008-00
009-00
010-00
011-00
012-00
013-00
014-00
015-00
016-00
017-00
018-00
019-00
020-00

008-00

010-00

005-10
006-10
007-00
008-00
009-21
009-30
009-40

005-10

615 ft

010-00

006-10

012-10
004-00
005-01
005-10
007-00
006-00
008-10
008-00
001-05
001-20
001-25

012-01

025-00

014-00

007-00

010-00

013-00

002-10

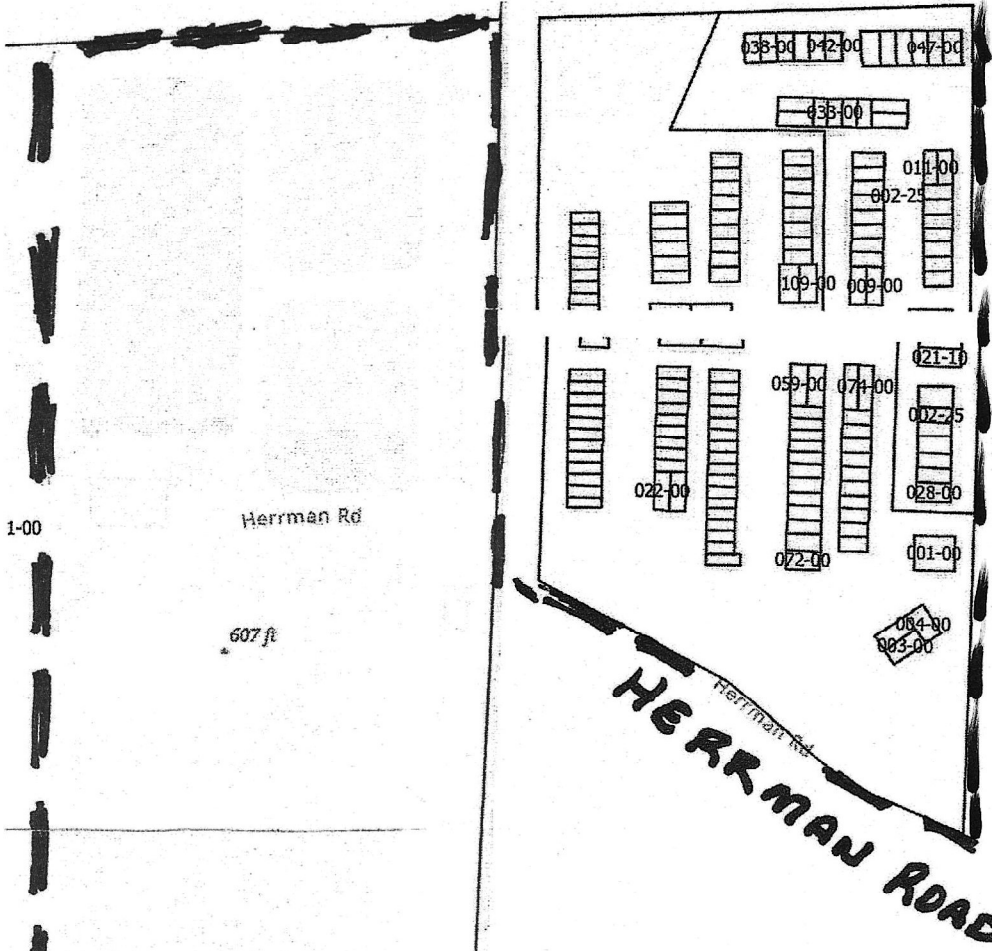
001-00

002-01

001-10

003-00

US Highway 31 S
N Bayshore Dr
US-31



002-00

AREA 3

1-00

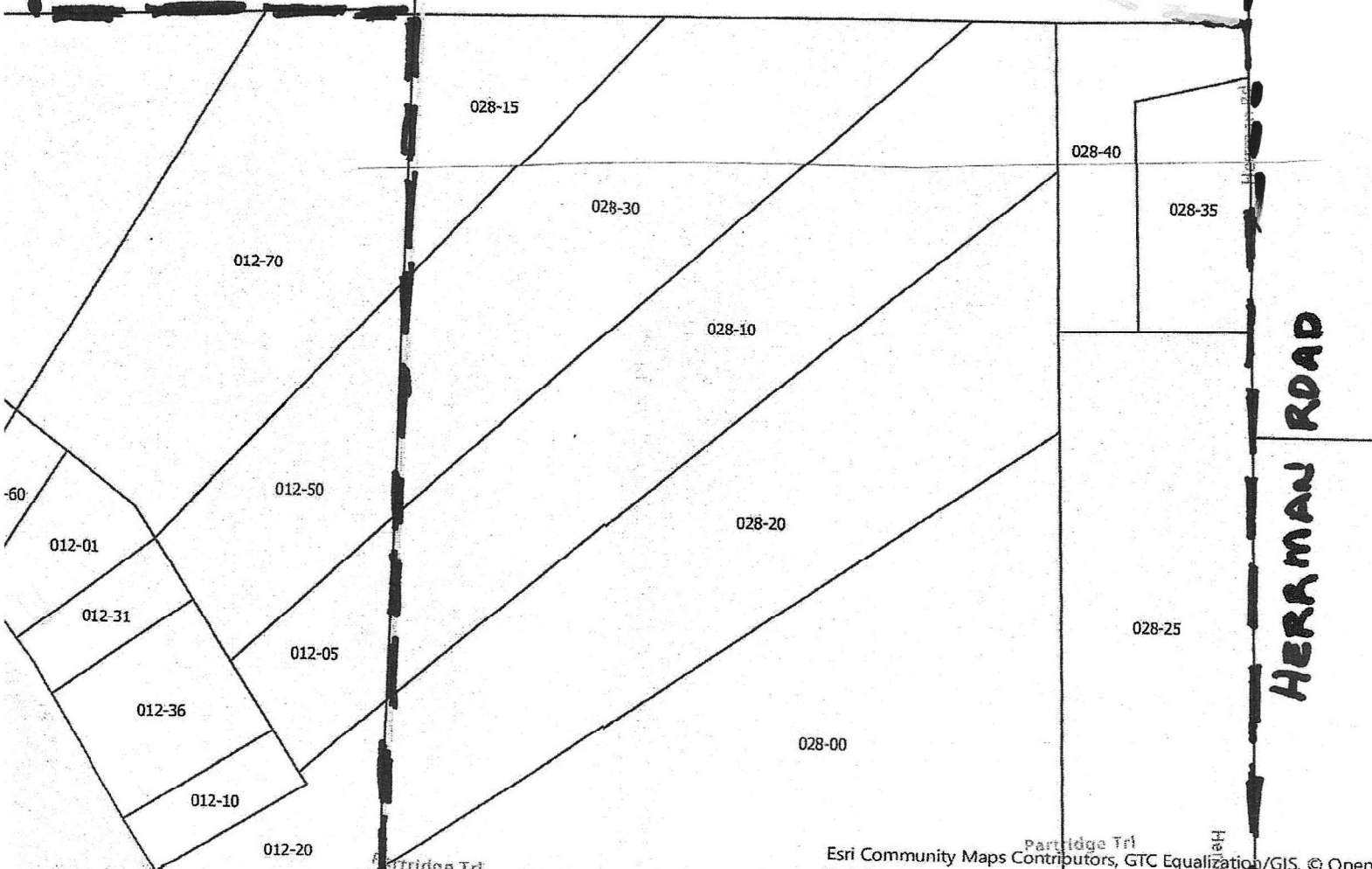
Herrman Rd

607 ft

607 ft

Herrman Rd

HERRMAN ROAD



-60

**Elk Rapids Township Planning Commission Meeting
Meeting Minutes – August 13, 2024 – Approved 9-24-2024**

The meeting of the Elk Rapids Township Planning Commission was called to order by Chairperson Shen Smith at 11:30 AM at the Government Center, 315 Bridge Street, Elk Rapids, MI 49629.

- Present:** Shen Smith, Emile Sabty, Zach Amos, Tom Crandall, Gary Pepler, James Lundy, and Matt Soper.
- Absent:** None.
- Also Present:** Larry Nix, Zoning Administrator and William Derman, Township Attorney.
- Audience:** Mark Poniatoski.
- Approval of Agenda:** Motion to approve the August 13, 2024 Agenda.
Motion/S: Amos/Lundy Motion Carried.
- Approval of Minutes:** Motion to approve the May 14, 2024 meeting minutes.
Motion/S: Soper/Lundy Motion Carried.
- Public Comments:** None

Township Zoning Administrators Report:

- Larry Nix reported there was little activity for permits
- Wetland designation was discussed with the Commission with Administrator Nix explaining that regulations and permits would still be required with any change in the zoning.
- After reviewing the present zoning map the Commission discussed setting a Public Hearing to change the map only to reflect Environmental Zoning in specific areas to either R1 or Agricultural. No text changes will be involved

Motion to set a public hearing to update a zoning map to reflect zoning correctly.

Motion/S: Smith/Lundy. Roll Call Vote
Amos Yes
Crandall Yes
Soper Yes
Lundy Yes
Peppler Yes
Sabty Yes
Smith Yes
Motion Carried.

- Larry vocalized the idea that was suggested to remove the Group Retreat regulations in the Zoning Ordinance. He feels a lot of time was spent adopting the rules and feels that even though it has never been used, the language is now in record and would in his opinion be helpful someday. A discussion took place that involved the previous request for a Group Retreat should stay in the ordinance.

Motion to leave the Group Retreat Ordinance wording in place was made.

**Motion/S: Soper/Amos Vote: Yes 7
No 0
Motion Carried.**

- Administrator Nix brought to the Commission the request discussed by the ZBA to consider revising zoning regulations in areas that have been developed on land with variances on non-conforming size lots. The areas are mostly adjacent to Birch Lake, Williams Road area that are continually requesting variances for updates and renovations of dwellings on smaller lots.
- Discussion of the history was presented by Sabty, of the relaxation of some of the zoning was created many years ago with a “unwritten rule” to allow owners to maintain and improve their homes on non-conforming lots. Variances evolved to a common acceptance of single story 700 sq. ft homes, or 1400 sq. ft for 2 story homes being permitted. Setbacks were adjusted to 38’ lakeside, 30’ roadside, 10’ side lot.
- The Commission discussed the effects on workforce housing, affordable housing and tiny homes.
- There are a few different options that Larry will present to the Commission that they can pursue the different zoning rules that would better reflect the needs of the lots and the area.

Decision to pursue a provision creating a solution to making non-conforming lots more usable was unanimously agreed on by the Commission.

Township Legal Staff Report (Bill Derman)

- B. Derman gave an update on the issues in the Township.

Unfinished Business:

- Mark Poniatoski presented a visual site plan package to the Commission to address some of the earlier concerns that the Commission was requesting to better understand the possible development he is proposing.
- The Commission viewed the power point presentation and asked questions regarding the landscaping and other cosmetic and infrastructure that would be onsite.
- Administrator Nix thanked the applicant for the updates and offered a list of items that would be required to be addressed in the application process.

New Business:

- Chair Smith requested Larry Nix monitor the renewable energy ordinance. MTA will be sharing a model for townships to use.

Public Comment: None

Motion to Close Meeting:

Motion/S: Sabty/Amos

Motion Carried.

Adjournment:

1:20 PM

(An audio tape of this Planning Commission Meeting is available at the Township Office

ELK RAPIDS TOWNSHIP PLANNING COMMISSION

NOTICE PUBLIC HEARING

September 24, 2024

The Elk Rapids Township Planning Commission will hold a public hearing on Tuesday September 24, 2024, at 11:30 AM at the Government Center, 315 Bridge Street, Elk Rapids, Michigan.

The Public Hearing is to consider the rezoning of several parcels in the northern half of the Township. This action is consistent with the recently adopted Master Plan of Elk Rapids Township and rezones several parcels from Environmental District to either Residential District or the Agriculture District. A map and listing of the subject parcels can be viewed at the Township Office during normal business hours.

Public comments in support or objection to, a request will be heard at the meeting, or may be made in writing addressed to the Planning Commission, P.O. Box 365, Elk Rapids, Michigan 49629.

Emile Sabty
Planning Commission
8-30-2024

(Publish in “Elk Rapids News” Once on Thursday September 5, 2024)

**Elk Rapids Township Planning Commission Meeting
Meeting Minutes – September 24, 2024 First Draft**

The meeting of the Elk Rapids Township Planning Commission was called to order by Chairperson Shen Smith at 11:30 AM at the Government Center, 315 Bridge Street, Elk Rapids, MI 49629.

Present: Shen Smith, Emile Sabty, Zach Amos, Tom Crandall, Gary Pepler, and James Lundy.

Absent: Matt Soper.

Also Present: Larry Nix, Zoning Administrator and William Derman, Township Attorney.

Audience: Audience was comprised of approximately 25 residents from the Birch Lake area.

Approval of Agenda: **Motion to approve the September 24, 2024 Agenda.**
Motion/S: Amos/Lundy **Motion Carried.**

Approval of Minutes: **Motion to approve the August 13, 2024 meeting minutes.**
Motion/S: Amos/Crandall **Motion Carried.**

Motion to open Public Hearing:
Motion/S Amos/Lundy

- Emile Sabty provided his understanding of the properties affected and their property classifications in the tax system. His understanding was that the map would be changing to reflect the Future Land Use Map in the new Master Plan but not the rezoning of properties.
- Larry Nix commented the intent is to update the zoning map to accurately reflect the State Wetland map, and State wetland rules will still be in place.
- Also mentioned was the proposed rezoning is consistent with the Master Plan and when rezoning more than 11 parcels, individual property owner notification is not necessary by law.

Public Comments: A conflict of interest was brought up regarding a property owner having a relative on the Commission. It was determined there was no conflict of interest by any member of the Planning Commission. Several members of the audience spoke with concern of the impact on water quality should the rezoning take place. A letter from Pat and Carol Brady was read into the record. Larry Nix answered questions posed during the comments and reiterated that the wetland rules and regulations of the State of Michigan would still be in place. Very minor changes were made in the Master Plan Future Land Use Map, and not to the area in question. Also, any existing parcel would be permitted to build a structure provided all the State and Local rules were followed. The intent of the proposed rezoning is to minimize the time necessary when an EGLE determination is not necessary in an upland area. Currently all parcels with an Environmental designation are required to seek a wetland determination prior to applying for a zoning or building permit.

Motion to close Public Hearing:
Motion/S Lundy/Crandall **Motion Carried.**

Planning Commission held discussion:

The Planning Commission discussed the proposed rezoning and the public comments with some members desiring to table the item and others desiring to move forward with a motion. Mr. Nix explained the options to the Planning Commission including tabling the request for further study, approval of the request, or denying the request.

- Chairperson Smith would like to table for 30 days to notify each property owner. Motion to table the issue until the next meeting October 7, 2024.

Motion/S Smith/Peppler

Roll Call Vote
Smith Yes
Peppler Yes
Amos No
Lundy No
Sabty No
Crandall Yes
Motion Denied.

Motion Lundy/Amos

Move to approve updating the rezoning as presented: Rezone 16 Environmental parcels to R1 and 14 Environmental parcels to Agricultural.

Motion/S: Lundy/Amos.

Roll Call Vote
Amos Yes
Crandall Yes
Lundy Yes
Peppler Yes
Sabty Abstained
Smith No
Motion Carried.

Administrators Report:

- Larry Nix reported there was little activity for permits over the past month.

Township Legal Staff Report: (Bill Derman)

- B. Derman gave an update on the issues in the Township.

Unfinished Business:

- Chairperson Smith suggested they table the unfinished business until the next meeting.
- The timing of the next meeting was discussed to accommodate the new attorney. The Planning Commission did not have a problem changing their meeting to the same day the Township Board met.

New Business:

None

Public Comment:

None

Motion to Close Meeting:

Motion/S: Amos/Lundy

Motion Carried.

Adjournment:

1:05 PM

(An audio tape of this Planning Commission Meeting is available at the Township Office (First Draft September 25, 2024, as of 11:30 am)

To: Antrim County Planning Commission
Re: Rezoning in Elk Rapids Township

September 30, 2024

On September 24, 2024, the Elk Rapids Township Planning Commission purportedly passed a motion to approve the rezoning of numerous parcels in northern Elk Rapids Township from Environmental to either R-1 Residential or Agriculture. Although the issue is not currently on the Antrim County Planning Commission's agenda, the Commission will soon be reviewing this action. On behalf of ourselves and other concerned Elk Rapids Township residents, we are requesting that the Commission recommend that the Elk Rapids Township Board deny the rezoning request for the following reasons:

1. The August 2, 2024, Elk Rapids Planning Commission rezoning memorandum indicates that the rezoning issue arose as a result a revision to the Township's potential wetlands map by the State of Michigan. When we communicated with EGLE seeking further information regarding this alleged revision by the State, EGLE informed us that it was not aware of any revised wetlands maps at the State level for wetlands in the Elk Rapids area. We asked the Planning Commission to explain the discrepancy, but it failed to do so. Thus, the public has been left with confusion and questions as to why the rezoning process was started.
2. The rezoning process was conducted with such haste that the Planning Commission did not look up the names of the owners of the 30 parcels at issue before it presented the memorandum to the public. Further, the Planning Commission gave no notice of potential rezoning to the affected property owners. (The 8/2/24 memorandum shows 31 parcels, but 2 parcels under the Environmental to AG column are actually the same parcel).
3. The haste with which the proposed rezoning project was conducted resulted in the inclusion of property that is owned and protected by the Grand Traverse Regional Land Conservancy. The Conservancy views the property as vital to safeguard critical wildlife habitat and to protect water quality. In our research of the listed parcels, we also found that the process encompassed a parcel that we have reason to believe is contaminated with lead, petroleum products, and asbestos. The parcel is particularly concerning because it has already been transferred to the Antrim County Treasurer on one occasion and it appears to be on track for another transfer to the Antrim County Treasurer because the current owner has not paid property taxes since summer 2023. A concern is that the Antrim County taxpayers could be stuck paying the cost of cleanup.
4. The Elk Rapids Township zoning administrator indicated that the intent for the rezoning proposal is to remove the step of having to go to EGLE first before starting a building project. However, Elk Rapids residents value clean water and appreciate the EGLE oversight.
5. There are serious flaws in the Planning Commission's process related to the proposed rezoning. Even the the Planning Commission Chairperson described the process as a "cluster you-know-what." We agree that the process was highly irregular. The flaws include, but are not limited to:
 - a. There are several concerns as to notice.
 - b. The Planning Commission member who posted the notice for the public hearing on 9/24/24 did not understand the purpose of the meeting and indicated that he should have worded the notice differently.
 - c. The Planning Commission never disclosed who requested the rezoning.
 - d. The Planning Commission changed the Future Land Use Map in the 2024 Master Plan with legally inadequate public input, and now the Planning Commission is relying on the flawed Future Land Use Map in an attempt to justify the rezoning of the Environmental Zone.
 - e. The Planning Commission on its own, with no input from EGLE, decided that the wetlands in the areas targeted for rezoning are "minimal."

- f. The failure to include the public in the process and the failure to identify who made the request for rezoning are contrary to the procedures set forth in Antrim County's Citizen's Guide to Planning & Zoning in Northwest Michigan.
- g. The Planning Commission's motion regarding rezoning appears to fail procedurally. Following a chaotic 10-15 minute period of trying to come up with a motion, the final motion that the Planning Commission voted on never received a "second" after a Planning Commission member made the specific motion that was passed by four members of the Planning Commission. Further, it is unclear whether it was a motion to recommend the approval of the rezoning "request" or a motion to approve rezoning, which the Commission has no authority to do.

We appreciate your attention to this matter that relates to the health, safety, and welfare of the Elk Rapids community.

Sincerely,

Patrick Brady
Carole Brady
Elk Rapids Township residents

**Antrim County
Drain Commissioner
Operator of Dams**

Memo

To: Antrim County Planning Commission
From: Leslie Meyers
cc: Jeremy Scott, County Administrator
Date: October 15, 2024
Re: Antrim County Stormwater Ordinance

Part of the responsibilities of the Drain Commissioner is to oversee stormwater issues. After review of the County Ordinance and most of our municipal ordinances, it seems appropriate to review the current county ordinance. For your meeting in November, I would like to just discuss the current ordinance and a few changes. Come December I would like help from the PC to discuss improvements for the future. The current ordinance is attached to your agenda material.

At the October 9, 2008 meeting of the Antrim County Board of Commissioners, the following motion was offered.

It was moved by Allen, seconded by Dawson the Soil Eroion, Sedimentation, and Stormwater Runoff Control Ordinance as adopted on April 10, 2008, and as approved by the Department of Environmental Quality without changes be re-approved. Motion carried by a yea and nay vote as follows:
Yes - Dawson, Bargy, White, Howelman, Stanek, Blackmore, Allen;
No - Drenth, Crawford; Absent None.

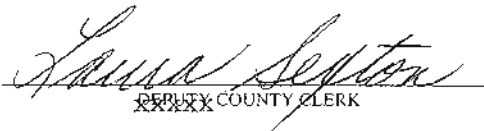
STATE OF MICHIGAN
COUNTY OF ANTRIM



I HEREBY CERTIFY THIS COPY TO BE A
TRUE AND CORRECT COPY OF THE
RECORD ON FILE WITH THE OFFICE OF
COUNTY CLERK

LAURA SEXTON
ANTRIM COUNTY CLERK

BY:


~~XXXXX~~ COUNTY CLERK

DATE: October 17, 2008

Antrim County
Soil Erosion Sedimentation and Stormwater Runoff Control Ordinance
*Adopted by resolution of the Board of Commissioners in accordance with
the provisions of Section 9105(3) of Part 91 (Soil Erosion and
Sedimentation Control Act) of the Natural Resources and Environmental
Protection Act (Act 451 of 1994, as amended), the Michigan Drain Code
(Act 40 of 1956, as amended) MCL 46.11(j) and Article IV, Section 52 of
the Constitution of the State of Michigan*

SECTION 1 PURPOSE, OBJECTIVES, AND AUTHORITY

1-100 PURPOSE

Pursuant to Section 5 of Part 91 of the Environmental Protection Act 451 of 1994, as amended, (being MCL 324.9105, the Soil Erosion and Sedimentation Control Act), the County is responsible for the administration and enforcement of Part 91 and the rules promulgated under Part 91. Pursuant to MCL 324.9105(3), the County may provide by ordinance for the enforcement of Part 91, and such ordinance concerning enforcement and soil erosion and sedimentation control in the County may be more restrictive than Part 91. The Antrim County Board of Commissioners has determined that development and post-development stormwater runoff creates soil erosion and sedimentation both on and off site of the origin. The Antrim County Board of Commissioners deems that the preservation of the natural resources and the environment of Antrim County from the adverse affects of soil erosion, sedimentation, and stormwater runoff is essential, and that adoption of this ordinance, which in part is more restrictive than Part 91, will better address soil erosion, sedimentation, and stormwater runoff within Antrim County.

It has been determined that proper management to prevent the harmful affects of soil erosion, sedimentation and stormwater runoff will minimize damage to public and private property and infrastructure, and will protect water and aquatic resources. The purpose of this ordinance is to, maintain and enhance the control of soil erosion, sedimentation and stormwater runoff by establishing minimum requirements and procedures to control the adverse affects that can arise with earth changes, including new development, redevelopment and post-development stormwater runoff. This Ordinance and its guidelines, set forth the administrative procedures, standards and enforcement remedies for the enforcement of Part 91 of the Environmental Protection Act of 1994 (Act 451 of 1994, as amended, being the Soil Erosion and Sedimentation Control Act). This Ordinance and its guidelines, together with applicable portions of Part 91 and its rules and regulations, and the Michigan Drain Code (Act 40 of 1956, as amended), will more effectively reduce the harmful effects of soil erosion and the release of sediment from the site of origin. Stormwater runoff control and management is a part of a comprehensive soil erosion and sedimentation control management plan. The benefits of stormwater runoff management, as part of implementing soil erosion and sedimentation control measures, will reduce soil erosion and release of sediment, thus sustaining natural resources, environment, soils and clean water in Antrim County and the State of Michigan.

Preventing Stormwater runoff from causing soil erosion is critical to Soil Erosion Control. When land is used for development, areas that were previously pervious are reduced and may become impervious thereby reducing or disallowing surface water and water flow to percolate into the ground. This increase in the overland flow of stormwater and increasing soil erosion, including sheet or rill soil erosion, may be concentrated and cause severe gully erosion, especially if permanent soil erosion control measures have not been installed. A properly implemented stormwater runoff plan will reduce or avoid soil erosion and control and filter sedimentation before reaching waters of the county and state.

Landowners and/or their designated agents are responsible for determining if an earth change on their lands or the lands of a person to which they are authorized to cause an earth change, will cause off site sediment runoff. Sediment resulting from earth changes is to remain on the property to which the earth change is occurring. Landowners and/or their designated agents should consider slope, soil types, and proximity to lakes, streams, rivers and regulated wetlands.

1-200 OBJECTIVES

- 1-201** This ordinance seeks to meet the above-stated purpose through the following objectives:
- 1-201.1** To prevent accelerated soil erosion and release of sedimentation from the site of origin resulting from earth changes proposed within Antrim County by requiring proper provisions for drainage and the protection of soil surfaces.;
 - 1-201.2** To ensure that the landowner and/or land owner's contractor control any change in the volume, direction and/or rate of stormwater runoff originating from their property, thereby reducing soil erosion and release of sedimentation
 - 1-201.3** To ensure alterations to natural drainage patterns shall not create soil erosion, release of sedimentation from the site of origin or flooding, which can cause soil erosion and release of sedimentation
 - 1-201.4** To preserve natural infiltration, the recharge of ground water and to maintain subsurface flows
 - 1-201.5** To restrict stormwater runoff entering and leaving development sites to non-erosive velocities by requiring temporary and permanent soil erosion, sedimentation and stormwater runoff control measures
 - 1-201.6** To ensure that soil erosion control, sedimentation and stormwater runoff control systems are incorporated into site development in the planning and design process
 - 1-201.7** To allow for off-site stormwater runoff and sedimentation control facilities and measures if proposals meet the requirements of this Ordinance
 - 1-201.8** To ensure that all soil erosion sedimentation and stormwater control facilities are properly designed, constructed and maintained so as to prevent the conveyance of sediment via wind and stormwater runoff.
 - 1-201.9** To provide for enforcement of this ordinance and Part 91 of the Natural Resources and Environmental Protection Act (act 451 of 1994)

1-300 AUTHORITY

This Ordinance is adopted under the authority granted in MCL 324.9105(3) of Part 91 of the Natural Resources and Environmental Protection Act (Act 451 of 1994), the Michigan Drain Code (Act 40 of 1956), being MCL 280.1 through 280.630, as amended, (hereafter the "Drain Code"), and the County's authority to make ordinances.

1-400 PART 91 AND RULES

Part 91 of the Natural Resources and Environmental Protection Act, as amended, and the rules adopted there under, which are not in conflict with this Ordinance, are hereby adopted and incorporated by reference.

1-500 GRAMMATICAL USAGE

For the purposes of this Ordinance, the following definitions shall govern grammatical usage herein:

- 1-501** Words used in the present tense include the future tense.
- 1-502** The word "may" is permissive.
- 1-503** The word "shall" is always mandatory and not discretionary.
- 1-504** Any word or term not defined herein shall be used with a meaning of common or standard utilization.

SECTION 2

DEFINITIONS

2-100 Definitions

2-101 Definitions set forth at MCL 324.9101 and R 323.1701 of Part 17 of the Soil Erosion and Sedimentation Control Act are included herein by reference and has the same meanings when used in this Ordinance unless otherwise defined herein.

If a definition set forth in this Ordinance is more restrictive or in conflict with one set forth in MCL 324.9101 and/or R 323.1701, the definition in this Ordinance shall control unless it makes lawful that which is unlawful under Part 91 and/or the rules promulgated under Part 91.

The following terms and phrases shall have the given meaning in this Ordinance and the Guidelines promulgated hereunder, unless the context otherwise requires:

- A. Accelerated soil erosion** – The increased loss of the land surface that occurs as a result of human activities.
- B. Applicant** – Landowner or designated agent who applies for a soil erosion permit. .
- C. Authorized public agency** – A state agency or an agency of a local unit of government authorized under MCL 324.9110 to implement soil erosion and sedimentation control procedures with regard to earth changes undertaken by it.
- D. Best management practice (BMP)** – Any managerial, vegetative, or structural measures, activities, facilities or devices used to manage soil erosion, sediment and stormwater management runoff control objectives as set forth in the guidelines.
- E. Board of County Commissioners** – Antrim County Board of Commissioners also referred to as “County Board”.
- F. Cease and Desist Order** – An order issued under this ordinance by the Soil Erosion Control Officer to a person, or the permittee, their employees, agents, or contractors requiring the cessation of activities related to soil erosion control.
- G. Channel** – Any permanent or intermittent, natural or human-made waterway, which serves as an area where concentrated flows of water occur, and is not considered a stream by the MDEQ.
- H. Control plan** – Soil Erosion, Sedimentation and Stormwater Runoff Control Plan.
- I. County Drain** - Drains established pursuant to the Michigan Drain Code (Act 40 of 1956, as amended) as it applies to soil erosion and sedimentation control.
- J. County Enforcing Agency** – A County agency, drain commissioner, or a conservation district designated by a County Board of Commissioners to enforce this ordinance, but is not a municipal enforcing agent or an authorized public agent.
- K. Design standard (or engineering design standard)** – Engineering specifications detailing soil erosion sedimentation and/or stormwater control facilities.
- L. Detention basin** - A structure or facility, natural or artificial, which stores stormwater on a temporary basis and may release it at a controlled rate. A detention basin is meant to drain within 72 hours.
- M. Designated Agent** - A person who has written authorization from the landowner to sign the application and secure a permit in the landowner’s name.

- N. **Discharge** – The rate of flow of water across land, through a channel or structure at a given point and time, measured in cubic feet per second (cfs).
- O. **Disturbed area** – An area of land subject to erosion due to the removal of vegetative cover, an earth change and/or earthmoving activities.
- P. **Drain Commissioner** - The Antrim County Drain Commissioner or the authorized representative of the Drain Commissioner.
- Q. **Drainage** – The interception and removal of groundwater or surface water by natural or artificial means.
- R. **Dry well** – A bed of stone or a hole in the ground constructed for the purpose of trapping stormwater for infiltration into the ground.
- S. **Downstream** – Lands and waters, which receive stormwater runoff and other surface water flows or those that are subject to soil erosion or accepting released sedimentation from a site of origin.
- T. **Drainage system** – All facilities, channels, and areas, which serve to convey, filter, store, remove, and/or receive stormwater, either on a temporary or permanent basis.
- U. **Earth Change** – A human-made change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the State. Earth change does not include the practice of plowing and tilling soil for the purpose of crop production.
- V. **Extended detention basin** – Detention basin designed to provide substantial removal of suspended solids and particulates, typically achieved by holding stormwater for at least 24 hours and not more than 72 hours.
- W. **Flood** – Inundation by surface water of lands not normally covered by water.
- X. **Floodplain** – See definition of “Regulated Floodplain.”
- Y. **Grading** – Any stripping, clearing, excavating, filling, or stockpiling of the land, or any combination thereof..
- Z. **Guidelines** – The Soil Erosion, Sedimentation and Stormwater Runoff Design Guidelines promulgated pursuant to this Ordinance.
- AA. **Impervious surface** – Surfaces that prevent the infiltration of water into the soil.
- BB. **Infiltration** – The downward movement of water from the surface to the subsoil and/or groundwater. The infiltration rate is expressed in terms of inches per hour.
- CC. **Infiltration facility** – A structure or area that allows stormwater runoff to gradually seep into the ground.
- DD. **Lake** - The Great Lakes and all natural and artificial inland lakes or impoundments that have definite banks, a bed, visible evidence of a continued occurrence of water, and a surface area of water that is equal to, or greater than one acre. "Lake" does not include sediment basins and basins constructed for the sole purpose of stormwater retention, cooling water, or treating polluted water.
- EE. **Landowner** - A person who owns property and/or holds a recorded easement on the property or who is engaged in construction in a public right-of-way in accordance with sections 13, 14, 15, and 16 of Act No. 368 of the Public Acts of 1925, as amended, being MCL 247.183, 247.184, 247.185, and 247.186.
- FF. **Land use** – A use of land, which may result in any earth change, including but not limited to subdivision, residential, commercial, industrial, recreational, agricultural practices, or other development, private and public highways, road and stream construction, and drainage construction.

- GG. Local Ordinance** - An ordinance, used in conjunction with Part 91 of the Natural Resources and Environmental Protection Act, enacted by a local unit of government under this part providing for soil erosion and sedimentation control.
- HH. Local Unit of Government** – Any township, city, or village within any part of the County.
- II. Maintenance Agreement** – A binding agreement between the landowner and Antrim County, which sets forth the on going maintenance requirements of the location and design of the best management practices as well as the terms and requirements for permanent soil erosion and sedimentation control measures.
- JJ. Municipal Enforcing Agency** - An agency designated by a municipality under section 9106 to enforce a local ordinance.
- KK. Municipality** - a city, a village, a charter township, or general law township that is located in a county with a population of 200,000 or more
- LL. Non-erosive velocity** – a speed of water movement that is not conducive to the development of accelerated soil erosion.
- MM. Off-site stormwater control facility** – Soil erosion, sedimentation and stormwater runoff control facility, which is located partially or completely off the development site.
- NN. Ordinance** – The provisions of this Ordinance and the promulgated guidelines.
- OO. Ordinary high water mark** - The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high-established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark. For the Great Lakes, it is that level determined consistent with State or Federal law.
- PP. Part 91** - Part 91 of Act No. 451 of the Public Acts of 1994, as amended, being MCL 324.9101 to 324.9123.
- QQ. Peak Rate of Discharge (Peak Flow)** - The maximum calculated rate of stormwater flow at a given point in a channel, watercourse or conduit resulting from a predetermined frequency storm or flood measured in cfs.
- RR. Permanent Soil Erosion, Sedimentation and Stormwater Control Measures** – Control measures which are installed or constructed to control soil erosion and sedimentation and which are maintained after project completion.
- SS. Permit** - A signed, written statement issued under this Ordinance authorizing a landowner to engage in specified earth changes.
- TT. Person** - an individual, partnership, corporation, organization, or association of any kind, including the landowner and contractor performing the earth change on behalf of the landowner.
- UU. Regulated Floodplain** – that area of land adjoining a river, stream, or lake, subject to inundation by a 100-year flood, as regulated by the State of Michigan or United States.
- VV. Regulated wetland (Wetlands)** – A wetland, which meets one or more of the following criteria: (1) a wetland of which any portion is within 500 feet of a lake or stream, (2) a wetland within one thousand feet of the Great Lakes, (3) a wetland subject to regulation by a township, village, city, county, or easement, (4) a wetland 5 acres or larger or (5) other such wetlands regulated either by the State of Michigan under Part 303 of the Wetland Protection Act, being 324.30301, *et seq*, or by United States of America.

- WW. Receiving body of water** – Any lake, stream, regulated wetland, or groundwater into which stormwater runoff is directed.
- XX. Runoff** - Stormwater runoff.
- YY. Seawall Maintenance** - an earth change activity landward of the seawall
- ZZ. Sediment/Sedimentation** – Solid particulate matter, including both mineral and organic matter, that is in suspension in water, is being transported, or released from its site of origin by the actions of wind, water, or gravity, and has been deposited elsewhere.
- AAA. Site** – Any tract, lot or parcel of land or combination of tracts, lots or parcels proposed for development or undergoing earth moving activity.
- BBB. Site plan** – Map showing the relevant features on the property relative to an earth change.
- CCC. Soil Erosion Control Officer** - A person who has been issued a certificate of training as provided in MCL 324.9123, and appointed by the County Board of Commissioners to enforce this ordinance.
- DDD. Soil erosion** – the wearing away of land by the action of wind, water, gravity, or a combination of wind, water, or gravity.
- EEE. Soil Erosion, Sedimentation and Stormwater Runoff Control Facilities and Measures** – Any structure, facility, barrier, berm, vegetative cover, basin, or other measure, which serves to control soil erosion, release of sedimentation or stormwater runoff in accordance with the purposes and standards of this Ordinance.
- FFF. Soil Erosion Sedimentation and Stormwater Runoff Control Plan** – The maps, plans and written statement and information for a proposed land use or earth change on a site, which describe the way in which soil erosion, sedimentation and stormwater runoff will be controlled during and after completion of construction.
- GGG. Staging /scheduling** - Division of a project into two or more construction areas to minimize the area of exposed soil during an earth change activity
- HHH. Storm drain** – A conduit, pipe, natural channel or human-made structure, which serves to transport stormwater runoff.
- III. Storm frequency** – The average period of time during which a storm of a given duration and intensity can be expected to be equaled or exceeded.
- JJJ. Stormwater Runoff** - The flow of surface water resulting from precipitation.
- KKK. Soil Erosion, Sedimentation and Stormwater Design Guidelines** - Those guidelines that correspond with this Ordinance and specifically govern the process of any earth change activities occurring within the County.
- LLL. Stabilization** - The establishment of vegetation or the proper placement, grading, or covering of soil to ensure its resistance to soil erosion, sliding, or other earth movement.
- MMM. Stream** – A river or creek or other surface watercourse, which may or may not be serving as a drain as defined in Act No. 40 of the Public Acts of 1956, as amended, being MCL 280.1 *et seq.* and which has definite banks, a bed, and visible evidence of the continued flow or continued occurrence of water, including the connecting waters of the Great Lakes.
- NNN. Stream bank** – The usual boundaries, not the flood boundaries, of a stream channel.

- OOO. Stripping** – Any activity, which removes or significantly disturbs the vegetative ground surface cover, including clearing, stump removal and grubbing operations.
- PPP. Swale** – An elongated depression in the land surface that normally lacks flowing waters that normally receives water or stormwater runoff on an intermittent basis.
- QQQ. Temporary measures** – Interim control measures that are installed or constructed to control soil erosion, sedimentation and stormwater runoff during construction or until soils in the contributing drainage area are stabilized, and which are not maintained after project completion.
- RRR. Vegetative cover** – Plants that stabilizes soils.
- SSS. Waters of the State** - The Great Lakes and their connecting waters, inland lakes and streams, including drains, as defined under Part 301, of the Inland Lakes and Streams Act, being MCL 324.30101, *et seq.*, and wetlands regulated under Part 303, of the Wetland Protection Act, being 324.30301, *et seq.*, and the rules promulgated there under.
- TTT. Watershed** – A land area, also known as a drainage area, which collects precipitation and contributes runoff to a receiving body of water or point along a watercourse.
- UUU. Wetland** – See **Regulated Wetlands** as defined by the State of Michigan.
- VVV. Wetland Vegetation** – Plants that exhibit adaptations to allow under normal conditions, germination and propagation, and allow growth with at least their root systems in water or in saturated soil.

SECTION 3
PERMIT REQUIREMENTS

3-100 Jurisdictions for Permit Administration

- 3-101** The Board of Commissioners shall by resolution, designate a county agency, the drain commissioner, or the conservation district upon the concurrence of the conservation district, as the county enforcing agency responsible for the administration and enforcement of this Ordinance and Part 91. Such designee shall serve at the pleasure of the Board of Commissioners.
- 3-102** Earth changes carried out by authorized public agencies under Part 91 shall be exempt from this ordinance; however, if any governmental agency loses its status as an Authorized Public Agency under Part 91, the governmental agency shall no longer be exempt from this Ordinance.

All Authorized Public Agencies shall notify the enforcing agency in writing of each proposed earth change pursuant to R. 323.1706(4).
- 3-103** The land within the boundaries of a municipality approved as a Municipal Enforcing Agency under Section 9106 of Part 91 is exempt from this Ordinance; however, if any municipality loses its status as a Municipal Enforcing Agency under Part 91, the land within the boundaries of the municipality shall no longer be exempt from this Ordinance.

3-200 Earth Changes Requiring a Permit

- 3-201** Landowners and/or their designated agents are responsible for determining if an earth change will require a permit or whether the earth change will cause off site sediment runoff. Sediments resulting from earth changes are to remain on the property where the earth change is occurring. Landowners and/or their designated agents should consider slope, soil types, and proximity to lakes, streams, rivers and regulated wetlands
- 3-202** Except, as provided in this Ordinance, earth changes that meet any of the following criteria require a Soil Erosion, Sedimentation and Stormwater Runoff Control Permit prior to commencement of activity:

3-202.1 Within 500 feet of the water's edge of a river, lake, or stream.

3-202.2 Which disturbs one (1) or more acres of land.

3-202.3 A proposed development that has a build out which will disturb more than one acre.

3-203 The following activities and persons are exempt from obtaining a Soil Erosion, Sedimentation and Stormwater Permit:

3-203.1 A person engaged in the logging industry, the mining industry, or the plowing or tilling of land for the purpose of crop production or the harvesting of crops. The exemption from obtaining a permit under this subsection does not include either of the following:

3-203.1.1 Access roads to and from the site where active mining or logging is taking place.

3-203.1.2 Ancillary activities associated with logging and mining.

3-203.2 A beach nourishment project permitted under Part 325 of Public Act 451 of 1994, as amended.

3-203.3 Normal road and driveway maintenance, such as grading or leveling, that does not increase the width or length of the road or driveway, and that will not contribute sediment to lakes or streams or to adjacent property.

3-203.4 An earth change of a minor nature that is stabilized within 24 hours of the initial earth disturbance and that will not contribute sediment to lakes or streams as determined by the Soil Erosion Control Officer.

3-203.5 Earth changes associated with well locations, surface facilities, flow lines or access roads relating to oil or gas exploration and development in conformance with the provisions of Section 9115(3) of Part 91 of Public Act 451 of 1994, as amended. (MCL 324.9115(3))

- 3-204** The following activities by a residential property owner who causes the following activities to be conducted on the individual residential property owned and occupied by him or her if the earth change activities do not result in or contribute to soil erosion or sedimentation of the waters of the state, a discharge of sediment off-site or a discharge of stormwater at a different location and/or at a great velocity.
- 3-204.1** An earth change of a minor nature that is stabilized within 24 hours of the initial earth disturbance.
- 3-204.2** Gardening, if the natural elevation of the area is not raised.
- 3-204.3** Post holes for fencing, decks, utility posts, mailboxes, or similar applications, if no additional grading or earth change occurs for use of the post holes..
- 3-204.4** A residential property owner who causes the following activities to be conducted on the individual property owned and occupied by him or her, if the earth change activities do not result in or contribute to soil erosion or sedimentation of the waters of the state, a discharge offsite, a discharge of stormwater at a different location, and/or at a great velocity do NOT require a permit. Such activities include
- 3-204.4.1** Planting of trees, shrubs, or other similar plants.
- 3-204.4.2** Seeding or reseeding of lawns of less than 1 acre if the seeded area is at least 100 feet from the waters of the state.
- 3-204.4.3** Seeding or reseeding of lawns closer than 100 feet from the waters of the state if the area to be seeded or reseeded does not exceed 100 square feet.
- 3-204.4.4** The temporary stockpiling of soil, sand, or gravel not greater than a total of 10 cubic yards on the property if the stockpiling occurs at least 100 feet from the waters of the state.
- 3-204.4.5** Seawall maintenance that does not exceed 100 square feet.
- 3-204.5** All earth changes associated with the activities listed in this section shall conform to the same standards as if they required a permit under this ordinance and exemptions provided in this section shall not be construed as exemptions from enforcement procedures under this ordinance or guidelines if the exempted activities cause or result in a violation of this ordinance or guidelines.
- 3-205** An earth change activity that does not require a permit under this Ordinance or Part 91 is not exempt from enforcement if exempted activity causes or results in a violation of this Ordinance or Part 91.

3-300 Permit Application Submittal

- 3-301** Permit applications shall be submitted to the Antrim County Soil Erosion Control Officer by the landowner or designated agent.
- 3-302** The Antrim County Soil Erosion Control Officer shall make copies of the permit application form available.
- 3-303** A landowner or designated agent shall submit with the application one copy of the soil erosion, sedimentation and stormwater runoff control plan. The Soil Erosion Control Officer may request that the landowner/designated agent submit additional copies of the plan.
- 3-304** An application for a permit shall be made prior to the start of any earth change requiring a permit under this Ordinance including construction of access roads, driveways, tree and vegetation root removal, or grading. Permit approval shall be given prior to the initiation of any work activity. Any unauthorized work shall be considered a violation of these procedures regardless of any later actions taken toward compliance.
- 3-305** The application review period begins upon receipt of a completed application
- 3-306** Submission of an application for permit shall constitute consent by the Landowner for the Soil Erosion Control Officer or designated agent to enter upon the premises described in the application for purposes of

inspections attendant to the application, for inspections related to compliance with a soil erosion, sedimentation and stormwater runoff control plan and/or permit, and final stabilization verification.

- 3-307** Applications for projects to be developed in stages or sections shall cover the overall conceptual plan for the entire development and detailed plans for each section or stage of the total project.
- 3-308** All permits processed and issued for phases of a project shall be clearly defined as to the nature and extent of work covered, including all construction methods and temporary and permanent soil erosion, sediment and stormwater control measures for each phase, and shall be submitted and approved prior to ground breaking for each phase. The Soil Erosion Control Officer must review each phase of the project.

3-400 Modifications of Approved Plans

Modifications of existing permits shall be submitted to and approved by the Soil Erosion Control Officer before they are undertaken.

3-500 Permit Application Review

- 3-501** The Soil Erosion Control Officer shall approve, with conditions, disapprove, or require modification of an application and soil erosion, sedimentation and stormwater runoff control plan within 30 days. The review period begins upon the receipt of a completed application, plans and fees. "Completed" shall mean from the date that all modifications, amendments, and additional information have been submitted.
- 3-502** Upon a determination by the Soil Erosion Control Officer that the proposed soil erosion, sedimentation and stormwater runoff control plan complies with this Ordinance and Part 91, the Soil Erosion Control Officer shall issue a permit specifying the work approved. The Soil Erosion Control Officer shall notify the permit applicant of the approval by first class mail or written approval delivered in person.
- 3-503** If the proposed plan does not comply with all of the requirements of this Ordinance and Part 91, the Soil Erosion Control Officer may either disapprove the application, request modifications of the application or plan, or request additional information from the applicant in writing. If an application is disapproved, the Soil Erosion Control Officer shall advise the applicant by certified mail or by a written statement delivered in person, of the reasons for the disapproval and conditions required for approval. An incomplete application constitutes grounds for disapproval.

3-600 Permit Expiration or Revocation

- 3-601** Permits shall terminate automatically upon the project completion date provided by the applicant on the application, not to exceed one (1) year. With the approval of the Soil Erosion Officer, a permit may be extended for a period not to exceed one (1) year upon the request of the permit holder, provided the request for extension is made before the date of expiration of the permit, setting forth, in writing, the reasons for the extension. A permit must be active until the earth change is stabilized or a notice of violation could be written.

3-602 Any permit issued by the Soil Erosion Control Officer under this Ordinance may be revoked or suspended, for any of the following reasons:

3-602.1 A violation of a condition of the permit.

3-602.2 Misrepresentation or failure to fully disclose relevant facts in the application or soil erosion, sedimentation and stormwater runoff control plan.

3-602.3 A change in a condition that requires a temporary or permanent change in the activity.

3-602.4 Authorized work is abandoned or suspended for a period of six months.

3-602.5 A violation of the setbacks established by the Guidelines.

3-603 The Soil Erosion Control Officer will provide the permit holder notice of any revocation and/or suspension of the permit, in writing, within 10 days of the revocation and/or suspension. The notice will be sent by first class mail or served personally upon the landowner, landowner's contractor, permit holder or designated agent. The notice will specify the reason(s) for the revocation and/or suspension and will set forth the availability and time period for an appeal of the revocation and/or suspension.

3-700 Administrative Fee Schedule

3-701 Permit fees shall be determined based upon costs of administering the soil erosion, sedimentation and stormwater control/management permit program. In determining the permit fees, the County Board of Commissioners shall take into consideration the costs of administration, direct and indirect costs, staffing, and site inspections, and the funding of a reserve fund to cover the costs of administration.

3-702 The fee schedule shall be proposed by the Soil Erosion Control Officer and shall be approved by the County Board of Commissioners.

3-703 The County Board of Commissioners may establish a reserve fund not to exceed one year's cost of administering the soil erosion, sedimentation and stormwater control/management permit program.

SECTION 4 ISSUANCE OF OTHER PERMITS AND APPROVALS OF OTHER GOVERNMENTAL AGENCIES

4-100 Issuance of Building Permits/Land Use Permits

4-101 A local unit of government, which is not a Municipal Enforcing Agency under Section 9106 of Part 91, or a county agency that issues building permits and/or land use permits, shall notify the Soil Erosion Control Officer upon receipt of an application involving an earth change subject to permit requirements under this Ordinance.

4-102 A local unit of government, which is not a Municipal Enforcing Agency under Section 9106 of Part 91, or a county agency may not issue a building permit and/or land use permit for an earth change subject to permit requirements until a soil erosion, sedimentation and stormwater runoff control permit has been issued by the Soil Erosion Control Officer.

4-103 A local unit of government having notice that a violation of this Ordinance or Part 91 has occurred within the boundaries of that local unit of government, including but not limited to a violation attributable to an earth change by an authorized public agency, shall notify the Soil Erosion Control Officer of the violation.

4-104 The soil erosion control officer may notify a local unit of government after a permit request has been made but only if that local unit of government has requested in writing that they be notified of such soil erosion permitting actions as they occur in their jurisdictions.

4-200 Other Permits and Approvals of Other Government Agencies

Approvals of a permit in this Ordinance or Part 91 shall not relieve a landowner and/or landowner's contractor of the need to obtain other applicable permits or approvals from federal, state, county, and local agencies.

SECTION 5

GENERAL STANDARDS FOR APPROVAL OF SOIL EROSION SEDIMENTATION AND STORMWATER CONTROL PLANS

5-100 General Standards for Approval

- 5-101** The Soil Erosion Control Officer shall approve or disapprove soil erosion, sedimentation and stormwater control permit applications and plans in accordance with this Ordinance and the guidelines promulgated under this Ordinance.
- 5-102** All earth changes subject to review under the requirements of this Ordinance shall be designed, constructed, and maintained consistent with the guidelines and best management practices promulgated under this Ordinance to provide for the control and retention of soil and sedimentation and the detention of runoff to protect water quality and adjacent properties.
- 5-103** Measures required for soil erosion, sedimentation and stormwater runoff control shall take into consideration natural features, proximity of the site to lakes, streams and regulated wetlands, applicable setback requirements, the extent of impervious surfaces, the potential for soil erosion and sedimentation and flooding, and the size of the site.
- 5-104** Stormwater conveyance, storage, and infiltration facilities shall be designed to provide for non-erosive velocities of stormwater runoff.

SECTION 6

SOIL EROSION, SEDIMENTATION AND STORMWATER RUNOFF CONTROL PLAN REQUIREMENTS

6-100 General

- 6-101** A person shall prepare a soil erosion, sedimentation and stormwater control plan for any earth change identified in R323.1704 (an earth change which disturbs one or more acres of land or which is within 500 feet of the water's edge of a lake or stream). A person shall design the soil erosion control plan to effectively reduce accelerated soil erosion and sedimentation and shall identify factors that may contribute to soil erosion or sedimentation, or both. .

6-200 Plan Requirements

6-201 All plans shall include

- 6.201.1** A map or maps at a scale of not more than 200 feet to the inch or as otherwise determined by the county or the local enforcing agency. A map shall include a legal description and site location sketch that includes the proximity of any proposed earth change to lakes or streams, or both; predominant land features; and contour intervals or slope description.
- 6.201.2** A soils survey or a written description of the soil types of the exposed land area contemplated for the earth change.
- 6.201.3** Details for proposed earth changes, including all of the following:
- 6-201.3.1** A description and the location of the physical limits of each proposed earth change.
 - 6-201.3.2** A description and the location of all existing and proposed on-site drainage and dewatering facilities.

- 6-201.3.3** The timing and sequence of each proposed earth change.
- 6-201.3.4** The location and description for installing and removing all proposed temporary soil erosion and sediment control measures.
- 6-201.3.5** A description and the location of all proposed permanent soil erosion and sediment control measures.
- 6-201.3.6** A program proposal for the continued maintenance of all permanent soil erosion and sediment control measures that remain after project completion, including the designation of the person responsible for the maintenance. Maintenance responsibilities shall become a part of any sales or exchange agreement for the land on which the permanent soil erosion control measures are located.
- 6-201.3.7** A legal description of any recorded easements assigned to the property where the earth change is to occur.

6-302 Large Scale Developments

- 6-302.1** A large development is defined as but not limited to an earth change of one acre or more, with one or more buildings built upon the excavated site
- 6-302.2** Soil erosion, sedimentation and Stormwater control plan requirements
 - 6-302.2.1** All requirements set forth in 6-200.3.
 - 6-302.2.2** Stormwater runoff calculations – in accordance with the guidelines.
 - 6-302.2.3** A description of and the location of all existing and proposed on site stormwater runoff control facilities and measures.
 - 6-302.2.4** A staging/scheduling plan which details the timing and sequence of each proposed or phase of earth change.
 - 6-302.2.5** Applicants for a subdivision plan/condominium site may need to submit additional information including but not limited to the following: off site watershed boundaries which affect proposed development, existing and proposed easements, and proposed drainage systems, including water movement onto and out of the proposed plant.
 - 6-302.2.6** Other information which the Soil Erosion Control Officer requires to review the impact of the proposed earth change in relationship to the standards and requirements of this Ordinance and Part 91.

6.400 Earth Change Design, Installation and Removal Requirements

- 6.401** A person shall design, construct and complete an earth change in a manner that limits the exposed area of any disturbed land for the shortest possible period of time as determined by the Soil Erosion Control Officer.
 - 6.402** A person shall remove sediment caused by accelerated soil erosion from runoff water before it leaves the site of the earth change.
 - 6.403** A person shall design a temporary or permanent control measure that is designed and constructed for the conveyance of water around, through, or from the earth change area to limit the water flow to a non-erosive velocity.
 - 6.404** A person shall install temporary soil erosion and sedimentation control measures before or upon commencement of the earth change activity, and shall maintain the measures on a daily basis. A person shall remove temporary soil erosion, sedimentation and stormwater control measures after permanent soil erosion measures are in place and the area is stabilized. A person shall stabilize the area with permanent soil erosion, sedimentation and stormwater control measures under approved standards and specifications as outlined in this Ordinance and as required by state law. Temporary and permanent soil erosion sedimentation and stormwater control measures shall comply with the standards and specifications as set forth in Section 6.500.
- 6.500** Standards and Specifications For Temporary and Permanent Soil Erosion Sedimentation and Stormwater Runoff Control Measures A person shall complete all temporary and permanent soil erosion, sedimentation and stormwater runoff control measures according to the approved plan or operating procedures.

6.501 Standards and Specifications

6-500.1 A person shall install and maintain control measures in accordance with the standards and specification of all of the following:

6-500.1.1 The product manufacturer

6-500.1.2 The local conservation district.

6-500.1.3 The department (MDEQ).

6-500.1.4 The Michigan Department of transportation.

6-500.1.5 The enforcing agency, if applicable and formally adopted.

6-500.2 If a conflict exists between the standards and specifications, then the enforcing agency or authorized public agency shall determine which specifications are appropriate for the project.

SECTION 7

OFF-SITE STORMWATER CONTROL

7-100 Waiver Option

In lieu of on-site stormwater facilities and measures, the use of off-site stormwater control facilities and measures, together with on-site soil erosion and sedimentation control measures, may be proposed. Before any off-site proposal will be considered, the applicant must provide proof of ownership and approval/consent to use such property for the purpose of stormwater control facilities or measures. In such cases, the applicant shall request a waiver of the requirements for on site stormwater runoff control. The waiver request shall be submitted to the Soil Erosion Control Officer with a permit application and a soil erosion sedimentation and stormwater runoff control plan, including information specified in this Ordinance. This waiver option does not allow for changes in requirements for on-site soil erosion and sedimentation control measures.

7-200 Shared Off-Site Stormwater Control Facilities

7-201 Off site stormwater control facilities may be shared between two or more property owners or developments, provided that maintenance agreements have been approved by the Soil Erosion Control Officer and easements have been obtained and recorded with the Antrim County Register of Deeds

- 7-202** Stormwater management easements are required for all areas used for off-site stormwater control unless the Soil Erosion Control Officer has granted an exception. Easements shall be recorded with the Antrim County Register of Deeds prior to issuance of permit.

SECTION 8 MAINTENANCE

8-100 Maintenance

- 8-101** All soil erosion, sedimentation and stormwater runoff control facilities and measures, shall be maintained in accordance with the plan and permit.
- 8-102** The person(s) responsible for maintenance shall be designated in the Soil Erosion and Stormwater Runoff Control Plan or the permit application submitted to the Soil Erosion Control Officer. Options include:
- 8-102.1** The owner of the property.
- 8-102.2** Property owners associations or other organizations provided that provisions for financing necessary maintenance are included in deed restrictions or other contractual agreements.
- 8-103** Maintenance plans shall specify responsibilities for financing maintenance and emergency repairs, including but not limited to the procedures specified in Section 3 and 8 of this Ordinance. All maintenance plans shall be recorded with the Antrim County Register of Deeds.
- 8-104** The Soil Erosion Control Officer shall make the final approval of what maintenance option is appropriate in a given situation.

SECTION 9 EASEMENTS AND INSPECTIONS

- 9-100** Soil Erosion, Sedimentation and Stormwater management easement shall be required for all areas used for off-site soil erosion, sedimentation stormwater controls, unless a waiver is granted by the Soil Erosion Control Officer
- 9-101** Soil Erosion, Sedimentation and Stormwater management easement shall be provided by the landowner if necessary for: (1) access for inspections and maintenance, and/or (2) preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event. The purpose of the easement and permission for inspection shall be specified in the maintenance agreement signed by the landowner
- 9-102** Soil Erosion, Sedimentation and Stormwater management easements, shall include a provision that the Soil Erosion Control Officer or authorized representative at reasonable times may enter in or upon the easement for the purpose of inspection and investigating whether the terms and condition of the management easement are being complied with and/or the conditions or practices may be in violation of this Ordinance.
- 9-103** When making an inspection under this section, the Soil Erosion Control Officer, except in the case of an imminent threat of harm, shall give reasonable notice to the landowner that the Soil Erosion Control Officer will be inspecting the easement and such inspection shall be during normal business hours. Property owners may request to be present at the time of the inspection.
- 9-104** An investigation or inspection under this subsection shall comply with the United States constitution and the State Constitution of 1963.
- 9-105** Easements shall be recorded with the Antrim County Register of Deeds prior to issuance of a permit.

SECTION 10
COMPLIANCE ASSURANCES, ISSUANCE OF CERTIFICATE OF COMPLIANCE

10-100 Performance Guarantees

10-101 As a condition of issuance of a permit, the Soil Erosion Control Officer may require the applicant to deposit cash, a certified check or an irrevocable letter of credit whichever the applicant selects, or a surety bond acceptable to the legislative body of the county in an amount sufficient to assure the installation and completion of such protective or corrective measures as may be required by the Soil Erosion Control Officer. Irrevocable letters of credit, if used as a performance guarantee, shall extend for a minimum of one (1) year with the option of renewal. The required security shall be held in the office of the Antrim County Treasurer until authorized to be returned. The Soil Erosion Control Officer may require a performance guarantee after the issuance of a permit if the Soil Erosion Control Officer determines there has been non-compliance with the approved permit or disregard of a cease and desist order.

10-102 Performance guarantees will be returned to the applicant when.

10-102.1 Following inspection, the Soil Erosion Control Officer determines that the site is completely stabilized and meets the requirements set forth by the Soil Erosion Control Officer.

10-200 Construction Certification by Registered Professional

10-201 For any sites that require a professional sealed site plan, a certification letter, with a registered professional's signature, shall be submitted after soil erosion and sedimentation and stormwater runoff control facilities have been installed to affirm that construction has been completed in accordance with the approved soil erosion and stormwater runoff control plan. This certification letter can be prepared by one of the following registered professionals: civil engineer, land surveyor, architect, and/or landscape architect. If the Soil Erosion Control Officer specifies that a professional civil engineer prepare the plan, the same professional civil engineer must submit the certification.

10-202 If there are significant changes during the course of construction, the Soil Erosion Control Officer may require final "as built" drawings for final approval of the site work.

10-300 Certificate of Compliance

Upon the completion of all earth changes and the fulfillment of all permit requirements, and if required, upon receipt and approval of the certification letter, the Soil Erosion Control officer shall issue a certificate of compliance to the landowner.

SECTION 11
INSPECTIONS

11-100 Inspections

11-101 The Soil Erosion Control Officer or an agent appointed by the County Board of Commissioners may enter at reasonable times in or upon any private or public property for the purpose of inspection and investigating the conditions or practices that may be in violation of this Ordinance. However, an investigation or inspection under this subsection shall comply with the United States constitution and the state constitution of 1963.

11-102 If upon inspection, existing site conditions are found to be in conflict with an approved permit or approved soil erosion, sedimentation and stormwater runoff control plan, a cease and desist order may be issued. No earth moving shall be performed unless authorized for the purpose of protection, until a revised soil erosion, sedimentation and stormwater runoff control plan has been approved and the permit modified.

11-103 Requests for revision must be submitted to and approved by the Soil Erosion Control Officer in writing or approved by the Soil Erosion Control Officer or an authorized representative on site before being effective. If

approved, a revised soil erosion and sedimentation control plan shall be submitted to the Soil Erosion Control Officer for review and approval.

SECTION 12

CEASE AND DESIST ORDERS AND EMERGENCY ACTIONS

12-100 Cease and Desist Orders

- 12-101** The Soil Erosion Control Officer may issue a cease and desist order if he/she finds that an activity being conducted is in violation of this Ordinance or any guideline adopted, Part 91 or of any rule adopted, or a permit or an approved soil erosion, sedimentation and stormwater runoff control plan, or if work is being conducted without an approved permit or plan.
- 12-102** The Cease and Desist Order, when issued, shall require all specified earth change activities to be stopped.
- 12-103** The Cease and Desist Order shall be in writing, and shall state what work is to be stopped and what measures are required to abate the violation. The delivery of equipment and materials, or work on site which does not contribute to the violation, may continue while the stop work order is in effect.
- 12-104** The Soil Erosion Control Officer shall rescind the Cease and Desist order after all of the violations for which the order was issued are corrected, no other violations have occurred, and all measures necessary to abate the violations have been taken. The Soil Erosion Control Officer shall rescind a Cease and Desist order that was issued in error.
- 12-105** A copy of the Cease and Desist Order shall be, as required, be immediately submitted to other state and local agencies with regulatory jurisdiction and in all other cases a copy of Cease and Desist Order may be submitted to such other state and local agencies with regulatory jurisdiction.
- 12-106** A person who owns land subject to this ordinance shall implement and maintain soil erosion and stormwater runoff control measures in conformance with this Ordinance within five (5) days after the Cease and Desist Order has been given as specified in Section 12-108 above.

12-200 Emergency Action

- 12-201** If necessary to protect public safety or water resources, the Soil Erosion Control Officer may initiate emergency action to abate threatened and/or imminent and substantial danger and risk.

SECTION 13

ENFORCEMENT ACTION

13-100 Enforcement General Provisions

- 13-101** Antrim County and the Soil Erosion Control Officer or other agencies with jurisdiction have all enforcement action as provided in this Ordinance and Part 91.
- 13-102** Persons in violation of this Ordinance or Part 91, including earth changes exempt from permit requirements, may be subject to one or all of the following enforcement actions found in section 13-201.

13-200 Notice of Violation

- 13-201** If the Soil Erosion Control Officer determines that soil erosion or sedimentation entering upon adjacent properties or the waters of the State has or will reasonably occur from land in violation of this Ordinance or Part 91, the Soil Erosion Control Officer may seek to enforce a violation of this Ordinance or Part 91 by notifying the landowner and/or landowner's contractor personally or by mail with return receipt requested. Before issuing a notice of violation the Soil Erosion Control Officer shall make reasonable attempt to resolve

the violation with the land owner and/or contractor. The notice shall contain a description of the violation and what must be done to remedy the violation, and shall specify a time to comply with the Ordinance and Part 91. If the Soil Erosion Control Officer determines that expenditures exceeding \$10,000.00 must be made to meet compliance, the notice must state that conformance may result in expenditures above this amount.

13-202 Within 5 days after a Notice of Violation has been issued, the landowner and/or landowner's contractor shall implement and maintain soil erosion, sedimentation and stormwater runoff control measures in conformance with this Ordinance and Part 91.

13-203 Except as otherwise provided in this section, not sooner than 5 days after notice of violation has been mailed under section 13-201, if the condition of the land, in the opinion Soil Erosion Officer may result in or contribute to soil erosion or sedimentation of adjacent properties or to the waters of the state, and if soil erosion and sedimentation control measures in conformance with this Ordinance or guideline or Part 91 and the rules promulgated under Part 91 or an applicable local ordinance are not in place, the Soil Erosion Officer or its designee may enter upon the land and construct, implement, and maintain soil erosion and sedimentation control measures in conformance This Ordinance its guidelines, Part 91 and the rules promulgated under Part 91 However, the County shall not expend more than \$10,000.00 for the cost of the work, materials, labor, and administration without prior written notice in the notice provided in section 13-201 for the person who owns the land that the expenditure of more than \$10,000.00 may be made. If more than \$10,000.00 is to be expended under this section, then the work shall not begin until at least 10 days after the notice of violation has been mailed.

13-300 Injunctive Relief

Notwithstanding any other remedy, the Soil Erosion Control Officer and/or Antrim County may maintain an action in a court of competent jurisdiction for an injunction or other process against a person to restrain or prevent violations of this Ordinance or Part 91.

13-400 Fines and Penalties

13-400 A person who violates this ordinance or Part 91 is responsible for the following:

13-401-1 A person who violates this Ordinance or Part 91 is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$2,500.00 (two-thousand five-hundred dollars).

13-401-2 A person who knowingly violates this Ordinance or Part 91, or knowingly makes a false statement in an application for a permit or in a soil erosion, sedimentation and stormwater runoff control plan is responsible for a civil infraction, and may be ordered to pay a civil fine of not more than \$10,000.00 (ten-thousand dollars) for each day of violation.

13-401-3 A person who knowingly violates this Ordinance or Part 91 after receiving a Notice of Violation is responsible for the payment of a civil fine of not less than \$2,500.00 (two-thousand-five hundred dollars) or more than \$25,000.00 (twenty-five thousand dollars) for each day of violation.

13-401-4 Civil fines collected under this Ordinance shall be deposited with the Treasurer for Antrim County.

13-401-5 A default in the payment of a civil fine or costs ordered under this section or an installment of the fine or costs may be remedied by any means authorized under the Revised Judicature Act of 1961.

13-401-6 In addition to a fine assessed under this section, a person who violates this ordinance is liable for damages for injury to, destruction of, or loss of natural resources resulting from the violation. The court may order a person who violates this part to restore the area or areas affected by the violation to their condition as existing immediately prior to the violation and order such person to pay for expenses of prosecution/enforcement, including reasonable attorney fees.

13-500 Notification of Violation and Enforcement Actions

13-501 The Soil Erosion Control Officer shall notify the Michigan Department of Environmental Quality of all violations of this Ordinance and Part 91, including violations attributable to an earth change created by an authorized public agency.

13-502 If a local unit of government has notice that a violation of this Ordinance or Part 91 has occurred within the boundaries of the local unit of government, including but not limited to a violation attributable to an earth change by an authorized public agency, the local unit of government shall notify the Soil Erosion Control Officer and the Michigan Department of Environmental Quality of the violation.

13.600 Recovery of Costs

Except as otherwise provided through Maintenance Agreements, all expenses incurred under this Ordinance by the Soil Erosion Control Officer or County to construct, implement, and maintain soil erosion and sedimentation control measures to bring land into conformance with this Ordinance and Part 91 shall be reimbursed to the County by the landowner and/or landowner's contractor.

The Soil Erosion Control Officer and Antrim County shall have a lien for the expenses incurred to bring the land into conformance. However, with respect to single-family or multiple family residential properties, the lien for such expenses shall have priority over all liens and encumbrances filed or recorded after the date of such expenditure. With respect to all other property, the lien for such expenses shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, Public Act 206 of 1893, as amended

SECTION 14 APPEALS

14-100 Appeals

14-101 A landowner or his designated agent/contractor seeking a permit or having a permit or management easement may appeal the action or inaction of the Soil Erosion Control Officer related to this Ordinance either to the Antrim County Soil Erosion, Sedimentation and Stormwater Runoff Appeal Board or Antrim County Circuit Court.

14-102 All requests for appeal shall be filed in writing within 30 days of the action or inaction appealed from, and includes the basis of the appeal. All appeals must include the name(s) of the aggrieved party, their address and phone number.

14-103 The filing of an appeal does not preclude other remedies available, nor does it act as a stay of any order from the Soil Erosion Control Officer for the installation of measures or controls to reduce or eliminate soil erosion or sedimentation pending the outcome of the appeal.

14-104 Appeals related setback in a soil erosion permit which are based upon setback requirements of a local zoning ordinance, may only be appealed to the affected township zoning board of appeals will have jurisdiction to hear any zoning variance.

14-105 There is hereby established the Antrim County Soil Erosion, Sedimentation and Stormwater Runoff Appeal Board.

14-200 Powers and Authority

14-201 Hearing appeals stated in section 14-100 related to action or inaction of the Soil Erosion Control Officer related to this Ordinance

14-202 Selecting a chair and vice-chair.

- 14-203 Shall adopt rules for the transaction of business, which shall be approved by a majority vote of the Antrim County Board of Commissioners.
- 14-204 The Antrim County Soil Erosion, Sedimentation and Stormwater Runoff Appeal Board shall keep a record of its minutes, resolutions, transactions, findings, and determinations, which shall be a public record and subject to the Freedom of Information Act.
- 14-205 All Appeal Board meetings and hearings shall be open to the public in accordance with the Open Meetings Act, Act 267 of 1976.

14-300 Members; Appointment; Term; Vacancies; Compensation;

- 14-301 The board will consist of three members consisting of a presenting service county commissioner, a representative from the county road commission and the county drain commissioner. One member of the board should be certified under MCL 324.9123. In the event a member of appeal has an interest in the appeal, that member shall not take part. If more than one member has an interest in the appeal, the appeal board can not consider the appeal and the matter then must be appealed only to the Circuit Court.
- 14-302 The Appeal Board shall only take appeals from permit applicants or holders.
- 14-303 The County Board shall by majority vote of all commissioners elected, fill any vacancy on the Appeal Board for the duration of the unexpired term.
- 14-304 The County Board may remove any members of the Appeal Board for nonperformance of duties or misconduct upon a public hearing. Failure to regularly attend meetings or hearings of the Appeal Board shall be grounds for removal.
- 14-305 The County Board may set compensation and mileage for members of the Appeal Board, which shall not exceed that provided to members of the County Board. The County Board may appropriate funds for reimbursement to the members of the Appeal Board for such reasonable and necessary expenses, and if funding is approved, and upon approval by a majority vote of the County Board, members may be reimbursed for actual, reasonable and necessary expenses incurred in the discharge of their duties.

**SECTION 15
ADOPTION OF STATE RULES AND REGULATIONS**

- 15.101 This Ordinance adopts all sections of Part 91 and the rules and regulations promulgated under Part 91; however, to the extent that this Ordinance is more restrictive than, or is in conflict with Part 91 and the rules and regulations promulgated under Part 91, this Ordinance shall control.
- 15.102 This ordinance is more restrictive than Part 91 and the rules promulgated there under, however, this ordinance shall not be deemed to make lawful that which is unlawful under Part 91 and the rules promulgated under Part 91.
- 15.103 The soil erosion officer shall notify a person receiving a permit under the ordinance that the ordinance is more restrictive than Part 91 and the rules promulgated under Part 91.

**SECTION 16
SAVINGS CLAUSE**

16-100 Savings Clause

If any provision of this ordinance is declared by a court to be invalid, the invalid provision shall not affect the remaining provisions of the part that can be given effect without the invalid provision. The validity of the ordinance as a whole or in

part shall not be affected, other than the provision invalidated. In the event a provision of this ordinance is held invalid Part 91 and the rules promulgated under Part 91 shall control.

SECTION 17
EFFECTIVE DATE

17-100 Effective Dates

The ordinance shall take effect on, _____, 2008 and after publication according to statute.

Chairperson
Antrim County Board of Commissioners

At a regular/special meeting of the County Board of Commissioners of Antrim County held in Bellaire, Michigan on _____, _____, adoption of the foregoing ordinance was moved by _____, and supported by _____.

Ordinance # _____, 2008, carried by yea and nay votes as follows:

YEAS _____ NAYS _____

This Ordinance shall take effect upon publication of notice of adoption and upon approval by MDEQ. If within 50 days after the County Board of Commissioners has adopted an Ordinance, a petition, signed by not less than 20% of the electors residing in the district to be affected by the Ordinance, is filed with the County Clerk asking that the Ordinance be submitted to the electors of the district to be affected by the Ordinance for approval or rejection, then the Ordinance shall not take effect until it has been approved by a majority of the electors of the district affected voting on that issue at a regular or special election called for that purpose.

Laura Sexton
Antrim County Clerk
Effective date:

\\Server\Planning\Planner\Soil Erosion & Stormwater\Soil Erosion\final document sessco for planning commission 1-3-2008

From: [Jackie Petersen](#)
To: [Boyd, Margie](#)
Cc: skopriva@bria2.com
Subject: Zoning Amendment for PC
Date: Friday, November 1, 2024 8:15:32 AM
Attachments: [2024-08-28 Housing Language Draft.docx](#)
[Planning Commission 9.4.24.pdf](#)

Good morning Margie,

Attached is a zoning amendment for consideration for the PC. I understand that there is a meeting next week but this is late for the agenda. The Milton Planning Commission is adding duplexes to various zoning districts as well as providing for planned development in the AG district. They are attempting to allow for small homes on smaller lots to provide the opportunity for workforce housing in the community although this section would apply to anyone that would like develop meeting the ordinance. Please find the amendment and minutes from the public hearing attached.

Thanks,

Sara Kopriva, AICP
Milton Township
Zoning Administrator

117.603, A -- Uses Table.

The following table summarizes the land uses permitted by right (P) or by special use (S) permit within the zoning districts of the Township of Milton.

Addition of duplexes to the A, A-R, R-3, and E zoning districts.

USE		ZONING DISTRICTS						
		A	A-R	R-1	R-3	V	E	M
30	DWELLINGS, TWO-FAMILY	P	P		P	P	P	
73	PLANNED RESIDENTIAL DEVELOPMENT (PRD)	S	S			S	S	

Addition of standards for duplexes.

117.303 Standards for Lots, Yards, Single Family Dwellings, Two-Family Dwellings

D. Two-Family Dwellings

1. The minimum square foot requirement shall be the sum of both units and be equal to the required minimum for the district in which the structure is located.

117.1616 Planned Residential Development

A. Intent. The provisions of this Section provide standards for the submission, design, review and approval of planned residential development (PRD) projects subject to the Special Land Use provisions of Section 117.1602. The application of these planned residential development regulations are intended to:

- Conserve natural features;
- Encourage the use of land in accordance with its character and adaptability;
- Encourage creation of a meaningful greenway system for a habitat;
- Encourage innovation in land use planning;
- Provide enhanced housing, employment, traffic circulation and recreational opportunities for the people of Milton Township; bring about a greater compatibility of design and use between neighboring properties; and
- Encourage retention of agricultural uses and green spaces.

The provisions of this Section are intended to result in land development substantially consistent with the underlying zoning, with modifications and departures from generally applicable requirements made in accordance with standards provided in this Section to insure appropriate, fair and consistent decision-making. The PRD process may permit flexibility in the regulation of land development and encourage innovation and variety in land use and design.

B. Planned Residential Development Design Standards. A PRD project shall be consistent with the following standards.

1. Permitted Uses. Land uses permitted within a PRD shall be limited to those permitted by right or by special land use in the underlying zoning district.
2. Open Space. The minimum open space for any PRD shall be fifty percent (50%) of the

development. Open space may be any combination of common open space, limited open space, or public open space. Wherever practical, proposed open space should connect to open space provided in adjacent developments. Open space provided should relate to the creation of a greenway system to preserve a water/wetland system, a topographic formation, choice woodlots that extend into adjacent parcels, or a known habitat of native wildlife. Items that may be in the open space include the community building, playground and other recreational equipment, septic systems and wells including pump houses, wetlands, lakes, and pools.

3. Base Residential Density. Except as provided in Subparagraph 4 of this section, the maximum number of residential dwellings permitted in a PRD shall be equal to the gross buildable site area divided by the minimum lot size required in the underlying zoning district. For the purposes of this Section, the gross buildable site area shall be the entire parcel area less any portion of the site comprised of surface water, wetlands, slopes in excess of 90%, and up to fifteen percent (15%) for roadways.
4. Potential Density Increases. The Planning Commission may approve an increase in residential density of fifteen percent (15%) for the first minimum allotment of open space (fifty percent [50%]). An increase in density shall accrue at the rate of fifteen percent (15%) for each ten percent (10%) of additional open space provided above the minimum required. Fractional units shall be rounded up if five-tenths (.5) or greater and rounded down if less than five-tenths (.5). Potential density increases shall not exceed forty-five percent (45%) over and above base residential density.
5. Interior Setbacks and Lot Area. The front and rear setback requirements of the underlying zoning district(s) may be modified within the PRD project. Side yard and waterfront setbacks shall not be modified. The minimum area of lots or condominium lots in the underlying zoning district may be modified within the PRD.
6. Perimeter Setbacks and Buffering. The perimeter setback shall be a minimum of fifty (50) feet. The perimeter setback area would include naturalized landscaping or a natural vegetative strip to provide a buffer for adjacent properties where found to be necessary by the Planning Commission after taking into consideration the topography, vegetation, and neighboring property characteristics.

The perimeter setback and landscaping need not be uniform at all points along the property boundary. The perimeter setback and landscaping requirements would be determined in consideration of the existing and planned adjacent land uses but shall not be less than the requirements of Section 117.311. The Planning Commission may require a natural buffer area along any roadway when important to retain the character of the area along the roadway by preserving the existing meadow, field or woodlot.
7. Recreational Uses. Improvements associated with public and private uses, including but not limited to, riding stables, swim clubs and tennis clubs (including accessory structures and uses) must be located within the developed portion of the PRD project and shall not be included in any areas set aside as open space calculations. Provided, however, that golf courses fairways and greens, equestrian riding paths or similar areas without significant developed improvements may be included within such open space areas.
8. Common Buildings. Common buildings may be allowed but may be located within the common areas and meet all required setbacks for the zoning district. These buildings shall be used solely for the residents of the dwellings within the development. At no time shall this structure be larger than 1,000 sq ft. Community buildings shall be for the use and enjoyment of residents of the community and shall not be for use by the general public.
9. Road Access. All site, lots, or parcels shall access off a new, improved easement or private road interior to the development to limit the amount of impact and sprawl along existing roadways.
10. Site Infrastructure. Road, drainage and utility design shall meet or exceed the applicable

- Township and/or County requirements. Drainage structures (detention/retention ponds, swales) shall be designed to blend with the PRD project's built and/or landscaped features and the site's natural features. Multi-User Septic systems, roads in the A-R zones, and drainage structures may be located in the required open space areas.
11. Project Phasing. Each development phase shall be designed to stand alone as a feasible and appropriate development such that if the remaining phases are not implemented, the community is left with a viable project or neighborhood. Each phase shall be designed to provide at a minimum a proportional share of the common open space requirement for the entire project.
 12. Open Space Conveyance. The open space may be conveyed to an individual, a conservancy, or other entity via an irrevocable conveyance. An irrevocable conveyance shall include recorded deed restrictions (or protective covenants or conservation easements as appropriate) to insure that dedicated open space shall be permanently protected from further development.
 13. Agricultural Use. Continuation of agricultural uses are encouraged on a PRD project and the area to remain in agricultural use may comprise up to one hundred percent (100%) of the required open space.
 14. Night Sky Protection. Outdoor lighting for the development shall be designed per section 117.314.
 15. Any portion of the open space with at least dimension of less than fifty (50) feet shall not be considered a part of the open space for the purpose of determining the required fifty percent (50%) provided in this section.
 16. Planned Residential Developments which abut or include a surface water body shall incorporate design features, homeowner association standards or other measures satisfactory to the Planning Commission to protect surface water quality and the natural character of the shoreline. Any such development with one or more areas to enable access to a surface water body for swimming, boating, fishing or for any other purpose, shall include measures satisfactory to the Planning Commission to limit such access to the residents and guests of no more than one dwelling unit for each 100 feet of shoreline included or abutting the Planned Residential Development.
 17. In addition to the above requirements, the following shall apply to developments in the agricultural district:
 - a. Lot Area Requirements. There shall be a minimum of two (2) acres and a maximum of five (5) acres.
 - b. Density. At no time shall the density be greater than four (4) dwelling units per acre.
 - c. Minimum dwelling area and dimensions. When a minimum of 60% of the gross building site, calculated the same as above, is maintained as open space, the minimum dwelling size for the residential units can be reduced by up to half of the required area for the zoning district. At no time shall a dwelling unit be less than 600 sq ft. The minimum building dimensions shall not be reduced.
 - d. Distance Between Developments. At no time shall two (2) developments be closer than 1,000 feet measured from the closest property lines of each development.
- C. Application, Review and Approval Procedure.
1. PRD Application. In addition to the requirements of Section 117.1601.B, a PRD application shall include the information as detailed below.
 - a. Development Plan Overview including a narrative description of the overall purpose and

intent of the PRD including details on the nature of the uses anticipated, and design standards to be applied and development restrictions proposed. This will also include the following general information:

- i. Total site acreage and percent of total project in various uses, such as residential, agricultural, developed and undeveloped open space, and any active/passive recreation areas.
 - ii. Percent of ground area and/or lots covered by structure.
 - iii. Acreage and number of single-family lots, multiple family dwellings and area committed to other uses to be included in each development phase.
 - iv. A detailed description of the site, including illustrated overlays of any important or significant natural or archaeological features and an explanation of how such features will be protected and/or incorporated into the PRD design.
 - v. A description of mechanisms to protect and maintain any open space, and detail on any conveyance mechanism to enable such protection.
- b. Phasing plan providing detailed information of the timing and nature of each phase of the proposed development including tabulations of the area of each phase.
 - c. A statement of proposed modifications from the Ordinance standards which are sought to implement the PRD.
- E. PRD Commencement Period. At least one (1) residence of the planned residential development shall be completed within a period of twenty-four (24) months from the date of approval. Upon written application by the developer, the Planning Commission may extend this commencement time period for no more than two (2) successive one (1)-year time periods. No additional extensions may be granted beyond a maximum of two (2) years.
- F. Permits. Following approval of a final planned residential development the developer may receive zoning permits to begin construction, subject to the conditions included in the approval.
- G. Modifications to Approved Planned Residential Development. Amendments shall be processed in the same manner as amendments to a special use permit.
- H. Appeals. No decision or condition related to a PRD submittal shall be taken to the Zoning Board of Appeals.

Milton Township
Planning Commission
Unapproved Meeting Minutes
September 4, 2024

Members present: Chairman Hefferan, Renis, Peters, Warner, Standerfer, Ford, and Merillat.
Also present: Kopriva, Peterson and 3 audience members.

Hefferan called the meeting to order at 7:00pm.

Public Comment:

Dick Gray, chair of the parks and recreation committee thanked members for serving and giving their time. He discussed the short-term rental ordinance and the original intent of the ordinance. There is a situation on Torch Lake Drive where a single owner has amassed several large homes and now there is an event center. The intent of R1 zoning is for personal ownership. This is completely the opposite of what is going on up there. Are there ways to address this issue legally?

Bob Kingon said regarding the shoreline protection strip, he offered to provide feedback as he helped draft the original ordinance.

Approval of Agenda:

Motion by Ford to approve the agenda. Seconded by Renis. **Motion carried.**

Approval of Minutes dated August 7, 2024:

Motion by Standerfer to approve the minutes dated August 7, 2024 as presented. Seconded by Warner. **Motion carried.**

Correspondence:

A letter was received from Antrim County saying their zoning ordinances was approved. We also got a letter from Clearwater Township regarding their update notification.

Old Business:

Public Hearing Housing Amendment:

This is amendment 2024-01 to 117.303; 117.603; 117.1616. Hefferan discussed the public hearing procedures. Any conflicts of interest? None. This was advertised in Elk Rapids News August 15th. There is no applicant.

Ford said we have worked on this for 8-9 months. The affordable housing issue is here in our township. Our businesses have a hard time retaining employees because they cannot find an affordable place to live. We have made some changes to the Planning Residential Development to allow for more density. Kopriva said we have added duplexes into the Ag zone and added some language. The approval process was cleaned up and #17 was added for when this might be added in the Ag district. You can decide to make changes, approve, or deny.

Renis asked about 17A “5 areas”. This should be “5 acres”? Yes.

Audience Questions for Information: None.

Correspondence: None received.

Those speaking in opposition to the amendment: None.

Those speaking in support of the amendment:

Tad Dowker owns NorthShore Dock. Many other business owners and farmers feel the reduction of workforce housing. We have good pay and a great area, but when you cannot live here, it makes it hard. I employ 80 people and most of them drive more than an hour to get to work. This ordinance will help us retain the employees we need.

Public Comment Closed and Deliberations Began:

Merillat asked if 17A would only allow for PDRs from 2 acres to 5 acres the Ag? Before this amendment there was no limit. Kopriva said now we are limiting it from 2-5 acres in Ag. In other zones it is unlimited acres. Merillat said this is not consistent with the underlying zone of Ag. To open this up to the Ag zone in the township is a mistake. Merillat read from the master plan page 8-9. This will have unintended consequences. We are allowing up to three mini subdivisions on 80 acres. Merillat read from the proposed master plan page 65. There is no defined lot size, just density. We are putting the highest density in the Ag zone. It is higher than the village zone.

Renis said you are missing the open space portion. You still need 50% open space. Merillat said there is also nothing that dictates that we cannot have large houses on small lots. We are thinking it would be small, but they could be large. Merillat said a 50-foot set back is not enough next to a cherry orchard. Merillat said he feels this should be limited to a certain place in the township and now it will be allowed everywhere.

Kopriva said it is not supported to choose one place for development. There is the compromise with the open space. But it is still a higher density. If you can have 4 units/acre but only building on half of it, this is something that the committee worked through to try to protect the neighboring properties and putting 1000 feet of spacing between the developments. This does address the goals we have for housing in the master plan, but it will put pressure on the Ag zone.

Warner said he can understand some of Merillat's points, but we will have development in the Ag district regardless. It is a difficult problem. We are trying to address the fact that housing is needed and some Ag land is going to be used for that.

Peters said he understands what Merillat is saying. This is not a perfect plan. We are trying to solve a problem without having a crystal ball. There is a concern of large-scale development. From a builder's perspective, I do not see how that works out. If this is still a special use permit and they would have to apply. If we look at a development and they start down this path and we recognize it fits better with a regular PRD, are we allowed to direct them? Kopriva said they can still apply and they do not have to take your advice. When you start scaling something, you have to scale the utilities to go with it. I would be more concerned with massive development if we had public water and sewer provided.

Ford said he was hung up on confining it to a certain area as well. The other way to look at it is we can adjust it later on if it gets out of control.

Standerfer thanked the committee for their hard work and Dowker for his help.

Renis said there is no stopping someone from buying 80 acres and putting a house every two acres. This amendment is limiting the density. They are already allowed to develop, but this will allow higher density.

Merillat asked if it is our intent to not allow a PDR that is not larger than 5 acres in the Ag zone? That is correct. Warner said standard land division still exists and site condo still exists.

Hefferan said we have never had PRD in the 18 years I have been here. Merillat said before that, we did. It is related to the economy. We have never had a PRD with the current language.

Kopriva said it does not sound like there are any changes so far. The next steps would be a motion.

Motion by Ford to recommend the approval of amendment 2024-01 related to PRD to the township board. Seconded by Peters.

Discussion: Hefferan said he does not disagree with Merillat but thinks we have to do something and this is something. As Peters mentioned I do not think we have been averse to taking risks when we are presented with a problem. To do nothing is not a solution I am comfortable with it.

Roll Call:

Warner: Yes: Doing nothing compounds the problem. Although it is in the Ag district, it will preserve some natural areas in the township.

Ford: Yes: After struggling over this for many months, it provides a good framework to help solve our housing problem and it provides for the ability to create and preserve a balance in our township

Standerfer: Yes: Doing nothing is not right. I own two different businesses and I see the same problem with workers and family who has a problem finding housing.

Merillat: No: It should not be opened to the entire Ag district. It goes against the master plan and not supported by the proposed master plan.

Renis: Yes: It takes into consideration the current status of the housing environment.

Peters: Yes: This is a step in a direction. Whether it be right or wrong, I look forward to working with Merillat to fine tune this.

Hefferan: Yes: Our current master plan directs us to seek to retain and promote small business in the township and they are having problems keeping employees.

Motion passed 6-1

Will go on to the county for their input and it could be at the township board in October or November.

Shoreline regulations: Kopriva discussed the regulations last month and the issues she is having

with enforcement. The intent regarding plantings was to do the plantings, but the language does not say that. If you disturb something, then you have to get a permit. We do not have any penalty if someone clear cuts the strip, the ordinance says you need to plant shrubs and bushes. If you clear cut, you can replant with things that do not hold the shoreline as well. Kopriva looked at other townships and their language. There is a comparison provided. The memo provided shows things to consider in your regulations. Her recommendation is that the size of the buffer is fine. The planting requirements should be clearer on what is required and when you can trim and remove. Most ordinances say if you have a natural shore, you can trim to get the view of the water. We do a good job regarding access. We allow for decks that have permeable area in the shoreline buffer so you are pushing someone's deck into the shoreline protection strip. Looking for any feedback tonight and then she can revise. Hefferan asked if members would like to have a subcommittee? Renis, Ford, and Merillat will also be on the subcommittee. They will meet November 6, at 5 pm.

New Business:

None.

Reports:

ZA Report:

Kopriva provided a report for members to review. Also, we are working with the attorney on STR ordinance, a couple junk items, as well as the length of docks. Hefferan asked regarding the 1000-foot STR matter sent to us by the township board. Kopriva said she has been able to make an appointment with the new township attorney.

Township Board Report:

Renis said Weinzapfel won the primary for township supervisor.

ZBA Report:

Hefferan said the ZBA met and were asked to interpret the ordinance.

Planning Commission Updates:

Future Meeting Considerations:

October meeting is canceled. Next meeting is November 6, 2024.

Meeting adjourned by order of the chair at 8:07 pm.

Respectfully submitted,

Joseph Merillat

October 22, 2024

Regarding: Banks Township Master Plan

To whom it may concern:

i
initiative

This letter is to provide notification to your office that Banks Township will begin the process of updating its Master Plan pursuant to Public Act 33 of 2008, the Michigan Planning Enabling Act.

Once an updated draft plan is approved for distribution, you will be provided with a link to an electronic copy for your organization's review and comment. Please feel free to contact me about any land use or community development issues pertinent to your organization, or to the participating community, during the preparation of the plan.

Sincerely,

Ken Lane, Township Planner

klane@bria2.com

Enclosure: List of organizations and entities receiving this notification

Beckett & Raeder, Inc.
535 West William
Suite 101
Ann Arbor, MI 48103

734 663.2622 ph

www.bria2.com

Petoskey Office
113 Howard St.
Petoskey, MI 49770

231.347.2523 ph

Traverse City Office
148 East Front St.
Suite 207
Traverse City, MI 49684

231.933.8400 ph

Grand Rapids Office
5211 Cascade Road SE
Suite 300
Grand Rapids, MI 49546

616.585.1295 ph