

**ADA TOWNSHIP PLANNING COMMISSION
MINUTES OF THE SEPTEMBER 15, 2011 MEETING**

A regular meeting of the Ada Township Planning Commission was held on Thursday, ~~August 18,~~ September 15, 2011 at 7:30 p.m. at the Ada Township Offices, 7330 Thornapple River Dr., Ada, MI.

I. CALL TO ORDER

Meeting was called to order by Korth at 7:30 p.m.

II. ROLL CALL

Present: Chairperson Korth, Commissioners Butterfield, Easter, Hoeks, Lowry, Lunn and Treasurer Rhoades. Also present: Planning Director Ferro.

III. APPROVAL OF AGENDA

Motion by Easter, second by Lunn, to approve the agenda. Motion passed unanimously.

IV. APPROVAL OF MINUTES OF AUGUST 18, 2011 MEETING

Motion by Easter, second by Hoeks, to approve the August 18, 2011 meeting minutes. Motion passed unanimously.

V. PUBLIC HEARING

Request for Special Use Permit for a 336 Sq. Ft. Addition to an Existing 1,800 Sq. Ft. Accessory Bldg, 3197 Honey Creek Ave NE, Parcel No. 41-15-03-400-011, Gail M. Snow Trust

Charles Snow, 3197 Honey Creek Avenue, stated he has an existing 1,800 square foot building with extended roofs over two sides, and he wishes to enclose part of one of the roof-overs.

Planning Director Ferro stated that an accessory building larger than 1,800 square feet requires review and approval by the Planning Commission as a special use. The actual roof top of the building is about 2,950 square feet with open-sided roof overhangs on the north side and a portion of the south side. He stated the applicant proposes enclose a 336 square foot portion of one of the roof overhangs on the northwest side of the building. Ferro noted the property is 26 acres with a lot of wooded area. He stated the accessory building is several hundred feet from Honey Creek Avenue, that it adjoins the State game area on the west, and that it cannot be seen from neighboring properties or from the public roads.

Korth opened the public hearing. There was no public comment.

Korth asked Ferro to clarify why this is before the Commission.

Ferro stated when the building was first constructed it was 1,800 square feet, all enclosed space, and later a second building permit was applied for and sign-off given by the zoning administrator to add the open-sided roof extensions. Ferro stated he believes the roof extensions should have counted as square footage, and a special use permit obtained at that time. The roof top is part of the building footprint which generates runoff and is part of the building mass, so he believes it should have originally been counted as square footage, and that's why it's before you.

Motion by Hoeks, second by Lowry, to approve the special use permit.

Motion passed unanimously.

VI. UNFINISHED BUSINESS

Revision to Riparian Protection Standards, Proposed by Ada Township Planning Commission

Korth stated this has been worked on for more than 6 months. He stated that as a result of direct correspondence with the community turnout is very large, and we can thank Amway for taking the time to mail notifications.

Ferro stated the proposal is to amend rules that were originally adopted in 2006 which pertain to riparian areas - rivers, lakes, and ponds that are identified in blue on a map titled "Protected Riparian Areas Inventory Map." They also apply to any other lake or pond over five acres in size that may not be identified on the map; so these rules are not applicable to anyone who has a two or three acre pond on their property. They are applicable to any stream that has a year-round flow, regardless of whether they are shown on the map, and they apply to wetlands that fall within the State's definition of a regulated wetland, which is generally wetlands that are five acres or more in size or contiguous to a water body, regardless of size. The proposed amendment is a change in one of the exemptions that was originally put in place in these rules.

Ferro explained the purpose of the rules, stating they are intended to protect water quality in riparian features in the Township by imposing some regulations on land use activities in areas immediately adjoining the water features. They are to protect water quality and habitat quality in wetlands, rivers and creeks by encouraging filtering of storm water runoff through natural vegetation, to remove sediment and other pollutants, to provide shade above water features to help maintain lower water temperatures, especially in small waters and streams that are fish habitat. Natural vegetation is also important to protect the integrity of stream banks from erosion and scouring by the current of the stream. Ferro added that natural vegetation also protects the natural character of the stream and aquatic habitat, which contributes to the character of the community and the quality of life of residents and property values.

Ferro noted that a common concern with respect to the Township's regulations is whether they duplicate State regulations. Ferro stated that in 2003 the State Department of Environmental Quality put out a document called "Filling the Gaps, Environmental Protection Options for Local Government." This document points out that an important component of protecting water quality is what happens on the adjacent land, what happens on upland areas from a land use perspective affects water quality, and the State has little or no jurisdiction in regulating land use. The document states because the State does not regulate land use of the watershed surrounding lakes and streams, the responsibility lies in the hands of local officials and the personal residents, and it is left to them to determine how they will protect the environment through land-use planning and local regulations.

Ferro stated when the rules were adopted in 2006 there were exemptions provided and two of those exemptions for which there is no change proposed are 1) agricultural operations that are conducted in accordance with best management practices, and 2) activities authorized under a permit issued by the Michigan DEQ, such as a wetland, flood plain, or inland lakes and streams permit.

Ferro stated there was also an exemption for all existing lots of record that were in existence at the time the rules were enacted, and the current proposal before the planning commission is whether that exemption should be eliminated so the rules would apply uniformly to all property in the Township, regardless whether the lot existed as of 2006. He stated with the current exemption in place, the rules apply only to property that is divided by a land division, a new subdivision or new site condo development in the Township.

Ferro stated the regulations define two different dimensioned zones. One is called the natural vegetation zone, which is the area immediately adjacent to the water feature. Ferro stated this zone is 25 feet wide measured from the ordinary high water mark, or 10 feet from the edge of a wetland. Ferro stated beyond

the natural vegetation zone is the transition zone, which is 15 additional feet beyond the edge of the natural vegetation zone, and there are separate restrictions that apply to each of the two zones.

Ferro explained the definition of the term “ordinary high water mark,” which basically means the frequently reoccurring high water level. He stated it is not a precise definition but there are enough criteria that it can be legally established on a given property. Ferro then summarized the restrictions on placement of buildings, paved surfaces and removal of vegetation in each of the two zones.

Ferro stated that zoning regulations do not apply retroactively, and whenever we have amended the zoning rules in the past there have been existing conditions in place that did not conform to the new rules, and those are referred to as non-conforming conditions. Ferro stated that these conditions are allowed to continue and be maintained. He stated property owners have the right to continue to maintain lawns that extend to the bank of a creek or large pond, as a legal non-conforming condition. He stated the rules could come into play if an existing non-conforming condition is removed or destroyed, such as a building that burns down, which is then required to re-build in conformance with the zoning rules.

Ferro reviewed the enforcement and penalty provisions of the regulations. Ferro stated that as with the zoning regulations in general, a violation of the riparian standards is a civil infraction.

Ferro stated since the rules were first enacted, several members of the public have requested the planning commission to revise the rules to remove the exemptions for existing lots of record. He stated the planning commission considered this in 2008 and 2010, and in early 2011, the Planning Commission made it a high priority to get this resolved and decided.

Korth noted that at a joint meeting of the Open Space Advisory Board and Planning Commission held in May, the Advisory Board requested we address this issue with the hope and goal that we would make these rules apply to the Township as a whole.

Korth invited public comment.

Public Comment:

Everett VanderTuin, 8900 East Fulton, stated he owns 1,000 feet of frontage on the Grand River. He asked what the cost of the proposed change would be, and how it will affect the taxpayer. He stated we live in an age of shrinking government and less taxes.

Walt Jousma, owner of Ada East Business Center, stated he lives on Versluis Lake in Plainfield Township. He provided information on the rules that apply on their lake frontage, which permit mowing four times per year. He stated that if you do not mow, you are just inviting all kinds of invasive species. He suggested we look at Plainfield Township’s regulations.

Dave Gorman, 8275 Bailey, stated he has Bailey Creek in the front and two spring-fed streams on either side of his house. He stated government has gotten much too large and too invasive. He stated he does not believe we have a problem that needs to be addressed. He stated as a landowner with water that is an asset to the property, he takes care of that property by manicuring the streams, keeping the weeds out in the fall, and keeping the culverts clear. He stated he believes that the proposal results in the Township having more control over his property than he does, but he has to pay the taxes.

Jon Sarb, 590 River Street, stated there is too much government in this proposal. Sarb requested examples of situations where irresponsible actions by property owners are doing irreparable harm to water features. Sarb stated that he is in a situation where everything is non-conforming - his house is close to the river, and his garage is on top of the river. Sarb referenced Ferro’s statement that the Zoning Board of Appeals “may” approve a variance, and another statement that they “will” approve a variance. Sarb stated that

“may” is the correct term, and years down the road, one Board may approve a variance and another Board not. He stated we are pretty good citizens of our land, and take care of it well, especially those on the river and streams, because that’s a real asset to us. He stated this entire ordinance should go away.

Don Shankin, 1021 Dogwood Meadows Dr., stated he also owns a couple hundred acres of water and wetlands on Chase Lake. He stated he is in opposition to the revision because he has been grandfathered for the use of the property. He stated this revision would make me subject to just about all of the rules. He stated he speaks in opposition because the ordinance is zeroing in on the use of water, control of water, and Chase Lake and the property around it is not a flowing stream. He stated Chase Lake is a depression that has been there for thousands of years, with no outflow for most of the year. As a result, he does not believe that applying the rules to his property has any benefit to the water.

Charles Leedom, 3000 Grand River Drive, stated he has 11 acres on his property along the Grand River and is opposed to this ordinance. He stated he feels this is a very restrictive ordinance on the property owners and is an invasion of individual rights. He stated he the ordinance should not be any stronger than what it was in the past, if not completely thrown out.

Roger Klinge, 3490 Grand River Drive, stated ~~he has a problem with the grandfather clause, which was instituted originally to gain approval of property owners to pass the ordinance and now you want to remove these additional rights of the property owners.~~ Klinge stated the exemption was originally included to gain acceptance of the ordinance, and now we want to remove these rights of property owners. Klinge stated in the 40 plus years he has lived on the river, the river has eaten away about a dozen of his trees. He has re-planted additional trees, he mows the grass down to the river, his neighbors do the same, and it is like a big park there. He stated the lawn and trees probably do a better job of filtering the water than natural habitat would. He stated his recommendation is to leave the regulations as they are.

Dan Sugarbaker, 1920 Grand River Drive, stated he has about 5 acres on the river, with about 350 feet of frontage. He stated he didn’t pay much attention to the change that occurred a couple of years ago because of the exemption, and thought it wouldn’t apply. He stated that once the exemption is taken away and a very limited modification of the rules is done, it seems somewhat unfair. He stated one of the important things is controlling erosion to protect water quality, and if the exemption is taken out, in the spirit of being fair, the entire ordinance should be looked at, and look at the erosion which should be monitored. He stated if we are going to open it up to remove one line, we need to consider the landowners input on the entire ordinance.

Gerald Ross, 2041 Shady Drive, stated he was at the hearing in 2006, and at that time it seemed restrictive to the property owners along the river, and the exemption was one of the things that put him at ease at that time. He stated at this point his house is grandfathered in and if something should happen to his house, and if these rules are applied, then his property is gone, it’s of no value without coming back to the commission. He stated the people that live along the river are keeping the property up, and there is more erosion and natural change in the river. Also, when you look at the high water mark on that river it is definitely open to interpretation. He stated he would like the changing of the rules to be denied.

Mike Coale, 1064 McCabe Road, stated he is opposed to the change in the ordinance, and thinks it is arbitrary. He stated he sees more damage to his property from invasive species and the large deer herd than from anything else. He stated he does not want anybody to tell him where he can put walking trails on his property.

Dan Mekaru, Township resident, stated that the regulations give the Township more control than the land owner, and questioned whether this was a taking. He questioned how additions would be treated. He asked whether re-surfacing of a driveway would be permitted, or changing the material of a driveway. He

stated that the rules could result in a property owner mowing a lawn incurring a \$1,000 fine. He asked what model rules from the DEQ publication were used.

Korth stated there was not a specific option used, and that the rules were developed from multiple sources; it was taken from a whole lot of things and it is specifically an Ada Township ordinance.

Brian Logue stated he was an advocate for his mother, Marjorie Logue, at 652 Dogwood, who has resided there for over 40 years. He stated his mother's property has frontage on Honey Creek and she mows her lawn down to the creek. He stated the Township put this ordinance into effect under the guise that we know better how to control land than the owner, but we don't pay for that right. He stated the property owner has those rights and they can be sold to the next person. He stated that by limiting these rights, it is an actual taking. Also, if this clause hadn't been put in there in the beginning it never would have passed. He stated he would like to see a motion to recommend to the board that they rescind this ordinance, as this is not something the commission should be interested in, and the Commission should be protecting the rights of the property owners.

Robert VanLozenoord stated he owns two properties on the Grand River, at 9514 and 9516 East Fulton. He stated he has been there 15 years. He stated he does cut down to the river, that it looks beautiful, and that it takes care of the property. He stated he is against the ordinance as it is taking away our rights and we are the ones paying the taxes.

Paul Kudirka, 9415 Conversation, stated he has Honey Creek running through his property, and that he wishes to voice his opposition to this revision. He stated he agrees with what everyone else has said. He stated we are trying to swat a fly with a sledge hammer, and it is just unnecessary.

Kathy Scudder, 2107 Shady Drive, stated she owns several lots on Shady Dr. She stated that the required dimensions described would encompass almost her entire property. She asked if she sells her property, would the new owner be subject to the rules.

Korth stated the simple answer is no, as long as it's maintained by the next owner in the same way.

Renee Davis, 1950 Grand River Drive, stated she is against taking this clause out, and every time the government enacts an ordinance they are only taking away our rights.

Board Comments:

Ferro stated, in regard to the cost of this proposal and how it will affect the taxpayer, we have a lot of different zoning regulations and we do not spend a lot of time going out looking for ordinance violations. If someone happens to be out on a site visit or driving down the road and observe something from the road that is a clear violation, then we take enforcement action. He stated that adding one other element of setback requirements would not impose a greater level of staff time responsibility or burden that would have any significant cost impact.

Korth stated one other question that was asked was what circumstances have we had that have been significantly problematic to the Township.

Ferro stated in the spring his department looked at two years of building permits, for calendar years 2009 and 2010. Ferro stated that nearly all of the permits for new single family home permits issued during that time period were exempt from the rules because they were on parcels that already existed prior to 2006. He stated that there were only two out of 40 plus building permits where the proposed construction didn't conform to the riparian rules. He stated that says to him that the exemption has not necessarily resulted in significant negative consequences for water quality or riparian features.

Korth stated another question was the issue of what model was used.

Ferro stated when the rules were developed a lot of different communities' regulations were looked at, including communities that have rivers in the State Natural Rivers program, such as Vergennes Township, Courtland Township and Cannon Township.

Ferro stated the approach that is used in our rules is that all non-conforming situations are permitted to be maintained, but they can't be re-built without a variance if they have been removed or destroyed. Ferro also stated in regard to his previous statements as to whether the Zoning Board "may" or "will" grant a variance, that his previous statement was that if the property owner demonstrates practical difficulty and meets the criteria for granting a variance, the zoning board will grant the variance. Ferro also stated that if the property is sold and the next owner continues to maintain the lawn in the same way, the rights to maintain the existing nonconforming conditions don't end with the current owner, and are transferred to future owners.

Korth responded to the comments about rescinding the ordinance, and stated this ordinance came at a time when development activity was high, and one of the reasons this was an issue was the worry that large areas of formerly vacant land were suddenly being developed to a much greater intensity. He stated the ordinance at that time was in support of new land divisions and was to protect abuse of the land that can come from significantly developing raw land. He stated the conditions today have changed dramatically over where we were in 2006, and this is the first time in all of the public hearings that we have had what he believes to be a reasonable sampling of opinion from real waterfront property ownership. Korth stated we were asked to revisit this subject and to try to work through whether or not it is something we want to do, and this exercise tonight has been one more step in the journey. He stated it has been very useful, and he thanks Amway because they brought out people who were not aware of it. He stated his personal opinion is we either table this and send it back to the committee that developed it, or if someone would like to move on it tonight, and there is support for the motion, we'll take a vote.

Easter stated she is very interested in protecting our natural resources, but the more she re-studies this she believes the regulations that were created in 2006 balance the need for community responsibility with property owner's personal rights. She stated in good conscience she can't support this revision, and would like to see it tabled.

Lunn stated he was one of the ones that brought this forward. He stated we have heard from a lot of people who live along the river, and most of those people are likely in the floodplain, and in order to do the rebuilding and the things they would need they would need a DEQ permit which would exempt them from the ordinance. He stated also, a lot of people have talked about mowing right down to the Grand River, and the Grand River is designated as having water quality that is impaired for designated use and e-coli bacteria is one of the impairments. He stated that mowing down to the water's edge causes more e-coli to go into the river during rain events. He stated it has been proven that putting in a buffer strip greatly reduces the amount of fecal matter entering a waterway.

It was moved by Lowry, seconded by Easter, to table the proposed amendment and refer it to Subcommittee.

Motion passed by 6-1 vote, with Rhoades voting no.

Korth stated the subcommittee will meet within the next month to month-and-a-half, and this will likely not be placed on the agenda until November at the earliest.

Korth was asked whether the public may attend a Subcommittee meeting, and Korth responded yes.

VII. NEW BUSINESS

Request for Extension of Deadline for Completion of Mineral Excavation and Processing Activities, 6801 Conservation St. NE, Parcel No. 41-15-21-100-003, The Merestone Group, on behalf of Edith Pettis

Ron VanSingel and Tom Burgess were present on behalf of The Merestone Group. VanSingel stated they are asking for a renewal period not to exceed 10 years to complete the mineral removal and processing activities on this parcel. VanSingel stated they are there to look at the sections of the settlement that allow them to complete this process. He stated the initial 10-year period went into effect in 2001 and over that time there has been mining that has taken place on the parcel. He stated he met with Jim Ferro initially, and they went over the provisions of the settlement agreement pertaining to criteria for granting an extension, and he wishes to go over those items.

VanSingel stated the first item is whether there is a past history of compliance with the terms of the settlement. VanSingel stated that during the initial 10-years of mining, there have been only 3 recorded complaints, one of which was possibly attributed to Rieth Riley, and the complaints have been very minor issues, and they were dealt with very quickly. He also noted there was one infraction involving depositing of excavated material within the required 75 foot buffer area adjacent to the property boundary. He stated that this will be brought into compliance. He stated that other than those items, the operation has been conducted in accordance with our stipulations.

VanSingel stated that as far as the extent of the material to be removed, 10 years ago when this started out there was a lot of material pulled from it. Originally Pettis & Associates was the owner of the pit and they set up an agreement and began the mining. He stated that Pettis & Associates mined the site for 5-1/2 years, and in those years there was a lot of material that was moved out. He stated one of the issues that have come up is whether we have records of this, and it does state in the court ordered stipulation that the Township can request those. VanSingel stated that the owner has these records, and can make those available to us. He stated that for the last four years Barber Creek Sand & Gravel has maintained and worked in the pit and they do have a record of their activities as far as the materials that they took out, hauling dates, etc., and those items can be provided also.

VanSingel also stated that in 2006 and after residential development activity dried up, and need for materials dried up. He stated the quantities that were taken out in the last four years have been from 25,000 to 30,000 cubic yards per year, which shows a drastic decrease from what the pits in this area were doing. He stated the second thing was what do we have left in the pit. He stated they prepared current topographic mapping of the site, and they have calculated approximately 335,000 cubic yards of material that could come out of this pit, taking into consideration we may mine lower than this natural level, but we will be replacing it with a clay type material. Also, everything that is on the site has a value; there is nothing that would be just haul-away material.

VanSingel stated when the settlement was originally approved, there was no reclamation plan prepared, other than a cross section showing a sloping pattern. He stated they have prepared a final contour plan that takes into consideration making the site suitable for a residential end use. He stated that in working with the zoning ordinance they came up with a residential type condominium site, P1A Planned Development, but by putting it through a PUD it can be condensed and placed in a smaller area. He stated there is a lake along one side, and they would extent a private street in, and have a nice useable residential property that would blend in with the surrounding area. He stated of the approximately 40.57 acres, 27.84 acres or 69% of it would be left in an open type state, open area, and lots would average slightly under an acre. He stated their reclamation plan was based on ending with a site that was usable for residential development, with walking trails, open space, and a 75 foot buffer all the way around.

VanSingel commented on the salability or need for this material. He stated we're starting to see a lot of positive things happening, with developers starting to look at plots again, on smaller type properties that are going to need the materials. He stated there are other mining operations in the area, but for this area

there are different projects, and this material can be sold. Your renewal period says up to a 10-year period, but if the economy rebounds faster it might come out in 3 or 5 years. VanSingel stated the entire output of the site is not consigned, and that with development activity the way it is now, there are not a lot of people buying a whole pit. He stated he feels the applicant has met the spirit of the stipulations that were put in the Settlement, they have put forth an effort to mine it accordingly, would like to complete it, would have liked to complete it in the first 10 years, and would like the opportunity to continue. There is remaining valuable material in the site, and it makes sense for everyone to get it completed.

Ferro reviewed the major provisions of the Settlement concerning the timeframe for completion, and potential for an extension of the December 31, 2011 completion deadline. Ferro read the provisions concerning an extension, which state that "one renewal period not to exceed 10 years, may be requested by Pettis, with recommendations by the planning commission with the final decision made by the Township Board, upon a showing that three conditions exist: 1. A history of substantial compliance with the terms and conditions of this order; 2. The applicant shall demonstrate that there are remaining valuable minerals and materials on the property which can be extracted in commercial quantity; 3. There is a need for this material."

Ferro stated, one thing not addressed in the settlement is what procedure should be used by the commission, and most specifically, what if any opportunity for public input should there be in this process. In this case, where there's a stipulated settlement approved by a court the normal provisions of the zoning rules don't apply; we're governed only by the settlement order. He stated there is nothing in the settlement order that prohibits the public involvement process with notice by the planning commission, and we need to decide what, if any, process you may use for public input.

Ferro stated other variables that need to be considered are term of any extension that may be approved. He noted that the language of the Settlement is not an all or nothing thing - either no extension or 10 years. He stated the terminology "not to exceed 10 years" implies that something less than a 10 year extension could be granted. Ferro stated what we've had in terms of enforcement action has been minor, and he wouldn't consider them substantial violations. Ferro referenced language in the Settlement stating that in the initial 10-year period, the applicant shall make reasonable efforts to complete the project. Ferro stated we have very little information from the applicant on how much business and how much material was mined and processed and removed from the site in the initial 5-1/2 years before Barber Creek Sand & Gravel entered into a lease with the owner to operate the site.

Korth stated this is basically straight forward and of the three main conditions set forth in the Settlement, there's the issue of substantial compliance, which appears is probably okay, but which we may want to look into further in a public hearing. With regard to remaining valuable minerals, he does not believe the applicant needs to demonstrate anything, since the material is still there. With regard to the need for the materials, Korth stated we still build houses and roads the same way we did 10 years ago. He stated the whole thing stems around point m. on page 7, "the excavation and processing activities on the property shall cease with Pettis making a reasonable effort to complete the mineral removal activity within that time period". Korth state we need to substantiate that they have done as good a job as the industry has done in the last 10 years, and we need definite information about how the whole 10 years went, and do industry research for guidance.

Ferro stated he had collected some data on that question that he will present in the future, although in the initial years of this operation things were going gang busters, so it's important to know what are the relative annual amounts of production that occurred from 2001 to 2005, as compared to the last three or four years where we've had a drastic slow-down in development activity.

Ferro compared the history of the Pettis operation with the Parker Sand & Gravel mining operation which took place on Pettis Ave. in the 1990's, where 3 million cubic yards of material were mined over 10 years, with a single 1 year extension requested.

Korth stated we need a breadth of industry examples and information to draw conclusions, not just data from a single site.

Hoeks stated we ought to wait on setting the public hearing until the condition is satisfied or a proposed deadline provided for correction of the undisturbed setback violation on the site.

Korth stated he agreed. Korth also stated we need to do this research and obtain 10-year production information prior to a public hearing. He stated this agreement was clearly devised in such a way to allow them to run this business reasonably, anticipating ups and downs in business. He added we'd like to have the information in hand at the public hearing so we are well prepared ourselves by having done our own homework. Korth stated we need an industry standard as some kind of a measuring stick of how they have performed and what we think would have been a reasonable performance in the same window of time.

VanSingel stated that records could be provided as addressed on page 4 of the Settlement. He noted the language pointing out that these records are proprietary in nature, to be used according to this court order.

Lunn asked whether there were sealed drawings A, B and C as specified by the Settlement agreement. Lunn also noted that the elevations on the proposed new restoration plan are not based on USGS elevations, while the elevations on the drawings attached to the settlement are USGS, making it difficult to make a comparison.

Ferro stated he believed the reference to a sealed drawing in Paragraph Q is referring to a future plan that has not been prepared yet. Ferro stated we have never had a complete final contour plan prepared, only a cross section depicting the terracing type of approach, which didn't prepare the site for any final development use. He referenced another drawing attached to the Settlement which is actually a plan that was prepared for a broader area that included both the Reith Riley property and the Pettis Property, prepared well before the settlement was entered into back when the entire area along Pettis Avenue was rezoned for gravel mining.

VanSingel stated if we get this extension we would have to prepare and certify plans at the end of the mining, and those would be stamped.

Ferro stated, page 8 states "Pettis shall prepare and submit full and complete proposed final contour plans consistent with the Township requirements with respect to the details of such plan after she has completed her mineral activities on site or the property is sold. Final contour plans shall be submitted by Pettis or the new owner, and at such time as it is completed it shall become a part of this order and referred to as Exhibit C." So there is no Exhibit C yet, but he believed the new plan submitted by Pettis is intended to meet that requirement.

Tom Burgess, The Merestone Group, stated this could be if at the end of the extension period the site is mined out; if it isn't, then we would have to revise it, and give you one more plan.

Ferro stated one of his concerns is the steepness of several of the slopes that are proposed, they are 1 to 1 or even steeper than 1 to 1, which is bordering on hazardous.

VanSingel stated the one plan is what it was originally going to look like after 10 years, and we're proposing what it's going to look like after the extension. He stated one of the exhibits is the final one after you're done completing all the mining activities.

Lunn stated he would like to see Exhibits A and B that were stamped.

(Commissioner Hoeks left at 9:40 p.m.)

Korth raised the question as to whether we should be concerned with the details of the final contour plan at this time. He stated that we are dealing at this time with the request for an extension and the proper documentation.

Lunn stated he is not sure that they haven't already mined everything that they said they were going to.

Ferro stated the preparation of these future plans was negotiated by legal counsel and a subcommittee very late in the negotiation process, and you might need legal counsel to explain how that all played out and what was contemplated here.

Korth stated what we are trying to get to is documentation that allows us to compare where we are today versus where we were in a concise and fair manner, and have the engineering stats as required by the settlement agreement. Also, he stated we need to gain some real understanding of what has been removed and when it was removed during the last 10 years and how that compares to the industry.

Motion by Easter, supported by Lunn, to postpone action until the data to respond to our questions has been submitted.

Motion carried unanimously.

Ferro one more point he wished to make is that the final contour plan relates to the estimated 335,000 cubic yards of material proposed to be removed, which in turn affects the amount of time needed to accomplish the removal.

Korth stated there is a direct link between those two topics which needs to be addressed.

Proposed Amendment to Industrial (1) District Use Regulations, to Allow Day Care Centers as a Use Permitted by Special Use Permit Approval

Jim Ferro stated the Canterbury Farm Pre-School is interested in possibly relocating to the west end of Amway's corporate campus on Grand River Drive. He stated there are two homes there owned by Amway in the process of being demolished. He stated the property is already zoned industrial, and under our current zoning rules daycare centers are listed as a use allowed by special use permit in our office and commercial districts. He stated this is a good possible location for that type of facility with the farm theme, animals, a barn, and it also makes logical sense to permit day care in a zoning district where there is a lot of employment, so parents are close to where their kids are. He stated pre-schools are licensed by the state as day care centers, so this is proposed as a simple amendment to add day care centers to the uses permitted by special use permit in the industrial district. He stated he anticipates the pre-school will come in sometime in late fall with a special use permit application.

Butterfield stated in the industrial areas on Fulton Street this makes sense, but that is very heavily trafficked and I can see this as being a big traffic issue for an area that has looked residential for so many years. She stated she would be more interested in a PUD perhaps where the traffic goes through Amway property somehow, but not on to Grand River Drive.

Ferro asked how she would compare that to the current location on Ada Drive, in terms of the character and circumstances and traffic.

Butterfield stated it has been there for many years at that location, and the traffic is terrible there as well, whereas on Grand River Drive there are two smaller homes set far back from the road and to bring in new construction and commercial operation in a residential setting doesn't fit the site very well.

Ferro stated the details of execution will be important, and that in the sit-downs he has had with the owners, their desire is to create a rural, pastoral environment.

Korth stated the concern being expressed is more with the twice a day 50 cars in and 50 cars out.

Butterfield stated she would be interested to hear what the neighbors think at a public hearing.

Rhoades expressed concern with clients having to make a left hand turn onto Grand River Drive going down the hill and also a left hand turn onto Fulton.

Korth stated we need to think about a zoning change not specifically on that location only. He stated the software can be used to identify every house that surrounds and is adjacent to industrial property to give notice to 200 households very easily on this subject. He stated we need to begin changing our thinking with the software and technology that we have of being able to pinpoint the people that are affected. He stated we need to go to the Township Board and ask for permission to do this.

VIII. STAFF/COMMITTEE/COMMISSION MEMBER REPORTS

Status of Master Plan Survey

Ferro stated the survey analysis is underway that Angela will report on, and we have received about 920 hard copies and about 100 online surveys completed, so we have a little over 1,000.

Korth asked if there was a summarization yet.

Ferro stated we had people until yesterday dropping off the surveys when they came in to pay their taxes. We have been waiting to complete the analysis after the tax payment deadline.

IX. PUBLIC COMMENT

None.

ADJOURNMENT

Motion by Rhoades, second by Easter, to adjourn the meeting at 9:52 p.m. Motion passed unanimously.

Respectfully Submitted,

Susan Burton, Township Clerk

SB/dr