

**ADA TOWNSHIP PLANNING COMMISSION
MINUTES OF THE OCTOBER 20, 2011 MEETING**

A meeting of the Ada Township Planning Commission was held on Thursday, October 20, 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, Lowry, Hoeks, and Lunn, Planning Director Ferro and Treasurer Rhoades. Also present: Planning Director Ferro. Absent: Easter.

III. APPROVAL OF AGENDA

Motion by Lowry, second by Butterfield, to approve the Agenda. Motion passed unanimously.

IV. APPROVAL OF MINUTES OF SEPTEMBER 15 AND OCTOBER 6, 2011 MEETINGS

Rhoades noted that in the September 15, 2011 minutes, on page 4, 4th paragraph, there is a duplicate sentence beginning with "Klinge stated" that should be removed. In addition, in the first sentence; page 1, the date of the September meeting should be noted as Thursday, September 15.

Motion by Hoeks, second by Lowry, to approve the September 15, 2011 meeting minutes with the corrections as made by Rhoades, and the October 6, 2011 special meeting minutes as presented. Motion passed unanimously.

V. PUBLIC HEARING

Request for Special Use Permit for a 912 Sq. Ft. Addition to a 1,200 Sq. Ft. Accessory Bldg, Exceeding the Allowed 1,800 Sq. Ft. (2,112 Sq. Ft.) and a request for a Special Use Permit for a Type 2 Home Occupation (carpet cleaning service) to be operated out of the building in question, 1835 McCabe Ave NE, Parcel No. 41-15-13-100-050, Chad Rose

Chad Rose stated he has been running a carpet cleaning business out of his residence for the past seven years, and did not know he needed a special use permit. He stated the proposed addition for the out building is primarily for storage of an RV. Rose stated he does run his office out of there. He stated occasionally there is a van there and employees do report to that location at the beginning and end of the day.

Korth asked for Planning Director Ferro to go over the rules for this type of building request.

Ferro stated the accessory building rules have maximum size and height limits and the maximum size varies based on lot area. On lots of this size, the total allowed accessory building area is 1,800 sq. ft. so the addition would put the existing building over the limit. He stated the rules say the Planning Commission as a special use permit may authorize size larger than the normal limits, subject to conformance with a standard which states that the size, height, placement, design and appearance of the accessory building will be compatible with the character of the surrounding area.

Ferro stated with respect to a home occupation request, the rules establish two categories of home occupation. Type I home occupations are permitted in any single family residence without any approval needed, and these include home occupations that take place entirely in the dwelling and involve no clients, customers, or employees coming to the property. He stated that Type 2 home occupations require

Planning Commission approval as a special use. There is a list of characteristics that define when Type 2 approval is required, and these include whether there are commercial vehicles involved, whether employees come to the property or work on the property, and whether there is outdoor storage.

Ferro stated a public hearing is required and neighbors within 300 feet of the property are notified. Also, he stated there is a list of nine conditions that must be satisfied for a Type II home occupation to be approved, and in addition the Planning Commission can place reasonable conditions on a home occupation approval that are intended to make sure the use is compatible with the area.

Korth opened the public hearing.

Douglas Bacon, 1789 McCabe, stated he is a neighbor within one-quarter mile of the Rose property. He stated Rose is a fantastic neighbor, his premises are immaculate, his house is beautiful, and you do not know he owns a business outside of a couple of vehicles there in the morning. He stated the property is not visible from the road.

The public hearing was closed.

Korth asked where the addition to the building would be built.

Rose stated it would be on the south side of the existing building, and the garage access would be from the east.

Korth asked Ferro if there are any riparian features south of the existing barn, and if there are any issues about setback from that.

Ferro stated there are no setback issues, although one thing to consider is whether there are wetlands adjoining it and to make sure no wetlands are disturbed. In addition, Ferro stated there should be an erosion control permit required, prior to construction. Ferro asked how many service vehicles stay on the property over night.

Rose stated there is one, the company vehicle which he drives.

Ferro pointed out that the Type II home occupation rules place a limit of no more than one commercial vehicle stored on the premises.

Buttferfield asked how the material used after cleaning carpets is disposed of.

Rose stated it gets discharged on the premises where the work is done, and there are no harsh chemicals that are used.

Lowry stated the neighbor says he never saw any more than two vehicles there at a time.

Rose stated there are two men per van and the employees report to the shop in the morning and the afternoon to get their assignments for the day.

Motion by Hoeks, second by Butterfield, to approve the proposed 912 sq. ft. accessory building addition, subject to the condition that an erosion control permit is obtained from the Road Commission.

Korth asked if there were any plans for lighting.

Rose stated nothing other than what is already there.

Motion passed unanimously.

Korth stated the Commission will now consider the Type 2 Home Occupation request, and asked Ferro to go through the nine standards for a Type II home occupation.

Ferro reviewed compliance with these standards.

Motion by Butterfield, second by Rhoades, to approve the Type II Home Occupation permit for the carpet cleaning service.

Motion passed unanimously.

Request for Special Use Permit for a 1,800 Sq. Ft. Accessory Building with a sidewall height of 16 feet, greater than the allowed 14 feet, 680 Auburn Ridge SE, Parcel No. 41-15-35-200-051, Roger Bultman

Charles Riggie, Busy Beaver Builders, contractor for Roger Bultman, stated he wants to put up a 16 foot tall accessory building to be able to store a taller RV.

Ferro stated the same standards that applied to the previous request apply to this one.

Korth opened the public hearing, and there was no public comment. The hearing was closed.

Korth asked if there had been any comments from the neighbors.

Ferro stated there have been no comments received from the neighbors. He stated the building meets the 50 foot setback requirements and complies with the architectural compatibility standard that is in the rules for accessory buildings in the front yard.

Korth asked if there are any lighting plans.

Riggie stated not as far as he knows.

Lunn asked how he plans to access this building.

Riggie stated the building would be accessed off the existing driveway accessing the home. He stated the owner may wish to install a separate driveway to the building, but he hasn't discussed that with him.

Motion by Butterfield, second by Lowry, to approve the special use permit request with the condition that lighting be of a shielded nature.

Motion passed unanimously.

Request for Special Use Permit for an additional 2,576 Sq. Ft. Accessory Building space on a property that exceeds the allowed 1,800 Sq. Ft. (15,415 Sq. Ft. Total), 600 Steketee, Parcel No. 41-15-19-300-066, Larry's Custom Woodwork, for Dan and Pam DeVos

No one was present on behalf of the applicant.

Motion by Butterfield, second by Rhoades, to postpone action since no applicant representative is present.

Motion passed unanimously.

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

Ferro stated the zoning ordinance amendment, which was initiated by the Planning Commission, would amend the zoning rules for the industrial zoning district to add day care centers as a use permitted by a special use permit. He stated this request was initiated because there is a party interested in locating a pre-school that is licensed by the State as a day care center on property that is currently owned by Amway at the west end of their property, which has frontage on Grand River Drive. Ferro stated there were two homes on this property which have been or will be soon demolished. He stated the zoning rules already permit child care centers in the commercial and office zoning districts and he believes day care centers should be allowed in the industrial zoning district because it provides that service in close proximity to centers of employment.

Ferro stated in this case the zoning district already is a non-residential district, manufacturing uses are permitted by right in the district, as well as distribution facilities, office uses, printers, general contractors and churches.

Korth asked Ferro to describe the boundaries of the industrial district.

Ferro stated in addition to the Amway corporate complex it includes land on the south side of Fulton Street from Kulross Avenue, where Standard Lumber is located, west to Alta Dale Avenue.

Korth asked if the Amway Distribution Center off of Spaulding is zoned industrial. Ferro stated no, that is actually zoned in a light industrial district. Korth asked if light industrial currently allows a day care center. Ferro stated he did not believe so. He noted that in addition to the Amway warehouse there are one or two other properties that are in the light industrial zoning district. He stated the Forest Hills school district maintenance facility on Alta Dale Ave. is in the light industrial district.

Korth asked if day care centers would also be allowed in all of the residential districts as well as the village. Ferro stated not day care centers. He stated that day care services in licensed day care homes is allowed in residential districts, with care of up to 12 kids allowed by special use permit. He stated schools are permitted in all of our residential districts.

Hoeks asked if the property owned by Amway where the two homes are, one of which is demolished, would be an extension or if they are in the industrial district. Ferro stated they are in the industrial district and have been for over 20 years. He stated the homes have been rental homes.

Butterfield asked what size the parcels are where the homes are located. Ferro stated they are long narrow lots that go all the way to the river, multiple acres, but most of it is flood plain.

Korth opened the public hearing on the proposed amendment.

Matt Fortner, 6600 Grand River Drive, stated he moved across the street two years ago, and the amount of road traffic made it a difficult decision for them to buy there. He expressed concern with the amount of traffic because there is a slight hill there. He stated a couple of hundred cars moving in and out and special events there would impact the area.

Mike Zarnecki, 670 Grand River, stated the traffic is terrible off from Fulton, and asked if there would be traffic lights there.

Korth stated the Planning Commission and the trustees of Ada Township do not have a lot of direct control over whether there are traffic lights or not. He stated it is handled by the Kent County Road Commission, and they use strict guidelines on whether signals are needed. He stated if the zoning is

changed and an application gets to us for this then we would more than likely look for some traffic studies to be done.

Hoeks stated before us is the issue of whether or not day care centers ought to be permitted.

Merle Darden, 6534 Grand River, stated they have lived there 38 years, and the traffic there is just constant. She stated it is a dangerous place for a day care center. She stated there have been 10 incidents in front of their property which is just across the street. She also stated in front of day care centers or schools there is a speed limit and asked if there would be a speed limit if this took place.

Korth stated it is a Road Commission issue but the Township will ask them those questions.

Jerry Wilterink, 6474 Grand River, asked how far the industrial property goes from the cell tower west.

Ferro stated both homes are zoned industrial, and the boundary is the east end of the Gilmore property.

Bernie Veldkamp, 6580 Hall Street, stated he doesn't know how day care in an industrial area could not be supported. He stated it is beneficial to the kids and the families for the kids to be close to where the parents are working. He stated this should be allowed.

Korth closed the public hearing.

Butterfield asked what the process would be for an applicant and whether it would require a public hearing.

Ferro stated it would be the same process as we just went through for the three accessory buildings, they were all special use permits, public hearings were held on all of them, neighbors were notified, and there are standards in the ordinance for approval of day care centers. He stated the whole nature of a special use permit process is that an application for a site is reviewed on a case-by-case basis, and there is a distinction between a use that is permitted with a special use permit approval and a use that is permitted by right. Ferro stated there is no entitlement necessarily to a special use as there is to uses that are permitted by right.

Ferro stated there are child care centers on Cascade Road in the office district, where the speed limit is 55 mph, and he doesn't believe the presence of a child care center would result in any change in the speed limit.

Butterfield asked if Amway were to parcel off that property as industrial if they would have access by right to Grand River Drive. Ferro stated yes.

Lowry stated we don't even have an applicant yet and why don't we wait until we get an applicant before we make the change.

Korth stated the subject needs to be addressed in a much broader fashion based on the way the statute works as related to zoning in this state.

Lunn asked if Amway were to parcel this off and there was an industrial user in there that would have a couple hundred employees what would be the process for their permit.

Ferro stated manufacturing is permitted by right, it would be a site plan review by the planning commission, for which we have no discretion as to whether the use should be approved or not.

Lunn stated so they could have 15, 100, 500 employees, whatever.

Ferro stated the likelihood of that is real slim because of flood plain consideration, there's not all that much useable land there, but a contractor could go there by right.

Butterfield asked, in terms of how the property has been used for 20 years, is consideration taken if it were to come before the Planning Commission? Ferro stated how property is currently used doesn't have a bearing on how someone proposes it to be used. He stated that the surrounding area is taken into consideration, in terms of compatibility of a proposed special use with the surrounding area.

Rhoades stated it is already zoned industrial so we really are not spot zoning, we're changing the allowed uses.

Korth stated spot zoning was in reference to saying we have an application to put a day care center in this specific portion of the industrial zone, so we suddenly approve day care centers throughout all the industrial zone to accomplish that goal. He stated that based on the remarks that were made there are a lot of questions related to day care centers, schools, zoning in general, light industrial in relation to that currently that doesn't specifically allow it. Korth stated there was a great comment that if a church is there it is a back door into a day care center, and churches are very liberally used by courts at this point. He stated there is the issue related to what should the speed limit be in front of these areas. He stated he agrees with Jim's remark that we have seen no indication that our road commission perceives a day care center like a school that lowers the speed limit and puts lower speed limits during times of class change, and we need to know a lot more about that as that is an important question and issue related to this topic more broadly and it sounds like it hasn't been really addressed and looked at in quite a long time.

Korth suggested that action on the amendment be postponed, possibly to a special work session, so we can really put our arms around this subject in a more cohesive fashion.

Rhoades stated that we don't have an application from anyone right now, and we'll have 5 to 6 months before any ground could be broken, so he would move to postpone action to November.

Lowry suggested a member of the Road Commission be there to get their thoughts on what would happen if a day care center did go in there, would they widen the road, would they lower the speed limit.

Ferro stated that is totally premature, as there is no application. He stated in the pre-application meetings he has had with the party involved he has encouraged them to talk to the Road Commission to make sure there is an accessible access point on that property. He stated he does not have a clear indication of what additional information the Commission is looking for if you do postpone action.

Korth stated what I am looking for specifically is to have a thorough thoughtful conversation with the Road Commission related to their take on day care centers, are day care centers schools in their mind, and is there any State guidelines the Road Commissions use related to schools. He stated since we are seeing conflicting information ourselves within our own township it tells me basically there are many rules, but he would feel a lot better if we hear it out of the horses' mouth. Korth stated we are clearly hearing that at a minimum Grand River Drive has a lot more traffic than he perceived it to be based on the homeowner's comments.

Lunn asked if traffic really matters if it is industrial or day care, is that an issue for this

Korth stated the broader subject is all of our industrial areas need to be addressed in the context of that question.

Ferro stated office buildings are already permitted by right in our industrial district. He stated an office building by right could go on that property on Grand River Drive.

Korth stated he questions whether zoning district on Grand River Drive is the correct zoning district for what is happening in that area. He stated that postponing a month will allow us to think about some of these subjects. Korth stated we need more information to understand where potentially these sites are because it is difficult for us to recall exactly where zoning districts end, and it would be useful to have some maps showing where they are, where the streets are, where day care centers currently area, and what speed limits are by the day care centers.

Motion by Lowry, second by Butterfield, to set up another meeting, for the next month, to invite the Road Commission, and Ferro to obtain additional information on the subject as a whole.

Motion passed unanimously.

VI. UNFINISHED 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 stated they are following up on the items that have been addressed since the last meeting. He stated they are following the stipulation and order of the settlement, and trying to continue to go through the stipulations as set forth in the court order. VanSingel stated he was informed by the property owner that all of the records concerning the previous year's operations are stored in boxes in an unorganized fashion. Therefore, he is not able to provide annual production records.

VanSingel presented data concerning total volume of production for the years 2000 to 2007 that was generated by CAD analysis of topographic mapping from 2000 and 2011. This has allowed them to generate an estimate of total volume removed over the 2001 to 2007 time frame. VanSingel also stated this does not provide production data for each year, however, but it does give some type of data.

VanSingel stated the current operating contractor was notified of the need to correct the setback violation, and has since gone out and corrected that area, so all of the setback violations have been corrected. VanSingel stated the final portion of this was the stabilization part that due to the lateness of the season will be seeded as early as possible next spring.

VanSingel stated based on a calculated topographical survey there are 321,733 cubic yards of material remaining there, a little less than we indicated previously. VanSingel stated we feel this material is good saleable material. He stated in looking at the reclamation and the contour plan one of the things noted at the last meeting is that the revised final contour plan will result in a marketable type use versus the original one which was basically a slope.

VanSingel stated in looking at the plan one of the things we would have to do is go through your Township ordinance for your PUD plan so we could utilize this property with your open space zoning provisions utilizing the water feature there. He stated we would have to go through a density calculation plan, and we determined we could get approximately 14 lots in there and put it together with a PUD plan, serviced by a private road through the center giving it a very attractive end use utilizing the water feature and the open space, and also calculating the area with the slope so we could have a safe slope there.

VanSingel stated that putting together that reclamation plan would work very well with this site, and would tie into the removal of the additional materials. He stated the operation did not experience any serious violations for a 10-year period, and basically we have had two complaints that were resolved as soon as we got them. He also stated, as far as the amount of material that was done through the past 10 years, it is history that goes along with some of the down turns and it did not come out as quickly as

possible, but there were attempts to move the material and there are ongoing attempts to remove what is left there.

VanSingel stated this would match up with your Master Plan and would add more tax base to the Township, and they are requesting that the permit be extended for a period of time not to exceed the 10 years.

Ferro stated after the meeting last month the Planning Commission identified other information that you wished to have submitted. He stated one of the additional things we wanted was the history of the operations at the site and annual production data and the applicant has chosen not to provide that. As an alternative means of determining how much total volume of material was removed in the last 10 years they did a before and after topographic contour and volume comparison and arrived at an amount of 81,250 cubic yards which averages a little over 8,000 cubic yards per year. He stated that previously we received information from the applicant with detailed data comparing production in each of the last three years, from 2008 to 2010, and the total was 55,000 cubic yards. A mathematical calculation shows that in the initial 7 years, only about 3,700 cubic yards was removed per year.

Ferro stated the Commission also asked for information on the sand and gravel industry overall. Ferro stated he was able to find historical production data for the state which only extends to 2007, which showed an annual decline in production of sand and gravel for construction purposes. He stated the data also showed value of production for each of those years and the value was holding relatively constant and did not decline as significantly as the production declined.

Ferro stated that regarding the 75 foot setback violation, it is late to do seeding this year and still have germination this year, but it could still be done this year so that the seed can germinate in the spring. He stated the steep slope issue was addressed in the revised contour plan, and the maximum slopes now are 2:1 rather than the nearly 1:1 slope shown previously. He stated it might be advisable to have the Township's engineer take a look at the volume calculations using CAD-generated volume profiles to review that information and validate. Ferro stated there was no additional information provided regarding the extent of valuable materials on the site, just simply a statement that the best materials still remain to be excavated from the site. No soil borings or test results on the quality of the material were submitted.

Ferro stated in response to our request for documentation of need for the materials on the site, the applicant cited some of the signs of improvement in the regional economy in west Michigan, a political push for infrastructure renewal, and the scheduled completion of Reith Riley's operation on the Koning property as factors that would support the need for other sources of material in the future.

Ferro stated he conducted a site walk on the property and there is no evidence of any recent activity at the site. He noted that the stockpiles of processed material on the site have weeds growing on them, with no evidence of any draw-down to those stockpiles. He noted there is no mining equipment whatsoever on the site, other than 1 front end loader. He stated the office trailer has broken windows, the door is open and has no lock. He stated it appears to be an abandoned operation, and questions whether there is an operator at the present time, whether there is an operating lease on the property and if not when will there be. He stated if we don't know who is going to operate that property, he questions whether any action should be taken on an extension until we know something about who the operator is, their capacity, their track record, and their capabilities.

Ferro reiterated the request for detailed annual production data from the previous ten years. He stated the Commission should consider whether it still wishes to have actual production data provided by the applicant, or whether the Commission considers the before and after comparison from 2001 to 2011 topographic calculation of total volume removal in the last ten years as an acceptable way to document past production.

Korth asked for the applicant to speak to whether there is an operating lease with a true extracting company and what are the terms of that.

VanSingel stated basically Barber Creek Sand & Gravel has an operating agreement with the owner of the property. He stated there has not been activity this year, there was activity the first part of the year as far as the stockpiling, but the sale of material did not materialize this summer and the piles are still sitting there. He stated when we first came here the operator indicated he anticipated he would still have some hauling done this year, but as of this date it has not. He stated as far as an operating agreement, it is very important that an operator is on site that is aggressively marketing the valuable material that is still there.

VanSingel stated it may have to be re-marketed to another individual, and we have talked to two local individuals that have been involved with this before but we do not have a new operating agreement at this time; however we still have the one with Barber Creek. He stated going forward with this we need an aggressive type of individual, there needs to be monitoring as anything that is not used is accessible to vandalism as has occurred. He stated in talking with the owner there has been a history of other times they have had problems in this area, but the existing equipment there is still very functional, and as far as the appearances of the door and the windows it is already in the process of being taken care of.

Korth stated this piece of land is a big concern and is a mess, is not actively being utilized in accordance with the settlement agreement purpose, and asked if the owner of this property never follows through with the reclamation plan, does the Township have any recourse based on the settlement agreement if the applicant and the owner of the property just walks away.

Ferro stated there are certain obligations that the owner has under the settlement agreement, although the final conditions the property is left in when it is completed was still to be determined when the settlement agreement was entered into and that is governed by the language in the settlement agreement that says "the owner shall prepare and submit a full and complete proposed final contour plan after she has completed her mineral removal activities on the site". He stated at the present time there is not a complete final contour proposal in the Settlement.

Korth asked, let alone the final contour, what is the recourse to the Township.

Ferro stated there is language that says "within two years, 24 months, after the permanent cessation of mineral removal activity on the property, the property shall be restored in accordance with the reclamation plan attached hereto as Exhibit B; within 12 months after cessation of removal of mineral activity all stockpiled material and equipment used shall be removed from the site; excavated and stockpiled areas will be stabilized and replanted to resemble a natural landscape within two growing seasons; methods to achieve this will begin immediately upon cessation of mineral extraction activity." He stated there are provisions that require restoration, and we could go back to court and ask the court to compel performance of those provisions.

Korth stated, so in other words there is no penalty clause in the settlement agreement.

Ferro stated no, there are no penalty provisions for non-performance.

Korth stated, this leaves the Township potentially in a very uncomfortable position of having an abandoned dangerous piece of property adjacent to important residential and a nice portion of the Township. He asked Ferro how much extraction has been occurring on the Koning property in relation to the map that they have given us here.

Ferro stated he didn't recall what the projections were when the Koning operation was approved.

Korth stated there appears to be a very direct correlation between the finishing up on the Koning property and the ability for this site to become the next area of utilization, and create a vehicle to get it cleaned up and finished.

Ferro stated Reith Riley's mining at the Koning property is supposed to be completed by the end of 2012.

Korth stated if Koning's are selling, for example, over 65,000 cubic yards per year in this economy and their pit closes and they are able to move 65 it creates a natural progression here that would allow this property to be monetized, so having that information would be very important for us.

Ferro stated another factor to consider is that a large proportion of Reith Riley's sand and gravel production ends up in asphalt, so it's not competing with Barber Creek Sand & Gravel sales. He stated he did not have data concerning how much they use in asphalt versus how much they sell for other purposes.

Korth stated, for the inventory of these types of resources that are currently being extracted from both our own Township and perhaps reasonable related markets that it would help to understand if there is truly an upcoming market for this pit, and if there is it creates the money needed to get the pit cleaned up. He stated, otherwise it sounds like a really bad business deal to me, and we're going to end up with a never-ending eye-sore on our hands and a big lawsuit bill to try to get some enforcement action. Korth suggested postponing any action to allow Ferro to try to get some of the math we need to understand this type of aggregate versus the Koning aggregate and some of the other stuff around, what volumes are really being sold. He stated since we have access to the Koning information as part of their settlement, to see if they're pulling a lot of stuff out of there that correlates to this.

Lunn asked how much material was pulled out this year.

VanSingel replied there was none pulled out this year.

Lunn asked what about last year.

Ferro stated in 2010, 15,000 cubic yards, 21,000 in 2009, and 19,000 in 2008.

Lunn stated, so they basically for all intent have called a cessation of activities because they haven't pulled anything off.

Korth stated what Lunn is suggesting is that you're already done and you should be wrapping up from his perspective, which I think is an approach that we should be looking at.

Lunn stated from what he reads it says 24 months after they stop and it's been probably last fall or something, so they could be 18 months into stopping already.

VanSingel stated the stockpiling activity was done this spring, but has not moved from the site, it's just been processed.

Korth asked if there have been any conversations with Reith Riley, because isn't their facility right next door to this property.

VanSingel stated it's exactly next door, it's the same material, the difference being Reith Riley also has asphalt going along side of theirs also, so they have that combination going where they sell asphalt to different developers also, and it's the same material, it's the same pit. He stated he did not know the history of the Pettis' and the Riley's, but for two that are side-by-side they don't do business with each other, so to speak.

Korth stated we need to see the lease agreement with Barber Creek to see if they are in violation of the agreement you have with them and whether or not you could ask them to move on, and if you have opportunities from other operators we need to understand that because this is a very uncomfortable situation.

VanSingel stated also the original reclamation plan indicates when you get done with it then you're supposed to have one that would fit your ordinance, and a reclamation plan as shown now with that material removed is more of an asset for that particular area because even buttoning up the one that is there now is not going to be very attractive to that area. He stated there is a need for this material that is available there, and it's got to be properly run so it comes out quicker than it has been and an operation that is more efficient.

Lunn asked if when we do move on it if there can be conditions based on the 10-years.

Ferro stated an extension of less than 10 years might be a possibility.

Korth stated to make this work is more than giving an extension, there has to be a real framework to it. He stated Ferro had suggested requiring annual reporting so we keep stronger tabs on what's happening during whatever window is given them.

Lunn stated we need to make a decision by December 31, 2011.

Ferro stated if the decision goes beyond December 31st any action on extension approval would be retroactive to December 31st, and our not acting by December 31st would not put the operation in jeopardy since they submitted their extension request before the initial 10 years expired.

Korth stated the information at this point continues to be quite raw and we need to figure out a way to get the property reclaimed. He stated if we give a flat out no we then run the risk of a site that's been left derelict and we have a law suit with the applicant to have a court order to compel them to do something. Korth suggested it be postponed one month and try to pull all this information together, and have a special meeting with Ferro, George Haga and the Township to try to begin framing up some of these ideas to get some direction. He stated then all that information could be presented at a public hearing.

Butterfield asked if other municipalities had encountered a similar situation where they granted an extension with some conditions that the township is actually involved in helping to select the company.

Korth stated it is a useful question considering George Haga has involved the Township attorney at this point to provide guidance and it's a reasonable question to be asked of him.

VanSingel stated when the original stipulation was written there was never anything in there about amounts other than the fact at any time you could request data for that, and it was you have ten years to mine to a particular reclamation point and then if you didn't quite reach it you had to go through stipulations to ask for an extension.

Ferro stated there is language in the settlement that states that "the operation shall cease by December 31, 2011 with Pettis making a reasonable effort to complete the mineral removal activities within that time period", and that's the reason for asking about past activity in order to evaluate whether the applicant has made a reasonable effort to complete the operation. He stated they have taken out about 20%.

Korth asked the applicant to clarify what was said in respect to where the records are.

VanSingel stated in representing the owner she has indicated that records for the early years have been stored in a facility in box after box, not put in any type of format. He stated Barber Creek has different

records because at that time they leased the operation to Barber Creek and they furnished the data for those records. VanSingel stated that divided over 10 years in essence it was fully mined for the first 9-1/2 years, and then the last year basically the stuff was worked on the site but there weren't any physical numbers because nothing went over the scales.

Dave Gorman, 8275 Bailey Drive, suggested requesting tax records to generate sales and volume data.

Korth stated we should ask for the tax returns related to the pit during the window of time to see if we can come up with a correlating number.

Motion by Lunn, second by Lowry, to postpone for a month, Ferro will be working on specific items, and there will possibly be a meeting including Korth.

Motion passed unanimously.

Ferro asked whether the Commission would encourage having information on a proposed operator if that can be determined within the timeframe of this decision process.

Korth stated he would like to see the Barber Creek agreement, and whether or not it is even a valid contract at this point if they're not doing anything.

Lowry asked if it would be possible for Ferro to take them to the pit prior to the next meeting to see if there is any physical activity.

Ferro said this could be done.

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

Ferro stated when the Planning Commission postponed action on this ordinance amendment the direction was to refer it to the committee that had previously worked on the ordinance, and on researching committee membership, he discovered two out of the three members are no longer on the commission, so we don't have a functioning committee. He stated there was also discussion at the end of the October 6, 2011 meeting about possibly postponing the action and conducting additional educational efforts, so it was brought back to this meeting since we do not currently have a full committee.

Commissioner Easter stated her inclination is for action to be postponed indefinitely; she stated the exercise of reviewing an ordinance like this has gone a long way to bringing riparian issues to the public forefront.

Lunn stated he would join a subcommittee, but he agrees if the amendment were recommended by the Planning Commission at this time it would unlikely be approved by the Township Board

Lowry stated it appeared there were many people who did not have a good understanding of the purpose of the regulations and that more education is needed.

Easter stated she believed we should put our energy into educating.

Ferro stated the Open Space Advisory Board has undertaken educational activities in the past, and would be interested in continuing to do so.

Hoeks stated it appears the Township Board would not wish to alienate people on this matter and he would be comfortable with postponing action in favor of continuing a public education effort.

Korth stated he had a conversation with Betty Jo Crosby, chairperson of the Open Space Task Force. He noted it was through a joint meeting with that group that this became a subject for the Township to consider. Korth stated Crosby asked for us to re-form a committee exclusively to work with a subcommittee of the Open Space on strictly educational issues.

Korth stated he made a lot of noise about the fact that this got a lot of traction when Amway notified all the riparian properties in the Township and it suddenly created a big audience. He stated Betty Jo pointed out that just because it created all the negative input doesn't mean there are not a lot of people supporting it. He stated, at the same time there really are a lot of people that really don't like it regardless of any perception of people who do like it. He stated what we need to do is decided tonight whether or not we want to pursue this any further, and if so do we want to do it in the form of a subcommittee or not.

Ferro stated he received a letter from WMEAC late this afternoon via email and the last paragraph says the West Michigan Environmental Action Council urges the Planning Committee to remove Part 2A, that's the exemption, and to remember that storm water runoff is the number one source of pollution in West Michigan

Korth stated that Betty Jo said she gained the perception that this would be unlikely to move forward because besides our own concerns at this level perhaps time and energy would be much better spent on creating a framework to educate our population about riparian issues and use that as the vehicle as opposed to the strong arm of the law.

Lunn stated at the Federal level there are a lot of changes coming under the storm water program that we'll have to look at that may impact the Township. He stated the EPA is proposing new regulations in the future.

Korth stated Crosby asked if we would consider having any of our members on a joint subcommittee to create an educational framework.

Commissioners Lowry, Lunn and Butterfield stated they will work on the committee to educate.

Korth stated it should be postponed until we see the outcome of a lot of the legislative issues that are beyond us to see whether or not it has any impact on us in a negative fashion or otherwise.

Rhoades suggested a notice go out with the tax bills next year stating we are going to address this, and we don't have to rely on the newspaper or the web page or any other type of media besides our own.

Motion by Rhoades, second by Lowry, to postpone until the August 2012 meeting.

Motion passed unanimously.

VII. NEW BUSINESS

Revised Preliminary PUD Plan, Cascade Trails, Phase 2, 5018 and 5038 Cascade Rd. SE, Parcel #'s 41-15-31-376-001 and 002, Cascade 5038, LLC

Motion by Lunn, second by Rhoades, to postpone until a special meeting November 3, 2011, 4:00 p.m., and the public hearing will be at the Commission meeting November 17, 2011. Motion passed unanimously.

VIII. STAFF/COMMITTEE/COMMISSION MEMBER REPORTS

Status of Master Plan Survey

Korth asked if this subject could be moved to the meeting on November 3, 2011 as well.

IX. PUBLIC COMMENT

Brian Logue, whose mother lives on Dogwood, stated in reviewing the minutes of the October 6, 2011 meeting it seems the initial members are still in favor of the whole riparian program and feels they have to educate the public in order to enlighten everyone. He stated the creeks and rivers have tons of leaves in them and you can't see the bottom, and when you weigh that with the trimming of lawns and everything it becomes a non issue, this thing of trying to control people's grass clippings in light of the falling leaves. Additionally he stated, water from the rains is washing more stuff in and he struggles with this being an issue. Logue stated when you talk about the temperature rise of a creek and you look at the temperature of Lake Michigan with the sun, the thermal pollution alone is negligible. He stated these are issues that are more of a power grab. Logue stated he would like to see the Open Space Committee limit their scope to public lands rather than trying to extend their power over private property rights.

Ferro stated there are valid reasons for keeping natural vegetation close to water features, particularly small streams. He stated the rules are not intended to address water temperatures in Lake Michigan, but rather the small, local streams, because high quality fisheries are dependent on low water temperatures.

X. ADJOURNMENT

Motion by Rhoades, second by Lowry, to adjourn the meeting at 10:08 p.m. Motion passed unanimously.

Respectfully Submitted,

Susan Burton, Township Clerk
SB/dr