

**ADA TOWNSHIP PLANNING COMMISSION
MINUTES OF THE NOVEMBER 17, 2011 MEETING**

A meeting of the Ada Township Planning Commission was held on Thursday, November 17, 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 Vice Chair Butterfield at 7:30 p.m.

II. ROLL CALL

Present: Commissioners Butterfield, Easter, Lowry, Lunn and Rhoades.

Absent: Korth

Also present: Planning Director Ferro.

III. APPROVAL OF AGENDA

Motion by Lowry, second by Rhoades, to approve the agenda. Motion passed unanimously.

IV. APPROVAL OF MINUTES OF OCTOBER 20, 2011 MEETING AND NOVEMBER 3, 2011 SPECIAL MEETING

Motion by Lunn, second by Lowry, to approve the October 20, 2011 meeting minutes and November 3, 2011 meeting minutes. Motion passed unanimously.

V. PUBLIC HEARING

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

Steve Witte, Nederveld, Inc., presented the application on behalf of the applicant. Witte introduced Dan Boverhof, BBI Holdings, and Rob Ryan, the operator of the proposed day care center.

Witte provided background information on the original PUD Plan approval and construction status. Witte stated the proposed plan amendment concerns the northern portion of the subject property. He described the proposed revised plan, noting that two buildings are proposed, with the closest to Cascade Road being a two-story building with a 15,370 square foot footprint, to be constructed in the future, and a 11,854 square foot daycare facility located in the middle of the property, to be constructed at the present time. He stated the daycare would be operated by Appletree, and the facility includes the building as well as an outdoor fenced play area to the south and east of the building.

Witte stated since the last planning commission meeting the new access drive has been moved to the west to save the mature maple tree, and the fire lane has been changed revised based on discussions with the Fire Chief. He stated the existing church building and pavement next to the church would be removed as part of the development of the day care center.

Butterfield opened the public hearing.

Brian Conrad, 5042 Luxemburg, stated he was curious as to whether the existing tree line along the property line would be preserved. He stated he was surprised by the extent of tree removal that has been carried out for the Olivia's Gift site.

Butterfield asked Witte to respond.

Witte responded that their intent is to preserve existing vegetation along the property line. He stated he and Ferro have discussed this, and that it would be addressed as part of the Final PUD Plan review, and that additional trees would be planted where needed to provide a good buffer. Witte also noted there have been trees removed to the property line at the Olivia's Gift site in the area where water and sewer service lines will be extended across the property line.

Butterfield read written input that was received from John Logan, of 1542 Huckleberry Lane, expressing concern with potential noise impacts from the outdoor playground, and suggested a cutoff time of 6:00 p.m. for outdoor play area use.

Witte stated the playground when it's used is supervised and they go out in smaller groups of about 30 children at a time, and the outdoor activity stops at 5:00 p.m.

Ken Ryan, 5074 Luxemburg, stated he was also surprised at the amount of vegetation removal on the Olivia's gift site. He stated there are 2 dead trees remaining near the property line that he has discussed having removed with the applicant, and that he is hoping to have additional plantings for a natural privacy screen between his home and the Olivia's Gift site.

Witte stated he would discuss this with the Olivia's Gift developer.

Joe Parzych, 1070 Huckleberry Lane, stated he is happy to see the large maple tree along Cascade Rd. preserved. He stated his biggest concern is potential for the applicant proposing to increase the size of the future medical office building, after the day care center is completed.

Witte stated that increasing the size of the future office building is extremely unlikely, given the fact that the amount of parking has been reduced.

Butterfield pointed out the amount of reduction in parking that is proposed, from 221 spaces to 158, a 24% reduction.

The public hearing was closed.

Treasurer Rhoades stated it looks like the issues we had talked about have been addressed.

Lunn asked if anything had been done about connecting the neighborhood with a foot path.

Witte stated the plans show a potential path, 5 feet wide, connecting between the Appletree site and the Olde Rhoades Meadows neighborhood. He stated that in 2009, some of the neighbors supported a connection and some did not. He stated they are willing to provide the connection, if it is desired by the Township and the neighboring condominium association.

Butterfield asked if there were landscape plans provided by the applicant.

Planning Director Ferro stated a landscape plan is not required at the preliminary plan review stage, but will be provided with the Final PUD application. Ferro stated that with regard to Mr. Ryan's comment, he has already spoken with the Olivia's Gift developer about removing the 2 dead trees, and that the developer stated they would be removed. He noted he has also spoken with the developer about providing additional evergreen screening along the west end of the Olivia's Gift building. Ferro stated there should not be clearing to the property line except for the area where the sewer and water service laterals will be extended, assuming the developer obtains an easement for that from the Old Rhoades Meadows condo association.

Ferro reviewed the conditions of approval recommended in his staff report, and offered the following additional conditions:

1. Documentation of private utility easements for the water and sewer services be provided to the Township prior to building permit issuance.
2. The final PUD submittal shall include material and color specifications for the solid screen fence proposed around the outdoor play area.
3. The final PUD plan submittal shall identify whether the condominium association wishes to have a walkway connection made to the daycare center.
4. The final PUD plan submittal for the daycare center shall provide plans for maintaining existing vegetation along the west property line.

Ferro stated that regarding the storm water management plans, nothing has been submitted in writing from the Township's engineer, but that is already a condition of approval on the Olivia's Gifts plan that a storm water management permit must be obtained prior to issuance of a building permit. Ferro also stated that between the downsizing of the height profile of the office building, and the low profile of the day care center building, the proposed changes to the plan reduce the visual impact of the development from what was previously approved. Ferro stated he would recommend approval with the conditions set forth in his memo plus the added conditions he previously described.

Motion by Easter, second by Lunn, to recommend approval of the revised Preliminary PUD Plan for the Cascade Trails, Phase 2 PUD, subject to the following conditions:

1. The PUD shall consist of 3 lots, to be developed as follows:
 - 1) a southernmost lot of 2.23 acres, occupied by a 6-unit adult foster care condominium building of 7,500 gross square feet.
 - 2) a middle lot of 2.04 acres, to be occupied by a 11,864, single-story child care center, and
 - 3) a northernmost lot of 2.07 acres, to be occupied by a 2-level office building or medical office building, not to exceed 30,740 gross square feet of floor area, all substantially as shown on the plans titled "Cascade Trail, Phase II," Sheets 1-3, with a revision date of 11-10-11.
2. It is acknowledged that the building footprint for the office building as shown on the Preliminary PUD Plan is subject to change, provided that it shall fall within the allowable building setback limits as shown on the PUD Plan, and shall not exceed 15,370 gross square feet in ground coverage.
3. The office building shall have a maximum height of 30 feet, measured as specified in the zoning regulations.
4. Allowable uses in the office building shall be limited to those uses permitted in the Professional Office district.
5. A signed cross-access agreement with the adjoining property owner to the east, authorizing the shared use of the existing driveway to the east of the PUD site, shall be submitted to the Township prior to issuance of a building permit.
6. Documentation of private utility easements for the public water and sewer services to the day care center site shall be provided, prior to issuance of a building permit for the day care center.

7. The Final PUD Plan for the day care center building shall include the following:
 - 1) material and color specifications for the solid fencing around the outdoor play area.
 - 2) plans for maintaining the existing vegetation along the west property boundary.
 - 3) plans for restoration of the demolition site of the former church building and its parking area and driveways.
 - 4) documentation as to whether the Olde Rhoades Condominium Association wishes to permit the installation of a paved walkway connection between the private road in the condominium and the day care center site.

8. The Final PUD Plan for the office building shall incorporate the following additions to the plan:
 - 1) The floor plan and site design of the office building shall incorporate a building entry on the north side of the building (facing Cascade Road), and a sidewalk connection from the existing sidewalk in the Cascade Rd. right-of-way to this entrance to the building, at a location separated from the entry driveway.
 - 2) Plans for maintaining the existing vegetation along the west property line shall be provided.

9. The architectural design of the office building shall provide a building form and materials that mimic elements of residential building design, such as, by way of example only, pitched roof, dormers, exterior façade cladding that mimics wood siding, double-hung or casement windows with vertical orientation. Plans submitted shall include depiction of the relationship between the proposed building and the nearest residence, including existing conditions.

Motion passed unanimously.

Request for Special Use Permit for a 1,200 Sq. Ft. Accessory Building with a sidewall height of 12 feet, 967 Maple Hill Ave, Parcel No. 41-15-31-420-009, Curtis Rowe

Curtis Rowe presented the plans for a new accessory building to replace his existing accessory building. He noted the new building would have a much improved appearance compared to the existing building.

Ferro stated that in view of the fact that there is an existing 1,040 square foot building that has been there for many years, it is unlikely that replacing it with 160 square feet more is going to change the character of the area.

Easter asked if there would be any noise generating equipment going in the building.

Rowe stated nothing beyond the small hobby shop with a power saw that he has in the existing building.

Motion by Rhoades, second by Lowry, to approve the Special Use Permit for a 1,200 Sq. Ft. accessory building with a sidewall height of 12 feet.

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

Bruce Brown, from Larry's Custom Woodwork, presented the request. He stated the addition is to house maintenance equipment for the property.

Ferro stated the existing building is about 180 feet away from the nearest property boundary through a wooded area, so the addition has negligible visual impact beyond the property line. He stated it is a large property, over 40 acres, and has a lot of accessory building area including a former original dwelling unit that was converted to accessory and support facility use. Ferro stated given the size of the property it is not over-built, and the same standard as used for the previous request applies here.

Motion by Lowry, second by Easter, to approve the special use permit request for an additional 2,576 Sq. Ft. Accessory Building at 600 Steketee.

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, from The Merestone Group, stated there are three items set forth to be addressed in the stipulated settlement in evaluating this request: history of compliance, remaining valuable materials, and need for materials. He stated a copy of the computer model of past, current and proposed topographic contours has been supplied to the Township engineer for review, and that supports the estimate of amount of material that has been taken out. VanSingel stated the item requested at the last meeting was for a copy of the lease agreement with Barber Creek Sand & Gravel, and he stated he has a copy of the operating agreement that is currently in place between Ms. Pettis and Barber Creek. He submitted this to the Commission.

VanSingel stated there was a suggestion we have a sub-meeting set up with the planner and the chairman of the planning commission, and the supervisor to go through some of the issues of the court ordered stipulation that must first go through this committee and then to the Township for action on how we could continue to keep this moving and get the necessary information both committees would need in order to make a recommendation to that. He stated the planner has sent a letter indicating it probably would not be according to bylaws to have that type of meeting but to keep it here, and possibly if we wanted to make some modifications to the court ordered stipulation that it could go to the Township board for that type of discussion.

VanSingel referenced the written correspondence to him from Mr. Ferro, stating that a subcommittee meeting with the applicant does not comply with the Commission's bylaws, and suggesting discussions with the Township Board to modify the settlement agreement as an alternative. VanSingel stated that his client's preference is to follow the process set forth in the stipulated settlement, and that after this goes through the Planning Commission, they will be happy to engage in any type of discussion as far as different terms. He stated they are also open to a public hearing, but believe the public may have a hard time understanding the process we are engaged in.

VanSingel stated we still believe we have supplied the data to show there is good valuable material there, and that a reclamation plan based on the removal of that material would be beneficial for that site as far as future development. VanSingel stated what we would like keep this moving so we can have meaningful discussion on getting some type of resolution so we can continue to take out this material rather than shutting down this operation at this time.

Butterfield asked Ferro to explain the information contained in his letter to VanSingel.

Ferro stated the letter summarizes the analysis done as to how much material was removed over the first ten years of this operation, both by the owner when she was operating the site herself, and by the

contractor who operated the site beginning in 2008. He stated that recognizing the applicant has declined our request to submit actual production data documenting annual production for the initial seven years, and has only provided annual production data for the last three years, we've had to do our own analysis to approximate how much annually was taken out for the first seven years. Also he stated that from the information provided, production appears to have been very minimal in those first seven years, no more than about 3,700 cubic yards per year.

Ferro stated that based on the information provided to us on how much material is remaining to take out, based on the proposed final contour plan they submitted, it would take an annual rate of removal multiple times what historically has been achieved on that property at a time when the economy is using material at a fraction of what it was using the material in the early part of the first 10 years.

Ferro stated it raises a couple of questions: (1) whether the applicant satisfies the language in the settlement agreement that says the applicant shall make reasonable efforts to complete this project in the first ten years.

Easter asked why the materials in the first seven years were so minimal. Ferro responded he did not know.

VanSingel stated one of the main things when the court order was first started the first year was basically a setup situation and there was not a lot of hauling activity. He stated approximately the beginning of the third year the Reith Riley Koning pit was approved, and with Reith Riley having the ability to do asphalt and the aggregate, this severely took the demand so to speak away from this pit. VanSingel stated that the Koning operation expires in 2012, and that has been the primary competitor in the area.

Ferro stated what he suggested in his letter is that the possibility exists, and it's likely he'll be recommending, that no extension be given because of the applicant's failure to make reasonable efforts to complete the project in the initial ten years. He stated an alternative was offered to proceeding with the extension request and that was to entertain negotiations with the Township to modify the settlement agreement, which would get rid of this extension request process, and would result in negotiating the terms of an extension. He stated he asked for the applicant to let us know whether she would proceed down that path rather than proceeding with this extension request. Ferro stated the verbal response through Ron was that she wants to proceed with the extension request.

VanSingel stated to clarify, the owner is not averse to going into that type discussion but she wants to make sure that from a legal standpoint, she follows the procedure set forth in the stipulated settlement. They wish to properly go through the Commission process, and move the matter on to the Township Board, where they are willing to entertain discussions to modify the terms of the settlement.

Ferro stated he had not heard this position expressed until this meeting.

Lunn commented that under the stipulated settlement, it appears the Commission can only recommend "yea or nay." Ferro stated he believes that is the case.

Butterfield stated that postponing it to hold a public hearing is basically postponing the decision process.

Ferro stated yes, and that if the Commission wishes to hold a public hearing, it be set for the December 15 meeting. Ferro stated he and Ron had talked about that before and he agrees with Ron that we are not operating in a normal zoning process here, and it is likely the public won't have a good understanding of that. Ferro stated this puts the burden on us to use the public input process to educate the public as to what are the parameters for this decision to be made, what are the standards we use to make this decision and that the latitude we have under the settlement is fairly limited. He stated that will take some explanation prior to hearing public input.

Ferro stated it also needs to be stated that even though the settlement says the mining and processing shall terminate by December 31, 2011, the applicant has applied for an extension in a timely manner, and if we don't make a decision by December 31, this does not put the operation in jeopardy.

Butterfield stated she would like to see the applicant return to dialogue with the Township, and the sooner we move that along the better.

Ferro stated in response to discussion at the meeting last month, he has collected some information regarding other mining operations in the area. He reviewed the information contained in his staff report.

Ferro stated the market for sand and gravel does expand beyond township lines, and the competition in the region is more than just Reith Riley and the Koning operation. Therefore, he does not feel that the Koning operation close by in Ada Township necessarily justifies lack of progress in completing the Pettis operation. He stated that having competition in the marketplace is no excuse for not doing what you committed to do.

Easter asked if the reason the stipulation was made for 10 years is you've got this amount of time because it is destructive to the community, so you can go in and disrupt this area but you can only do it for this amount of time.

Ferro stated the rationale is to permit the applicant to realize the economic value in the resource, but to get it done in as quick a time as is reasonable to accomplish.

Ferro stated the economic slowdown is also relevant to the conversation and provides some justification for the extension.

Lunn stated we heard from the applicant that there has been no activity this year, so there hasn't been any disruption. He stated this raises the question as to whether the operation has been terminated by not being in operation for some time.

VanSingel stated in looking back at the initial 10 years, when the original permit was taken out, there was not anything as far as any type of volumes, there was basically a hill there and there was a reclamation plan calling for nothing more than gentle slopes. He stated there was no calculation of volume to be removed, or required monitoring of the removal on a yearly basis.

He stated the plan proposed now provides a reclamation plan that leaves the site in a usable condition for future development, rather than just "gentle slopes." He stated you can close up the operation at this time and blend your slopes in but you're just going to have a very steep slope there and you're still going to have valuable materials left there.

VanSingel stated the closure of the Koning site will create a void in material that is going to be available for this particular area. He stated they are currently talking to 2 large operators about potentially operating the site. VanSingel stated both of those would be able to handle the volume in a much shorter period of time.

Following discussion, it was moved by Easter, seconded by Lunn, to schedule a public hearing on the request for the December 15 meeting.

Motion passed unanimously.

VanSingel asked if there is any additional information you would like from us prior to the public hearing. No additional information was requested.

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 Commissions

Ferro reviewed information he had gathered in response to the Commission's request at the October meeting, including mapping of the Industrial zoning district and Light Industrial zoning district, and an inventory of existing day care centers in the Township. Ferro also discussed why the light industrial district hadn't been included within the scope of the proposed amendment, stating this was an oversight, but was partially because there are only two properties in the Township that are zoned light industrial: one is the Amway catalog warehouse and the second is the Forest Hills Public Schools buildings and grounds facility and central food service kitchen on Alta Dale Ave. at Fulton Street.

Ferro stated he also had written correspondence from the Traffic and Safety Director at the Kent County Road Commission regarding the relationship between pre-school or child care center locations and speed limits, and school zone signage. He stated Tim Haagsma at the Road Commission stated that setting speed limits is independent of child care center or pre-school locations, and that setting speed limits is a function of conducting a speed study to see how fast people are driving, and that is a process that is governed by state law. Haagsma also indicated that school zone signage, according to the State traffic code, is only allowed at K-12 school locations.

Ferro stated that although we know Canterbury Creek Farm Preschool is interested in applying for a special use permit to relocate their existing pre-school facility to Grand River Drive at the west end of Amway's property, that is not the issue before us right now. Ferro stated what we are considering now is a general zoning ordinance amendment that would have applicability to the entire Industrial zoning district, and give anyone the opportunity to apply for a special use permit on land in the industrial district. He stated the whole nature of the special land use process is that special land use applications are site specific, and require individual review and evaluation to determine whether a given site is an acceptable location for that use. Ferro stated that is the process we would follow if the amendment is adopted if an application were submitted.

Lunn stated my only comment would be that if we approve this and if somebody actually applied for one that would be the time that we should look at the individual merits of each application.

Butterfield commented on the large range of sizes in day care centers in the Township, and that proposed size would be an important consideration in any application.

Ferro stated that for special land uses the zoning process and the state zoning law allows the Township to impose reasonable conditions on approval of the special land use. Ferro stated, for example, a limit on licensed capacity could be imposed if that's deemed necessary to assure there are no adverse events on public traffic.

Ferro stated he has looked at five or six other community ordinances and found there are pretty wide variances with respect to industrial districts and other districts. He stated that Gaines Township and Jamestown Township allow day care centers in industrial districts by special use permit. Alpine Township and one other allow them when they are accessory to the industrial use on the same site. For example, a large manufacturer could put an in-house daycare center for its own employees in an industrial district. He has found other communities where they are not permitted..

Rhoades stated we have the two light industrial sites, and suggested we address that district at the same time.

Ferro stated it may make sense to do that, but doesn't believe it can be done without delaying our current process, because it wasn't included in the published hearing notice for the amendment.

Motion by Lunn, second by Rhoades, to recommend approval of the proposed amendment to the use regulations of the Industrial zoning district.

Motion passed unanimously.

VII. NEW BUSINESS

Ferro stated he emailed an inventory and analysis of the accessory building special use approvals over the years, for consideration as to whether the accessory building rules should be revised.

Butterfield suggested postponing consideration to provide time for members to review the information.

VIII. STAFF/COMMITTEE/COMMISSION MEMBER REPORTS

Ferro distributed correspondence received from former Commission member Hoeks.

X. ADJOURNMENT

Motion by Rhoades, second by Lunn, to adjourn the meeting at 10:00 p.m.

Motion passed unanimously.

Respectfully Submitted,

Susan Burton, Township Clerk
SB/dr