

ALPINE TOWNSHIP PLANNING COMMISSION REGULAR MEETING
Thursday, February 19, 2009

09-06 CALL TO ORDER/ APPROVAL OF MINUTES/ PUBLIC COMMENT

The Alpine Township Planning Commission held its regular meeting on Thursday, February 19, 2009, at 7:30 PM, at the Alpine Township Center, 5255 Alpine Ave., NW, Comstock Park, MI, 49321 with due notice. Present were Chair Greg Madura, Vice-Chair Nelda Johnson, Secretary Jerry Byrne, and members Ron Cordes, Max Dunneback, Bruce Lee, and Matt Van Heulen. Also in attendance were Planner Sue Thomas, Recording Secretary Patricia Kolkman, and Township Engineering Consultant Mike Oezer.

Madura called the meeting to order at 7:30 PM with the Pledge of Allegiance. Johnson and Madura each requested a text change to the minutes of the January 15, 2009 Regular Meeting.

Lee moved, with support from Cordes, to accept the minutes of the January 15, 2009 Regular Planning Commission meeting with the requested change.

Ayes: 7

Nays: 0

Motion carried.

Madura offered members of the audience an opportunity to make comments on subjects not on the agenda, but no one spoke.

09-10 PUBLIC HEARING: THREE-YEAR EXTENSION OF SPECIAL LAND USE
Cordes Sand Mine
5555 Alpine Ave. NW

Thomas first introduced Mike Oezer, P.E. from Progressive AE, the Township Engineering firm. She said that even though no public hearing is required for a Special Land Use mining permit renewal, since the permit had expired, notices were sent to all property owners within 300 feet of the site and a notice was also put in the newspaper.

Madura then asked for a discussion on conflict of interest, summarizing it must be handled properly by the Planning Commission. Cordes had offered that he could not participate in the discussion and decision of his own sand mining operation.

Madura first asked Commissioners if they thought a Commissioner with a conflict could remain in the Board Room during discussion and voting or if he should leave the room. After comments from each Commissioner and Planner Thomas, Commissioners concurred that while each case was unique, a Commissioner still has rights as a citizen. Commissioners agreed that each Conflict of Interest situation should be reviewed and decided by the Planning Commission on an individual basis.

It was the consensus of the Planning Commission that if a Commissioner has a conflict of interest with any case being reviewed, he may remain in the audience as a citizen, but should not participate in any discussion.

Cordes then moved to the audience for the discussion and public hearing.

At the direction of the Chair, Thomas then presented her staff report giving a brief history of the sand mine. She provided dates of previous Planning Commission reviews, and noted that neither the applicant nor staff had realized that Cordes' last extension had expired in November of 2007, and regular topographic surveys had been submitted after the expiration date. Minutes from Planning Commission meetings which had addressed the earlier reviews were in Commissioners' packets to better explain the original conditions attached to the mine approval.

Thomas then pointed out several specific items she asked the Planning Commission to address during its discussion and which should be included as Conditions of Approval for this extension:

- Both the location and volume of existing top soil stockpiles must be labeled on the site plan. This is required since final restoration of the site requires the spread of at least 4 inches of topsoil before seeding. The applicant must identify whether the currently stockpiled top soil is sufficient to meet this requirement.
- A Letter of Credit or Bond to cover required restoration costs must be submitted, with an expiration date of several months beyond the expiration of the Special Land Use Permit.
- While the applicant has requested a three-year renewal, Thomas recommends a renewal of 32.5 months, as this period of activity concludes at the time of a regularly scheduled survey at the end of October 2011.

Thomas then displayed ortho photos of the mine site illustrating the changes over the past several years, and also pointed out the location of stockpiles described as well as material Mr. Cordes is already addressing. She then asked Oezer to present his review of the sand mining operation.

Oezer stated that overall he found the site to be in good condition, with only one area being over excavated. His review letter addresses this in point 2. He also states in his report that while some of the top soil in stockpiles currently onsite may be removed, an adequate amount should be retained for future restoration. An inventory of the stockpiles should be submitted.

Commissioner Lee was provided clarification on how the final grade of 4 feet above Alpine Avenue was determined.

The applicant's engineer, Pete Buurstra, of Land Development Solutions, then presented his summary of the Special Land Use extension request. He agreed that the expiration of the permit was an oversight, as topographical surveys had been done regularly since the approval had been given. He displayed both the October 2001 and January 2009 surveys for reference, showing the grading at the site. Buurstra pointed out that mining has continued until the present, and confirmed that plans are to continue mining the site from ~~west to east~~ east to west . He added that the long range plan for the site is industrial development.

Oezer commented that the applicant is in compliance with the terms of the Special Use permit and that the mining process is progressing in compliance.

Madura then asked Cordes if he was agreeable to the Conditions of Approval summarized by Thomas. Cordes said that while he understood the logic of concluding this permit at the time of a regular survey, he prefers a full 36 month renewal, but has no problems with the other conditions outlined.

A brief discussion between Oezer and the applicant about the area that has been overcut found that it will be filled in when the Clarence Rd. roadwork is done, which will also include installation of utilities. Oezer pointed out that the grade at that point must be moved 40 to 50 feet to the north east and consider Kent County Road Commission standards for the grade of a public industrial road.

In response to a question from Madura, Cordes said he only has concrete stockpiled at his crushing and recycling operation on the other side of Alpine Ave.

Johnson then moved, with Byrne's support, to open the public hearing.

Ayes: 6

Nays: 0

Motion carried.

Since no comments were offered, **Lee then moved, with support from Johnson, to close the public hearing.**

Ayes: 6

Nays: 0

Motion carried.

Madura then asked Commissioners for their comments on this Special Land Use request.

- Dunneback said he believes the mine operates very well.
- Lee said that grade reviews at the end of each mining season makes sense, and that more frequent surveys could prove onerous for operators, but should be required if there are complaints.
- Madura noted that in the past, the Planning Commission had required mine operators to provide the hours of operation. He asked Thomas if that should also be required in this case.
 - Thomas responded that the site location triggers a review of the adjacent properties, and since this mine is on M-37, in an Industrial zone, with no residential uses nearby, it would not be required.
 - Cordes added that he occasionally receives an after hours request for sand in a utility emergency.
- No Commissioner found a need to specify hours of operation for the site.

MOTION FOR CORDES SAND MINE OPERATION EXTENSION OF 3-YEAR SPECIAL LAND USE PERMIT
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Dunneback then moved, based upon the representations made by the applicant, to approve the requested extension of a 3-year Special Land Use permit for the removal of natural resources located at 5555 Alpine Ave. (PP #41-09-23-401-001), based on Section 21.05 (f) of the Alpine Township Zoning Ordinance as it does

meet the requirements set forth in Chapters 18, and 21 of the Alpine Township Zoning Ordinance with the following **CONDITIONS OF APPROVAL**:

1. This permit extension will expire on October 31, 2011. After this time period, the mine must either cease operations or be granted another extension per Chapter 21 of the Alpine Township Zoning Ordinance.
2. This approval also incorporates by reference all previous conditions of approval attached to this sand mine special land use, unless modified herein.
3. The applicant shall furnish a \$20,000 Letter of Credit to the Township to expire at least six months after the expiration of the permit (April 30, 2012).
4. The applicant agrees with all conditions noted in the Township Engineer's letter dated February 12, 2009.
5. A topographic survey of the site shall be submitted on October 31st of each year to the Township showing current site grades to verify compliance with the approved plan. The Township continues to reserve the right to require, at the operator's expense, additional topographic surveys if the Township deems they are necessary to ensure compliance with approved conditions.
6. Top soil piles must be labeled on all future topographic surveys.
7. If the applicant violates the conditions of approval as originally granted in 2001 or as stated here, this Special Land Use Permit will be revoked in accordance with the procedures set forth in the Alpine Township Zoning Ordinance.

And the following **FINDINGS OF FACT**:

Based on representations provided by the applicant we find that:

Per Sections 21.02 (h) and 21.05 of the Alpine Township Zoning Ordinance:

1. The continuing sand mining operation will be operated, maintained and restored in a manner consistent with the intent of the I-1, Light Industrial zoning district.
2. The continuing sand mining operation will not create excessive cost burdens on public infrastructure.
3. The sand mining processes and materials will not produce excessive noise, dust or traffic and will be adequately buffered from adjacent land uses.

Support was offered by Johnson.

Ayes: 6

Nays: 0

Motion carried.

**09-08 PERMIT RENEWAL: SPECIAL LAND USE PERMIT
DeBoer/ Feedback Sand Mine
4173 and 4381 Baumhoff Ave. NW
Mike Rusche, Applicant**

Madura re-introduced another discussion about the possibility of a conflict of interest between Cordes and the applicant's request since they are business competitors. Cordes did not think a conflict exists. Madura then asked each Commissioner their opinion about whether a conflict of interest existed. Byrne, Dunneback, Johnson, and Van Heulen did not think there was a conflict, with Lee stating he felt there could be, although he could accept a majority opinion.

Dunneback moved, with support from Johnson, that no conflict of interest was present and that Cordes should remain as a participating member of the Planning Commission for the Rusche Special Use Permit renewal.

Ayes: 6

Nays: 1 (Lee)

Motion carried.

On direction of the Chair, Thomas then introduced Rusche's request for another extension of his Special Use Permit for the sand mining operation commonly known as the DeBoer/Feedback mine. Thomas noted that Rusche's operation is one of two active mines in the Township with Special Use Permits (the second being Cordes'). Two additional mines have been granted permits but are not now active (the Westgate Mine, and the Neymeiyer mine) A fifth mine in the Township, also operated by Rusche, and commonly known as the Crawford mine, has been run for a number of decades and is regulated under a recently executed forbearance agreement with the Township.

Thomas then displayed aerial photos from REGIS depicting the mining site, with the separate parcels identified. She noted that all truck traffic in and out of the mine is at the north (5 Mile Rd.) entrance, with an internal "mine road" running north and south at the west side of the two locations. It appears the southern (DeBoer) site is currently the most active.

Rusche confirmed that while both areas in the mine are active, he hopes to complete mining on the Feedback (north) site first, as he already has two large Letters of Credit open. He added that the narrow strip of land at 5 Mile Rd. into the mine has already been restored and is shown as a tree line on the aerial photo. He said the initial grade for the west side of the mine was planned in 1993, and that plan was later revised in 2002.

Oezer then presented his staff report for the mine, stating that topographical surveys have been submitted which had been used to update the plan originally submitted by Hula Engineering in 2002. He suggested that the applicant have his engineer use the Hula plan as an overlay to confirm the progress of the mining operation. Oezer added that generally, the site is in compliance, other than an excessively steep slope at the southern end of the DeBoer mine. This slope must be altered for safety and should also have a simple barrier installed at the top.

Madura commented that while he knows that anyone at the site would be trespassing, children, snowmobilers, and visitors to the area may not know of the steep drop, and an accident could happen. Rusche said that he had installed reflective warning flags on

rope there but it may be down and he will verify that the site is appropriately marked and/or protected.

Oezer said that the topsoil which is stockpiled at this site should also be quantified and noted on the site's plan. As had been discussed during the Cordes mining request, both the location and volume of topsoil must be noted to verify that adequate amounts are retained to do the required site restoration once mining is done. He suggests that when mining of the older areas are finished, these areas should be restored while new areas are being opened.

In response to Commissioner questions, Rusche said that while construction activity in this economy is slow, he is still mining for sand for dairy farmers. "Barnyard sand" is of a finer grade than that used for roads, and contains no stones.

Lee noted that this mine, unlike Cordes', is surrounded by homes, and he complimented Rusche on meeting all the conditions of this permit, which resulted in no complaints.

In response to a question from Madura, Rusche said that while he would also prefer a full three-year extension like Cordes, he sees the logic to tying the expiration date to the submission of the required season end topographical survey.

Lee then moved, with Cordes' support, to open the public hearing.

Ayes: 7

Nays: 0

Motion carried.

Phil Brunger, 4647 Fruit Ridge questioned why this mining operator is required to be held to specific hours of operation, while the Cordes mine was not.

Madura and Thomas provided information to the audience regarding the specific details of each site, noting that the Cordes mine is zoned Industrial, on M-37 with no residential neighbors, while the DeBoer/Feedback mine is in the Rural Agricultural district surrounded by homes. The specific site dictates whether hours of operation should be defined for the mine.

Byrne moved, with support from Cordes, to close the public hearing.

Ayes: 7

Nays: 0

Motion carried.

No further Commissioner discussion was offered.

<p style="text-align: center;">MOTION FOR DEBOER / FEEBACK SAND MINE OPERATION EXTENSION OF 3-YEAR SPECIAL LAND USE PERMIT</p>

Dunneback then moved with support from Johnson, based upon the representations made by the applicant to approve the requested extension of a 3-year Special Land Use permit for the removal of natural resources located at 4173 Baumhoff Ave. (PP #41-09-34-100-069) and 4381 Baumhoff Ave. (PP #41-09-34-100-055), based on Section 21.05 (f) of the Alpine Township Zoning Ordinance as it *does* meet the requirements set forth in Chapters 18, and 21 of the Alpine Township Zoning Ordinance with the following conditions of approval:

1. **This permit extension will expire on October 31, 2011. After this time period, the mine must either cease operations or be granted another extension per Chapter 21 of the Alpine Township Zoning Ordinance.**
2. **This approval also incorporates by reference all previous conditions of approval attached to this sand mine special land use, unless modified herein.**
3. **The expiration dates on the two \$40,000 Letters of Credit held by the Township shall be extended to six months after the expiration of the permit (April 30, 2012).**
4. **The applicant agrees with all conditions noted in the Township Engineer's letter dated February 11, 2009.**
5. **A topographic survey of the site shall be submitted on October 31st of each year to the Township showing current site grades to verify compliance with the approved plan. The Township continues to reserve the right to require, at the operator's expense, additional topographic surveys if the Township deems they are necessary to ensure compliance with approved conditions.**
6. **Topsoil piles must be labeled on all future topographic surveys.**
7. **If the applicant violates the conditions of approval as originally granted in 1993 or as stated here, this Special Land Use Permit will be revoked in accordance with the procedures set forth in the Alpine Township Zoning Ordinance.**

And the following FINDINGS OF FACT:

Based on representations provided by the applicant we find that:

Per Sections 21.02 (h) and 21.05 of the Alpine Township Zoning Ordinance:

1. **The continuing sand mining operation will be operated, maintained and restored in a manner consistent with the intent of the R-A, Rural Agricultural zoning district.**
2. **The continuing sand mining operation will not create excessive cost burdens on public infrastructure.**
3. **The sand mining processes and materials will not produce excessive noise, dust or traffic and will be adequately buffered from adjacent land uses.**

Ayes: 7

Nays: 0

Motion carried.

09-10 PUBLIC COMMENT/ COMMISSIONER COMMENT/ COMMITTEE UPDATES

No public comment was offered.

Madura asked for a definition from Thomas regarding Letters of Credit. Thomas explained that a Letter of Credit, or Bond, (or cash deposit) is required to guarantee the completion of a project, either for restoration at its conclusion, or completing the project itself if abandoned before completion.

Dunneback commented that he was pleased Phil Brunger had recovered enough to attend the meeting.

Lee said this meeting educated him about mining in the Township.

Johnson reported that the ZBA will be meeting to review a variance request next week, on February 23.

09-11 STAFF UPDATES/ ADJOURNMENT

Thomas reminded Commissioners that she will take new photos after the meeting for Commissioners who still need ID cards.

In response to a question from Madura, Thomas said that applications were received for the March regular Planning Commission meeting for a Sonic Drive-in on one of Wal-Mart's out lots, and a building addition for Jack Brown Produce, for a Controlled Atmosphere building.

Thomas reminded Commissioners that training opportunities were available, and that if anyone is interested she will make arrangements for them. She continues to try to find a Citizen Planner course being run nearby.

Dunneback moved, with support from Cordes, to adjourn at 9:12 PM

Ayes: 7

Nays: 0

Motion carried.

Jerry Byrne, Secretary

Patricia Kolkman, Recording Secretary