

**ALPINE TOWNSHIP PLANNING COMMISSION REGULAR MEETING
Thursday, May 21, 2009**

09-19 CALL TO ORDER / APPROVAL OF MINUTES / PUBLIC COMMENT

The Alpine Township Planning Commission held its regular meeting on Thursday, May 21, 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 Township Planning Director Sue Thomas and Recording Secretary Patricia Kolkman.

Madura called the meeting to order at 7:30 PM with the Pledge of Allegiance. He then asked Commissioners for comments on the minutes of the April Regular Planning Commission meeting. Johnson requested a text change and Dunneback pointed out that Van Heulen's presence at that meeting had not been recorded.

Cordes moved, with Lee's support, to accept the minutes of the April 16, 2009 Regular Planning Commission meeting with the requested changes.

Ayes: 7

Nays: 0

Motion carried.

Madura then offered audience members the opportunity to comment on subjects not on the agenda, but there were no comments.

09-20 PUBLIC HEARING: 1. TWO SPECIAL LAND USE REQUESTS
a. Contractor Equipment Yard and Operations
b. Asphalt Refining
2. SITE PLAN REVIEW
5959 Comstock Park Dr. (eastern half)
488 7 Mile Rd. (narrow eastern portion)
Applicant: Jon Kubiak, Key Construction

Thomas first directed Commissioners to the copies of letters at their seats that had been received by the Planner on this agenda item, and Commissioners all took a moment to read them.

At the direction of Madura, Thomas presented her staff report on the two requests, explaining that Mr. Kubiak has applied for two Special Use Permits at 5959 Comstock Park Dr., NW. The first is for the site's continued use as a contractor's yard, and the second is to add an asphalt refining/recycling operation. The site plan for the business is also being presented for review and approval.

Thomas related that the property has consistently been used as a contractor's yard for several decades, the most recent occupant being Sub-Surface Construction, which left the property last year. No Special Use Permit for a contractor's yard has ever been issued for this site, since the Zoning Ordinance did not require them until the early 1980s. The Township has no record of any complaints for this location, either for any previous occupants or their contracting operations. Mr. Kubiak's requests are being reviewed by the Planning Commission now because the site has been vacant since Sub-Surface moved from it.

Thomas explained that the property is zoned, used, and master planned for industrial uses. She also summarized the current uses, zoning and future land use designations for all of the surrounding properties.

The provided site plan reflects items typically found in a contractor's yard: fuel tanks, vehicles, and bins of materials. Kubiak, however, plans to use a smaller portion of the site for his equipment than has been used in the past. He also plans to add landscape screening to block the view of the yard from both the homes at 420 and 460 7 Mile Rd., where no screening previously existed. Thomas summarized that the site plan generally meets the standards in the zoning ordinance, but also suggested the Planning Commission clarify several areas with the applicant before deciding whether it wants to approve the site plan. These include parking, sidewalk requirements, lighting, and minor landscape modifications. The Township Engineer has also requested the clearing of overgrown landscaping at the leaching basins, to improve storm water management, and a Storm Water permit must also be obtained through the Township. In addition, while a land division has already been approved for combining an eastern piece of 488 7 Mile Rd. with the eastern half of 5959 Comstock Park Dr., the deed for this newly combined property has not yet been recorded with the Kent County Register of Deeds. If the site plan is approved, there must also be a condition requiring that a copy of this recorded deed is provided to the Township.

Thomas then reviewed the two Special Use requests stating that asphalt refining/recycling is a Special Use in the I-2, General Industrial district. The applicant is not asking to either manufacture or crush asphalt or concrete, but instead wants to refine and reclaim used asphalt pieces into a mix used for patches and pothole filling. Kubiak said he purchased recycling equipment approximately 10 months ago, primarily to extend his work season beyond its current approximate 6 months. The asphalt pieces, which are stockpiled on the recycling site, are recovered from various construction sites. Thomas recommends that if the Planning Commission chooses to approve this Special Use Permit request, the motion for approval be specific enough so that *only* refining/recycling, and *not* manufacturing or crushing of the asphalt or concrete is approved.

Until the refining/recycling activity begins, the asphalt chunks are to be stored in 6-foot tall concrete block bins. The chunks are then fed into the recycler, and the rotating drum of the machine produces hot mix. They can generate *approximately* 5-10 tons of mix a day. The applicant states that the noise level of the diesel motor is measured at 88 dBA (decibels) which is slightly higher than the 85 dBA attributed to city traffic heard from inside a car. However, this noise level is also a bit lower than a busy urban street, diesel truck or shop tools, all of which register approximately 90 dBA. The applicant also says that while there may be some odor while the asphalt is being recycled and is hot, no lingering odor has been noticed or reported by either passers by or himself at their current location on West River Dr. immediately adjacent to the White Pine Trail.

Cordes then confirmed that the equipment used in the recycling operation can produce 5 tons of product daily. Kubiak agreed with that estimate, but also said the recycler is not run every day, since his patching work is usually done after utility work which disturbs the road surface. He currently has patching contracts for two local utilities.

The Planning Commissioners took a 5 minute break.

Kyle Wilson, the applicant's engineer, said he had received an email from Ryan Grant of the DEQ, that stated the applicant's site will not require an NPDES (National Pollutant Discharge Elimination System) permit, since no manufacturing of asphalt will be taking place.

Madura then asked the applicant to present his requests and answer any concerns raised. Kubiak introduced himself as the owner of Key Construction, which has operated locally for more than 40 years. He has been in the asphalt business for 20 years, and purchased Key Construction 15 years ago. He said he needs to relocate from his Plainfield Township location on West River Dr., since the business has outgrown it. The Plainfield Township address is approximately 1 ½ acres in size while the Comstock Park Dr. site will be about 6.8 acres. Key Construction primarily does asphalt paving and maintenance work, but last October he purchased additional equipment to recycle some of the asphalt that is removed when a road, driveway, or parking lot is redone. The asphalt chunks are later recycled to produce a mix used in patching and repairing. He pointed out that "asphalt fails for a reason, and not all removed asphalt can be re-used". Generally, chunks that can be reclaimed are 5 years old or less.

Key Construction added asphalt sealing within the last 10 years, and Kubiak feels that adding recycling of asphalt chunks is both ecologically friendly (the pieces don't end up in a landfill) and good business, since recycling means he can extend his work year beyond the summer asphalt installation season. He added that though the recycler is capable of producing 5-10 tons of asphalt patch material daily, some days the machine will be idle.

Madura asked Kubiak to explain the recycling process. Kubiak said that after the removal of an old driveway, parking lot, or roadway, usable chunks of old material are trucked back to the recycling site and stored in concrete bins. Asphalt millings are not used. When patching is needed, the material is rotated in heated drums, producing the hot asphalt material for filling cracks, potholes, and making road repairs after utility work. The West River Dr. location has the recycler elevated on a created hill. Loaders drive up the ramps to dump chunks into the recycler and trucks back up under it to receive the hot mix. The Comstock Park Dr. site will use a conveyor system to receive the hot mix. Kubiak said while the recycling process does produce some odor during the operation, the odor level is not high enough to warrant EPA oversight. He added that during the drum's rotation, some steam is present as a result of moisture in the asphalt. The steam has been mistaken for smoke on occasion.

After emptying the drum of patch material, no further cleaning is required as no residue remains. Lee asked what chemical or substance is added to the "scrap" material to produce the patching substance, and Kubiak said nothing. He said no tar, etc. is required to convert the solid scrap to its malleable state. His supplier of raw material for asphalt paving is Reith-Reilly.

A silent pack muffler is used on a Kubota diesel powered engine. The motor is enclosed and uses fiberglass as added insulation for sound.

Cordes asked if the location on the site plan for the recycler is firm, since if it were moved, it may not be visible to neighbors. Kubiak said he was not opposed to moving it,

but must also consider the site's internal traffic patterns as well as the impact on other portions of the site and those of residential neighbors.

Kubiak then addressed some of the concerns raised by Thomas in her staff report.

- Lighting. He said that though security of tools, equipment and vehicles is a priority, the existing building lighting is sufficient and he doesn't plan to install more. He plans to re-aim the light pole Thomas commented on for added yard illumination and to install security cameras. He has no plans for the two light poles that were recently removed for the road realignment/ reconstruction.
- Stockpile height. The maximum height of any stockpile will be between 8 and 9 feet, and double containment tanks for the asphalt sealant material are used to eliminate the possibility of leaks. Spills will be handled as they are today at the West River Dr. location, and Kubiak noted that since the recycled material is a heated solid, it is loaded by bobcat onto a truck immediately.
- Odors. Kubiak said he has never gotten any complaints about odors, and to his knowledge, neither has Plainfield Township. He pointed out that the White Pine Trail, which has considerable pedestrian and bicycle traffic on a regular basis and also has rest stations, is only 25 feet from his business and not even those using the trail have reported any smell.
- Future plans. Kubiak said he has no intention of doing any crushing of materials on this site. Millings, which are also reclaimed, are purchased by a supplier, since he has no use for them. He stressed he has no need to stockpile the chunks beyond an amount that can be recycled and used immediately and that he is particular about the material he recycles.

Thomas confirmed for all present that the special use requests are for chunk asphalt recycling only and not any other processes. Significant changes to the work operation or the site plan itself would require the applicant to re-apply for Planning Commission review. This would include changes to or the addition of materials being processed. Kubiak said that his is a "niche" business, and he has no intention of moving away from that position. He added that during his inspection of the site, a grease trap had never been installed, but his plans do include installing one as required.

- Sidewalks. Van Heulen confirmed with the applicant that the applicant is not opposed to sidewalks, but prefers to defer the cost of installation until an SAD for them is created. Thomas pointed out that the planned reconstruction of Comstock Park Drive Dr. will alter both the road bed and rights-of-way on Comstock Park Dr. This will make Mr. Kubiak's building a legal non-conforming one, reducing the front yard setback.
- Protection of the creek. Lee emphasized the importance of protecting Mill Creek, and for all to be sensitive to the environmental impact of industrial work near it. Kubiak said he is well aware of the creek's importance, and is committed to protecting it both for current and future residents.
- Volume of patch material produced. Kubiak said that since October, when he purchased and began using the recycler, about 280 tons of patch material has been produced. He currently has contracts for restoration work with DTE and Consumers Energy.

Byrne then moved, with support from Lee, to open the public hearing for comment.

Ayes: 7

Nays: 0

Motion carried.

Larry Roelofs, owner of 5830 Comstock Park Dr., was pleased the property will be occupied again and doesn't object to it being a contractor's yard. He asked if the odor of recycling will be similar to that of Woodland Paving at 3566 Millcreek in Comstock Park. He asked if a Special Use is granted for the property or for a particular business, and whether the Special Use remains with that property. He also asked about future activity levels and whether the business would be monitored once it is in operation.

Beth Anderson, 5976 Vinton, lives nearby and asked what the hours of operation will be, and whether the odor from recycling will linger, like when driveways are resealed.

Frank Peltz, 544 7 Mile Rd. spoke against the Special Use requests. He summarized that he has raised many questions about the impact of the applicant's requests, written several letters, and wants all of his questions answered before the Planning Commission makes its decision. Cordes confirmed that the MDEQ would have oversight for storm water and drainage issues above and beyond Township Storm Water Permit regulations and the Township doesn't monitor the MDEQ's permit activities.

Peltz then distributed color photos of an asphalt shingle recycling facility to members of the Commission. Cordes asked why the photo was relevant since shingle recycling is not a part of Kubiak's request. Peltz stated that he feels there are health related issues regarding oil or petroleum based products. He commented that even if all the guidelines discussed are followed, he thinks this request is for a manufacturing, not a recycling operation.

David McKellar, 5820 Vinton Ave., spoke against the Planning Commission approving an asphalt operation so close to his home before concerns about odor, noise, etc. are resolved satisfactorily. He asked to go on record that not everyone in the Township supports this business operation at this location.

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

Ayes: 7

Nays: 0

Motion carried.

Madura confirmed with Thomas that any conditions of approval attached to a Special Use Permit would remain with the property, and that subsequent owners would be required to meet all conditions specified. He also asked if the addition of used shingles to the recycling process would be allowed, or if the applicant would be required to return to the Planning Commission to alter the type of material included. Thomas said that shingles are not the same material as reclaimed road surface, and the applicant would have to re-apply if the conditions of approval were specific.

Madura questioned Kubiak about his hours of operation, and whether daylight hours only during the summer would be reasonable. Kubiak said that typically, his summer hours might be 7 AM to 7 PM, and that he would not normally be producing any recycled patch material during later hours.

Commissioners then asked whether the recycling process generates any lingering odor. Kubiak said that as the machine cools down, any smell dissipates, since it is stronger when the material is hot. Lee commented that he was once on a “sealant crew” so he knows that sealant does smell. The “release agent” used for spilled material and to clean equipment is environmentally friendly, and has a citrusy orange smell. Kubiak said that sealant is only used three months of the year, during the summer.

Madura summarized which agencies would have oversight for the business: the DEQ requires permits to move tanks in and out of an industrial site, and has also said that an industrial storm water permit is NOT required; the DEQ thinks the applicant should make application to have the plan assessed for possible air quality issues; Alpine Township requires a Storm Water Permit; and Kent Country Road Commission requires a Soil Erosion Control permit before any grading is done.

Madura then reviewed the unanswered questions raised by Peltz in his letters:

- Q. Who owns the vehicles that will be on the site? Answer—the applicant responded that he did. At this point, Peltz disputed the accuracy of this response with Kubiak.
- Q. Has the applicant ever been sued? Answer—the applicant has had a product failure lawsuit regarding a parking lot. No lawsuits are pending, but there have been several small claims judgments. Kubiak said that no lawsuits involving environmental issues have ever been filed against him.

Thomas then summarized all the questions and answers covered in this meeting, to determine if all relevant concerns had been addressed.

Cordes then asked Kubiak if the bins that will be used for storing the recovered material will be covered, and what material will be used for that covering? Kubiak said he uses no covers at his current location, but adding rain protection for the recycled material might be needed in the future. He will investigate this but thinks any covers are anchored to the bin blocks. Relocating the recycler and bins to the east could be done, but it is also important to note that diesel powered motors must be at least 150 feet away from a residence. The existing site plan layout has this equipment 205 feet away.

Madura then polled the members of the public who had made comments, to see if their concerns had been adequately addressed. Mr. Roelofs and Ms. Anderson both were satisfied their questions had been answered. Peltz said he did not have his questions answered, as the DEQ concerns were not yet addressed by the applicant. Thomas reminded Mr. Peltz that the applicant must make an application to the DEQ, and that Alpine Township cannot enforce the regulations of another government entity. Kubiak commented that his current location had been reviewed by the DEQ and it had been determined that no DEQ regulation was necessary. Peltz argued that the Planning Commission should not “rush through an approval” until all concerns were answered.

Thomas then recapped what the requirements were for a Special Land Use in the General Industrial district. She added that there were other agencies beyond Alpine Township that had authority over some of the concerns raised, and Alpine Township cannot act as a monitor for those agencies. Madura then asked Mr. McKellar if he felt his concerns had been answered, and McKellar said he still did not want this Special Use request, but commented that he does appreciate the role the Planning Commission must play in reviewing such requests.

Madura then asked for input from each Commissioner:

- Van Heulen commented that the new owner will install a landscape berm, which will improve the area.
- Cordes asked Peltz why the ownership of equipment is relevant to this request, and Peltz said it was private. Cordes then added that he would like to see the asphalt recycling process moved to the east end of the site. He also confirmed with Thomas that Site Plan review and/or approval could be: deferred, referred to the Site Plan Review Committee, or referred by the Planning Commission to Staff.
- Byrne asked whether the Planning Commission can set a limit for the maximum allowed production levels. Thomas said that while the Commission could impose limits, monitoring the level of production is not very easy to do.
- Johnson had no problem with the request, and commented that the color photos provided at this meeting were not relevant to the request.
- Lee recalled that when the Planning Commission considered Special Land Use permits for sand mining, there were limits imposed on the operator regarding the time of day for the operation, the length of time (three years) the activity was allowed without re-applying, and required annual inspections. He asked why similar conditions shouldn't be imposed on this operation. Thomas explained that most limits related to mining are there because a mining operation is temporary in nature, (though it may take years to reach completion), and that altering the grade and depth of an open area is related to safety of the public. Regular truck traffic can also affect neighbors. Imposing a 3-year limit on a business that is not temporary in nature would not be reasonable.
- Dunneback said he had visited another asphalt recycling operation and did not notice much smell. He saw it as a "clean operation." He also had observed a shingle recycling operation, and that was not what this request included.
- Madura recapped that the site plan could be referred to the Site Plan Review committee; referred by the Planning Commission to Staff for its review and approval, or the Planning Commission could require a new site plan be drawn and submitted. With the exception of Cordes, who preferred that the recycling portion of the site be moved, the remaining Commissioners felt the site plan as submitted was acceptable.

Further Planning Commission discussion ensued on whether the hours of operation for the recycling activity should be limited to daylight hours only. Commissioners recognized that "daylight hours" differs as the seasons change.

The Planning Commission then discussed sidewalk installation. Thomas directed Commissioners to review the minutes she had provided from previous Township Board meetings which addressed the issue of sidewalks within the Township and established the existing sidewalk policy. Commissioners realize there are no sidewalks on Comstock Park Dr. right now, but all felt that it was the Township's intent to have them in both Commercial and Industrial areas. Kubiak again said he will sign a sidewalk agreement to participate in a future sidewalk SAD once nearby properties are developed or re-developed.

**MOTION FOR A CONTRACTOR'S EQUIPMENT YARD AND OPERATIONS SPECIAL
LAND USE FOR KEY CONSTRUCTION
On the eastern portions of 5959 Comstock Park Dr. NW and 488 7 Mile Rd. NW**

Lee then moved, with support from Byrne, based upon representations made by the applicant, to approve the Special Land Use Permit requested for a CONTRACTOR'S EQUIPMENT YARD for Key Construction at the 6.81- acre property comprised of the east half of 5959 Comstock Park Dr. (PP# 41-09-24-127-028) and an eastern sliver of 488 7 Mile Rd. (PP# 41-09-24-127-010) as it does meet the standards set forth in Chapter 21 of the Alpine Township Zoning Ordinance with the following FINDINGS OF FACT:

1. It will be harmonious with the character and use of the immediate vicinity and was designed in such a manner as to mitigate any negative effects;
2. The special use will not be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors and is adequately served by essential public facilities and services; and
3. The proposed use is consistent with the Master Plan and the intent and purpose of the zoning district.

Ayes: 7

Nays: 0

Motion carried.

**MOTION FOR AN ASPHALT REFINING SPECIAL LAND USE FOR KEY
CONSTRUCTION
On the eastern portions of 5959 Comstock Park Dr. and 488 7 Mile Rd. NW**

Dunneback then moved, with support from Lee, based upon the representations made by the applicant, to approve the Special Land Use Permit requested for ASPHALT REFINING for Key Construction at the 6.81-acre property comprised of the east half of 5959 Comstock Park Dr. (PP# 41-09-24-127-028) and an eastern sliver of 488 7 Mile Rd. (PP# 41-09-24-127-010) as it does meet the standards set forth in Chapter 21 of the Alpine Township Zoning Ordinance with the following CONDITION OF APPROVAL:

This Special Land Use approval only includes the specific use requested by the applicant (asphalt pavement refining/recycling) and that asphalt or concrete manufacturing or crushing is specifically excluded in this approval.

And the following FINIDNGS OF FACT;

1. It will be harmonious with the character and use of the immediate vicinity and was designed in such a manner as to mitigate any negative effects;
2. The special use will not be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors and is adequately served by essential public facilities and services; and

to state at the outset that all accessory buildings require either a building or a zoning permit before construction begins.

Thomas said her suggested text changes are printed in red ink. As an example, additional language was inserted to expand upon and explain fully the ordinance references to "Living Quarters". Text related to corner lots was condensed, while that relating to waterfront lots was expanded, so it is clear what lots are considered to be waterfront lots.

Text references used to regulate "accessory buildings" and "garages" was combined, since a garage *is* an accessory building, and Thomas did not find an accessory building's contents relevant to zoning code requirements. Size limits for attached and detached accessory buildings were simplified. The revised text limits *attached* accessory buildings to 832 square feet in the residential zoning districts, while *detached* accessory buildings may be from 240 to 1200 square feet, dependent upon the size of the lot. Setbacks and maximum building peak are also tied to lot size.

**09-22 PUBLIC COMMENT/ COMMISSIONER COMMENT/STAFF UPDATE/
ADJOURNMENT**

No additional public comment was offered.

Dunneback commented that he appreciated the ordinance revision that Thomas is working on.

Several Commissioners commented on the Citizen Planner class they are attending in Caledonia, although they felt that Caledonia attendees dominated the discussion. Byrne said he did not agree with the tone of some presentations.

Johnson reported that the ZBA met in April to consider the multiple Sonic variance requests, which were approved. She also commented that she was unable to participate in the decision because of her earlier attendance at the Planning Commission which reviewed their development request.

Thomas asked that Commissioners let her know if any are interested in taking any other classes. She commented that the Township invests considerable money in their education because it views the classes worthwhile and the Commissioners' jobs as important ones.

Van Heulen moved to adjourn at 10: 32 PM, with Byrne providing support.

Ayes: 7 Nays: 0 Motion carried.

Jerry Byrne, Secretary

Patricia Kolkman, Recording Sec'y