

Niles Charter Township Planning Commission
March 14, 2017
Regular Meeting

Chairman Smothermon called the meeting to order at 7:00 p.m. at the Township Hall, 320 Bell Road, Niles, Michigan.

Pledge of Allegiance: The Pledge was recited.

Roll Call:

- Present: Smothermon, Strefling, Spurlock, McNelis, Conover and Cooper
- Absent: Durm
- Others Present: ZA Hartman and RS Ernsberger
- Guests: Attorney Rob Thall

Approval of Agenda: Strefling motioned to approve the March 14, 2017 Niles Charter Township Planning Commission meeting Agenda as written, Conover seconded the motion.

All voting in favor.

MOTION CARRIED.

Approval of Minutes: McNelis motioned to approve of the Niles Charter Township Planning Commission February 14, 2017 meeting minutes with a spelling correction of Kiell under Other Business, Cooper seconded the motion.

All voting in favor.

MOTION CARRIED.

New Business:

Site Plan Review: Catherine Enders from the Niles Senior Center, 1422 Sheridan, Niles and her Representative, Dan Yerks from Wightman and Associates, presented the site plan application for a parking lot expansion for the Niles Senior Center. Mr. Yerks stated there would be no facility changes; the center does not have enough parking spaces. People have to park across the street which is a safety issue. The new lot is adjacent to the center and would be safer for its patrons. Chairman Smothermon asked Commission Members if they had any questions for the applicant. Conover asked about lighting, fencing on north side of parcel and the retention pond. Mr. Yerks stated no lighting would be put in the lot, fencing is not required but the Senior Center worked with the neighboring property owner and will be placing a white picket style fencing with evergreens, and the retention pond is about 2 feet deep, drains quickly and will only have water in it during storm events, therefore no fencing is required. Mr. McNelis asked about directional signs. Mr. Yerks stated enter and exit signs would be placed. Mr. Strefling asked if the Road Commission, Drain Commissioner and the Fire Chief have approved the application. Mr. Yerks confirmed the Road Commission and the Drain Commissioner have approved the applications. ZA Hartman stated the Fire Chief had some concern for the 12' aisles, but that is what the ordinance allows. Mr. Smothermon then asked Member Spurlock to read through the standards for site plan review and for parking lot standards. After the commission found the plan meets all the standards, a motion was made by McNelis to approve the Site Plan Review Application from the Niles Senior Center for a parking lot at 1838 S. 12th Street, Niles, Strefling seconded the motion.

All voting in favor.

MOTION CARRIED.

Public Hearing: Chairman Smothermon opened the hearing at 7:22 pm and introduced the Special Land Use Application from American Aggregates, Inc. to expand mining at M-140 and 247 Ullery Road. After reading the hearing rules, Mr. Smothermon opened the floor to the applicant. Mr. Marty Landes of 1409 Feldspar Ave., Zeeland, MI, representing American Aggregates, explained the application. Mr. Landes had a presentation explaining the necessity of sand and gravel, history of the mining operation and the current operations American Aggregate is applying for. Mr. Landes explained that American Aggregate, Inc. has been operating the mine for approximately 15 years, though it has been a mining operation since 1930. It is a local company with local ties and committed to the community. American Aggregates has started the reclamation of the current operation, which was not required due to a legal nonconforming use, and stated

they will complete the reclamation of the current area. They have already put \$100,000 into the reclamation of the property, wanting to be a good neighbor. Mr. Landes addressed some concerns that are normally attached to mining operations. He explained that the MSHA requires ear protection if operations are over 85 dBs and no protection is required. The plant is setback 500 feet. Noise should not be an issue. He further explained that the plant does not crush. Crushers are loud and create dust. There will be minimal dust because American Aggregate waters the road, and the proposed mining across the road would be put on conveyors to be brought to the plant (no trucking on the proposed area for mining). DEQ does not require a permit because there is no crusher. The delivery of material to our clients would use the same routes that have been used for decades. The property is farmland and doesn't contain any specialized habitat therefore the operation would not be detrimental to wildlife or bodies of water. There are no bodies of water within 500ft. and the only water that would be drawn from the ground would be the moisture contained by the sand and gravel. This would only pull ½ inch of water from the area. The fringe tree line will remain. Property values will not be affected due to the proposed operation, because the property is already open farmland and the mining operation already exists, it would simply be expanding. He concluded that there is a viable gravel deposit there, shown by the tests that have been done and results provided to the Township. This is a continuation of the mining already taking place in the area. ZA Hartman reported that the nonconforming use cannot expand and that the proposed areas must comply with the current Zoning Ordinance. She agreed with the applicant that the material exists where it exists and is a needed commodity. She also noted that she addressed each standard that must be met in her Staff Report. Hartman confirmed they have been reclaiming the current mining area even though it was not mandated. She affirmed that she has not received any complaints in the last year. Attorney Rob Thall reminded the Commission Members that mining laws severely restrict the Planning Commission from preventing extraction unless the mining process has serious consequences for the community. If those serious consequences do not exist, the Commission must approve. Chairman Smothermon opened the floor to those opposing the application. Mr. Barton asked whether or not the mining was moving closer to M140, not for or against at this point. Mr. Frank Simco of 7896 Smith Road, Berrien Center, is concerned about his agricultural well. The applicant stated the mining would be at least 150 feet from the property line and pull only ½ inch of water by what moisture remain on the product. Mr. Simco also asked about reclamation. The applicant stated the reclamation would follow zoning and would be agricultural or residential. Mr. Wayne Sturgeon of 1914 Pucker Street Drive, Niles, asked how deep the applicant would mine, mentioning concern should they dig deeper than his well. Mr. Sturgeon said his well was 130 feet. The applicant stated they would not dig that deep, the testing that was completed show clay at 70 feet and that they would not be in his aquifer. Mr. Smothermon then opened the floor to anyone in favor of the application, no one spoke. Smothermon then closed the hearing at 8:00 pm. Board members had several questions for the applicant. Conover verified that no trucking of product would take place on the proposed operation, which the applicant confirmed. Jerry Grinstead, American Aggregates' President stated several areas were tested and that Mr. Lamberton allowed sample digging. Attorney Thall reminded the commission members that restrictions could only be placed on the parcels proposed for use with the proposed application; that includes parcels from the current operation, but only the parcels that would be used in the new operation. The parcels not included on the new application will cease and be reclaimed as the applicant stated. Strefling asked about a berm, fencing and trees. The applicant explained that mining will occur on 5 acres at a time and those five acres will be fenced for safety. A berm would be built with the removal of the topsoil and trees would be planted. The applicant affirmed that American Aggregates wants to be a good neighbor. McNelis asked if the mining would proceed clockwise. The applicant said yes and the fencing would move with the operation. McNelis also asked about the emergency road shown on the plan. Mr. Grinstead stated it was required and would be used by workers and it would consist of crushed concrete. Mr. Spurlock asked about security and confirmed an employee would live in the house on the corner of the site. Applicant confirmed there would be two employees living near the site; one in the house on the corner and one across the street. Spurlock also asked how long the mining would take place. Mr. Grinstead said 8-10 years. Lastly, Mr. Spurlock confirmed with ZA Hartman that the township received copies of the independent studies performed; Hartman confirmed. Member Cooper restated that only certain properties would be used in the active processing and that the reclamation process would not be affected. He also asked about a culvert. The applicant stated the Berrien County Road Commission would require a culvert, but told him to get the Special Land Use Permit first. Mr. Conover reiterated that only the historical sites being used in the proposed operations would have to conform to current zoning. ZA Hartman

questioned moving five acres being mined around the property that the conveyor would continue to be used as the only means of transporting the product. The applicant confirmed that as the mining operations moved about the property, the conveyor belt would be extended. Mr. Smothermon added that an existing mine on US 12 has a conveyor that goes under the roadway and there has not been any problems with that mining operation. Mr. Smothermon reminded the Commission Members that there must be a solid reason for denying the application before going into deliberations. Discussion on the motion included making sure all parcels conform including the historical parcels being used, hours of operation and noise controls. The applicant stated new back up signals would be placed on the trucks that are less intrusive. The Commission Members deliberated the standards in Zoning Ordinance under Commercial Processing Extraction, General Review and Site Plan Review. Also, the 40 acres is currently owned by Mr. Lamberton, American Aggregates to purchase with permit approval and proof should be submitted to the Township. After the commission found the plan meets all the standards, a motion was made by Spurlock to approve the request from American Aggregate Inc. for a special land use for removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources at parcel ID#11-14-0014-0003-00-7, 247 ULLERY ROAD, and on parcel ID#s 11-14-0015-0004-03-6, on M-140, 11-14-0015-0004-02-8 on M-140, and 11-14-0015-0004-04-6, on ULLERY ROAD, with the following conditions:

- 1) Must submit an annual report to the zoning administrator
- 2) Hours of operation are Monday-Friday 7 am to 5 pm and Saturday 7 am – 1 pm
- 3) Proof of purchase of the property
- 4) Berrien County Road Commission and Drain Commission permit approvals with copies to the zoning administrator
- 5) Approval based upon information submitted orally and through documentation

Conover seconded the motion.

A motion made by Spurlock to amend the motion to include Site Plan Approval as condition 6, Cooper seconded the motion.

All voting in favor.

MOTION CARRIED.

Other Business:

ZA Hartman updated the commission members that the 11th Street Overlay section in the Zoning Ordinance needs to be rescinded and redone to address the parcel issues along the corridor. The April meeting will be on the 18th instead of the 11th. Kachur Tree has submitted an application for an open air business. The Master Plan will have its final review Tuesday. The Zoning Board of Appeals will be meeting tomorrow night. A joint meeting between the Planning Commission, the Zoning Board of Appeals and the Township Board on placemaking may be scheduled in June.

Comments from the Public: None

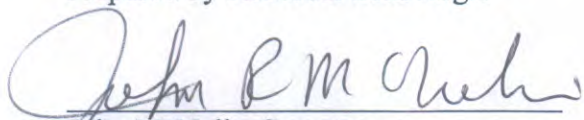
Adjournment

McNelis motioned to adjourn the meeting at 9:00 p.m., Conover seconded the motion.

All voting in favor.

MOTION CARRIED.

Prepared by Recorder Ernsberger



John McNelis, Secretary

Approval Date: 3-21-17

NILES CHARTER TOWNSHIP
PLANNING COMMISSION

SPECIAL MEETING

MARCH 21, 2017

7:00 P.M.

NILES CHARTER TOWNSHIP HALL
MEETING ROOM

320 BELL ROAD, NILES, MICHIGAN

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- IV. APPROVAL OF AGENDA
- V. APPROVAL OF MINUTES
– Regular Meeting – March 14, 2017
- VI. NEW BUSINESS
 - Site Plan Review – 3134 S. 11th Street - Dollar Tree Store
- VII. OTHER BUSINESS
 - Master Plan Final Review
 - Other
- VIII. COMMENTS FROM PUBLIC
- IX. ADJOURN

