



**NOTICE OF PUBLIC HEARING
City of Manistee Planning Commission**

The City of Manistee Planning Commission will hold a Public Hearing in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan to consider a request from:

PROPERTY OWNER:	Chemical Bank	OPERATOR:	Paul Swidorski
	333 E. Main Street		4786 Red Apple Road
	Midland, MI 48642		Manistee, MI 49660

LOCATION

OF REQUEST: Parcel #51-673-001-00 – Vacant property NE corner of Cypress and Twelfth Street (behind Goodwill).

ACTION

REQUESTED: Renewal request for Special Use Permit for Mine, Sand, and Gravel

DATE/TIME

OF HEARING: Thursday, February 2, 2017 at 7:00 p.m.

Interested parties are welcome to attend the hearing, or written comments with signature can be submitted to: Denise Blakeslee, Planning & Zoning Administrator, City of Manistee, 70 Maple Street, Manistee, MI 49660, (231) 398-2805.

A copy of the application is on the following pages.



Planning Commission/Planning & Zoning
 City Hall
 70 Maple Street
 Manistee, MI 49660
 231.398.2805 (phone)
 231.723.1546 (fax)

Special Use Permit Application

A Detailed Site Plan is required for all Special Uses

Please Print

Submission of Application		
<p><i>Applications must be submitted 25 days prior to the meeting for review for completeness.</i> Applications shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be accompanied by the payment of a fee \$750.00 and any applicant escrow payments as required by Section 2701 and in accordance with the schedule of fees adopted by the City Council to cover the costs of processing the application. An application shall be submitted to the Zoning Administrator on a Special Use application form. A Special Use application shall be placed on the agenda of the Planning Commission by the Zoning Administrator within thirty (30) days of the submission of a complete application prepared in accordance with this Zoning Ordinance. An application, which is incomplete or otherwise not in compliance with this Ordinance, shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees and escrow payments paid in full.</p>		
Property Information		
Address: Amended E.N. Sallings Addition Lot 1		Parcel # 51-673-001-00
Applicant Information		
Name of Owner or Lessee: Chemical Bank		
Address: 333 E. Main Street, Midland, MI 48642		
Phone #: 989-631-9200	Cell#:	e-mail:
Name of Agent (if applicable): Paul Swidorski		
Address: 4786 Red Apple Road, Manistee, MI 49660		
Phone #: 231-723-7244	Cell#:	e-mail: swidbros@hotmail.com
Data Required/Project Information		
Land Area: 5 acres		Zoning Classification: C-1 commercial
Present/proposed Land Use: vacant/vacant		
Attach a Detailed Narrative for the following		
1	<input type="checkbox"/>	A letter or signed narrative describing in detail the proposed special use and detailing why the location selected is appropriate.
2	<input type="checkbox"/>	Applicant's statement of the expected effect of the special use on emergency service requirements, schools, storm water systems, sanitary sewer facilities, automobile and truck circulation patterns, and local traffic volumes.
3	<input type="checkbox"/>	Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be required by this ordinance, by the City Zoning Administrator or the Planning Commission; including, but not limited to, measures which will be undertaken to control soil erosion, shoreline protection, excessive noise, or adverse impacts of the development on the surrounding properties; elevations on all buildings, including accessory buildings; and, an environmental assessment.
4	<input type="checkbox"/>	Supporting statements, evidence, data, information and exhibits that address the standards and requirements for assessing Special Use permit applications as provided in Section 1802.

Additional Information

Any additional information deemed necessary for the Planning Commission to determine the impact of the proposed Special Use on the adjacent properties, public infrastructure, and community as a whole. Such information may take the form of, but is not limited to, a traffic impact analysis as required by Section 2203, E, 2, an environmental assessment as required by Section 2203, E, 1, a market study as required by Section 2203, E, 3, or reports and/or testimony by officials representing state, county or local departments of public safety (police and fire), health, highways or roads, and/or environment.

Special Use review procedures. An application for Special Use Approval shall be processed in accordance with Section 1801.C.

Issuance of a Special Use permit. Special Use Permits shall be issued in accordance with Section 1801.D.

Appeals. No decision or condition related to a Special Use application shall be appealed to the Zoning Board of Appeals. An appeal of a Special Use decision or condition may be taken to Circuit Court.

Duration of Approval. The Special Use permit shall become effective upon Planning Commission approval and in accordance with Section 1801.F.

Amendments. Amendments to Special Use permits shall be handled in the same manner as the initial Special Use permit application. Minor non-substantive changes to a site plan in accordance with Section 2208 may be made to an existing Special Use permit with the approval of the Zoning Administrator.

Transfers. Transfers shall be handled in accordance with Section 1801.H.

Expiration. A Special Use permit shall be valid for as long as the approved use continues in accordance with the terms and conditions of the approved permit. The Special Use permit will expire on the occurrence of one or more of the following conditions:

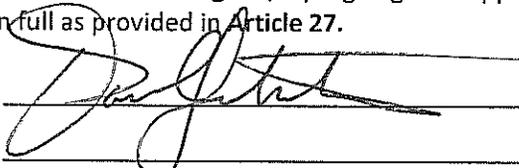
1. If replaced or superseded by a subsequent permitted use or Special Use permit.
2. If the applicant requests the rescinding of the Special Use permit.
3. If a condition of approval included stipulation to expire the Special Use permit by a certain date.
4. If the use is abandoned, moved or vacated for a period of one year.

Violations. Violations shall be handled in accordance with Section 1801.J.

Authorization

CERTIFICATION AND AFFIDAVIT:

The undersigned affirm(s) that he/she/they is/are the owner, leasee, owner's representative, contractor involved in the application; and that the information included in this application is correct. Further, if the request is approved, the applicant will comply with all of the requirements of the City of Manistee Zoning Ordinance and certifies that measures proposed to mitigate adverse impacts will be completed in a timely fashion. The undersigned, by signing the Application, agrees to pay any and all fees and escrow payments in full as provided in Article 27.

Signature:  Date: 11/30/16
 Signature: _____ Date: _____

If applicant is Incorporated or a Limited Liability Corporation a copy of the Articles of Incorporation are to be submitted with application.

By checking this box permission is given for Planning Commission Members to make a site inspection if desired.

Yes No Please indicate if the applicant will be tax exempt, applying and/or eligible for tax abatements, credits or deferrals for this proposed project. If Yes, explain:

Office Use Only

Fee: <input type="checkbox"/> \$750.00 <input type="checkbox"/> \$ _____ Escrow Payment	Receipt # <u>36017</u>
Date Received: _____	Hearing Date: _____ PC - _____

Swidorski Bros. Excavating LLC

4786 Red Apple Road
Manistee, MI 49660
Phone/Fax: 231-723-7244
swidbros@hotmail.com

November 30, 2016

City of Manistee
Planning Commission/Planning & Zoning
70 Maple Street
Manistee, MI 49660

Re: Special Use Permit Renewal – Parcel #51-673-001-00

1. Applicant seeks permit renewal to remove sand to make property more attractive for future development.
2. None.
3. Soil erosion will be minimized by employing recognized control measures as per soil erosion permit.

Thanks,

Paul Swidorski
Swidorski Bros. Excavating LLC



**CHEMICAL
BANK**
Member FDIC

SPECIAL ASSETS | 333 EAST MAIN STREET | PO BOX 231 | MIDLAND, MI 48640-0231
T: 989.633-7649 | F: 989.633-0417 | W: ChemicalBankMI.com

November 29, 2016

To Whom It May Concern:

Chemical Bank is authorizing Paul Swidorski of Swidorski Bros. Excavating LLC or his agent to renew the SESC & Special Use permits for excavation at our parcel # 51-51-673-001-00. Please feel free to contact us if you have any questions.

Thank you,

Sandy Loomis
VP Manager - ORE
Director - CFC Title Services
Chemical Bank
sandra.loomis@ChemicalBank.com

1315 Washington Ave | PO Box 231
Midland, MI | 48640
T: 989.633.3568 C: 989.671.7289 | VoIP: 51768
W: ChemicalBank.com
NMLS # 645477

**CHEMICAL
BANK**

Creating Community Chemistry.

Original Request
Approved by the
Planning Commission
December 1, 2011



Planning Commission

SPECIAL USE PERMIT APPLICATION

Gina Ruggiero
 Applicant
1438 North Lathrop Ave
 Address
River Forest, IL 60305
 City, State, Zip Code
 Phone Numbers (Work) 708-366-4622
 (Home) _____

FOR OFFICE USE ONLY:

Case number PC 2011-10
 Date Received _____
 Fee Received \$750.00
 Receipt Number 24751
 Hearing Date 12-1-11
 Action Taken _____
 Expiration Date of Permit _____

MINIMUM FEE FOR SPECIAL USE PERMIT
\$750.00

A Special Use application shall be submitted and processed according to the following procedures:

A. **Submission of Application.** Applications shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be accompanied by the payment of a fee and any applicant escrow payments as required by Section 2701 and in accordance with the schedule of fees adopted by the City Council to cover the costs of processing the application. An application shall be submitted to the Zoning Administrator on a Special Use application form. A Special Use application shall be placed on the agenda of the Planning Commission by the Zoning Administrator within thirty (30) days of the submission of a complete application prepared in accordance with this Zoning Ordinance. An application, which is incomplete or otherwise not in compliance with this Ordinance, shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees and escrow payments paid in full.

B. **Data Required.** Twelve (12) copies of an application for a Special Use permit shall be presented to the Zoning Administrator and accompanied by the following documents and information.

1. A complete Special Use permit application including the following information:

a. Name and address of applicant and owner(s): Gina Ruggiero, c/o Paul Swidorski

b. Legal description, property parcel number, and street address of the subject parcel of land: Lot 1, Amaded Plat of E.N. Salling's Addition, 51-51-673-001-00

c. Area of the subject parcel of land stated in acres, or if less than one (1) acre, in square feet 5+

d. Present zoning classification of the parcel: P. C-1 Commercial

e. Present and proposed land use: VACANT, VACANT

- f. A letter or signed narrative describing in detail the proposed special use and detailing why the location selected is appropriate. *Applicant seeks permit only to remove sand to make property more attractive for future development.*
 Attached
- g. Applicant's statement of the expected effect of the special use on emergency service requirements, schools, storm water systems, sanitary sewer facilities, automobile and truck circulation patterns, and local traffic volumes. *NONE*
 Attached
- h. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be required by this ordinance, by the City Zoning Administrator or the Planning Commission; including, but not limited to, measures which will be undertaken to control soil erosion, shoreline protection, excessive noise, or adverse impacts of the development on the surrounding properties; elevations on all buildings, including accessory buildings; and, an environmental assessment. *Soil erosion will be minimized by employing recognized control measures as per soil erosion permit*
 Attached
- i. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in this Article and other standards imposed by this Ordinance affecting the special use under consideration.
 Attached *Applicant will comply with all relevant provisions of Section 1856.B. Proposed use is consistent with Section 1802.*
2. A complete Site Plan containing all the applicable data required by Article 22, Site Plans.
3. Supporting statements, evidence, data, information and exhibits that address the standards and requirements for assessing Special Use permit applications as provided in Section 1802.
4. Any additional information deemed necessary for the Planning Commission to determine the impact of the proposed Special Use on the adjacent properties, public infrastructure, and community as a whole. Such information may take the form of, but is not limited to, a traffic impact analysis as required by Section 2203, E, 2, an environmental assessment as required by Section 2203, E, 1, a market study as required by Section 2203, E, 3, or reports and/or testimony by officials representing state, county or local departments of public safety (police and fire), health, highways or roads, and/or environment.
5. The Zoning Administrator may, with the approval of the Planning Commission, waive the submission of materials outlined in this Section if such materials are determined to be not applicable to the proposed Special Use or relevant to the consideration of the Planning Commission.
- C. Special Use review procedures. An application for Special Use Approval shall be processed in accordance with Section 1801.C.
- D. Issuance of a Special Use permit. Special Use Permits shall be issued in accordance with Section 1801.D.
- E. Appeals. No decision or condition related to a Special Use application shall be appealed to the Zoning Board of Appeals. An appeal of a Special Use decision or condition may be taken to Circuit Court.
- F. Duration of Approval. The Special Use permit shall become effective upon Planning Commission approval and in accordance with Section 1801.F.

G. Amendments. Amendments to Special Use permits shall be handled in the same manner as the initial Special Use permit application. Minor non-substantive changes to a site plan in accordance with Section 2208 may be made to an existing Special Use permit with the approval of the Zoning Administrator.

H. Transfers. Transfers shall be handled in accordance with Section 1801.H.

I. Expiration. A Special Use permit shall be valid for as long as the approved use continues in accordance with the terms and conditions of the approved permit. The Special Use permit will expire on the occurrence of one or more of the following conditions:

1. If replaced or superseded by a subsequent permitted use or Special Use permit.
2. If the applicant requests the rescinding of the Special Use permit.
3. If a condition of approval included stipulation to expire the Special Use permit by a certain date.
4. If the use is abandoned, moved or vacated for a period of one year.

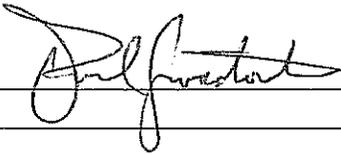
J. Violations. Violations shall be handled in accordance with Section 1801.J.

CERTIFICATION AND AFFIDAVIT:

The undersigned affirm(s) that he/she/they is/are the owner, leasee, owner's representative, contractor involved in the application; and that the information included in this application is correct. Further, if the request is approved, the applicant will comply with all of the requirements of the City of Manistee Zoning Ordinance and certifies that measures proposed to mitigate adverse impacts will be completed in a timely fashion.

The undersigned, by signing the Application, agrees to pay any and all fees and escrow payments in full as provided in Article 27.

Signature (s) of Applicant (s):



Dated 9/24/11

By checking this box permission is given for Planning Commission Members to make a site inspection if desired.

yes no Please indicate if the applicant will be tax exempt, applying and/or eligible for tax abatements, credits, or deferments for this proposed project.

If yes, explain: _____

Swidorski Bros. Excavating LLC

4786 Red Apple Road
Manistee, MI 49660
Phone/Fax: 231-723-7244

October 10, 2011

City of Manistee
Attn: Jon Rose, Community Development Director
70 Maple Street
P.O. Box 358
Manistee, MI 49660

Re: Sand Mining Application—Ruggiero Property 12th Street, Manistee City

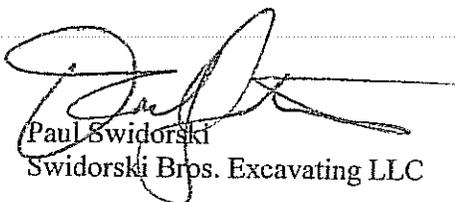
Dear Jon,

As per our meetings in regards to sand mining at Ruggiero Property (12th Street, City of Manistee) the following narrative should address your concerns:

The total size of affected area over an extended period of time should be approximately 4 acres. All topsoil that is stripped will be located on site and stockpiled on area not being mined, as our plan is to open and close one acre at a time using stockpiled topsoil to cover one acre area when closing same. Re-vegetation/stabilization of one acre area will be done through seeding and mulching as required as per our Soil Erosion Permit. As we are only mining the sand from the site, I cannot speak to future use of the affected parcel other than I would believe it to be commercial in use and a plan developed at that time would detail re-use of site. Also as per plan, we would revisit permit per Goodwill owner's permission and your permission for any grading that would occur within property boundary setbacks.

If you should have any questions, please feel free to call me at anytime.

Sincerely,


Paul Swidorski
Swidorski Bros. Excavating LLC

CERTIFICATE OF SURVEY

I, PATRICK G. BENTLEY, LICENSED PROFESSIONAL SURVEYOR NO. 34057 IN MICHIGAN, CERTIFY THAT THIS DRAWING IS AN ACCURATE REPRESENTATION OF A BOUNDARY SURVEY PERFORMED UNDER MY DIRECTION FOR THE FOLLOWING DESCRIBED PARCEL OF LAND.

FROM DEED RECORDED IN V. 413, PAGE 541:
LOTS ONE (1) AND TWELVE (12), BLOCK SEVEN; LOTS TWO (2) TO ELEVEN (11), INCL. BLOCK SEVEN (7); LOTS ONE (1) TO SIX (6) INCL. BLOCK EIGHT (8); LOTS FOUR (4), FIVE (5), AND SIX (6), EXC. THAT PART SOUTH OF RR TRACKS, BLOCK FIVE (5); THAT PART OF LOTS FOUR (4), FIVE (5), AND SIX (6) LYING SOUTH OF RR TRACKS EXC. PART NORTHEASTERLY OF LINE 80 FEET SOUTHWESTERLY OF CENTERLINE US 31, BLOCK FIVE (5); THAT PART OF LOTS SEVEN (7) TO ELEVEN (11) INCL. LYING SOUTH OF P&HR, BLOCK SIX (6); THAT PART OF LOT TWELVE (12) LYING SOUTH OF RR TRACKS, BLOCK SIX (6); E.H. SALLINGS ADDITION, CITY OF MANISTEE, MANISTEE COUNTY, MICHIGAN, INCLUDING ALL OF OLGA STREET AND ELEVENTH STREET.

NOW KNOWN AS LOT 1, AMENDED PLAT OF BLOCKS 7 AND 8 AND LOTS 7 THRU 12, BLOCK 8, LOTS 4 THRU 6, BLOCK 5; ALSO THE VACATED PORTIONS OF 11TH STREET AND OLGA STREET, E.H. SALLINGS ADDITION TO THE CITY OF MANISTEE.

PATRICK G. BENTLEY
LICENSED PROFESSIONAL SURVEYOR No. 47944
ABONMARCHÉ CONSULTANTS, P.C.

DATE OF CERTIFICATE

THIS SURVEY WAS BASED ON THE INCLUDED LEGAL DESCRIPTION AS IT APPEARS ON A DEED OR TITLE INSURANCE POLICY PROVIDED TO US BY THE PERSON TO WHOM THE SURVEY IS CERTIFIED, AND SHOULD BE COMPARED WITH THE ABSTRACT OF TITLE OR TITLE INSURANCE POLICY FOR ACCURACY, EASEMENTS OR EXCEPTIONS. ANY WRITTEN OR UNWRITTEN RIGHTS OF ADJOINERS ARE UNKNOWN UNLESS SPECIFICALLY NOTED. THE SURVEYOR'S LIABILITY FOR ANY AND ALL CLAIMS, INCLUDING BUT NOT LIMITED TO THOSE ARISING OUT OF THE SURVEYOR'S PROFESSIONAL SERVICES, NEGLIGENCE, GROSS MISCONDUCT, WARRANTIES OR MISREPRESENTATIONS SHALL BE DEEMED LIMITED TO AN AMOUNT NO GREATER THAN THE SERVICE FEE.



ENGINEERING
ARCHITECTURE
MAINTENANCE/WATERFRONT
SURVEYING
LANDSCAPE ARCHITECTURE
PLANNING

361 1st Street
Manistee, MI 49640
T 231.723.1198
F 231.723.1194
www.abonmarche.com

BENTON HARBOR, MI
SOUTH HAVEN, MI
SOUTH BEND, IN
FOOT WAYNE, OH

EXISTING CONDITIONS
SITE PLAN

ANGELO RUGGIERO
321 N. CLARK STREET
CHICAGO, IL 60610

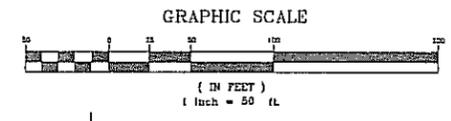
PROJECT:
SHEET TITLE:
DRAWN BY:
PG8/MGJ
DESIGNED BY:
PG8/MGJ
PM REVIEW:
JWM
QA/QC REVIEW:
CRS
DATE:
MARCH 9, 2011
SEAL:

SIGNATURE:
DATE:

HARD COPY IS INTENDED TO BE
14" x 24" MESH PLOTTED.
SCALING SHOULD BE
GRAPHIC QUALITY MAY NOT BE
ACCURATE FOR ANY OTHER SIZE.

SCALE:
HORIZ: 1" = 50'
VERT: N/A
ACI JOB #
11-0098

SHEET NO.
1 of 2



- NOTE:
- ELEVATIONS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) AND WERE OBTAINED BY GPS OBSERVATION.
 - BEARINGS ARE BASED ON WGS 84, MICHIGAN STATE PLANE ZONE 2113 - CENTRAL ZONE AND WERE OBTAINED BY GPS OBSERVATION.
 - SWIDORSKI BROTHERS EXCAVATING (231-723-7244 - 4786 RED APPLE ROAD) WILL BE RESPONSIBLE FOR COORDINATING REMOVAL OF MATERIAL ON SITE.
 - UTILITY COORDINATION BY OTHERS.
 - OWNER TO WORK WITH CITY/COUNTY SOIL EROSION OFFICER TO ENSURE POSITIVE DRAIN FLOW PATTERNS WITH NO NEGATIVE IMPACTS TO ADJACENT PROPERTY OWNERS.
 - OWNER TO PLACE SILT FENCE AS DIRECTED BY CITY ENGINEER.
 - PER SECTION 185.6, S.C.G. 1 OF THE CITY ORDINANCE THE MINIMUM SET BACKS SHALL BE A MINIMUM OF 25 FEET FROM PROPERTY LINE.

HATCH LEGEND

- PROPOSED BRUSH AREA
- OPTIONAL GRADING WITH GOODWALL'S PERMISSION
- PROPOSED GRADING AREA

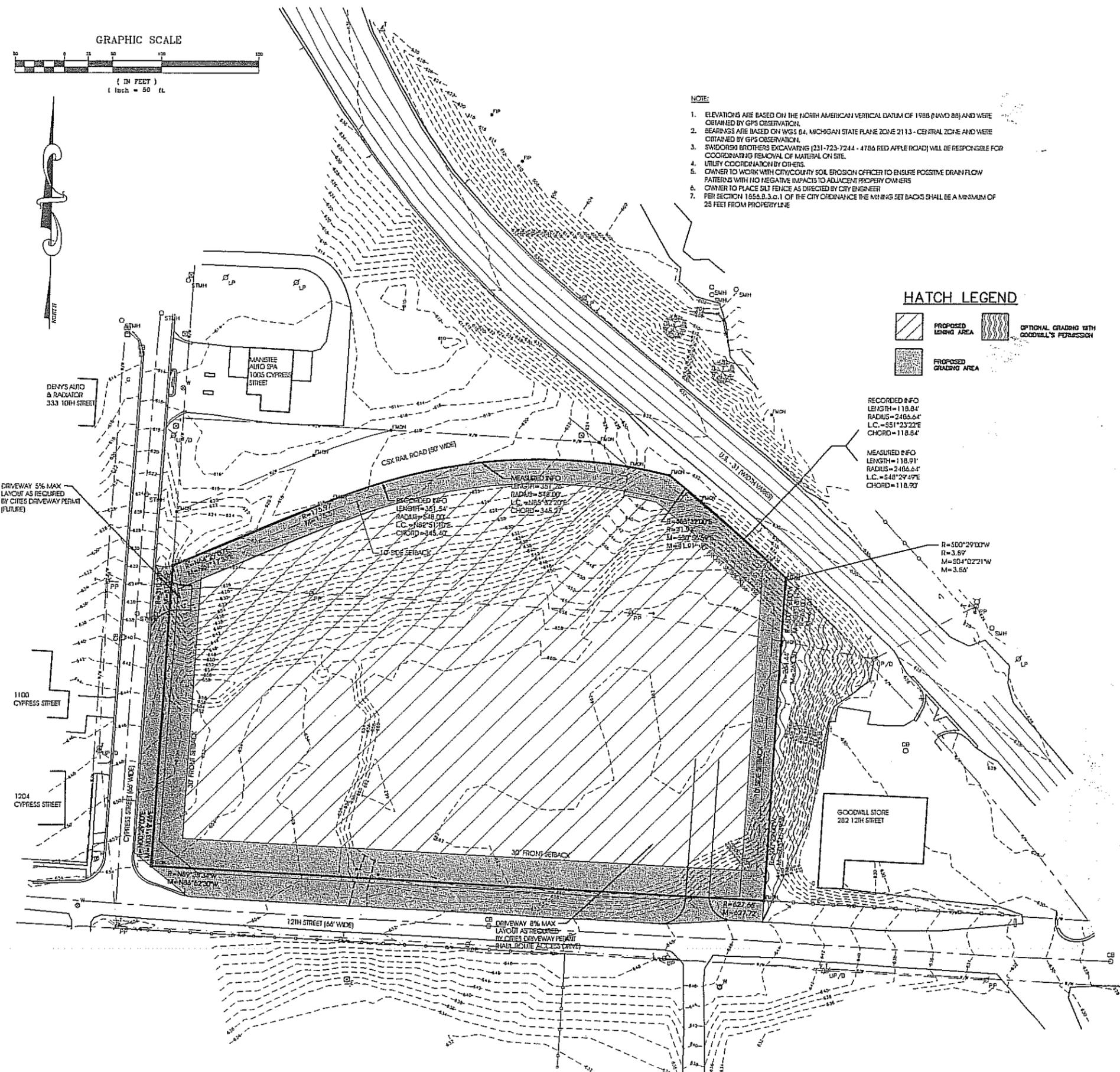
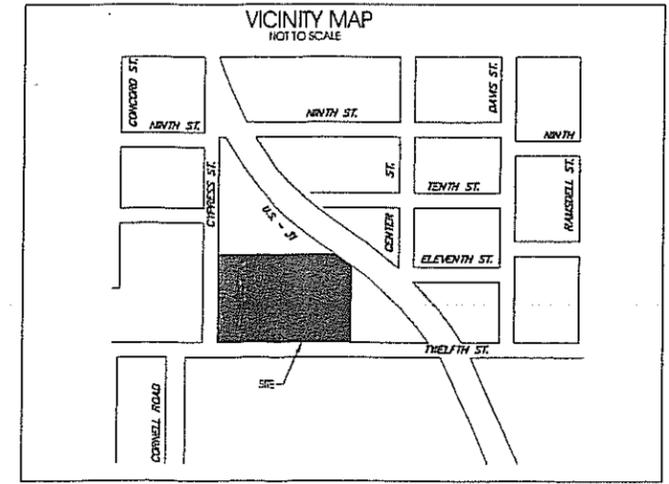
RECORDED INFO
LENGTH = 118.84'
RADIUS = 2486.64'
L.C. = S51°23'22"E
CHORD = 118.84'

MEASURED INFO
LENGTH = 118.91'
RADIUS = 2486.64'
L.C. = S48°29'49"E
CHORD = 118.93'

R=500'29'00"W
I=3.89'
M=50.4'02'21"W
M=3.66'

LEGEND

- TREE
- ELECTRICAL LOCATION
- GUY WIRE
- POWER POLE
- TELEPHONE LOCATION
- GAS LOCATION
- WATER LOCATION
- SANITARY MANHOLE
- STORM MANHOLE
- TELEPHONE PEDESTAL
- STREET SIGN
- CABLE TV
- FIRE HYDRANT
- CATCH BASIN
- WATER VALVE
- RECORDED MEASUREMENT
- TELEPHONE POLE
- WATER CURB STOP
- UTILITY POLE
- TRAFFIC SIGN
- BORING LOCATION
- GAS VALVE
- WATER METER
- GUARD POST
- LIFT STATION
- LIGHT POLE
- SIGNAL
- ELECTRIC MANHOLE
- HANDICAP
- CURB CATCH BASIN
- FOUND CONCRETE MONUMENT
- FIELD MEASUREMENT



Ruggiero/Swidorski
Item #8

SUP
Page 1 of 5



2011R006805
USE PERMIT

PENNY A. PEPERA - REGISTER OF DEEDS
MANISTEE COUNTY, MICHIGAN
RECORDED ON
12/27/2011 02:05:08PM

REC FEE: 26.00
PAGES: 5

SPECIAL USE PERMIT
CITY OF MANISTEE
70 Maple Street, P.O. Box 358
Manistee, Michigan 49660

This SPECIAL USE PERMIT, herein after referred to as the permit, is granted pursuant to the authority granted in Article 18: Standards and Requirements for Special Uses, of the Manistee City Zoning Ordinance, effective March 27, 2006.

Name of Operator/Permit Holder: Paul Swidorski
Swidorski Bros. Excavating LLC
Mailing Address: 4786 Red Apple Road
Manistee, MI 49660

Description of Property affected by Special Use Permit: Parcel #51-673-001-00

FROM DEED RECORDED IN LIBER 613, PAGE 561:
LOTS ONE (1) AND TWELVE (12), BLOCK SEVEN; LOTS TWO (2) TO ELEVEN (11), INCL., BLOCK SEVEN (7); LOTS ONE (1) TO SIX (6) INCL., BLOCK EIGHT (8); LOTS FOUR (4), FIVE (5), AND SIX (6), EXC. THAT PART SOUTH OF RR TRACKS, BLOCK FIVE (5); THAT PART OF LOTS FOUR (4), FIVE (5), AND SIX (6) LYING SOUTH OF RR TRACKS EXC. PART NORTHEASTERLY OF LINE 60 FEET SOUTHWESTERLY OF CENTERLINE US 31, BLOCK FIVE (5); THAT PART OF LOTS SEVEN (7) TO ELEVEN (11) INCL. LYING SOUTH OF PMRR, BLOCK SIX (6); THAT PART OF LOT TWELVE (12) LYING SOUTH OF RR TRACKS, BLOCK SIX (6); E.N. SALLINGS ADDITION, CITY OF MANISTEE, MANISTEE COUNTY, MICHIGAN, INCLUDING ALL OF OLGA STREET AND ELEVENTH STREET.

NOW KNOWN AS LOT 1, AMENDED PLAT OF BLOCKS 7 AND 8 AND LOTS 7 THRU 12, BLOCK 6, LOTS 4 THRU 6, BLOCK 5; ALSO THE VACATED PORTIONS OF 11TH STREET AND OLGA STREET, E.N. SALLINGS ADDITION TO THE CITY OF MANISTEE.

Description of Special Use Granted, as Permitted in Article #18 Section #1856 Mine, Sand and Gravel

Special Use Permit Application #PC-2011-10
Approved by the Planning Commission on December 1, 2011
As described in Attachment A - Resolution to Approve

RECEIVED
DEC 27 2011
MANISTEE COUNTY
REGISTER OF DEEDS

PERMIT CONDITIONS AND REQUIREMENTS:

This permit is issued, subject to the following conditions and/or requirements as contained in Article 18, Section 1802:

- This permit shall be conditioned on the issuance of any required soil erosion permit.
- The applicant is required to grade the Twelfth and Cypress Street rights-of-way adjacent to the applicant's property as shown on the site plan to an elevation approved by the City Engineer that will provide for the installation of a sidewalk.
- The applicant shall meet the requirements of Section 1856.B.3.a.1) as it relates to adjoining Parcel #51-661-001-00 (Address: 282 Twelfth Street).

- In the event the applicant receives approval from the owner of Parcel #51-661-001-00 to excavate a portion of that parcel, the applicant will need to amend the Special Use Permit.
- A snow fence shall be erected around the excavation area prior to excavation.
- Hours of operation shall be limited to: 7:00 am to 7:00 pm Monday – Saturday.
- A minimum performance guarantee of \$3,000.00 plus a minimum \$2,000.00 per excavated acre shall be filed with the City Treasurer before the Special Use Permit will be issued.
- The Special Use Permit shall be issued for a period of five years and shall expire on December 1, 2016.

TRANSFER OF PERMIT

This permit is transferable only in accordance with Article 18, Section 1801.H of the ordinance.

EXPIRATION OF PERMIT (as per Article 18 Section 1801.I):

A Special Use permit shall be valid for as long as the approved use continues in accordance with the terms and conditions of the approved permit. The Special Use permit will expire on the occurrence of one or more of the following conditions:

1. If replaced or superseded by a subsequent permitted use or Special Use permit.
2. If the applicant requests the rescinding of the Special Use permit.
3. If a condition of approval included stipulation to expire the Special Use permit by a certain date.
4. If the use is abandoned, moved or vacated for a period of one year.

VIOLATIONS OF PERMIT (see Article 18 Section 1801.J):

Any violation of the terms, conditions or limitations of a Special Use permit shall be cause for revocation or suspension of the permit. The Planning Commission may either revoke or suspend, pending correction of the violation, any Special Use permit. The act to revoke or suspend the permit shall occur after giving notice to the permit holder, specifying the alleged violation(s) and disclosing when a hearing will be held on the matter. The notice shall be delivered by registered mail. Any interested party may appear in person or by attorney at the hearing. The act to revoke or suspend the permit shall occur after or at the hearing on the matter. Before revoking or suspending the permit, the Planning Commission shall make a finding that a material violation of the Special Use permit exists. The permit holder shall be given reasonable opportunity to correct the violation(s).

CERTIFICATION OF PERMIT

The above SPECIAL USE PERMIT was granted by the Manistee City Planning Commission pursuant to the requirements of the Manistee City Zoning Ordinance.

DATE OF APPROVAL: December 1, 2011 CITY OF MANISTEE

STATE OF MICHIGAN)
) SS.
COUNTY OF MANISTEE)


Jon R. Rose Dated 12/6/11
Zoning Administrator

On December 10, 2011, before me, a Notary Public in and for said County, personally appeared Jon R. Rose, to me known to be the same person described in and who executed the within instrument, who acknowledged the same to be his free act and deed.

Notary's
Stamp _____
(Notary's name, county, acting in County,
and Date Commission expires)


Notary's Signature

ACKNOWLEDGMENT & RECEIPT OF PERMIT

I the undersign do hereby certify that I am the person listed above as the special use permit holders of their authorized legal representative. I do further certify that I have read, understand and agree to comply with all of the requirements and conditions of this permit, as listed above and in the Manistee City Zoning Ordinance.

Swidorski Bros. Excavating LLC

STATE OF MICHIGAN)
) SS.
COUNTY OF MANISTEE)


Paul Swidorski
12/7/11
Dated

On December 7, 2011, before me, a Notary Public in and for said County, personally appeared Paul Swidorski, to me known to be the same person described in and who executed the within instrument, who acknowledged the same to be his/her free act and deed.

Notary's Stamp
DENISE J. BLAKELEE
NOTARY PUBLIC, STATE OF MI
COUNTY OF MANISTEE
MY COMMISSION EXPIRES Apr 2, 2013
ACTING IN COUNTY OF manistee
(Notary's name, county, acting in County,
and Date Commission expires)


Notary's Signature

Prepared by:
JON R. ROSE, COMMUNITY DEVELOPMENT DIRECTOR
CITY OF MANISTEE
70 Maple Street, P.O. Box 358
Manistee, MI 49660
231.398-2805

City of Manistee
Planning Commission Resolution to Approve a
Special Use Permit, Case Number PC-2011-10
Gina Ruggiero, Owner
Paul Swidorski, Swidorski Bros. Excavating, LLC, Operator

At a regularly scheduled meeting of the City of Manistee Planning Commission held on December 1, 2011, the following resolution was adopted to approve a Mine, Sand and Gravel Special Use Permit request from Gina Ruggiero, Owner/Paul Swidorski, Swidorski Bros. Excavating, LLC, Operator as submitted with application and Site Plan prepared by Abonmarche, ACI Job #110098 Dated March 9, 2011.

Planning Commissioner Ray Fortier moved, supported by Planning Commissioner Marlene Mc Bride, the adoption of the following resolution.

WHEREAS, on October 10, 2011 a request was received from Gina Ruggiero, Owner and Paul Swidorski, Swidorski Bros. Excavating LLC, Operator for a Special Use Permit for Mine, Sand and Gravel operation, and

WHEREAS, Mine, Sand and Gravel is provided for as a Special Use under Section 1856 of the Zoning Ordinance in the C-1 Regional Commercial Zoning District, and

WHEREAS, the Planning Commission has provided proper notice and held a public hearing on the proposed development on December 1, 2011, and

WHEREAS, the Planning Commission has solicited written comment, reviewed the Site, and has completed review of the Application and Site Plan from the Applicant and the input received at said public hearing.

NOW, THEREFORE, BE IT:

- A. **RESOLVED**, that the Planning Commission has reached the following determination regarding Special Use Permit Standards (Section 1802.A):
1. The Special Use is consistent with the adopted City of Manistee Master Plan.
 2. The Special Use is designed, constructed, operated and maintained to be consistent with the existing or intended character of the general vicinity and such use will not change the essential character of the area in which it is proposed.
 3. The Special Use is not hazardous or disturbing to existing or future uses in the same general vicinity and in the community as a whole.
 4. The Special Use is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, storm water drainage, refuse disposal, water and sewage facilities, and schools; or persons or agencies responsible for the establishment of the proposed use shall provide adequately for such services.
 5. The Special Use does not create excessive additional requirements at public cost for facilities and services and will not be detrimental to the economic welfare of the community.
 6. The Special Use does not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, vibration, smoke, toxic emissions, fumes, glare, or odors.

7. The Special Use meets the intent and purpose of the Zoning Ordinance; be related to the standards established in the Ordinance for the land use or activity under consideration; and will be in compliance with these standards.

B. **RESOLVED**, the application complies with General Site Plan Requirements in accordance with Section 1856.1.a – f. Mine, Sand and Gravel of the City of Manistee Zoning Ordinance.

BE IT FURTHER RESOLVED, that the Special Use Permit for Mine Sand and Gravel shall be issued with the following conditions as well as any other conditions contained in Section 1856.B of the Manistee Zoning Ordinance:

- This permit shall be conditioned on the issuance of any required soil erosion permit.
- The applicant is required to grade the Twelfth and Cypress Street rights-of-way adjacent to the applicant's property as shown on the site plan to an elevation approved by the City Engineer that will provide for the installation of a sidewalk.
- The applicant shall meet the requirements of Section 1865.B.3.a.1) as it relates to adjoining Parcel #51-661-001-00 (Address: 282 Twelfth Street).
- In the event the applicant receives approval from the owner of Parcel #51-661-001-00 to excavate a portion of that parcel, the applicant will need to amend the Special Use Permit.
- A snow fence shall be erected around the excavation area prior to excavation.
- Hours of operation shall be limited to: 7:00 am to 7:00 pm Monday – Saturday.
- A minimum performance guarantee of \$3,000.00 plus a minimum \$2,000.00 per excavated acre shall be filed with the City Treasurer before the Special Use Permit will be issued.
- The Special Use Permit shall be issued for a period of five years and shall expire on December 1, 2016.

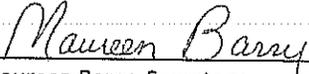
CITY OF MANISTEE PLANNING COMMISSION:

AYES: Eric Gustad, Marlene McBride, Ray Fortier, Maureen Barry, Roger Yoder
ABSTAINING: None
NAYS: Dave Crockett
ABSENT: Linda Albee, Bill Dean, Nathaniel Neider

MOTION: CARRIED

CERTIFICATION:

I, Maureen Barry, Secretary of the City of Manistee Planning Commission certify that the foregoing is a true and complete record of action taken by the Planning Commission at their regular meeting of December 1, 2011.



Maureen Barry, Secretary

CITY OF MANISTEE PLANNING COMMISSION

70 Maple Street
Manistee, MI 49660

MEETING MINUTES

December 1, 2011

A meeting of the Manistee City Planning Commission was held on Thursday, December 1, 2011 at 7pm in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

Meeting was called to order at 7pm pm by Chair Yoder

Roll Call:

Members Present: Maureen Barry, David Crockett, Ray Fortier, Eric Gustad, Marlene McBride, Roger Yoder

Members Absent: Linda Albee (excused), Bill Dean (excused), Nathaniel Neider (excused)

Others: Richard Wilson (Ruggiero & Swidorski Representative), Cathy & Richard Knechtges (1310 Cornell Street), Mike Gorbach (1100 Cypress Street), Jon R. Rose (Community Development Director), Denise Blakeslee (Planning & Zoning) and others

APPROVAL OF AGENDA

Motion by Ray Fortier, seconded by Dave Crockett that the agenda be approved as prepared.

With a Roll Call vote this motion passed 6 to 0.

Yes: Barry, Crockett, Fortier, Gustad, Mc Bride, Yoder

No: None

APPROVAL OF MINUTES

Motion by Ray Fortier, seconded by Dave Crockett that the minutes of the November 3, 2011 Planning Commission Meeting be approved as prepared.

With a Roll Call vote this motion passed 6 to 0.

Yes: Fortier, Barry, Crockett, Gustad, Mc Bride, Yoder

No: None

PUBLIC HEARING

PC-2011-10 Gina Ruggiero, Vacant property NE Corner Cypress and Twelfth Street (Parcel #51-673-001-00) Special Use Permit – Mine, Sand and Gravel

A request has been received from Gina Ruggiero owner of the property on the North East Corner of Cypress and Twelfth Street Parcel #51-673-001-00 for a Special Use Permit for Mine, Sand and Gravel. The operator will be Paul Swidorski, Swidorski Bros. Excavating, LLC, 4786 Red Apple Road, Manistee, Michigan.

Chairman Yoder opened the Public Hearing at 7:04 pm

Richard Wilson, Representative for Gina Ruggiero and Paul Swidorski – Mr. Wilson is representing Gina Ruggiero and Paul Swidorski. Mr. Wilson stated that his Law Office is also the Law Office of the City Attorney; and wanted that stated in the event that there is a conflict.

The property is owned by Gina Ruggiero and was the home of the former WMTE Radio Tower. The tower has been removed; the property is topographically challenged with frontage on Twelfth Street, Cypress Street and US 31; access is difficult; they are trying to make the property commercially viable by removing the sand and leveling the property for future development. City Staff had discovered a few issues with the site plan and he was noticed this afternoon, the east property line that abuts the Goodwill Property was included in the application and the required setback was not shown on the plan; they will work with Goodwill to see if they want to remove the hill behind their property under the Special Use Permit. Mr. Swidorski is planning to remove sand one acre at a time starting from the West moving toward the East; Mr. Swidorski will obtain the necessary soil erosion permits when needed. He has reviewed the drafted conditions for approval prepared by staff and will be happy to discuss them with the Commission.

Chairman Yoder opened the hearing for public comments.

Cathy Knechtges, 1310 Cornell Street – Ms. Knechtges lives behind Manistee Catholic Central. They live in a beautiful quiet neighborhood; there is not much noise; the hill cuts down on the noise and lights from US 31 would like to see a buffer left to keep the peaceful quiet neighborhood; she is concerned about commercial development of the property; her neighbor across the street is also concerned.

Richard Knechtges, 1310 Cornell Street – Mr. Knechtges said the property in question is a sand dune not a sand hill; there should be an environmental study done; he express concerns about removing the sand; this is a beautiful sand dune next to a school; if the sand is removed he is worried about sand blowing into the students eyes; the dune provides a snow barrier for US 31; have they considered that there will be more snow maintenance required if the dune is removed; there should be a traffic study, safety study and environmental study before a

decision is made; he believes it is required; have they considered the dust, breathing problems that will be created for people; Twelfth Street is in poor condition; the heavy trucks from the operator will damage the road more; who should pay for repairs?; the owner?; the City?; Cypress Street has homes on it; what impact will that have on these homes; the Commission needs to look at the present; do we want to destroy that? There should be a compromise; allow them to only remove a portion of the hill; consider safety when making a decision.

Mike Gorbach, 1100 Cypress Street – Mr. Gorbach owns the house directly across from the site; he is concerned about the impact on the neighborhood, blowing sand, truck traffic; there are too many unknowns; what exactly is going to happen; does not feel the Commission has enough information to make a decision;

Richard Wilson – Mr. Wilson said that the property in question is not a protected sand dune under the State statute; they are removing sand; this is not a gravel operation where there would be grinders on site; compared the proposed operation to the Seng operation to the South of MCC; Mr. Swidorski has a good operation; this is a small parcel; Mr. Swidorski will be removing sand as he needs it for jobs; there will not be permanent activity at the site; sand will be removed one acre at a time, the area will be reclaimed, then he will move to the next acre; the trucks used will meet both state and local load restrictions; will not use heavy loads; if something extraordinary were to happen the City has ordinances in place; he cited the court case from sand blowing on the Northside during the development; the owner is paying taxes on a property that cannot be developed as it is currently configured; the owner is trying to make the property usable; the owner is older and does not plan to develop the property themselves, it could be marketed for sale; the City has the property zoned Commercial.

Mike Gorbach – Mr. Gorbach has a problem with Mr. Wilson and feels that he is out of bounds.

Mr. Knechtges – Mr. Knechtges stated that he thought Mr. Wilson has a conflict of interest.

Jon Rose, Community Development Director – Mr. Rose stated that Mr. Wilson is representing his client NOT representing the City.

No correspondence was received.

There were no more additional comments; the Public Hearing was closed at 7:25 pm.

Jon Rose, Community Development Director – Mr. Rose reviewed the site plan; explained the Site Development Requirements of the Special Use Permit; spoke of the desire on behalf of the City to have the portion of the property on Twelfth and Cypress Streets contoured to allow easy installation of sidewalks; the request does not include the Goodwill property and the operator will need to maintain the buffer adjacent to that property; if the operator enters into an agreement with Goodwill he would need to Amend the Special Use Permit.

Mr. Rose clarified some concerns from the Commission – the proposed removal of sand would level the site not create a crater for someone to drive or fall into; Twelfth Street is in poor condition; there is an effort to obtain grant funds through the Safe Routes 2 School program (MCC & Manistee Public Schools) to assist with improvements to Twelfth Street and the installation of sidewalks; with the removal of the hill these improvements would be easier; reviewed the existing grades and the proposed grades.

PUBLIC COMMENT ON AGENDA RELATED ITEMS

None

NEW BUSINESS

PC-2011-10 Gina Ruggiero, Vacant property NE corner Cypress and Twelfth Street (Parcel #51-673-001-00) Special Use Permit – Mine, Sand and Gravel

A public hearing was held earlier in response to a request from Gina Ruggiero owner of the property on the North East Corner of Cypress and Twelfth Street Parcel #51-673-001-00 for a Special Use Permit for Mine, Sand and Gravel. The operator will be Paul Swidorski, Swidorski Bros. Excavating, LLC, 4786 Red Apple Road, Manistee, Michigan.

Staff prepared a Draft Resolution to approve and Draft Resolution to deny the request which were sent to the Commission with their meeting packets to review prior to the meeting. There were several conditions that were drafted for the commission to consider in the event they decided to approve the request. Three new conditions were added after review of the site plan yesterday and distributed to the commission for their consideration. The Commission and staff reviewed all the proposed conditions.

Commissioner Crockett expressed his desire to postpone deliberation to allow them to look at the site since what was being recommended differed from what was proposed on the Site Plan.

Jon Rose - The site plan showed the contour for Twelfth and Cypress Street has been discussed to remain as submitted which would allow the development of sidewalks. The difference is the contours for the area adjacent to the Goodwill property.

MOTION by Ray Fortier, seconded by Marlene McBride to adopt a resolution to approve with conditions the request from Gina Ruggiero, Owner/Paul Swidorski, Swidorski Bros. Excavating, LLC, Operator for a Special Use Permit for Mine, Sand and Gravel for the property on the North East Corner of Cypress and Twelfth Street Parcel #51-673-001-00.

- This permit shall be conditioned on the issuance of any required soil erosion permit.

- The applicant is required to grade the Twelfth and Cypress Street rights-of-way adjacent to the applicant's property as shown on the site plan to an elevation approved by the City Engineer that will provide for the installation of a sidewalk.
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- A minimum performance guarantee of \$3,000.00 plus a minimum \$2,000.00 per excavated acre shall be filed with the City Treasurer before the Special Use Permit will be issued.
- The Special Use Permit shall be issued for a period of five years and shall expire on December 1, 2016.

With a Roll Call vote this motion passed 5 to 1.

Yes: Gustad, Mc Bride, Fortier, Barry, Yoder

No: Crockett

Election of Officers

According to the By-Laws of the City of Manistee Planning Commission their annual election of Officers is held at the December Meeting for the following year.

Chair

At this time the meeting was turned over to Jon Rose who asked for nominations for the Position of Chair. Nominations were asked for three times.

Ray Fortier nominated Roger Yoder for the position of Chair

There being no other nominations, nominations were closed.

With a roll voice vote, Roger Yoder was elected Chair of the Planning Commission for 2012 unanimously.

Mr. Rose turned the meeting over to Chairman Yoder.

Vice-Chair

Chairman Yoder asked for nominations for the Position of Vice-Chair. Nominations were asked for three times.

Maureen Barry nominated Ray Fortier for the position of Vice Chair.

There being no other nominations, nominations were closed.

With a roll call vote, Ray Fortier was elected Vice Chair of the Planning Commission for 2012, 6 to 0.

Secretary

Chairman Yoder asked for nominations for the Position of Secretary. Nominations were asked for three times.

Ray Fortier nominated Maureen Barry for the position of Secretary.

There being no other nominations, nominations were closed.

With a roll call vote, Maureen Barry was elected Secretary of the Planning Commission for 2012, 6 to 0.

Appointment of a Recording Secretary 2012

Once Elected the Secretary may appoint a Recording Secretary to handle the administrative functions of the office.

Maureen Barry appointed Denise Blakeslee to act as the Recording Secretary for the Planning Commission for the year 2012.

OLD BUSINESS

None

PUBLIC COMMENTS AND COMMUNICATIONS

None

CORRESPONDENCE

Chairman Yoder asked staff to draft letters on behalf of the Planning Commission for the new Mayor, new City Council Members and thanking the Lions Club for all their work at First Street Beach. The Commission agreed to have the letters sent on behalf of the Planning Commission and looks forward to working with City Council in 2012 and commended the Lions for their work at First Street Beach.

STAFF/SUB-COMMITTEE REPORTS

Jon Rose, Community Development Director - the Council Ordinance Committee has sent back the Zoning Amendment Z11-01 f.k.a. Z10-05 (Waterfront) for Council Consideration at their meeting on the December 6th along with the two recent amendments the Commission has worked on.

MEMBERS DISCUSSION

Commissioner Crockett noted that the Rehabilitation Center has reopened.

Commissioner Gustad thanked the public that attended the meeting.

The next regular meeting of the Planning Commission will be held on Thursday, January 5, 2012

ADJOURNMENT

Motion by Dave Crockett, seconded by Ray Fortier that the meeting be adjourned. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 8:27 pm.

MANISTEE PLANNING COMMISSION

Denise J. Blakeslee, Recording Secretary