

**ATHENS TOWNSHIP
PLANNING COMMISSION MEETING
7:00 p.m. Athens Township Government Center
Minutes of Thursday, June 22, 2017**

1. *Pledge of Allegiance:* The Pledge of Allegiance was recited.
2. *Roll Call and Introduction of Chloe McGuire Brigl, Zoning Administrator:* The meeting was called to order at 7:05 p.m. by Chairman Dave Beckstrom. Beckstrom formally introduced new Zoning Administrator, Chloe McGuire Brigl. Members present were Dan Woodfill, Marlys Balfany, Cindy Anderson, Jake Carpenter, and Dave Henderson. Also present was Steve Gritman of NAC Planning. Applicants Joe McGuire and Chris Miller of Hardrives Inc. and Oldcastle Materials Midwest, and applicant Craig Bjorklund, landowner, were also present.

The following residents were in attendance: Bob Hanson, Alex Kovarik, Don and Karen Mickelson, Sandra Baribeau, Ron Baribeau, Rocky Larson, Ramona Oberlander, Dean Erickson, Greg Hanson, Jan Palmer, Del Fingel, Mike Parrish, Melissa Domogalla.

3. *Minutes of May 18, 2017:* A motion to approve the minutes as presented was made by Henderson, seconded by Carpenter. Motion carried unanimously.
4. *Open Forum:* Beckstrom introduced the open forum and described the open meeting process. Bob Hanson asked the Planning Commission about the extension status of 253rd Avenue, off of Davenport, near his home. Beckstrom said that he has not heard anything. Henderson suggested contacting Samir Samala and suggested staff call Samala and check on the status of converting his easement to a township road. Beckstrom closed the Open Forum.

5. *Public Hearings:*

- a. *Discussion of the zoning ordinance amendment to clarify residential lot width standard:* Beckstrom asked if there was any discussion. Henderson moved to approve both zoning ordinances at once, Balfany seconded. Karen Mickelson, resident, asked what the ordinance was about. Beckstrom explained that the amendment is a proposed change to the zoning code to make it consistent because there was inconsistency between the necessary amount of frontage on a public road. Most sections said 250 feet, but this section said 150 feet. Balfany added that specifically Section 20-37(e) was changed and was not consistent. A resident asked why there were not handouts and Beckstrom noted that the Planning Commission should have handouts electronically in the future.

Woodfill stated that the wording in the ordinance is not correct, and that it should include “public road frontage” in the ordinance, and not measure frontage at the building setback. Braun said that ordinance is meant to require 250 feet of road frontage and 250 feet at the building setback line. Woodfill also stated that he would like the road frontage added to the discussed ordinance and say “250 or more feet.”

Henderson rescinded his motion to approve both ordinances at once, Balfany also rescinded.

Henderson suggested that the Planning Commission has another work session on the ordinance to ensure it states what they want. Beckstrom asked if this would require another public meeting and notices, and Grittmann noted that the Planning Commission could choose to leave the public meeting open until the next meeting. Beckstrom stated that they will leave the meeting open.

- b. *Discussion of the zoning ordinance amendment for farm animals (chickens and rabbits) on parcels of three acres or less:* Henderson made a motion to approve the ordinance and Carpenter seconded. Balfany clarified the purpose of the ordinance for the audience, and specifically stated that no roosters would be permitted. Henderson explained that the Town has standards for everything except chickens, so this will create those standards.

Beckstrom opened the public hearing and read portions of the ordinance for the audience. Beckstrom noted a grammatical error, Section 20 – 9 (o) should read “garbage **or** any substances which attract rodents.”

Beckstrom asked if anyone was interested in speaking and Balfany noted that this ordinance also discussed rabbits, which are allowed. Resident Karen Mickelson asked where residents will get rid of waste. Balfany explained that the amendment has a section about manure storage, and that it is not allowed within 100 feet of water or 50 feet from any property. She also noted there are duration limits. Resident Karen Mickelson noted that she did not know if this was far enough from property lines, specifically because of the smell and flies. Woodfill noted that the purpose for this amendment was to allow for chickens and rabbits on these small residential lots, mainly for 4H families and children. Beckstrom continued that as the Zoning Code currently lacks ordinances about chickens and rabbits on small parcels, they are not allowed. This ordinance creates standards to permit them.

Beckstrom closed the public hearing. Woodfill noted that item 2 will need to be formatted correctly before entering the code, but stated that he has no problem with the proposed changes. Beckstrom called to vote. Motion carried unanimously with the inclusion of the word “or” in requirement 6 of action 1(a) and the correct formatting when the ordinance is codified.

- c. *Discussion on the temporary placement of asphalt plant (interim use permit), applicant Bjorklund/Hardrives Inc.:* The Planning Commission and applicants discussed the interim use permit application for a temporary asphalt plant on the corner of Highway 65 and 249th Avenue NE.

Beckstrom noted that there were administrative questions he would like to address before discussing the permit. Beckstrom pulled up the ordinance on the screen and stated that the code requires a reclamation plan with an interim use permit application, he asked McGuire and Miller if they had a plan. McGuire stated that he did not have a plan because he did not think it applied to a bituminous plant, but that he would send one over.

Beckstrom noted in the zoning packet that the applicant’s MPCA permit had expired and asked McGuire and Miller about their expired permit. McGuire stated that the permit in the

packet shows it is expired, but that they are authorized to work. McGuire noted that permits are approved by the EPA, and they are not timely, but that they applied for renewal and until the new permit is sent, they can operate under the old permit. The EPA approved the permit in May and they are in the process of sending out new permits, and that he has an email from the EPA stating such. Henderson asked when they will receive the permit, and McGuire stated that they are in the process of sending them, and that no one has them yet. Henderson noted that there is no MPCA approval and would like it in the record. McGuire stated that there is MPCA approval, because they can operate under the old permit and that he will forward the email to staff. He also stated that every five years they run into the same issue.

Beckstrom asked if McGuire and Miller had a permit for stormwater and noted that each site needs a stormwater discharge monitoring plant. Beckstrom stated that he did not see a discharge point on the plan. McGuire responded that once the site is established they modify the plan to show this, but it typically does not happen until you move onto the site. Further, McGuire noted that this plan will be onsite for staff to follow and for anyone that wants to inspect it. This plan is not sent to MPCA, but it is open for anyone to inspect.

Henderson asked McGuire and Miller if they are required to collect the first 'X number of gallons' of runoff off the site. McGuire responded that this is not a requirement, but that there will not be dirty water running from the site, that there will be controls in place to make sure it does not run off, and that their staff takes samples to ensure water quality. Henderson asked for it to be noted that staff should research if collection of a certain number of gallons is a requirement.

Beckstrom pulled up the site map on the screen and noted the placement on the plan on the southeast corner of the field. Braun stated that Google Maps incorrectly labels the roads in this area; Davenport is a north-south road, and not on the south side of the site, as the map shows. The site is on the corner of Highway 65, 249th Avenue NE, and Davenport Street NE.

Beckstrom questioned why the plant was proposed for the southeast corner of the field when there is a residence near the site, and not in the southwest corner away from residents. Miller stated that the landowner suggested the plant be away from Highway 65. Beckstrom noted that the southeast corner of the site is depressed, like a bowl and asked about the issues with this. McGuire noted that there will be a berm, and that this site allowed valuable farmland to stay onsite. After, they will bring topsoil back, which is what the reclamation plan will show.

Beckstrom mentioned that plants are usually put in gravel pits with a clay base and asked if there will be a liner since this site has a sand-base. McGuire stated that it will not need to be lined, all the fuel is in a double wall tank and that they have a spill plan, any other oil brought in they would line but the plant does not need to be lined. Beckstrom asked if a spill would happen, where it would likely be. McGuire said that he has been in this business for over 30 years and never seen it happen. McGuire noted that they secure the site and that the fuel is similar to that of what farmers are using, who also use double walled tanks. Beckstrom asked about the fuel. McGuire stated that it depends on the plant and Miller stated that this plant would have a tank with a burner, and it could be propane or diesel. Miller stated that the tanks onsite are small, 500 to 800 gallons, and that there would be no large amounts of fuel onsite, it would just be for the burner.

McGuire clarified the process and stated that liquid asphalt is mixed with aggregate to make asphalt. He said that if a driver walks away it could overflow but even in the heat of the day, it does not really move. He said it could happen, but it is not likely. Beckstrom asked what the process is if that would happen. McGuire stated that they would pick it back up and run it back through the plant. Balfany asked if they would be using propane since it is quieter. Miller responded that they have not chosen a fuel type yet.

Beckstrom asked where the odor comes from. McGuire stated that the odor is from the mixing process, the heat of the oil and blending it with the rock. Beckstrom asked if the type of fuel matters for odor and if the type of oil matters for this work. McGuire responded that propane burns cleaner but that their choice of fuel depends on the economics at the time.

Carpenter asked what job this asphalt is for. Miller stated that it is for the mill and overlay of Highway 65 from Cambridge to the county line.

Beckstrom stated that he would like to see start/end dates and the hours and days of operation. Miller stated that the MnDOT determines end dates. Henderson asked if McGuire and Miller should talk the Commission through the project before the Commission asked further questions. McGuire stated that this way is a good way to let people know what they are interested in.

Balfany asked how many days a week they work. Miller stated that they try to take advantage of daylight, and that operations usually run from 7:00 am to 7:00 pm, but that it does not continuously run during that time. Operations are based on hauling and it is not constant. Miller said the workweek is Monday through Saturday. Balfany asked if a start time of 7:00 am meant they were heating up the plant at 6 am. Miller said that they have different permits that read different ways, some say no mixing or truck traffic before 7:00 am, some let them go in a half hour early to have trucks or certain things happen before the mixing start time. McGuire continued that they have to have their workers off the road before it gets dark, so that really dictates the stop time.

Beckstrom handed the Commission and staff a handout of an Isanti County permit with conditions, and asked them to look through and see if they thought any of the conditions would fit this project.

Balfany asked how many trucks they expect in and out per day. Miller stated that on this site they would bring aggregate and millings in and then have asphalt leaving. He stated that realistically there would be a couple hundred truckloads a day.

Henderson stated that the public hearing is for temporary placement of asphalt plant for interim use but that the permit request is for a conditional use permit, which runs with the land permanently. Balfany noted that she also saw this. Henderson also noted that the zoning requirements say that the applicant must be the landowner and that the applicant is Hardrives Inc., and not the landowner. Beckstrom stated that both should sign the interim use permit if granted. Henderson stated that because the application in the packet is for a conditional use permit, the public document is incorrect and is incomplete.

Braun stated that the notice in the paper is for an interim use permit, which is correct. Henderson stated this application has two issues, that the ordinance requires the applicant to be the landowner and it should be an interim use permit and not a conditional use permit. Henderson stated that this is an incorrect application.

Beckstrom stated that the document can be changed and signed for an interim use permit. Grittmann added that because the public notices were correct, then the Planning Commission can discuss it as such. Henderson said that because the application is correct, if they approve it, then they will approve a conditional use permit. Grittmann noted that the action by the Commission would be for an interim use permit. Beckstrom noted that they can amend the application to say interim use and that the permit would have a duration on it.

Henderson stated that the applicants should reapply, because it is an incorrect application. Carpenter stated that he thought that was a waste of everyone's time. Carpenter asked if Henderson was suggesting that once they apply correctly everyone comes back. Beckstrom asked what Grittmann's opinion was. Grittmann stated that the Commission could act on the permit as they see it, if they want to see it as an interim use permit, then that is within their considerations but they could also call it back; they have the discretion to go forward with it or not. McGuire added that he made a mistake on the application checking the wrong box.

Beckstrom polled the Planning Commission. Carpenter stated that he thought it was mistake on the application, because so many people showed up and it is a waste of time to throw it out, he suggested they change it and move on. Anderson agreed with Carpenter. Balfany stated they need an end date on this permit for legal reasons. McGuire added that MnDOT has a tentative end date of July of 2018. Balfany asked what the applicant's other projects are. Miller responded that there are other projects they could do out of this plant while it is in operation, and that there are other projects that fall into this time frame in Isanti County that could be paved out of this plant. Woodfill stated he thought the Commission should continue discussing the project as an interim use permit. McGuire suggested he scratch it out, change it, and initial the application. Beckstrom stated that the majority of the Commission thinks they can change the application and get it resigned. Miller noted that the landowner has signed the application, as well.

Beckstrom asked Grittmann if the landowner and the user of the site should both sign the application and asked for clarification on the process. Grittmann stated that yes, that is the protocol; he continued that if someone had a purchase agreement they can sign the application as well as the property owner.

Balfany asked about the plant's location and asked why it is not closer to Highway. Bjorklund noted that they wanted it out of sight, out of mind, and that they did not want to cause accidents. Further, they did not want traffic issues.

Beckstrom noted that there are turn lanes in both directions on Highway 65, in terms of handling traffic. Woodfill noted that there is not a turn lane on south Highway 65. McGuire clarified that when they operate, one side of Highway 65 will be closed and aggregate trucks will be on closed highway. Beckstrom asked for clarification. McGuire said that the state will

close two lanes and traffic be moved to one side, the reconstruction will operate on the side that is closed and trucks will haul on this site, so they will not impact traffic.

Beckstrom asked if the intent is to use 249th Avenue NE and not 253rd Avenue NE. Miller and McGuire confirmed that is correct.

Henderson stated that he is unclear why they chose the location for the plant, and asked if they could put it near the highway. He stated that there is a landowner right next to it, but no landowner next to it when it is on 249th Avenue NE and Highway 65. He also noted that they could make their own turn lane into the plant so trucks do not stack.

Beckstrom stated that it looks like the flow for the plant is that trucks enter on one side and exit out the other side and noted they may need to add access points. Beckstrom asked Jim Braun if a driveway permit would be required and Jim said it would not.

Anderson asked when this will start. Miller stated August. He continued that one direction of Highway 65 will be done prior to Labor Day and the second part will be done prior to winter close. The rest of the job will complete in the spring, which is why there is a July end date.

Henderson asked if they would move the plant to the southwest corner of the site. McGuire said operationally, yes, but they are leasing from the landowner. The landowner stated that they want it where the application shows. Henderson stated that they could put in a frontage road to solve traffic issues the landowner is concerned about it. The landowner said they are decided on the location. Henderson asked if they would move the location if it was a condition. The landowner responded they would not, they farm the land in the southwest corner. Henderson stated that he understands that, but that the neighbors next to them will have to listen to this. The landowner stated that it does not matter where the plant is sitting. Henderson stated he thinks distance makes a difference for crushing sounds. McGuire added that there will be no crushing. Henderson voiced concern about the noise. McGuire and Miller added that this is just a plant and there will be no crushing.

Miller described the process. He stated that there will be aggregate, shown by the red piles on the application, and that the intention is that the site will be burned, stockpiles will be put on the north and east boundary, and those will be stockpiles of rock and recycled asphalt. The stockpiles are put into feed bins and the mixing drum and hot asphalt is injected. Asphalt comes up and goes into the storage silo and is loaded into trucks.

Beckstrom asked if any mixing takes place in the winter, or if it stops. Miller said it stops in the winter. Beckstrom asked if it starts back up in the spring and goes through July, and Miller confirmed.

Henderson asked if there will be a bond for additional cleanup. Henderson also stated that he would like to have this address the evaluation of the homes temporarily, and that he believes they need a permit from MnDOT to put additional trucks on the road. Miller stated that they are working on the MnDOT project.

Henderson stated he has concerns about stormwater runoff, well-water contamination, and containing odor. McGuire said that in these plants, the new ones, you almost have to see the drum turning to make sure it is working, and that you will not see anything coming out of the stack unless it is cold and then you will see steam. McGuire continued that all plants are monitored by the state for air quality for contaminants and they issue the permit because the project will not impact health and welfare.

Henderson stated that hydrogen sulfide is a carcinogen. McGuire said there are no carcinogens, and that the state regulates this on the permit. Henderson said that he has a document on the Roseville facility. McGuire and Miller said there are different types of facilities and asked what this one was. Henderson stated that he is talking about the Ramsey County Plant in Roseville, and that their permit says that there is a maximum decibel level of 60 and that there is a potential of combination of burning of fluids giving off hydrogen sulfide which is a carcinogen and that particulates have to be less than 30 ppm.

McGuire responded that a baghouse and burning of fuel minimizes those and it will not have an impact on health. He continued and described the air dispersing model. He also described that the MPCA issues permits and monitors emissions; he stated that if there was a health impact, they would not have a permit. Henderson asked how you measure H₂S. McGuire responded that every stack has a stack test done by engineering consultants and they measure what is coming out. Henderson asked if the Township could measure the emissions themselves, and McGuire confirmed they could.

Henderson asked McGuire what the decibel rate was onsite. McGuire stated that as a company, they are required to act around 80 decibels, but individually a chainsaw is 120, ambient noise around the site is probably 65 decibels with the wind, a sports bar is at least 70 decibels and a tractor can be up to 90 decibels. He also stated that distance mitigates the noise in a logarithmic fashion, it drops off quickly as you get further away.

Henderson asked what noise would leave the site, and McGuire responded essentially none. Henderson asked if employees wear ear protection, McGuire responded yes, if it hits 80 decibels. Henderson asked if there was a possibility of the site being odorless. McGuire responded that the odor is from the burning process and disperses quickly. He continued that the odor does exist, but that it is generally not a problem. A resident asked what it would smell like if the plant was burning for twelve hours. McGuire responded that it will not run for twelve hours.

Miller stated that one of the considerations in choosing this site was that there were no neighbors south or east of the site. Winds come from the north or west, generally, so odors should dissipate without hitting a home. Beckstrom noted that the home is around 900 feet from the plant. Henderson stated that it is closer; Beckstrom confirmed that the plant would be situated more central onsite, and while there are no dimensions on the site plan, it is approximately 900 feet using an aerial map. Miller stated that the site is approximately 12 acres. Henderson asked if there is a standard distance that a plant should be from a house. Miller responded no. Henderson asked if this meant it could be right next to a house, Miller responded yes.

Beckstrom asked if the Planning and Zoning Commission had any further questions. There were no responses. Beckstrom described the public hearing process and asked residents to limit their questions or comments to two minutes and to address the Commission directly. Beckstrom opened the public hearing.

Public Hearing

Darlene Henderson, Davenport Street. Mrs. Henderson noted that her concern is the location of the plant. She stated that by adding berms on 249th Avenue NE and Davenport Street NE, it will be a blind corner. She stated that she does not understand why the plant would not be moved west and a driveway put in for trucks. She continued that she believes it is dangerous as it is placed now and that there is traffic on the corner. Further, it is the only south exit for residents. She asked the Commission to please check the location.

Beckstrom asked how tall stockpiles are. Miller stated 15-20 feet in height. Mrs. Henderson stated that this will block the road.

Greg Hanson, 24771 Aberdeen Street NE. Hanson stated that he works with MnDOT and that once construction starts, there will be signage, but that people will be confused. He asked if it will be 30 or 40 mph. Miller did not know. Hanson continued that there will be a state inspector and that if something goes wrong right away, they will now. Hanson asked about signage. Miller responded that signage is not their responsibility, but that there will be signage. Hanson stated that the road is junk, that it has been patched together for 10 years and that it has to get done. He continued that they have complained about this road for 15 years, and that the base was put down when he was in Vietnam. He said that there will be traffic and confusion, and that everyone needs to watch out for each other because there have been fatalities from road construction, so everyone needs to slow down and know what they are doing so they can get the road built.

Henderson asked what happens at 4 or 5 pm in traffic. Hanson responded that he thinks it will be backed up to 200, but that no matter where the plant is, it will be congested. Hanson stated that he just wanted to give everyone a heads up, there is no easy way to get around this, but we need to get the road done.

Melissa Domogalla, 25225 Davenport Street NE. Domogalla stated that she disagrees with the Planning Commission about rewording and initialing the permit to say interim permit instead of conditional use permit. She also asked how residents will cross Highway 65.

Bob Hanson, 1649 253rd Avenue NE. Hanson asked who was going to maintain the road. He also asked how long residents will be backed up if they want to go south on Highway 65. He stated that he would not think MnDOT would allow this. He said that it is a safety hazard unless you put a stop sign there, which no one wants.

Rocky Larson, 1050 249th Avenue NE. Larson stated that he lives a quarter mile away from the plant, and that he thinks you are going to smell it when you are downwind. Further, he thinks there is a better location. He said he likes nice roads, but asked the Commission if there has been research on locations.

Beckstrom stated that no one wants the plant, but everyone wants the road. He also said that it is on agricultural land, which is not meant for a house, but meant for farming and machinery. He said that there are few close locations, and that this is a very decent location compared to others in the County. Larson stated that this use needs to be temporary.

Beckstrom stated that if this use is voted on, the Commission will have very specific conditions and a duration, a start and end date, days of operation, times of operation, and that the Commission wants to hear the residents' thoughts first, but that this permit would not be open-ended, it would be an interim use.

Jan Palmer, 25248 Lincoln Drive. Palmer stated that she has not seen the application, but that it is her understand that it is for one year and possibly another. She stated that Chapter 20 states that an interim use for a bituminous plant says not to exceed one year and that if the Planning Commission or Town Board tried to extend it past one year it would require a change in ordinance. Woodfill and Balfany noted that the ordinance does say you can extend it one year, and Palmer noted this correction.

Palmer referred to resident Larson and noted that this project is from Cambridge to 249th Avenue NE. She asked if there was a better place for the plant, such as in the middle of the stretch of road being reconstructed, or on another piece of land Bjorklund's owns. She stated that on their other site, they are crushing things and there are already no homes around it.

Sandy Baribeau, 24875 Lincoln Court NE. Baribeau said that she got word there would be a new development, and asked if they would still build if this happens. She also asked what would happen to her property values. Beckstrom stated that he did not think it would change development plans. Baribeau stated that the Commission should consider the diesel smell of 200 trucks a day and the noise of that. She asked if there was a Town ordinance about this. Beckstrom stated that by State Statue, only the EPA can regulate noise and that the statue specifically states that no Township, City or County may regulate sound levels. He stated that the EPA has a guide specifying how sound is to be measured and what levels are allowed based on the type o zoning, and that it is entirely under their purview. He said that the Town cannot limit noise, they do not have the authority.

Mike Parrish, 1030 249th Avenue NE. Parrish asked what happens if there is seepage, or a spill, and what happens to those close in this situation. He also asked if trucks will use 249th Avenue NE. He stated that people use 249th Ave as a racetrack, and that he does not want trucks driving there, because it will ruin the road. Parrish stated he understands that it needs to get done, but wants to make sure it is an interim use, and that after one year, the plant is gone.

Alexandra Kovarik, 25297 Davenport Street NE. Kovarik stated that she agrees with some of the conversation that this going up to Cambridge and she understand he wants to use his property, but she thinks there are other places on Highway 65 that could work. She stated that this is a horseshoe and there are 3 sharp turns on this road. She also thanked Beckstrom for driving the area before the meeting.

Kovarik continued that on the three turns on the road, there are only 9 houses, but that 6 of 9 houses have kids or grandkids over quite a bit. 13 children under the 9 of nine are on that road, and they have the woods and a dirt road for the kids to play and ride bikes, ponies on. She noted that this road is her only access to get south, and that it seems like a lot of truck traffic for this many kids. She stated that she wants to keep her children safe, and that the dirt road is where they play.

Karen Mickelson, 25122 Lincoln Drive NE. Mickelson had five comments. First, what is her access to Highway 65 – how does she get on, and how can she get south. Second, she stated that no one will stop for her to get onto Highway 65, and that she will sit there for hours. Third, she voiced concern about the dust coming over to her come; the wind does not always blow south and sometimes it blows north, which means she will get the smell and dust. Fourth, she asked how she will get across Highway 6. Fifth, she stated she has well water, and all neighbors have their own wells, and she does not want it contaminated and she does not want to pay to have it replaced.

Del Fingel, 24870 Lincoln Court NE. Fingel stated that he has hauled asphalt in Blaine and Saint Paul and that he does not know the kind of plant they are using, but theirs were noisy and stinky and that it trails in with the trucks. He stated that he does not know if the applicant will do treatment on the roads for dust control or if they will blacktop it out to Highway 65 but it could be a lot different place that they would choose for this. Fingel also stated that ‘money talks.’

Darlene Henderson, 25151 Davenport St NE, asked if there have been studies on the animals. She stated that this site is 50 to 100 feet short of the Cedar Creek Game Refuge. Braun stated that they were notified. Mr. Henderson stated that they have not responded. Mrs. Henderson asked if that meant there had been no studies on the animals and asked the Commission to please keep that in mind.

Jan Palmer, who previously spoke, had two additional comments. First, she thinks it is odd that a family complained about an event center on a paved Township road because it was residents because kids ride bikes, but that they are willing to put a plant on a gravel road and risk contamination. Second, she stated that she has her house for sale and asked who will want to buy it when it stinks like asphalt.

Ramona Oberlander, 25164 Lincoln Drive NE. Oberlander stated that she is Palmer’s neighbor and that she will never be able to sell her house. She said that they pay a lot of property tax and that if she pays that much property tax she wants to be supported.

Karen Mickelson, who spoke previously, stated that she agrees with Oberlander and Palmer, and that she hopes the Commission considers what they say and remember that they pay the Commission’s wages.

Beckstrom asked if there were any additional comments or questions from residents. Hearing none, Beckstrom closed the public hearing.

The Commission discussed the existing road conditions. Woodfill asked what the width of the road is. Beckstrom stated that he measured portions of it, and paced it out, and it is 23 to 24 feet, and there seemed to be 8 or 9 inches of gravel, which is more than he expected and it seemed suitable for driving. Beckstrom stated that he assumed a condition, if the Commission moves forward, would be a bond to repair the road at the end of the project, and the maintenance of the road during the project.

Balfany stated that a lot of residents asked how they would get out, and that they need to go down 249th Avenue NE to get to Highway 65. She asked if the road was wide enough for trucks and personal cars. Beckstrom stated 23-24 feet is standard and it should be okay. Balfany asked if it would be okay with 200 trucks. Anderson asked if they could go up north to 253rd Avenue NE to access Highway 65. Beckstrom said that it is an inconvenience, but at least it is an option to go to 253rd Avenue NE. Balfany asked Anderson how she thinks it would work, since she is a bus driver. Anderson said that they will slow down. A resident added that there is no access south on 253rd Avenue NE onto Highway 65.

Woodfill asked how they settled on this site. Miller stated that they pursued this site for the reasons they have talked about, and that he understands the concern and that there are neighbors, but there are no sites with no neighbors. He stated that there is farmland to the south and wildlife to the east, few neighbors, and it is permitted here, which was also in their consideration.

Beckstrom stated that the County permits this use as well, so the Town is in compliance. Beckstrom added that if the Planning and Zoning Commission does not want to vote it through, it must be because of something that cannot be mitigated, such as health or safety, and that there are guidelines for this.

Carpenter asked if where the applicant berm up topsoil on the corner of 249th Avenue NE and Davenport Street NE, if it will be out of the right-of-way. McGuire responded it would be. Carpenter stated that this will not affect how the residents travel on the road, and Miller agreed. McGuire stated that they can keep the stockpiles back and will keep it out of the right-of-way. Carpenter said if residents are traveling at a reasonable speed and it is out of the right-of-way, it is not a worry. Carpenter also noted that if they approve this, one of the conditions should be no truck traffic on Davenport Street NE and on 253rd Avenue NE. Carpenter asked if there will be trucks west of the highway or on 249th Avenue NE and Woodfill asked where trucks will be, since he has heard concern about them. Miller stated they will be going up Highway 65 and will not be on side roads.

Carpenter asked if there will be no noise onsite, since they grind the asphalt on the road and the material onsite is already ground. He also asked if they are just burning online to heat the asphalt. McGuire confirmed that is correct. Carpenter asked what the water onsite would be, such as a temporary well. McGuire stated that any water onsite will be brought in, and that he is not sure where they will get it from, but it is usually the City. Carpenter asked if there will be a water truck for dust control. McGuire stated there will be a water truck onsite. Miller added that he assumed that it would be a condition, since it is standard.

Carpenter stated that he is not worried about fewer hours, and that 7 am to 7 pm seem fine, since it is a short annual operation, they should take advantage of the daylight to get the project done.

Henderson stated that there should be a condition to have a bond for cleanup and asked how much it should be. Beckstrom stated that he spoke to the applicant earlier to see if they will need to put gravel on the road after, and that they calculated 3 inches of gravel on the road would be \$3,000 to \$5,000, so a bond, if he is just throwing out a number, could be \$15,000 to \$20,000 and it should cover most things.

Henderson asked about a residual cleanup bond. Beckstrom stated that a condition will have to be a reclamation plan, since it is required. Henderson asked if they should have a bond for that, and what is reasonable for it. McGuire stated that bonds are usually \$35,000 to \$65,000. Henderson stated that if there is groundwater contamination it should be higher and asked McGuire and Miller what they would put in a bond for that. McGuire stated that groundwater contamination will not be an issue.

Beckstrom stated that a condition could be the cleanup of the site, reclamation of the site and road, and they can put a dollar amount on that. Grittmann added that a bond is usually based on an estimate from the Town Engineer based on risk. Braun added that Bridgewater had a \$50,000 bond for reclamation and cleanup. Beckstrom added that there are copies of other conditions in the packet, and that the Commission can review them.

Henderson asked how you face the devaluation of homes. Beckstrom responded that you cannot address that as a condition.

Henderson stated the duration should be July 2017 through August 2018. Beckstrom added that they could do something similar to what the County did. Henderson said that there should be a condition placed on sound levels. Beckstrom responded that they cannot regulate sound levels. Grittmann added that the condition can state noise levels cannot exceed allowed PCA levels.

Henderson asked McGuire and Miller if they can do without working on Saturdays. Carpenter responded that no Saturdays would extend the project. McGuire added that days get short, and if they have to live with noon on a Saturday they will. Carpenter added that he would not limit Saturday.

McGuire and Miller stated that they submitted a tank plan to Braun, because once takes exceed a certain amount, they require a plan. Henderson asked McGuire and Miller if the plant would use propane and not oil. Miller requested that they not be limited by that. McGuire stated that they can put additives in the mix to limit the odor, and would be happy to do so to be good neighbors. Henderson asked the landowner, Bjorklund, if he would move the plant. Bjorklund said no.

Balfany noted that the County permit, included in the packet as an example, had a condition that the site be non-lighted. She asked if this plant would be lighted. Miller stated no, they only need lights if operating when its dark.

Bjorklund stated that the days get short, and they have around 100 days to pave, and that they fight the weather to make a better highway, which is terribly needed. He stated that he is trying to be a good neighbor, because they have the extra acreage.

Beckstrom noted that they need a reclamation plan, and that this needs to be done when they go to the Town Board. He asked Gritman if they can vote on the permit without it. Gritman said that is at the Commission's discretion, that they can pass it or ask to see it. Gritman stated that some would just say to submit it for Town Board review with an understanding that the land be returned to the original state.

Beckstrom noted that if they deferred the vote to get a plan, it would not go to the Board until August. McGuire added that they can have a plan to Braun by Monday of next week.

Beckstrom noted that many Commission members seem to want Saturday hours, except Henderson, and that they seem to like the Bridgewater conditions, but want to add a few.

Miller noted that it will take a couple weeks of work to get the site up and running, and added that there will be a need to keep fuels and oils hot so there will be something onsite running 24 hours per day.

Woodfill asked if this is a gated plant. McGuire said they generally do not, but they do have kids biking on stockpiles, and that they do not encourage it, but that it does happen. He said generally it is not a problem, but stated that he will add a gate if the Commission wants and that it will keep honest people out.

Balfany asked if there needs to be a permit for set up, since the permit is for operation. Braun noted that the cleanup time in the permit is 6 months and not included in the permit. Gritman and Beckstrom discussed a development contract, that the Township would provide, and would work with the Town Attorney to make sure it includes the necessary conditions.

Beckstrom asked if they would be willing to do some paving for the Township. McGuire stated that he thinks that would have to go through the bid process, but that this plant being so close would cut down on costs.

Beckstrom read through the conditions used in Bridgewater's permit, and the Planning Commission edited them as necessary, including changing the hours and days of operation, and adding specific conditions for Athens Township. Dave read through conditions listed below.

Woodfill made a motion to approve. Balfany seconded. Motion carried unanimously.

Conditions:

1. The permittee shall comply with all the rules, regulations, requirements, or standards of the Minnesota Pollution Control Agency (MPCA), Minnesota Department of Natural Resources (DNR), Army Corps of Engineers, Osha, and all other state or local agency requirements,

including those for environmental and personnel safety requirements. Site must comply with State sound regulation as specified by the EPA.

2. There shall be no truck or vehicle traffic associated with this project on Davenport Street NE or 253rd Avenue NE. There shall be no truck or vehicle traffic associated with this project on any streets west of Highway 65.
3. The applicant shall maintain 249th Avenue NE throughout plant setup, operation, and site cleanup, including gravel maintenance and dust control as required.
4. Dust abatement methods shall be required and enforced when:
 - a. Working within the site.
 - b. Hauling from the site.
 - c. Hauling from the extraction site to the nearest road.
 - d. Plant is in operation.
5. The interim use permit is to allow for a temporary asphalt plant and shall be valid from August 1, 2017 to August 1, 2018. Permit expires August 1, 2018. The applicant shall have 6 months from permit expiration for site cleanup and restoration.
6. The hours of operation shall be limited to 7:00 am to 7:00 pm, Monday through Saturday. There will be no work on Sundays. Warming of equipment shall be allowed 30 minutes prior to starting hours, there will be no truck traffic or mixing during the warming period.
7. The applicant or operator shall furnish an eighteen-month, \$50,000 bond for site restoration and cleanup, road repair, and groundwater contamination. All bonds shall be reviewed and approved by Athens Township before any work.
8. Applicant to be responsible for repair of any County, State, or Township roads adjacent to the site due to damage from hauling and/or traffic from the site. Roads to be restored to their original conditions after the interim use permit expires and the asphalt operation ceases.
9. This is a non-lighted operation.
10. Applicant to provide site reclamation plan prior to Township Board review; site to be returned to original condition within 6 months of project end date. Applicant to restore site to its original condition.
11. No site preparation to begin prior to Board approving interim use permit or prior to July 11, 2017.
12. Plant must at all times have a current MPCA permit(s) and be in compliance with MPCA permitting, inspection, testing, and reporting requirements.
13. Athens Zoning administrator has permission to make unscheduled on-site inspections to check for any environmental and safety issues.

14. All parties, including Township, Owner and Operator must enter into a development agreement (contract) clearly stating the terms of the permit.

15. Plant will be gated.

16. Applicant to strictly adhere to all Athens Township codes and ordinances.

Failure to comply with this condition is grounds for revocation of the interim use permit.

6. *Old Business:* There was no old business.

7. *New Business:* There was no new business.

8. *May Permit List:* Braun stated there are 3 houses and a shed on the May permit list.

9. *Adjournment:* Beckstrom motioned to adjourn the meeting. Carpenter seconded. Meeting adjourned at 9:55 pm.

Approved by the Athens Town Board the 4th day of August, 2017. Signed on this 11th day of September, 2017.

Town of Athens

By: _____
Dave Beckstrom, Planning Commission Chair

Attest:

By: _____
Diane Carpenter, Clerk

Prepared by:
Chloe McGuire Brigl
4150 Olson Memorial Highway, Suite 320
Golden Valley, MN 55422