

**ATHENS TOWNSHIP
PLANNING COMMISSION MEETING
7:00 p.m. Athens Township Government Center
Official Minutes of Thursday, August 17, 2017**

1. *Pledge of Allegiance:* The Pledge of Allegiance was recited.
2. *Roll Call:* The meeting was called to order at 7:02 p.m. by Chairman Dave Beckstrom. Members present were Marlys Balfany, Cindy Anderson and Dave Henderson, and Zoning Administrator Chloe McGuire Brigl. Also present were applicants Frank Feela and Mark Master, and certified arborist Adam Gerber.

The following residents were in attendance: Jacob Bostrom, Jerry Koepp, Bob Svare, Curtis Cady, Chuck Davidson, Dean Thompson, Tom Hanson, Bill Barnes, Terry Van Vleet, Barb Wicklander, Vince Charles, Tyas Randall, Tom and Pat Chermack, Diane Bjorklund, and others who did not sign in.

3. *Minutes of June 22, 2017:* A motion to approve the minutes with the following adjustments was made by Henderson, seconded by Anderson. Motion carried unanimously.
 - a. *Adjustments:* Correct spelling of resident ‘Del Fingel’ on pages 1 and 10.
4. *Administration:* Beckstrom noted that the public hearing from the previous hearing on the zoning ordinance update to require 250 feet of frontage on a public road was left open and asked the Planning Commission what next steps should be taken. Beckstrom clarified that the update was to make the code consistent, as it currently states ‘150 feet’ in one area and ‘250 feet’ of required frontage in another section. Henderson stated that the thought the Commission decided on 150 feet, and that he believes the frontage requirement should only be 200 feet, since the County only requires 200 feet. Balfany stated that Jim Braun presented it as changing it to 250 feet since there were conflicting lengths in the ordinance. Balfany asked if the Town could use keep the public hearing notice open and change it to 200 feet. Because the public hearing for 200 feet of frontage would need to be re-noticed in the paper, Henderson motioned to close the June 22, 2017 public hearing on 250 feet of frontage. Anderson seconded. Motion carried unanimously. The Planning Commission agreed to discuss the topic further in a later meeting, likely in October or November, when there are no other lengthy planning applications on the meeting agenda.

Beckstrom also updated the Planning Commission and residents on the outcoming of the previous Town Board meeting. At the last Town Board meeting, the Board of Supervisors granted an Interim Use Permit to Hardrives for a temporary asphalt plant. He described that the conditions on the IUP were similar to those the Planning Commission recommended, though the Board updated the hours of operation on Saturdays to only allow work until noon. Dave also noted that he made a motion to put a moratorium (or interim ordinance) on blacktop plants until the Planning Commission can take a further look.

Beckstrom also noted that he attended the City of Isanti’s Zoning Meeting on the Cox property that was annexed from Athens Township. He wanted to get it on the public record that they own the road in front of the property they annexed. He also gave them a copy of the MSA engineering report about safety issues related to the use of the annexed property and gave a recommendation that the application should pay to add turn lanes on the road. He noted that by state statute, the portion of the road in front of the annexed property belongs to Isanti. Additionally, he noted that the Board

approved the use at the meeting without adjusting conditions, so he is unaware of what conditions were put on the use, if any.

5. *Open Forum:* Beckstrom introduced the open forum and described the open meeting process. He also asked residents to sign in on the attendance sheet for the public hearing section of the meeting. Resident Robert (Bob) Svare asked about zoning meetings, and if the Planning Commission must send letters to residents. Beckstrom responded that residents within a quarter-mile of any planning application are sent a notice. Svare asked why he did not receive a notice for tonight's meeting. McGuire Brigl responded that tonight's public hearing is for a zoning ordinance amendment, and is not for one specific property, so no public mailing was necessary, but that the notice was on the Town Bulletin Board and in the Isanti County News. McGuire Brigl described the public hearing for the meeting, that being a zoning ordinance amendment that would affect the entire Town if it were to be adopted.
6. *Public Hearings:*

- a. *Zoning Ordinance Text Amendment – Mulching, Wood Products on a Residential/ Agricultural Lot:* Beckstrom requested McGuire Brigl describe the purpose of the public hearing to the audience and Planning Commission. McGuire Brigl noted that at any time, any resident may apply for a zoning ordinance text amendment. She described that tonight's meeting was for a zoning ordinance text amendment to allow for the application of wood products on an agricultural/residential field less than 1 inch in diameter. The board may consider this as a primary or accessory use. Tonight's discussion is about whether or not the Planning Commission would recommend or consider changing the Zoning Ordinance to allow for this use. She described the Planning Commission options during tonight's meeting, including recommending approval of the zoning ordinance to the Town Board, whether that be as a permitted, accessory, conditional, or interim use, tabling it until another meeting with additional research, or recommending denial to the Town Board. McGuire Brigl stated it were approved as a conditional use, anyone wanting to do this would have to come back to the Planning Commission and Town Board in order to receive that permit. Tonight, no one will get permission to do anything on a specific piece of property, instead it is a discussion about whether or not to change the Town Code, and the Town Board has final decision over that.

A resident asked for clarification on the request. McGuire Brigl read the application, which stated, "to allow for composting of grass and branches under 3 inches in diameter on an agricultural or residential field." In Athens Township, residential or agricultural lots are all lots not zoned commercial. She explained that after working with the applicant about their specific use, the hearing notice was for branches less than 1 inch in diameter and essentially the wood product would be spread across a property.

A resident asked what the ordinance states now as it relates to this use. McGuire Brigl responded that the ordinance does not specifically mention this use, though because the code states if a use is not mentioned, it is prohibited, the use is prohibited at this time. If something is not mentioned in code, it is not allowed, and that is where this use falls.

Beckstrom explained that the applicant is requesting an ordinance change. Beckstrom asked the applicant if someone pays them to dump chips on this property. Feela responded that no, the owner of the company has come to him to help him find a piece of property for the use. Beckstrom asked who would own the property. Feela responded by handing out a packet of information to the Planning Commission showing a picture of a barrell grinder, and

information on the company. He informed the Planning Commission of what the company does. The company is paid to pick up grass clippings and wood for 20 cities, and they bring them to a transfer station in Brooklyn Park where it is grinded into mulch of less than 1 inch around. They have a permit from the Department of Agriculture to haul anywhere in the state.

Balfany asked if the wood products are infected, because Hennepin County is in the Emerald Ash Borer quarantine area. Feela introduced Adam Gerber, certified arborist. Gerber explained that they are not infected, and that everything is screened and checked by the Department of Agriculture. They currently have a one-year permit to haul, and everything is loaded into a trailer after the grinding in Brooklyn Park, and they will truck it to Athens Township, spread it on the field, and till it in. If they pass the probationary period of one year, they will receive a three-year period.

Balfany asked again if they were diseased, and Feela responded no, they are not diseased. Gerber stated that they have a permit from the Minnesota Department of Agriculture to haul these products across the state. Beckstrom asked if the idea is that wood products less than one inch in diameter do not allow Emerald Ash Borers to complete their lifecycle. Gerber stated that is correct. A resident interjected that this is just a theory, and Beckstrom confirmed. The resident, who did not state their name, stated that theories are incorrect all the time. Gerber stated it is the Department of Agriculture's theory.

Beckstrom asked if they go through a mesh to make sure they are the correct size. Gerber stated he believes so. Beckstrom stated he thinks this is important to know if it is sized. Mark Master with Curbside Waste stated that the grinder machine has different sleeves you slide in to get your preferred size. The grinder will have a sleeve to make sure everything comes out to one inch in diameter. He also noted that they are randomly inspected by the Minnesota Department of Agriculture, and that the grinder is only run approximately 5 times per year. Master continued that ninety-nine percent of what they are grinding and mulching are leaves and grass clippings, which are then used to fertilize the soil in Athens. Master said they are subject to size requirements at all times. Balfany asked why they do not sell it as compost.

Henderson asked who Gerber is. Gerber responded that he is a certified arborist and works for his own company, and is working with Master Family Investments. Henderson confirmed that Master, Feela, and Gerber are the three applicants in attendance related to the use.

Beckstrom asked about Oak Wilt, Dutch Elm Disease, etc. and asked if they can be transported. Gerber responded yes, they can be transported, and they are already in Athens Township but they cannot grow on the small wood chips. The chips will be dry and diseases cannot grow there.

Anderson asked if there will be bugs. Gerber responded yes, but they will die, and only one percent of the product will be wood. Since the Ash Borer is a bug, it would die on the wood chips.

A resident, who did not state his name, asked the applicant if they can take the wood out of the product and just bring grass and leaves. Master stated that it is going to be ground up so fine that it will not matter. 99 percent of it will be grass and leaves, and it will be one trailer load a week, if that. The resident and applicant argued, and Beckstrom asked them to wait until the public hearing opens.

Henderson asked what the entire process is, including traffic and number of trucks, and asked the applicant what it would look like in a year from now. Masters responded that they will collect the grass and wood products, bring it to Brooklyn Park, the state will check the first five loads to make sure it is safe and compliant, and then they will bring it up to Athens. There will be one load a week in April, May, and June, and they will dump it on the field, let it compost, and then till it under. In September and October, they will have three loads a week, a trailer has a conveyer system and it will pump it off, and the field will be tilled. It is low in the spring, they till it under. It will be a 53-foot live floor semitrailer, with a 160 cube trailer. The trailer would hold approximately 15 to 20 garbage trucks full of grass clippings. The State has issued them a permit to haul, so he stated they want to do it safely and do not want to affect the township. A resident, who spoke earlier and did not state his name, stated that he knows they are saying only 1 percent of the product is wood products, but he has a letter from his mother that states he only has a 1 percent chance of being alive and he's here. Master responded they have a permit, and so do many others. Many do what they do, and that they want to do it safely. The resident responded there is a one percent chance and that his grandkids will live here. McGuire Brigl asked the resident to wait to speak until the public hearing.

Balfany asked what is preventing the grass clips from blowing it off, and how much of the chopped-up leaves will blow onto someone else's property. Feela stated they have a big property, 70 areas. A resident, who did not state her name for the record, interjected that it will be dumped on a wetland they live next to. Feela said there are not homes close to the property they are considering. They specifically chose the property they are looking at because it is so large and does not have proximity to many homes.

Beckstrom stated that he buys a lot of compost and that they are not allowed to wood products because it smells so badly, so he can only buy food compost. Beckstrom stated that he thinks they should consider odor. Gerber stated there will not be odor.

Henderson asked about noise. Feela stated the only equipment onsite is a front-end loader. Masters responded that they will be there midday, Monday through Friday, and never on weekends or evenings.

Henderson asked why drive it up to Athens Township, and why not do it in Anoka County. Masters stated that he likes the property here, and he wants to deer hunt here. Henderson stated it seems more economical to do it close to the operation in Brooklyn Park. Feela said there is not enough land in Anoka County. For the property they are looking at, there are no homes close to it, and property like this does not exist in another County.

Anderson asked how long they have been doing this, and Masters responded that his family has been in the waste business since the 1950s. Balfany asked how long they have been doing this specific use, just yard waste. Masters responded since 2000.

Henderson asked where they have been taking the product. Masters said multiple vendors, including in Rosemont, Maple Grove, Elk River, and that many of these places have homes nearby. Feela stated that those products are transferred as a whole and shipped to different counties, while this product would be ground. Masters clarified that they do not take trees, only twigs, and they will not take stumps, the trucks cannot handle them.

McGuire Brigl described the public hearing process and asked the residents to state their name and address for the record, and to sign in on the sign-in sheet. McGuire Brigl stated that

the public hearing is for a zoning ordinance amendment, so comments need to be directed at the ordinance amendment and not at the specific piece of property they are considering buying.

Beckstrom stated that they are here to gather information, and that the Planning Commission may or may not respond to what the residents ask or say.

Feela stated that as far as traffic, if the piece of land they are looking at was developed into houses, they would have more traffic than with this use. This is a low-impact use. Feela stated that he knows the ordinance, and that there is no difference between pumping sewage, or having lime dumped on fields, which is happening right now. This is organic fertilizer and it will get tilled under, it will not smell or will have minimal smell, it is no different than lime or sewer or manure piles. Henderson stated he believes lime dumping and sewage dumping is not allowed in the ordinance. Beckstrom said the Township cannot be less restrictive than the County. He stated that it is up to the Township to interpret the County's ordinance to see if it is allowed at the County. Feela stated that the County said they have nothing to apply for. Henderson stated that lime dumping and sewage dumping is against our Code. Feela stated that he tried to fill out an application with the County and they did not allow it. Beckstrom said that may just be the County washing their hands of it.

Beckstrom opened the public hearing and asked residents to sign in, address the Commission, and keep comments to under two minutes.

Bob Svare, 26366 Xylite Street, stated that he lives across from the proposed location and he is responding to the announcement, and that wood fibers could be anything, including chopped up two-by-fours. He stated that if the Township passes this, they are opening themselves up to a lot. He stated that 'principle or accessory use' is legal jargon for doing anything you want. He stated that if this rezoning passes, Athens will have heavy noisy trucks, trucks on Xylite, and his small driveway can barely handle this. There will be noise from heavy equipment, the smell of rotting wood, and it will be a fire hazard. He stated that he is a fire investigator and that spontaneous combustion does occur. Additionally, it will be ground zero for tree diseases, there will be contamination of wetlands, the lowering of house values, and he talked with James Neilsen, his attorney, who said this is a really bad idea. A resident interjected that he is over two minutes. Svare asked the Planning Commission if anyone has been onsite. Beckstrom responded no. Beckstrom said it is not related to a site.

Tom Chermack, 2814 263rd Ave, stated that he is in the house at the end of the road, and they are deathly afraid of the noise, the large trucks, and he does not think the Township roads can handle this type of traffic. He is worried about the smell, and there may be a lot of woods but odor moves. He stated that you cannot be sure right now that in 6 months or a year we will not see more disease because of this use. He asked if there are inspections. He also asked who wants to see the natural woods fall apart.

Bill Barns, 26301 Xylite Street NE, asked why the applicant does not keep disposing of it where they do not. He stated that they are more than welcome to move out here to deer hunt, but that the Athens Township Planning Commission and Board are supposed to represent the residents, and the applicants do not live here. He also stated that while they may say 1 or 2 trucks a week now, you never know how many trucks it will be.

Barb Wicklander, 26300 Xylite Street, stated that this is a residential and agricultural area, and that there are kids riding bikes, people riding horses, and that our roads are not built for commercial equipment. She stated that this seems like a hazard to people living near it.

Pat Chermack, 2814 263rd Avenue, stated that they have a beautiful wetland with lots of animals and creatures, and she does not want to see this ruined by this use.

Dean Thomspson 2351 261st Ave NE, stated his concern that they will put the products into the ground and till it in. He asked what happens to Cedar Creek, and what happens to the University of Minnesota and the Extension. He stated that the Township could be opening itself up for a lawsuit if they allow this use. Dave Beckstrom asked if anyone from Cedar Creek is present today. McGuire Brigl responded that Forest, from Cedar Creek, called her. Beckstrom asked if he conveyed any concern. McGuire Brigl responded he was concerned about diseased trees.

Adam Gerber, 1929 15th Avenue NW, stated that microbes break down trees, and that trees throughout the County drop leaves and branches and it does not pollute the water. It is organic matter, so it is good for the soil. He stated that adding carbon to the soil is good for the sandy soil, and it will make things grow better here. He said there is no smell, so that is not really an issue. He said that wood mulch is used decoratively around homes and it does not stink, so it does not make sense that it would smell here. Finally, he said only 1% of what they haul is wood, but 100% of the wood is allowed to be hauled throughout the State and they meet the requirements from the Department of Agriculture.

Terry Van Vleet, 26266 Hastings Street, asked if the Planning Commission changes the zoning for this, what is next.

Jerry Koepp, 26628 Xylite Street NE, asked about the fermentation process, and asked if it will go through that process on the field. He also asked about the dry conditions, and once the top layer dries out, if everything below it would burn or get hot and if it could possibly start the top layer on fire. He asked if this use would be a fire hazard.

Curtis Cady, 25917 Xylite Street NE, asked if the applicant picked up materials from a garbage bin or similar bins, and if there would be plastic mixed in. He asked if the plastic would get filtered out before it comes to Athens Township.

Tyas Randall, 26533 Xylite Street NE, asked how often the applicant personally checks their loads, and after they are done with the State inspections, if they continue to check for their compliance.

Frank Feela stated that they would like to run 8 trucks in there, and he stated that he understands the neighbors do not like it, but the traffic would be very minimal with this use compared to what is there. He also stated that they would rebuild any roads to make sure the street could handle the traffic.

Tom Chermack, 2814 263rd Ave, stated again that he is at the house at the end of the road. He stated that even if you rebuilt the road, the trucks would be really close to the road and homes. Two to three truckloads a week would disrupt what is currently there; Chermack stated that you cannot even see their home because the foliage is so dense, and he does not want that to change.

Beckstrom closed the public hearing, and brought it back to the board for discussion.

Bob Svare requested that they are noticed in the future for these meetings and any further action on this item. Beckstrom stated that this is for an ordinance amendment, and if the Planning Commission, which is a recommending body, recommended approval, then it could go to the Town Board. If the ordinance was going to change, there would be another public hearing for it. Beckstrom described that this is a discussion about changing an ordinance, and that is the first thing that needs to happen before they can apply for a permit.

Svare stated that they have talked about a specific property. Beckstrom stated that he has allowed some of that conversation because it gives the Commission an idea of what someone could do if this was approved. It allows them to ask about things to limit, and specifics to consider like traffic, trucks, and hours of operation.

Chuck Davidson, 26826 Xylite Street, asked if they looked at areas on the east side of the highway, and stated that there is a lot of open land out there.

Henderson asked what options they have, and if the County allows it. McGuire Brigl stated that she spoke to the County and printed out their emails, which stated the Township is free to pass it as they see fit. McGuire Brigl did not speak to Trina, but another planner. Henderson stated that he is not in favor of this. Beckstrom stated that he does not believe its allowed because it is not mentioned. Balfany added that she is not in favor of this. Henderson added that the County may say they are okay with the use now, but may change their mind later, so we need to follow the law.

Anderson asked the applicant if they ever haul the product back out. Masters responded no. Feels stated that they would like to lease part of the field, so the land would still be used for farming. Balfany stated that leaves fall in the woods, but those are not brought in by truck or trailer load. She stated that the field would get taller and taller, and that she is not very in favor of this. Anderson stated she is also scared of Oak Wilt. Balfany stated that yes, Athens Township already has Oak Wilt, but she also does not want to see anything else come in. Gerber stated that there is no stopping Emerald Ash Borer. Balfany asked why we would accelerate the movement of diseases. Gerber stated that cabin dwellers spread it faster and unknowingly, truckloads of wood products with state permits do not.

Balfany stated that her husband has a nursery license and the State inspects it a lot. She asked what happens after the state checks the first 5 loads and how the applicant will prevent garbage from getting into the product.

Masters noted that the company inspects all product before going into the grinder; they cannot mix trash into it. Masters also stated that if the State catches them out of compliance once, they lose the permit, so he does not want this to happen either. Balfany asked how often the check. Masters stated that they can spot check anytime, 24/7, and without notice. He stated that they have a one-year conditional permit, and if they violate it they will not get the next step, which is a three-year permit. Masters stated that they are not bringing much in, and they hope to put it on a 70-acre lot, and that they would abide by a truckload limit on a CUP.

Balfany asked why Coon Rapids stopped composting wood, and if it was because of the smell. Beckstrom stated that there is not any compost process in this yet. He stated that it is close to Cedar Creek and that they have an ecosystem there where they do research and study, and he does not know what impact this would have on what they are doing.

Henderson noted that there was a “Stop the spread and transport of invasive plants - protect our native habitat” sign behind Beckstrom. He asked how we can be sure this is going to happen, he stated that no one can guarantee this will not transport something. Balfany stated that no matter where the use is, the trucks are always going to be the biggest issue. Masters stated that it is only for 5 months out of the year. Balfany stated that if the Board decides to change the ordinance, it becomes an option for anyone and everyone.

Beckstrom described the processes available to the Commission. Henderson stated that he would like to have it called to a vote. Beckstrom asked if they would like to continue the process to discuss this as an ordinance amendment, and asked if the Commission would like to recommend approval or denial.

Henderson made a motion to recommend denial. He stated the following findings:

Non-compliant with the County.

Non-compliant with the Town Code.

Similar uses are prohibited by Code.

There are no findings to show it would improve Athens Township.

Balfany seconded the motion. Motion carried unanimously

Beckstrom stated that the County might not allow it. Vince Charles, resident, asked why not grant them a CUP. Beckstrom described the process of the CUP and stated that while the Board can say no, and place conditions on a permit, the best way to keep something they do not want out of the community is to not put it in the ordinance. Additionally, the applicant cannot apply for a CUP until allowed in ordinance.

7. *Old Business*

- a. *Code Enforcement:* McGuire Brigl described the letter and list of addresses included in the Planning Commission packet. A letter was sent to homeowners along Lincoln Drive to ask them to keep the bike path clear. She has not heard any complaints about the bike path since the letters were sent out. The Commission noted that one of the homes was up for sale and has looked very nice and clean lately.

8. *New Business*

- a. *Conditional Use Permit Request – Incomplete Letter:* McGuire Brigl described the two conditional use permit applications and incomplete letters she sent since the previous Planning Commission meeting. There was no other new business.
- b. *Building Inspections:* The Commission also discussed Building Inspections, and Henderson asked what the status was of having the County take control of the permits. Beckstrom added that the Town is looking into having the County accept building permits, but that McGuire Brigl would still review them for zoning. Balfany will continue talking with the County about this possibility.

9. *July Permit List:* McGuire Brigl included the July permit list, which included 3 sewer permits and a home remodel.

10. *Adjournment:* Beckstrom motioned to adjourn the meeting. Meeting adjourned at 8:47 pm.

Approved September 21, 2017 by the Athens Township Planning Commission.

Chloe McGuire Brigl, Zoning Administrator