

ATHENS TOWNSHIP PLANNING COMMISSION

Special Meeting

August 17, 2023

The special meeting of the Athens Township Planning Commission was called to order on Thursday, August 17, 2023 at 6:59 by Chairwoman, Marion Carling.

Present: Chairwoman, Marion Carling, Vice Chairwoman Rebecca Miller, Bob Petruschak, Matt Cooper, Ron Reagan, Zoning Officer, Ed Reid, Secretary, Cindy Parrish, Review Engineer, William (Skip) Schneider, and Solicitor, John Thompson. Tim Gourley from Tract Engineering, Atty. Chris Jones, and Andy and Dustin Bishop were also in attendance. All others present have signed the attached sign-in sheet.

Carling made a brief statement clarifying the role of the Planning Commission in the land development process and her expectations for maintaining order during the meeting.

Bishop Brothers Construction, Inc.: Preliminary Land Development for a mineral extraction operation located off of Meadowlark Drive.

Gourley discussed his responses to Schneider's comment letter. He acknowledged that some items (signatures on the plans, NPDES, mining permit) are still outstanding and will be addressed once they have approval. He said that they have provided the waiver request for plan size and scale as both exceed ordinance requirements. He stated that only minor changes, such as adding the right of way, had been made to the site plan. Storm water comments were addressed, and Schneider agreed with the storm water management plan. It was noted that a phasing plan has now been provided, and Gourley said they can provide future phasing plans as they progress with the project. To address the fencing comment, he stated that safety berms and signage will be provided where a high fall wall exists, and they will provide fencing in active areas of open excavation. A performance and reclamation bond will be provided with the state.

Gourley continued and said that Phases 4 & 5 of the hillside area will involve another land development process. He noted that they will provide updates on a recommended basis throughout the project. The hard rock Phases 1, 2, and 3 and the sand/gravel areas are what is included in this land development. DEP approval is under review, and they will do a storm water maintenance agreement.

Schneider stated that all of his comments were covered and that the fencing and performance bond are the only ones that need to be

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discussed further. Cooper asked if fencing will be placed in active areas of fall risk, and Gourley said they would be. Fall risks are considered a drop of 6' or more. Gourley stated that fall hazards would be reclaimed and sloped as they move out of an area.

Reagan asked about the screening along Meadowlark Drive. Gourley said that screening will be south of the residences and further south there will be an earthen berm, then their road, and then the excavation area. Discussion continued regarding the dwelling barrier and the tree line. Gourley clarified that the reclaimed area is considered a nonexcavation area. Cooper asked if the reclaimed area is open water, and Gourley explained that it is but it's shallowly sloped at a 3' change over 25'. Cooper asked about the lack of screening at a few lots, and Gourley explained that Bishop's owns 2 of the lots and the others have no houses. Gourley said that there will not be a hard delineation between phases and they will start fencing in phase 2 area. Screening (trees) will be established early in the process. Discussion continued about fencing and the interpretation of "excavated area". Gourley stated that each phased area will be fenced when excavating and that, in the end, it's all about safety.

Reagan inquired about the testing procedures for wells. Gourley explained that they contact residents within 100' and have already tested those that have reached out. The results will be mailed to the homeowner and sent to DEP. They will have a documented baseline of the well so they have proof of the 2023 quality if something happens to the well later. Any well problems related to the project will be fixed. A water loss insurance policy is also in place. People need to reach out to them to get the testing done. They will also identify well and creek sites that will have monitoring 4 times/year to gain an overview of water quality in the area. DEP can make the determination of who/what is at fault for any changes in a well. Reagan asked if they would go back to resample wells in a few years, and Gourley explained that that has never been required or requested but it shouldn't be necessary because of the ongoing monitoring of select sites. Reagan noted that the Bishops have a vested interest in each of the monitored sites, and Gourley noted that it was really a matter of convenience and access since they are tested 4 times/year. Discussion was held about sample collection and the integrity of the process. Dustin stated that they'd put money in escrow for the township to have someone collect those samples if necessary.

Reagan asked if they were seeking Preliminary or Final approval. Discussion was held, and it was noted that the plans state it's preliminary. It was also noted that preliminary plans are not recorded, and final approval would not allow for any changes in the future. Reagan stated that, technically, final approval might not come until they finish in 50 years. Reid mentioned that final approval needs as-builts so that is correct. Discussion was held about which ordinance would apply as they come back for the future phases if there were changes to the ordinance. Thompson noted that the existing ordinance would apply to changes in these plans, and Schneider added that the future submittal for phases 4, 5, & 6 would follow any new ordinances.

Reagan questioned what a setback of 300' from the park looks like in terms of how far up the mountain it would go. He would like to see a visual representation of what can be expected. Jones stated that the green will come back, and the audience responded with audible disapproval.

Cooper asked if the questions regarding the Conditional Use (CU) decision had been resolved, and Thompson stated that they had been. Cooper continued to ask Thompson about the CU and what was purposefully included and what was inadvertently included. Dustin interjected that he (Cooper) was trying to say that they tried to sneak something through.

Cooper asked if the hours had been corrected on the DEP application to reflect the CU decision. Gourley said they will be corrected when they receive the review letter as they don't accept revisions until that time, but the night hour conditions will be struck from the mining application. Andy asked about road washouts and needing materials. He said that there should be concessions for emergencies and Athens Township will be hauling a lot of material out of the site.

Cooper continued to review the CU conditions. He asked if the township gets notified of violations and asked if sufficient clarification was provided regarding decibel levels. Gourley said that the noise was addressed by the limited hours. Cooper asked about the latest physical environmental studies. Gourley said that it was updated in April 2023. Cooper asked about a fish and wildlife study on the river and the latest PHMC study. Gourley said both had been cleared and DEP would be notified if artifacts are found and mining would stop in that area until it is cleared.

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Cooper asked if there is a chance that Tutelow Creek could flood into the reclamation lakes, and it was noted that there is a chance. Discussion continued regarding flooding concerns. Gourley stated that the lakes would return to standing levels after a flood, equipment would be moved to higher ground, there are no coagulants in the lakes, there is nothing being added to the lake water, and, while there is no intention of washing, that would be a separate application with DEP if that was to be pursued.

Discussion was held about the wetlands, the monitoring process, and mitigation if the wetlands dried up. Gourley noted that the bond remains in place for a few years after reclamation to make sure the reclamation "takes" even after the lease expires.

Cooper asked about dust control. Gourley explained the dust suppression methods such as water, dust oil, and slow speeds will be utilized and they are currently working on a blast plan for DEP that will include dust control during blasting. Gourley stated the next technical review of the mine permit will not be issued until after the next DEP public meeting due to public concerns. The NPDES is also currently in review, and all of those permits get issued on the same day.

Carling called for a short break at 8:16PM, and the meeting resumed at 8:21PM.

Carling asked anyone using a recording device to fill out the appropriate form.

Carling opened the meeting to public comments pertaining to ordinance compliance and the land development before them.

Susan Hewitt asked when the most recent eagle nest study was done as Fish and Wildlife told her it was in 2020. Cooper stated it was after 3/31/23, and Gourley said the notification goes out to all of the agencies. Jordi Comas from DEP said that it was posted online today that the study was done in June of 2023.

Deb Allen asked to submit a petition to Bishops. Carling said she could give it to the board. The petition has 420 signatures from an online petition and discusses previous meeting comments as well as scenery and other reasons for the petition.

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John Cheresnowsky asked about the frequency of DEP inspections, and Dustin said they are quarterly. He asked other questions regarding oversight and was told to direct those questions to DEP. He asked about that happens if it's sold, and Andy said any new owner would have to follow the same rules that they do.

David Onofre state he is also concerned about the business getting sold and well quality.

Tracy Onofre stated that the bridge over the Chemung River is supposed to be replaced/repared in 2025, and she has concerns about the traffic while it's detoured. Gourley stated that PennDOT would require the roads to be bonded. Eileen Spardutti said she had already asked about that repair and was told that the bridge would be one-way traffic during that time. Discussion was held.

Sandy Thurston inquired about the sand mounds and potential damage to them during blasting. Carling stated that that was also a question for DEP. Discussion was held about blasting, and Dustin explained that they will blast about 3 times/year up to maybe once a month and there would be no aftershocks. Cooper read the section of the CU decision pertaining to blasting again.

Cheresnowsky asked about the CU enforcement, and Miller said the Zoning Officer enforces it.

Fisher Wells asked if anyone noticed the blasting when they widened the Sheshequin narrows. He then spoke about how controlled blasting is in reality.

Susan Loomis asked if the township is going to monitor it and who gets called after 5PM. She said that the township won't take care of it. Cooper asked if Reid's number is posted online, and Reid said he leaves his phone at work.

Cheresnowsky asked about enforcement, and Carling said we have several avenues including a Cease and Desist Order. There was discussion about fines and violations. Thompson noted that the CU conditions are also in the mining application which allows for alternative enforcements.

Spardutti asked if it's the Planning Commission's job to address changes to speed limits and signs on Meadowlark Drive. She said the speed limit needs to be reduced.

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Christine Elsbree asked for the speed limit to be lowered for Bishop's trucks, and Dustin said that they can look into it and it's understandable.

Aryn Frutchey stated that the road is not wide enough, the speed limit is too high, and the road is already dipping.

Greg Frutchey asked when the road got changed to more than the 10 ton weight limit that the current sign states. Carling said they can recommend a study be done.

Nate Wiles stated he had concerns about the floodplain on weekends and holidays and their ability to move equipment after hours so that it won't end up in the river. He also stated concerns about topsoil from the berms being in the floodplain. Andy noted that the berms will be seeded. Reid said that he can require them to anchor down the machinery permanently. Cooper noted the time restrictions are only on mining operations and transporting materials, not on moving equipment.

Comas passed around a flyer and explained the upcoming DEP meeting. He stated the time to get information is during the public comment period and that the state is quite stringent with blasting regulations.

Jaimee Alsing asked for an update on getting the transcripts from the CU hearing. Thompson said that the Supervisors have not directed him to pursue the transcripts. The Board of Supervisors as a unit would have to ask him to have them prepared. Alsing asked how the project was in compliance with the noise ordinance. Miller stated that she would need to ask that at the Supervisors Meeting.

Allen asked if they would be allowed to ask questions at the Supervisors Meeting as people get upset about getting cut off.

Cheresnowsky asked how far along they are in the process. Carling explained the process. Reagan explained that a decision could be appealed and that they have already been given approval to have a mine at the location.

Reagan motioned to formally review the Bishop Brother's plan for Preliminary plan approval. Petruschak seconded. Motion carried.

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The plan was reviewed and the following deficiencies were noted:

1. Needs waiver for plan size and scale
2. Needs owner's signature
3. Needs NPDES
4. Needs Zoning Permit
5. Needs Storm Water Maintenance Agreement

The following comments were also noted:

1. Recommend an agreement between the developer and the township with the preliminary plan delineating all the proposed phases as well as deadlines within which final approval of each phase are intended to be filed. Updated annually until final approval of final phase has been granted
2. Recommend a road study be conducted for the speed limit, weight limit, and a "stop except right turn" sign on Meadowlark
3. Recommend a visual elevation presentation of the site be provided
4. Recommend township emergency responders be informed of the scope of the project

Motion to recommend preliminary approval with the above noted deficiencies and comments was made by Miller and seconded by Reagan. Carling called for a roll call, and the members voted as follow: Petruscak-Yes; Reagan-Yes; Cooper-Yes; Miller-Yes; Carling-Yes
Motion carried unanimously.

Motion was made by Reagan to approve the minutes from August 7, 2023, seconded by Miller, and the motion carried unanimously.

Petruschak motioned to adjourn the meeting at 9:48PM, Miller seconded. Motion carried and the meeting was adjourned as there was no further business before the commission.

Respectfully submitted,

Cynthia Parrish, Secretary