

ZONING BOARD OF APPEALS
Wednesday, December 5, 2007
5:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

- ZBA Members:** Alice Howard, Vice Chairman
Dan Roszkowski
Fred Money
William Orr
Tom Przytulski
David Peterson
- Absent:** Tom Morgan, Chairman
- Staff:** Todd Cagnoni – Manager of Current Planning
Sandra Hawthorne – Administrative Assistant
Jon Hollander – City Engineer, Public Works
Kerry Partridge – City Attorney
Jessica Roberts – Planner II
Frank Schmitt – Chief, Fire Prevention Division
Reid Montgomery – Director, Community Development
- Alderman Dan Conness
- Others:** Kathy Berg, Stenographer
Applicants and Interested Parties

The meeting started at 5:30 P.M

083-07	<u>25XX South Mulford Road</u>
Applicant	Rockford Blacktop Construction / Attorney Timothy Jagielski
Ward 14	Special Use Permit for a Performance Use consisting of an Asphalt Batch Plant that does not meet the performance criteria in an I-2 General Industrial District
	Laid Over from October meeting

The subject property is located south of Charles Street, west of Mulford Road, and north of Harrison Avenue and is currently an existing quarry and concrete batch plant. The proposed asphalt plant would be located on the southeast corner of the floor of the quarry, using approximately 2.5 acres.

Attorney Tim Jagielski reviewed the location of the quarry and described the surrounding zoning. He explained the quarry began operations sometime in the late 1940's and has continued operating ever since. The residential areas did not begin to develop until the 1960's, after the quarry had been established and operating for a number of years. Rockford Blacktop purchased the quarry in the 1960's and have operated the quarry ever since. Attorney Jagielski explained that substantial truck traffic has occurred in and out of the quarry during this entire time period. Rockford Blacktop voluntarily annexed into the City in 1996. Pursuant to this annexation agreement, the quarry was zoned as Industrial, with an agreement that the operation of the quarry and concrete batch plant would continue as needed. Landscaping was complied with around the quarry. Other than the new construction area south east of the quarry, the operation is not noticeable. Due to the construction on the corner of McAllister and Mulford, a lot of the landscaping has been removed. Attorney Jagielski explained this will be re-landscaped once construction is complete. The Annexation Agreement required that any use of the property other than that existing in 1996 would require a Special Use Permit as applicable. Attorney Jagielski stated the Nimtzy quarry is running out of stone and the Mulford Quarry has one of the highest

deposits in the area. It is the Applicants plan to relocate 70% of the operation from Nimtz. They are not anticipating in any way that the total operations at the Nimtz quarry be relocated to the Mulford Road quarry. Attorney Jagielski pointed out that the entire proposal submitted by those in Objection is based on relocating all of the Nimtz operations, which is not correct. Also, photos included in the objection packet show older processes, not the current production process as it is today. Attorney Jagielski continued to say that Rockford Blacktop is primarily a low bid public contractor. This relocation should create the ability for the Applicant to be more competitive and benefits will be passed on to the citizens of Rockford.

Regarding Staff Condition #4 which indicates the hours of quarry operation be from 5:00 AM to 8:00 PM Monday through Sunday, Attorney Jagielski explained that currently the quarry is able to operate 24 hours a day, seven days a week (24/7). Adding the asphalt plant will require more stone production. The Applicant would like to run two complete shifts of stone production in order to maintain the current output rate. They are requesting quarry operation only during the hours of 5:00 AM to 12:00 Midnight. Attorney Jagielski emphasized these additional 4 hours would be quarry operation only to allow enough production of stone for customers and for the asphalt operation. He added that trucking is one of the significant costs of asphalt production. The more this cost can be reduced, the more benefit to all sides.

One of the objection letters suggested Rockford Blacktop underbid the lowest bid on all jobs. Attorney Jagielski explained this is known as bid rigging and is not legal. He further added that if the Applicant cannot locate the asphalt plant at the Mulford quarry, stone from the Mulford quarry will have to be trucked to another location where the asphalt plant is permitted. If this is required, approximately 400 more trucks will be added to the road system within the City and County, which is not beneficial to the community.

The asphalt plant will be located in the southeast corner of the quarry, utilizing the entrances off Mulford Road and Charles Street. Any additional traffic generated would be split between the two entrances. There will be a right turn only on Charles Street to a signalized intersection. The quarry and asphalt plant combined will only cause an increase in traffic flow of less than 1% according to the report provided by KLOA, a traffic consulting firm hired by the Applicant. Traffic from Rockford Blacktop or their contractors may enter from Charles, but the Applicant has agreed to make every effort to notify clients and customers they should use the signalized intersection at Mulford Road.

Attorney Jagielski emphasized this proposal is a state-of-the-art operation with the latest technology, as opposed to the plant information submitted by the Objectors in their packets. He stated he and the Applicants have offered to meet with N.E.T.S. to address their concerns and they have not responded to their invitation. Attorney Jagielski further stated the Applicant has been working with Staff to make this operation work to the benefit of City requirements, the needs of the operation, and the surrounding area.

There were questions from the Board in response to Attorney Jagielski's presentation. It was explained to them that it is estimated the stone in the Mulford quarry will last at least 25-30 years, whereas the Nimtz quarry has only less than 3 years of material remaining. Once the Nimtz quarry operation is phased out, the remaining 30% of its use will not go to the Mulford quarry, but will go to another site.

Catherine Sutton Choate from Astec Industries Company was present to describe the type of equipment that would be used at the asphalt facility. Astec will be supplying the equipment for this project. A detailed slide presentation of the equipment and the method in which the facility would run was presented by Mrs. Choate. She emphasized that their equipment and operations are environmentally safe, stating that Astec is one of the top three asphalt operations in the world. She showed examples of asphalt plants that have their equipment located in downtown Oklahoma City, and by the Mississippi River in Tennessee, explaining the plants do not affect nearby businesses or uses within the City. Mrs. Choate explained that "Hot Mix" Asphalt is a paving mixture of 95% stone and 5% liquid asphalt cement. Making the pavement mixture is simply mixing the liquid asphalt with the rock. In order to make "Hot Mix", the liquid will not stick if it is wet. The intent is to dry the aggregate to allow it to stick. She explained that the Environmental Protection Agency (EPA) removed hot mix asphalt plants from its list of major pollution sources in February 2002. Even if a plant were to run 24 hours a day, 365 days a year, it will not create hazardous conditions. It will not leach toxic chemicals into water. The "Hot Mix" asphalt mixture is solid at ambient temperatures, is not soluble in water, and it does not float. There are no water pollution issues

with this process. She further explained that human carcinogens, as determined by NIOSH and ACGI, classified that asphalt fumes have not been found to be an environmental issue.

Mrs. Choate emphasized that a lot of signs held by Objectors at the meeting as well as posted on properties list this operation as a "Batch Plant". She explained that a batch plant makes individual batches of mix and this is not the type of operation being proposed by the Applicant. Mr. Cagnoni verified this statement, explaining that zoning definitions have only one definition, that being "batch plant"; however, what is presented is what is being voted on. If the Board wishes to reword the request to eliminate the word "batch" they could do so at their discretion.

In continuing, Mrs. Choate stated the storage capabilities of the proposed operation will allow the plant to not require continual operation. Mrs. Choate presented slides showing how the mix moves through the inner drum and stationary mixing chamber of the equipment. She stated this method can use excessive amounts of recycle materials. Any odor causing fumes produced in the mixing process are destroyed by the burner flame in the double barrel mixing chamber. Any fumes are incinerated prior to being ejected from the drums. The equipment has highly efficient burners that reduce total emissions by burning less fuel. They also have a superior combustion process, which uses less fuel to dry the aggregate. The plant's exhaust is cleaned by a cyclone and baghouse that meets or exceeds all State and Federal Dust Emissions Standards. Any dust particles that are not knocked out by the cyclone are sent to the baghouse and then sent to a dust silo to be metered back into the mix. Mrs. Choate explained on cold mornings there will be a visible plume - this is only steam. The Mulford quarry is ideal for this plant due to its depth as well as location. The operation will not be seen, smelled, or heard.

Mrs. Choate went on to explain that this operation will be quieter than the older asphalt plants. It will have an enclosed burner, burner silencer, double contained and insulated aggregate dryer, and variable frequency drives. She stated this equipment is so quiet that a conversation could be held at a normal level while the plant is running. There is a plant in Daytona Beach that is next to a hospital and schools with no problems. Emissions would be lower than any other comparable plants in this industry that are available. Although the technology is over 20 years old, this type of asphalt plant is being improved continually. In addition, the product can stay in the silo 3-4 days, but some customers have stored up to 7 days. She stated it is always in an operators interest to run the plant in an efficient manner, which then lowers emissions.

Jennifer Anderson, President Anderson & Egan, Co. spoke as a representative of this environmental consultant company located in Rockford. She explained that an operating permit requires staff testing within 90 days. Ms. Anderson agrees that the proposed plant will be a state-of-the art facility. Inspections will take place on both a routine and unannounced basis. Results of samplings are reported monthly to EPA. The asphalt plant will not require water. There will be no underwater storage at all. Ms. Anderson stated this operation as presented will have little impact to the surrounding neighborhood from an environmental standpoint. Dan Roszkowski asked how many gallons of diesel fuel would be stored on site. Until operations are underway, the amount is unknown at this time.

Michael Werthmann, PE with Kenig, Lindgren, O'Hara, Aboona, Inc. was present. KLOA is a transportation and parking planning consultant firm located in Rosemont, Illinois and Mr. Werthmann is a Principal with that firm. He stated he has significant experience working on this type of operation. Mr. Werthmann explained the traffic study was conducted in three phases. The basis condition of the roadway system is evaluated. Mulford is a major arterial road under the jurisdiction of the City with 16,000 – 19,000 vehicle per day. Charles Street is a minor arterial road under the auspices of Winnebago County Highway. To determine the existing traffic on the road system, a survey was conducted on Thursday, September 6 during the morning and evening commuter periods between 6:00 AM – 9:00 AM and from 3:00 –6:00 PM. Mr. Werthmann explained that collecting counts on one day is standard in the industry. Because the Harrison Avenue construction project was still going on some traffic was rerouted and this was taken into account as part of the survey. Mr. Werthmann's firm determined the type and volume of traffic generated, as well as routes to and from the development. Evaluation and determination is the final phase in determining what would be required to meet the volume of traffic for the operation. KLOA studies found the primary road to be Mulford Road. There is very little truck traffic now using Charles Street west of the site. The Applicant is proposing to limit a left hand turn so that all traffic will have to go to a signalized intersection to Charles Street. Inbound traffic is very minimal because of a barrier median. One important factor taken into consideration is that the asphalt plant will only be

operating 7 months a year. Truck traffic will be spread out through the entire day. The study also took into consideration an increase of 4-6 employees, and required maintenance trips. It is estimated there could be 100 – 160 round trips per day to the asphalt plant. KLOA also did an additional study to determine traffic to quarry only. It was concluded that there will be additional truck traffic generated with or without the asphalt plant. The findings stated this area will generate the same amount or less if the proposed asphalt plant is located at this site as opposed to another site. The study determined that traffic on this road way system will actually be significantly reduced because aggregate will no longer be trucked out for the purpose of producing asphalt. For the evaluation and recommendation phase of the study, anticipated growth in the area was also included. Traffic volume was taken as generated, then doubled. Traffic volume was increased by 30% due to current construction and added volume for future development. Mr. Werthmann explained the Charles Street access drive provides one lane in and one lane out, separate left turn lanes on Charles street and will prohibit a left turn out of the access drive. There will be additional access from Mulford Road. The temporary access from Mulford Road now being used will be improved so that it can be accessed at all times. This access will be a right-in/right-out only. Deceleration and acceleration lanes will be provided. All intersections are expected to continue to operate very well for future use. The results of KLOA's traffic survey was that traffic on Mulford Road will be increased by 1%, including the asphalt plant traffic and anticipated additional growth in the area. In response to the Objector's concerns of the impact on school bus traffic and bicycle traffic, KLOA found the proposed project will not have any impact on either. Mr. Werthmann stated the quarry has been in operation for 60 years with very little influence on existing traffic. Both access drives will be designed to accommodate any increase in traffic and it was determined that the same volume of truck traffic will occur with or without the asphalt plant. He added that this plan will minimize traffic on Charles Street. Truck traffic coming from the south would travel up Mulford to Charles for a very short distance and then turn left into the quarry.

Joseph Magdziarz, President of Appraisal Research performed an impact study on property values near asphalt plants. In this study, Mr. Magdziarz collected sales and resales of residential properties in proximity to the Nimtz quarry which has an asphalt plant. Data was taken from 19 sales/re-sales south of the Nimtz quarry as well as the 13 sales/re-sales from the east, which is the direction of prevailing winds. These areas were developed after the Nimtz quarry asphalt plant was operating. The survey result was that the average rate of increase in sales dollars was 6.97% for 32 sales. However, in other areas not located near the batch plant, the study proved that the average rate of increase in sales dollars was actually less, at 6.07%.

Gordon Stevens, Hydrogeologist with Civil & Environmental Consultants, Inc., Downers Grove, Illinois, presented information from their survey. Mr. Stevens stated his background includes a Masters degree in geology and 30 years experience. Mr. Stevens explained that according to the water well data base, 100 water wells are within a mile or so of the proposed facility. Some of the concerns from the packet received from Objectors were of contamination from petroleum based fuels and asphalt additives from the facility, and of wells running dry. Mr. Stevens explained that existing water discharge cannot violate any EPA standards. If the asphalt plant goes into operation, their study has shown that water discharge quality requirements will not change. The asphalt plant facility will not use water, so there is no danger of wells running dry. Water will be contained in above ground double wall storage tanks. These tanks will have a secondary spill structure. The Applicant's plan also includes immediate operating actions in the event of a spill. Mr. Stevens stated that asphalt needs to be heated to bind. If it were to spill to the ground, it would become firm in place. He further emphasized that asphalt pavement material is used for liners for drinking systems with no health hazards. The local ground water flows into the quarry, not out of it. Outside water pressure would not allow leakage into the ground from the quarry. Spilled fuel would not be released. The study concluded therefore, that there will be no contamination, nor dry wells.

In summary, Attorney Jagielski stated this application is not for a rezoning request. He added that the existing quarry was there prior to any neighborhood development. The basis of the Opposition is not on what is being presented, but rather on the plant that they intend to shut down. The proposed plant would have greater technology and be more environmentally friendly than other plants in the area. Attorney Jagielski stated the plant will not be seen, traffic will be divided between entrances, and that this is a very heavily regulated industry.

Staff Recommendation was for Approval with 18 conditions. A packet of Objection letters were received and presented to the Zoning Board prior to the meeting along with a bound report provided by a representative on behalf of the Objectors. In addition, letters received after the mailing date of the report were presented to the Board at this meeting. Objectors were present at the meeting.

Objectors

Gary Zandonatti, 6057 Myrtle Lane. Mr. Zandonatti stated Objectors have organized and formed a group called Neighborhood Environment and Traffic Safety (NETS). He is the Vice President of this organization. Mr. Zandonatti stated NETS called the meeting held prior to the Zoning Board meeting and did invite Rockford Blacktop. Mr. Zandonatti stated the Objectors are concerned with potential accidents, children getting off of school buses, nighttime operations, dust, and odor among other issues. They are concerned with the Applicant's request to allow the quarry to operate until midnight, pointing out that this would include blasting late at night. He stated allowing a right-in/right-out from Mulford Road allows a greater potential for accidents. Trucks heading east on Harrison would have to cross three lanes of traffic. He pointed out that the traffic study done involved a comparison being made using the same estimate of 180 trucks in and out of the plant. Mr. Zandonatti felt only two areas around the quarry are Industrial, with the rest being residential. He felt the property value study presented did not reflect the difference in school districts around Nimtz quarry. As an Appraiser, Mr. Zandonatti stated he has to describe any potential conditions or industrial operations within the area of property for sale to the potential buyer. These review reports require some type of global map of the neighborhood, and a loan may or may not be approved when risk factors are considered. NETS feels that if the Applicant's request is approved, there will be no limit on the number of years it may continue, and its affect on property values. He stated there is a potential increase of dust in operation. Mr. Zandonatti questioned if the operation of an asphalt plant is safe, why are so may EPA and IPA programs being considered. He asked what positive impact this application could have on this neighborhood, pointing out that fumes and dust will rise with no "dome" over the quarry to stop it. In closing, Mr. Zandonatti and the group he represents urged the Zoning Board not to put an operation of this nature in the middle of a neighborhood.

Harmon Mitchell, 2514 Mandrake Drive stated another area of concern centers around what impact the increase in truck traffic on Harrison Avenue, Mulford Road and Charles Street will have. He asked why there is only 1 other quarry in the State of Illinois that has an asphalt plant located on its floor. Mr. Mitchell does not feel Charles Street can accommodate the amount of truck traffic generated. He said this operation will be adding 180 diesel powered trucks per day, carrying up to 20 tons each of hot asphalt. He stated the trucks entering and exiting the quarry at this time are gravel trucks. He further stated the asphalt trucks will be coming uphill for almost 90 feet and turning south on Mulford which is also an incline. Mr. Mitchell commented that the traffic study provided by the Applicant was done on only one day and feels they are incomplete or insufficient and the study is only guesswork. He expressed the opinion that the traffic study should be done after the completion of the Harrison Mulford intersection. Mitchell stated that Rockford Blacktop has been a good neighbor to the City of Rockford and Winnebago County; however, in this instance he does not feel it is right to construct an asphalt plant after homes have been added to the area.

Ken Coonley, 6083 Buttercup Lane. Mr. Coonley stated he had some questions for the Applicants. Vice-Chairman Howard explained he should express his questions and the Applicants will answer all during the rebuttal. Given the locations of the berms, Mr. Coonley feels this would allow odor and dust to compress and accelerate into the surrounding areas. Although the berm would keep the development out of site, it would elevate the potential for dust and odor. He stated fugitive emissions occur when a load is dispatched into a truck. These emissions are not regulated because of the difficulty of doing so. He stated he can smell the Nimtz Road asphalt plant from Forest Hills Road, 3500 feet away. He spoke of a neighbor in the Nimtz plant area who told him she has to scrape off small pieces of asphalt from her windows on a monthly basis. Mr. Coonley also stated he was told at the meeting with the Applicants prior to the Zoning Board meeting that 100% of the Nimtz operation would be moved to the Mulford quarry once the Nimtz quarry ran out of rock. He was concerned that the emissions contain small amounts of carcinogens. He stated figures of 700,000 tons or 35,000 trucks a year hauling aggregate out of the quarry. This does not include feeder trucks and those hauling in raw materials. He discussed toxins and chemicals that come from diesel trucks. Mr. Coonley stated he does not feel this asphalt plant belongs in a development of schools, churches and residential areas.

Patricia Michelsen, 6528 Charles Street stated she has lived east of the Mulford and Charles intersection for about 20 years. She referred to a letter written by Michael Wehrmann, Director of Center for Groundwater Science. Ms. Michelsen wondered what the response time would be in the event of a contaminate spill. She felt there are questions that need to be answered before the local citizens are assured the potential for groundwater contamination is addressed. She questioned if a study had been done regarding the effect pumping has on the water flow to this area, adding that even the cleanest asphalt plant is not clean.

Cindy Grace, 6101 Myrtle Lane expressed concern that the Applicant is emphasizing that the asphalt plant is out of site, and if it is out of site it is not a problem. Ms. Grace read from an article from the New York Times which discussed how providing information which would help to sell homes. She feels that being required to disclose an asphalt plant is not going to be beneficial in selling a home. Ms. Grace quoted Chuck Thompson from William Charles as stating there are 40,000 people who live within five minutes of this area during a discussion he had involving an unrelated project. Tom Przytulski raised the issue regarding if during disclosure, the project met all guidelines from EPA would this be considered detrimental.

Alec Kaplanes, 2018 Santa Monica Drive. stated he has lived in his residence almost 30 years. He reviewed the packet of information provided by the Objectors and presented to the Board prior to the originally scheduled November meeting. Mr. Kaplanes stated in the 1996 Annexation Agreement between the Applicant and the City, there were conditions set forth by the City that were never met, such as paving and berm installation. He also stated there are residences all around the plant, some of which are within 300 feet of the asphalt plant. Mr. Kaplanes showed a presentation that included photos of the Nimtz quarry. One of the photos taken at 6:00 AM was of a plume rising into the air. He also showed a video of asphalt being loaded into the trucks with blue smoke rising from the bottom of silos when each load is dumped. Mr. Kaplanes stated the winds blow out of the west over the Mulford Quarry and wondered what would happen to this blue smoke when it is picked up by those winds. He stated 22 school buses go up and down Charles Street daily, with 7 of them stopping by the exit to the Quarry. In addition, Mr. Kaplanes exhibited an aerial view of the quarry with designations of all the surrounding wells. Also presented was a photo taken in 2005 exhibiting water resting on a portion of the quarry floor. Mr. Kaplanes asked what would be used to drive the equipment at the new plant, i.e., gas or oil, stating this issue was not addressed. He questioned why the Applicant would want to put the "best stone" in the area into asphalt to pave someone's driveway. He felt 50% of the aggregate will need to be trucked in from another location. Mr. Kaplanes stated the Applicant will be going deeper into the core of the quarry as time goes on, which will produce more water that will need to be pumped out. He stated the Applicant keeps referring to the Nimtz plant as being an old batch plant, but he does not believe it is a batch plant. Mr. Kaplanes discussed the landscaping plan that was submitted to the Board prior to the revised landscaping plan that is now proposed. He stated nothing has changed at the Mulford entrance since 1996, adding that the pine trees shown on the annexation site plan were never planted. He asked how the Applicant could put a berm on the proposed asphalt plant that would block the view of the plant in the area of the retention pond. Mr. Kaplanes reviewed the Planning and Zoning Report regarding Staff's statement that they recommend an independent expert verify the standards of the facility prior to approval by City Council and asked who would pay for this report. He also asked who signed off on the Public Works agreement to the applicant's submitted report. He asked if the City would be able to send fire trucks to the floor of the quarry in the event of a fire. He stated he did not see any penalty clause if the Applicant did not meet all 18 conditions recommended by Staff, and how a traffic sign would keep trucks from turning left if they chose to do so. Mr. Kaplanes stated he feels Staff's conditions of approval are controversial and unenforceable.

John Bailey, 5503 Mapleleaf Court. Mr. Bailey stated the people in objection have lived in this community for years. They have gone up and down the roads for years and they know what the traffic situation is better than a hired professional. They know that adding 180 trucks a day is going to affect traffic. He stated when William Charles sold homes in the development he lives in they showed landscaping and wooded trees throughout the development which encouraged Mr. & Mrs. Bailey to purchase a home. He stated by the time the home was built William Charles and Rockford Blacktop had taken out all the trees in the area. He stated nothing was said about the quarry until he heard the first blast two weeks after he moved in. He stated there are 14 quarries available and putting an asphalt plant in the middle of a residential area is not right. He is concerned that the 18 conditions of approval will not be met by the Applicant.

Joe Drennan, 2877 Panorama. Mr. Drennan discussed the noise from the trucks, and the planes from the airport that he hears from his home. He stated he can live with this noise because he feels it is progress, but does not feel an asphalt plant is part of that progress.

Cheri Faith, 4890 Fielding Road and Sharon Nordlof, 5302 Circle Court. Ms. Faith spoke on behalf of her mother, Sharon Nordlof. She described a medical condition her mother had in her eyes and lungs, stating dust is one of the elements contributing to her condition.

Linda and Richard Todd, 6238 Chatsworth Drive stated she is not assured that odors and emissions will not occur if this project goes forward. Mr. Todd stated "wise zoning" could correct mistakes before they occur.

Robert Jantz, 5447 Mapleleaf Court stated he just purchased a condominium in Waldon Woods. Had he known this project was being proposed, he and his wife would never had purchased this home. He read from an article in the paper regarding Indiana Terrace and pedestrian traffic. According to the article, approximately 50 residents objected to the interruption of their lives due to pedestrian and bicycle traffic if a pedestrian path were put in. Mr. Jantz pointed out that an alderman made a comment to the fact that this would be disruptive and compared it to the larger issue of an asphalt plant in a residential area.

Bryan Dishner, 2416 Bittersweet Row, feels it is not good reason to make a request of this nature in an area surrounded by residents. He feels the credibility of the applicant is questionable due to past examples. Mr. Dishner stated 5 jobs do not justify putting an asphalt plant in the middle of a residential district.

Antoinette Tarara, 1910 Homewood also spoke in objection, stating her concerns were those as were previously discussed by her neighborhood group. She was in agreement that an the Applicant's proposal does not belong in a residential area.

Dan Frykman, 2407 Mandrake Drive stated he has lived here since 1974. He stated Columbine Boulevard is directly across from the entrance to the quarry. He feels most of the exhaust from the stacks will come into Mulford Wildwoods. Mr. Frykman felt the possibility of carbon monoxide should be investigated, adding that he will probably sell his condo if this plant is approved.

Rebuttal

In response, Attorney Jagielski stated they did bring a lot of materials, answered questions, and discussed the project at the October meeting between the Applicants and Objectors, and Rockford Blacktop and representatives stayed until the church wanted to close. He stated many of the questions and concerns brought up this meeting could have been answered prior to this meeting if NETS had agreed to meet with them again. He reiterated that at the initial meeting with the Objectors, the Applicants and their representatives passed out business cards and requested people contact them for meetings or with questions and they only received one call.

Regarding the issue of a new landscaping plan brought up by Mr. Kaplanes, Attorney Jagielski pointed out that the preliminary landscaping plan was presented and staff had asked for a more detailed plan and that is why the second plan was presented. The revised landscaping plan is more intense and additional screening will take place as part of the development of this site.

In response to Mr. Bailey's statement that he was not aware there was an operating quarry when he purchased his home in Waldon Woods, Attorney Jagielski was not able to respond if a purchaser was not aware that the quarry was there and active when purchasing, since the quarry was in use prior to Waldon Woods being developed. Typically asphalt plants are not listed on potential danger disclosures because they do not have underground storage tanks, etc. He added that this subdivision was developed with the approval of the City to their specifications when the plat was approved. The logging plan for this subdivision was also approved by the City.

Responding to Mr. Drennen's comments that he can hear the trucks from I-39 and the UPS planes, Attorney Jagielski stated he would suspect there could be a higher percentage of jet exhaust than what is anticipated from the asphalt plant. He added that the I-39 ramp is a high ramp and diesel fuel odors may filter down from there. There is a significant number of vehicles on Harrison and those emissions are far greater than those from the plant would be.

Responding to Mr. Coonley's concerns of dust and odors coming up over the berm due to air flow, Attorney Jagielski stated any air from the quarry would have to come across Mulford Road prior to going into the residential area and it would be difficult to determine whether the air is affected by the quarry or by vehicular traffic.

Attorney Jagielski added that there have been a lot of questions regarding the accuracy of the EPA results. He explained that the EPA identifies possible sources of contamination that could injure people. They examine tests to determine what, if any, harm could occur over time and they write regulations setting limits well below possibilities. This is a government agency and this is what they do.

Troy Kutz, Quarry Manager for Rockford Sand and Gravel responded to concerns raised by Objectors regarding the operation of the quarry. Mr. Kutz manages the quarries for Rockford Sand and Gravel, and will also be managing the proposed asphalt plant. He clarified that the hours of operation for the asphalt plant would be from 5:00 AM to 8:00 PM. The existing quarry as it operates is a separate issue and currently is allowed to operate 24 hours a day. Blasting has been going on in the Mulford quarry since it's beginning in the late 1940's. Mr. Kutz explained that blasting will increase over the years at this quarry whether the asphalt plant goes there or not. He stated that all regulations are followed as required. Fugitive dust at the quarry is part of the quarry operation. The asphalt plant does not omit dust. Fugitive dust will remain at the quarry with or without the asphalt plant. Staff conditions require all roadways must be paved, which is not a requirement at this time, so dust from truck travel will be even less. In response to Mr. Mitchell's statement that the asphalt trucks will not be the same as the existing gravel trucks, Mr. Kutz stated the same 21 ton trucks that carry gravel will be the same trucks carrying asphalt. The trucks coming out of the Charles Street exit will be going in different directions so truck traffic will be disbursed rather than concentrated on one roadway. Regarding Mr. Kaplanes' photo and discussion of water on the quarry floor, Mr. Kutz stated the asphalt plant does not use water. Water pumped by the quarry is coming from the function of the quarry and has nothing to do with an asphalt plant. The water accumulated as shown by Mr. Kaplanes is a result also of hard rain and the quarry pump cannot handle all of it. In response to school buses loading and unloading at the intersection, Mr. Kutz stated trucks are not going to disobey the laws – if a school bus is stopped, the truck will not enter the roadway as is required by law. Mr. Kutz explained that the Mulford quarry can go another 150 feet deeper with good rock. The proposed plant is ASTEC, the only plant of this type made. Although the Nimtz quarry is updated, it is still 13 years old. Blue smoke can be contained. When it becomes necessary to move the operations of the remaining 30% of the Nimtz plant, Mr. Kutz stated it would make the most sense economically to move that operation north rather than to the proposed plant. He explained the asphalt plant at the Mulford quarry will probably be fired with diesel.

In regards to capturing blue smoke, Ms. Choate explained that a fiberglass dome can be put on top of the silos so that none of the smoke can escape. There is a horseshoe collector that will reroute the blue smoke and condense it back into liquid and reusable product. Using this method, blue smoke will be control by 95% or more. She further explained that carbon monoxide emissions are less now than plants from even 5 years ago.

In summary, Attorney Jagielski stated real estate appraisals were provided, as well as a traffic study. The Objectors did not provide an appraisal study nor a traffic study that proved differently. He stated the Applicant will be providing the most current equipment available to meet all standards, and has agreed to contain blue smoke.

Mr. Cagnoni stated Staff was agreeable to add a condition that Rockford Blacktop would capture the blue smoke and also to amend condition 4 to clarify that the extended hours of operation were for the quarry operation only.

In response to some of the questions raised by Objectors, Mr. Cagnoni stated this property was annexed in 1996 and the annexation agreement allows some vested rights for this property, including a lime stone quarry, and concrete batch plant. Hours of operation are not limited, nor are the number of trips made by trucks limited. If an asphalt plant is 1,000 feet away from a residential district it may be approved without a Special Use Permit. The regulations require a Special Use Permit if less than 1,000 feet. Staff would like an independent expert in asphalt to verify the statements made by the applicant. The traffic study submitted by the Applicant was forwarded to the City Traffic Engineer and the City Engineer and they were of the opinion that these roads would support this traffic at this location. Mr. Cagnoni explained the existing operation of a quarry is similar to an asphalt plant, but requires 2,000 feet from a residential district. The conditions submitted by Staff also govern the quarry operations as well. Regarding Mr. Kaplanes' statement that the City's conditions of approval are unenforceable, Mr. Cagnoni explained that the City has a code hearing process for violations. If the Applicant were to operate outside the conditions imposed under this Special Use Permit, City Council has the option to revoke the Special Use Permit. He added that Condition 13 puts a 5 year limitation on this Special Use Permit and Applicant would then have to renew the permit after that time frame. Regarding the proposed bike path, Staff believes it is important to connect the existing paths in continuation. The deceleration lane and acceleration lane for right in/right out on Mulford are to the specifications of the City Engineer and Traffic Engineer in addition to what is already there. Staff is in support of amending hours of operation from 5:00 AM to 12:00 Midnight to allow the operation of two shifts at the quarry only. Mr. Cagnoni stated perhaps the quarry could look at the feasibility of removing back-up warnings on vehicles and replacing them with lights for night operation as an example. City Engineer Jon Hollander verified there is no proposal to add an additional stop light in the commercial industrial subdivision to the south as suggested by an Objector. In conclusion, Mr. Cagnoni stated Staff believes the Applicant's request met the standards for a positive Findings Of Fact as required by the City of Rockford Ordinance.

Regarding Mr. Kaplanes' concern of the ability of the Fire Department to responded, Fire Prevention Chief Schmitt stated the City Fire Department is prepared to respond to any emergency operation. He clarified that Fire Department personnel are trained in all types of emergencies that could occur, including containment in a confined area. The Fire Department has no real concerns as far as their ability to handle any emergency at the Mulford quarry and proposed asphalt plant.

A **MOTION** was made by Tom Przytulski to **APPROVE** the Special Use Permit for a Performance Use consisting of an Asphalt Batch Plant that does not meet the performance criteria in an I-2, General Industrial District at 25XX South Mulford Road with amended condition 4) and added condition 19). The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 5-1 with Alice Howard voting Nay.

Approval is subject to the following conditions:

1. Trucks exiting to Charles Street shall be exclusively right-out from the quarry property at the existing location. Appropriate signage must be placed at that location indicating such.
2. Access to Mulford Road is exclusively right-in right-out. Improvements to Mulford Road shall be done prior to beginning operation of the asphalt batch plant inclusive of acceleration and deceleration lanes per the requirements of the Traffic Engineer.
3. The plant shall consist of a newly constructed Dual Unit Dryer Drum Mixer facility as submitted by the applicant. Written certification from the original equipment manufacturer will be required prior to establishment of the use.
4. Hours of operation for the asphalt batch plant shall be limited to 5:00 a.m. to 8:00 p.m. Monday through Sunday. The hours of operation for the quarry shall be limited to 5:00 a.m. to 12:00 Midnight Monday through Sunday.
5. The applicant will be permitted to operate the asphalt batch plant 30 days out of the year on a twenty-four hour basis provided the City of Rockford Planning Office is given notice of the operation in advance.
6. Landscaping is subject to exhibit D and is required to be installed prior to operation of the asphalt batch plant.
7. The asphalt batch plant shall be limited to the location as indicated on the attached site plan, exhibit E and must be located on the floor of the quarry below ground level.
8. Existing berm shall be maintained as to minimize any view of the asphalt batch plant and screen the use from site.

9. All driveways to the quarry floor shall be maintained with the appropriate dust treatment to minimize dust. Within one year of operation of the asphalt batch plant access drives down to the quarry shall be paved.
10. The owner shall obtain all the appropriate permits including but not limited to local, state, and federal. Copies of approved construction and operations permit must be submitted to Zoning Officer prior to operation of the asphalt batch plant.
11. Conformance with all IEPA and EPA emissions standards. The emission criteria must be met and a copy of the any associated approved operating permits from the agencies shall be submitted to the Zoning Officer.
12. A pedestrian/bike path along Mulford Road connecting Charles Avenue to Harrison Avenue shall be installed prior to the operation of the asphalt batch plant facility.
13. The special use for the asphalt batch plant shall expire within 5 years at which time the property owner will have to renew the special use.
14. The special use approval shall be subject to the applicant's narrative identified as exhibit D and these conditions of approval.
15. The existing concrete batch plant shall be relocated to the floor of the quarry or removed from the property. The operation of the concrete batch plant shall be project specific only and shall not be operated on a day to day basis. The operation of the concrete batch plant shall only take place upon approval of the Zoning Officer and upon a positive findings by the Zoning Officer for limited times of operation as approved on a project by project basis.
16. Storage of stockpiles of materials shall be located only on the floor of the quarry. All potential leachate should be avoided by covering the stockpiles that may result in such.
17. A contingency plan and remediation plan must be submitted to the Zoning Officer prior to operation of the asphalt batch plant to address any potential spills, leaks, etc. associated with the petroleum materials found with the operation of the asphalt batch plant.
18. Prior to building permit, construction, and operation of the asphalt batch plant Zoning Clearance must be made by the Zoning Officer assuring that all the required conditions have been met prior to the establishment of the use.
19. That the Dual Unit Dryer Drum Mixer include industries best practices in the capturing of "Blue Smoke".

With no further business to come before the Board, the meeting was adjourned at 11:25 P.M.

Respectfully submitted,
Sandra A. Hawthorne, Administrative Assistant
Planning/Zoning Division
Community Development Department