Record ID 4139844

2206692.005

STATE OF MINNESOTA
COUNTY OF ANOKA

CITY OF COLUMBUS
CONDITIONAL USE PERMIT
PROCEEDINGS

In the matter of the Application of: Bituminous Roadways, Inc.

AN ORDER GRANTING A CONDITIONAL USE PERMIT

for the following use:
to allow Bituminous Roadways, Inc. an asphalt production facility with outdoor storage and handling of various construction materials in the Light Industrial (LI) District

on property owned by: Bituminous Roadways, Inc.

A notice of the time, place and purpose of the public hearing of the above-entitled matter was published in the FOREST LAKE TIMES, the official legal newspaper for the City of Columbus, on January 4, 2018.

The above-entitled matter came on to be heard before the Planning Commission on January 17, 2018, on a petition for a conditional use pursuant to the Columbus Zoning Ordinance, for the following described real property:

Lot 1, Block 1, Bituminous Roadways Columbus

Location:

13363 West Freeway Drive N.E. Columbus, Minnesota

PIN# 36-32-22-34-0005

The Planning Commission, at its regular meeting on January 17, 2018 forwarded its recommendation to the City Council.

At its regular meeting on January 24, 2018 the City Council received the recommendation of the Planning Commission, and then at its February 14, 2018 City Council meeting, based upon it's consideration of the files and proceedings therein, decided that:

A CONDITIONAL USE PERMIT IS GRANTED AS UPON THE FOLLOWING CONDITIONS ON PAGES 6 &7.

Dated: 8-9-18

David J. Povolny, Mayor

STATE OF MINNESOTA)
COUNTY OF ANOKA) ss.
CITY OF COLUMBUS)

I, Elizabeth Mursko, Columbus City Clerk, do hereby certify that I have compared the foregoing Order granting the Conditional Use Permit with original record thereof preserved in my office, and have found the same to be a true and correct transcript of the whole thereof. In testimony whereof, I have hereunto subscribed my hand at Columbus, Minnesota, in the County of Anoka, this 9th day of August, 2018.

Elizabeth Mursko, Columbus City Clerk

This instrument was drafted by:
City of Columbus
16319 Kettle River Blvd.
Columbus, MN 55025

FINDINGS AND CONDITIONS FOR BITUMINOUS ROADWAYS INC. (PC18-104) ARE WITHIN RESOLUTION 18-02 AS FOLLOWS:

RESOLUTION 18-02

CITY OF COLUMBUS
COUNTY OF ANOKA
STATE OF MINNESOTA

RESOLUTION APPROVING A CONDITIONAL USE PERMIT AND SITE PLAN FOR BITUMINOUS ROADWAYS, INC.

WHEREAS, on December 1, 2017, Bituminous Roadways, Inc. ("BRI") submitted applications to the City of Columbus ("City") for approval of a Conditional Use Permit (CUP) and Site approval for the parcels located at 13345 and 13363 West Freeway Drive (together, the "Property"); and

WHEREAS, Property is legally described as part of the East Half of the Southwest Quarter of Section 36, Township 32, Range 22, lying westerly of Interstate Highway 35E, southerly of Interstate Highway 35W and easterly of West Freeway Drive (also known as CSAH 54, formerly known as CSAH 21); and

WHEREAS, the Property is currently zoned LI Light Industrial; and

WHEREAS, the approximately 46.44-acre Property is being platted as a single lot (Lot 1, Block 1), as proposed in the Bituminous Roadways Columbus Preliminary Plat; and

WHEREAS, BRI's CUP request is to construct a new asphalt production facility (the "Project") on the Property pursuant to Ordinance No. 17-03 that includes, but is not limited to the following basic components:

- Asphalt mixing drum
- Bag house
- Control house
- Cold feed system and recycled feed system
- Six hot mix storage silos/loadout facilities (approximately 70 feet in height)
- Four asphalt cement storage tanks (approximately 43 feet in height)
- One tack oil storage tank (approximately 36 feet in height)
- Secondary storage containment bunker
- Ramps, conveyors & hoppers, road scale
- Asphalt and concrete rubble piles (maximum height of 35 feet)
- Recycled asphalt and concrete piles (maximum height of 35 feet)
- Asphalt millings pile (maximum height of 35 feet)
- Virgin rock and sand piles (maximum height of 35 feet)
- Specialty aggregate piles (approximately 20 feet in height); and

WHEREAS, BRI proposes to construct a 40 foot by 115 foot office/lab and vehicle maintenance building, and a new well and septic system will be constructed for this use; and

WHEREAS, the office/lab portion of the proposed building is approximately 19 feet in height at the peak of the gable roof and has brick veneer wainscoting and metal siding on three sides; the roof of the building is metal; and

WHEREAS, the vehicle maintenance portion of the proposed building is approximately 33 feet in height at the peak of the gable roof and has two-toned (upper/lower and middle) metal panels on three sides; there are two 16-foot overhead doors and one 8-foot overhead door proposed; and

WHEREAS, site preparation for the proposed asphalt production facility includes removal of existing buildings, structures and private sewer and water services; overhead electric powerline relocation; wetland replacement; stormwater ponding; bituminous surfacing for the primary production facility area and office/lab building; aggregate surfacing of the stockpile areas and truck parking areas; and property access improvements; and

WHEREAS, Rice Creek Watershed District (RCWD) issued a "conditional" permit (CAPROC) on July 5, 2017 for original plans prepared in the spring of 2017; and

WHEREAS, the current development plans received by the City on December 1, 2017 are being reviewed by RCWD at this time; and

WHEREAS, full access to CSAH 54 from the Property is proposed at the south end of the Property; an exit-only northbound access is also proposed at the north end of the Property; and

WHEREAS, Anoka County Highway Department (ACHD) issued a letter for access requirements for the Property on June 2, 2017, reflecting original plans prepared in the spring of 2017; and

WHEREAS, the current development plans received by the City on December 1, 2017 are being reviewed by ACHD at this time; and

WHEREAS, the proposed asphalt production facility will be generally operational from April through November. Peak truck usage is estimated at approximately 250 round trips per day. Average daily truck usage (eight month operational period) is estimated at approximately 120 round trips per day; and

WHEREAS, it is anticipated that approximately half of the average truck traffic will exit the Property north on CSAH 54 and approximately half will exit to the south on CSAH 54; and

WHEREAS, the proposed general hours of operation are 6:00 am to 7:00 pm Monday through Saturday; however, many paving and asphalt projects include night paving to minimize traffic congestion; so, there will be periodic nighttime operations at the Property; and

WHEREAS, the proposed asphalt production facility will include the backhauling of concrete and asphalt rubble from job sites. Rubble will be crushed approximately two times a year for up to 5-week periods of time. There may be up to 250,000 tons of unprocessed rubble, recycled asphalt and concrete, and virgin aggregates on the Property during the construction season; unused material stockpiles will remain on the Property during the off season; and

WHEREAS, air emissions are regulated by the Minnesota Pollution Control Agency (MPCA) and must meet federal air quality standards. Fine sands and dust emissions in the asphalt production process are controlled by primary and secondary filtering systems. Dust generated by truck traffic will be minimized in the production loading and unloading area by paved driveway accesses and maneuvering areas. A street sweeper will be kept on the Property to clean paved surfaces, including any material tracked onto CSAH 54. Dust generated in the material stockpile areas will be mitigated by watering. All trucks hauling materials to or from the Property will be covered; and

WHEREAS, noise will result generally from trucks and equipment used at the facility. All site activity will be required to meet daytime and nighttime noise standards. All trucks and equipment owned by BRI are retrofitted with "white noise" back-up alarms, which minimize noise. Truck movements on the site are generally drive through operations, which minimize the use of back-up alarms, including "beeping" back-up alarms which may be used on non-BRI-owned trucks unloading rubble or other aggregates; and

WHEREAS, odors can be generated in asphalt facilities. Odors, like noise, dissipate with distance. The nearest residentially zoned properties in Columbus are nearly a mile to the west. Land within one mile of the Property in Lino Lakes is undeveloped "Rural" or undeveloped "Rural/Business Reserve" zoning; and

WHEREAS, there are no Columbus residences that are adjacent to the Property. The nearest Columbus residence is located on the north side of I-35W, approximately 700 feet from the nearest site improvement on the Property (concrete rubble pile). Proposed site screening includes several components:

a. A berm, landscaping and 6 foot vinyl fence along CSAH 54 between the two access locations (9 spruce, 26 ornamental trees, and 59 shrubs);

b. 39 spruce trees on the southerly edge of the Property along CSAH 54 and the westerly half of the south property line;

c. 5 maple trees and 22 spruce trees along the east-central portion of stock pile areas;

d. It is also proposed that the easterly edge of the asphalt rubble pile and the northeasterly edges of the concrete rubble pile will be mulched and hydro seeded and vegetated to maintain permanent natural cover on those back slopes of the rubble piles;

e. Final equipment specifications, production facility layout details, overhead powerline relocation plan, site lighting, and detailed building pans will be prepared and submitted for City approval prior to building permit issuance; and

WHEREAS, on July 25, 2017, the Minnesota Environmental Quality Board (EQB) received a petition (the "Petition") under Minn. R. 4410.1100 requesting that an Environmental Assessment Worksheet (EAW) be prepared on Bituminous' proposed Project, which was substantially similar to the project proposed under the CUP; and

WHEREAS, on July 31, 2017, the EQB determined that Minnesota Pollution Control Agency (MPCA) was the appropriate Responsible Government Unit (RGU) to decide whether an EAW should be prepared pursuant to Minn. R. 4410.1100, subp. 5; and

WHEREAS, on September 18, 2017, the MPCA issued Findings of Fact, Conclusions of Law, and Order (the "MPCA Order"), which including 99 findings of fact and conclusions of law with respect to the Project; and

WHEREAS, the MPCA Order addressed several concerns raised under the Petition, including: air quality concerns with respect to dust and emissions; traffic concerns; noise concerns, related to both trucks and operations; and wetland and stormwater concerns; and

WHEREAS; the MPCA Order made several relevant findings raised by residents and members of the public as they relate to the Project, including the following findings:

a. Mandatory Thresholds: "The MPCA Finds that the Project does not meet any mandatory thresholds under Minn. R. 4410.4300, nor any mandatory EIS thresholds in Minn. R. 4410.4400."

b. Air quality: "The MPCA finds that the Project, as it is proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts related to air quality that are reasonably expected to occur from the Project."

c. Traffic: "The MPCA finds that the Project, as proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts related to traffic."

d. Site Noise: "The MPCA reviewed information available on similar facilities, including traffic studies completed included on a previous EAW (Bituminous Roadways Roseville) and determined Bituminous'[s] plans for noise reduction at the Project site is comparable to other facilities and designed to meet Minnesota Noise Standards."

e. Truck Noise: "The MPCA finds the Project, as it is proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts related to noise."

f. Wetland and Stormwater Impacts: "The MPCA finds the Project does not have the potential for significant environmental effects based on the type, extent, and reversibility of wetland and stormwater impacts reasonably expected to occur."

g. Cumulative Impacts: "With respect to the potential for cumulative impacts, the MPCA staff identified no areas for which the Project has the potential for significant environmental effects by itself or in combination with other past, present or future project in the area."

h. Overall: "The MPCA finds that the evidence provided by the Petitioners and the other information in the record reviewed by MPCA staff does not demonstrate that the Project may have the potential for significant environmental effects." And,

WHEREAS, the MPCA Order concludes with an order that: "The Minnesota Pollution Control Agency determines that there are no potential significant environmental effects reasonably expected to occur from the Bituminous Roadways, Inc. Hot Mix Asphalt Plant Project and that there is insufficient basis to require the preparation of an Environmental Assessment Worksheet. The petition is, therefore, denied." And,

WHEREAS, the City accepts the findings of fact, conclusions of law, and order in the MPCA Order, and concludes that there are no potential significant environmental effects reasonably expected to occur form the Project; and

WHEREAS, the Project will be harmonious with and in accordance with the general objectives of the City Comprehensive plan and is consistent with the commercial and industrial development policies of the City Comprehensive Plan; and

WHEREAS, the Project is consistent with the general intent of the City Zoning Ordinance and the specific provisions of the Light Industrial zoning district, as well as the Performance Standards of the City Zoning Ordinance; and

WHEREAS, due to the location of the Project, the general design, the proposed screening, the operational aspects, and other mitigation proposed by BRI, the Project will be constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing and planned use of the Property and that such use will not change the essential character of the same area; and

WHEREAS, due to the location of the Project, the general design, the proposed screening, the conclusions of the MPCA Order, and other mitigation proposed by BRI, the Project will not be hazardous or disturbing to existing or planned neighboring uses; and

WHEREAS, subject to the required utilities phasing plan, the Project will be served adequately by essential public facilities and services such as highways, streets, utilities, police and fire protection, and stormwater drainage; and

WHEREAS, there are no known aspects of the Project that will create excessive additional requirements at public cost for public facilities and services or be detrimental to the economic welfare of the City; and

WHEREAS, due to the location of the Project, the general design, the operational conditions, the proposed screening, the conclusions of the MPCA Order, and other mitigation proposed by BRI, the Project will not be detrimental to any persons, property or general welfare by reason of excessive production of traffic, noise, smoke fumes, glare, or orders; and

WHEREAS, access to the Property will be designed and constructed in accordance with the requirements of the Anoka County Highway Department and the existing transportation network is designed adequately to accommodate traffic from the Project; and

WHEREAS, the Project will not result in the destruction, loss or damage of a natural, scenic, or historic feature of major importance; and

WHEREAS, at its January 17, 2018 meeting, the Planning Commission held a public hearing on the applicant's request for a CUP and Site Plan, heard and considered substantial public testimony, and recommended approval of the applicant's requests, subject to the findings and recommendations of the staff report, dated January 11, 2018; and

WHEREAS, at its January 24, 2018 City Council meeting, the Council heard the applicant's request for a CUP and Site Plan approval and voted to direct staff to prepare a resolution of findings to approve the applications.

NOW, THEREFORE BE IT RESOLVED:

The City Council hereby approves BRI's request for a CUP and Site Plan, subject to the following conditions:

1. The CUP is contingent upon detailed recommendations of the City Engineer.

2. The CUP is contingent upon recommendations of the City Attorney.

3. The CUP is contingent upon approval of the Bituminous Roadways Columbus Final Plat.

4. The CUP is contingent upon execution of a development agreement identifying the phasing of municipal sewer and water service extensions to the Property.

5. The CUP is contingent upon detailed plan review, including revised exterior building materials, and approval by the Building Official.

6. The CUP is contingent upon recommendations of the Anoka County Highway Department.

7. The CUP is contingent upon recommendations of the Rice Creek Watershed District.

8. Once authorized, BRI shall construct and maintain all site improvements consistent with the bound "Application for Site Plan Review and Conditional Use Permit," dated November 30, 2017, and submitted on December 1, 2017, and as supplemented, modified and subsequently approved by the City.

9. BRI shall operate facilities on the Property in compliance with the bound "Application for Site Plan Review and Conditional Use Permit," dated November 30, 2017, and submitted on December 1, 2017, and as supplemented, modified and subsequently approved by the City.

10. The operation of the asphalt production facility must be consistent with all local, Federal, and State laws that apply to the use of the Property.

11. Approval of the CUP does not eliminate the requirement for obtaining any other permits and approvals as may be required by City, watershed, county, or state laws, rules, ordinances, and policies, including but not limited to grading permits, building permits, plumbing permits, electrical permits, stormwater permits, sign permits, water appropriation permits, and sewage treatment system permits.

12. Normal hours of operation shall be 6:00 a.m. to 7:00 p.m. Monday through Saturday, except that a facility may operate outside of those hours for a maximum of thirty days in a calendar year where such operations are necessary in order for the owner/operator of the facility to perform work under a contract related to a public road project that specifies work be performed outside the hours of 6:00 a.m. to 7:00 p.m. Monday through Saturday and/or on Sunday. The operator shall provide the zoning administrator written notice of such exception to normal hours of operation at least forty-eight (48) hours in advance of the exception. No facility operations shall be permitted on New Year's Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, or Christmas Day.

13. BRI shall instruct all company and contract truck drivers not to employ "engine braking" in the City of Columbus.

14. All trucks hauling materials to or from the Property shall be covered.

15. All BRI-owned trucks and equipment used on the Property shall be equipped with "white noise" back-up alarms.

16. BRI shall retrofit asphalt cement tank vents with condensers to reduce odors. BRI shall agree to use additives in the asphalt cement, if odors from the asphalt production facility are determined by the City Council to require such action.

17. Stockpiles of backhauled concrete and asphalt rubble, except back slope areas used for screening, shall be crushed and recycled at least once a year. Crushing activity shall not exceed five (5) continuous weeks of crushing at any single crushing interval.

18. Stockpiles of backhauled concrete and asphalt rubble shall not exceed one and one-half (1.5) times the amount required for annual asphalt production or reuse as base material in annual construction projects.

19. BRI shall agree to all reasonable requests by the City for dust control on the Property.

20. BRI shall reimburse the City for all out of pocket expenses incurred in the review and issuance of the CUP and for all ongoing inspections and enforcement actions required for the CUP.

21. BRI shall submit a listing of all substantive complaints received and complaint resolutions in writing to the City on a monthly basis.

22. In the event the City Council determines that the asphalt production facility is not being operated in accordance with any term or condition contained herein, the CUP may be revoked by the City upon proper notice and a hearing. The City shall notify regulatory authorities that have issued licenses or permits in connection with the Conditional Use Permit of any such revocation.

23. The CUP is contingent upon the recommendations of the Minnesota Department of Transportation.

Passed and adopted by the City Council of the City of Columbus this 14th of February, 2018.

ANOKA COUNTY MINNESOTA
Document No.: 2206692.005 ABSTRACT
I hereby certify that the within instrument was filed in this office for record on: 08/15/2018 11:09:00 AM
Fees/Taxes In the Amount of $46.00
JONELL M. SAWYER
Anoka County Property Tax Administrator/Recorder/Registrar of Titles
TDD, Deputy

Record ID: 4139844

City of Columbus
16319 Kettle River Blvd.
Columbus, MN 55025