



TOWN OF ATOKA

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MEMORANDUM

To: Board of Zoning Appeals
From: Brian Koral, Town Administrator 
Re: Use on Appeal Application – Memphis Stone & Gravel

On the Board's agenda tonight is an application from Memphis Stone and Gravel (MS&G) for a Use on Appeal of property south of Tracy Road between Rosemark and Bethel Roads in the Town of Atoka. The purpose of requested use is for the extraction of gravel and sand from the property. The project property is bounded on the north by Tracy Road, on the east and south by the Tipton County line and on the west by Bethel Road.

Background

In 2005, MS&G purchased 174 acres of property on Bethel Road in Tipton County for their proposed Atoka Aggregate Facility. Additionally, MS&G acquired leasing rights to an additional four parcels – bringing the total land impacted to more than 610 acres.

On February 7, 2006, the Board of Mayor and Aldermen (BoMA) passed ordinance 06-01-02. The ordinance annexed more than 1,000 acres of land in the area, including the proposed MS&G project area, the Quail Hollow subdivision and additional farmland north of Tracy Road.

The Board of Zoning Appeals (BZA) reviewed an application for a Use on Appeal at a public meeting held on May 18, 2006. The meeting lasted two hours and a decision was delayed to a future meeting. On June 29, 2006, the BZA re-convened to consider the application. At the June 29 meeting, the BZA unanimously approved the application from MS&G for the Use on Appeal.

The application, as approved, envisioned truck traffic leaving the site on Bethel Road, turning south into Shelby County and travelling along Miller Road to Mudville Road – through the four-way stop intersection at Rosemark Road and on to Highway 14. In an effort to find a more direct route to Highway 14, MS&G leased additional land adjacent to the project site that is in Shelby County and connects to Rosemark Road.

In 2010, MS&G applied for a special-use permit in Shelby County to allow the company access to Mulberry Road at Rosemark Road by coming across the Moffatt farm. Shelby County staff recommended approval but the Land Use Control Board rejected the application based on resident concerns related to road safety and quality of life impact. The Shelby County Commission sided with the Land Use Control Board in rejecting the application – citing, again, the increased truck traffic dangers and impact on the character of the rural Rosemark area. The Shelby County Commission's decision was later upheld by the Chancery Court.

On May 24, 2016, MS&G held a public forum at the Tipton-Rosemark Academy to receive community feedback on several options regarding the proposed project. At that forum, several different road routing options were presented and attendees were asked to show their preferences and provide feedback.

On July 26, 2016, the BoMA held a work session to hear from MS&G regarding their 2006 proposal. As was noted at the time, several members of the Board had been elected since 2006 and were not fully briefed on the project. A similar work session was held on August 23, 2016 where opponents of the project were given the opportunity to share their concerns with the BoMA. At the time of the work sessions, no application had been received related to the project.

On August 26, 2016, MS&G submitted a completed application for a Use on Appeal of the property to allow for sand and gravel mining on the site. The application anticipates disturbing 520 acres of the site over the life of the project. The project application indicates that land reclamation would be complete in 2032 but that the thirty (30) acre plant may be extended if additional reserves are permitted for extraction.

The application was provided to the Town Planner, Will Radford, for his review.

General Statements

It is understood that Memphis Stone & Gravel is a mining company and, in many cases, does not own the trucks that will be hauling material from the proposed Atoka Plant location. Any discussion of haul routes to be used by MS&G shall be in reference to the haul routes used by trucks – company-owned or otherwise – arriving at and departing from the project site.

Throughout this review, any emphasis is provided in the form of underlined text and is placed there as a part of the review. The emphasis is not a part of the text itself but is added to call out key concepts.

Purpose of Municipal Zoning

The Town's zoning authority is well-established in both statute and case law. The ordinances themselves establish the purpose of land use control in the municipal setting.

The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and the general welfare of the community. They have been designed to lessen congestion in the street, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, of the character of each district and its peculiar suitability of particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the town.

Land Use Plan

The concept of land use planning is another well-established authority of municipalities in Tennessee for the purposes of guiding and, in some cases directing, responsible and sustainable community growth.

The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the municipality which will, in accordance with existing and future needs, best promote public health, safety, order, convenience, prosperity, and general welfare...

Tennessee Code Annotated
Title 13, Chapter 3, Section 203

Municipalities spend a great deal of time and effort on planning for future growth and the Town of Atoka is no exception. In 2008, working with the Tennessee Department of Economic and Community Development's Local Planning Office, the Town completed a twenty (20) year planning document called the "2008 – 2028 Land Use & Transportation Plan" (Land Use Plan).

There are several key statements in the Land Use Plan that should be taken into consideration of the application. The Executive Summary section lays out several purposes behind the Land Use Plan that can provide the BZA with guidance.

"They (the objectives, policies, and practices of the Land Use Plan) represent an effort to coordinate harmonious and efficient development in accordance with the specific character and community values of the Town of Atoka, Tennessee. It is the intent of the Atoka Municipal-Regional Planning Commission that this Land Use Plan serves as a means to attain the goal of providing a sustainable quality of life for the residents within the Town of Atoka"

"At its heart, the planning process is a problem solving exercise. It involves identifying a present or likely future problem, laying out reasonable alternatives for solving a problem or cluster of problems, selecting from among the alternatives, and forming goals and policies that, when consistently applied, correct or prevent deficiencies."

"The overall goal of this plan is to maintain and strengthen the primarily single-family character of residential development in Atoka by protecting existing and future developments from incompatible uses..."

"Atoka is striving to become a full service (balanced economy), well planned community by encouraging the development of a balance of all residential districts provided for in the Zoning Ordinances for the town and the region; by encouraging clean, high-tech, specialized, low-impact industry to locate in the area to increase employment opportunities; by limiting development in areas that contain major natural drainage problems, soil limitations and unusual topographic conditions; by separating more intense land uses from less intense uses, such as commercial and residential with adequate buffers and landscaped areas. In addition, Atoka strives to expanding recreational facilities to serve the community; to provide a safe and efficient transportation system; to providing full service utilities as soon as practical to areas where needed; and to begin planning for the orderly development that should occur as a result of Interstate 69 locating in southwest Tipton County."

Also of significance in reviewing Atoka today, the Land Use Plan made several population projections as to where it saw Atoka in the future. Tables 2.4, 2.5 and 2.7 in the Land Use Plan projected Atoka with a population of 7,891, 6,191 and 5,143, respectively in the year 2010. The Census Bureau counted a 2010 population in Atoka of 8,387 – somewhere between 526 and 3,244 above the projections in the Land Use Plan. More recent estimates put Atoka’s population over 9,000 – making Atoka the largest municipality, by population, in Tipton County.

Zoning Ordinance Related to Mining

The Atoka Municipal Zoning Ordinance discusses mining as envisioned by the application under the regulations adopted for the Forestry, Agriculture and Residential (FAR) Districts.

Provisions Governing FAR (Forestry, Agriculture and Residential) Districts

Uses Permitted on Appeal - Following public notice and hearing and subject to appropriate conditions and safeguards, the Board of Zoning Appeals may permit the following uses:

[...]

Mining and quarrying of non-metallic minerals (except fuels) as defined in the Standard Land Use Coding Manual; provided that no mining takes place until written approval has been granted by the Board of Zoning Appeals. The grant of approval shall expire 2 years from the date of approval and the operator shall be required to reapply to the Board of Zoning Appeals for continuation of the use. Before approval by the Board of Zoning Appeals the applicant shall be required to adhere to the following requirements:

Shall not be located or take place closer than one-hundred and sixty (160) feet to a residential structure or fifty (50) feet from a property line, whichever is greater.

Shall not be located or take place closer than two-hundred (250) feet of a designated Flood Hazard Area.

Shall be required to take such measures, as the Town of Atoka deems necessary and proper to adequately maintain the county roads proposed for use by the applicant. A bond in an amount adequate to correct damages occurring as a result of the use of these roads by the applicant can be required by the Board of Zoning Appeals.

Shall be required to submit a signed and certified notice of intent permit to comply with all state regulations governing the discharge of storm water associated with the proposed activity. The notice of intent will have been filed with the Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

Shall provide a copy a copy of the National Pollutant Discharge Elimination System Permit that is issued by the Tennessee Department of Environment and Conservation, Mining Section.

Shall provide the Board of Zoning Appeals with a surety instrument (i.e. letter of credit, bond) in the amount of one-thousand (\$1000.00) dollars for each acre affected by the respective operation. The bond shall be for three (3) years and shall

be redeemable by the Board of Zoning Appeals if reclamation of the area, in accordance with the approved Reclamation and Re-vegetation Plan, has not been satisfied within those 3 years or an extension has not been granted by the Board of Zoning Appeals.

Shall provide and have approved by the Town Engineer a Soil Erosion Control Plan, a Reclamation Plan and a Re-vegetation Plan. All plans shall comply with the adopted standards of the Department of Health, Environment and Conservation; and, Shall present a detailed site plan drawn to a scale of one inch equals two-hundred feet (1"=200'), which includes all relevant information in 14-201.3.15, Procedures and Requirements for Site Plan Approval, and shall include the following additional information;

The name of the owner of the mineral rights;

The name of the owner of the surface rights;

The name of the operator of the proposed activity;

The total number of acres to be disturbed;

A certification as to the accuracy of the plan by the person responsible for its preparation;

The boundaries for which the permit is requested and the boundaries of the parcel on which the requested area is located;

The location of all existing or proposed haul or access roads to be used by the mining operator;

The location of any existing structures, publicly owned lands, or utility facilities within one-thousand (1,000) feet of the affected area; and,

The location of all streams and standing bodies of waters in or within one-thousand (1,000) feet of the proposed area.

Atoka Municipal Zoning Ordinance
Title 14-201, Article 5, Section 5.3

Roadway Information

Pavement Conditions

The application as submitted by MS&G proposed a haul route by which trucks would enter and exit the site on Bethel Road. Trucks leaving the site would make a left-hand turn onto Bethel Road, travelling south to the county line where Bethel Road becomes Miller Road and then continuing east and south for approximately 1.6 miles to Mudville Road.

Staff considered the two most plausible, direct routes to an Interstate from the proposed Atoka Plant. Both routes are heavily trafficked by residents of Atoka commuting to and from work and, as traffic count data shows, both routes have seen significant increases in traffic since 2006. The first route considered was a direct run down Austin-Peay Highway from Mudville Road to I-269. That total route would be 9.05 miles from plant exit to Interstate.

Road Name	Distance to be Traveled (mi)	Pavement Width (ft)	Paved Shoulder Width (ft)	Total Paved Surface (ft)
Bethel Road	0.25	20	0	20
Miller Road	1.3	16	0	16
Mudville Road	2.0	22	0	22
Austin-Peay Highway	5.5	24	4	32
Total Distance to Interstate	9.05			

The second route considered was Austin-Peay Highway to Rosemark Road to Millington-Arlington Road to Brunswick Road to I-269. That total route would be 8.85 miles from plant exit to Interstate.

Road Name	Distance to be Traveled (mi)	Pavement Width (ft)	Paved Shoulder Width (ft)	Total Paved Surface (ft)
Bethel Road	0.25	20	0	20
Miller Road	1.3	16	0	16
Mudville Road	2.0	22	0	22
Austin-Peay Highway	1.5	24	4	32
Rosemark Road	1.0	20	0	20
Millington-Arlington Road	1.2	24	9	42
Brunswick Road	1.6	22	0	22
Total Distance to Interstate	8.85			

By comparison, the current North Plant operated by MS&G sends a bulk of its out on Millington-Arlington Road west towards Brunswick Road. The road widths are provided below and trucks can reach the Interstate in under four (4) miles.

Road Name	Distance to be Traveled	Pavement Width (ft)	Shoulder Width (ft)	Total Paved Surface (ft)
Millington-Arlington Road	0.5	20	0	20
Millington-Arlington Road	1.5	24	9	42
Brunswick Road	1.6	22	0	22
Total Distance to Interstate	3.60			

Traffic Counts

The Tennessee Department of Transportation (TDOT) takes annual traffic counts on roads across Tennessee. According to TDOT, “Annual Average Daily Traffic (AADT) provide traffic volumes based on a 24-hour, two-directional count at a given location. Raw traffic data is mathematically adjusted for vehicle type, determined by an axle correction factor. The data is then statistically corrected by a seasonal variation factor that considers time of year and day of the week.”

For the purposes of this review, staff has gathered traffic data available from TDOT for the roads proposed in the MS&G application.

The first data available comes from Mudville Road east of the intersection with Miller Road. This road segment is a part of the haul route proposed in the application and has shown a nearly six (6) percent increase in AADT since 2006.

County	Shelby		
Location	Mudville Rd near Miller Rd		
Year	Annual Avg Daily Traffic	Change	10 Year Change
2015	1397	-2.03%	5.91%
2014	1426	7.87%	
2013	1322	4.01%	
2012	1271	5.39%	
2011	1206	-13.30%	
2010	1391	-3.34%	
2009	1439	4.43%	
2008	1378	7.15%	
2007	1286	-2.50%	
2006	1319		

The application as submitted proposes crossing Rosemark Road on Mudville Road at the four-way stop intersection. AADT on Rosemark Road north of the proposed crossing has increased nearly seventeen (17) percent since 2006.

County	Shelby		
Location	Rosemark Rd south of Mulberry Rd		
Year	Annual Avg Daily Traffic	Change	10 Year Change
2015	7168	11.25%	16.99%
2014	6443	3.01%	
2013	6255	1.71%	
2012	6150	0.75%	
2011	6104	-1.61%	
2010	6204	-2.10%	
2009	6337	3.16%	
2008	6143	2.43%	
2007	5997	-2.12%	
2006	6127		

The application proposes accessing State Route 14 at Mudville Road – with primary traffic turning southwest towards the Memphis market. AADT on this portion of SR 14 has also increased seventeen (17) percent since 2006.

County	Shelby		
Location	SR 14 north of Gragg Rd		
Year	Annual Avg Daily Traffic	Change	10 Year Change
2015	7831	6.85%	17.00%
2014	7329	7.23%	
2013	6835	-1.37%	
2012	6930	2.18%	
2011	6782	0.86%	
2010	6724	0.85%	
2009	6667	5.03%	
2008	6348	-1.43%	
2007	6440	-3.78%	
2006	6693		

From that point, haulers will have one of two logical options for accessing the Interstate system into Memphis. Trucks could continue on SR14 to access I-269 directly or turn onto Rosemark Road to access Millington-Arlington Road towards Brunswick Road. While truck traffic could on SR14 to access Millington-Arlington Road directly, the route adds 1.25 miles.

Both of these intersections (SR14 at Rosemark Road and SR14 at Millington-Arlington Road) are non-signalized intersections and have experienced traffic fatalities in recent years.

County	Shelby		
Location	Rosemark Rd south of SR 14		
Year	Annual Avg Daily Traffic	Change	10 Year Change
2015	2266	-1.69%	25.75%
2014	2305	2.99%	
2013	2238	10.96%	
2012	2017	1.15%	
2011	1994	-0.10%	
2010	1996	1.94%	
2009	1958	5.44%	
2008	1857	-4.43%	
2007	1943	7.82%	
2006	1802		

County	Shelby		
Location	SR 14 north of I369 / 385		
Year	Annual Avg Daily Traffic	Change	10 Year Change
2015	11536	7.24%	7.31%
2014	10757	4.52%	
2013	10292	5.11%	
2012	9792	-10.88%	
2011	10987	2.64%	
2010	10704	0.55%	
2009	10645	-1.44%	
2008	10800	-3.27%	
2007	11165	3.86%	
2006	10750		

MS&G currently hauls from their North Plant using Millington-Arlington Road and either Brunswick Road or SR14 to access the Interstate system. An anecdotal staff review observed trucks on a recent day splitting their route – with approximately half using Brunswick Road and the other half continuing on to SR14. While TDOT does not track AADT on the sections of Millington-Arlington Road primarily used on this route, Brunswick Road traffic has shown a nearly eight (8) percent decrease in AADT since 2006.

County	Shelby		
Location	Brunswick Rd near Bolton HS		
Year	Annual Avg Daily Traffic	Change	10 Year Change
2015	5701	3.00%	-7.71%
2014	5535	2.50%	
2013	5400	-8.91%	
2012	5928	7.37%	
2011	5521	-8.01%	
2010	6002	1.66%	
2009	5904	2.20%	
2008	5777	-6.75%	
2007	6195	0.29%	
2006	6177		

Requirements for Approval

Once the specific requirements associated with a mining operation are met in accordance with the Atoka Municipal Zoning Ordinance, the BZA is provided with a series of criteria for their review.

Criteria for BZA Review - Prior to the approval of any use on appeal, the Board of Zoning Appeals shall ensure the requested use adheres to the following criteria:

The use requested on appeal is to be located on a route designated as either an arterial or collector street on the official Major Road Plan for Atoka.

All area, yard and density and parking requirements shall be met.

A site plan of the use shall be submitted to the Board of Zoning Appeals.

If approved, all modifications requested by the Board of Zoning Appeals shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the Town of Atoka.

The Board of Zoning Appeals shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the requested use. These may include but shall not be limited to setbacks, screening, lighting parking location and layout, access and general landscaping requirements. This power of review shall not include the authority to specify or alter the architectural style of proposed or existing buildings and the authority to specify building materials, colors or similar considerations.

Atoka Municipal Zoning Ordinance
Title 14-201, Article 5, Section 5.4

Staff Review

2006 Approval of the Use on Appeal Application

An early question raised this summer was related to the status of the 2006 approval granted by the BZA for the proposed project. The Atoka Municipal Zoning Ordinance states the following regarding uses permitted on appeal in an area designated as FAR (Forestry-Agriculture-Residential):

“Mining and quarrying of non-metallic minerals (except fuels) as defined in the Standard Land Use Coding Manual; provided that no mining takes place until written approval has been granted by the Board of Zoning Appeals. The grant of approval shall expire 2 years from the date of approval and the operator shall be required to reapply to the Board of Zoning Appeals for continuation of the use.”

Atoka Municipal Zoning Ordinance
Title 14-201, Article 5, Section 5.3

The Atoka Board of Zoning Appeals approved a Use on Appeal application for the Memphis Stone & Gravel project on June 29, 2006.

In discussions this year, it was made clear that MS&G was under the impression that the application remained valid since a building permit had not yet been issued for the project. In a letter dated September 13, 2016 to the BZA, MS&G again reiterated its position that the 2016 application is simply a renewal of an existing approved Use on Appeal. There was also a claim made that Town staff and/or elected officials had, in the past, indicated that the two year timeframe began with the issuance of a building permit.

While it is impossible to know exactly what may or may not have previously been said, the ordinance is plain in its text and neither a member of Town staff nor an elected official has the legal authority to simply waive the requirements of the duly-adopted ordinances of the Town. Even if a member of the Town’s staff or an elected official had tied the two year approval to the building permit in writing – something that I have not seen evidence of to this point – that opinion would have been in error, in excess of their authority and not binding on the project going forward. Adhering to the text of the adopted ordinance protects all parties from arbitrary decisions or conflicting guidance.

As such, the approval granted on June 29, 2006 expired on June 29, 2008. No further approval had been sought until the August 26, 2016 application. The application currently before the BZA is a stand-alone application to be reviewed in the context of the ordinances, zoning policies and community standards in place as of its filing in August. The 2016 application is not a renewal of the 2006 approval but is itself a new application. For the 2016 application to be a valid renewal, the requisite re-applications in 2008, 2010, 2012 and 2014 would have had to have been submitted and approved as required by the ordinance. Those re-applications and re-approvals simply did not occur.

Analysis

The application as submitted has been thoroughly reviewed by Town staff. The application as submitted was complete and included documentation of efforts to meet the requirements of Section 5.3 of the Atoka Municipal Zoning Ordinance.

There is no reasonable doubt as to the need for the material proposed to be extracted from the project location. MS&G is a company that deals in raw materials that support the construction industry – and their materials are used in the construction of roads, homes and buildings across the region. As outlined in their application, this proposed facility will eventually replace their North Plant on Millington-Arlington Road – with nearly seventy (70) percent of the resources to be removed from the site expected to be used in Shelby County housing and construction. MS&G is a corporate citizen and land owner in the Town of Atoka and deserves every opportunity to utilize their property.

There is significant emphasis placed on the 2006 approval as a supporting factor in the 2016 application. The approval by the BZA in 2006 absolutely may be a factor in the BZA’s consideration of the 2016 application – particularly as the application itself has not changed significantly from what was proposed in 2006. That being said, the 2006 approval is not, in and of itself, a determining factor in the BZA’s consideration of the 2016 application.

While the application has not changed substantially, it is noted that Atoka in 2016 is considerably different from Atoka in 2006. Population growth has far exceeded the projections outlined in the Land Use Plan – putting further strain on a road system that was already challenged with capacity issues at the time of the plan. The addition of Atoka Elementary School has placed additional traffic onto Rosemark Road that will be intersecting with truck traffic from the proposed project. Additional residential construction has placed more homes in proximity to the proposed site – homes that benefit from the rural, quiet nature of the surrounding area that may be permanently and irreparably altered by the proposal.

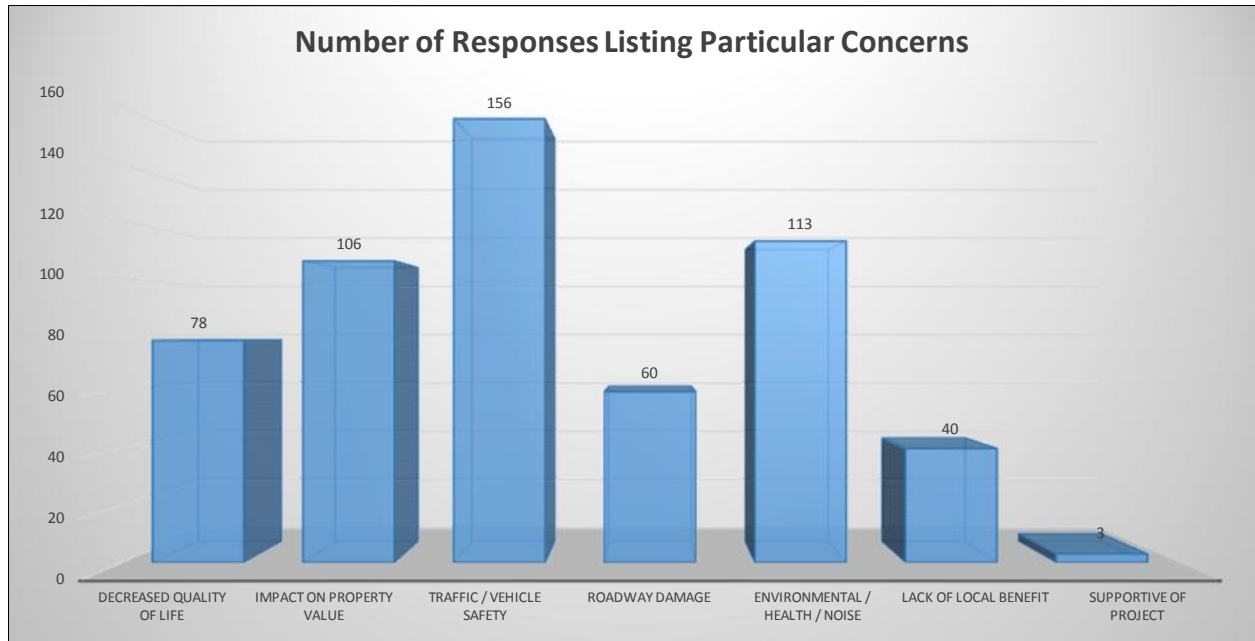
The Municipal Zoning Ordinance does not specifically require the BZA to permit a Use on Appeal. The wording of the ordinance says that the “Board of Zoning Appeals may permit the following uses”, terminology through which the Board of Mayor and Aldermen has given the BZA discretion to consider the totality of an application in the context of the community. The language indicates the BoMA’s expectation that the BZA will give thorough consideration to the wide range of factors set forth in the Municipal Zoning Ordinance, the Land Use Plan and the conditions of the community.

It is also important to note that the zoning ordinance itself differentiates mining from any other form of land use in Atoka. The way in which this use is approved is unique in our zoning ordinance and was designed specifically to ensure that a mining and quarrying operation lived up to commitments made to the Town during the approval process. No other land use that staff has reviewed or is aware of requires the re-authorization of a land use on regular intervals after approval. Not commercial. Not industrial. Not residential. Not sexually oriented businesses – solely mining and quarrying. Mining operations are singled out in our zoning ordinance with the specific intent to hold the operators accountable to the conditions of their approval. Nowhere else in our zoning ordinance is such leverage and authority over the ongoing land use given to the Town. That unique feature of this land use approval and re-approval process also points to the significant and unique impact this type of operation can have on the community.

Citizen Input

While not a referendum, public input is an important part of the democratic process as well. The Town has gone to great lengths to be sure that everyone is heard as a part of this discussion. The Land Use Plan calls on us to take “special efforts...to obtain input from the general public through...public meetings, public hearings and surveys.” The Town has worked diligently to receive feedback throughout the process and to be sure that representatives for and against the project had equal opportunity to impact the legislative decision-making process.

The Town received more than 190 feedback forms regarding this project since August 29. The feedback was solicited through the Town’s website and social media pages over a three week period. Below are results of that feedback in graph form.



The above graph shows how often the particular issue listed was mentioned in the 195 feedback forms received since August 29. While many of the forms listed several concerns, this graph shows how many of the forms touched on each concern. For example, if a form mentioned quality of life and traffic safety, it is counted in each of the categories and presented in the graph. So, of all 195 forms submitted, 78 included references to decreased quality of life while 156 made mention of a traffic or vehicle safety issue. Other top concerns mentioned included environmental / health and noise concern and an impact on property values.

The Board of Zoning Appeals process is not a public referendum. It is not designed to give priority to those who turn out the most people – nor is it designed to provide favor based on whose property is larger or more valuable. The BZA is charged with reviewing the application and, when weighing all of the factors available, coming to a conclusion on whether or not to approve the application as submitted. Public concern, however, is one of the many valid factors that the Board may consider in its deliberative process and the Town has worked diligently to be sure that public input has been provided to the BZA.

Quality of Life Considerations / Land Use Plan

The Town of Atoka’s Land Use Plan envisions a mode of development that is well thought out and intentional in nature. Phrases in the Land Use Plan like “harmonious”, “sustainable quality of life”, “protecting existing...developments from incompatible uses” and “separating more intense land uses from less intense uses” all speak to the value of maintaining the quality of life while ensuring what the Atoka Zoning Ordinance calls “the most appropriate use of land throughout the town.” All of the regulations of the Town in regards to land use focus on maintaining that quality of life that Atoka has become known for.

Atoka’s character is rural / small town and there is consensus to maintain this character

The Land Use Plan also provides guidance in the development of vacant land.

Public support and approval of development proposals that result in the conversion of prime farmlands should be reserved for those developments consistent with this plan and required for urban growth and development.

Atoka 2008 Land Use & Transportation Plan
Objective 6.2.1

All new development...should have an adequate transportation system.

Atoka 2008 Land Use & Transportation Plan
Objective 7.1.1

In reviewing the Land Use Plan, it does not identify mining or mineral extrication as a planned use. That, in and of itself, is not a statement that a mining project cannot or should not be considered, but the Land Use Plan places high priority on maintaining the character of the community and preventing incompatible new uses from coming in and negatively impacting existing uses. The Land Use Plan envisions the area proposed for the project as residential land – low impact and compatible with the existing surrounding properties. The BZA needs to make the determination whether or not the proposed use meets those objectives.

Traffic Considerations

The application as submitted shows set operational hours of 6 a.m. to 8 p.m. on weekdays and a reduced operational schedule on weekends. With the anticipated 100 - 150 loads of material leaving the facility daily by truck, a person sitting in a driveway on Miller Road would see a truck pass on average every three to four minutes throughout the day. Each truck would make a round trip to and from the facility – meaning each load leaving the plant equates to two passages of the truck on Miller Road.

In reviewing the criteria for BZA review as established by ordinance, there is a clear requirement that the “use requested on appeal is to be located on a route designated as either an arterial or collector street on the official Major Road Plan for Atoka”. Bethel Road, which is proposed as the access point for the project, is not designated as either an arterial or collector street.

The Atoka Subdivision Regulations provide additional guidance as to the required pavement widths for various road classifications in Atoka.

The minimum pavement widths for all roads shall be as follows:

<i>Road Type</i>	<i>With Curb</i>	<i>Without Curb</i>
<i>Arterial</i>	<i>48 feet</i>	<i>44 feet</i>
<i>Collector Street</i>	<i>36 feet</i>	<i>32 feet</i>
<i>Minor/Residential</i>	<i>28 feet</i>	<i>24 feet</i>
<i>Dead-end Street (Cul-de-sac)</i>	<i>28 feet</i>	<i>24 feet</i>

Atoka Municipal Subdivision Regulations
Article 4, Section C, Requirement 9(b)

Bethel Road, as established earlier in this review, would not meet the Town's standard as a residential neighborhood street, much less a collector or arterial street. The pavement width, without curb, is twelve (12) feet below the required width envisioned for a collector street.

The rationale for this requirement is that the uses allowed on appeal, particularly in this instance, add traffic to the road system and should be reviewed with an effort toward what the Land Use Plan calls "preventing deficiencies." The Town's planning documents simply do not want to be adding significant sources of new traffic on roads that are not designed to handle that traffic. The Land Use Plan also aims for development to be managed in such a way as to "provide a safe and efficient transportation system." The BZA must consider whether or not placing additional heavy truck traffic onto Bethel and Miller Roads creates a deficiency for the future and impacts the safety and efficiency of the transportation system.

Regardless of traffic volume, once truck traffic reaches Austin-Peay Highway, the pavement widths and road construction are sufficient to handle vehicles the weight and width of a loaded dump truck. The pavement widths and road construction of Bethel and Miller Roads in particular, appear insufficient to regularly handle vehicles the weight and width of a dump truck. With a typical vehicle width of between eight (8) and eight and a half (8 ½) feet, two dump trucks would find it all but impossible to safely pass on Miller Road. Additionally, a standard passenger vehicle, SUV or light truck would likewise find passing a dump truck difficult on Miller Road.

"(Hall) Williford said he considers residents' concerns "understandable."

"They are correct when they say Miller Road is not suitable for the truck traffic at this time," he said."

Wainger, B. (2006, October 5). Exploring alternatives: MSG says it wants 'safest route possible'
The Millington Star – Retrieved from www.MillingtonStar.com

The concerns regarding Miller Road are not new. They were recognized by residents and MS&G nearly a decade ago and, to the best of our knowledge, the road conditions on Miller Road remain the same today.

The ability and conditions of the road system in the area to handle the anticipated truck traffic generated by the proposed project can and should be a part of the BZA's consideration of the application. The roads that MS&G would be using to haul material from the Atoka Plant are the same roads that transport Atoka families to and from schools and the community on a daily basis. While there has been discussion of a route that does not include Bethel and Miller Roads, the proposal as submitted to the BZA shows Bethel and Miller Roads as the available haul route and the BZA should consider the application based on the route submitted. Regardless of the fact that the roads are not within the municipal limits of the Town, the project itself would have an impact on residents of the Town that can and should be carefully considered by the BZA.

There was previously an agreement to not seek access to Tracy Road as a part of the project. The Land Use Plan does, however, list Tracy Road as a Major Arterial running east-west in Atoka. The Land Use Plan further defines a Major Arterial this way:

Roadways linking regional population centers, but often lacking controlled access and traffic flow separation. These are usually numbered U.S. Highways. Designed to accommodate medium-high trip lengths and traffic volumes, the primary function of a major arterial is to accommodate regional through traffic. Major arterials emphasize mobility over land access. These facilities have relatively long trip lengths at moderate to high traffic speeds with high traffic volumes.

In further-discussing Tracy Road's classification, the Land Use Plan recognizes that "Tracy Road lack(s) the necessary lanes/pavement width to carry the current traffic" and that the current condition of the road is "presently incompatible with...planned functionality". The Land Use Plan recognized that Tracy Road, in its 2008 condition, was not of sufficient lanes and width to carry the traffic that existed at the time – traffic which has, according to TDOT AADT numbers, increased more than eight (8) percent since 2006.

Further, the BZA should look to the record when considering Tracy Road. It is recognized by staff that Tracy Road is not planned for use by MS&G as a part of the project. However, it is also noted that plans can and do change and that an inability to use Miller Road as planned could push traffic on to Tracy Road. The following segments of news articles from the time capture the discussion:

"Memphis Stone & Gravel Co.'s president, Hall Williford, said Tuesday that Atoka didn't have the authority to bar the company from Tracy – the company chose not to use the dangerous road."

McKenzie, K. (2006, September 13). Shelby eyes weight restrictions on bridge. The Commercial Appeal – Retrieved from www.CommercialAppeal.com

"But Memphis Stone and Sand attorney Homer Branan said routing the trucks from the mines along Mulberry Road to Austin Peay is the "shortest, quickest, safest route."

The company can't use Atoka's Tracy Road because it's too unsafe, Branan said."

Bailey, T. (2010, July 9). Special permit for trucks loses. The Commercial Appeal – Retrieved from www.CommercialAppeal.com

On review, those statements seem to take different views of the situation. Mr. Branan's comment says that Tracy Road cannot be used because it is unsafe whereas Mr. Williford's comment says that the company has chosen not to use the road because it is unsafe. While the statements take differing views on the ability of the company to use Tracy Road as a viable haul route, they come to the same conclusion and agree on the unsafe nature of additional truck traffic on Tracy Road. Staff concurs with the assessment of Memphis Stone & Gravel as it relates to the suitability of Tracy Road for the traffic this project plans to generate.

That being said, if the project is approved and it is determined at a later time that Miller Road is as unsuitable for truck traffic now as it was in 2006, alternate routes – including Tracy Road – may end up as a part of the haul route for trucks leaving the project. If the proposed route is not truly suitable for the traffic to be created by the project, the Town and its taxpayers may be left on the hook for road maintenance and repairs not envisioned by the application as haul routes shift once the project is under construction. The BZA should consider whether or not there is a viable route for materials to be removed from the site as a part of considering the permit application.