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CITY OF MEDINA PLANNING COMMISSION

SPECIAL MEETING
Case No. P18-14

Progress Drive
PP#029-19A-16-030

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Transcript of Proceedings held on
Thursday, the 27th day of September, 2018
before the City of Medina Planning Commission,
commencing at approximately 6:00 p.m., as taken by
Timothy R. Peters, Notary Public within and for
the State of Ohio, and held in Medina City Hall,
132 North Elmwood Avenue, Medina, Ohio 44256.

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APPEARANCES:

City of Medina Planning Commission,
Rick Grice, Chairman,
Brian Hilberg, Member,
Andrew Dutton, Member,
Bruce Gold, Member, and
Monica Russell, Esq., Member.

Walter Haverfield, LLP,
by Todd R. Hunt, Esq.,
on behalf of the Planning Commission.

Fechko Excavating, Inc., Applicant,
by Mr. John Fechko, President.

Brown, Amodio & Chandler, LPA,
by Maryann C. Chandler, Esq.,
on behalf of the Applicant

City of Medina Planning Department,
Jonathan Mendel, Community Development Director, and
Sandy Davis, Administrative Assistant.

City of Medina Law Department,
by Gregory A. Huber, Law Director,
on behalf of the City of Medina.

ALSO PRESENT: Sherry Abell.

- - -

I N D E X

- - -

WITNESSES:

Applicant's: Ms. Chandler
 Fechko; J. 74

EXHIBITS:

Applicant's: Identified

1 - Existing Site Conditions map,
 two pages 83

2 - Proposed Site Conditions map,
 two pages 11

4 - Letter with attached e-mail
 dated April 16, 2018 56

6 - E-mail correspondence between
 Bill Burke, Dennis Hanwell, and
 Maryann Chandler 29

11 - E-mail correspondence between
 Maryann Chandler and Kelly Kanoza
 with attached Ohio EPA Air
 Pollution Permit-to-Install
 and Operate for Fechko
 Excavating 31

12 - Letter by Dennis Hanwell to
 John Fechko dated February 22,
 2018 29

NOTE: All Applicant's Exhibits were marked by
 Attorney Chandler prior to the commencement
 of proceedings.

Commission's: Marked Identified

A - Aerial photograph 71 71

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PROCEEDINGS

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1
2
3 THE CHAIRMAN: Good evening,
4 everyone. I'd like to call our special meeting
5 of the Planning Commission of September 27th to
6 order.

7 Members of the public, you've got the
8 opportunity to address the Commission. If you
9 do so, please come up to the podium, state your
10 name and address for the record ,and keep your
11 comments to a time limit around five minutes.
12 We're not super strict on that, but not real
13 long.

14 Because it's a special meeting, we have
15 no minutes, we have no announcements, and we
16 have no old business. Our only piece of new
17 business will be here in a moment.

18 First, I'd like to introduce Todd Hunt,
19 our attorney representing the Commission, I
20 believe, this evening.

21 MR. HUNT: Right.

22 Yes, my role this evening really is to
23 advise the Commission and the Chair throughout
24 the hearing. It's on procedural things. I'm
25 not going to do anything with respect to

1 advocating a position one way or the other;
2 that's not my job.

3 I was asked by the City to advise the
4 Planning Commission, to assist the Chair maybe
5 on evidentiary rulings if he needs some
6 assistance on those, and any questions that the
7 Commission has throughout the hearing tonight.
8 Again, it's on procedural matters.

9 I've done this on occasion with the
10 Board of Zoning Appeals here, and I think this
11 is the first time I've been asked to sit in on
12 the Planning Commission, so thank you for
13 asking me.

14 That is my role this evening.

15 THE CHAIRMAN: Thank you.

16 As has been our practice for, oh, thirty,
17 forty years or so, we have a court reporter
18 with us this evening. At this time I would ask
19 that everybody stand and be sworn in.

20 (Whereupon, all those intending to
21 testify were then placed under oath by the
22 notary.)

23 MR. HUNT: I would ask
24 if you come up to testify at the podium,
25 before you testify -- well, first of all,

1 you've already been asked to give your name
2 and address. If you'll just state that you
3 have been placed under oath. We have a court
4 reporter here, so it will make the record more
5 clear if you do that.

6 Thank you.

7 THE CHAIRMAN: Okay. The
8 only other thing I'd like to add, if anybody
9 has any comments this evening, please keep them
10 to the case we have at hand.

11 With that said, we will start with
12 Case P18-14. It is for Fechko Excavating, LLC
13 for the property on Progress Drive. This is a
14 conditional zoning certificate request.

15 And I would presume that all the notices
16 have been placed and sent accordingly?

17 MR. MENDEL: Yes.

18 THE CHAIRMAN: Okay. With
19 that said, Jonathan.

20 MR. MENDEL: Yes.

21 As you said, this is -- the Applicant is
22 Fechko Excavating, LLC. The request is for
23 site plan and conditional zoning certificate
24 review and approval. The zoning certificate is
25 for heavy manufacturing land use; specifically,

1 concrete crushing and recycling and for a
2 contractor's equipment storage yard.

3 The property in question is zoned I-1
4 industrial. This site is located in the middle
5 of a block bounded by Progress Drive to the
6 north, North State Road to the east, and
7 West Liberty Street to the south.

8 The subject property is surrounded by I-1
9 zoned and industrial land uses to the north and
10 west, I-1 zoned and residential land use to the
11 east, and a vacant C-3 zoned property to the
12 south.

13 Some background. The Applicant purchased
14 this property at the end of 2012. "In the
15 intervening years, the land has been used for
16 equipment and material storage and recycling
17 scrap concrete associated with the Applicant's
18 construction business headquartered at the
19 adjacent property to the west --" of 865 West
20 Liberty Street. "Additionally, sometime in
21 late 2014 or -- and early 2015, the Applicant
22 constructed a stone drive into the property
23 from the south -- from S. Progress Drive."

24 Despite the property -- "Despite using the
25 property for the above delineated activities,

1 the Applicant did not seek nor was granted Site
2 Plan or Conditional Zoning Certificate approval
3 for Heavy Manufacturing and a Contractor's
4 Equipment Storage Yard."

5 "Once the concrete recycling -- recycling
6 use was discovered, City staff evaluated the
7 operation and land use and determined that it
8 met the definition of Manufacturing, Heavy --"
9 or heavy manufacturing "-- in Section 1105.097
10 of the City of Medina Planning and Zoning Code.
11 This administrative decision was challenged by
12 the Applicant in 2015 and 2016 and ultimately
13 affirmed by Medina County Common Pleas Court
14 Judge Kimbler in 2017."

15 So that's the background.

16 Getting to the request, "The subject
17 property is 7.22 acres. The Applicant proposes
18 using the central contiguous 6 acres of the
19 site for permanent concrete recycling and
20 equipment storage area (sic) ..."

21 Let me move to that -- the permanent land
22 (indicating).

23 THE CHAIRMAN: A little
24 easier to see.

25 MR. MENDEL: Yes.

1 As I said, "The Applicant proposes using
2 the central contiguous 6 acres of the site for
3 permanent concrete recycling and equipment
4 storage activities, and the remaining 1.2
5 acres would occupy a paved access drive from
6 S. Progress Drive to the main activity area,
7 and a gravel access drive from the Applicant's
8 adjacent property to the west (865 W. Liberty).
9 A tree berm and buffer is proposed on the
10 property lines adjacent to the land uses to
11 the north and east. Additionally, the
12 permanent location for the concrete recycling
13 is proposed for the southwest corner of the
14 site adjacent to the Applicant's property at
15 865 W. Liberty and the vacant C-3 zoned
16 property to the south."

17 Currently, the Applicant has a pile of
18 existing scrap concrete on the north side of
19 the subject property.

20 Which let me pull up that item
21 (indicating).

22 So this is -- "The Applicant has the pile
23 of existing scrap concrete on the north side
24 of the subject property that they wish to
25 process immediately in order to remove the

1 visual impact it currently presents to adjacent
2 properties."

3 MR. HUBER: What's that
4 blue thing (indicating)?

5 MR. MENDEL: That would be
6 the processed stone.

7 MR. HUBER: You'd better
8 explain that.

9 MR. MENDEL: Okay. So this
10 is the -- kind of the existing conditions
11 planned for the temporary crushing of concrete,
12 so this green area is the -- approximately the
13 existing scrap concrete recycling pile.

14 This would be the machine and the
15 loading area that would crush the concrete
16 (indicating), and then this blue area is an
17 approximate area for the processed concrete --
18 scrap concrete, so it would be broken into the
19 necessary sized material that they are
20 intending to have the scrap concrete become.

21 MR. HUBER: Is that for
22 the temporary use?

23 MR. MENDEL: This would be
24 for the temporary crushing of the scrap
25 concrete that is currently on the property, and

1 then there is also a proposed permanent site
2 layout that I was showing earlier.

3 MR. HUBER: Where is that
4 going to go?

5 MR. MENDEL: Here is -- as
6 I showed earlier, this is the proposed kind of
7 permanent site plan (indicating), so the scrap
8 concrete pile that they would have would be in
9 the southwest corner of their site with the
10 loading crushing machine here with the
11 processed stockpile located here in the
12 southerly portion of their property
13 (indicating).

14 For the sake of -- this is -- actually,
15 north would be like this (indicating), but the
16 way the plan is formatted, we'll just do it
17 this way. North is to the right.

18 So as a conditional zoning certificate
19 review, public hearing is required. Public
20 notices were sent previously for the past
21 July 12th meeting that we had, that this
22 project was originally scheduled for, that was
23 continued to today's date. Adequate notices
24 and newspaper notification were provided for
25 today's hearing as required by the Planning and

1 Zoning Code.

2 So when we get into the conditional
3 zoning certificate review, we have general
4 standards in Section 1153.03(b) of the
5 Planning and Zoning Code, which are outlined
6 on Page 2 of the staff report. It also gets
7 into -- there are also specific regulations for
8 individual conditionally permitted uses, which
9 are outlined later in the staff report.

10 So just getting into the heavy
11 manufacturing land use, which is a
12 conditionally permitted use in the I-1 zoning
13 district, "After reviewing the proposed
14 concrete recycling -- crushing/recycling
15 operation at the subject property, and the
16 surrounding mix of land use and landscape,
17 several of the above standards --" from Page 2
18 of the staff report "-- require greater
19 scrutiny as they relate to the proposed Heavy
20 Manufacturing land use." Those would be
21 Standards (2), (3) and (4), which are
22 delineated individually on Page 3 of the staff
23 report.

24 Standard (2) would be designed -- the land
25 use would "... be designed, constructed,

1 operated, and maintained so as to be harmonious
2 and appropriate in appearance with the existing
3 or intended character of the general vicinity
4 and that such use will not change the essential
5 character of the same area.

6 "Scrap concrete recycling is an intensive
7 outdoor land use and has dynamics that can
8 affect the appearance and character of its
9 surrounding vicinity. In the case of the
10 neighborhood surrounding the subject property,
11 this super block is predominantly I-1 zoned
12 properties with a mix of light manufacturing,
13 warehousing, office, and residential uses to
14 the west, north, and east. The property
15 immediately to the south is zoned C-3 and
16 vacant. The C-3 zoning district permits and
17 conditionally permits a wide range of
18 commercial, retail, and high-density
19 residential land uses," but currently that lot
20 has no development on it. "The concrete
21 recycling is not necessarily consistent with
22 the existing development pattern of the
23 industrially developed land uses in the general
24 vicinity, which is a mix of light manufacturing
25 and office land uses."

1 Then the general Standards Number (3)
2 and (4), which are -- Number (3) is "Will not
3 be hazardous or disturbing to existing or
4 future neighboring uses.

5 "Will not be detrimental to property in the
6 immediate vicinity or to the community as a
7 whole."

8 So "There are two parts to the proposal
9 being presented - temporary processing of an
10 existing scrap concrete pile in the property's
11 northern portion and a permanent processing on
12 the southwestern portion (sic) of the subject
13 site. The comparatively small size of the
14 subject property places the temporary and
15 permanent concrete recycling processing
16 areas ... in close proximity to adjacent
17 properties and uses. The distances of the
18 temporary and permanent processing areas from
19 the adjacent properties and uses are as
20 follows:"

21 To Fire-Dex, which is the light industrial
22 use immediately to the north, the temporary
23 processing area ranges from twenty-three feet
24 to four hundred feet to the south of this
25 land -- of this business. The permanent

1 processing area is approximately four hundred
2 and eighty feet south of the permanent -- of
3 the -- of the land use to the north. This
4 would be the permanent (indicating).

5 The Lincoln Crossing Apartments, which is
6 residential immediately to the east here where
7 I'm -- let me move that up a little bit so
8 people in the back can see here (indicating).

9 The temporary processing area is
10 approximately two hundred and forty feet to
11 the west, and the permanent processing area
12 is between two hundred and four hundred feet
13 to the west of the residential land use.

14 The vacant C-3 zoned property to the south,
15 the temporary processing area ranges two
16 hundred forty feet to four hundred feet to the
17 south -- to the north rather, and the permanent
18 processing area is about twenty-five feet to
19 the north of that property to the south.

20 In the Applicant's narrative for the
21 proposal, they indicate that since the proposed
22 concrete recycling machinery is the same as
23 that used and studied as part of the recent
24 conditional zoning review for concrete
25 recycling for Osborne at 795 Progress Drive,"

1 they feel that the environmental impact
2 assessment that was done -- that was conducted
3 for that hearing and that process and its
4 findings are directly applicable to
5 Fechko's - to the Applicant's - proposal on
6 the subject site.

7 "Although the machinery is the same, an
8 environmental impact assessment of a concrete
9 recycling operation is not directly applicable
10 to a completely separate location. The
11 entirety of a study is a sum of the property's
12 context -- is a sum of the specific machinery,
13 material to be processed, a specific property,
14 and the specific property's context."

15 This was verified when I discussed the
16 question with Lance Traves of Labyrinth
17 Management Group, which was the consultant that
18 conducted the Osborne Environmental Impact
19 Assessment for the City of Medina in 2017.

20 In addition to the above general
21 conditional use standards, heavy
22 manufacturing uses, also are subject to
23 specific conditionally permitted use
24 regulations from Section 1154.04(a) of the
25 Planning and Zoning Code. Those would be

1 Regulations (37) and (38), outlined on Page 4
2 of your staff report.

3 That talks about, Number (37), "Such uses
4 shall be conducted not closer than one hundred
5 feet from any R District. Where the I District
6 abuts upon but is separated from R District by
7 a street, the width of the street may be
8 considered at part of the required setback.
9 The construction, operation, and maintenance of
10 such uses shall be such that they will not be
11 hazardous, noxious, or offensive due to the
12 emission of odor, dust, smoke, cinders, gas
13 fumes, noise, vibration, refuse matter, or
14 water carried wastes."

15 And then Regulation Number (38), "In the
16 interests of the health, safety, general
17 welfare, and the protection of property values
18 of the community, the area and adjoining land
19 uses, and the other industries within the I-1
20 District, the Planning Commission may require
21 any conditions deemed necessary. In regard to
22 an industrial operation whose effects on
23 adjacent premises, the -- the area or the
24 community --" I'm sorry, let me start that
25 sentence again.

1 "In regard to an industrial operation
2 whose effects on adjacent premises, the area,
3 or the community are not readily known, the
4 Planning Commission may seek expert advice
5 on what conditions should be imposed on the
6 particular industrial operation to reasonably
7 modify any injurious or offensive effects
8 likely to result from such an operation.
9 The cost of securing such assistance shall be
10 borne by the applicant."

11 The above -- so "The above specific
12 regulations can require verification that the
13 proposed use may not or does not negatively
14 impact adjacent properties due to the proposed
15 siting and operation." The application asserts
16 that -- "The Applicant asserts that the impacts
17 of the proposed concrete recycling use are
18 known because the Applicant's equipment was
19 part of the study performed for the Osborne
20 conditional zoning certificate review in 2017."

21 This assertion is not supported by the
22 industry standards and practices as described
23 earlier to myself and staff by an expert, as I
24 stated earlier.

25 "Given the fact that Osborne -- the Osborne

1 assessment is not applicable, it is not known
2 what the actual or potential negative impacts
3 may be for the Applicant's heavy manufacturing
4 use. In order to understand the potential
5 impacts and mitigation methods needed, an
6 environmental impact assessment should be
7 conducted by the --" I state in here, I talk
8 about the Applicant, at the Applicant's
9 expense, and brought back to the Planning
10 Commission.

11 It really should -- to create as much
12 objectivity as possible in the process, it
13 would be something that would be managed -- the
14 hiring and determining of the -- of a
15 consultant that would do such a study would be
16 conducted -- would be done through the City of
17 Medina at the Applicant's expense, if the
18 Planning Commission so deemed.

19 And this is permitted by the conditionally
20 permitted use, Regulation Number (38) that I
21 cited earlier.

22 That's the heavy manufacturing conditional
23 land use discussion.

24 Then we have the contractor's equipment
25 storage yard use, which is also a conditionally

1 permitted use in the I-1 district.

2 "As for the proposed equipment storage
3 yard, since the land area of the proposed yard
4 is about 3.4 acres out of the 7.22 acres of the
5 subject property --" which is about forty-seven
6 percent of the total "-- it is considered a
7 principal use of the land and therefore is a
8 conditionally permitted use within the I-1
9 district. The Applicant proposes that the
10 contractor equipment storage yard is an
11 accessory use, but accessory uses are defined
12 as subordinate to a principal use. The
13 proposed use occupies a large percentage of the
14 subject property and is, therefore, not
15 subordinate to the Applicant's existing company
16 headquarter offices.

17 "In relation to the general conditional
18 use standards of Section 1153.03(b), the
19 contractor's equipment storage yard use is
20 generally consistent with the standards, as it
21 is accessed from a formal driveway to Progress
22 Drive --" as they propose on their permanent
23 site plan "-- and an internal drive to the
24 Applicant's adjacent property at 865 W. Liberty
25 St., The storage of equipment and material is

1 fairly static, and a berm and tree buffer is
2 being provided on the site plan to the north
3 and east neighbors."

4 Although the plan does not give specific
5 dimensions and sizes of the berm and tree --
6 and trees; it's not clear.

7 So those are discussions on the
8 conditionally permitted uses.

9 There's also site plan, just to issue a
10 zoning certificate of site plan approval is
11 required by the Planning Commission and by the
12 Planning and Zoning Code. We have eight
13 general standards for site plan review outlined
14 on Page 5 of the staff report.

15 "Although Site Plan review is required,
16 the above specific regulations (sic) are not
17 applicable to the Applicant's proposal as no
18 buildings are proposed. The general Site Plan
19 standards are consistent with the conditional
20 use general standards and specific regulations
21 and already covered as part of the conditional
22 use discussions above."

23 "Parking and Circulation." This land use
24 is mainly an outdoor land use that is really
25 just for internal use by the Applicant's

1 businesses itself. It's not kind of a publicly
2 accessible area, so parking needs -- a parking
3 review analysis is not required, and plus the
4 large gravel circulation area would provide
5 any business -- any parking needs that the
6 Applicant's business would need, any of their
7 employees.

8 "Site Lighting." There's not any formal,
9 publicly accessible parking area in this area,
10 so the light -- formal site lighting plan would
11 not be required.

12 "Landscaping.

13 "As required by Chapter 1149 --" of the
14 Planning and Zoning Code "-- the subject site
15 must provide a landscape screening buffer with
16 the commercial zoned property immediately to
17 the south of the subject property (sic)."

18 These outlines -- "These requirements are
19 outlined in Section 1149.05 of the Planning
20 and Zoning Code. Currently there is no
21 landscaping buffer proposed on the southern
22 bordered of the subject site.

23 "The Applicant proposes a landscape
24 screening buffer along the easterly side of the
25 subject property with the properties to the

1 north is east. Unfortunately, the dimensions
2 and size of the buffer is not clear (i.e. berm
3 width/height, tree type/size/width). These
4 details are necessary to understand the
5 mitigation value the proposed buffer provides
6 to adjacent properties."

7 "Staff Comments." No substantive comments
8 from anybody, other than the City Forester did
9 reiterate that -- specified the tree height on
10 the earthen mound. They would recommend a
11 minimum six-foot tall for the mound and
12 "Specify tree species to be placed on the
13 earthen mound."

14 "Recommendation." When the Applicant was
15 coming to the -- was discussing their potential
16 application for this review with staff, I
17 said -- I informed them that an environmental
18 impact assessment -- an environmental impact
19 report would be necessary for the process with
20 the application. That was not submitted.

21 As I discussed in the staff report, for
22 this -- for the heavy manufacturing land use,
23 the concrete recycling, it is important. That
24 is an important piece of information, to know
25 the potential real -- or potential negative

1 impacts that this land use may have on adjacent
2 properties or the surrounding vicinity.

3 So as permitted by the -- by specific use
4 regulation -- Conditional Use Regulation
5 Number (38), City staff would recommend that
6 the Applicant request the process be -- the
7 application be continued and to permit the City
8 to coordinate for an environmental consultant
9 to do an environmental impact report on the
10 proposed use.

11 This can be a modeled report, given the
12 conditions and the type of material and the
13 type of -- and the context and the type of
14 machinery that they are using, or it could
15 be -- it could also be an empirical analysis
16 where they crush the material that's there,
17 get the information and then necessary data
18 from that, do the report, and then that comes
19 back to the Planning Commission for review on
20 an ultimate determination of whether the
21 conditional -- the heavy manufacturing land use
22 would be permitted and for the site plan
23 review.

24 Thank you.

25 THE CHAIRMAN: Thank you.

1 MR. HUNT: Mr. Chair, I'd
2 like the record to note that for Mr. Mendel's
3 report and summary, he was placed under oath
4 before.

5 MR. MENDEL: Yes, I was. I
6 apologize. Thank you.

7 THE CHAIRMAN: Do any Members
8 of the Commission have any questions for
9 Jonathan just regarding what you've heard at
10 this time?

11 MS. RUSSELL: I have a
12 couple.

13 Jonathan, is the -- my understanding is
14 that this use was already in place without the
15 permit. Is that correct?

16 MR. MENDEL: Yes.

17 MS. RUSSELL: Is it still
18 ongoing?

19 MR. MENDEL: The -- my
20 understanding is, and I've been to the site
21 several times, there has not been crushing
22 operation happening on the site.

23 MS. RUSSELL: Okay.

24 MR. MENDEL: There is
25 material -- there is material and vehicle

1 storage as part of the contracting business
2 under the storage yard. It hasn't -- from
3 what I -- from doing site visits, it hasn't
4 increased or decreased more than it has kind of
5 been for the last several years.

6 MS. RUSSELL: My -- one of
7 my other questions -- I seem to recall that
8 there's language at the start of Section
9 1153.03 that describes the type of standard we
10 are to review the request by. I saw that you
11 had your handy book of ordinances. If you
12 wouldn't mind? I didn't have an opportunity to
13 print it off before I came.

14 MR. MENDEL: Would you like
15 me to read it into the record?

16 MS. RUSSELL: If you could.
17 Are you familiar with what I'm referencing?
18 There's a specific sentence, I believe it's at
19 the beginning of that ordinance.

20 MR. MENDEL: I believe it
21 is Subsection (a) under Section 1153.03, "Basis
22 of Determination. Planning Commission's
23 Duties." Maybe that one?

24 MS. RUSSELL: I believe so,
25 because it talks about -- I mean, this lists

1 out the standards in your report, but the
2 section I'm thinking of is right before that
3 and talks about the standard --

4 MR. MENDEL: Yes.

5 MS. RUSSELL: -- that guides
6 our process.

7 MR. MENDEL: So this is,
8 verbatim, Section 1153.03(a) of the Planning
9 and Zoning Code, listed -- named "Planning
10 Commission's Duties.

11 "The Planning Commission shall establish
12 beyond reasonable doubt that the general
13 standards and the specific standards pertinent
14 to each use indicated herein are satisfied by
15 the completion and operation of the proposed
16 development. The Planning Commission may also
17 impose such additional conditions and
18 safeguards deemed necessary for the general
19 welfare, for the protection of individual
20 property rights, and for the ensuring that the
21 intent and objectives of the Zoning Code (sic)
22 will be observed."

23 MS. RUSSELL: Thank you.

24 That's the language I had in mind.

25 THE CHAIRMAN: Okay. At this

1 time I'll ask the Applicant if they'd like to
2 come up to the podium and give us any
3 additional information.

4 MS. CHANDLER: Good evening,
5 Members of the Board, City officials. My name
6 is Maryann Chandler. I'm with the law firm of
7 Brown, Amodio & Chandler, 109 West Liberty
8 Street in Medina.

9 I'm here this evening on behalf of Fechko
10 Excavating. I have with me the President of
11 Fechko Excavating - John Fechko.

12 We're seeking three uses; equipment storage
13 yard year-round; temporary crushing for the
14 purpose of reducing the existing pile that is
15 on Progress Drive and, as I've been seeing and
16 as I will elaborate on in a moment, for the
17 purpose of conducting environmental impact
18 testing; and permanent part-time crushing.

19 Our request, as you will see, asks for a
20 limited duration annually because Fechko does
21 not do this crushing for commercial purposes,
22 meaning they're not taking in scrap concrete
23 from third parties and then processing it and
24 selling it to the public. This is for their
25 internal use, which Mr. Fechko will elaborate

1 on later.

2 Before we get started, I want to have a
3 conversation with the Board, particularly its
4 legal counsel - Mr. Hunt - so I'm glad you're
5 here.

6 It's a procedural issue, which is -- there
7 are three items I'd like to draw your attention
8 to. The first one is the staff report of
9 Mr. Mendel that is telling us specifically to
10 request a continuance. That's something that
11 he's indicating as a result of conversations
12 that were had that demonstrate there's no way
13 to do an empirical environmental impact
14 assessment unless we're allowed to crush on
15 that site. That's one of the issues.

16 The other one is that in February of this
17 year, Mayor Hanwell had written to Mr. Fechko,
18 and he also raises the issue about temporary
19 crushing and the need to have an environmental
20 impact study. I'll provide you all of these
21 letters and mark them as exhibits so you have
22 them. I don't want you to take my word for it.

23 The other item that we have is, very
24 simply, an e-mail that Bill Burke, the owner
25 of Fire-Dex, had sent on or about May 18th, and

1 he wrote to Mayor Hanwell indicating that he
2 and John spoke that morning, that they both
3 agree that the only simple solution to the
4 concrete pile is to crush it within a month or
5 so. They agreed that we need to do this right
6 away, and the Mayor rightly responds, "I can't
7 make that decision. There's a Board that has
8 to make that decision." Then it was indicated
9 by the Mayor that Jonathan would call me to get
10 something moving.

11 Now, at that time, you know, we were
12 having scheduling issues with regard to getting
13 your application in and moving because of other
14 matters that I have -- that we have before
15 the City. So we were on -- submitted our
16 application in time right after this e-mail.

17 If you want me to put these under the
18 overhead, I'm happy to do that. I can
19 circulate them.

20 (Whereupon, Ms. Abell then entered
21 the meeting room.)

22 MR. HUNT: Ms. Chandler,
23 do you have those marked as an exhibit?

24 MS. CHANDLER: I do, yes.
25 I'll start down here (providing to Commission).

1 Before I launch and spend the evening
2 talking with Mr. Fechko, talking with
3 Mr. Mendel, Mr. Huber having his chance to
4 also do talking, I would just like to have a
5 practical conversation about the realities of
6 our situation and the standard that Ms. Russell
7 brings up, rightly, which is this beyond a
8 reasonable doubt standard concerning the
9 environmental impacts that you're required to
10 look into in your decision-making process.

11 The other point -- and I don't want to talk
12 out of both sides of my mouth here, gentlemen,
13 I really don't, but it was talked about in the
14 staff report. It was talked about that we've
15 made this comment that we don't need to test
16 again because that mobile crusher unit by
17 design, being mobile, goes from site to site to
18 site. It's permitted for the purpose of going
19 from site to site.

20 I have Exhibit 11 here, which is
21 communication between myself and Kelly Kanoza
22 at the Ohio EPA. Attached to that is our
23 Ohio EPA permit. She answers questions that
24 specifically address the mobile crusher and the
25 testing.

1 One of the questions that was presented
2 to her was, "Would you expect, in your
3 experience, that mobile crusher unit would
4 perform differently at one site than another,
5 as it concerns air quality emissions?"

6 Her answer is, "No, assuming the same
7 type of material is processed, the same control
8 measures are employed, and the same weather
9 conditions are present."

10 There's other conversation in here, which
11 I'm happy to share with the Board.

12 That's Exhibit 11, the Ohio EPA e-mail
13 correspondence.

14 MR. HUBER: Let me
15 interrupt for a minute, Maryann.

16 Are you wanting to introduce the
17 environmental impact statement from the Osborne
18 case as evidence in this case? Is that --

19 MS. CHANDLER: Well, the
20 ultimate finding --

21 MR. HUBER: We had a long
22 hearing on that. There was a lot of testimony
23 about this crusher's diesel engine, noise,
24 fumes, et cetera. I guess if you're asking
25 them to take that report into consideration, I

1 guess you'd have to offer the report, and
2 they'd have to look at it, I suppose.

3 MS. CHANDLER: Which we can
4 do. I mean, we have the -- I have the whole
5 file with me.

6 The ultimate outcome by the City, by its
7 development directors, was that, you know,
8 there was no silica, there was no dust
9 migrating off the site when watering conditions
10 were met. Those are things that were addressed
11 in that report and found to be valid evidence.

12 There was also the Osborne expert's
13 report, which was part of that testimony,
14 which indicates that they did not believe
15 there was fugitive dust, that there were no
16 visible emissions beyond the site. So that's
17 the point that we're making with regard to
18 that particular unit.

19 MR. HUBER: Well,
20 ultimately, though, there was enough racket,
21 noise, and carrying on that the Planning
22 Commission required a twenty-foot-high mound
23 built around this. Is that what you want?

24 MS. CHANDLER: I understand.
25 I understand that. I'm presenting to this

1 Board conversations that I had with the
2 Ohio EPA that substantiate a statement I made
3 in my narrative. That's all.

4 These aren't comments -- that narrative
5 wasn't put together with off-the-cuff
6 statements. That was put together with
7 research, with conversations with people,
8 with attention to detail for those things.
9 I note that the City has said, "Yeah, we
10 think differently," and I just want you to
11 know that wasn't said carelessly.

12 But the practical consideration here is
13 we can't present to you environmental impact
14 information without an opportunity to crush on
15 the site. So it's really an issue of what do
16 you want to hear tonight, because that's
17 ultimately -- in every application I've read
18 from Treemasters to Kokosing to Osborne to
19 anyone who has asked for some type of crushing
20 or chipping, there has been a request for an
21 environmental impact report.

22 MR. GOLD: Jonathan, I
23 have to agree with Ms. Chandler on this. To
24 ask for a pre-use environmental impact study is
25 going to be basically useless, because we're

1 not going to know what the conditions are,
2 you're not going to understand the noise
3 ramifications, you're not going to understand
4 the dust migration.

5 It appears the only real way to do this
6 is the same way we approached Kokosing. We
7 gave them a temporary permit to crush what was
8 existing, and at that time when they did that,
9 they were required to provide an environmental
10 study based off of that conditional use.

11 I think this case is the exact same
12 thing. The rock and the concrete that is
13 there existing we all agree should be removed.
14 The easiest way to do this, and the most
15 effective, would be to allow crushing. If
16 we're going to allow crushing, that's a perfect
17 time to do an impact study because it's going
18 to be site-specific.

19 I think it's more important to be
20 site-specific than it is for the equipment,
21 because the equipment is in a different
22 position, the site conditions are different.
23 Even the maybe thousand feet it is from the
24 Osborne plant, even though that same unit was
25 used there, I think you're going to have

1 different -- different environmental effects,
2 especially with the use of noise and wind-borne
3 debris.

4 MR. HUBER: I think
5 that's what Jonathan is telling you. He's not
6 contesting that.

7 MR. GOLD: I thought
8 Jonathan was saying that before --

9 MR. HUBER: It could be
10 done through modeling, but it can also be done
11 through actual crushing. Frankly, as far as --
12 I know as far as he's concerned, that's fine.

13 MR. GOLD: Okay.

14 MS. RUSSELL: Am I correct
15 that it was supposed to take one month to get
16 rid of the stockpile?

17 MR. HUBER: That's a good
18 question.

19 MS. CHANDLER: I'd have to
20 defer to Mr. Fechko about the timing.

21 MS. RUSSELL: I guess based
22 on that e-mail, that's what I was thinking.
23 The e-mail from Fire-Dex.

24 MS. CHANDLER: I don't know
25 where Bill got that. That's why I'm deferring

1 to --

2 MS. RUSSELL: That e-mail
3 didn't come from Fechko?

4 MS. CHANDLER: Correct. It
5 was Mr. Burke's expectations, I believe, so I
6 would have to talk to Mr. Fechko to address
7 that, if you'd like to hear from him.

8 MS. RUSSELL: I mean, I'd
9 like to know -- after you're done, I'd like to
10 know how long it would take to get rid of the
11 stockpile, and I'd also like to know the
12 procedure.

13 So am I to understand that -- it's a mobile
14 crusher, right?

15 MS. CHANDLER: Correct.

16 MS. RUSSELL: And it's
17 located in that black-and-red area.

18 Is that right, Jonathan?

19 MR. MENDEL: (Indicating.)

20 MS. CHANDLER: That's where
21 it would be put. I think right now it's on the
22 site, but it's not staged. Right now the
23 crusher is in a storage-type permitting stage,
24 but it's not at Osborne anymore.

25 MS. RUSSELL: That's what I

1 would want a little clarification on if it's
2 allowed to do the temporary crushing of the
3 stockpile. I'm not familiar with the machine
4 itself. Where does that temporary crushing
5 take place? Is it -- are they going to move
6 stuff over and crush it where it will be
7 ultimately, or do they actually move the
8 crusher over to the stockpile?

9 MS. CHANDLER: Correct. They
10 would position the stockpile - John, step in
11 anytime I'm incorrect - and position it so that
12 they can access the material, and then they
13 would be where that blue pile is (indicating).
14 That's the processed material, which is going
15 to be much smaller and on the opposite end of
16 the site.

17 MS. RUSSELL: I'm just
18 trying to get an idea where the temporary
19 crushing will actually take place as opposed to
20 where you are projecting the permanent crushing
21 to take place, but I'm not familiar with how
22 actually mobile that machine is.

23 MS. CHANDLER: Sure. The two
24 exhibits that I submitted with my application
25 have the before and after, so the temporary is

1 literally the site that you see today.

2 John, could you comment on the crusher.

3 MR. FECHKO: I think it's
4 pretty close, I mean to scale, just the way
5 you're looking at it. You can see that
6 V-shape; that is a ramp. We have to build a
7 ramp.

8 MR. GOLD: Could you
9 state your name and address for the record.

10 MR. FECHKO: My name is
11 John Fechko, president of Fechko Excavating.
12 My address is 3701 Zenith Lane in Litchfield.

13 THE CHAIRMAN: And you were
14 previously sworn in?

15 MR. FECHKO: Yes, sir.

16 So I believe that that's, you know, a
17 fairly accurate illustration of where we
18 believe the crusher would be set up. The
19 crusher is on tires, and we can just pull it to
20 where it needs to go.

21 MS. RUSSELL: That answers
22 my question. I mean, they say "mobile," but
23 how mobile?

24 MR. FECHKO: It's like a
25 trailer; a semi pulls it.

1 So it would be set up there. We would
2 build a temporary ramp so that the machinery
3 can feed the crusher. It comes out of the
4 crusher into a belt system that can stack the
5 processed material.

6 MS. RUSSELL: Okay. So for
7 your temporary stockpile though, how will that
8 process differ from when you do it permanently?

9 MR. FECHKO: Well, it would
10 be a much smaller pile. We wanted to get it as
11 far away from impacting Fire-Dex as we could,
12 so we located it in that corner.

13 Then figuring that we would put the
14 crusher -- this pile would never be the size
15 that we have now.

16 MS. CHANDLER: Yes. If you
17 want to hear this testimony, I mean, I'd
18 like -- if you want to hear how that pile got
19 as big as it did, we're happy to go into that.

20 MS. RUSSELL: Okay.

21 MS. CHANDLER: That is
22 getting into some of the nuts and bolts, but
23 I'm happy to go that direction. I just didn't
24 want to do a full, formal Q&A of every issue if
25 we're --

1 MS. RUSSELL: I was just
2 trying to get an idea of how that worked.

3 MR. HUBER: I'm still
4 curious. How long is it going to take to crush
5 the temporary pile?

6 MR. FECHKO: Well, I don't
7 know if I can do it in a month. I've never had
8 a pile this size so, you know, it could take --
9 we might get it done in four weeks, it might
10 take six. I don't see it taking over six but,
11 you know, it is weather sensitive. You know,
12 machinery breaks sometimes.

13 I would say if it was a typical summertime
14 operation where we were working fifty hours a
15 week, it could probably happen in four weeks.

16 MR. GOLD: One of the
17 questions I have is, in order to develop a
18 complete and accurate environmental study,
19 wouldn't it be better to have the rock crusher
20 where you propose it to permanently be located?
21 Because then, especially with noise -- I know
22 wind conditions could effect a difference with
23 the airborne debris, but as far as noise and so
24 forth, if it's located where it needs to be
25 permanently located --

1 MR. FECHKO: You know, I'm
2 going to guess it's a hundred feet difference.
3 You know, the crusher is not moving a great
4 deal, but the pile is. The processed stuff, as
5 you can see, we were projecting to leave it as
6 far south as we could.

7 MR. HUBER: But would you
8 be able to do it the way Bruce is suggesting
9 and actually move the crusher over there where
10 you're going to have it, and then it could be
11 tested?

12 MR. FECHKO: Not really. I
13 mean, then I have to carry it all that way and
14 I don't have the site prepped. Everything that
15 you see has been -- you know, there's a stone
16 base there so this work can actually happen.
17 There's still -- there would have to be
18 excavating and some work done to build the
19 actual yard in the south corner.

20 MR. HUBER: To withstand
21 the pressure of the machinery and everything?

22 MR. FECHKO: It's still
23 virgin topsoil, so --

24 MR. HUBER: Oh, that makes
25 sense.

1 MS. CHANDLER: I appreciate
2 your point.

3 There's also -- I mean, we're not going to
4 have the trees in place, we're not going to
5 have a mound in place. There are going to be
6 some variations, but that, to us, is all part
7 and parcel of the testing and giving you
8 information that you would need to look at what
9 conditions should be imposed, whether there are
10 some that are reasonable to be imposed.

11 MR. GOLD: Also, it will
12 assist you into developing the height of the
13 mound --

14 MS. CHANDLER: Absolutely.

15 MR. GOLD: -- the type of
16 tree, how close to be planted, and so forth.
17 That information is also going to assist you.

18 MS. CHANDLER: It's
19 definitely going to inform us in what we're
20 able to do and should do or can do at the
21 site. We just were coming into this with
22 submitting an application and presenting what
23 we believe was reasonable at the time.

24 But we're not -- we're as informed as you
25 are at this point with regard to this. Our

1 information comes from the prior applications,
2 Kokosing, where we talked about should he ask
3 for the temporary and follow that model, which
4 is what this Board has done, reading all the
5 Osborne reports and seeing the testing that
6 went about there.

7 So sure, there are going to be some
8 variables. By design, I would trust that the
9 experts who do this testing are going to --
10 that's why they're brought in, to not only do
11 the testing, but to provide the recommendations
12 of what could or couldn't mitigate these
13 impacts, perceived or otherwise.

14 THE CHAIRMAN: So when we get
15 to the end of the -- we haven't opened the
16 public hearing or anything else, but I guess
17 what you're basically saying is, first and
18 foremost, you'd like temporary approval to get
19 rid of the pile so you can prepare the report
20 that Jonathan has indicated -- well, not you
21 prepare it, but have it prepared to the City's
22 standard, you know.

23 MS. CHANDLER: Yes. When I
24 do these meetings all these years, I read what
25 the staff report is recommending to me so I can

1 advise my client. Everything I've seen since
2 February coming in this direction and reviewing
3 other applications has informed me that we're
4 looking at an environmental impact assessment.

5 I'm being specifically told to request a
6 continuance, which doesn't happen. Usually
7 it's an up or down or "We're withholding a
8 recommendation," not "Request a continuance."
9 To me, that's a specific directive.

10 I just don't want to come here and
11 start launching into a bunch of evidence that
12 I've put together for you that may change
13 Mr. Mendel's staff report, might change your
14 site plan, might change our view of this entire
15 situation.

16 Frankly, that's really where I'm at now.
17 I'm prepared to go. I've probably got, you
18 know, a good hour with Mr. Fechko and maybe a
19 similar amount with Mr. Mendel, because there's
20 a lot of precedent here with this crushing use.
21 I just don't want to take up that time when we
22 don't all have the tools that we need to assess
23 it.

24 THE CHAIRMAN: Right.

25 MS. CHANDLER: So I would ask

1 you to address the temporary permit first,
2 which is what we're being recommended to do.

3 MR. GOLD: Does any other
4 Board Member have any concerns or comments
5 regarding the issuing of a temporary rock
6 crushing and doing -- and then developing an
7 environmental report based off of actual usage?

8 MR. DUTTON: Seems
9 reasonable.

10 MR. HILBERG: Yeah, I agree.
11 I'd like Mr. Hunt to weigh in and make sure
12 we're not -- procedurally, we're okay doing
13 that.

14 MR. HUBER: The only
15 issue, as the attorney for the administrative
16 side, is if we're going to get an environmental
17 impact statement, that it should be a group
18 that the City is agreeable to doing it.

19 The last time we went through this with
20 Osborne, Osborne got an environmental impact
21 statement that, to be blunt, was not very
22 reliable, in my opinion. So if we're going to
23 go through this, I'd like to make sure that
24 we're all satisfied that this is an entity
25 that's going to do the testing and we all have

1 faith in what they're coming out with.
2 That's -- in light of the direction the
3 discussion has taken and in light of having
4 been through the Osborne experience, that would
5 be my suggestion.

6 MS. RUSSELL: Is it the
7 City's position we'd like to have Labyrinth do
8 it?

9 MR. HUBER: I don't know
10 about that.

11 MR. MENDEL: We have -- go
12 ahead.

13 THE CHAIRMAN: Mr. Hunt.

14 MR. HUNT: I think to
15 the Commission, the way the condition reads,
16 the specific condition, it's actually the
17 Planning Commission may seek expert advice.
18 So it is you, not necessarily City
19 administration, which will help you to decide
20 who to use, but it's the Commission itself
21 that's seeking this, so I want to emphasize
22 that.

23 MS. CHANDLER: Our position
24 would be that we could have our own expert
25 weigh in on anything that's happening on our

1 side to inform us.

2 And I don't disagree with Mr. Hunt that
3 the Planning Commission has that similar
4 right. There would be access to the property,
5 and any coordination that needed to happen
6 would certainly be something we would cooperate
7 with.

8 MS. RUSSELL: I certainly
9 don't --

10 MS. CHANDLER: I'm not
11 interested in stipulating to the same expert.

12 MS. RUSSELL: I understand
13 what you're saying, Mr. Hunt. We would then
14 select or have control over the process of who
15 goes out there.

16 But certainly your client, if they wanted
17 to have their own expert do an additional
18 study, I don't see any reason why they
19 couldn't.

20 MS. CHANDLER: Correct.

21 MR. GOLD: Can I ask who
22 your expert is?

23 MS. CHANDLER: Mr. Nide has
24 retired. That was Osborne's expert. We're
25 looking at Jim Mueller. It's in my notes.

1 You looked like you were going to ask me
2 something, Mr. Grice.

3 THE CHAIRMAN: Oh, no, no.

4 MS. CHANDLER: Okay. So
5 we've got two possible individuals lined up
6 that we're going to talk to. Mr. Mueller is
7 one of them. The other names I have written
8 down.

9 THE CHAIRMAN: I think
10 something else, too. If we do go along
11 the lines it's sounding like -- I mean, the
12 temporary and getting the report and so forth,
13 you know, may be a possibility of -- even if it
14 takes a longer time, meaning instead of four
15 weeks, limit the number of hours per day so
16 that the surrounding neighbors -- you know,
17 even if it goes longer. Just something to --

18 MR. DUTTON: Does the whole
19 pile have to be crushed?

20 MS. CHANDLER: If I may?

21 This is my suggestion. Our application
22 is asking for a certain time frame of the
23 year - wintertime, a window between January or
24 so. My conversations with Mr. Fechko indicate
25 that his crew is not anticipating what we're

1 permanent -- they want to move this to a
2 permanent status, and they're looking at using
3 this crusher between the months of December and
4 April.

5 MR. HUBER: Right. But
6 if you're going to get an environmental
7 impact statement then -- and you may have to
8 because of the time constraints here, but I
9 don't know if that's going to give you the
10 same conditions that would occur at other
11 times of the year.

12 MR. GOLD: No, probably
13 not. You're not going to get the same
14 condition as you would in August.

15 But they're not asking to use the crusher
16 during the summer months, they're asking to
17 have the crusher operational December through
18 April.

19 MS. RUSSELL: It would make
20 sense to me to do the testing during the time
21 period that they're asking for the permanent
22 crusher to be operational.

23 MS. CHANDLER: Correct.

24 MR. HUBER: So the
25 permanent request will be strictly limited to

1 January to April?

2 MS. RUSSELL: I thought you
3 said January to April.

4 MS. CHANDLER: That was our
5 suggested time frame. Frankly, this is the
6 testimony my client was going to speak to, this
7 is a very watered-down request considering
8 we're in the industrial district. You know,
9 this is truly a demonstration of good faith to
10 Fire-Dex.

11 Is anyone from Fire-Dex here?

12 (No response.)

13 MS. CHANDLER: Which, you
14 know, we've been trying to present and talk
15 about, and the --

16 I just want the record to reflect that
17 no one answered when I asked if anyone from
18 Fire-Dex was here. Thank you.

19 But, in any event, we're looking at a
20 winter time frame, because we feel that would
21 be the least impact for this crushing because,
22 again, we're trying to impress upon everyone
23 that this is their personal use. This is a
24 very minor part of their business specifically
25 arising out of their bidding Medina City jobs

1 and bringing that scrap concrete to their yard.
2 That's Lake Road sitting in that pile. That's
3 Lake Road, one of probably the biggest road
4 projects that the City has had in recent times,
5 and it's sitting there.

6 So that's why they also don't expect to
7 have a pile that big ever, but that was the
8 time frame that they were shut down and --

9 THE CHAIRMAN: I guess I'm
10 looking at you, but I'd like open the public
11 hearing, but I don't want to cut you short
12 either.

13 MS. CHANDLER: You're not
14 cutting me short, as long as you need us to
15 come back. I'm just letting you know that this
16 is not my presentation. I mean, I wanted to
17 have a conversation about the practical points
18 first.

19 THE CHAIRMAN: I think
20 Mr. Hunt has a question.

21 MR. HUNT: I do.

22 This is for information for the Planning
23 Commission; and that is, is there a proposal
24 for limited hours of crushing if you would
25 do this permanently that can be replicated

1 in the temporary period of time, you know,
2 whether it's less intrusive to do it from noon
3 to four o'clock in the afternoon or 8:00 a.m.
4 to 12:00?

5 To do it eight, ten, twelve hours a day
6 might be intrusive. So I don't know what the
7 intent is with respect to that and if you have
8 any comments, or Mr. Fechko in particular would
9 have comments, as to limited hours.

10 MS. CHANDLER: So go ahead.

11 MR. HUNT: And days of
12 the week, I assume.

13 MR. FECHKO: It's
14 wintertime so, you know, we're suggesting that
15 we do this in the wintertime. Everybody's
16 windows are shut, you won't hear anything.
17 There's a lot of positives for doing it that
18 period of time. We would typically get a small
19 pile to no pile if we used the averages over
20 the last eight years, and there's not enough
21 daylight to barely get eight hours of work done
22 and, you know, we need to do it in the
23 daylight.

24 So we are flexible. We're just trying
25 to get along and, you know, if there's a

1 special request or a reason, we would certainly
2 look at it. We're just trying to fill -- you
3 know, we have some time in the winter with the
4 guys that can't go out and work on a job site,
5 it's a good thing they can do at a particular
6 time, and we can feed our spring material.

7 So we can work on time within reason. I
8 hate to bring a guy in for five hours. He
9 can't really even get a week's worth of work
10 then.

11 MS. CHANDLER: And my only
12 comment to that would be, when we're proposing
13 and saying that "Our average need would be
14 about eight weeks per year," those eight weeks
15 are five eight-hours; they're five eight-hour
16 days so, I mean, that's where it would -- there
17 would need to be a discussion.

18 If we're closing that window of hours per
19 day, is there a longer time frame to do the
20 crushing? So that time frame of January to
21 April, the winter months, I understand that's
22 more than the eight-hour -- the eight weeks
23 that we were talking about, but that's to build
24 in weather issues, timing issues.

25 If there's reasons that -- you know, again,

1 there was talk in the BZA about if the wind
2 conditions aren't right, there might not be --
3 it may not be neighborly to crush because of
4 those wind conditions. That's going to impact
5 us.

6 So if we're held to a tight four hours,
7 but then you have to also get it done in four
8 weeks, that's going to limit us. We're just
9 trying to be practical.

10 MR. HUBER: John, when
11 you were communicating with Mr. Burke, did he
12 indicate, or did you ever talk about, crushing
13 in this time period and that that would work
14 for him at all? Or that conversation never
15 happened?

16 MR. FECHKO: He wanted it
17 crushed when he made the phone call.

18 MR. HUBER: This was back
19 in the spring?

20 MR. FECHKO: I think this
21 was after the Osborne settlement.

22 MR. HUBER: Okay.

23 MR. FECHKO: So then he
24 called and said, "What can we do? Can we get
25 this crushed?"

1 So the Mayor got involved a little bit and,
2 you know, I think Maryann took it from there.

3 MS. CHANDLER: If I may?

4 MR. FECHKO: He's very
5 eager to get it out, of course, but we do have
6 a labor issue right at the moment.

7 MS. CHANDLER: If I may?

8 To address your question, Mr. Huber, I
9 have Exhibit 4. I'll hand that to you. If
10 you want to, put that under the overhead. I
11 have another copy.

12 We reached out to Fire-Dex, and you'll
13 note -- thank you (providing to Commission).

14 You'll note on Exhibit 4, my colleague
15 and I met with Steve Allison, Dave Liana, and
16 John Karban - those are the management team
17 members at Fire-Dex - and we asked them what we
18 could do.

19 If you'll turn to the next page, there
20 at the bottom of the page, that first page,
21 you'll see Mr. Karban indicated he wanted "zero
22 impact"; zero impact to his lot over there.

23 And I said, "Well, I don't know that
24 that's realistic for anyone in an industrial
25 zone," and there was never a response.

1 And I purposely sat down and composed what
2 I believed was a thoughtful letter addressing
3 that - Mr. Burke was copied, Mr. Fechko was
4 copied - hoping that that would initiate some
5 further conversation, but no one ever contacted
6 us to dispute that, and no one ever contacted
7 us to have further discussions until May 18th
8 with the e-mail indicating they wanted it
9 crushed within a month.

10 MR. GOLD: Was there
11 ever a determination about the dust affecting
12 Fire-Dex, where it came from, off of the gravel
13 road, or if it was coming directly from their
14 rock-crushing activities?

15 MS. CHANDLER: There's the
16 whole Board of Zoning Appeals record, and
17 they indicated complaints with really just
18 everything. It was both, but it was complaints
19 with truck traffic, it was complaints with the
20 crusher, it --

21 MR. FECHKO: It's my
22 opinion that the gravel driveway is the biggest
23 issue.

24 MR. GOLD: Well, in full
25 disclosure, for five years I leased a property

1 across from Osborne's activity, and I was very
2 well aware of the driveway and the impact the
3 gravel has and --

4 MR. FECHKO: That's --

5 MR. GOLD: -- that was a
6 major source of the dust migrating over the
7 Fire-Dex.

8 MR. FECHKO: Yeah.

9 MS. CHANDLER: That's why
10 we've proposed the concrete access drive and
11 trees down that whole side as a mitigation
12 factor.

13 THE CHAIRMAN: Jonathan, I
14 have a question.

15 MR. MENDEL: Yes?

16 THE CHAIRMAN: The addition
17 Fire-Dex put on.

18 MR. MENDEL: Yes.

19 THE CHAIRMAN: I remember
20 coming here and all, but time frames kind of
21 escape me. Are they occupying that now?

22 MR. MENDEL: Yes. It is
23 fully occupied as of the middle of this year.

24 THE CHAIRMAN: Okay.

25 MR. MENDEL: And it's

1 reflected on this site plan that the Applicant
2 has supplied. This red outline is their
3 existing building (indicating) --

4 THE CHAIRMAN: Right.

5 Just --

6 MR. MENDEL: -- which is
7 inclusive of the --

8 THE CHAIRMAN: -- about that
9 piece of it, the addition, I just couldn't
10 remember exactly when it was before the
11 Commission.

12 MR. HUNT: If I may,
13 Mr. Chair?

14 Jonathan, then the correspondence with
15 Fire-Dex in the spring and May of this year
16 would have been right before it was occupied,
17 the new addition?

18 MR. MENDEL: Yes.

19 MR. HUNT: Okay.

20 MS. CHANDLER: Actually,
21 Mr. Hunt, we toured the new facility when we
22 were there, and they were in the process of
23 moving in. It was empty warehousing, and
24 it was -- Mr. Burke's office looks at the
25 concrete pile that they affectionately call

1 "Mount Fechko." So I can see --

2 MR. HUBER: Is it
3 affectionately?

4 MS. CHANDLER: Well,
5 affectionately with quotes around it.

6 MS. RUSSELL: How tall is
7 that pile?

8 MS. CHANDLER: Mr. Fechko?

9 MR. FECHKO: I don't really
10 know how tall it is. It's huge, I can say that
11 much.

12 MS. CHANDLER: Is it typical
13 of what you would expect there in any given
14 year?

15 MR. FECHKO: Absolutely
16 not. Our piles, our crushing, the whole
17 investment, everything was for Medina City
18 streets and the Medina City street projects, so
19 that was the whole reason for this entire
20 thing, even buying the land. That was the
21 motivator.

22 And most of your streets are small. I've
23 done a bunch of them, and we would bring those
24 streets in there, we would use the material,
25 and we would use the processed material on

1 those projects even, so --

2 MS. CHANDLER: From what time
3 frame are you referring to? You started using
4 the crusher on your 865 West Liberty Street
5 parcel around what time frame?

6 MR. FECHKO: 2009.

7 So, I mean, there's a lot to this story
8 and it's all positive, because I think I've
9 been -- you know, I've been a friend of the
10 City's for most of the time I've been in
11 business, for sure, and I've done a lot of
12 work for the City.

13 The City's aggressive plan for the streets
14 was a big motivator for us. With our location,
15 it made us much more competitive in our bidding
16 because of this idea that we came up with and
17 invested in.

18 MR. HUBER: John, a lot
19 of that pile is from the Lake Road project,
20 isn't it?

21 MR. FECHKO: Yes. It's
22 almost all Lake Road, and it was no secret that
23 we were bringing it there. You know, it's just
24 like we did the other half-dozen, dozen
25 projects.

1 MR. DUTTON: So was
2 Planning staff consulted at the time before you
3 started this?

4 MR. FECHKO: Well, not
5 Planning, but Engineering and, you know, the
6 previous administration for sure.

7 MR. DUTTON: But the
8 off-set previous land use and site plan
9 development was not consulted on?

10 MR. FECHKO: A site plan?

11 MS. CHANDLER: If you want
12 to, talk about how the 20 -- when you
13 purchased the land in 2012 and how that
14 came about.

15 MR. FECHKO: Okay. Well,
16 like I said, we were crushing in 2009 and we
17 outgrew it. We invested heavily in this
18 direction; we bought a paver, we bought
19 stabilization equipment, we bought the crusher.
20 We went in full board because times were very
21 hard right then.

22 The economy was really, really bad. The
23 only work out there was rehab work. And,
24 you know, all my competitors have this same
25 operations with their own yards, so to get

1 competitive, which, you know, the last straw
2 was when we did Commerce Drive and I had to
3 hire my competitor to pave it, you know, and
4 he bid on the job.

5 So anyway, we outgrew our space. I bought
6 the land and -- well, I should back up.

7 MS. CHANDLER: Before you
8 bought that land.

9 MR. FECHKO: Before I
10 bought the land, I was going to buy the
11 frontage, the C -- the commercial property.

12 MS. CHANDLER: The C-3 lot
13 that is on West Liberty Street, so Jonathan
14 can point to that. That was the Connley
15 property.

16 MR. FECHKO: So I had an
17 agreement on the land. Jim Gerspacher was the
18 REALTOR®, and we were talking with the City and
19 the Mayor at the time, you know, that we wanted
20 to move the crushing operation from our yard
21 over to that location.

22 And the City came back and said, "Well,
23 we really don't want to rezone the commercial.
24 We could possibly rezone the back portion of
25 it, but why don't you just talk to Simmons,

1 and they've got that parcel right next to you
2 and it's already zoned."

3 So that's what we did. We walked away
4 from that property, made a deal with Simmons,
5 and we moved over there. So this was
6 hand-in-hand with the City at the time. I
7 was doing what the City was asking me to do.

8 And so we worked there for, I don't know,
9 five years, four years. Certainly, everyone
10 knew what we were doing. Certainly, I did not
11 feel like I was doing anything wrong until
12 Fire-Dex complained, and then everything came
13 to a halt, my general manager, you know, he
14 went his direction.

15 And here we are today.

16 THE CHAIRMAN: Ms. Chandler,
17 can I go ahead and open the public hearing real
18 quick?

19 MS. CHANDLER: Certainly.
20 Let me take a seat.

21 THE CHAIRMAN: At this time,
22 this is a conditional zoning certificate, I'd
23 like to open the public hearing. If there's
24 anybody that has any comments regarding this
25 case, I'd ask that you come up and give your

1 name and address. State your comments and --
2 or whoever might want to make those comments.

3 Anybody?

4 (Whereupon, SHERRY ABELL, was then
5 placed under oath by the notary.)

6 MS. ABELL: Sherry Abell.
7 My husband and I used to own the Stop-N-Go,
8 which is now the Minit Mart.

9 THE CHAIRMAN: Ms. Abell, if
10 you would, give us your address too, please.

11 MS. ABELL: Excuse me.
12 317 Forest Meadows Drive, Medina.

13 THE CHAIRMAN: Thank you.

14 MS. ABELL: That's my home
15 address.

16 Okay. We used to own the Stop-N-Go's,
17 i.e., now Minit Mart, and I've been involved in
18 these hearings from --

19 How far back should we say, from the first
20 one that came up?

21 MR. MENDEL: 2015.

22 MS. ABELL: Thank you.

23 I still own the property of about
24 two-and-a-half acres, basically across the
25 street from Fechko, so to say I'm happy about

1 this is - not.

2 I know it's been stated by John - and I
3 know John - that it was not an issue for a
4 couple years. Well, it was. It just it was
5 not really addressed because the dust that
6 was coming over onto what used to be Stop-N-Go
7 was quite intense when the winds came up.

8 Also, I used to be involved, as has been
9 previously stated -- it's been a number of
10 years now. I used to be involved with
11 HARCO Corporation, and I was very involved with
12 Porter Paints, with the concrete industry, and
13 in the engineering, so I'm very familiar with
14 what happens with crushing concrete and fumes.
15 I've been on many, many job sites, not just
16 here but other parts of the country, including
17 NEXUS pipeline.

18 So to say I was happy about it? No.

19 Am I still happy with them continuing? No.

20 Am I happy about the fact that, yes,
21 they've worked with the City of Medina on these
22 projects?

23 And I understand, from a business aspect,
24 moving into the area and setting up operation.
25 But we, as adjacent owners, never knew about

1 this until it became a major issue, i.e., with
2 Fire-Dex and ourselves.

3 Now, I still have property for sale across
4 the street. If I have major dust and noise,
5 which we had before -- which I understand you
6 want to do an environmental impact study. It
7 should have been done then, to be honest, when
8 it was first brought up, because if it had
9 been, it would have never happened to this
10 point.

11 Because the major rebar -- you have
12 apartment complexes over there with kids. You
13 get concrete piles, you get rebar. What do
14 boys go to? Come on, let's get real. We all
15 have children.

16 The dust is a carcinogen with the fumes.
17 You all know that.

18 Those are two things.

19 Now, I understand the storage yard, I
20 understand the trucks, and I certainly
21 understand Fire-Dex's position from quite a
22 few years now. So if they're going to put a
23 landscape-screened buffer and they're moving
24 this now to the southeast corner of the
25 property, that's right by me. It's right by

1 18.

2 Now, does that really look good into the
3 City of Medina, to have dust flying through in
4 a major industrial area? That's why we have
5 Lake Road. That's why we have the industrial
6 park down there. That was why it was started.

7 Now, if you want to build a wall
8 twenty-foot high and have it landscaped so it
9 looks good for the city when people are driving
10 through, that's fine, but on the other hand,
11 that's a major cost. But you better have it
12 on both sides, both by the apartments and that,
13 because when you get rebar and you get
14 concrete, it's not nice.

15 Now, you're saying right now you want
16 to crush from December to April, but now
17 you're saying you want to set it up
18 permanently. What's "permanently," all times
19 of the year? Because we all know the winds
20 get quite strong certain times of the year.
21 Heck, my husband had gas stations. We have
22 to pay a higher rate of gas here than in
23 Cleveland because, quote, we're in the
24 prevailing winds, unquote. That's ridiculous,
25 but it's true. So, therefore, the winds we

1 have to deal with here, so that's an issue.

2 Are they going to house this in a
3 building? Put up a huge building. They
4 could put a crusher in a building. They can
5 back concrete trucks or other trucks in. That
6 would certainly stop, A, the noise; B, the
7 dust; and look better. That's a major cost.
8 I understand that, but if you want to have
9 less impact on the environment and the
10 neighborhood, then that's what I would
11 suggest you do.

12 Right now, if this goes through, it's
13 going to help ruin my commercial property
14 values, unless John wants to buy my property.
15 Then I'll say, "Have fun," but otherwise, I
16 will keep fighting it until the point it is
17 in acceptable levels.

18 That's all I have to say.

19 THE CHAIRMAN: Okay. Thank
20 you very much.

21 MS. ABELL: Yes.

22 MR. HUNT: For the
23 Commission's information, could you have
24 Jonathan point to your property on here? Maybe
25 put an X on it or something so that we know

1 which one it is.

2 MR. MENDEL: (Complying
3 with request of counsel.)

4 MS. ABELL: What I have
5 left is right there. I had that all next to
6 it, which is Minit Mart, all the way -- it used
7 to over where it used to be before. And then I
8 used to have Minit Mart, which went to the
9 east.

10 MR. HUBER: What exhibit
11 is that?

12 MR. HUNT: It says
13 "Exhibit 1" at the bottom, so it's Exhibit 1,
14 and there's --

15 MR. MENDEL: No, it's not.
16 This is my aerial photograph that I created. I
17 don't have an exhibit number on it.

18 MR. HUNT: We'll have you
19 put an exhibit number on it. Exhibit A maybe
20 is the best way to do that.

21 (Whereupon, an aerial photograph was
22 then marked as Commission's Exhibit A by
23 Mr. Mendel for purposes of identification.)

24 MR. MENDEL: This is -- in
25 the white outline is the subject property.

1 That outline isn't the actual property.
2 There's a small little sliver of land that goes
3 like this (indicating) to the frontage, and
4 that is why, as an adjacent property owner
5 directly across that street from the subject
6 property, Ms. Abell's property was provided
7 notification. Not that it's -- it's not -- it
8 was noticed in the newspaper, so that's for
9 general consumption.

10 You can see here on Exhibit 1, it's this
11 little sliver that goes down to Liberty
12 (indicating).

13 MS. ABELL: Right. But
14 when the winds hit, it was quite -- it was
15 quite a bit of dust.

16 MR. HUBER: Sherry, how
17 many acres of land do you own there?

18 MS. ABELL: I still have
19 two-and-a-half acres.

20 MR. HUNT: Ms. Abell,
21 what would be the distance or, Jonathan,
22 between the corner where the crushing is
23 proposed to permanently occur to that property
24 line?

25 MS. ABELL: Honestly, sir,

1 I do not know the distance.

2 MR. MENDEL: This map
3 is to scale at one inch equals three
4 hundred. Eyeballing it, it's probably an
5 inch-and-a-half, so it would be somewhere
6 between four hundred and fifty, and six
7 hundred feet from this corner to the public
8 right-of-way (indicating).

9 And then it would be the width of the
10 public right-of-way to here (indicating), which
11 is probably another hundred-and-fifty feet.

12 MS. ABELL: But you have
13 the City apartments there with quite a few
14 people, and that was one of my concerns before
15 and still is.

16 THE CHAIRMAN: Okay. Thank
17 you very much for coming tonight, especially
18 given your foot.

19 MS. ABELL: Thank you.

20 THE CHAIRMAN: Does anybody
21 else with us this evening have any comments?

22 (No response.)

23 MS. CHANDLER: I just want
24 to verify that Ms. Abell does not have an
25 ownership interest, nor does she live at

1 Lincoln Crossings Apartments.

2 MS. ABELL: No, I do not.

3 MS. CHANDLER: Thank you.

4 THE CHAIRMAN: Okay. If no
5 one else wants -- if no one else has any
6 comments, we will close the public hearing and
7 open it to the Planning Commission for comments
8 generally or to Ms. Chandler specifically.

9 MR. GOLD: Can you
10 address the issue of the equipment storage yard
11 and where that's going to be located and what
12 percentage and how much of the property it's
13 going to use?

14 MS. CHANDLER: I guess I
15 would best do this with some Q&A with
16 Mr. Fechko.

17 EXAMINATION OF JOHN FECHKO

18 BY MS. CHANDLER:

19 Q Mr. Fechko, what is your primary business at
20 865 West Liberty Street?

21 A General contracting, excavating, paving.

22 Q Do you use equipment in the course of your
23 business?

24 A Yes.

25 Q And is it necessary -- is it essential to

1 your business to have that equipment to perform your
2 services?

3 A Yes, it is.

4 Q Have you always stored equipment at
5 865 West Liberty Street?

6 A Yes, we have.

7 Q Okay. When you acquired this Progress Drive
8 lot in December of 2012, did some of that equipment
9 end up on the Progress Drive property?

10 A Yes. It did, yes.

11 Q Did you see that as just an incidental part of
12 your business?

13 A Correct.

14 Q Could you do your job without the equipment?

15 A No.

16 Q Could you do your job without having the
17 ability to store your trucks and backhoes and
18 bulldozers and tractors?

19 A No. I mean, we have to have the equipment,
20 obviously, and we have to have a place for it.

21 MS. CHANDLER: So the
22 equipment storage is of the nature that it's
23 difficult to -- it's not like a landscaper,
24 someone who is going to have bins and have
25 organized places for mulch and stone and

1 whatnot. I mean, there's trucks, there's
2 backhoes, there's equipment pieces that
3 Mr. Fechko could describe more easily.

4 There's no organized way to set all of
5 these things onto a plan and show where they're
6 going to be, so that is why we have a plan
7 that just simply covers anywhere where they're
8 not utilizing the crushing is going to be
9 accessible for storage of equipment, trucks,
10 backhoes, bulldozers, buckets, things that
11 attach to those equipment, trailers for tools
12 that they take out to sites. Those are the
13 things that are sitting on there if you were to
14 drive by it today. They're asking to utilize
15 the property for that purpose.

16 MR. FECHKO: We also have
17 materials, some surplus materials.

18 MR. GOLD: Mr. Fechko,
19 how often do you need to mobilize your
20 equipment off of this site?

21 MR. FECHKO: Well, I mean,
22 if there's no equipment there, then things are
23 going well.

24 In the wintertime -- in the wintertime,
25 a lot of it has to come back, and then all

1 the semis, dump trucks, and things like that,
2 they're back every night. When something
3 breaks, we have to bring it into the yard,
4 bring it into the shop. It depends on the
5 job.

6 MR. GOLD: Those are
7 primarily in your fenced area at 865, correct?

8 MR. FECHKO: It's not
9 fenced.

10 MR. GOLD: Okay. But it
11 is primarily parked there?

12 MR. FECHKO: It's about --
13 well, the trucks that go every day, they stay
14 on that property, yes. The stuff that we don't
15 use every day, most of that is on this parcel.

16 MR. GOLD: So it's not
17 like you're daily having an exit, like at the
18 brown army. When it's eight o'clock, all of a
19 sudden you see all these trucks come rolling
20 out of there. It's not like that on your
21 property, correct?

22 MR. FECHKO: On 865 it's
23 active every morning.

24 MR. GOLD: Right.

25 MR. FECHKO: On this

1 parcel, you know, we're not using the driveway.
2 I mean, we don't have any access at this time,
3 so there's nothing really going on.

4 MR. GOLD: So it's just
5 parked?

6 MR. FECHKO: It's just
7 parked.

8 MS. RUSSELL: Can you
9 clarify that? Are you saying you're not using
10 that concrete access drive?

11 MR. FECHKO: It's proposed.

12 MS. CHANDLER: It's proposed,
13 correct.

14 MS. RUSSELL: So right now
15 you're only using -- are you only using the
16 access out to --

17 MS. CHANDLER: Correct,
18 West Liberty.

19 MS. RUSSELL: Through your
20 other one?

21 MS. CHANDLER: Correct.

22 MS. RUSSELL: Okay.

23 MR. HUBER: John, you
24 don't just do concrete, you also do some
25 asphalt work.

1 MR. FECHKO: Very little
2 asphalt. We get everything prepared and then
3 we usually sub out to an asphalt contractor.

4 MR. HUBER: You recently
5 completed the taxiway at the Medina Airport.
6 That was asphalt.

7 MR. FECHKO: That was
8 asphalt, yes, sir. We subbed out that.

9 MR. HUBER: Some of this
10 equipment, though, you use for that, too,
11 right?

12 MR. FECHKO: Oh,
13 absolutely.

14 MR. HUBER: All right.
15 Well, I had the opportunity to use that
16 taxiway, and I want to say that it's
17 first-rate work.

18 MR. FECHKO: Thank you.

19 We were looking at some of the -- Maryann
20 asked some of the jobs that we had done, and my
21 first job was Fred Greenwood Park, my very
22 first public job, and the last public job is
23 the airport.

24 THE CHAIRMAN: Other
25 questions by Members of the Commission?

1 Mr. Hunt?

2 MR. HUNT: Yes.

3 For the Commission's information,
4 Mr. Fechko, how much of the current site is
5 available for use and parking? You mentioned
6 that that southwest corner is topsoil, so I was
7 wondering kind of a percentage of how much is
8 now ready to be used or is being used.

9 MR. FECHKO: Off the cuff,
10 I'd say two-thirds is being utilized.

11 MR. HUNT: So the
12 one-third is where?

13 MR. FECHKO: The south side
14 in the driveway.

15 THE CHAIRMAN: Other comments
16 or questions by Members of the Commission?

17 MS. RUSSELL: You know, I
18 have a few questions procedurally. How do we
19 proceed? So we have a site plan, correct, and
20 a conditional use permit, right?

21 MR. MENDEL: So there's
22 actually kind of three actions.

23 Site plan approval to develop the land and
24 occupy it, just to use it under the development
25 standards of the zoning code.

1 Then there's to operate two specific
2 principal uses. One would be heavy
3 manufacturing for the concrete recycling and
4 one would be for a contractor equipment storage
5 yard, and they are not -- they can be exclusive
6 of each other, so it could be used for both or
7 one or the other.

8 So there's two -- actually two zoning --
9 conditional zoning certificates that would be
10 issued. One would be for -- that could be
11 issued would be the heavy manufacturing land
12 use, and one for the contractor equipment
13 storage yard.

14 MS. RUSSELL: Okay.

15 THE CHAIRMAN: Mr. Hunt?

16 MR. HUNT: I assume the
17 storage also includes materials, not just
18 equipment.

19 MR. MENDEL: That's the
20 presumption, yes. It's equipment and
21 materials, so it would be materials that they
22 used for the construction of roadways or
23 projects that they do - stone, pipe, that kind
24 of thing.

25 MR. HUNT: My reading of

1 the City's code is that you can grant a
2 temporary conditional use permit, meaning a
3 limited period of time, with whatever
4 conditions that you wish to place on that, and
5 then the Applicant, if they wish, to come back
6 after that and have a permanent conditional
7 use.

8 MS. RUSSELL: But we'd have
9 to -- wouldn't we have to approve the site plan
10 first before they could have the conditional
11 use? Because how can they use --

12 MR. HUNT: No. There are
13 two site plans, a temporary site plan and a
14 permanent site plan.

15 MS. CHANDLER: Correct.
16 And I don't mean to cause confusion, but I
17 was going to ask, what we're -- my opening
18 comments -- really, you've not seen any of our
19 presentation. Our opening comments are based
20 on what we've heard from the staff comments and
21 the other letters that I put in.

22 We've asked for a temporary permit, a
23 temporary conditional permit to be permitted to
24 crush, and that site plan that I proposed is
25 really existing conditions.

1 MR. DUTTON: That's this
2 right here (indicating)?

3 MS. CHANDLER: Yes.
4 Exhibit 1, 2 of 2, that's existing conditions.

5 So we're asking for permission to crush
6 on-site temporarily for the purpose of the
7 environmental impact study, the testing that
8 we presume is going to be requested by this
9 Board.

10 MS. RUSSELL: Okay. And if
11 that were to be approved, are they -- is the
12 intention for Fechko to use that gravel drive
13 up in the top right-hand corner there?

14 Now, my understanding is that's proposed,
15 that's not being used yet, the one that runs
16 along Fire-Dex's property line.

17 MS. CHANDLER: We would ask
18 to be permitted to use that. But again, that
19 would be subject to the conditions of the
20 Board.

21 Mr. Fechko, what is your -- what's
22 realistic to do this with regard to crushing
23 that existing pile?

24 MR. FECHKO: We would want
25 to use the driveway to Progress if at all

1 possible.

2 MR. HUBER: Is there a
3 curb cut there for that yet?

4 MR. FECHKO: (Nodding head
5 negatively.)

6 MR. HUBER: There's no
7 curb cut?

8 MS. CHANDLER: No.

9 MR. HUBER: So you want
10 to use the driveway in its current gravel
11 condition?

12 MR. FECHKO: I'm not saying
13 that. I mean, I would have to have some
14 realistic reassurance, you know. I mean,
15 that driveway is going to cost a lot of money,
16 so -- but I mean, it's kind of vital for this
17 property.

18 And, you know, we had an agreement with the
19 neighbor to use his gravel driveway. I could
20 probably do that again, but I'd prefer to have
21 a more permanent direction.

22 MR. DUTTON: Does our
23 engineering division approve curb cuts or
24 access to public rights-of-way?

25 MR. MENDEL: Yes.

1 MR. DUTTON: So would they
2 be okay with a truck going over a curb for a
3 year, or however long it is?

4 MR. MENDEL: I would have
5 to consult with them, but I would imagine that
6 that -- it has been a temporary situation since
7 April of 2015, driving over the curb through
8 the tree lawn. There's not been installed a
9 permanent apron/curb cut in the public
10 right-of-way.

11 MR. HUBER: It wouldn't
12 take that much to do it, would it?

13 MR. MENDEL: It wouldn't.

14 MR. HILBERG: It would be
15 unreasonable to ask them to put in a paved
16 driveway without knowing for sure that -- I
17 understand where here's coming from.

18 MS. RUSSELL: Yes, I
19 understand what you're saying, too.

20 I just -- I don't know that it would be
21 appropriate either, though, to allow a lot of
22 trucks back and forth on the gravel if we
23 granted a temporary -- if we granted the use
24 temporarily. I mean, the whole point is it
25 would be nicer if there was concrete, because

1 that will reduce the dust of the trucks coming
2 in and out of there.

3 MR. GOLD: Unless we
4 grant him a full permit to be able to do this,
5 to have him pave it is just --

6 MS. RUSSELL: No. I'm
7 suggesting that he ought to do it until he
8 knows what the Commission decides at the end of
9 the day.

10 MR. GOLD: Again, if the
11 operation, the crushing operation, is going to
12 be in the winter months, you'll have minimal
13 amounts of dust being generated off of the --

14 MS. RUSSELL: How many
15 trucks would be going in and out to crush the
16 temporary pile? Because it's all already
17 there. They're not going to be shipping it in
18 because it's already there, right?

19 MR. FECHKO: Nothing.
20 There won't be anything going on, honestly,
21 until we need the material, and that's just
22 job-specific and not incredibly likely in the
23 wintertime.

24 MR. HILBERG: So for the
25 temporary, that gravel driveway is not in

1 question right now?

2 MR. GOLD: Not an issue,
3 correct.

4 MS. RUSSELL: Okay.

5 MR. FECHKO: We would make
6 the material. At some point the material is --
7 you know, when we have a job that is close
8 enough to make this valuable to us, then we're
9 going to want to use it, and we don't have that
10 job right now.

11 MR. HILBERG: I'm just
12 saying, just to eliminate the existing pile
13 that's there, you won't need that driveway?

14 MR. FECHKO: (Nodding head
15 negatively.)

16 MR. HUNT: The answer
17 was? The court reporter needs --

18 MS. CHANDLER: Out loud for
19 the court reporter.

20 MR. FECHKO: "No." Sorry.

21 THE CHAIRMAN: Any other
22 questions? Comments?

23 MR. GOLD: Mr. Chairman,
24 I would like to put forth a motion, doing it in
25 two parts. The first motion will address the

1 temporary conditional use permit.

2 I would like to propose that the Applicant
3 be allowed to crush the existing concrete pile,
4 to begin on December 1st and to terminate on
5 January 31st, being that we have holidays and
6 he needs a little bit of extra time; and then
7 to -- that it only be performed Monday through
8 Friday from 9:00 to 5:00; and that he must
9 perform an environmental impact study that
10 completely addresses windborne debris, noise,
11 and another environmental issues; and that the
12 use of the existing gravel driveway not be
13 granted during this temporary period.

14 MR. HUBER: I'm going to
15 suggest also, Bruce, as part of this motion
16 that the Planning Commission get its own
17 environmental study in addition to what they're
18 doing.

19 MS. RUSSELL: I believe it's
20 we get the environmental study. We don't order
21 them to do it, is my understanding.

22 THE CHAIRMAN: That's
23 correct.

24 MR. GOLD: No. They can
25 be -- as part of the condition, they can be

1 required to do the environmental study.

2 MS. RUSSELL: Well, they're
3 required to pay for it, but we order it.

4 Is that correct?

5 MR. GOLD: We don't order
6 it, we suggest. We can't say, "You have to use
7 XYZ Company --"

8 MS. RUSSELL: Oh, I see.

9 MR. GOLD: "-- in order
10 to --"

11 MS. RUSSELL: Mr. Hunt said
12 otherwise.

13 THE CHAIRMAN: Mr. Hunt?

14 MR. HUNT: The specific
15 condition in the code is that the Planning
16 Commission seeks expert advice at the cost of
17 the applicant.

18 MR. HUBER: So my point
19 is, if you're going to make this motion,
20 address that issue.

21 MS. RUSSELL: Yes.

22 MR. HUNT: And they're
23 free to get their own --

24 MR. HUBER: Or not, if you
25 don't want to.

1 MR. HUNT: -- to review
2 the City's.

3 MS. CHANDLER: I'd like to
4 point out one thing with regard to the testing
5 and the cost to the Applicant.

6 Mr. Huber, the Labyrinth Management Group
7 study that was done by the City with regard to
8 the Osborne site, who paid for that?

9 MR. HUBER: I think the
10 City did.

11 MR. MENDEL: The City did,
12 yes.

13 MS. CHANDLER: We would
14 request the same courtesy.

15 Of course, as a result of this, our use is
16 significantly less. I mean, we are asking for
17 a couple of months; two months a year is our
18 permanent request, two months per year.

19 MR. HUBER: That was in
20 direct response to the report from Osborne
21 which, frankly, we looked at and thought was
22 silly, so I don't know that that's the same
23 thing here.

24 But this issue is up to the Commission.
25 You can do as you see fit, but when you make

1 this motion, as the attorney for the
2 administration, I would like the Commission
3 to address that issue one way or the other.

4 MS. RUSSELL: So if we
5 direct that a study needs to be completed, I
6 think we have to say who is going to complete
7 it.

8 MR. HUNT: Correct.

9 MS. RUSSELL: Or could we
10 say that we -- could the Planning Commission
11 say we want the -- you know, we want Mr. Mendel
12 to select a company to do it for us?

13 MR. HUNT: I think that's
14 appropriate.

15 MS. RUSSELL: Okay. And
16 that way --

17 MR. HUNT: He is the
18 staff person who --

19 MS. RUSSELL: -- he has the
20 opportunity to -- right.

21 MR. DUTTON: Do we have to
22 specify who is bearing the cost of this?

23 MR. HUNT: I believe so.
24 I think that -- well, you -- the code, codified
25 ordinances, say that the applicant pays the

1 cost.

2 MS. RUSSELL: I say we go
3 with whatever the ordinance says.

4 MR. DUTTON: I agree.

5 MR. GOLD: All right.
6 Let me start over.

7 MS. CHANDLER: I'd like to
8 address a couple of the times and, again, the
9 length of time because of weather permitting
10 and then the time of day for starting.

11 Their operation starts the daylight hours.
12 7:30, 8:00 would make a difference, 7:30, 8:00.

13 8:00 to 4:00, would that work better?

14 MR. FECHKO: I mean, it's
15 dark by five o'clock and they eat lunch, so
16 that's not an eight-hour day, so it would be
17 nice if we could start at 7:30 or 8:00.

18 MR. GOLD: But we're
19 looking -- and that's why I suggested eight
20 o'clock.

21 MR. FECHKO: You said
22 "9:00."

23 MS. CHANDLER: I have 9:00
24 written. I have 9:00 to 5:00.

25 MR. GOLD: 8:00.

1 MS. CHANDLER: Okay. So then
2 8:00 to 5:00?

3 MR. GOLD: Yes. If I did
4 say "9:00," I misspoke. It was eight o'clock.

5 MS. CHANDLER: Okay. Thank
6 you.

7 MR. GOLD: Okay.

8 MR. FECHKO: There's one
9 more issue.

10 MR. GOLD: Sure.

11 MR. FECHKO: There's a
12 weather factor, okay? If we get into subzero
13 weather, we can't run. The belts won't turn,
14 they're too cold. We could sit for a whole
15 month and not be able to work because of
16 weather, okay? That's a factor that is -- I
17 don't know how to build that in exactly.

18 MR. HUBER: We could
19 probably have a special meeting if there's a
20 problem to address the problem.

21 MS. RUSSELL: Right.

22 MR. FECHKO: Okay. That
23 would be great.

24 MR. GOLD: That's why I
25 suggested a full eight weeks. You're saying

1 somewhere between four to six.

2 MR. FECHKO: Yes.

3 MR. GOLD: I factored in
4 Christmas and that. Would you prefer to start
5 in January as opposed to December?

6 MR. FECHKO: No. I think
7 that's fine, that's great. And, you know, if
8 we can expect probably fair weather, it would
9 work out well.

10 MR. GOLD: Okay.

11 MR. FECHKO: Sometimes we
12 don't get it.

13 MR. GOLD: I'm well aware
14 of it.

15 MR. FECHKO: Yes, sir.

16 MR. GOLD: Okay.

17 Mr. Chairman?

18 THE CHAIRMAN: Yes, sir.

19 MR. GOLD: I would like
20 to put forth a motion to grant a temporary
21 conditional use permit in order to process and
22 grind the concrete pile existing at the
23 Applicant's lot.

24 I would like to do it -- require that
25 the hours be between 8:00 and 5:00 p.m.,

1 8:00 a.m. to 5:00 p.m. Monday through Friday,
2 commencing on December 1st and terminating on
3 January 31st.

4 If the need arises where extra time is
5 required to finish the rock crushing, then a
6 special meeting will be called to address that
7 issue.

8 Also, that the existing gravel driveway
9 will not be used during the commencement of the
10 temporary conditional use permit.

11 And that during the time of the temporary
12 use permit, the Applicant will have a -- allow
13 access to the site for the yet-to-be-determined
14 developer of an environmental impact study, and
15 that the impact study be performed by the
16 choosing of the Planning and Zoning Director
17 and paid for by the Applicant.

18 Did I miss anything?

19 MS. RUSSELL: I think that
20 sounds right, Bruce.

21 MR. GOLD: You like that?
22 Okay.

23 MS. RUSSELL: I would second
24 the motion.

25 THE CHAIRMAN: We have a

1 motion and a second. Any other Commission
2 discussion?

3 (No response.)

4 THE CHAIRMAN: Roll call.

5 MS. DAVIS: Gold.

6 MR. GOLD: Yes.

7 MS. DAVIS: Russell.

8 MS. RUSSELL: Yes.

9 MS. DAVIS: Dutton.

10 MR. DUTTON: Yes.

11 MS. DAVIS: Grice.

12 THE CHAIRMAN: Yes.

13 MS. DAVIS: Hilberg.

14 MR. HILBERG: Yes.

15 MS. DAVIS: Motion

16 approved five-zero.

17 MR. GOLD: Mr. Chairman,
18 I'd like to also put forth a motion for the use
19 of the land as a vehicle storage yard, to grant
20 them permit and use of the lot for vehicle,
21 equipment, and materials storage.

22 MR. DUTTON: Is landscaping
23 required to screen the storage as well, or is
24 that just for the other things?

25 MR. MENDEL: The

1 development of this parcel, by code, requires a
2 landscaping and buffer -- screening and buffer
3 plan that is consistent with the requirements
4 of Chapter 1149 to the commercially zoned
5 property, which is to the south.

6 MR. DUTTON: Which we don't
7 have at this time?

8 MR. MENDEL: Which is not
9 in the proposed final development plan, so it
10 would be along this (indicating). They are
11 required to have a landscape and screening plan
12 under Chapter 1149 in the Planning and Zoning
13 Code along the south property line.

14 MR. GOLD: Just the
15 south?

16 MR. MENDEL: Yes. Because
17 the Lincoln Apartments, which is immediately
18 to the west, although it's a residential use
19 and is typically a more sensitive use than
20 industrial use, is zoned industrial, and the
21 screening and buffering requirements are -- the
22 administrative requirements relate to zoning
23 district.

24 MR. GOLD: Here's the
25 problem. They don't know what they're going

1 to need because the environmental impact study
2 needs to be performed, so I think it would be
3 burdensome to require them to do the -- you
4 know, a landscape border until they know
5 exactly what has to be there per the
6 environmental study.

7 MR. DUTTON: So if we
8 approve that, and if it ends up we don't
9 approve the other use, then you don't have a
10 buffer.

11 THE CHAIRMAN: Just make it
12 temporary.

13 MS. RUSSELL: Yes, just make
14 it temporary as well.

15 THE CHAIRMAN: And then they
16 don't have to do that.

17 MR. GOLD: I amend my
18 motion to include a temporary border for the
19 south side.

20 MS. RUSSELL: No.

21 THE CHAIRMAN: Just a
22 temporary approval.

23 MR. GOLD: Oh, temporary
24 approval.

25 MR. HUBER: For the

1 storage yard, right?

2 MR. GOLD: Do you want me
3 to start again?

4 Mr. Chairman, I put forth a motion to grant
5 temporary conditional use of the property as a
6 material storage and vehicle storage area,
7 which does not require the use of a landscape
8 border along the south side adjacent to the
9 commercial property.

10 THE CHAIRMAN: And that
11 temporary would expire?

12 MR. HUNT: Jonathan, can
13 you put up the temporary.

14 MR. MENDEL: (Complying.)

15 MR. HUNT: That's what
16 they're getting?

17 MR. GOLD: Yes.

18 And when do we want to have the
19 temporary --

20 MS. RUSSELL: It will last
21 as long as the other temporary conditional use
22 lasts.

23 MR. GOLD: That gives
24 them --

25 MS. CHANDLER: We would ask,

1 if you're going to go through the trouble of
2 granting the temporary for material storage
3 based on the testimony you heard tonight, that
4 it would just continue until further notice.
5 We're going to be back here because we're
6 requesting the continuance of the permanent
7 request.

8 MS. RUSSELL: I think we
9 need to have a deadline though.

10 MR. GOLD: Let's have it
11 for when they make -- that at the time the
12 Applicant makes --

13 MS. CHANDLER: You can put
14 "To be reviewed --"

15 MR. GOLD: -- the
16 conditional use --

17 MS. CHANDLER: "-- upon the
18 continuation of the rest of this application."

19 I mean, you still have to hear the
20 permanent application, so I'm fine if you were
21 to make this temporary grant last until the
22 hearing of the permanent crushing and other
23 uses.

24 MR. HUNT: It might be a
25 good idea to put an outside deadline on that,

1 MR. GOLD: Yes.

2 MS. DAVIS: Motion

3 approved five-zero.

4 THE CHAIRMAN: Thank you very
5 much. If there's nothing else tonight --

6 MS. CHANDLER: Do we need to
7 formalize the continuance of the permanent?

8 MR. HUNT: The temporary
9 site plan.

10 THE CHAIRMAN: Oh, the
11 temporary site plan. Yes, Mr. Hunt just
12 reminded us of that.

13 MR. GOLD: Do you want to
14 do that?

15 THE CHAIRMAN: You've been on
16 a roll.

17 MS. RUSSELL: Should that
18 one be temporary as well until we get
19 everything else sorted out? I assume so,
20 because we won't know for sure what all ought
21 to be included.

22 MR. GOLD: Mr. Chairman,
23 I put forth a motion to approve a temporary
24 site plan, known as Exhibit 1, 2 of 2, to
25 expire on June 1st of 2019.

1 MS. RUSSELL: Second.

2 MR. HUNT: Now that it's
3 seconded, perhaps a condition ought to be
4 placed again on use of the existing gravel
5 drive, as I assume there's going to be storage
6 of materials there and equipment, and I'm not
7 sure we'll want that going out that way for a
8 temporary period of time. Now, I may be
9 speaking out of turn.

10 MR. GOLD: Do you have a
11 problem that if you're going to use that drive,
12 it then has to be paved?

13 MR. FECHKO: I guess so.

14 MS. CHANDLER: Can you figure
15 out access otherwise in the meantime, or is it
16 not feasible?

17 MR. FECHKO: Yes. I mean,
18 we have access through our place, we have
19 access through Spicer.

20 MR. GOLD: I amend my
21 motion to include the existing gravel driveway
22 on the lot cannot be used until it's paved and
23 the curb is cut.

24 MS. RUSSELL: I would second
25 the amended motion.

1 THE CHAIRMAN: We have a
2 motion and a second. Is there any other
3 Commission discussion on that motion?

4 (No response.)

5 THE CHAIRMAN: Roll call.

6 MS. DAVIS: Grice.

7 THE CHAIRMAN: Yes.

8 MS. DAVIS: Hilberg.

9 MR. HILBERG: Yes.

10 MS. DAVIS: Gold.

11 MR. GOLD: Yes.

12 MS. DAVIS: Russell.

13 MS. RUSSELL: Yes.

14 MS. DAVIS: Dutton.

15 MR. DUTTON: Yes.

16 MS. DAVIS: Motion

17 approved five-zero.

18 THE CHAIRMAN: If there's
19 nothing else to come before the Commission?

20 MS. CHANDLER: My only
21 question is whether or not we need to formalize
22 the grant of the continuance and the permanent
23 request application that's before the Board
24 procedurally, Mr. Hunt.

25 THE CHAIRMAN: Request it be

1 continued?

2 MS. CHANDLER: Correct. I
3 mean, yes, there's absolutely a motion set
4 forth. That all goes hand-in-hand with the
5 temporary. So it was the temporary, and then I
6 would of course continue the permanent.

7 THE CHAIRMAN: And you have
8 made that request.

9 MS. CHANDLER: Okay.

10 THE CHAIRMAN: That's fine.

11 MS. CHANDLER: Okay.

12 THE CHAIRMAN: If there's
13 nothing else to come before the Commission this
14 evening, we are adjourned.

15 MS. CHANDLER: Thank you.

16 (Hearing concluded.)

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