

Meeting of the Meridian Planning and Zoning Commission of April 17, 2014, was called to order at 6:00 p.m. by Chairman Joe Marshall.

Present: Chairman Joe Marshall, Commissioner Patrick Oliver and Commissioner Macy Miller.

Members Absent: Commissioner Steven Yearsley and Commissioner Scott Freeman.

Others Present: Machel Hill, Bill Nary, Justin Lucas, Sonya Watters and Dean Willis.

Item 1: Roll-Call Attendance:

Roll-call

<u> </u> Scott Freeman	<u> X </u> Macy Miller
<u> X </u> Patrick Oliver	<u> </u> Steven Yearsley
<u> X </u> Joe Marshall - Chairman	

Marshall: All right. Good evening, ladies and gentlemen. I'd like to welcome you to the regularly scheduled Planning and Zoning meeting for April 17th, 2014, and I'd like to begin with the roll call, please.

Item 2: Adoption of the Agenda

Marshall: All right. So, first thing on the agenda is the adoption of the agenda and I would like to recommend a couple changes to the agenda at this time. It appears that Item A may take some time. Going to get a lot of public testimony on that. Items B and C and D, the RZ 14-003, PFP 14-001, and CUP 14-002, have asked to be continued until June 19th and I'm -- that should be fairly quick and a little discussion there. And, then, Item E, PP 14-005, should be fairly quick. So, what I would like to recommend is moving Item A to the last spot and that --

Miller: I agree with that. I'd like to recommend those changes to the agenda.

Oliver: Second.

Marshall: I have a motion and second to adopt the agenda as modified. All those in favor say aye. Opposed? That motion carries.

MOTION CARRIED: THREE AYES. TWO ABSENT.

Item 3: Consent Agenda

A. Approve Minutes of April 3, 2014 Planning and Zoning Commission Meeting

Marshall: All right. So, now we have the Consent Agenda. The only thing on the Consent Agenda is the minutes of April 3rd, 2014, Planning and Zoning Commission meeting. Are there any comments, corrections, changes to those minutes?

Miller: I move to accept the -- approve the Consent Agenda.

Oliver: Second.

Marshall: I have a motion and a second to approve the minutes of April 3rd, 2014, Planning and Zoning Commission meeting. All those in favor say aye. Opposed? That motion carries.

MOTION CARRIED: THREE AYES. TWO ABSENT.

Marshall: Now we come to our Action Items and before we begin I would like to set a few ground rules. What we are going to do is the first thing I will open the public hearing for each of the actions items tonight and ask for the staff report. At that time staff will give their analysis of the project as it conforms to city code and ordinance and, then, I will, then, ask for the applicant to come forward and the applicant will provide any additional information that they deem necessary and they will have 15 minutes to do so. After that I will ask -- and if anybody is willing, please, sign up in the back and I will go to that sign-up sheet first for anybody wanting to testify. Each person will receive three minutes to testify -- to provide public information, to provide any insight that would help us in our deliberations and that would be very much appreciated. After that anyone who didn't sign up -- I will have another opportunity for you to come and provide information. If anyone is testifying on behalf of a large group, I will ask for a show of hands for those people and they will defer their opportunity to speak to that single person, who will, then, receive ten minutes to speak on behalf of the larger group and with that -- oh. And afterwards the applicant will have an opportunity to readdress any issues that might have come up in the public hearing and, then, we will close the public hearing and we three will deliberate and hopefully provide an appropriate decision.

Item 4: Action Items

- A. Public Hearing: MCU 14-001 Southridge Gravel Mining by Idaho Sand and Gravel Located South of W. Overland Road and East of S. Ten Mile Road Request: Modification to the Existing Conditional Use Permit (CUP 10-015) to Allow an Additional 18 Months to Mine Material from the Site and Complete the Reclamation and Grading of the Site as Required. An Additional 60 Days to Process and Crush the Mined Material Within the 18 Month Period is also Required**

- B. Public Hearing: RZ 14-003 Kinsley by DL Evans Bank Located Northeast Corner of N. Ten Mile Road and W. Pine Avenue
Request: Rezone Approximately 3.42 Acres from L-O (Limited Office) and R-15 (Medium High-Density Residential) Zoning Districts to the C-C (Business Community) Zoning Districts
Request: Preliminary / Final Plat Approval of Three (3) Commercial Lots on Approximately 2.61 Acres in the Proposed C-C Zoning District**

- D. Public Hearing: CUP 14-002 Kinsley by DL Evans Bank Located Northeast Corner of N. Ten Mile Road and W. Pine Avenue
Request: Conditional Use Permit for the Following: 1) A Drive-Thru Establishment Within 300 Feet of a Residential District AND 2) Extended Hours of Operation in Accord with UDC 11-2B-4 in the Proposed C-C Zoning District**

Marshall: And with that I would like to open the public hearing for RZ 14-003, PFP 14-001 and CUP 14-002, with the request for a continuance to June 19th and I would ask staff do you have anything to add to that? So, I'm going to ask the applicant to come up. All right. I'm going to ask for the applicant to come up and, please, provide us with some insight as to why you're requesting this continuance.

Thompson: Mr. Chairman, Members of the Commission, my name is Tamara Thompson. I'm with The Land Group, 462 East Shore Drive in Eagle. We are surrounded by public -- I mean private streets and we are asking for access to public streets and we are having some push back from the city and so we are working with the homeowners association that controls the private streets to try to get access, because we are dealing with a homeowners association it's -- we have to meet with them as a group and have a consensus on all that, so we just need more time to work with them. In their bylaws they have to give their members a 30 day notice for meetings and so -- and we have been working with them for awhile, but to get several meetings in there it takes several months.

Marshall: Thank you. Any questions, Commissioners? No? All right. I thank you very much. So, Commissioners, my thought being that June 19th is two months away. They are working with the homeowners association there involved. My only thought with that being so far away should we request a renoticing, which would simply be changing the sign on the property and I believe the newspaper noticing and things like that. Any thoughts?

Miller: It makes sense to me I think.

Marshall: I appreciate the fact that they are working with the homeowners association and trying to get that taken care of. I think that's a good thing. We do need the -- all the cross-access easements for EMS and things like that and I know the city is always trained to provide that, so would we be willing to make a motion to continue this to June 19th, but with --

Miller: With the renoticing?

Marshall: -- with the renoticing?

Miller: I think so. Mr. Chair, I would propose we -- I make a movement to -- let me find the numbers. To move RZ 14-003 to PFP 14-001 and CUP 14-002, to the June 19th meeting with the condition of renoticing.

Oliver: Second.

Marshall: I have a motion and a second to move those to June 19th. All those in favor say aye. Opposed? Thank you very much.

MOTION CARRIED: THREE AYES. TWO ABSENT.

E. Public Hearing: PP 14-005 Center Community Subdivision by Oak Leaf Development Company, Inc. Located North of Chinden Boulevard and West of N. Jayker Way Request: Preliminary Plat Approval Consisting of Six (6) Single Family Residential Lots and Two (2) Common Lots on Approximately 6.77 Acres in an Existing R-15 Zoning District

Marshall: All right. Now, I would like to open the public hearing for PP 14-005, the Center Community Subdivision, and ask for the staff report, please.

Lucas: Thank you, Mr. Chair, Members of the Commission. Tonight before you is the Center Community Subdivision. The site consists of 6.77 acres of land, currently zoned R-15 and it's located on the north side of Chinden Boulevard east of Ten Mile Road. West of Ten Mile Road. I'm sorry. That's just a confusion on my part. Right there. This -- this lot is located within a -- is a previously platted lot within the Spurwing Greens Subdivision and tonight the applicant is requesting approval of a preliminary plat, consisting of six single family residential units, two common lots on 6.77 acres. A DA modification is also being requested to modify the original concept plan for this project, which would allow these six residential lots on this -- on this lot and the reduction in size of that pool and clubhouse amenity. The DA modification, as you know, is the purview of the City Council, so tonight you're only acting on the recommendation for the preliminary plat. I have not received any written testimony from -- from neighbors on this application, but I did receive written testimony in support of staff conditions from Barry Semple, the applicant's representative. I have a few items to show you here. The elevations for the proposed homes and elevation for the proposed pool house and swimming pool area. Staff is recommending approval with conditions of this project and I can certainly stand for any questions at this time.

Marshall: Commissioners, any questions of staff? No? Thank you. If I could have the applicant up and I'm going to ask you to give your name and address for the record, please.

Semple: Mr. Chairman, Members of the Commission, my name is Barry Semple. I'm with River Ridge Engineering, 2447 South Vista Avenue in Boise. I'm here representing Oak Leaf Development Company tonight in this application. As Justin stated, the applicant has reviewed the staff report and is in complete agreement with the analysis and the conditions of approval and I guess I won't take up anymore of your time than necessary, except to stand for any questions that you may have.

Marshall: Commissioners, any questions?

Miller: I don't.

Marshall: I do have a quick question. Now, you state that a number of the residents were in support of this in down sizing the size of the facilities, because there were -- was additional tennis courts placed in that were above and beyond and the down sizing would actually keep some of the homeowners dues maybe a little lower. How did you arrive at that determination? Was there a survey done or something like that?

Semple: Mr. Chairman, the original concept for this project was -- it was a separate development that you may or may not remember. It was called Tree Farm Subdivision. This site was intended to be the primary amenity for that project. Sometime ago that project transferred ownership and as part of the transformation of the residents of this subdivision and the -- became members of the existing Spurwing Country Club, thereby being able to take advantage of the amenities -- the existing amenities there, including their rather extensive clubhouse, the golf course, and other such things. Sometime later they did develop tennis courts on this property as an additional amenity. What you're referring to as far as the residents support of this -- at the meeting there were a number of residents that voiced support of down sizing this facility in order to keep the HOA dues lower and the fact that they already had a major facility available to them really made this sight less important as far as the -- to support an amenity, so --

Marshall: Thank you. That was -- that was my question is did you determine that at a homeowners association through show of hands or discussion and the like.

Semple: That's correct.

Marshall: Thank you.

Semple: Anything else?

Marshall: No. Thank you very much.

Semple: Thank you.

Marshall: Now, I do have some people signed up this evening. Larry Graham. Is Larry Graham in the audience? Would you like to testify, sir? Well, sir, you can up and ask your question to him and, then, he can come back and answer that a little later or you can address that outside of the public hearing. All right. From the audience he -- Mr. Graham is suggesting he would not like to testify at this time. And it's -- pardon? And you also are going to defer? All right. Thank you. Bob Bacon. Thank you, sir. And if you could read your name and address into -- into the record, please.

Bacon: Robert Bacon. 6695 North Moon Drummer Way.

Marshall: Thank you, sir.

Bacon: I was at that meeting and I'm not sure I agree that there was an overwhelming -- or there was any kind of majority to down size that area. If I know what he's talking about, that he means down sizing the two common areas so that it does not include a pool, then, I'm all in favor of that and that's the consensus that I derived at that meeting. I am a little bit neutral on these six homes, but I am against that pool, since we already have a country club social membership with a much larger pool than whatever would be put in in this area and we don't have the expense or liability, any of those concerns, it would seem to be a -- almost a foolish waste of money to put a pool in. If it's directed to something else more creative -- whatever that may be would be happy to provide some suggestions for that, but I am completely against the use of those common areas as a pool site. That's my -- all my comments.

Marshall: Thank you. Commissioners, do you have any questions for Mr. Bacon? No? Thank you, sir. Is it Gayle Bacon? And from the audience she feels that Bob has spoken for her. All right. And Patrick Clark. At this time Mr. Clark from the audience suggested he'd like to defer at this time. All right. So, I would like to ask the applicant back up to address the issues there.

Semple: Mr. Chairman --

Marshall: Oh, I'm sorry. I -- please. I apologize. Was there anyone else that wanted to address this project? I see no one. I apologize, I -- oh, there is somebody that would like to address this project. I'm sorry, sir. I misspoke. If I can have this one other person, please, come up. I apologize. Please forgive me for doing that. I jumped the gun. And I'm going to ask for your name and your address for the record, please.

Bachmer: My name is Sandra Bachmer. I live at 787 North Topaz Jewel in Meridian in Spurwing Greens Subdivision and I, too, was at the meeting that was just referred to and my consensus of feeling is the same as the person who just expressed it. I think that there wasn't any, you know, overwhelming opposition against it, but there was concern about adding a pool, because we already had one and that it would be an additional increase in our -- in our dues. We just had an increase in dues of 120 dollars this year in January for the clubhouse fees, which are separate from the association, but, you know, all together in one fee at the end and, then, initially we were told that one meeting that the

fees would probably just be, you know, five to ten dollars a household. But our last homeowners association fee Brighton Corporation mentioned the fee could likely be up to about 150 dollars. However, on both ends no one said this was a set amount, but those are the numbers. So, if you add 150 dollars onto the 120 dollars that we just had this year, we are talking about a significant increase in a short period of time and so, again, no opposition against the houses and I can't say I'm strongly against the pool, but I would oppose it as well for those reasons. We have a beautiful pool, you know, at the clubhouse in use already and so just trying to oppose the additional fees. It's not needed.

Marshall: Thank you.

Bachmer: Thank you.

Marshall: Let me ask is there anybody else at this time that would like to address that? All right. I'm not seeing any other hands. I would ask you up again, sir. I apologize. Thank you.

Semple: Mr. Chairman, I guess I'm not prepared to respond to the pool issue. I was not in attendance at the meeting. I was -- the discussion of the meeting was related to me by the -- by the applicant and the developer themselves and I apologize that there was no mention made of -- of the concerns about the pool, only that there was concern amongst the neighbors that the HOA dues would increase with a large amenity. I guess I'm not necessarily prepared to either agree to eliminate the pool in the absence of the applicant --

Marshall: All right.

Semple: -- so I'm not really quite sure how to respond to that.

Marshall: All right. Thank you. I appreciate that. Is it possible that he may want a continuance then?

Semple: I'm not sure that I could suggest something other than -- well --

Marshall: Not sure you could suggest something other than a continuance at this time?

Semple: Yeah. I -- I would prefer not to have a continuance.

Marshall: I understand that.

Semple: I would prefer to have a decision.

Marshall: Understand.

Semple: Under the circumstances with an issue that's unresolved -- is it the -- if I might ask you a question. What would -- what kind of criteria or information would you be looking for to -- in order to make a decision about --

Marshall: Well, it appears to me that everybody is in favor of the lots. The only question, then, becomes the amenity and should it be a pool or should there be something else there and I'm not sure -- right now I believe -- and I'm going to ask staff -- are we absolutely stuck on that pool, then, if the community as a whole doesn't want it?

Lucas: Mr. Chairman, Members of the Commission, just to clarify. Tonight before you with the preliminary plat application you're looking at the subdivision of the land, does it meet our codes, does it meet our policies and this particular subdivision does -- does do that. The associated application and modification to the development agreement, which is what they need to reduce the size of this pool -- there has always been a pool envisioned on this location. It was envisioned to be much larger at one point, so that specific issue surrounding the pool amenity may be more appropriate to be taken up at the City Council level, because they are the ones who have to act on that specific item, so -- and so I don't necessarily think you need to tonight make a decision about this preliminary plat, because there was an amenity requirement. What amenity that might be could potentially change if the City Council chooses to do that through the modification to the development agreement. But the layout of the homes, the size of the lots, the configuration of this subdivision meets our code and standards and that -- it's one of those odd cases where you have a preliminary plat run parallel with a modification to development agreement and you don't act on those modifications to the development agreement and I would put the pool under that banner of the MDA and not the preliminary plat. I don't know if that helps you completely, but that's one way to look at it.

Marshall: Thank you. I appreciate that very much and I think -- Commissioners, do you have any questions of the applicant? No?

Miller: No.

Marshall: I think we are good.

Semple: Mr. Chairman, I --

Marshall: Yes, sir.

Semple: -- I certainly appreciate staff's input and I would certainly hope that -- that a decision could be made on the preliminary plat and recognize the fact that the amenity is certainly -- that what constitutes the amenity is certainly subject to discussion and modification as appropriate in advance of the City Council hearing.

Marshall: Thank you.

Semple: Thank you.

Marshall: So, Commissioners?

Miller: Mr. Chair, I move to close the public hearing.

Marshall: Thank you, Commissioner Miller.

Oliver: Second.

Marshall: I have a motion and a second to close the public hearing on PP 14-005. All those in favor say aye. Opposed? All right. That motion carries.

MOTION CARRIED: THREE AYES. TWO ABSENT.

Marshall: So, again, obviously, I was combining the MDA with the preliminary plat and got a little off base there and it does sound like maybe they have a little work to do before they get to City Council on that MDU. That's good. Personally I heard everything positive about the preliminary plat. It seems appropriate and I see no problems with it moving forward.

Miller: I'm in complete agreement. It's funny, because the pool issue -- usually people are trying to get a pool and so -- but, yeah, I completely agree. I hope you guys can work that out. It sounds like it's workable. But I'm in favor of the development.

Marshall: Commissioner Oliver?

Oliver: I as well.

Marshall: Okay. So, maybe I can get a motion.

Miller: Yeah. Mr. Chair, I -- after considering all staff, applicant, and public testimony, I move to recommend approval to the City of file number PP 14-005 as presented in the staff report for the hearing date of April 17th, 2014, with no modifications.

Oliver: Second.

Marshall: I have a motion and a second to approve PP 14-005. All those in favor say aye. Opposed? That motion carries.

MOTION CARRIED: THREE AYES. TWO ABSENT.

- A. Public Hearing: MCU 14-001 Southridge Gravel Mining by Idaho Sand and Gravel Located South of W. Overland Road and East of S. Ten Mile Road Request: Modification to the Existing Conditional Use Permit (CUP 10-015) to Allow an Additional 18 Months to Mine Material from the Site and Complete the**

Reclamation and Grading of the Site as Required. An Additional 60 Days to Process and Crush the Mined Material Within the 18 Month Period is also Required

Marshall: All right. So, at this time I would like to open the public hearing for MCU 14-001, Southridge Gravel Mining by Idaho Sand and Gravel and ask for the staff report, please.

Watters: Thank you, Chairman Marshall, Members of the Commission. The next application before you tonight is a request for a conditional use permit modification. This site consists of 76 acres of land. It's currently zoned R-2, R-4 and R-8 and it's located south of West Overland Road and east of South Ten Mile Road west of the Ridenbaugh Canal. Adjacent land uses are some single family residential properties to the south and west and vacant undeveloped land to the north and east. A conditional use permit was approved back in 2011 for construction of sand and gravel mining and crushing of materials for a period of 18 months on this site. A modification to that conditional use permit was later approved in 2012 to extend the conditional use permit an additional 18 months until April 4th of this year. The total amount time originally anticipated was three years to mine and reclaim the site. The applicant is requesting approval tonight to modify existing conditional use permit to extend the period of time in which they can operate an additional 18 months. Sixty days of which would be used to extract and mine the remaining material, approximately ten percent of the site, from the ground and crush that material. Within this period the applicant proposes to haul off the existing approximate 200,000 tons of processed material and additional processed material proposed to be mined as the market demands and reclaim the site in accord with the approved grading and reclamation plan. I will just show you some pictures of the site that we took when we were out there the other day. Sixty days requested to excavate and mine and crush the remaining material could commence upon approval of the subject application or during the winter or spring months when the soil is damp, so as to create less dust. Either way, the 60 days would be consecutive once commenced. The applicant further requests that if the city does not allow crushing of material on the site, that they still be allowed to excavate and mine the remaining material from the ground and have it crushed elsewhere off the site. This is a site plan showing the site. This is their haul road that they have paved into the site and the area where they are -- they are doing the mining and storage -- stockpiling material and this is a copy of their proposed grading plans. Written testimony has been received on this application from a lot of folks. I'm going to go through the names for the record. In approval of the application is Larry and Carolyn Vanhees and Scott and Jennifer Nichols. The following folks recommended -- or I should say are asking for approval of the application with conditions. Excuse me in advance if I slaughter your name. Joe and Patsy Kendall. Glenn Hickey. Jerry Ross. Marlene and Ryan Brewer. Ted Hickey. John and Tina Fitzgerald. Robert and Susan Carlson. Dick and Susan Bagley. Rick and Nancy Brecks. Keith and Dianne Ebeling. Naomi Elton. Robert and Nadene Marsland. Tony Martarano. Lisa Martarano. Bob and Jayna Schoelkoph. I'm sure I have massacred that. Sorry. And Lance and Lynn Riley. Gary and Sylvia Lydell. Jeff and Jenny Mediola. Bill and Phyllis Weiss. Dan and Tempra Wilson. And also a petition signed by quite a few folks. The following are conditions that were

requested by these folks asking approval of the application. No more crushing. Immediate reclamation of all portions of the site, except where the stockpile is located. Move the scale house to the north side of the stockpile to minimize dust and noise. Treat stockpiles with magnesium chloride to alleviate dust. Water other areas as necessary. Load and haul from the north side of the stockpile, leaving the south side as a buffer against noise and dust until the very end. No more extraction of material from the site. That the applicant be responsive to and monitor silica within the adjacent subdivisions and not just the pit. Reclaim the remaining area and vacate the site. Accomplish this within a reasonable time frame. General consensus is four months, but the minute time physically possible. And ramifications and Idaho Sand and Gravel's signature on an agreement. A petition was originally submitted on this application for denial of the subject conditional use for modification. Many of these folks are now in favor of the request with the conditions I noted. In considering the applicant's request staff considered the following issues: First, the massive stockpiles of processed and crushed material that exists on the site needs to be hauled off and the site reclaimed. Meaning grading and slope stabilization to complete the mining operation and prepare the site for its end use as a residential development. Because this processed material is a product of the mining operation and not merely excess native unprocessed materials needing to be removed to achieve a grade level acceptable for development, staff determines the hauling off of the material is part of the operating and construction sand and gravel mine and, therefore, should be governed under a conditional use permit. Second, because the mining use on this site has been and still proposes to be market driven, it is taking longer to conclude than would be typical for an operation that simply mines the site, reclaims it, and leaves. Because this use is directly adjacent to a residential development, rather than an industrial or rural area, the ongoing use may be detrimental to neighbors. Staff believes the additional 18 months requested by the applicant in which to conclude operations is excessive, as operations have already been occurring for three years and were anticipated to conclude within that time period. If not market driven the operation would most likely be complete by now. Third, there have been allegations from neighbors of airborne material blowing onto their properties from the site that contain a high amount of silica. Eighty-seven percent based on a private analysis. The neighbors are very concerned about potential health impacts from this material generated from the mine. While the city is not a regulating authority on air quality, the city is concerned for the health of the public and any such potential adverse impacts from the proposed use. If the request is denied the site will be left with a huge amount of processed material and uneven land with pits and ridges and haul roads that will still need to be dealt with in the future in order to develop this site. Staff does not believe ceasing all operations at this point would be in the best interest of the city, neighbors, or applicant. It would only delay the trading and hauling off of previously processed materials. If the subject application is approved as requested by the applicant, the impact on the neighbors will continue for another 18 months. The applicant originally requested a three year period of time in which to mine and reclaim the site. That time is up and the neighbors have been relatively cooperative up until this point, believing that it would be over at the end of the three year period. Staff does not believe approving the application with all of the terms requested by the applicant is in the best interest of the city, adjacent residents, or the general public. Staff recommendations. Staff does not support the intensity of the operation as proposed.

Staff recommends a compromise of sorts that would allow more limited mining operations to continue with the focus on reclaiming the site per the approved grading and reclamation plan. Staff recommends approval of the request with the following conditions: The applicant shall have a maximum period of six months in which to complete reclamation of the site in accord with the approved grading and reclamation plans, including hauling off of existing stock piles and removal of all equipment. All reclamation shall be complete by November 1st, 2014. No further mining, excavation of material from the ground and/or processing, screening, crushing of material is allowed on the site, except for the removal of any native, unprocessed material necessary to achieve the grade on the approved grading plan. Reclamation of the site shall begin immediately, leaving the area where the stockpiles are located until last. The screening equipment, conveyors, and other related equipment, excluding the scales and associated scale house and office shall be removed from the site by May 9th, 2014. The stockpiles shall be treated with magnesium chloride or other comparable material to prevent dust from blowing onto adjacent properties. If this treatment is not efficient in controlling dust, sprinklers shall be installed on the piles and the piles watered as necessary. This scale and scale house office shall be relocated to the north side of the stockpiles and material shall be loaded and hauled from the north side, leaving the southern most stockpile as a buffer against noise and dust until last. The work hours for loading, hauling, grading and other reclamation related activities shall be limited to nonholiday weekdays, Monday through Friday, between the hours of 7:00 a.m. and 6:00 p.m. Noise created from the proposed use shall not create a public disturbance between the hours of 11:00 p.m. and 6:00 a.m. or at anytime so as to unreasonably disturb or interfere -- interfere with the peace, comfort, or enjoyment of others in accord with Meridian City Code 6-3-6. The extraction grading area and haul roads shall be watered daily as often as necessary to reduce dust impacts to surrounding properties. Haul roads shall be graded to drain all surface water away from the haul roads and such drainage shall be confined to the site. The applicant shall comply with all notices and compliances required by, but not limited to, federal, state, city laws and regulations applicable to the proposed use. That is staff's recommendation. Staff will stand for any questions the Commission may have.

Marshall: Commissioners, any questions of staff?

Miller: Mr. Chair, I have a question --

Marshall: Commissioner Miller.

Miller: -- or two. In the original language was the site to be remediated by the 4th of April or was their remediation to start on the 4th of April?

Watters: Chairman Marshall, Commissioner Miller, the staff report condition requires the property to either be reclaimed by that date or a time extension or I should say a modification to the conditional use permit for a time extension be requested by that date.

Miller: Okay. Oh, actually, I have another question. There was a -- I was reading through the letters and there was a couple different references that said there was language in the

second contract that said there was to be no more modifications after that second modification. There was a couple that said one way and the other way. Were there extensions allowed after the first modification?

Watters: Chairman Marshall, Commissioner Miller, yes. Short answer is yes. The longer answer is staff recommended that no further extensions be allowed based on there not being any testimony in opposition of the application at the last hearing, the Commission did remove that language, leaving it open to further extensions to be requested.

Miller: Okay. Understood. Thank you.

Marshall: All right. At this time I'd like to ask the applicant to come forward and you have 15 minutes. I'm going to ask for your name and address for the record, please.

Lahey: Thank you, Mr. Chairman. Todd Lahey. 141 East Carlton, Meridian, Idaho. Here for the applicant. I want to make sure I have got this working before I start, Mr. Chairman. Okay. Mr. Chairman and Commissioners, appreciate the opportunity to be with you tonight. Give you a little bit of background. I think staff has done a pretty good job of explaining the history, but this is part of the Southridge project, which is 290 acres. It was annexed, zoned, and approved with a development agreement that the property owner is still subject to back in 2007. The approval requires a mixture of commercial and residential uses on the property and also it has provisions for a park and a school and the relocation of Overland Road, which has already happened. It also puts some stipulations on the development of the property as far as the residential uses. It states that those uses -- there has to be between a thousand, 1,252 residential units. It also puts limitations on those residential uses, particularly on this particular site adjacent to the properties to the south. Commissioners, just to show you -- I know staff put this up. This -- there is an arrow there. As you can see, we are on the -- essentially the southern most boundary of the City of Meridian. This was annexed and this is -- this is the city's southern boundary for this particular project. You can see the various zones. The entire Southridge project goes from Linder over to this portion of Overland. Well, actually, it goes to Ten Mile. Our property is here in the middle. That's the next one. As was described, the lower density zoning, the R-2, is here to the south. The R-8 and the R-4 is more in the middle. Going the right direction here. Commissioners, the testimony was described a little bit as far as the testimony at the previous hearings. The previous underlying hearing backing up before this, the concerns were the lower density development that's out in the county and how does that mix or transition to this city-approved project. Thus, the limitations on the residential development. Height of structures on the southern boundary was limited to 22 feet and single story homes. That's what resulted in the plan that's going forward now on the site to, essentially, lower that base elevation of the property significantly, so that the southern portions are not impacted as much by that residential development that occurs. That's the basis for everything that we have been doing on the property is to lower that base elevation. Commissioners, the reduction of the grade, the preparation of the site for the zoned and allowed residential uses does not require a condition use permit. What we are asking for on this case, as was described, is an 18 month extension of time -- I will make some modifications toward the end. The additional 60 days for crushing, we are

willing to be flexible, we are willing to pull that off the table all together. So, the crushing can be removed. There is about ten to 15 percent of the product left to be mined and we are willing, although not required, to complete the grading and the reclamation within the requirements of extended conditional use permit that we have applied for. That's something that wouldn't exist if the conditional use permit is not approved. Commissioners, here is just -- I know it's in the packet, but that shows you the types of grading that's needed to put that site in compliance with the plan for the residential development. Those squares are ten foot -- ten foot elevations. So, it's 20 to 30 feet reductions in some of the places on the property. Commissioners, we have been and remain a responsible and responsive company. As was described, the initial request was for three years. The Planning and Zoning Commission said, wait, we want you to do 18 months and, then, come back and talk to us again. We did. We came back after 18 months and demonstrated that we were a responsible and responsive company. That was the reason for the additional extension and the ability come and ask for additional time. We have received very few calls and they have been prompt in responding to those calls that they have received. We have support of most of the neighbors that are immediately impacted that are adjacent to our southern boundary. We comply with the requirements as far as watering and the regulatory requirements with OSHA and DEQ. DEQ occasionally goes out and does random inspections of crushing operations. Our crushing window is so short they haven't been out to inspect, because they missed the window. But they did most recently do an inspection during the last crushing period. As they went out and inspected there were no violations, no environmental or health concerns from their perspective. There was a concern raised with the silica on the property and, Commissioners, I was looking at a study done on soil fertility for agricultural done by Rutgers University. Second only to oxygen, silica is the most common element found in the earth's crust. So, it's everywhere. The presence of silica itself is not the problem. Ninety percent silica in the dirt, in the sand, and things on the site, sure, that's there. The problem is the particulate matter and the size of the matter and that's what's regulated, not the simple presence of silica. We have also done an internal audit and study and Mr. Pat Clark is here to talk about that and the testing results were very positive. We did a sound study. We have done site visits, particularly during crushing, which is the most impactful operation and we are willing to forego that, but even with the crushing being placed at the bottom of the pit and berms and things that are there, you have to really strain to hear that. But with that, that's gone off the table. To move -- the hauling, the trucks go in a single direction. If we remove the crushing we are simply to the hauling, which is a very low impact activity as far as the noise goes. Commissioners, over the past three years the product from this site has been used in over 45 projects in Meridian city limits or Meridian area. It's been a benefit to the City of Meridian. It's in close proximity to some of these projects, which reduces the impact on the community, on the taxpayers, the cost, particularly on public projects. The material left on the site is committed primarily to the new Meridian interchange and that's what it will be used for. Granted, we recognize there is impact on folks, but the overall benefit of this close proximity to that public project is a net positive benefit for the -- for the community and the public. Run through some photographs with you, Commissioners. Here is an aerial photograph. This is kind of looking from the southwest over the project. Here you have got the Val Vista -- hit it twice to move. The Val Vista Subdivision. Aspen Cove. Here is

Ten Mile. There is Overland. Got to watch my taps. Overland. And I took some photographs kind of surrounding the site, as well as within the site. Here is an overview. The truck entrance is here -- oh, boy. Here. And it goes along this road, as you can see there on that edge --

Lucas: Mr. Lakey, if you want to draw, which you can --

Lakey: Okay.

Lucas: -- you can click one of those colors up at the top there --

Lakey: Oh.

Lucas: -- and, then, you will be able to draw right on the slide.

Lakey: All right. Great. I like it. We were talking about technology earlier. There is the proposed modification. Right now it goes along the southern edge, because of the portions that were being mined. So, that truck route will be a forward route, no backup alarms from the trucks. A single loader will load it in this area here to the north of the pile, which will limit noise impacts to those properties on the south. This is within the site. You can see some of the reclamation-type activities that have been happening and will continue to happen. There is that slope on the southern boundary you can see. This is down inside the pit. I believe this is Mr. Przybos' roof line, but you can see the kind of depth of that initial slope that we have got in place at the moment. That's the southern boundary. That's looking a little further to the east along the southern boundary. This area -- it's an area not on the site, but it's part of the responsible operator that Idaho Sand is, they -- they put additional material on that site to lock the dust down that was blowing off of that particular area to the neighbors to the south. This is the view from Overland looking to the south. This is a view from our entrance. You can see the berm that is located on that boundary to the property and what you can see of the stockpiles over those berms. This is within Val Vista. The street for the subdivision -- I'm standing on -- parked on that street. You can kind of see the stockpiles through the fence. So, it's a small portion of the stockpile that you can see from the road. Those homes certainly that are adjacent to it, which, again, most -- are mostly supportive, certainly can see the stockpiles, but within the project it's difficult. This is the entrance to Aspen Cove. They have an entryway into the subdivision. You can see the stockpiles. There is a lot of vegetation in the subdivision. It's an older subdivision. Here is another view a little further up that road. Similar view of the road. This is from Southridge phase one, part of the project that already has the infrastructure in place. Again, you can kind of see how the elevation of the property slopes to the south and to the west. This is off of Linder, getting closer to Overland. The view off of Linder Road. You can see the tips of the stockpiles, but, again, based on the elevation you can't really see into the -- the pit. This is what the project will look like after it's graded and prepared for the residential project. You can see kind of those elevations that are going down that you saw earlier inside the pit, but lower that base elevation to help protect those property owners to the south. And, then, the roadways and the ponds that will be in there and the canal. I want to talk I guess a little --

a little lawyerly with you at this point dealing with the city code. The city code defines construction sand and gravel mining and requires a conditional use permit for that activity. The question comes down to the definition of mining and the mining is defined as operating a commercial grade sand and gravel pit or dredging, which is typically a wet gravel operation, or washing; screening, or otherwise preparing that material. That does not include the removal of the mined material, the grading or reclamation of the site. It deals with mining of the site and the material on the site. State code was referenced. State code title chapter -- excuse me -- Title 47, Chapter 15 applies in the context of the approval of the reclamation plan, which is what happens to the property after you're done mining it and in the closure of cyanidation facilities, which we don't have here. We have an approved reclamation plan from the state and we will comply with that reclamation plan. Their definition does not, in the state code, supplant the city code's definition, but was referenced by both those in opposition and staff. The state's definition of mining and reclamation are two distinct things. Mining is the extraction and the excavation, the removal of the minerals, the disposal of overburden, the construction of the haul roads. That's mining. Reclamation is different. Reclamation is what you do after you're done with the mining. They are two distinct things. In fact, it's required under Title 47 that once you're done with your mining, then, you're required to complete -- or, excuse me, commence your reclamation within one year of ceasing mining operation. So, that clarifies, again, they are two distinct things, mining and reclamation. City code defines and talks about mining, but it talks about the operation of a pit. That is not actually defined in the city code, but it is defined in Title 47, Chapter 15. And, again, that focuses on the excavation created by extraction of minerals or overburden during mining operations. So, what we are talking about is a conditional use permit for the mining operations. The additional important part here is that we are talking about preparing the site for residential use. Typically a reclamation plan for a gravel pit ends up in a big hole with sloped sides or a pond with sloped sides and vegetation on those slopes. That's what a reclamation plan typically looks like. In this case I showed you what it looked like. It's preparing the site for the approved and zoned residential use. Talk a little about the practical aspects. Commissioners, we need the 18 months to complete removal of the mined material that's stockpiled there and for the grading for the residential use. We might be able to accomplish that less -- in less time. I will address that in just a moment. But we -- as far as the reclamation activities, completing that within six months, we don't want reclamation happening during the hot summer months, we want that happening when it's cooler, when it's damp. We are willing to water the site, but that may not be -- or, excuse me, water the pile. That may not be as good as sprinkling -- or, excuse me, as the natural crust that develops on the stockpile. I see my time is getting low. I want to address a couple things. As far as a compromise, Commissioners, again, we are willing to operate within the confines of a conditional use permit to do the reclamation of the property. We are willing to forego the crushing. We are also willing to the -- to have the mining of the remaining ten percent of the material solely be used on the site. Commissioners, two more points if I might. We are willing to water the piles if that's what you want. We think the natural crust that develops on it is better. And we are willing to complete the reclamation of the property within 12 months -- if you want to put a shorter window on that -- but we need the 18 months to remove the material for the Meridian interchange. With that, Commissioners, I would stand for any questions.

Marshall: Commissioners, questions? Commissioner Miller.

Miller: Mr. Chair. You mentioned that you don't want to reclaim in the hot temperatures. Can you explain why that might be?

Lakey: Sure. Mr. Chairman and Commissioner Miller, that relates, essentially, to the dryness of the material that we are moving around. The equipment may or may not be air conditioned, it's not a concern for our worker's, it's more a concern of the dust that would be created. There would be more dust if we were doing that work in the hot summer months when the material is more dry. If the temperatures are low and it's damp it helps keep the dust and impact down.

Miller: Thank you.

Lakey: Uh-huh.

Marshall: I would ask -- you referred to a pit a couple times?

Lakey: A what?

Marshall: A pit. An area that you have dug down. When we look at that elevation what -- how is that relative to what the original finish grade was supposed to be?

Lakey: Commissioner, I don't know if I can address it, so to speak, in specific feet.

Marshall: Give me an approximate.

Lakey: Maybe some -- I might defer to Mr. Russell or one of my other folks to be able to direct that specifically, but we are going a little bit lower in portions where the ponds are, for example, but it's not going to require a lot of material to build the site back up. We are, essentially, having to remove that 20 to 30 feet to get down to where it needs to be. So, it's not a matter of removing a bunch of extra material and moving more material on site to meet the grading plan, we are doing our best to meet the grading plan.

Marshall: Right. What I'm asking is at any point on the site right now is it below what the finish grade was intended to be?

Lakey: I would imagine. I don't know. I can't answer that specifically.

Marshall: Do you have somebody here that could? If you're going to answer I'm going to have to ask you to come up to the microphone, provide your name and your address to answer that.

Lakey: Mr. Chairman, he can either address it later or he can address it now, whatever your preference is.

Marshall: I would ask him to address it now, please.

Lakey: Okay.

Marshall: I'm going to ask for your name and address -- thank you.

Russell: Sure. My name is Ryan Russell. My address is 5532 North Fox Run Way. That's in Meridian. To answer your question, yes, there are, indeed, areas that are lower than the grading plan and there are a lot of areas that are still above the grading plan, but ultimately when the site balances out we will meet the final plan, which is what you see on paper.

Marshall: Thank you. Appreciate that.

Lakey: Thank you, Mr. Chairman. Any other questions?

Oliver: Not at this time.

Miller: No.

Marshall: Not at this time. Thank you.

Lakey: Thank you, Commissioners.

Marshall: I appreciate that very much. All right. So, I'm going to start with the people that have signed up. Again, I am going to ask that if you are testifying for a group of people I'm going to ask for a show of hands and those people can defer their time to that one person and that person can receive ten minutes. If you're speaking for yourself, then, it's three minutes each. I'm going to ask that -- try to bring up new points. The same points we have -- we hear the same points over and over and sometimes it behooves us all to add new additional points and some new thoughts, but -- and I do want everybody's opinion here, please. So, I'm going to start with the Steve Przybos. Steve, you signed up first and you are marked for. You marked yourself down for and I would ask you to give your name and address for the record, please.

Przybos: Steve Przybos. 2530 South Del Ray Lane.

Marshall: Thank you, sir.

Przybos: Can't see the picture, but I have 875 running feet abutting this project. I have a two story house. Most people around there have a single story. And in my bedroom I can watch everything that goes on. From my kitchen I can watch it crushing and everything. And these folks have done everything to keep noise down, keep -- I mean 18 months ago I came here, because they wanted an extension. I didn't see anybody here. Nobody came. I testified. We got an extension. You guys asked me if they needed an extension

of 18 months would you consider it and I said, probably, yes, because we made an agreement that they would lower the grade to keep all these houses out of the sight of me and all my neighbors and it's only benefitting us and, you know, when it was farmland there was dust. When they plowed there was dust. They keep the dust down as much as they can. Right now when they were grading in the wintertime, in the spring, the ground is wet, you can see when they are digging there is no dust coming off. If they were to do this in the summer you're going to have nothing but dry -- like the desert and you're going to have way more dust -- I mean they can't be watering as they are grading on the rig itself. They can water the top, but it's not going to soak down like -- like the rains we have had, snow we have had and everything else. And this winter we had a -- kind of a rough winter. We had some frozen ground for a while and, you know, it kind of put them back a little bit and stuff and, then, last year we came and we talked about the two story houses and -- versus the single story and we agreed that -- of course, there wasn't a lot of people here complaining. There was -- I don't think I seen hardly anybody here and we agreed that, you know, they could build two story houses as long as it didn't -- the peak didn't come over the top of the fence and they need to take this material out to maintain that grade that we all agreed on at the time. I have a grading plan and they are going right by it. Sure, they are down little spots in other places, but they are bringing in -- they are pushing the dirt over, so they are -- when they go to put foundations in they are not trying to break into solid rock and stuff. I mean it's just -- it's common sense. And it's common sense if anybody knows construction that in six months you're not going to make a dent in that project by getting that stuff out or the finished grading. It's just not going to happen. I ask you to grant them 18 months extension. Thank you.

Marshall: Commissioners, any questions for Mr. Przybos? No? I do have one question, sir. Did they operate last summer and the summer before that?

Przybos: Yes. They didn't do heavy grading during the summer -- you know, the real hot summer days.

Marshall: Oh, they did not.

Przybos: They did work, but not -- not stuff that would cause big dust. As far as water wagons, they are going constantly all the time. Like I said, I -- I'm impacted the most. People around me cannot see unless they come to my house and climb a fence and look down. You could see a little bit of the peak of the piles from -- from different places, but the actual project, you cannot see unless you're up on a ladder looking down. Thank you.

Marshall: Appreciate that. I'm going to ask you to, please, forgive me if I slaughter your name here, but I'm going to try my best. Robert Schoelkoph. All right. You'd like to defer. Okay. Rather than calling your name again, then, after everybody has spoken I will call for anybody that would like to speak at that time and you will have an opportunity, sir. Thank you. Is it Robert Marsland? Robert has marked down that he is against. And I'm going to ask for your name and address for the record, sir. Thank you.

Marsland: My name is Robert Marsland and I live at 2050 West Aspen Cove Drive. I'm just south -- just a little bit southeast of the gravel mine and I'm actually -- I'm for the staff report. I'm in agreement with the staff report. I marked the wrong box. My wife and I have lived at our address since 1993. We have absolutely enjoyed our -- our time there. Peace and quiet. And the obeisance of the neighborhood up until three years ago when Idaho Sand and Gravel started their mining and since that time our subdivision in Aspen Cove and Val Vista Subdivision have been bombarded by noise and dust and declining property values. I heard a lot of words that people must be in a different place than I am, because the prevailing westerly winds bring the dust right off the tops of those tailings that they have out there right into our homes and our yards and almost ever day I can go out onto my patio on the south side of my house and there will be little rivulets of this tan dust that we have had assayed and we find that it's 87.5 percent silica and it's a very fine -- fine particle size. When we've had the higher winds in March we had in our driveways on the south side of our house we have had piles of dust that we blow off. Our windows are coated with dust and it goes on. Their -- whatever they do it doesn't control the dust and it doesn't control it in the summertime, it doesn't control it in the spring so far. So, it's a -- it's a huge nuisance. We are also concerned about the silica and we are concerned about it from -- from this standpoint. It -- when it blows in and it blows into our house and our yards, when we go out to mow and work in the yard it just floats up and we have to blow it off and we have to wear surgical masks in order to mow our -- mow our yards and to get out and work in the yard. We are concerned the silica, because it -- it's irreversible. Any damage done is -- can't be -- can't be treated -- there is no treatment for silicosis and when silica gets into the airways -- I'm a retired assistant surgeon general and worked on air pollution part of my career, but when it gets into lungs it stays there and it acts and we have young children and old people that -- that it affects us greatly. And I see my time is up.

Marshall: Commissioners, any questions? No? I'm going to say thank you, sir.

Marsland: You bet.

Marshall: I'm going to ask Peggy Hickey. From the audience Mrs. Hickey defers. She marked down against. R.C. Riley is it? Mr. Riley defers. Susan Przybos. From the audience she felt her husband spoke for both of them. And she has marked for. Susan Carlson. Mrs. Carlson also defers. Robert Carlson. Robert Carlson? No? Not here. All right. John Fitzgerald. From the audience he defers. Marked against. Scott Nichols. Will be back in a minute. All right. Has marked -- has marked for. Keith Ebeling. Mr. Ebeling, I'm going ask you to give your name and address for the record, please, sir.

Ebeling: My name is Keith Ebeling and I live at 2150 Aspen Cove Drive. I have lived at this residence for 26 years. For 23 of those years it was a peaceful, quiet, healthful place to live. The last three years have been an utter disaster. And I don't want to sound like a broken record in repeating what Bob Marsland said, but we have to hear this story more than once to understand how devastating it is to the people who are around this. I have developed a chronic dry cough in the last year and a half and I have several neighbors in the area that have some of the similar symptoms my doctor can't identify the cause of this

cough, but we have been able to determine that it has a direct effect of dust on this cough and I gave you a good example of how this is. Last Sunday, if you all recall, we have had a fairly good wind come through here, 25 to 35 miles an hour. I went out in my backyard to work and the wind was blowing and the dust was coming off of those piles and off of that unclaimed area so bad that I could barely see the canal, which was just a little over a hundred yards away. I could not see Overland Drive, which is a half a mile away. I started coughing. I had to go back inside and I couldn't continue this. We have a neighbor lady that is not here tonight. She has a chronic lung problem. She's being treated for it by -- and she can't even go outside of her house. She's captive in her house. Now, these people over here saying they are not getting any dust, but this is a prevailing northwest wind, it blows from those piles right into our neighborhood and we are getting the bulk of this thing and it happens day in and day out. We don't open the windows in our house, because if I open the windows in my house that redheaded lady that's sitting there would have to clean the house every day and I -- and that isn't something that I am going to put up with. The other thing is we put a -- we put an air filtering system in our bedroom so we could sleep at night because of this dust. The manufacturer recommends that you clean and replace the filter every four to six months. I have to do it ever 30 days. Now, we are getting an godly amount of this and the noise has been bad. I mean when that rock crusher runs -- I'm better than a quarter of a mile away, I also live in a multi-story house, I can't see the rock pile, but I can hear that rock crusher. I can hear those beepers in my bedroom with the sliders closed. I was willing to tolerate 18 months of this. I wasn't here 18 months ago to protest. I was here three years ago. For some reason I didn't get notified 18 months ago or I would have been here to protest. This has not been a pleasant thing for us to endure and it just seems to keeping going on and on and I completely agree with the staff's recommendation to get the material out of there, reclaim this land, and my question to the gentleman from Idaho Sand and Gravel is what the hell have you been doing for the last three years if you were supposed to get this down to a proper level for the housing. They have been mining. They haven't been trying to get this down to level. They are digging a hole in the ground and it is a substantial hole, if you want to go out there and take a look at it. I may have to climb the fence to look at it, but I can still see it.

Marshall: I'm going to ask you to try to wrap it up here.

Ebeling: Okay. Thank you. Well, that's my main concern is that if we do this and we get there and we follow the staff's recommendation, we give them an additional permit, are they going to be coming here in six months and say, hey, guys, I'm sorry, we didn't get this done. Are we going to have some way to say get it done in six months or there is some penalties? Thank you very much. And I hope you take into consideration the health and welfare of a lot of us citizens that are living out there and we didn't ask for this. I mean we did ask for those piles of sand to be put there in that unclaimed area.

Marshall: So, Commissioners, any questions for Mr. Ebeling? Thank you very much.

Ebeling: Thank you very much.

Marshall: Larry Vanhees is it or -- did I mispronounce it? I got it right? Oh, that's -- ah. Awesome. From the audience Mr. Vanhees defers. All right. Patrick Clark. Sir, for the record I'm going to have to ask for your name and address.

Clark: Mr. Chair, Members of the Commission, my name is Patrick Clark. Address 2350 South 1900 West, Ogden, Utah. There was some silica concerns brought up with regards to health issues. We did do some limited air sampling. There was an air sample that was pulled on April 9th and the air sample showed, in a four hour period, .25 micrograms per cubic meter of respirable dust. Just to give you a reference point, the national ambient air quality standard set by the U.S. EPA is currently at 12 micrograms per cubic meter. Of that respirable dust there was no detectable silica. It is correct there is about 90 percent silica in the crust of the earth. Just because there is silica there does not mean it's respirable, so --

Marshall: Commissioners, any questions? Commissioner Miller.

Miller: I have got a question on that. What activity was taking place on April 4th on the site?

Clark: There was no crushing activity at that time. The crusher had been removed. There was a substantial amount of hauling. So, truck traffic.

Miller: Thank you.

Marshall: Thank you very much, sir. Diane Ebeling. From the audience Mrs. Ebeling defers. Is marked against. Naomi Elton. From the audience she also defers. Also marked against. Gary A. Lydell. Mr. Lydell defers also. Arelia M. Lydell. Oh, Sylvia. I'm sorry, Sylvia. From the audience Sylvia also defers. Marked against. Okay. Wyatt Johnson, representative. And could I see the hands in the audience with -- who he is representing? That's a vast group. Thank you. Oh. There we go. We have a large list that Mr. Johnson is representing.

Johnson: That's probably why so many people are deferring. Wyatt Johnson. 3649 North Lake Harbor Lane, Boise.

Marshall: Thank you, sir.

Johnson: And I'm here speaking on behalf of the citizens that are marked on that list and all of the people that I speak on half of are opposed to the application as proposed. They are in support of the modifications as proposed by the staff, with one exception. The duration my clients would like to see, they would like to see this wrapped up in four months, rather than six. And it occurred to me as I'm sitting here listening to the testimony that Idaho Sand and Gravel has been coming in, they have been explaining how they are bringing a -- they have a well run mine and it may be a very well run mine. As a matter of fact, Idaho Sand and Gravel is a fantastic company, they have been around for a long time, but the point is not that -- whether they are running a mine well or not, the point is

that they have a mine in the middle of a residential zone. Smack in the middle of a residential zone. And if we look at this -- this problem goes back is that this mine has no business being there in the first place. It's a conditional use and, granted, the purpose of the conditional use was not because they were going to run a permanent mining operation. The purpose of the conditional was to facilitate the original development of the subdivision and as the staff noted in their report, the subdivision application -- or the plat is now expired, so it does not seem that the objective of developing a subdivision is particularly relevant anymore. And this is particularly telling when in the application it notes that they claim that the mining and final grading of this site by Idaho Sand and Gravel for the property's ultimately residential use is a market driven process, which means that they want to continue the gravel mining use for as long as it is profitable as a gravel mine. When it is no longer profitable as a gravel mine, then, they will consider turning it into a subdivision. But what that translates to is, essentially, an endless permit and what -- where we will be is we will be in this position in six months, 18 months, otherwise, if not it's not recognized that this was conditioned as a temporary use and it needs to end. Moreover, Mr. Lakey explained to the neighbors in his first -- in his first letter on March 10th that the time for the extension -- and the quote is: The total time for the extension regarding other regular activity would be 18 months to primarily allow for use of material on the new Meridian Road interchange and completion of the grading of the subdivision project. And I notice that the primary purpose is -- for the 18 months is that they have another project that they want to advance. They have known about this deadline for 18 months, but they have rounded up additional work and that is why they are seeking the additional 18 months. So, really, what we need to do is we need to recognize this for what it is. I don't think Idaho Gravel -- Sand and Gravel can come and complain that moving the materials in the heat in the next month -- in the next four months is difficult. They knew this deadline was coming. They have known for 18 months this deadline was coming. They cannot come and complain that, well, if we move it in the hot -- in the heat it's going to -- it's going to be problematic, because it's going to raise dust and we are going to need to water the materials. Well, they knew this deadline was coming and they didn't remove the material this winter. They could have taken care of that this winter. My clients don't care so much -- they were willing to tolerate the dust. They have already got the dust. If you walk across somebody's yard in their grass what happens is every step that they take it leaves little puffs of dust behind. They will endure the dust there -- they are already enduring the dust, they just want the dust to end sooner than later and it is not a legitimate purpose to say, look, we should ignore the zoning regulations, because we can make money. There is all sorts of ways that you can ignore the zoning regulations and make money. We all know that. The test is not whether it's profitable, it's whether it's compatible and I think staff is absolutely right, this is not compatible. Now, there are some veiled threats that Idaho Sand Gravel is bringing and they are saying, well, we really don't think that this is -- is a mining or it requires a conditional use. And I mean what they are doing is they are tossing out a veiled threat and they are saying, well, you're going to do it our way or we are going to do it our own way and you can't do anything about it. Not true. Staff is absolutely right when they say that this is a -- that this is a mining activity and if they are not -- if staff is incorrect and this is not a mining activity, well, then, we have stockpiles of materials and what you have is you have a contractor's yard under the city code, which is absolutely not allowed

conditionally or otherwise. So, I think Idaho Sand and Gravel has got to take it one way or the other. I mean staff I think is probably giving them the benefit of the doubt and saying, well, this is a mining -- this is a mining use, which is a conditional use and at least they are not in violation of the code outright. If they are going to say this a mine and try and separate that and extract that, well, then, they are just flat out in violation of the code and, then, what are we going to do? I think that -- and as you all see -- you have seen the record and it's extensive and the neighbors have a lot of reasons that they -- they have tried very hard to make their concerns known to the Commission in time so the Commission can have time to digest and understand where they are coming from. I think that -- and as you noted they started -- and everybody's vigorously opposed to the continuation of this pit. But, unfortunately, they also recognize the reality of the situation, that we have a massive pit in the middle of a residential subdivision. Something has to be done to get it done. Just opposing any sort of action, obviously, is not going to make it go away and I think in fairness the neighbors came together and reasonably looked at this and said, okay, well, what's the best reasonable solution to give enough time, four months, to remove the materials, reclaim the project, and get the grade -- they can do that. It's inconvenient for Idaho Sand and Gravel, because they are going to need to move their materials to another staging area. The benefits to the community that they talked about -- the benefits of it being close to other projects that they are working on, those are benefits to no one but Idaho Sand and Gravel. They are not benefits to the community. The community is going to -- the city is going to bid what they are going to bid for the gravel and the market price runs it. That would only be the issue of profit for Idaho Sand and Gravel. Where we have got people who were here -- the neighbors were here first and we can't forget that. They were here. They were there. This moved in. It was a solution to a grading problem for a subdivision. Along the way the subdivision's really been entirely for gotten. It's an afterthought. And, really, I think that makes the point. With that I would just like to say from -- on behalf of everyone in the room -- basically everybody -- could we have hands just one more time? We would like to ask that you accept the staff's recommendations, which are reasonable, with one exception, that we do shorten it and make that time window four months. There is no reason why they can't do it in four months and all these people have tolerated this for quite long enough and they have given every reasonable benefit of the doubt. If the Commission has any questions -- I don't know that I might -- that I would be able to answer them, but I will try.

Marshall: Commissioners? Commissioner Miller.

Miller: Mr. Chair. I have just got one question. I saw the four months timeline come up again and again in the letters. I was just wondering how that came about? Is there somebody that has experience with this sort of thing that that's --

Johnson: Yes. Actually, there was one of our members Tony -- and I'm going to apologize, because I'm going to say it wrong without his name in front of me. Martarano? Martano? He's -- he has experience with -- he has experience with sand and gravel mining and he's -- he's comfortable with the consensus, but this is something that -- this type of material is able to be moved in that time frame. It's just really -- it's an issue of whether or not they want to. The reason why they want a longer period of time is not

because they are unable to move the material, what they want to do is they want to have the time so that they can sell off the material. They don't want to move it, they just want to sell it off as the market progresses. It's not -- and so that's -- that's the concern.

Miller: Okay. Thank you.

Marshall: No other questions, Commissioners? All right. Thank you, sir. All right. Next up. Jamie Martin is it? Did I say that right? Does anybody -- Martin? No. All right. Melissa Martarano. Am I stating this correctly? She's already been spoken for. All right. Thank you. Oh, I'm sorry. What was that? She's married. All right. Patsy J. Kendall. She has been spoken for. I appreciate that. I'm sorry, I can't read this one at all. Any idea? I'm sorry. You're going to get a shot at answering this after I have called all the names. Ronald B. Hobbrook. No? Patroviac. Okay. So, sir, would that -- would you like to testify, sir? He's already spoken for. Thank you, sir. All right. Sorry, I can't read this one either. It looks like it's been crossed out. Barbara L. -- thank you for that. Jerry Ross. And I'm going to ask your name and address for the record, sir.

Ross: Jerry Ross. 2302 West Aspen Cove Drive.

Marshall: Thank you, sir.

Ross: Commissioners, in 1976 my grandparents purchased a lot and built their home in Aspen Cove. The property is at the end of the development. Quiet and peaceful. My family enjoyed many special occasions there over the past several decades. Unfortunately, my grandmother passed away in the spring of 2012 and the property became a part of her estate. My family looked to list the property and sell it, closing this chapter in our lives. As we cleaned the home we encountered an incredible amount of fine dust built up inside the window tracks, the clogged furnace filters and the continually dirty patio and patio furniture, it became evident this would be a hard sale indeed. We only needed to look across the northern property line to find the culprit. For the past three years Idaho Sand and Gravel has been polluting this property and those of the neighbors with fine silica dust and noise and it has taken a toll. My family elected to wait on listing the property until after IS&G would be gone as promised and supposedly regulated to on April 4th, 2014. You can imagine our disappointment weeks ahead of this deadline as it became evident that not only would the mining site not be reclaimed and graded by that date, but they were actually ramping up production to produce as much material as possible. When they say this can't be done in less 18 months, those stockpiles that you have viewed have grown in just the last month and a half to that scale. I guarantee you it can be done. We now find ourselves in a position of asking when will IS&G be held accountable for the deparation of the value and the quality of life for the residents of Aspen Cove and Val Vista have had to put up with. My wife and I moved into the home with our family to care take the property until it can be listed for sale. Do not be swayed by an argument that with the elimination of the crushing and mining of the gravel the dust issue is no longer valid. I can attest to you that the enormous stockpiles of crushed material are still generating a large amount of dust being blown onto our properties. Winds like the ones we have had over the past several days continue to coat our yard,

patio, windows, clog our furnace filters. We worry about the health ramifications for us and our children and it is reasonable to believe prospective buyers would have the same concerns. Ryan Russell of IS&G was quoted on KBOI as stating, quote: Mining operations in the area of the site have taken place for decades without such concerns being raised. This operation is no different and should not cause concerns. My family has owned this property for decades. Ryan Russell has not been around. To my knowledge he does not live in Aspen Cove, nor Val Vista Subdivision. And I would argue that this site is different, as it was allowed to operate next door to established neighborhoods for a very short time frame. Originally just 18 months which IS&G disregarded. Then another 18 months, which IS&G has once again disregarded. And I'd also note that to my knowledge -- excuse me. Commissioners, what assurances will you give the residents that IS&G will not simply disregard all but their profitability once again? What will be the ramifications to IS&G when they fail to do it this time? I ask that you keep them under permit with conditions to control the pollution and in the shortest time frame possible to reclaim the land and restore our neighborhoods back to normal so as to no longer devalue our properties and our quality of life. One other note I would like to make. I agree, silica is a permanent part of the earth's crust. However, in that state it is not airborne. It becomes airborne under mining operations and stockpiled material. I don't know where they took their sample from, but I guarantee it was not from my backyard. Thank you.

Marshall: Thank you, sir. Commissioners, any questions? No. Thank you very much.

Ross: Thank you.

Marshall: Jane Ross. You spoke for both of them from the audience. All right. Tempra Wilson. Already been represented. Thank you. Joe Kendall. Also been represented. Nancy Brecks. I'm sorry. Also been spoken for. Rick Brecks. Also has been represented. Maureen Brewer. I'm going to ask for your name and address for the record, please.

Brewer: Maureen Brewer. 2112 West Aspen Cove Drive.

Marshall: Thank you.

Brewer: Commissioners, my name is Maureen Brewer. I am part of a growing family with a 15 month old son and another baby on the way. My husband and I bought our house in Aspen Cove just a few short months ago. We were aware of the project that was going on. We were also made aware that project was to end on April 4th of this year. We share the concerns of our neighbors that you have heard from already, but I also wanted to share from the perspective of a young family that's relatively new to the neighborhood. Aside from the ongoing concerns we have about the investment that we just made and the degree to which this ongoing industrial project that's taking place in a residential area is affecting that investment, we are also becoming increasingly concerned about the health of our 15 month old and our unborn child. I am standing here today telling you that the same -- the same past Sunday that my neighbor referenced to earlier I was standing with

our neighbors on our front lawn watching my 15 month old kick up dust as he ran across our lawn. Our barbecue is coated in it. Our windows. Our patio chairs. I have very real, valid concerns about what that dust is doing to my son's lungs, not to mention my black lab, not to mention our dying plants. I have heard the term fugitive dust tossed around in some of the materials -- the written materials and that under normal conditions fugitive dust is not a problem. Well, here is the problem. Under no circumstances are these conditions normal. I don't care how hard the wind was blowing and whether those miles per hour qualify as normal under the definition of fugitive dust. It's irrelevant, because the gravel pit in the residential neighborhood is not normal and it's not acceptable. It's been, to say the very least, unnerving that Idaho Sand and Gravel has made it abundantly clear that they believe themselves to be above reproach. Idaho Sand and Gravel never had any intention of complying with the most recent conditional use permit as evidenced by, one, their late application for an extension and, two, their lack of compliance with the now expired permit. Three years has come and gone. They were supposed to be gone on April 4th. Call it mining, call it reclaiming, it was supposed to be done in three years. They were not supposed to be holding meetings at an active gravel pit. They were not supposed to be trying to convince us that they are looking out for us, not trying to play games or wordsmith or pretend to be a good neighbor. At this point at this same time we are not supposed to be watching dust blow off those massive stockpiles. I believe and my neighbors believe it is this body's responsibility to fix what needs fixing, to restore our neighborhood to just that and to stop any activity on the site, except for those activities required to reclaim it to its original use. Thank you.

Marshall: Thank you. Commissioners, any questions for Mrs. Brewer? No?

Brewer: Thank you.

Marshall: Thank you very much. William Brewer. From the audience he indicates that his wife has just spoken for him. Ryan Russell.

Russell: Ryan Russell. 5532 North Fox Run Way, Meridian, Idaho. Mr. Chairman and Commissioners, I just want to stand up here -- as the person that's been dealing with this -- this site for the past three years -- and actually before that, I'm the one that gets the calls from the neighbors if there is a complaint and I just want to take this opportunity to thank the neighbors that have been engaging with our company throughout the last three years. Because of those neighbors we were able to do things to hopefully lessen the burden of our operation on their lives. Because of customers -- or because of neighbor recommendation we -- we spent a lot of money and paved an entry road into that site to reduce track out onto the adjacent road and also limit dust when our trucks are coming in and out of the site. Because of those neighbors we found out that there was a fallow laying field right next to the operation that was just laying there as dust and every time the wind picked up it would blow dust across the fencing towards their -- their houses. Had nothing to do with our operation at all, but it was laying there and causing an issue, so spent our own resources and money to put down a mulch and glue, if you will, on the dust. Tackifier is the term. It was also because of the neighbors that -- that we were able to operate in this facility, because they -- they desired to have a view for the rest of their lives

as property owners. So, I just want to say thanks to the people that have been proactive and engaging in this process, because without you we could not react and we could not be a good neighbor. So, thank you and that's all.

Marshall: Commissioners, any questions? Thank you. Todd Lakey. I apologize. Yes. I'm actually going to call you up here very shortly, okay? Because at this time I have no one else signed up, but I am going to ask if anyone else would like -- was your name one of those I couldn't quite make out? Come on up whether your name is on the list or not. I want to hear what you have to say. And I will ask you to give me your name and your address for the record, please.

Nichols: My name is Scott Nichols. I live at 2730 West Val Vista Court, immediately adjacent to the Southridge Subdivision development and the -- and the gravel removal site. You know, we I guess have the benefit and the curse of testifying last here before Mr. Lakey then closes out, but the bottom line is that we have worked for a long time to develop a plan that we all felt throughout this process was beneficial to the adjacent residents, the community, the community at large, and I have got to tell you that it has been impacting. Yes, we heard it. I just told my wife -- I said I didn't realize that it wasn't just God that could make mountains, Idaho Sand and Gravel can, too. We support the staff recommendation, but there is some things that I wish I could, you know, propose -- maybe this go back to staff for a site specific discussion with Idaho Sand and Gravel. Absolutely, the dust needs to be addressed. It needs to be reclaimed. But there are some limitations that physically cannot be met with a site of this size. We went into the site knowing it was market driven. It was not the market that drove the gravel, it was the desire to have a resource available, local community resource, less impacting. But that being said, the removal of that material is still market driven. I just am trying gather some thoughts here and just -- our recommendation is to finish this out as quickly as possible. I want to reiterate that operations in the winter is beneficial. Operations throughout the summer are not beneficial. I would recommend to Idaho Sand and Gravel to use whatever means necessary -- they can't use mag chloride, it just will not work with the material. You can't, then, use it in -- in road mix and aggregate in concrete. So, to use water or other -- you know, some stabilizing measures -- if they can get a crust on the top of that pile until we get some fall rain and, then, remove that in the fall. Do the shaping and grading in the fall and get that thing done. But they have done a good job and I appreciate the efforts they have taken and it's -- it's unfortunate that we have had to endure as long as we have, but that said we still support moving ahead and finishing this project and we appreciate your ability to stand here and listen to this, so thank you.

Marshall: Commissioners, any questions for Mr. Nichols? I was just going to ask -- you were here last time, weren't you, Mr. Nichols?

Nichols: Yeah. The whole time.

Marshall: Yes. All right. Thank you. I recognized you. Yes, sir. Please come on up. And I'm going to ask you name and address for the record, please.

Martarano: I apparently wrote it completely illegibly. My name is Tony Martarano and I did not hear it called.

Marshall: I apologize.

Martarano: I just wanted to touch on a couple -- oh. 2030 Aspen Cove Drive.

Marshall: Thank you, sir.

Martarano: I wanted to touch on a couple of issues. In the photo presentation that Mr. Lakey presented, none of my backyard or anybody else's backyards from Aspen Cove were actually -- it was actually in that slide show. The picture that staff put up that showed a backyard looking at those gravel pit piles in the onset of this presentation, that is my backyard. Lower left. Lower left photo. That's my backyard. That's what I see. And I have a single story house. There is absolutely nothing between that gravel pit and my property and I'm directly southeast. The silica tests that were taken were taken off my patio. I'm not sure where the air tests that were done were taken at. In regard to cooperation and neighbors that have or have not made any noise in the last three years, myself I have been quietly biting my tongue, if you will. I assumed it was going to be completed on April 4th when it was -- when it was said that it would be. As far as cooperation with neighbors, just a couple weeks ago I stood at a neighborhood meeting in the gravel pit and Ryan Russell asked if there were any suggestions to help and I said why don't we load off the north side of the stockpiles, instead of the south face and just yesterday or today they started digging into the south face, which is directly in line of that lower picture and my house. I heard a comment about dust and reclamation during the summer. Quite frankly, the gravel pit's been operating for three years year around full blown. We haven't taken any holidays or breaks unless there just wasn't a job to haul to. As far as working grade work or reclamation or whatever you want to call it in the summer, it's just best management practices with water and everything else, just like they have tried to do for the last three years. Unfortunately, the wind blows through there almost all the time. That area was named Windy Ridge for a reason and, again, there is nothing between those piles and our homes. One thing I would suggest is if they are really adamant about doing the grade work and the reclamation in the winter, I would suggest we spend the next four months getting rid of the stockpiles and, then, shut the operation completely down until November, December, and January and, then, do the reclamation. Let's not take advantage of the gravel pit all summer long, because it's too dusty. It's dusty if -- if they are there it's dusty. If the wind is blowing it's dusty. And in regard to how long it takes to move material off a project, that's a very subjective question. It's requires quantification of the stockpiles. It requires resources and resource allocation. Again, very subjective. It would have to be quantified. Thank you.

Marshall: Commissioners, any questions? Thank you very much. Is there anyone else who would like to testify on this? Yes, sir. Please come up. And I would ask your name and address for the record, please.

Schoelkoph: I was the first one on the list. Robert Schoelkoph. Robert Schoelkoph. I was the first one called and I'm glad I waited, because it's interesting to hear from my neighbors. What I have to say is probably maybe a little even more relevant than some of them, because I'm farther away than the young lady with the small child. I live on 2690 South Ariel Lane, which is right off of Aspen Cove Drive. I'm retired. So, I'm a little bit of an expert on the noise and when you're woken in the mornings because of a gravel pit grinding away with the equipment, that's a problem. I'm a rather patient person. I wasn't here at the last meeting. I am opposed to it. I'm in favor of the plan as the -- the city planner has approved. I'm also in favor the attorney that's representing us right now and he has my full cooperation. It is a mess and I don't know who did a sample at a roadside that said there was no silica dust, but my nose is not scientific, but it's stuffed from that stuff. So, I would say that that's a reasonable sample and that's really all I had to say. Thank you. Do you have any questions at all?

Marshall: Commissioners, any questions?

Miller: No, sir.

Schoelkoph: Thanks.

Marshall: Thank you very much. Now, is there anyone else that would like testify? Yes, ma'am. I ask your name and address for the record, please.

Hickey: My name is Peg Hickey and our address is 2143 Aspen Cove Drive. I just have one short comment on the dust. Last Sunday it was very windy. They were not working on the site. Glen and I and most of our neighbors do all of our own yard work. We do not have people come and do it for us. We are all out there weekends, nights, doing our own yard work, mowing our own lawns, and I -- we got up to do our yardwork and I looked out the window -- or I looked out the door and I said, Glen, why would someone be burning on a -- on a windy day like this and he said that's not smoke, it's silica. We couldn't even see across the pond. Our pond. So, that's my comment.

Marshall: Commissioners, any questions? Thank you very much. All right. Is there anyone else? Yes, ma'am. I'm going to ask your name and address for the record, please.

Carlson: My name is Susan Carlson and I am three houses over from the fence. Actually, I'm the third house. And I'm concerned. I have grandchildren and I have not let them come over since all this is going on, because I'm concerned about their health and it's the last thing I want to do to have what happened -- have it affect them as it's affecting my plants. I mean they are -- they are dying. I mean they are dead. In fact, I got to go pull them out. I mean it's ridiculous. And I wanted to clarify, too, that Tony Martarano who spoke. He is -- has a sand and gravel business and he's had it for 30 years. I mean he's been aware of what -- what that does and so I mean I really would hope that you would take into consideration -- I mean what it's doing to people's health and to their landscaping

and just to the environment and it's -- it was already extended for a year and a half, why do they need to have even more time?

Marshall: Thank you. Commissioners, any questions? No? All right. Thank you very much. Now, is there anyone else that hasn't been spoken for that would like to speak? All right. I see no hands. I hope everybody has been represented fairly and I'm going to ask the applicant to come back up and address any of the issues.

Lakey: Thank you, Mr. Chairman and Commissioners. Again Todd Lakey for the record. 141 East Carlton, Meridian, Idaho. Commissioners, again, appreciate the opportunity. As we have said all along, we recognize there are impacts, but we have been a responsible operator. That's been demonstrated over the history with the hearings and the processes that we have gone through to get the project to this point. We have said all along that our time frames were estimated time frames and they came pretty close. We are about 90 percent of what we estimated the time frame would be. So, I think that's -- our estimates have been reasonable and we have been clear on those time frames that they were estimates. The mining is essentially done. There is about ten percent left. The plat was represented by Mr. Johnson has expired, but that's not the most relevant aspect. The most relevant aspect of this project is the fact that it's been zoned, those zones establish the underlying residential use, which is the whole purpose of this operation, whether it be mining or the separate reclamation. And, then, the development agreement that we are still subject to is also part and parcel of why we are doing what we are doing and the landowners and what they are doing to minimize those impacts, to reduce that grade down to that level for further development of the property. So, the residential use -- the residential zoning and development agreement underlies everything and those are still in place. The primary purposes of the remainder of the stockpile is for the Meridian interchange. It's not we will keep going until we our profitable, it's -- that's the estimated time frame for the completion of that project. As I emphasized, the conditional use permit is required for mining. It's not required for reclamation. As defined in city code, as defined in state code, those are two separate and different things. Yes, they are related, but they are not the same thing. The state code is clear. It talks about you do one first and, then, when that's done, then, you complete the reclamation and it gives you time periods to do that and it has requirements on the bond that you put in place and the reclamation plan that's approved. So, the site has to be reclaimed. Idaho Sand would like to do that within the confines of the conditional use permit. So, that's done within the hours of operation and even the modified hours of operation that staff put forward in our staff report, that's a voluntary effort on their part that they would like to do. The practical reality is that the site cannot be reclaimed and material removed and graded within six months. Just in reality it can't be done. And you don't want -- as I said before, the reclamation and the grading of the property to occur in the summer months. If this conditional use permit was to go away and the landowner pursued this at sometime in the future, there wouldn't be any limitations and they would potentially be doing it in the summer months. But it's better to do it when it's cooler, when it's -- the soil is damp and within the confines of the conditional use permit. We understand that dust is created by these operations. We have done things to mitigate that dust. We cannot completely reduce the dust, whether it's mining or whether it agriculture or whether it's the property remaining vacant awaiting a residential

development. But we -- we are compliant with regulation. The silica that was mentioned -- again, it's not the presence of silica, it's the particulate matter size and the sampling that were taken, it's not the kind that causes a health concern. When they say it's respiratory, that means it gets down into your lungs and causes problems. The particulate matter size is not of that grade. It's very -- a very low level of that size and, yes, it's a nuisance, but it's not a health concern. Commissioners, I guess I would like to just to emphasize again at the end our proposal. We are willing to eliminate the crushing. That's the most impactful part of the operation. The noisiest, but that's the -- the operation of the equipment has a lot of backup beepers. It's not regulated whether it's forward or backward. They are pushing into a crusher. The crusher makes noise. We are willing to forego that. That puts it back to simply the hauling off of the material. That's the least impactful. We are willing to be subject to a condition that that occur on the north side of the pile and I believe that the scale has been moved to that location and that will happen moving forward. As far as the remaining mining, Commissioners, as I said, there is about ten to 15 percent left. We are willing to have that remaining material simply be utilized on site versus mined and crushed and placed elsewhere or shipped off and crushed elsewhere. But to use as part of the development of the subdivision and leveling the property. And we are willing to be subject to the condition that there be no commercial sales from the property. There is a few contracts outside of the interchange that would be in place for a few months. So, a six month time frame perhaps for that. But the rest would remain for the interchange and not have anybody but Idaho Sand folks coming and going. We are willing to water the pile if that's what you want. As I said, I think the better solution is to let the natural crust develop, which takes a couple of months, on the stockpile, but if the Commission is inclined to say you need to water the site, then, it's not by a sprinkler, but by a water truck with a pressurized sprayer on it, we would be willing to do that. We are also, as I said, willing to complete the reclamation within 12 months. That will let us avoid the summer months. But we do need the 18 months for reclamation. Completing the grading of the property. Any remaining material would on a portion of the property that's already at grade for the subdivision and so 12 months for completion of the reclamation and, then, 18 months for final removal of all the material off the site for the interchange. And with that, Commissioners, I would stand for questions.

Marshall: Commissioners, any questions?

Miller: I --

Marshall: Commissioner Miller.

Miller: I actually want to make sure I'm clear. The shortest timeline that you're saying that it could take to get out of there is 12 months; is that --

Lahey: Mr. Chairman and Commissioner Miller, to get the property graded to where it needs to be for the subdivision, 12 months. To get the material that's stockpiled on the property off the site for the interchange, maybe less than 18, but 18 months is time we can guarantee.

Miller: Okay.

Marshall: I'm going to ask you to address one issue that you mentioned earlier. You said we are willing, but not required to reach the elevations for the final grade. Do you actually feel you're not required to reach that final grade?

Lakey: Mr. Chairman, no. Let me clarify that. I apologize for the misunderstanding. What I was saying is that we are not required to have a conditional use permit to grade the property for the residential use.

Marshall: Ah. Thank you for your clarification.

Lakey: We do have a reclamation plan in place that we intend to comply with, that if we do not comply with our bond would be forfeited with the state. So, our intention is to comply with the reclamation and grading plan.

Marshall: Thank you. Commissioners, any other questions? Thank you very much.

Lakey: Thank you, Commissioners.

Marshall: So, Commissioners, at this time I think the next motion would be to close the public hearing.

Miller: So moved.

Oliver: Second.

Marshall: I have a motion and a second to close the public hearing on MCU 14-001. All those in favor say aye. Opposed? That motion carries.

MOTION CARRIED: THREE AYES. ONE ABSENT.

Marshall: Commissioners, I think I'm going to start this out. I have a little history here. I was here for the very first original hearing. I was here for the last hearing, which I believe Mr. Nichols and Mr. Przybos were both here. I recognize them both. There really wasn't a lot of other people here and I want you to hear a little history here. At first the idea was that this was a win-win and my personal feeling -- and I think you guys are very aware that my personal feelings of large retail activities, industrial activities, things like that, are incompatible with residential uses. That's my personal opinion. That's part of why I'm on here. I'm a citizen just like you guys. I volunteered for this, because I saw an issue and got to talking to people and, then, eventually got asked to come up here and given my opinion. So, that's what I'm doing. All right. Doing the best I can here. To be honest, we have seen a number of little gravel operations here and there and the reports are that Idaho Sand and Gravel has done a very nice job, especially when compared to other situations. But the issue with this item was there was a considerable amount of grading that was going to benefit both the subdivision that was platted for that piece of property,

as well as the homeowners behind that, because that dropped the level of the houses, they retain their views, things like that, and they were going to remove all this material. It would be very, very beneficial to have that gravel removed, processed -- we had the interstate expansion going on, it was nice and close to get the gravel there, a number of -- so you didn't get the trucks clear across the valley coming from other locations. And really torn at first over the project, because it is very close to residences and the like, but, you know, to be honest, I would not be happy with that -- living next to that and I'm not quick to assure -- would not be happy about putting residents -- building new houses next to a gravel pit, because people are going to move in and complain about it. But it happens all the time. We see it all the time. In this case we have residences there and now we are going in after the fact and putting a gravel operation there and I feel a little misled, because I felt that we were going to scrape off this -- this large area, process the gravel, go use it quickly, and, yeah, came in back 18 months and saying, hey, market issues, things like that, it is a little hard to move all this dirt that quick. We only had a couple people testifying and I was -- yeah, all right, let's get this thing done and over with. Another 18 months. To be honest, though -- and part of what drove that, I have to admit, was that there wasn't a lot of people here to testify. Nor written testimony or anything and -- but at the same time I still have huge reservations of -- I think it's an incompatible use next to a residence and now I'm hearing that not only have we gone below scraping that off, we have dug down considerably lower and now we are going to move other material and fill that back in. Well, it will be at final grade, but that wasn't the idea. It wasn't to create a pit and mine all the gravel out and, then, come back and fill it back in. That wasn't the idea and I feel a little misled with that. The idea was we are scraping that material off and scavenging any -- any gravel we could out of and, then, going and using that. This is not a place for a gravel pit. It's not. It's not a proper location for it. You can tell me all day long that there are studies that say that the sound decibel is low, you can tell me that the -- the dust particulate level is -- people are telling me, no, it doesn't sound like you have a cold. Well, I do. I have got a cold and I know it and these people know that -- I'm sorry, I believe there is dust there. It's got to be a problem. And I believe there is noise there. Whether we do decibel tests or not, I do believe there is, and an industrial -- mining gravel does not coordinate well with residences. It never has. And this was just an opportunity to scrape it off and get that gone and, by gosh, I really feel a bit deceived, because I thought this was going to be reclaimed by April 4th, to be honest, when I approved that and when I agreed to it last time, 18 months ago, I really thought this would be done by April 4th. I thought the whole area would be reclaimed and that was my impression and it's my mistake, because I read back through there, it doesn't say that. It doesn't say that it would be reclaimed by April 4th. And, I'm sorry, we should had that in there. As to what I wanted to approve, that area should have been done over with by April 4th. Personally, I think that the city is being very generous in saying six months to get that done and when Mr. Lakey said, geez, we are at 90 percent, I quickly did the math and said, geez, that's four months. If I take 40, take 90 off, that's 36 months, that's where we are at. That's four more months and we are done. We did a hundred percent. But, then, I think you mentioned extraction and I'm not for anymore extraction personally. I think these residents have been through enough. The idea was for a -- a subdivision to go in that is now defunct. They did not renew. There is no subdivision now that's appropriate for that location. The landowner is going to have to submit again and I think that that

property is very valuable. That property is very valuable and they are going to have to submit a subdivision eventually. Nobody's going to be able to sit on it. The cost of money's too much. We need gravel mining and, to be honest, I want to be fair to Idaho Sand and Gravel, I think they have really tried to make this as painless as possible, but there is only so much that you can do with a gravel operation. I mean, yeah, the dust blows and there is loud noises and OSHA requires backup alarms. The City Council requires them to be set at the lowest decibel level available, but that's required -- it's the federal government. You have to have them. Those things happen. And even though maybe the noise level is less than what I might hear elsewhere in a decent setting, in a restaurant or something like that, what I have while I'm sitting down to dinner or eating breakfast and that's why I see these uses as incompatible next to each other. I do want to give kudos, though, again, to Idaho Sand and Gravel, I think they really have tried. But, again, I think there is only so much you can do. And so for that -- saying that I personally would be for the staff recommendation as it's written and, again, I think that's being generous with the six months and can that much dirt be moved in six months? Absolutely. It can be moved in three if you get enough trucks. Can it be moved over the summer? Yes. There is going to be a lot of dust created by that. I have to agree. But I think right now what I'm hearing -- personally what I'm hearing is, yeah, make a bunch of dust, get it over with, get it done with and that's what I'm hearing and that's what I feel. So, Commissioners?

Miller: Mr. Chair?

Marshall: Commissioner Miller.

Miller: You have said everything on my list as well. But I -- the timeline is really the question for me. It's four months. Six months. I also agree the city is being very generous with six months. What that maybe does is give you four months in the spring and, then, four months in the fall -- or, sorry, two months in the spring, two months in the fall and you get two months in the summer or something. But that's what I'm hearing, too, is we would rather have the dust, get it done, get it out of there. I feel like it's -- like some of the letters that I read mentioned, it feels a little bit like a trap, like there was this April 4th deadline to have it remediated or to apply for an extension and you either just hit the timeline or you went over a little bit and it's kind of expecting us to extend the date when it's not a given. At this point we have no choice but to extend it to get the piles out of there. And I think that's in the best interest of everybody. What my concern is -- is like some of these folks have said, what are the ramifications if it's not done at that time and I don't know if that's a question for staff. Is there anything that we can do to assure, you know, November 1st things are taken care of and done for these folks?

Lucas: Mr. Chair, Members of the Commission. The city issues all kinds of permits and the city's, you know, remediation for the -- let's say the violation of a permit can be various different means. One thing you can do for a conditional use permit is revoke that permit if the conditions are not being followed. To be honest, in a situation like this -- and Mr. Nary, our city attorney, can weigh in at any moment -- if it goes beyond the time period and the permit is over and the work not done, you know, the city doesn't have necessarily

the resources or the ability to go out with all our trucks and take all that gravel off of there, because we don't have those trucks and that's not our business. So, that typically, then, goes into the arena of our -- of our city attorney's office and how they decide to move forward on action like that.

Marshall: Mr. Nary.

Nary: Yeah. Mr. Chairman, Members of the Commission. I mean the question is is what would we do in the case of a -- the Commission makes a decision to grant a permit for a fixed period of time and with the consequence that, basically, I think, as Justin said, failure to comply really is just a revocation of the permit. So, we can make the operation stop pretty easily. I think the balance the Commission is trying to address is what the neighbors are wanting and what the applicant is wanting is not just stopping the work, but to get it cleared, graded, put back to a reclaimed site and why I think the Commission's roll here is important, is that's part of their permit requirement. That -- you know, whether the city would take some other type of legal civil action to enforce that or to do that, that's certainly something we would explore at that point in time. But, really, I think the reason we are here tonight -- all the testimony you have heard, is really trying to fashion both something that could be compatible with the neighborhood for a limited time period, which is what the staff report recommends, with some requirements and the sideboards as to when the reclamation needs to be completed, so that we really get to the finality. I mean I don't -- I don't necessarily think -- and not that we wouldn't consider that, that just getting them to stop for failing to comply really gets us to the goal of what we are trying to get to, which is a graded site so that it can be developed in the future, it can be used. It doesn't have the impact of the neighbors both visually, as well as the dust and noise all those other things. So, there are some tools that we could certainly use if necessary, but I think -- I think, really, what you have heard tonight is a way to help fashion a permit to get to some finality that's cleaner and clearer to everybody and I -- so, the long answer to the question is, yes, I think we have some tools we can use if necessary, but I'm hopeful we can get to a -- a permit that really makes sense for everybody to, then, get to some finality I think as the chairman has spoken about, that's really I think the ultimate goal.

Marshall: Thank you, Mr. Nary.

Oliver: Mr. Chairman?

Marshall: Commissioner Oliver.

Oliver: As you mentioned just a few minutes ago, you're right, I wasn't here when this all first occurred, but after listening to the testimony tonight I want to commend the residents for testifying and being able to put up with what you had to put up with for the last 18 months or so. I know it's been difficult and I appreciate -- in fact, three years that you had to put up with this and I think it's time that we come to a conclusion and I agree with the chairman that six months, as staff advised, is appropriate to get this cleaned up.

Marshall: Well, knowing I think approximately where we all stand, would either of you like to make a motion?

Miller: Yes.

Marshall: Commissioner Miller.

Miller: After considering all staff, applicant, and public testimony I move to approve file number MCU 14-001 as presented in the staff report for the hearing date April 17th, 2014, with no modifications.

Oliver: Second.

Marshall: I have a motion and a second to approve the staff report as written. All those in favor say aye. Opposed? That motion carries.

MOTION CARRIED: THREE AYES. TWO ABSENT.

Marshall: Thank you. Commissioners, I got one more motion.

Oliver: Move to close the meeting.

Miller: I second that.

Marshall: I have a motion to adjourn and a second. All those in favor say aye. Opposed?

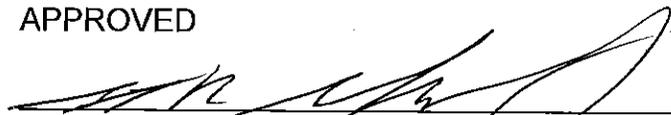
MOTION CARRIED: THREE AYES. TWO ABSENT.

Marshall: We are closed.

MEETING ADJOURNED AT 8:13 P.M.

(AUDIO RECORDING ON FILE OF THESE PROCEEDINGS.)

APPROVED



JOE MARSHALL - CHAIRMAN
Steven Yearseley, Vice
ATTEST:

5.11.14
DATE APPROVED

Machelle Hill, Deputy Clerk

JAYCEE HOLMAN, CITY CLERK

