

***DuPage County Zoning Board of Appeals***

***Petition No. Z17-028***

***August 16, 2017***

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Petition No. Z17-028  
August 16, 2017

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BEFORE THE DU PAGE COUNTY  
ZONING BOARD OF APPEALS

A conditional use to allow an ) Z17-028  
asphalt batching plant. ) Lorig Construction

August 16, 2017  
6:30 p.m.

PROCEEDINGS HAD and testimony taken before the  
DU PAGE COUNTY ZONING BOARD OF APPEALS, taken at the DuPage  
County Administration Building, 421 N. County Farm Road,  
Wheaton, Illinois, before LINDA M. CIOSEK, C.S.R. a Notary  
Public qualified and commissioned for the State of Illinois.

BOARD MEMBERS PRESENT:

MR. BARRY KETTER, Acting Chairman.  
MR. JOHN HAKIM, Commissioner.  
MR. THOMAS LAZ, Commissioner.  
MR. DENNIS MORAN, Commissioner.  
MR. JACK MURPHY, Commissioner.

ALSO PRESENT:

MR. PAUL HOSS, Zoning & Planning Supervisor.  
MR. MIKE FERENCAK, Zoning Administrator.

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1 CHAIRMAN KETTER: I'm going to call this meeting to  
2 order so we can start and hopefully get through most of it.  
3 I think we've got a little housekeeping to do before we  
4 start. I'll turn it over to Mike.  
5 Can we bring this to order, please. We  
6 can get a mic out for me, but I don't think we need it, and  
7 Mr. Loftus has something to put into the record, and then  
8 we'll start with the experts.  
9 COMMISSIONER LOFTUS: Fellow Board members,  
10 petitioners, and objectors to this case: It's been my  
11 pleasure to serve on this Board since 2003. In that time,  
12 I've had to recuse myself probably two, maybe three times,  
13 primarily because I knew the people that were involved or I  
14 had conflict. But I have offered to recuse myself for the  
15 very first hearing we had the first night because I wear  
16 multiple hats in the County. I am -- in addition to working  
17 on this Board, I'm head of the Ethics Committee for the  
18 DuPage County Forest Preserve, and they have been an  
19 objector to this case, and the state's attorney has  
20 suggested that to keep the record clean, I would recuse  
21 myself because of the possible conflict.  
22 So with that in mind, it was suggested by  
23 the state's attorney that although no obvious conflict  
24 existed to my potential bias in this case, it would be best

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1 if I remove any question of possible bias to make a clean  
2 record for this hearing. Not only do we have to follow the  
3 ethics of our position, but we have to be above any  
4 suspicion of not following the ethics of our positions.  
5 This case was republished in my absence,  
6 and I've been on church mission trips to the Indian  
7 reservations in South Dakota and Montana. This is the first  
8 time I've been back and had a chance to address this issue  
9 since it's been refiled, so I'm offering a letter of formal  
10 recusal from this case, and I have to do that as a matter of  
11 process for the whole thing. So, I would be doing that, and  
12 that's what I'm here to do tonight, and I'll do that right  
13 now.  
14 CHAIRMAN KETTER: We'll accept it. I just say for  
15 the record I know of your integrity, and I would not have a  
16 problem with it, but it's probably in the best that you do  
17 it based on the state's attorney.  
18 Having said that, we are in the  
19 objector's case. I believe. For the people in the  
20 audience, I've been led to believe he has about two experts  
21 tonight. And as we've done in the past, we will give the  
22 other side a chance to prepare to cross examine, so let's  
23 start with the objectors, whoever they are calling for this  
24 first witness.

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1 MR. LUETKEHANS: We would call Kelly Conolly.  
2 CHAIRMAN KETTER: Could you repeat? She didn't hear.  
3 MR. LUETKEHANS: Kelly Conolly, C-o-n-o-l-l-y.  
4 THE COURT REPORTER: Would you raise your right hand,  
5 please.  
6 (Whereupon, the oath was duly  
7 administered by the Notary.)  
8  
9 KELLY CONOLLY,  
10 Called as a witness by the Objectors herein, having been  
11 first duly sworn, was examined and testified as follows:  
12  
13 EXAMINATION  
14 By: Mr. Luetkehans  
15 Q. Miss Conolly, can you please state your name  
16 and spell your last name for the record?  
17 A. **Kelly Conolly, C-o-n-o-l-l-y.**  
18 Q. And how are you currently employed?  
19 A. **I work for Sam Schwartz Engineering.**  
20 Q. And how long have you been employed by Sam  
21 Schwartz Engineering?  
22 A. **Since March of 2015.**  
23 Q. And what's your title at Sam Schwartz  
24 Engineering?

6

1 A. **Project Manager.**  
2 COMMISSIONER HAKIM: Can you hold it up, maybe try  
3 holding it in front of you so we can hear a little better.  
4 THE WITNESS: I'm sorry. Take it off?  
5 MR. LUETKEHANS: Yeah. It's a little muffled. Take  
6 it off. Thank you.  
7 BY MR. LUETKEHANS:  
8 Q. I think you answered the last question, but I  
9 missed it. So what's your title?  
10 A. **Project Manager is my title.**  
11 Q. Okay. Was this traffic group at Sam Schwartz  
12 associated with a different company before it became part of  
13 Sam Schwartz?  
14 A. **Yes. We were formerly Metro Transportation**  
15 **Group. We were purchased by -- they were purchased by Sam**  
16 **Schwartz in 2011, I'm pretty sure.**  
17 Q. And how long have you been with Sam Schwartz?  
18 A. **Since 2013.**  
19 Q. And what's your educational background?  
20 A. **I have a Bachelor's of Science in Civil**  
21 **Engineering from the University of Illinois.**  
22 Q. When did you obtain that degree?  
23 A. **2004.**  
24 Q. And do you currently hold any licenses?

7

1 A. **Yes, professional engineering license in the**  
2 **State of Illinois.**  
3 Q. And how long have you held that designation,  
4 give or take?  
5 A. **2009.**  
6 Q. Okay. And how long have you worked as a civil  
7 engineer?  
8 A. **13 years since graduating.**  
9 Q. Can you tell us a little about your employment  
10 background?  
11 A. **As I worked for?**  
12 Q. Yes.  
13 A. **So I've previously worked for several civil**  
14 **engineering firms; KLOA, Inc., Gewalt Hamilton Associates**  
15 **prior to coming to Sam Schwartz.**  
16 Q. I'm going to ask you to spell Gewalt Hamilton  
17 for the young lady.  
18 A. **G-e-w-a-l-t, Hamilton.**  
19 Q. Anyone else?  
20 A. **Desman Associates was actually my first**  
21 **employer, so that would have been in 2004.**  
22 Q. Desman is D-e-s-m-a-n?  
23 A. **Yes.**  
24 Q. Okay. And what have been your

8

1 responsibilities as it relates to traffic as a professional  
2 engineer these past 13 years?  
3 A. **So, my 13 years I've spent basically in either**  
4 **parking work or traffic engineering performing traffic**  
5 **impact studies, doing intersection design studies, designing**  
6 **roadways that relate to traffic engineering portion of it.**  
7 Q. Are you familiar with the site that's the  
8 subject matter of this application?  
9 A. **Yes.**  
10 Q. Are you familiar with the area and road  
11 surrounding the subject property?  
12 A. **Yes. I have visited the site on two separate**  
13 **occasions.**  
14 Q. Did you and your firm do any research or  
15 perform any studies relating to its analysis of this  
16 proposed project?  
17 A. **Yes. We have prepared a memorandum, and as**  
18 **part of that analysis it summarizes. We have, you know,**  
19 **done field observations. We've viewed the KLOA report that**  
20 **the applicant had prepared. We have done traffic counts at**  
21 **an asphalt facility in Naperville. We've also done some**  
22 **work looking at Auto Turns, which are -- it's a software**  
23 **program where you can look at turning maneuvers of vehicles.**  
24 Q. Okay. Do you have your report in front of

<p style="text-align: right;">9</p> <p>1 you?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Let's use this one real quick.</p> <p>4 (Whereupon, Objector's</p> <p>5 Exhibit 25 was identified for</p> <p>6 the record.)</p> <p>7 BY MR. LUETKEHANS:</p> <p>8 Q. Showing you what's been marked as Objector's</p> <p>9 Exhibit 25, is this the report or the memorandum that you</p> <p>10 prepared?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Can you tell the Board whether you had any</p> <p>13 concerns upon reading the KLOA report?</p> <p>14 <b>A. I think that there were a few things that</b></p> <p>15 <b>surfaced that we looked closer at. One of them was the</b></p> <p>16 <b>truck maneuvering that has to occur from 83 onto the ramps</b></p> <p>17 <b>down to Jeans Road. That was something that the report</b></p> <p>18 <b>didn't necessarily -- specifically didn't include an</b></p> <p>19 <b>analysis of how those turns occur. We had some concerns</b></p> <p>20 <b>with the traffic volumes that were included in the report.</b></p> <p>21 <b>Do you want me to get into specifics?</b></p> <p>22 Q. Yeah, let's start with did you also have</p> <p>23 concerns about the level of traffic and the grades A through</p> <p>24 F, et cetera?</p>	<p style="text-align: right;">11</p> <p>1 <b>cross-drives, as we would say, and there seems to be some</b></p> <p>2 <b>volumes and traffic that either appear in this link or</b></p> <p>3 <b>disappear in the link, and that's important because, you</b></p> <p>4 <b>know, traffic volumes specifically relate to levels of</b></p> <p>5 <b>service, and if you have lower traffic volumes, then you</b></p> <p>6 <b>have lower levels of service. If you have higher traffic</b></p> <p>7 <b>volumes, you have higher levels of service, and it needs to</b></p> <p>8 <b>be represented correctly.</b></p> <p>9 Q. And in this case, you found it was not</p> <p>10 represented correctly.</p> <p>11 MR. MC CLUSKEY: Objection, leading form of the</p> <p>12 question.</p> <p>13 MR. LUETKEHANS: This is not a courtroom, Mr.</p> <p>14 Chairman.</p> <p>15 MR. MC CLUSKEY: It's suggestive, and I think the</p> <p>16 panel should just hear what the evidence says.</p> <p>17 CHAIRMAN KETTER: We'll note it. Once you made the</p> <p>18 objection, she knew what he was going to reask, so we can</p> <p>19 just move on.</p> <p>20 THE WITNESS: We noted that the volumes didn't</p> <p>21 balance, so there were, for example, 90 vehicles on</p> <p>22 northbound 83 in the evening peak hour that were at one</p> <p>23 intersection, but not the other.</p> <p>24</p>
<p style="text-align: right;">10</p> <p>1 <b>A. So, I think another thing was I guess the</b></p> <p>2 <b>misrepresentation, I suppose, of the problematic levels of</b></p> <p>3 <b>service.</b></p> <p>4 Q. Okay. We'll talk about that specifically in a</p> <p>5 couple minutes, but could you explain to us this issue of</p> <p>6 volume on the roadway? Did you find volume missing in the</p> <p>7 report?</p> <p>8 <b>A. Right. So, yes, specifically when I was</b></p> <p>9 <b>speaking of the volume, we had an issue with the volume. It</b></p> <p>10 <b>was -- we always do a check when we look at traffic</b></p> <p>11 <b>engineering reports. Are the volumes on the roadways that</b></p> <p>12 <b>have been included in the report representative of, one,</b></p> <p>13 <b>what the actual data suggests, or are they analyzing the</b></p> <p>14 <b>right data, and we also look at is there anything that any</b></p> <p>15 <b>volumes that disappear or appear. We call that balancing.</b></p> <p>16 <b>So between two intersections, if there's no streets, that</b></p> <p>17 <b>intersecting road between two intersections, and the two</b></p> <p>18 <b>intersections volumes don't balance between the two, then</b></p> <p>19 <b>there is an error because there's no roadway where that</b></p> <p>20 <b>traffic could have exited or entered the road.</b></p> <p>21 Q. Did you have a concern about the balancing in</p> <p>22 this KLOA report?</p> <p>23 <b>A. Yeah. So the specific instance was between</b></p> <p>24 <b>Archer and Illinois 83 and Jeans Road there are no</b></p>	<p style="text-align: right;">12</p> <p>1 BY MR. LUETKEHANS:</p> <p>2 Q. You also talked about just a minute ago level</p> <p>3 of service?</p> <p>4 <b>A. Right.</b></p> <p>5 Q. Could you talk about the levels of service</p> <p>6 issues you found in the KLOA report.</p> <p>7 <b>A. Sure. The levels of service is what all</b></p> <p>8 <b>traffic engineers use to sort of determine impacts of</b></p> <p>9 <b>proposals. And we just didn't feel that the narrative, as</b></p> <p>10 <b>proposed, matched the levels of service that we were seeing.</b></p> <p>11 <b>For example, the Jeans Road, eastbound approach of Jeans</b></p> <p>12 <b>Road, it degrades from a level of service E to a level of</b></p> <p>13 <b>service F, which you add site traffic and add background</b></p> <p>14 <b>growth. And it was explicitly stated in the report that the</b></p> <p>15 <b>level of service didn't change once you added that traffic.</b></p> <p>16 <b>Similarly, at the intersection of 83 and</b></p> <p>17 <b>Archer -- I'm simplifying 83 and Archer.</b></p> <p>18 Q. It's got three names I think at some point. I</p> <p>19 think we all understand what Archer is.</p> <p>20 <b>A. So that's a level of service that starts at a</b></p> <p>21 <b>level of service F, and the delays are long. But the added</b></p> <p>22 <b>traffic increases those delays substantially, and their</b></p> <p>23 <b>report doesn't note that. It just generalizes, I suppose,</b></p> <p>24 <b>of, oh, everything is already over 99 seconds, and it will</b></p>

13

1 continue to be over 99 seconds where, in fact, the  
2 additional traffic increases that delay.  
3 Q. Let's start with Jeans Road and Route 83 for a  
4 second. You said that goes from E to F?  
5 A. Yes, correct.  
6 Q. Is that significant? And if so, why?  
7 A. It's significant in that it's telling you the  
8 delays that the traffic on that approach will have entering  
9 the Illinois 83 traffic stream. And it was only significant  
10 in our mind because while it's just an inconvenience for the  
11 motorists, there was a direct discrepancy between what the  
12 levels of service said and what the narrative was  
13 summarizing.  
14 Q. What is an F level of service?  
15 A. That means that your delays are long, that  
16 it's over -- in the case of an unsignalized intersection,  
17 your delay is over 50 seconds per vehicle, so the average  
18 vehicle delay is over 50 seconds. Signalized intersections  
19 actually have a different level of service criteria.  
20 Q. And 83 and Archer is a signalized  
21 intersection?  
22 A. Correct.  
23 Q. What does the delay level talk about -- first  
24 of all, what's the F level for?

14

1 A. For F level for a signalized intersection,  
2 it's a little bit different. It's 80 seconds and over per  
3 vehicle per average delay per vehicle is one level of  
4 service F.  
5 Q. Okay. And do you know what the current delay  
6 is at already at Archer and 83?  
7 A. Correct. That is a level of service F  
8 currently.  
9 Q. What's the delay level in seconds?  
10 A. In seconds it's 169-second delay currently,  
11 and with the addition of traffic it increases by 21 seconds  
12 to 190.  
13 Q. So I'm trying to get a grasp on relativity  
14 here. The current F stops at 80 seconds; is that correct?  
15 A. Yes, right. So there is no levels of service  
16 -- everything over 80 seconds is a level of service F. So  
17 169 is a level of service F.  
18 Q. So 169, just simple math, is more than double  
19 the F level, the minimum for an F level of service?  
20 A. That's correct.  
21 Q. And then we're going from 169 to 190?  
22 A. That's correct.  
23 Q. It doesn't sound like a lot to me for 21  
24 seconds when we're already at almost three minutes.

15

1 A. Yeah. Well, I suppose it would also be the  
2 equivalent of going from a C to an E, or a D to an F. So  
3 just because F is staying the same doesn't mean your felt  
4 delay is staying the same.  
5 Q. So, let's just say as an example, what would  
6 the difference in delay be from a C to an E approximately?  
7 A. A signalized intersection, which is different  
8 than an unsignalized, but C to E would be the difference of  
9 35 seconds to 55 seconds.  
10 Q. Okay. So it's not quite two levels of service  
11 between 169 and 190, but it's getting close?  
12 A. It's 21 seconds.  
13 Q. My math stinks. Did you do any traffic counts  
14 of your own at any asphalt plants in the area?  
15 A. Yes, we did.  
16 Q. Where and when?  
17 A. So we determined an asphalt plant that would  
18 be similar to the proposed facility in DuPage County,  
19 something that we could count fairly easily, and by that I  
20 mean only produce asphalt, didn't have some other use on  
21 site where we couldn't separate the traffic generated from  
22 one use versus the other. So, we counted the facility in  
23 Naperville, a K-5 asphalt plant on Aurora Road. We did  
24 those counts on August 2nd, Wednesday, August 2nd from 5:00

16

1 a.m. to 5:00 p.m.  
2 Q. Did you think this was an important step, or  
3 something that you should do?  
4 A. Yes. So it's -- as part of peer reviews, we  
5 often do a trip generation check. Does this feel right when  
6 compared to a use that already exists that's similar. In  
7 fact, we base a lot of our traffic engineering standards on  
8 doing that kind of thing.  
9 Q. So why did you choose this particular plant?  
10 You said it was in DuPage County. Was there any other  
11 reason you chose this point?  
12 A. So DuPage County, only was an asphalt plant,  
13 and it produces or had a dryer-run facility that's similar  
14 to the one proposed by Lorig of 500 tons per hour is the  
15 capacity of the dryer, and it's my understanding that's in  
16 the range of what Lorig has said.  
17 Q. What amount of traffic did the K-5 plant have  
18 on August 2nd, 2017?  
19 A. So that's a breakdown in the memorandum. We  
20 counted, like I said, 5:00 a.m. to 5:00 p.m. Throughout the  
21 day, there are about 600 trips that were generated. When  
22 you say trips, that's traffic coming in and out combined.  
23 Q. So 300 in, 300 out is what you're trying to  
24 say?

17

1           **A. Yes, and then we break that down by --**  
2 **actually we break it down by 15-minute intervals, and then**  
3 **the tally you'll see in the memorandum is by hour. So we**  
4 **have an hourly breakdown of that as well, which traffic**  
5 **engineers, the hourly breakdown is important because that's**  
6 **what traffic engineers use to analyze capacity.**  
7           Q. And do you have any idea of what percentage of  
8 those almost 600 trips were truck traffic?  
9           **A. 93 percent. We classify all the counts we do.**  
10          Q. So 93, is that --  
11          **A. 93 percent were trucks.**  
12          Q. Was there already significant -- was there  
13 already truck traffic before 7:00 a.m.?  
14          **A. Yeah.**  
15          Q. How much?  
16          **A. That were 73 trips, so half in, half out.**  
17          CHAIRMAN KETTER: You know, I'm sorry, but could you  
18 put the signs down? That's just distracting. It serves no  
19 purpose. And I know most of you out there are against it,  
20 and we're trying to get expert testimony here, and if you  
21 throw her off, it's just going to delay the night. So I  
22 would ask you not to do it, please.  
23  
24 BY MR. LUETKEHANS:

18

1           Q. In the ten-hour period between 6:00 a.m. and  
2 4:00 p.m., how many trips occurred on an average in an hour?  
3           **A. It was about 60, 60 average on an hour, so**  
4 **some being higher, and then some being lower. In fact, the**  
5 **morning is a little higher.**  
6           Q. Do you know how many tons of asphalt that  
7 plant produced on August 2nd?  
8           **A. Yeah. We did ask for that information in**  
9 **order to compare.**  
10          MR. MC CLUSKEY: Let me object to this. I don't  
11 think there's any relevance to an asphalt plant in  
12 Naperville versus one that is proposed here.  
13          CHAIRMAN KETTER: On relevancy, I think you're off on  
14 a basis for to render the facts, it seems more hearsay.  
15 She's been told that.  
16          MR. LUETKEHANS: I'll lay the foundation, but she is  
17 an expert, so she's allowed to rely on hearsay if it's that  
18 she normally relies upon.  
19 BY MR. LUETKEHANS:  
20          Q. Who did you speak to?  
21          **A. I spoke with Mr. Cahill at K-5.**  
22          Q. And is that the kind of information you  
23 normally rely upon when you receive from someone?  
24          MR. MC CLUSKEY: Objection to the form of that

19

1 question, rely on or receive from someone. I think for a  
2 traffic safety engineer, what does she reasonably rely upon  
3 is the proper question.  
4 BY MR. LUETKEHANS:  
5          Q. From traffic safety engineering, is this the  
6 type of information you reasonably rely upon?  
7          **A. For all traffic that we estimate is generated,**  
8 **you have to relate it to the use, and in order to relate it**  
9 **to the use, we need to know the production ability of the**  
10 **facility. For example, if I could relate it to a shopping**  
11 **center, a 30,000-square-foot shopping center generates a lot**  
12 **different traffic volumes than a 60,000-foot-shopping**  
13 **center.**  
14          CHAIRMAN KETTER: That's good, but I think there's a  
15 specific question of do you use these facts to formulate  
16 your expert opinion. I think even the public would realize  
17 a 32,000 shopping center as opposed to a 60,000, there's  
18 greater impact.  
19          MR. MC CLUSKEY: And I'm not going to belabor this  
20 point, but my objection is based upon this plant may be  
21 completely different in the capacity and production output  
22 than the plant that is being proposed.  
23          MR. LUETKEHANS: You know what, he's right. It may  
24 be. The problem is we don't know. We haven't heard a

20

1 number other than we've heard 300 to 400 tons. We've seen  
2 an exhibit that they put into evidence that says 600 tons.  
3 I don't know what the capacity is going to be.  
4          CHAIRMAN KETTER: I've heard the argument. I'll tell  
5 you what, I cut you off early and then I meant to go back  
6 last time when I saw the relevance. He can lay it out, you  
7 can just then go after it on cross, and we'll see where  
8 we're at.  
9          MR. MC CLUSKEY: I didn't want to argue with Mr.  
10 Luetkehans, I just want to make a record because I think I'm  
11 going to have to make a record.  
12 BY MR. LUETKEHANS:  
13          Q. So do you know how many tons of asphalt were  
14 produced at that plant on August 2nd?  
15          **A. Yes, we asked that. The K-5 produced 2700**  
16 **tons of material on that day.**  
17          Q. Do you know from your conversations with Mr.  
18 Cahill whether there was an abnormally high day for them?  
19          **A. Yes, I did ask that. So he has provided me**  
20 **with some information and data that showed how much this**  
21 **plant produced -- how many days this plant produced over**  
22 **2500 tons per day.**  
23          Q. Okay.  
24          **A. So what it's --**

21

1 Q. So how many times in the last -- since January  
2 1st of 2015 -- or did he give you the information from  
3 January 1st of 2015 to present?  
4 **A. Correct.**  
5 Q. And how many times from January 1, 2015 to the  
6 present did that plant exceed 2500 tons?  
7 **A. I have that information, and it is -- it was**  
8 **57 times since 2015, so that is 2016 and the portion of**  
9 **2017.**  
10 Q. Okay. So approximately 20 times a year?  
11 **A. Right.**  
12 CHAIRMAN KETTER: Where is that in your report?  
13 MR. LUETKEHANS: I'm about to put the chart into  
14 evidence.  
15 MR. MC CLUSKEY: Just note my continuing line of  
16 objection. I don't want to argue with Mr. Luetkehans, but I  
17 don't think it's relevant to ask what this plant produces,  
18 so I have an objection in the record that's preserved.  
19 CHAIRMAN KETTER: I'll note your objection. I think  
20 part of the basis is I, myself, at this stage don't really  
21 know what yours is going to produce.  
22 MR. MC CLUSKEY: Right.  
23 CHAIRMAN KETTER: So, subject to everybody tying it  
24 up.

22

1 MR. LUETKEHANS: And, for the record, I'm not going  
2 to argue with Mr. McCluskey, but the reason we're putting  
3 this in is to show this is clearly not abnormal, but that  
4 these types of days occur more than once a year. We don't  
5 want to hide the ball, we want to tell everybody exactly  
6 what was going on at this particular plant on this  
7 particular day and how often it may or may not happen.  
8 MR. LUETKEHANS: Showing you what's marked as  
9 Objector's Exhibit 26.  
10 (Whereupon, Objector's  
11 Exhibit 26 was identified for  
12 the record.)  
13 CHAIRMAN KETTER: To move this along and clarify,  
14 it's a conditional use that's proposed, so I guess if we  
15 were to put a condition of whatever amount of tons, a lot of  
16 this could be irrelevant. But, till we know, I'll allow  
17 both of you, unless you present a total, we know the only  
18 number we have at this point is knowing what the maximum  
19 capacity is.  
20 MR. MC CLUSKEY: Right.  
21 BY MR. LUETKEHANS:  
22 Q. So, showing you what is marked as Objector's  
23 Exhibit 26, is that the chart that you received from Mr.  
24 Cahill at K-5 on tonnage over 2500 tons per day?

23

1 **A. Yes.**  
2 Q. Did you ask Mr. Cahill whether they run any  
3 other plant in DuPage County that were about the same size?  
4 **A. Yes.**  
5 Q. What did he say?  
6 **A. He mentioned they have one in Elmhurst, but I**  
7 **hadn't asked about sort of the ease of counting traffic**  
8 **there, and it wasn't an applicable site because we couldn't**  
9 **separate the traffic that was being generated -- it could**  
10 **have generated a lot of traffic. We couldn't separate the**  
11 **traffic that was being generated by one use versus the**  
12 **other. I think they have a crusher on-site, as well as an**  
13 **asphalt plant, so there was no way to separate those two.**  
14 Q. And the crusher you're talking about wasn't a  
15 recycled asphalt crusher, it was a different kind of crusher  
16 as well on the Elmhurst one?  
17 **A. I do not know.**  
18 Q. But you were told that there were different  
19 uses on that site?  
20 **A. It wasn't just an asphalt plant, they had**  
21 **other operations on-site.**  
22 Q. Okay. Did you ask Mr. Cahill whether he had  
23 any information as to the amounts of days that that plant  
24 was over 2500 tons a day?

24

1 **A. Yes. So he gave me both the Naperville and --**  
2 **the information on the Naperville and Elmhurst.**  
3 **(Whereupon, Objector's**  
4 **Exhibit 27 was identified for**  
5 **the record.)**  
6 BY MR. LUETKEHANS:  
7 Q. Showing you what has been marked as Objector's  
8 Exhibit 27, is this the Elmhurst chart received?  
9 **A. Right.**  
10 Q. And this, again, shows the days of capacity or  
11 that tonnage that was produced, over 2500 tons from January,  
12 2015 to the current?  
13 **A. Correct.**  
14 Q. And how many days did that occur in Elmhurst  
15 during that time period?  
16 **A. I think it was about 100.**  
17 Q. So it's 56 in 2015, 37 in 2016, and 15 so far  
18 in 2017?  
19 **A. 108, yes.**  
20 Q. Fair enough. What would the number of trucks  
21 like the August 2nd total that you received at K-5, what  
22 would that -- how does that affect the intersection in the  
23 area of the proposed plant by Lorig?  
24 **A. So --**

25

1 Q. Did that question make any sense?  
2 **A. Could you repeat the question.**  
3 Q. I didn't do real well.  
4 If you put 600 truck trips on the Lorig  
5 plant, the proposed Lorig plant, how, if anything, would  
6 that affect the traffic in the area?  
7 **A. Right. So, I guess maybe you're asking about**  
8 **the comparison between the trips that the -- so, to the**  
9 **report, estimated traffic that would be generated by the**  
10 **Lorig facility, if you assumed that Lorig was producing the**  
11 **same amount of traffic as the K-5 facility, the numbers in**  
12 **the report would need to be doubled. So they estimated**  
13 **about -- I would say I think it was 350 in a day, and we had**  
14 **about 600, so breaking that down by peak hours is**  
15 **approximately double, a little less.**  
16 **Does that answer your question?**  
17 Q. Yeah. Let me ask a follow-up. My  
18 understanding in your report, and we'll talk about it in a  
19 minute, is that the large area -- one of the large sections  
20 you have a problem with on this site is southbound right  
21 from Illinois Route 83 to Jeans; correct?  
22 **A. Right, that was another concern we had was the**  
23 **truck maneuvering, and that specific movement is what we**  
24 **looked at.**

26

1 Q. Okay. Did KLOA in their report estimate the  
2 number of trucks -- or what percentage of trucks were making  
3 that turn?  
4 **A. Yes. They assigned volume to that.**  
5 Q. And what was the percentage of the volume?  
6 **A. About 70 percent of the trucks are coming --**  
7 **their estimation was 70 percent of the trucks were coming to**  
8 **and from the north on 83, so anything -- so 70 percent of**  
9 **the trucks that are coming into the site come from north on**  
10 **83, have to make a right-hand turn onto that west ramp down**  
11 **to Jeans Road.**  
12 Q. So if you assumed a day like K-5 had on August  
13 2nd for this plant, how many trucks would be making that  
14 turn based on the 70 percent KLOA?  
15 **A. So, it would be about 200 in the day,**  
16 **throughout the day.**  
17 Q. That have to make that turn southbound from  
18 Route 83 onto Jeans?  
19 **A. Correct.**  
20 Q. I think in your report you did an auto turn  
21 analysis of that intersection?  
22 **A. Yes. So the memorandum includes some exhibits**  
23 **in the appendix. We performed an auto turn on-site**  
24 **observations. We noticed concerns -- it's the turning**

27

1 **radius is quite minimal, so we looked at Auto Turns, which**  
2 **is a software that traffic engineers use to model a way that**  
3 **a truck maneuvers, and so memorandum includes exhibits on**  
4 **those models.**  
5 Q. Let's walk through these exhibits on your  
6 appendix; okay?  
7 **A. Okay.**  
8 Q. The first one is you did an auto turn diagram  
9 for a passenger vehicle?  
10 **A. Right.**  
11 Q. Did you see any problems with that auto turn  
12 analysis?  
13 **A. No.**  
14 Q. Okay. Before we get into too much, is using  
15 Auto Turns common practice in your industry?  
16 **A. Yes.**  
17 Q. Okay, and what's the purpose of auto turn, and  
18 how does it work?  
19 **A. The purpose of an auto turn is to make sure**  
20 **there is adequate room on the road to perform a maneuver, a**  
21 **turning maneuver, so it models the path that a -- vehicle,**  
22 **you choose the size of the vehicle that you are modeling, so**  
23 **you have these different very low vehicles, and it models**  
24 **the path that that vehicle takes to make the turn.**

28

1 Q. When you were at KLOA, was the auto turn  
2 analysis something that KLOA performed often?  
3 **A. Yes, it's common. All traffic engineers use**  
4 **auto turn.**  
5 Q. Okay. So let's go to the second page on the  
6 appendix. Let's -- second page is passenger trailer with a  
7 vehicle; correct?  
8 **A. Yes, right. We did do this vehicle because,**  
9 **as we observed, there were a lot of landscape-type of**  
10 **vehicles that are doing this movement currently, just small**  
11 **passenger vehicles with trailers. So this models that type**  
12 **of vehicle.**  
13 Q. So what does this model tell us?  
14 **A. So what you see is the blue is the path. This**  
15 **vehicle, it comes, it approaches the turn in the exclusive**  
16 **right-turn lane, it turns the corner, it encroaches about**  
17 **six feet into the approximate center line of the road on the**  
18 **ramp. That's approximately six feet over that approximate**  
19 **center line.**  
20 Q. Could an asphalt truck and that type of  
21 vehicle, could they both fit? At the part on Jeans Avenue  
22 where it goes out its furthest, could an asphalt truck fit  
23 through there?  
24 **A. Coming up the ramp you're asking?**



29

1 Q. Yeah.

2 A. Not at that particular moment in time, so

3 someone would either have to stop or reverse or wait, that

4 kind of thing.

5 Q. Let's go to the next one. That one is labeled

6 Southbound WB40. What is a WB40, and why did you use it?

7 A. **WB40 is similar to an asphalt truck, 45 feet**

8 **in length. It was the size of the truck that the Lorig**

9 **report mentioned that would be at the Lorig facility. Like**

10 **I said, about 45 feet long. We call it WB40, it's sort of a**

11 **standard name.**

12 Q. What does this analysis show you?

13 A. **So this analysis shows the truck approaches**

14 **the turn in the exclusive right-turn lane and has to swing**

15 **out a little bit, which we call encroachment swings, out to**

16 **the adjacent lane of traffic on 83 by just about two feet,**

17 **completes the turn, but it has to complete the turn almost**

18 **completely within the opposing lane of traffic, 13 feet over**

19 **the center line of that ramp.**

20 Q. Okay. So, it's encroaching two feet onto two

21 of the -- the two thru-lanes, one of the two thru-lanes?

22 A. **Two feet in the next adjacent thru-lane.**

23 Q. There's only two of them at this point;

24 correct?

30

1 A. **Yes. And then there's -- so we have sort of**

2 **labeled the red lines as an approximation of either that**

3 **edge of pavement, or in the case of the ramp on Jeans Road,**

4 **the guardrail.**

5 Q. Okay. Let's go to the next one. This says

6 outbound WB55 articulated truck.

7 A. **Yeah.**

8 Q. Let's stay back with the one we were, I

9 apologize. Let's go back to the one we were on, the WB40.

10 Do you have a traffic safety concern

11 about a WB40 size truck making the proposed southbound turn

12 on Jeans?

13 A. **Yes, it's not something that you would want to**

14 **design for. This is meaning that the WB40 truck is**

15 **encroaching completely into the opposing lane of traffic, so**

16 **anyone coming up the ramp either has to stop and wait for**

17 **the truck to complete, or the truck has to stop and wait for**

18 **the vehicle coming up the ramp to get past them and head-on**

19 **traffic for a point in time.**

20 Q. Is there any -- do you have any concern about

21 the site distances in this area?

22 A. **Right, so this is one thing that I mentioned**

23 **in the report. It's important to note that at that point**

24 **it's about a 3 and-a-half percent grade change, so the**

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1 trucks that are coming on 83, they're approaching the turn,

2 they are immediately going down the ramp, which as they're

3 completing their turn, they cannot see the cars coming up

4 the ramp. Vice versa, the cars coming up the ramp are not

5 necessarily able to see the cars making that turn onto 83.

6 Q. Do you know what an asphalt cement truck is?

7 A. **Yes.**

8 Q. And do you know whether that asphalt cement is

9 utilized in the production of asphalt?

10 A. **Yes.**

11 Q. And how long is an asphalt cement truck?

12 A. **It is about 58 to 60-ish feet, 61 feet.**

13 Q. So you did an auto turn analysis on an asphalt

14 cement truck?

15 A. **We modeled a WB55, what that would look like,**

16 **which is about a 60-foot vehicle. We modeled an auto turn**

17 **exhibit for that.**

18 Q. And that's the last -- that's figure 4 in your

19 appendix?

20 A. **Yes.**

21 Q. And what were the results of the auto turn

22 analysis?

23 A. **So, what you see is a sort of shaped area, the**

24 **path in blue is an encroachment of that vehicle into the**

32

1 adjacent two lanes of traffic on 83. So they have to swing

2 way out into adjacent traffic into the second lane on 83 in

3 order to complete the turn, which also includes going into

4 the opposing lane of traffic on the actual ramp.

5 Q. So let's just start with the first, the Route

6 83. So there's two lanes and a decel lane or a turn lane?

7 A. **Two thru-lanes and right-turn lane.**

8 Q. This truck has to go into both thru-lanes?

9 A. **Yes.**

10 Q. To make that turn?

11 A. **Correct.**

12 Q. Then explain what happens after that a little

13 bit closer.

14 A. **As they're making the turn, similar to the**

15 **WB40, it's swinging out onto 83. And then also completing**

16 **the turn, it opposes on the lane of traffic on the ramp.**

17 Q. What happens if a truck is already at the

18 intersection when an asphalt truck comes to try to make that

19 outbound turn onto Jeans?

20 A. **They either have to complete their turn before**

21 **the truck starts their turn, they have to back up, the**

22 **vehicle making -- the cement truck making that right-hand**

23 **turn has to stop and wait for the vehicle to proceed out**

24 **onto 83. They can't both be there at once, obviously, and**

33

1 **the WB55 needs the entire space on the ramp to make the**  
2 **turn.**  
3 Q. While either the outcoming vehicle is either  
4 makes its maneuver out or reverses, that other truck has to  
5 sit there?  
6 **A. Yes.**  
7 Q. The asphalt cement truck.  
8 **A. Correct.**  
9 Q. Do you have any issues of turning radius for  
10 the trucks we've discussed? Would you ever design a roadway  
11 system with these types of issues?  
12 **A. No.**  
13 Q. Would it be a safety concern?  
14 **A. Yes, I believe it would be.**  
15 Q. Does the intersection of these types of  
16 trucks, in your opinion, affect the safety of the roads in  
17 the area?  
18 **A. Could you repeat the question?**  
19 Q. Yeah, I'm sorry. Does the intersection in  
20 these types of trucks, in your opinion, affect the safety of  
21 the roads in the area?  
22 **A. Well, the issue -- there are trucks there that**  
23 **are doing this now, but you're adding quite a few more**  
24 **trucks to an already bad situation, I suppose.**

34

1 Q. And, to your knowledge, are any asphalt cement  
2 trucks going down this road as it currently exists?  
3 **A. No, not to my knowledge.**  
4 Q. Okay. If you were to modify the intersection  
5 somehow to make it safe, would land need to be purchased to  
6 do that?  
7 **A. Well, okay, so I do know that -- at least it's**  
8 **my understanding based on information that I have from IDOT**  
9 **on jurisdictions of the road and adjacent land uses that the**  
10 **area directly to the west of that west Jeans Road ramp, so**  
11 **in order to make the intersection safe, you would want to**  
12 **increase the turning radius, which means widening to the**  
13 **west, and that land is forest preserve.**  
14 Q. So that land is owned by the Forest Preserve  
15 of DuPage County?  
16 **A. Right.**  
17 MR. LUETKEHANS: One second.  
18 Nothing further of Miss Conolly at this  
19 time.  
20 CHAIRMAN KETTER: And you're reserving cross?  
21 MR. MC CLUSKEY: I'll reserve for cross-examination.  
22 CHAIRMAN KETTER: Okay.  
23 MR. LUETKEHANS: We'll call Joe Abel to the stand.  
24 THE COURT REPORTER: Would you raise your right hand,

35

1 please.  
2 (Whereupon, the oath was duly  
3 administered by the Notary.)  
4  
5 JOSEPH ABEL,  
6 Called as a witness by the Objectors herein, having been  
7 first duly sworn, was examined and testified as follows:  
8  
9 EXAMINATION  
10 By: Mr. Luetkehans  
11 Q. Can you please state your name and spell your  
12 last name for the record.  
13 **A. Joseph H. Abel, A-b-e-l.**  
14 Q. How are you currently employed?  
15 **A. I own my own land use planning firm.**  
16 Q. And do you currently hold any licenses?  
17 **A. I'm a member of the American Institute of**  
18 **Certified Planners, have been for probably 30 years.**  
19 Q. While I know you've testified in front of this  
20 Board on a number of occasions, let's try and keep it a  
21 little slimmer then so they don't have to -- they're  
22 generally familiar with you and your background, but can you  
23 briefly tell us about your employment background for the  
24 record?

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1 **A. Briefly, I started with the DuPage -- Lake**  
2 **County Regional Planning Commission right out of school and**  
3 **worked on their first ever comprehensive plan, their first**  
4 **county comprehensive plan, and then went to a firm Carl**  
5 **Gardner & Associates of Chicago, one of the leading land use**  
6 **and zoning firms. I actually was on the design team for the**  
7 **development of the plan for Paul Walker for the Village of**  
8 **Oak Brook. I also specialized in developing comprehensive**  
9 **plans and zoning ordinances for the municipalities and**  
10 **counties. Based on my experience, I was hired by DuPage**  
11 **County to head their first planning program. I started as**  
12 **the Executive Director of DuPage County Regional Planning**  
13 **Commission, and for 17 years I was in charge of planning,**  
14 **building, zoning, economic development, community**  
15 **development, block grant, and as I said, economic**  
16 **development, so basically County Development Department was**  
17 **under my supervision and control.**  
18 **I was then recruited by the City of**  
19 **Chicago to head the first Economic Development Commission**  
20 **for the City of Chicago. I did that for five years, and**  
21 **then I started my own firm. I've been working for the last**  
22 **20 years for various developers, number of corporations,**  
23 **both on the New York Stock Exchange and just every size**  
24 **company you could think of from very small companies to**

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1 **large companies. That's been for the last 20-some years.**  
2 **That's it.**  
3 Q. Are you familiar with -- that was brief.  
4 Are you familiar with the site that is  
5 the subject matter of this application?  
6 A. **Yes.**  
7 Q. Okay. Are you familiar with the area  
8 surrounding the subject property?  
9 A. **Totally.**  
10 Q. How are you familiar with that?  
11 A. **Well, to start with, in preparing the**  
12 **comprehensive plan for DuPage County, the first thing you**  
13 **had to do was a comprehensive land use analysis of the**  
14 **entire county. The County never had a comprehensive plan**  
15 **before, so we were doing the first one. Then after that,**  
16 **revised the entire Zoning Ordinance and Zoning District Map.**  
17 **But, anyway, been down in that area. We also were**  
18 **responsible for preparing an Open Space Plan, which was used**  
19 **by the back lot of the plan for the Forest Preserve**  
20 **District, so we did a lot of observation and work down in**  
21 **that area with the Forest Preserve District, and then also**  
22 **was involved in a couple of zoning cases, and especially**  
23 **worked on the plan for the Emerald Ridge development that's**  
24 **approximately 600 feet to the north of this property.**

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1 Q. You said you worked on the Emerald Ridge plan.  
2 Could you explain that?  
3 A. **Yeah. I was hired by Tureskis (phonetic)**  
4 **Realty to get the property rezoned and work on the site plan**  
5 **for Emerald Ridge. It's approximately 21 -- almost the same**  
6 **size as the asphalt plant property. It's about 21, 22**  
7 **acres, and it includes 100 townhouses. And then directly**  
8 **north of Emerald Ridge there is also some additional**  
9 **townhouses and multiple-family developed, and I'm familiar**  
10 **with that development in terms of just doing some research**  
11 **down in the area.**  
12 I was the planner -- I built the first  
13 comprehensive plan for the Village of Burr Ridge, which  
14 assumes part of this area, and I've done a number of  
15 projects in Lemont. They also have -- they have some  
16 responsibility for this area. So, between those communities  
17 and County Forest Preserve and the actual specific Emerald  
18 Ridge development, I've been involved in this area for over  
19 20 years.  
20 Q. Can you tell us do you know approximately when  
21 the Emerald Ridge Townhome development was approved?  
22 A. **Let's see, about 20 years ago.**  
23 Q. And who approved it?  
24 A. **DuPage County.**

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1 Q. So did that have to go through a zoning  
2 hearing, et cetera?  
3 A. **Yes, we went through a very detailed zoning**  
4 **hearing. It includes the plan, all the engineering and**  
5 **landscaping plans, usually what the County requires when**  
6 **they have either a planned development or a conditional use.**  
7 Q. Showing you what has been marked as Objector's  
8 Exhibit 28.  
9 (Whereupon, Objector's  
10 Exhibit 28 was identified for  
11 the record.)  
12 BY MR. LUETKEHANS:  
13 Q. Could you tell us what that is?  
14 A. **This is the area that I was describing. It**  
15 **shows Bluff Road, which is the first roadway directly to the**  
16 **north of the property being discussed this evening. Then it**  
17 **shows the Emerald Ridge development. There's a**  
18 **single-family home still directly to the west of the Emerald**  
19 **Ridge, and then there's two new multiple-family developments**  
20 **to the north, and there's also an auto service station right**  
21 **-- I guess you could call it in the triangle between 83,**  
22 **Bluff Road, and the Emerald Ridge property.**  
23 Q. I see on here that we have two numbers, 625, I  
24 assume that's feet, and 975 feet?

40

1 A. **The distances are from the rear yard, the**  
2 **balcony and the patio of the closest residential townhouse**  
3 **that's 625 feet to where the majority of the traffic coming**  
4 **into the subject property would be, and then it's**  
5 **approximately 975 feet to where the actual asphalt facility**  
6 **itself would be.**  
7 Q. How is the subject property designated on the  
8 DuPage County Comprehensive Plan, the subject property?  
9 A. **Open space.**  
10 Q. Okay.  
11 MR. MC CLUSKEY: At this time point I'm going to  
12 object. This is irrelevant. This is zoned I-2. That's  
13 what the zoning is. It's not -- because the comprehensive  
14 plan said open space, it's irrelevant as to whether the plan  
15 said open space. It's zoned I-2 and we're asking for a  
16 conditional use.  
17 MR. LUETKEHANS: Can I respond, Mr. Chairman?  
18 CHAIRMAN KETTER: Why don't you go forward, subject  
19 to tying it up.  
20 MR. LUETKEHANS: The reality of it is under the  
21 LaSalle factors, one of the issues is what's the area under  
22 the comprehensive plan. So that's one of the LaSalle  
23 factors.  
24 CHAIRMAN KETTER: I'm having a hard time hearing him.

<p style="text-align: right;">41</p> <p>1 Did you ask him -- just go ahead. 2 MR. LUETKEHANS: All I asked him at this point, Mr. 3 Chairman, is what is it designated under the comprehensive 4 plan. 5 THE WITNESS: The official comprehensive plan for 6 DuPage County, of which we have a copy, designates the area 7 of the subject property open space. Open space under the 8 comprehensive plan is a legitimate land use, a use that 9 should be protected, a use that should be considered in any 10 zoning case. And I've been involved in court cases, 11 especially LaSalle factors for numerous years, and as a 12 planner, I do feel that the comprehensive plan is very 13 important to how a piece of property has been designated, 14 even though it may be zoned differently. 15 MR. MC CLUSKEY: That's the basis of my objection. 16 He made it real clear, it's already been zoned. 17 MR. LUETKEHANS: We're going to get to that, Mr. 18 McCluskey, I promise you. 19 MR. MC CLUSKEY: Whatever the plan is, it's been 20 taken care of by the zoning, that it's been I-2 zoning, so I 21 object to anything about what the comprehensive plan was in 22 1990 as to what it's subsequently been zoned today. I don't 23 think it's relevant. And if I could have a continuing line 24 of objection, I won't interfere any further.</p>	<p style="text-align: right;">43</p> <p>1 assumed that sometime in the future the area would require 2 the end use of open space, and so the one factor is that, 3 yes, it's presently zoned, but the other is that there is a 4 plan for this entire quadrant. And you can see by looking 5 at the plan that everything in the area, including the 6 subject property, is zoned as open space. The area to the 7 north is used for Emerald Ridge, and then as you continue 8 north, additional residential all on the east side. And as 9 you progress even north, it becomes even more residential. 10 So what the comprehensive plan is stating 11 is that there is a trend of development, there is also a 12 desire from a standpoint of planning that everything on the 13 east -- west side of Illinois Route 53 [sic] should be 14 either open space or residential. Where there is existing 15 I-2 zoning, what it's really telling us is that because that 16 area is primarily open space and residential, any use that 17 goes on that I-2 property has to be given special 18 consideration. 19 Now there are permitted uses that can go 20 in, but the permitted uses are controlled by the setbacks, 21 floor area ratio, and performance standards. But what it's 22 alerting you to is that this is not an appropriate place for 23 a conditional use because if you look at the definition of a 24 conditional use, it's a use that doesn't normally fit within</p>
<p style="text-align: right;">42</p> <p>1 (Whereupon, Objector's 2 Exhibit 29 was identified for 3 the record.) 4 BY MR. LUETKEHANS: 5 Q. Mr. Abel, let me ask you a question. 6 Objector's Exhibit 29 is the land use, comprehensive land 7 use plan. 8 A. Official land use plan. 9 Q. And it's one that's still in effect today; 10 correct? 11 A. That is correct. 12 CHAIRMAN KETTER: That's why I think it's relevant 13 now because we've got the current plan. And he is right, 14 you've got to get into the LaSalle standards. 15 BY MR. LUETKEHANS: 16 Q. Okay, but the property, as Mr. McCluskey keeps 17 pointing out correctly, is actually zoned I-2; correct? 18 A. Yes. 19 Q. How do you -- how do these two designations 20 interrelate? 21 A. The I-2 zoning that is there was there even 22 before the comprehensive plan was developed, and it was a 23 legal non-conforming use on the property. And when we 24 developed the plan, especially the Open Space Plan, it was</p>	<p style="text-align: right;">44</p> <p>1 the I-2 district. It can under certain conditions, but the 2 comprehensive plan is really what it's doing is alerting you 3 to the fact that most permitted I-2 uses can still go on 4 this property and can be -- let's say reasonably compatible 5 with the adjoining open space and the residential. 6 But when you go to the special uses that 7 have unique special characteristics and problems, the plan 8 is alerting you that you've got to be very, very careful 9 before you allow a special use of this magnitude in this 10 area. 11 Q. When you were the Community Development 12 Director, what years were you Community Development 13 Director? 14 A. '70 to '87. That was the period the County 15 had its fastest growth period, fastest growing in the state, 16 and third fastest in the country. 17 Q. Okay. At that time, how was this particular 18 property utilized, do you know? 19 A. It was used as storing automobiles getting 20 ready for crushing. 21 Q. Were you ever made aware of any complaints 22 about the prior use of the subject property? 23 A. Occasionally we would get some complaints, 24 primarily from the adjoining communities, but basically they</p>

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1 held the vehicles there, and then they brought in a portable  
2 crusher. I can't remember the frequency, but it wasn't an  
3 every day occurrence. So, in fact, it was more of a very  
4 low profile storage, and therefore didn't have a real  
5 negative impact on the adjoining, at that time, forest  
6 preserve. There wasn't any residential out there till after  
7 I left.

8 Q. Was the prior use legal or illegal?  
9 A. It was -- we considered it a legal non-  
10 conforming use.

11 Q. So just so we're clear, in essence it was  
12 legal, it just pre-existed the prohibition of that use in  
13 that district; is that correct?  
14 A. They had to come in for a conditional use  
15 probably, at that time we still called them special uses,  
16 but they had elected not to do that, so it just stayed as a  
17 legal non-conforming use. And, as I said, a very low  
18 profile. I don't remember really getting any kind of  
19 complaints about it.

20 Q. Okay. Mr. Lorig in his testimony talked about  
21 two existing plants and provided drawings for those, the K-5  
22 Elmhurst plant and the K-5 Naperville plant. Are you  
23 familiar with those two plants?  
24 A. Yes.

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1 Q. Did the County ever pass an ordinance  
2 approving the K-5 Elmhurst plant?  
3 A. No, not to the best of my --  
4 Q. Did the County try and shut down that asphalt  
5 plant?  
6 MR. MC CLUSKEY: Objection, relevance, whether they  
7 tried to shut it down or not.  
8 CHAIRMAN KETTER: Sustained.  
9 MR. LUETKEHANS: Well, I mean the relevance is we've  
10 heard it's so close to all these homes, and the County  
11 obviously, in and of itself, made a decision it was an  
12 improper use on that site.  
13 CHAIRMAN KETTER: I don't know if we even got to that  
14 yet.  
15 MR. LUETKEHANS: Huh?  
16 CHAIRMAN KETTER: You may be heading towards that.  
17 MR. LUETKEHANS: But I'm telling you where I'm headed  
18 so you understand.  
19 MR. MC CLUSKEY: I still don't see the relevance on  
20 one side.  
21 MR. LUETKEHANS: It's also the site he raised. I  
22 didn't raise that site.  
23 CHAIRMAN KETTER: I'll give you a little latitude  
24 subject to you asking to strike it. Go ahead.

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1 THE WITNESS: Would you repeat the question, please.  
2 BY MR. LUETKEHANS:  
3 Q. Did the County, to your knowledge, ever try  
4 and shut down that asphalt plant on Route 83 and Elmhurst?  
5 A. Yes. I read the entire transcript on that.  
6 My assistant director, who became director at the time,  
7 brought an action to close the facility. And it's probably  
8 -- I left in '87, so it's about 1992.  
9 (Whereupon, Objector's  
10 Exhibit 23 was identified for  
11 the record.)  
12 BY MR. LUETKEHANS:  
13 Q. Showing you what's been marked as Objector's  
14 Exhibit 23. Can you tell us what the heading of that is?  
15 A. County of DuPage vs. K-5 Construction  
16 Corporation.  
17 Q. Is that the case where the County tried to  
18 shut down that particular plant?  
19 A. Yes.  
20 MR. MC CLUSKEY: Again, my objection is the plant  
21 exists, it didn't happen. There was a doctrine of laches  
22 that were applied against the County on that basis, but I  
23 don't know how it's relevant in this situation.  
24 CHAIRMAN KETTER: I think he's going to show that had

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1 they been able to, they would have shut it down because it's  
2 a nuisance to the surrounding houses, I think. Is that  
3 where you're going?  
4 MR. LUETKEHANS: Yeah.  
5 THE WITNESS: That's where I would have gone.  
6 MR. MC CLUSKEY: We're not there.  
7 BY MR. LUETKEHANS:  
8 Q. Was this Elmhurst site originally used for  
9 this type of heavy use with the residences nearby?  
10 A. No.  
11 Q. Okay. You said you're familiar with K-5  
12 Naperville plant. Is that currently in the County of DuPage  
13 zoning jurisdiction?  
14 A. No, it's in Naperville.  
15 Q. When that plant was built, were there  
16 residential properties close to it?  
17 A. No.  
18 Q. Are you aware of any asphalt plants the County  
19 of DuPage has approved this close to residential uses?  
20 A. No. The most recent one in the County was in  
21 West Chicago. I did work on that, and I did work on that  
22 because it was a total industrial area, not close to any  
23 residential development.  
24 Q. Okay. Have you looked at the Lorig Crystal

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1 Lake plant location?  
2 **A. Yes.**  
3 **(Whereupon, Objector's**  
4 **Exhibit 24 was identified for**  
5 **the record.)**  
6 MR. LUETKEHANS:  
7 Q. We've heard from Mr. Lorig that he has been a  
8 good neighbor up there. Do you know how far that plant is  
9 from the nearest residential use?  
10 **A. If you give me back my exhibit, I'll tell you.**  
11 Q. Showing you what has been marked as Objector's  
12 Exhibit 24, is that an aerial of the Lorig Crystal Lake  
13 plant?  
14 **A. Yes, it is. I'm sorry, I was running late**  
15 **this evening and I forgot to stop and pick them up. I had**  
16 **one for everybody. We'll have it for the record. The**  
17 **closest residential development from the facility directly**  
18 **to the south is 3,490 feet, and the closest residential**  
19 **development to the southwest is 2,685 feet, so we're talking**  
20 **about a quarter of a mile, almost half-mile distances.**  
21 Q. As compared to the 960 or 900 some feet and  
22 625 feet?  
23 **A. Right. As I say, 2,685 and 3,490.**  
24 Q. And is there any -- what type of uses are

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1 between the Lorig Crystal Lake plant and these residences?  
2 **A. What I would consider appropriate uses around**  
3 **this kind of facility, and it's totally industrial and some**  
4 **commercial and then some gravel pits.**  
5 Q. Isn't it kind of in the middle of the sand  
6 pit?  
7 **A. Yes, gravel pits to the north and east, and**  
8 **industrial to the south.**  
9 Q. You remember Mr. Lorig's testimony from the  
10 last hearing; correct?  
11 **A. Yes.**  
12 Q. In your opinion, has the Lemont site been  
13 operating in a legal manner in the past several years?  
14 **A. No.**  
15 Q. Why not?  
16 **A. Types of -- looking at aerial photography, did**  
17 **some time lapse looking at different years, and it seems to**  
18 **be that there's been some crushing going on on the site, and**  
19 **then the outdoor storage of materials and products which are**  
20 **open storage and crushing are conditional uses, and no**  
21 **conditional use has been requested.**  
22 Q. Okay.  
23  
24 (Whereupon, Objector's

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1 Exhibit 22 was identified for  
2 the record.)  
3 BY MR. LUETKEHANS:  
4 Q. Showing you what has been marked as Objector's  
5 Exhibit 22, is this the I-2 list of conditional uses?  
6 **A. Yes.**  
7 Q. And, to your knowledge, has this site ever  
8 obtained a conditional use?  
9 **A. All of my time it was not, and then I checked**  
10 **with the zoning department and there has been no conditional**  
11 **use requested for the property.**  
12 Q. Okay. Let's look at Objector's Exhibit 22 for  
13 a second. I apologize, I didn't highlight this, but if you  
14 go down the third from the bottom, it says, "Mining,  
15 loading, hauling of sand, gravel, top soil or other  
16 aggregate, including equipments, buildings or structures for  
17 screening, crushing, washing and storage need not be  
18 enclosed."  
19 **A. That's the one that I was referring to without**  
20 **going through all the verbiage.**  
21 Q. So --  
22 **A. And the other one is the --**  
23 Q. Is it open storage, too, below it?  
24 **A. Right below it, open storage. "Any open**

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1 **storage of manufacturing goods or equipment or materials,**  
2 **including storage of commercial vehicles and equipment,**  
3 **cannot be enclosed."**  
4 Q. You've seen the proposed site plan that was  
5 filed with this application; correct?  
6 **A. Yes.**  
7 Q. Does that site plan comply with the  
8 requirements of the special use application under the County  
9 ordinance and application process?  
10 **A. You mean for conditional use?**  
11 Q. Yeah, sorry.  
12 **A. Based on my 50 years of experience in doing a**  
13 **number of these, I find the plan that's been presented, in**  
14 **my professional opinion, lacking in information. I don't**  
15 **know how the Zoning Board of Appeals can make a findings of**  
16 **fact based on the fact that as I went through the**  
17 **transcript, they don't know what kind of a plant they're**  
18 **putting in, they don't know the height of the facility, it's**  
19 **hard to know if it meets performance standards because there**  
20 **hasn't been a plant selected. I don't see outside storage,**  
21 **and that requires screening. I have not seen a detailed**  
22 **landscape plan. Like I say, in the 50 years I've been doing**  
23 **this, I have never presented a conditional use request with**  
24 **this lack of detail in terms of having a recommending body**

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1 and body that has to eventually adopt the ordinance.  
2 There's not enough there to review in my professional  
3 opinion.  
4 Q. Okay.  
5 (Whereupon, Objector's  
6 Exhibit 21 was identified for  
7 the record.)  
8 BY MR. LUETKEHANS:  
9 Q. You have in front of you Objector's Exhibit  
10 21. Do you recognize Objector's Exhibit 21?  
11 A. Yes.  
12 Q. Okay. Bringing your attention to page 2 under  
13 B of document submittal requirements, do you see under B-1,  
14 "Location of all proposed structures and buildings; i.e.  
15 parking, driveways, signage and lighting."  
16 A. Yes.  
17 Q. Is there any lighting shown on this plan?  
18 A. No, I can't tell from, again, this was one of  
19 the objections from the fire protection district. They were  
20 concerned about, first of all, how to get into it, but once  
21 they got in, they weren't sure about the type of roads, so I  
22 see no information on the types of roads, nothing on  
23 lighting. And so, again, it goes into that whole realm of  
24 things that are missing. And lighting is very critical in

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1 this area because, again, all the residential area and also  
2 the lighting, the effect that can have even on the forest  
3 preserve that is to the east and to the west. We haven't  
4 even gone into as a critical, legitimate land use the open  
5 space owned by the Forest Preserve District needs the same  
6 amount of protection, maybe even more, than the residential  
7 area to the north.  
8 Q. Let's talk about that. Do the concerns that  
9 the DuPage County Forest Preserve District and Tri-State  
10 Fire Protection District enter into your opinion as to  
11 whether this is a proper special use?  
12 A. Yes.  
13 Q. Or conditional use, I'm sorry. How? How do  
14 they enter into your opinion?  
15 A. Again, because this is a conditional use, and  
16 we don't go back and read exactly what we're talking about  
17 here, is that the granting -- this is right out of the  
18 Zoning Ordinance, "The granting of any conditional use is in  
19 harmony with the general use and intent of the Zoning  
20 Ordinance will not be injurious to the neighborhood,  
21 detrimental to the public health and welfare, or in conflict  
22 with the County's comprehensive plan for development." And  
23 then it goes through a whole series of things that should  
24 not be -- that have to be considered. And there is a number

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1 of them, one of them is the Fire Protection District, which  
2 brought up the idea that they have no water supply getting  
3 equipment in and out; the traffic consultant has brought in  
4 their unduly increased traffic congestion on the public  
5 streets; and not only that, because this is a specific  
6 location and this is a conditional use, you should be able  
7 to get the traffic in and out of this safely. And so, as  
8 you go through all of the testimony, it all comes back to  
9 the fact that this is not an appropriate location for a  
10 conditional use. It may be an appropriate location for some  
11 of the other -- for any of the permitted uses in the I-2,  
12 but not something of this magnitude and this heavy. And so,  
13 all these things have to be taken into consideration when  
14 you're making that decision. You can go through all of the  
15 seven factors and you can see that, even the last one, how  
16 you create a nuisance, I think the traffic consultant  
17 recognizes the fact that this is going to be quite a  
18 nuisance for everybody, people coming in and out and  
19 actually working in the facility, but also all of the  
20 development to the east and traffic going in a north  
21 direction on 83. So, as you go through the conditions that  
22 have to be met, the hazards of fire, increase of traffic,  
23 the other things impressed me when I looked at the Fire  
24 Protection District that said that they considered this

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1 material hazardous, and so they were concerned about runoff  
2 of hazardous material, they can't get in there to control  
3 it. If there's a fire either in or on the property, they  
4 were concerned about getting their equipment into it.  
5 So, from every aspect, this is an  
6 inappropriate use for this particular I-2 location. When I  
7 say this specific use, the conditional use that's being  
8 requested, not one of the permitted uses.  
9 Q. I think it's kind of assumed in your last  
10 answer, but in your opinion is the special use consistent  
11 with the nearby uses?  
12 A. No, especially, as I said, I feel the Forest  
13 Preserve District property with all the environmental  
14 implications that are involved with that particular  
15 property. I'm very familiar with it having worked with the  
16 Forest Preserve for, well, 17 years. It's a critical piece  
17 of property. And then again, what's happening is you can  
18 see that the residential development's taking place to the  
19 north, as it's shown on the comprehensive plan, going to the  
20 north all the way -- well, at least a mile or two to the  
21 north. So, the west side of 83 is entirely different from  
22 the east side of Route 83.  
23 Q. Objector's Exhibit 29 was the comprehensive  
24 plan map; correct?

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<p style="text-align: right;">57</p> <p>1           <b>A. Yes.</b> 2           <b>Q.</b> With that goes the unincorporated DuPage 3 County land use plan; correct? They're interrelated? 4           <b>A. That is it.</b> 5           <b>Q.</b> But there's also a document? 6           <b>A. Yes. It's the exhibit that goes with that</b> 7 <b>plan.</b> 8           <b>Q.</b> Just for the record, the actual plan itself, 9 is that Objector's Exhibit 31? 10          <b>A. Yes.</b> 11                               <b>(Whereupon, Objector's</b> 12                               <b>Exhibit 31 was identified for</b> 13                               <b>the record.)</b> 14          MR. LUETKEHANS: Nothing further of Mr. Abel at this 15 time. 16          MR. MC CLUSKEY: Okay, thank you. I'll reserve for 17 cross-examination. 18          CHAIRMAN KETTER: Okay. 19          MR. LUETKEHANS: And that's who we have for tonight. 20 We have three people we'll be bringing the 27th, three 21 further experts. We do have one of the residents in the 22 area has signed petitions he would like to submit tonight. 23 So I would like to mark that as Objector's 32 just to submit 24 it to the record. Nothing further with that.</p>	<p style="text-align: right;">59</p> <p>1 objection, we don't have any problem with it. If there's an 2 objection, then we're going to go through each one of these. 3 So what I suggest is why don't we give all these to staff, 4 let counsel review them, and if he's not going to object, we 5 don't even have to address any objection, they just go right 6 in. If they're not in the right form, there could be a 7 problem with them. 8          MR. LUETKEHANS: Mr. Chairman, I am willing to, so 9 Paul doesn't have to have his staff do it, if they give it 10 to me, I'll send a copy to Mr. McCluskey and Paul via email 11 so everybody's got it, and we can deal with it at the next 12 hearing. I'm trying to make it easier. 13          CHAIRMAN KETTER: Everybody that up brought up a 14 petition tonight, is it true that you circulated, you were 15 the person that saw the signatures? 16                               (Indicating.) 17          CHAIRMAN KETTER: Is there anybody that's bringing 18 somebody else's? 19          UNIDENTIFIED SPEAKER: I brought a bunch of them. I 20 brought 92 of them. 21          CHAIRMAN KETTER: Sir, please. Can I get through 22 mine, and then eventually you'll have your say. You brought 23 92. Did you do all 92? 24          UNIDENTIFIED SPEAKER: Did I sign them all?</p>
<p style="text-align: right;">58</p> <p>1                               (Whereupon, Objector's 2                               Exhibit 32 was identified for 3                               the record.) 4          MR. LUETKEHANS: I'm having him bring it to me right 5 now. 6          CHAIRMAN KETTER: Are these the ones you represent? 7          MR. LUETKEHANS: No. 8          CHAIRMAN KETTER: They've been open and able to 9 submit them at any time. 10          MR. LUETKEHANS: Understood. Some of the people in 11 the area have obtained signatures and objections. 12          UNIDENTIFIED SPEAKER: These are the originals, those 13 are three copies. 14          MR. LUETKEHANS: He gets the original. 15          UNIDENTIFIED SPEAKER: It look me a long time to get 16 those. Take care of them. They all say the same thing, 17 they just have different signatures. 18          CHAIRMAN KETTER: You know, let's not just open this 19 up for everybody. Let me just do one thing. Here's going 20 to be the problem: Are you going to object to any of these? 21          MR. MC CLUSKEY: No. 22          CHAIRMAN KETTER: There's a procedure to make it 23 valid. We need to know who circulated it, how they did it. 24 I don't even know if the language is right. If there's no</p>	<p style="text-align: right;">60</p> <p>1                               COMMISSIONER LAZ: Did you circulate them? 2          UNIDENTIFIED SPEAKER: Oh, yeah, in my car. I drove 3 in my neighborhood. 4          CHAIRMAN KETTER: I mean, you went up to the peoples' 5 house, too, you didn't just circulate for different colors 6 of ink or something. 7          UNIDENTIFIED SPEAKER: There's a lot of people here 8 that walked the streets, if I can ask them to stand up, 9 everybody that walked the streets, then you will know. 10          CHAIRMAN KETTER: But I don't know which are there. 11 I'm just going to let you come in and let you review them, 12 then we'll address it if there's a problem because this 13 could go on for a while. 14          MR. LUETKEHANS: We'll deal with it. 15          CHAIRMAN KETTER: If anybody has them tonight, put 16 them there, we'll accept them. If you get them as we go 17 along, you can turn them in to the County, we'll go from 18 there. Pending an objection, we may have to get into a 19 foundation that these were done or their surrounding basis, 20 who did it, if the signatures are there, if the wording is 21 right. If it's just the wording that says "do you object", 22 you don't even know what they're objecting to, it wouldn't 23 be valid. Let's take them all in and we'll move on. 24          MR. LUETKEHANS: Mr. Chairman, some of the public has</p>



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<p style="text-align: right;">61</p> <p>1 told me it's their only copy of originals. I'll ask them to 2 make additional copies before they come in, and we'll get 3 those taken care of. 4 CHAIRMAN KETTER: It's open. We left it open from 5 now till two weeks before we have our recommendation 6 meeting, whenever that should come about when we're finished 7 you can submit stuff. 8 UNIDENTIFIED SPEAKER: I think these are required to 9 be original signatures, not copies. That was my concern if 10 we turn over our originals. 11 COMMISSIONER LAZ: Then they become part of the 12 record. 13 UNIDENTIFIED SPEAKER: And we never see them again? 14 We trust they're all in there? 15 UNIDENTIFIED SPEAKER: I gave you my originals. 16 CHAIRMAN KETTER: If you turn in the originals, I 17 think it behooves anybody to keep a copy, so that -- it 18 happens in life, things get lost. If the original is lost 19 and you have a copy, we'll then deal with that issue. 20 UNIDENTIFIED SPEAKER: Okay, thank you. 21 UNIDENTIFIED SPEAKER: I'm sure you won't lose them. 22 I had three copies plus the originals. Thank you. 23 CHAIRMAN KETTER: We've dealt with -- is there 24 anything else that anybody wants to submit tonight?</p>	<p style="text-align: right;">63</p> <p>1 to be sworn in. If you have a prepared statement -- here's 2 what we normally do. 3 MR. THOMAN: I wrote it down because I want to be 4 brief and concise. 5 CHAIRMAN KETTER: All right. Having said that, what 6 we've run into in the past, and I try to get away from it, 7 people bring 8, 20 pages, and they want to get up and read 8 the whole thing. If it's relatively short and it's just you 9 as an aide, let's do that. And then we'll swear you in, you 10 can identify yourself, and then if you have questions, do 11 that, too. 12 (Whereupon, the oath was duly 13 administered by the Notary.) 14 MR. THOMAN: My name is Mark Thoman. I am the 15 Supervisor of Downers Grove Township and serve over 146,000 16 residents and their businesses as a chief executive officer 17 of the township. My duties as Supervisor require that I 18 serve the electors of the township to the best of my ability 19 to provide for their health, safety and welfare. I've also 20 served residents of the Village of Downers Grove helping to 21 write the comprehensive plan in 2010, and helping update 22 that plan five years later. 23 I also serve the residents of Downers 24 Grove as plan commissioner, researching and publicly</p>
<p style="text-align: right;">62</p> <p>1 MR. LUETKEHANS: We have one more exhibit tonight. 2 CHAIRMAN KETTER: Okay. 3 MR. LUETKEHANS: Objector's Exhibit 33. We'll get 4 copies for everybody right now. I don't think staff has 5 been given this yet, but we received it. Village of Willow 6 Springs, they passed a resolution okay'ing -- I just wanted 7 to put in the record. 8 (Whereupon, Objector's 9 Exhibit 33 was identified for 10 the record.) 11 CHAIRMAN KETTER: Now, I don't know if anybody is new 12 tonight. What we have basically said is we always allow 13 anybody to get up and speak if they want to, but you get one 14 bite at the apple, in essence. So if there's anybody here 15 that wants to speak tonight, they may not be back, that's 16 fine, but anyone -- you hear other stuff and you've spoken 17 and then you won't get another chance to speak. Is there 18 anybody that's here, knowing those parameters, that wishes 19 to speak tonight? 20 Okay. Do you want to make a statement, 21 ask questions, or both? 22 MR. THOMAN: I have a prepared statement, I have a 23 couple questions potentially. Can I just speak from here? 24 CHAIRMAN KETTER: If you're going to speak, you got</p>	<p style="text-align: right;">64</p> <p>1 assessing the merits of petitions related to development, 2 redevelopment and zoning. So I do have some background 3 experience, primarily as a citizen volunteer. I currently 4 serve as an elected official as a supervisor of the Township 5 of Downers Grove in which the asphalt plant is cited on 6 unincorporated property. 7 I'll defer to expert witnesses who can 8 testify with authority on the at least (indecipherable) and 9 over 100 organic-based toxic and carcinogenic emissions from 10 an asphalt batching plant. My hope is one or more expert 11 witnesses will detail the dangers that brings to the 12 nextdoor residents. 13 I will concern myself with two areas: 14 First is the Zoning Ordinance 37-100, the Purpose of General 15 Conditions, which one of the expert witnesses referred to in 16 terms of providing for groupings of industrial buildings 17 which are compatible with each other, and scope of services, 18 and methods of operation. To my knowledge, I've driven the 19 area extensively. There are no other asphalt batching 20 plants near this location. There are no compatible uses or 21 similar industries. This introduces a new and unique use of 22 completely new materials production, and a method of 23 operation both new and unique to the area. The compatible 24 uses, compatible industries and the services are several</p>

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<p style="text-align: right;">65</p> <p>1 miles downstream at Lemont and Lockport, which was also 2 noted, away from potential harm of nearby residents here, 3 and it should be noted, also away from the potential of 4 harming residents there.</p> <p>5 Also my experts may disagree, no data has 6 been provided here that has been mentioned to show this type 7 of batching facility is capable of operating within the 8 specified maximum of particulate matter emissions, fugitive 9 particulate matter emissions, and airborne toxic matter.</p> <p>10 Under 37-1413.5, there are standards for 11 conditional use. Again, one of the experts mentioned this 12 tonight, that "The granting of any conditional use be in 13 harmony with the general purpose and intent of this chapter 14 of the Zoning Ordinance and will not be injurious to the 15 neighborhood or detrimental to the public welfare, and 16 specifically, that the granting of the conditional use will 17 not -- and there are seven, and I ask you to bear with me 18 because these are the items you will be discussing when you 19 make your decision -- No. 1 is that the conditional use will 20 not impair an adequate supply of light and air to the 21 adjacent property. The proposed facility will have toxic 22 carcinogenic particulate air emissions. Spillage, runoff 23 and leaching will further contaminate the ground and water. 24 That is not in dispute. Regardless of how much or how</p>	<p style="text-align: right;">67</p> <p>1 and through and then picking up a truckload of asphalt 2 represents a huge new wear factor to surrounding streets and 3 highways. Add into that the hundreds of semis required to 4 bring in the raw materials that fill up those 200 semis. So 5 we're not just talking about the number of trucks coming in 6 and picking up asphalt, we're also talking about the number 7 of trucks bringing in the raw materials, running back and 8 forth every business day.</p> <p>9 Outside of Route 83, the surrounding 10 streets are not designed for this type of constant highway 11 heavy use. The streets will need replacement much earlier 12 than would otherwise be the case, putting an undue financial 13 burden on the taxpayers of the County, of the township, and 14 of the municipalities with affected roadways.</p> <p>15 Standard No. 5, the conditional use will 16 not increase potential for flood damages to adjacent 17 property. The flood hazard that exists includes accidental 18 discharge of petroleum-based toxic and carcinogenic 19 materials into the watershed in the event of a flood. In 20 addition to a flood hazard, open bins and piles of materials 21 present a consistent and constant runoff and leaching hazard 22 to the ground and to the watershed.</p> <p>23 Standard No. 6 says the conditional use 24 will not incur additional public expense for fire</p>
<p style="text-align: right;">66</p> <p>1 little, the air at the adjacent property will not be the 2 same, and it will be injurious to the local residents to an 3 unknown degree.</p> <p>4 Item 2, that the conditional use will not 5 increase the hazard from fire or other dangers to said 6 property. Petroleum distillates, unlike dirt and stone, is 7 flammable, changing from crushed rock to an oil-based 8 asphalt, which has components and emissions that are 9 flammable, increases the hazard of fire and other dangers to 10 said property in the surrounding area.</p> <p>11 Standard 3 indicates that a conditional 12 use will not diminish the value of the land and the 13 buildings in the vicinity of the proposed conditional use. 14 I would suggest that introducing an asphalt batching 15 facility with the attendant particulate fugitive and toxic 16 emissions, combined with potential air, water and ground 17 pollution and contamination, will diminish the value of 18 homes, condominiums and apartments. In particular, anything 19 zoned residential will have its inherent value diminished.</p> <p>20 Item 4 requires that the conditional use 21 will not unduly increase traffic congestion in the public 22 streets and highways. I think you've had ample evidence 23 that this will absolutely do this. I will say this: The 24 addition of the up to 200 empty asphalt trucks driving in</p>	<p style="text-align: right;">68</p> <p>1 protection, rescue or relief. There's no data as to the 2 additional public expense associated with bringing suitable 3 water supplies to this particular piece of land.</p> <p>4 Standard 7 requires a conditional use 5 will not otherwise impair the public health, safety, 6 comfort, morals or general welfare of the inhabitants of 7 DuPage County, or otherwise create a nuisance. The 8 introduction of an asphalt batching facility at this 9 location in such close proximity to residents living in a 10 residentially-zoned area introducing several types of 11 health-compromising emissions to the air, ground and 12 watershed; introducing accelerated road wear and its 13 associated expense to the taxpayer; introducing noise, light 14 and agitation; introducing all of the above and more to the 15 residents and the taxpayers in this area, beyond any doubt 16 impairs the public health, safety, comfort and general 17 welfare of the inhabitants of DuPage County. It creates a 18 nuisance, a health hazard, and a diminution of land values 19 that several hundred residents did not ask for and do not 20 deserve being burdened with.</p> <p>21 I ask the Board, at the next meeting when 22 they make a decision, to deny the petitioner the conditional 23 use by affirming the protections that the DuPage County 24 Zoning Ordinance provides to residents of all ages. These</p>

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<p style="text-align: right;">69</p> <p>1 regulations are not here to provide a hardship to residents, 2 they are here to protect residents. So please protect your 3 fellow residents, and when it comes time to vote for this, 4 please vote no. I thank you for your time. 5 (Audience applause.) 6 CHAIRMAN KETTER: All right, all right. You know 7 what, let me tell you one thing: I'm glad you applauded, it 8 was a very well done speech, but it doesn't sway us, so it 9 just prolongs it. Stop. Stop. I'm not going to listen to 10 this. I'm just saying we have a standard thing, we ask that 11 there not be applause, cheers, jeers, or whatever. We just 12 are here to get the evidence. 13 If you say one more, I'm going to have 14 you removed because I'm just not in the mood for it tonight. 15 This has been -- all along everybody has been very good, and 16 tonight when I said why we don't allow it, you want to keep 17 talking. You're not. Period. The end. 18 Now having said that, I'd like to ask 19 Paul how do we mark this? We've done all so far as 20 Objector's. Do we have a last number on yours? How would 21 we mark that, his comments, that will be part of the record? 22 MR. HOSS: We would mark it as Objector's name. Mark 23 it objector under his name. 24 CHAIRMAN KETTER: That will go into the record then.</p>	<p style="text-align: right;">71</p> <p>1 more witnesses? 2 MR. LUETKEHANS: We have three experts, Mr. 3 Chairman. 4 CHAIRMAN KETTER: So I'm assuming -- 5 MR. LUETKEHANS: They should finish on the next 6 night. 7 CHAIRMAN KETTER: -- that your side will finish, then 8 you're going to want to cross-examine. I know we're going 9 to need at least one more meeting. 10 MR. MC CLUSKEY: Then and I have rebuttal if I put on 11 rebuttal testimony. 12 CHAIRMAN KETTER: I'm assuming you want to do cross, 13 break, and come back for a night of rebuttal? 14 MR. MC CLUSKEY: Yeah. 15 CHAIRMAN KETTER: We're going to need to pick at 16 least two dates. Why don't we do it now to keep this thing 17 moving. What's open, Paul? You know what, if we have an 18 open date on a Thursday, fine. If not, pick on their 19 schedules, pick what they can do, and let's just set it so 20 it's in the record and we can move on. 21 MR. HOSS: Mr. Chairman, let me just correct the 22 record here. It's September 28th. That's our regular 23 Thursday meeting. The next scheduled hearing date on this 24 will be September 28th. There is no September 27th date.</p>
<p style="text-align: right;">70</p> <p>1 THE COURT REPORTER: Would you spell your last name, 2 please. 3 MR. THOMAN: T-h-o-m-a-n. 4 (Whereupon, Objector Thoman 5 Exhibit 1 was marked for the 6 record.) 7 CHAIRMAN KETTER: I don't know if you got cut off, 8 but you had mentioned you wanted to make a statement and 9 then had questions. 10 MR. THOMAN: It had to do with conditional use and 11 associated similar businesses. I've driven the area. I was 12 going to ask how many other petroleum asphalt batching 13 facilities are right there. 14 CHAIRMAN KETTER: That's been covered. 15 MR. THOMAN: Understood. I thank you for your time. 16 CHAIRMAN KETTER: All right. I don't know, did you 17 have -- 18 MR. MC CLUSKEY: No. 19 CHAIRMAN KETTER: Then having said that, I don't see 20 anything else for tonight. We have the next hearing set 21 right now for -- 22 MR. HOSS: September 27th. We have not set a 23 specific time, however. 24 CHAIRMAN KETTER: 6:00. Now what's left? You have</p>	<p style="text-align: right;">72</p> <p>1 It's the 28th, and then the next available Thursday after 2 that would be October 12th. 3 MR. MC CLUSKEY: We're not available. 4 MR. HOSS: The next available would be October 19th. 5 MR. MC CLUSKEY: That's okay. 6 CHAIRMAN KETTER: Is there any time constraints we're 7 looking at here? 8 MR. MC CLUSKEY: We might as well just get it 9 finished. It's not going to happen this year. 10 CHAIRMAN KETTER: Then what are the dates? 11 MR. HOSS: September 28th, 6:00 in the auditorium 12 here, and then a continuation after that if necessary to 13 October 19th, 6:00 in this room. 14 CHAIRMAN KETTER: Okay. 15 MR. MC CLUSKEY: Then we better pick another one. 16 CHAIRMAN KETTER: The first date is going to be to 17 finish up the objector's case. The next date will be 18 cross-examination, and then he's going to break to do 19 rebuttal, so we should do a third date, subject to if other 20 stuff crops up, then we go extend it. You're not going to 21 do rebuttal until we're done with the general case. 22 MR. MC CLUSKEY: I would say the next date is 23 November 2nd. 24 CHAIRMAN KETTER: Why don't you block off November</p>

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<p style="text-align: right;">73</p> <p>1 2nd as a fail safe date.</p> <p>2 COMMISSIONER LAZ: Wouldn't that be a recommendation?</p> <p>3 MR. LUETKEHANS: I'm not available on November 2nd.</p> <p>4 MR. MC CLUSKEY: November 9th?</p> <p>5 MR. LUETKEHANS: That works.</p> <p>6 CHAIRMAN KETTER: If he completes rebuttal on</p> <p>7 November 9th, how does that fall in with the recommendation</p> <p>8 meeting and getting it to the County Board?</p> <p>9 MR. HOSS: The recommendation meeting, in theory,</p> <p>10 would be December 7th would be the next recommendation</p> <p>11 meeting.</p> <p>12 CHAIRMAN KETTER: And then would it get through the</p> <p>13 County Board?</p> <p>14 MR. HOSS: That would get to the County Board -- in</p> <p>15 theory, it would get to the County Board in December.</p> <p>16 There's some potential issues on dates in December, but in</p> <p>17 theory it could get to the Board December 26th, but I don't</p> <p>18 want to get into that.</p> <p>19 CHAIRMAN KETTER: All right. There's a likelihood</p> <p>20 that it won't be decided by the County Board until next</p> <p>21 year.</p> <p>22 MR. MC CLUSKEY: Okay.</p> <p>23 CHAIRMAN KETTER: Are you going to anticipate calling</p> <p>24 any rebuttal witnesses?</p>	<p style="text-align: right;">75</p> <p>1 You know, one other thing, I know we're</p> <p>2 going to need one more meeting. Everybody's been real</p> <p>3 patient. I know a lot of you want to speak, which could</p> <p>4 take up a night in and of itself. So you will not be cut</p> <p>5 off, you will have your say in this matter, and if you can't</p> <p>6 do it in one night, then we'll have a second hearing or a</p> <p>7 third hearing. Everybody will have their chance to speak.</p> <p>8 We usually ask that you limit it to about five minutes. The</p> <p>9 people that are more adjacent, we allow you more time to</p> <p>10 speak because they have a more vested interest, in theory</p> <p>11 anyways. Everybody has a vested interest, and that's where</p> <p>12 we would move ahead.</p> <p>13 The only thing, and we'll go back over</p> <p>14 this, is if someone gets up and makes a good speech and you</p> <p>15 agree, you don't have to reiterate each thing for our</p> <p>16 benefit. You can say I agree with them on these points.</p> <p>17 If you have other points, bring them up, and it does move it</p> <p>18 ahead somewhat.</p> <p>19 Having said that, I think we've been over</p> <p>20 most of it. If there's a pressing question, we can answer</p> <p>21 it, otherwise we'll stand in recess until the next meeting.</p> <p>22 UNIDENTIFIED SPEAKER: Can you repeat the dates?</p> <p>23 CHAIRMAN KETTER: 8/28, 10/19 and 11/9.</p> <p>24 9/28, 10/19 and 11/9 in this room at</p>
<p style="text-align: right;">74</p> <p>1 MR. MC CLUSKEY: Yes, I am, because depending on who</p> <p>2 Phil is going to call next week, we already have a land</p> <p>3 planning expert. So I don't know if I need one for that,</p> <p>4 but I certainly need one for some of the other witnesses.</p> <p>5 He's calling an appraiser.</p> <p>6 CHAIRMAN KETTER: If Phil finishes, you do cross, you</p> <p>7 have rebuttal witnesses we might be able to schedule an</p> <p>8 in-between hearing on an open night. It doesn't have to be</p> <p>9 a Thursday, and then we could keep this thing moving.</p> <p>10 I apologize if you couldn't hear back</p> <p>11 there. We were just doing schedules here. It appears that</p> <p>12 the earliest this would get to the County Board for action,</p> <p>13 if their work schedule allows, would be December 26th. It</p> <p>14 may go into next year.</p> <p>15 Mr. Luetkehans has three witnesses to</p> <p>16 finish his case at this point, then there would be</p> <p>17 cross-examination. There's also rebuttal, so we may</p> <p>18 schedule in between the dates we picked a special date to</p> <p>19 put on rebuttal witnesses, which then technically could open</p> <p>20 up if Mr. Luetkehans wants to then recross them, but we're</p> <p>21 getting near the end. And then the final meeting is after</p> <p>22 they all rest, the last say will be by the applicant for his</p> <p>23 rebuttal and closing statement, and then we have our</p> <p>24 recommendation night.</p>	<p style="text-align: right;">76</p> <p>1 6:00. There's no notice, it's just a continuation.</p> <p>2 UNIDENTIFIED SPEAKER: Will this be on the website,</p> <p>3 Mr. Chairman?</p> <p>4 CHAIRMAN KETTER: Yes, this will be posted on the</p> <p>5 website. I thought I saw one more hand. If nothing else,</p> <p>6 then we'll adjourn for tonight. Any questions you have</p> <p>7 that's outside of this, if you talk to staff, there's some</p> <p>8 up here, there's some in the back, that way we're not</p> <p>9 prejudice and have to recuse ourselves.</p> <p>10 (Whereupon, the hearing was</p> <p>11 continued to September 28th at</p> <p>12 6:00.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

1 STATE OF ILLINOIS )  
 ) SS.  
2 COUNTY OF DU PAGE )  
3

4 I, LINDA M. CIOSEK, C.S.R. No. 084-2892 Notary Public  
5 duly qualified and commissioned for the State of Illinois,  
6 County of DuPage, do hereby certify that at the request of  
7 the DU PAGE COUNTY ZONING BOARD OF APPEALS, subject to the  
8 usual terms and conditions of County Court Reporters, Inc,  
9 reported in shorthand the proceedings had and testimony  
10 taken at the public hearing of the above-entitled cause, and  
11 that the foregoing transcript is a true, correct and  
12 complete report of the testimony so taken at the time and  
13 place hereinabove set forth.  
14

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16 Linda M. Ciosek  
17 CERTIFIED SHORTHAND REPORTER  
18

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20  
21  
22 My Commission Expires:  
23 May 5, 2018  
24

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