



AMERICAN FORK CITY COUNCIL
SEPTEMBER 23, 2025
CITY COUNCIL MINUTES

Members Present:

Bradley J. Frost	Mayor
Staci Carroll	Council Member
Ryan Hunter	Council Member
Tim Holley	Council Member
Ernie John	Council Member
Clark Taylor	Council Member

Staff Present:

David Bunker	City Administrator
Camden Bird	Assistant City Administrator
Terilyn Lurker	City Recorder
Patrick O'Brien	Development Services Director
Anna Montoya	Finance Officer
Aaron Brems	Fire Chief
George Schade	IT Director
Heather Schriever	Legal Counsel
Cameron Paul	Police Chief
Sam Kelly	PW Director
Christina Tuiaki	Executive Assistant

Also present: Deb Anderson, George Brown, Stephen Phelon, Mike Roderick, David Lambert, Leslie Slaugh, Mike Dunn, Paul Washburn, Will John, and one additional attendee.

The American Fork City Council met in a regular session on Tuesday, September 23, 2025, in the American Fork City Hall, 31 North Church Street, commencing at 7:00 p.m.

PUBLIC HEARING

1. Receive public comments on the declaration of real property located at approximately 825 South 900 West to be surplus.
There were no public comments.
2. Receive public comments on adjustments to the fiscal year ending June 30, 2025, city budgets.
There were no public comments.

REGULAR SESSION

1. Pledge of Allegiance; Invocation by Council Member Taylor; roll call.
Mayor Frost welcomed everyone to the meeting. Those present recited the Pledge of Allegiance and the invocation was given by Council Member Taylor. Roll call was taken.

2. Twenty-minute public comment period - limited to two minutes per person.
Steven Phelon. Mr. Phelon was there as a neighbor of the Dunn Construction LLC appeal applicant. He commented he was not opposed to the development, feeling it was a needed service. He stated the applicant has been doing this for five years and has not had any complaints. They do the same thing in Orem and soon in Salt Lake. Mr. Phelon felt this was the best place for this business. He asked the council to go down and see what little impact it has on the area. He encouraged them to table the item until they have been able to see what they are voting for or against. Mr. Phelon noted they have limited the speed of the traffic to 10 mph, as well as water trucks that travel that road.

Mike Roderick. Mr. Roderick, owner of Catalyst Business Park, noted his company has built 7 buildings just north of Dunn Construction area. He commented they are trying to provide a class A project in American Fork City and have been able to attract quality tenants. With the approval of their projects, American Fork has made significant requests and they have followed the rules. He would expect the city to follow the same rules with this applicant or any other applicant. He has reviewed the findings of fact the city prepared on June 4, 2025, and he agrees with the conclusion 100%; he would expect them to follow that as well. Mr. Roderick stated this was a light industrial use zone, and the proposed use is a heavy use and does not belong in a light industrial zone.

3. City Administrator's Report
Mr. Bunker had nothing to report.

4. Council Reports
Council Member Hunter thanked Council Member Taylor for his invocation. In light of recent events, it is a reminder of how frail life is and he appreciated they could have a difference of opinion in this community.

Council Member Holley reported the Cemetery Committee met this last week and are working on finalizing the Veterans' Day program. The Beautification Committee met and talked about the Garden Tour and met the new City Forester. They were excited to work with him. Council Member Holley also felt it was important that they are able to meet in a public body where they are free to speak, respecting others' opinions. It was important to stand up for what they believed.

Council Member John stated the Dispatch 911 meeting was held, where they discussed the event at Utah Valley University. He expressed his appreciation for our police

department and all they do to keep our community safe. That was the first test of the new 911 dispatch system, and they expected to review the event and talk about what went well and what needs to be improved.

Council Member Carroll reported she met with the Legislative Policy Committee, and she would let the council know of the bills they were watching. The Library Board has been going over the policies at the library, which will go to the attorney and then on to the council when completed.

Council Member Taylor had nothing to report.

5. Mayor's Report

Mayor Frost reported on September 11th, he had the opportunity to serve breakfast at NuSkin for employees of various corporations that were going out to serve charitable organizations. He then went to United Way in American Fork, where people were there to help paint and clean the building. He noted that Texas Instruments has pledged to help financially, and on the 11th they had employees there to help serve United Way on the day of service. He ended the day speaking at a Church of Jesus Christ of Latter-Day Saints event for the youth of eight stakes. He was able to share with them information on September 11th and bring attention to some of the things that happened that day.

Mayor Frost continued he was able to attend, along with a consultant, a meeting with MAG about the Regional Transportation Plan process, and how they prioritize and how they can improve the process. He noted it will be four to six months prior to being adopted by MAG. He explained they also looked at the Station Area Plans from Lehi and Provo, which was familiar to him because of the discussions on the American Fork Station Area plan.

COMMON CONSENT AGENDA

(*Common Consent* is that class of Council action that requires no further discussion or which is routine in nature. All items on the Common Consent Agenda are adopted by a single motion unless removed from the Common Consent Agenda.)

1. Approval of the August 19, 2025, work session minutes.
2. Approval of the September 2, 2025, work session minutes.
3. Ratification of city payments (August 6, 2025, to August 19, 2025) and approval of purchase requests over \$50,000.

Council Member John moved to approve the common consent agenda. Council Member Taylor seconded the motion. Voting was as follows:

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ernie John, Council Member
SECONDER:	Clark Taylor, Council Member
YES:	Carroll, Hunter, Holley, John, Taylor

ACTION ITEMS

1. Review and action on a resolution approving amendments to the fiscal year ending June 30, 2025, city budgets.

Mayor Frost noted this was part of the public hearing and asked if there were any questions.

Council Member Holley stated it was good to see the sales tax was higher than anticipated. He questioned why the utilities for parks went from \$60,000 to \$153,000, and why part time employee wages increased about \$75,000. Ms. Montoya stated they charge each department the city cost for water, which has not been done in previous years, so they did not know what to expect this year. For part time staff, the seasons go between fiscal years, and they budgeted lower than expected.

Council Member Carroll asked for an explanation of the SRFLF funding. Ms. Montoya stated this was multi-year funding COVID dollars, which they had to earmark to maximize utilization of those funds and to make sure all funding was used.

Council Member Taylor moved to approve adopt Resolution No. 2025-09-22R approving amendments to the fiscal year ending June 30, 2025, city budgets. Council Member Ryan Hunter seconded the motion. Voting was as follows:

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Clark Taylor, Council Member
SECONDER:	Ryan Hunter, Council Member
YES:	Carroll, Hunter, Holley, John, Taylor

2. Review and action on an agreement with Yoppify to provide a web portal for PI and Culinary usage and rates.

Mr. Bird explained that the council previously approved an agreement with Yoppify for various notifications, and this was to formalize for a dashboard for water usage. There were four different bids, but the other companies could not make comparisons.

Council Member Taylor asked if it required a login. Mr. Bird answered that it was correct; it looks up the information based on phone numbers that are on the accounts.

Council Member Hunter stated this was huge, and he had pushed for the residents to have this information at their fingertips. It was a great feature not to require a login. He expressed his appreciation for this.

Council Member John explained it was an inexpensive option for the city.

Mayor Frost appreciated that Mr. Bird listened to the council and found a product that worked.

Council Member Hunter moved to approve the agreement with Yoppify to provide a web portal for PI and Culinary usage and rates and authorize the city to sign the necessary documents. Council Member Holley seconded the motion. Voting was as follows:

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ryan Hunter, Council Member
SECONDER:	Tim Holley, Council Member
YES:	Carroll, Hunter, Holley, John, Taylor

3. Review and action on an ordinance amending Chapter 6.04 of the American Fork City code titled "Animals."

Mayor Frost noted this was discussed at an earlier work session.

Council Member Holley stated he did have an issue that he brought up in the work session, specifically if there would be any grandfathering in allowed. He also asked when it was enforced, what the city would do with those animals over the limit. Ms. Schriever stated if the pets are properly licensed, the city could look at that and determine if there was a violation. It was her understanding that most problems were those animals not properly licensed through the city. Ms. Schriever was unsure if there was a process to grandfather in pets. Chief Paul stated he would have a hard time taking an animal out of a home and noted that it had not been discussed.

Council Member Holley questioned if they did take an animal, would the city take the animal to the shelter. Chief Paul explained there would be options such as finding different locations for the animal or the animal shelter. They would work with the family to make necessary arrangements.

Council Member Hunter stated he did have one resident reach out to him who had a concern in the verbiage of "or" verses "and." He didn't think the intent it was to penalize someone with four animals but was for a nuisance situation where they had multiple animals. Council Member Hunter recommended they modify it from "or" to "and." He understood this was for some issues where there were hoarding of animals.

Council Member Taylor stated that responsible pet ownership was not an issue, but they would only enforce this when someone notified the city of a problem. He would rather have a hard line, but he felt three dogs and three cats was excessive.

Council Member Carroll was okay if they did a total of four.

There was a discussion amongst the council with the intent of the ordinance, which was to help with enforcement and the number of animals allowed. They felt that responsible pet ownership is not the problem, but those with hoarding animals or feeding feral cats. The council also discussed the number of pets they felt was appropriate, as well as enforcement issues that may come up.

Chief Paul stated they are trying to go after those houses with a lot of animals. They would not be opposed to 2 or 3 dogs and cats; if it was a nuisance home, they would still have other avenues for enforcement. Chief Paul stated they were okay with the proposed ordinance with any number, as it would allow them to enforce it. He pointed out there was a large expense to the city on the animals taken to the shelter.

The council discussed the options for verbiage in the ordinance. They felt it was easier if they combined the number of cats and dogs.

Council Member Holley brought up Subsection 3, which he felt was not well-written. He also brought up dwelling units and pointed out one person living in a one room apartment could have multiple pets. This brought up a short discussion on lot sizes and agricultural property.

Mr. Bunker suggested they table this item and bring it back.

Council Member Hunter moved to table this item. Council Member Holley seconded the motion. Voting was as follows:

RESULT:	TABLED [UNANIMOUS]
MOVER:	Ryan Hunter, Council Member
SECONDER:	Tim Holley, Council Member
YES:	Carroll, Hunter, Holley, John, Taylor

4. Consideration of the appeal by Dunn Construction LLC and Mike Dunn of the denial of a business license for Dunn Construction LLC.

Heather Schriever gave a brief history and explained the process for this appeal. She noted that Dunn Construction LLC applied for a business license in April, which was denied in May of 2025, as the proposed use occurring in the subject property was not a permitted use under the zoning code. Mr. Dunn appealed that decision to the city administrator under Special Situations, Section 5.04.170 of the city code. The city administrator reviewed the evidence from Mr. Dunn and his representatives and issued

findings of fact that upheld the denial of the business license. The applicant is now appealing the city administrator's denial to the city council.

Ms. Schriever stated the council may need to look at that appeal provision for special situations, but she wanted to summarize one section. She stated that after the applicant and city staff are finished presenting to the city council, the city council can take a few actions according to the Section 5.04.174(b). The council may deny the appeal, grant a special exception to the applicant by modifying or waiving one or more minor requirements of this chapter for the applicant, or take steps to amend by ordinance the provisions of the chapter to facilitate or remove the barrier to the matter appealed or requested. Ms. Schriever noted that the city council shall determine what was a minor requirement for the special exception. She reminded them that was the language the city council will be applying in the review of the appeal. She reminded them they are acting in their quasi-judicial duties. They need to make sure they are basing their decision on testimony or written materials on what was submitted, and that the determination was limited to the record presented.

Ms. Schriever explained that, if necessary, when the council is acting in their quasi-judicial function, they are permitted to go into a breakout session, an executive session, to deliberate. There is a line of case law in the state of Utah that allows them to do that. It's very important that all of the information gathering and decision making is made in the open meeting, but if the council needs to seek legal advice for this determination, there is a line of case law found in 'Dairy Products versus Wellsville City 2000UT81' that indicates that there is an exception to the open and public meetings act. She stated the council needs to decide, after hearing all the evidence presented, whether the city administrator's determination was based on all the evidence that you have. If there was substantial evidence to support his decision and whether you decide to grant deny table, they needed to remember that their legal standard is evidence. Ms. Schriever stated that a good definition of "substantial" was the quantum and quality of relevant evidence that is adequate to convince a reasonable mind to support a conclusion, even if other contrary evidence exists. That was the framework that they would be operating in tonight.

Ms. Schriever stated that the applicant would present, followed by the city. It would then open for council questions and further investigation.

David Lambert, representative for Dunn Construction LLC, was there to present the appeal. He explained his connection to Council Member Staci Carroll and Council Member Taylor's son. He appreciated the opportunity to discuss this with the council and invited them to ask questions as they go through this. He introduced Mike Dunn, Paul Washburn, and Leslie Slaugh.

Mr. Lambert stated that Mike Dunn does business under Dunn Construction LLC. One of their important accomplishments was in Vineyard between 2015 and 2020, where he removed 240,000-250,000 tons of concrete from the Geneva Steel site. The concrete that must be removed can be processed and repurposed, in many scenarios. Mr. Dunn produces a valuable commodity that is in high demand as engineered fill, which is used in commercial and residential projects. It repurposes the concrete, which is a win win situation. The best part was it didn't create much noise or dust or any other negative environmental impact. Mr. Lambert stated this was an important decision as it was Mr. Dunn primary livelihood and his employee's livelihood. When he is allowed to do this, he will employ up to seven individuals.

Mr. Lambert stated it was important to the city as the engineered fill was used by contractors in this city, contractors that work in this city, and those activities that benefit the city. The city does receive a financial benefit in the form of sales tax and property tax. Lastly, it was important in fairness and that the ordinances should be evenly applied.

Mr. Lambert stated that Mr. Dunn has done and wishes to continue what is actually a permitted use in this zone. He indicated he would be referring to the case filed by Mr. Roderick against the city previously, which needed to be considered. The zone talks about light industrial, but the ordinance doesn't talk about light industrial but processing material, which is what Mr. Dunn does. There was a 93-page decision by Judge Eldridge in the Roderick versus American Fork City case where he talked about what was light and heavy. He stated this was a permitted use. It was the only industrial zone, and it permits the processing of materials.

Council Member Holley commented the code states that firms engaged in light manufacturing, processing, and manufacturing. He questioned if it was light processing or if it was light manufacturing, processing, or is it light processing of materials? Mr. Lambert felt they were separate issues. Council Member Holley stated clarification on that may get to the heart of the issue of light verses heavy. Ms. Schriver stated that light would modify each of the activities. Mr. Lambert felt that manufacturing was distinct from processing and warehousing.

Mr. Lambert explained that what Mr. Dunn does was light, not heavy. He stated the ordinance does not directly define "light." However, the substance of the ordinance makes the intent clear, which was light meets the environmental quality and conditions specified. This means that it does not create noise, particulate, dust, odors, or other environmental conditions that go beyond the perimeter of the property. That is what they can use to decide what was light and what was heavy. Mr. Lambert stated they have submitted an environmental study in the packet of materials provided, which includes a study by RMEC Environmental. The company was asked to study the

operation, and they came out to test when Mr. Dunn was processing the cement with two machines running at the same time.

Mr. Dunn explained they normally run one machine at a time, but he wanted the testing to take place when there were two processes being done at the same time. They ran a test with one machine and then with two machines running so they would know what was going on with noise or dust. The test was done on the street and then 300 feet from the property line. During the test, they did not go above the noise level of the concrete plants and truck traffic. There was another crushing operation going on at the same time and they could not hear each other.

Council Member John stated that the test showed they did a two-hour test, with winds from the west but no wind speed was given so they do not know if the wind was steady or varied. He questioned if they felt the two-hour test would have enough information under all conditions. Mr. Dunn answered that the test was not done in the worst condition, but he was putting out the extreme when the testing was done and the wind was blowing right into the machines: it was picking up everything that was airborne.

Council Member Holley noted he saw the OSHA standards where it mentioned 75 decibels or Salt Lake City and 0.025. In reading the code doesn't specify anything but says that it limits the generation of noise or vibrations. He questioned if the city has a standard of the decibels limit or dust limit? Ms. Schriever responded that she was not aware of anything. Council Member Holley commented he had an issue where it says they want to limit, because it doesn't tell them what that limit is. If they do not have a standard, they won't know if they are over or under that limit.

Mr. Dunn stated that MSHAW was stricter than OSHA, and for his other projects they are required to put on respirators. There was a table they could go by of 85 decibels. However, even without the equipment running they went above 85 decibels just with street traffic. Most of the standard was set between 4 hours and 12 hours of continuous noise. They fall well under that for 12 hours or more without hurting their ears.

Mr. O'Brien explained that under B.1.8, there were no set standards, but there was a wide interpretation. He read from the code that none of the activities carried out on the premises shall abuse any noxious odor or any fumes, smoke and ice, vapor, vibration, glare, a similar condition which is harmful to persons or which is readily discernible beyond the boundary of the zone and create an adverse visual impact readily discernible from public roads. Mr. O'Brien noted there were no other standards for this type of activity.

Council Member Holley felt that having a bar or standard would help him with a decision. What is the bar they don't want to cross over? It may be something they need

to add to the code. Mr. O'Brien stated that the only thing was to be able to refer to permitted uses. Where this was not specifically listed as a permitted use, it was not something they would put limitations on.

Mr. Lambert stated the language of the ordinance applies for any type of use, not just their use. There aren't any standards for any of the uses. He stated that Mr. Dunn had a reputable company come to perform tests, which were provided with the materials provided. The report does mention the neighboring properties and the noise levels along 1700 South. They gauged the properties in the surrounding areas and then proceeded to mention what the conditions were the day of the sampling; they did cite the weather report. They did what was reasonable and expected in assessing the operation. As Mr. Dunn explained, they made sure it was operating at maximum capacity. The report talks about the different standards, and they mention the city does not have a community noise standard. Most municipalities have a standard, so they referred to those standards and what they found was the noise was below what was adopted by Salt Lake and Provo.

Mr. Lambert asked them to consider that the findings of the testing company support substantial evidence that this operation does not violate the concept of high noise, dust, or offensive conditions. There was no contradictory evidence of this. They submit they have met the burden to give the city substantial evidence to act in favor of Mr. Dunn.

Mr. Lambert stated the ordinance gives the council a practical means of judging on a case-by-case basis on whether something was light or heavy use. That leads him to a nearly identical case, which involves a similar operation in the area. In 2023, the Roderick verses American Fork City, American Eagle Ready Mix Utah LLC, Phelon Lakeland LLC, and MMD Property Management LLC (Case #200300106 in the 4th District Court) case was dismissed and judgment entered April 20, 2023. He shared a couple of excerpts from the decision.

One of the courts' findings was citing this council's findings, where the council found that this facility (concrete ready-mix facility) was a permitted use in the zone. Mr. Lambert stated that was a similar use to what Mr. Dunn does. He read more from the judgement where the court found the argument by Roderick unpersuasive and without support, as well as hasty or overbroad generalizations and assumptions. The judge stated the heavy concrete use in one context may be a light in another, and it was not reasonable to assume that to permit a light use that may in other circumstances that may qualify as heavy, that the city must engage in a detailed, lengthy exegesis. For instance, a heavy use may be under plain meaning a light one, if the body production does not exceed certain parameters, and if there are certain mitigation measures in place. He wanted to mention the court concluded that this called for the exercise of discretionary judgement by the council that the court would not second guess.

Mr. Lambert stated that when Mr. Phelon talked about mitigation measures, one of the reasons why the environmental study produced the results that were below typical standards of noise and particulate was that they used water trucks. Additionally, the machines operated at a low noise level. He pointed out that Mr. Dunn has taken mitigation steps and was willing to keep the noise levels down and the particulate within these standards.

Council Member John questioned what light versus heavy was and if it meant how much material that was processed. Council Member Taylor felt what was mentioned could be criteria based on what the judge ruled.

Mr. Lambert stated that volume is a factor. Mr. Roderick had argued that the volume and weight of cement was a significant factor, to which the courts said it was more of an environmental factor. It was meeting the criteria that it was not producing excessive noise, excessive vibration, or excessive particulate matter, then it was light. He noted there is no other definition in the ordinance.

Council Member John commented they use a water truck for dust control, to which Mr. Dunn further explained they use a water truck beginning at 7 a.m. to water the dust down. Mr. Dunn further noted the road was swept and washed down daily and that the water comes from a well, reused water from the concrete plant, and some surface water. They do not need sprinklers because the material on it is settled in with a hard crust.

Mr. Washburn addressed one issue. He noted they did not have proper concrete disposal 40 years ago, so concrete was dumped on empty lots or on farms. He has run across buried concrete through American Fork in various projects that they needed to dispose of. They need to have a place to dispose of it and shipping it to another locality is expensive. He shared an experience on the Winco Site in Orem. It cost \$5.5 million to haul the concrete off. Having something in this city would be a benefit to all the residents to American Fork. He strongly feels they need to take better care of the planet, and this would make a huge difference where concrete can be reused throughout the community and limit the environmental footprint. This was important for Mr. Dunn's business and for all of them.

Mr. Dunn explained the demand for this product. Years ago, there was not a standard, but they can now make road base with this that passes state requirements. He has made a special product for the sewage treatment line. The concrete can go back to where it came from without digging for it. Mr. Dunn noted that there is some concrete you can't process as it is contaminated, and that is disposed of at a landfill.

Mr. Lambert stated that lastly, it was a permissible use. There were only 4 prohibited uses: auto wrecking, junk storage, livestock feed yards, and biodiesel production. This was a permitted use, and it was based on what Judge Eldredge decided and based on the

evidence of the industrial hygiene. It was a light industrial use. The ordinance must be in favor of the landowner; Utah law was clear on this point. This was in harmony with the idea that the government wouldn't deprive you of the use of your land without a good reason. Mr. Lambert commented that a legitimate use cannot be banned but can be subject to reasonable conditions.

Mr. Lambert commented they have had some discussion that granting the business license would be of benefit to the city. He mentioned that in July 2024, Mr. Dunn submitted a site plan proposal for part of the property to build buildings on the north side. It was approved subject to conditions; that approval was still in place and was good for 2 years. It was noted there was no site plan for where this specific activity was located. Mr. Lambert stated the cement processing was not included in the site plan because it was mobile and the material produced was not stored for very long. Mr. Dunn has been raising the elevation of his property, so the material not committed to the customer was being spread on his property.

Mr. Dunn explained they removed two to three feet of topsoil and installed the engineered fill over the property. The land was unstable at the time, but now there is fill in place and nothing will sink or settle. They use the same material on the roads that were built.

Mr. Lambert stated the lack of site plan became an issue. The ordinance now allows for an amendment of site plans. If the council feels it is important even though there is no permanent structure, Mr. Dudley could submit an amended site plan.

Mr. Lambert pointed out the property owned by Mr. Dunn, noting there was the storage yard for the Southam Company on one side, Alta View Concrete on the northeastern side, and the batch plant was to the west of this. They submit that Mr. Dunn's use was consistent with the area and would be fair and even handed. In the city administrator's decision, it was the conclusion he made that it was heavy and not light industrial. However, it was light as defined by ordinance, and the report by the environmental study is proof. He urged the council to issue the business license subject to whatever conditions they deem appropriate.

Mr. O'Brien gave background on the zoning level, which is where the denial of the business license came through. It was established that prior to the 2019 annexation, the aerial imaging shows nothing done on site. There was an argument the use was established before annexation, but they have not seen any documentation to establish that. Mr. O'Brien noted there are aeriels from 2020 onward show the concrete processing has moved around, sometimes it was there, and other times it was not. However, the significant intensification of that use has occurred over time. In 2020, the first application for a business license was denied by zoning largely because there was

no site plan approval in place. He stated there was one note that stated upon an approved site plan, it would be reconsidered. Since 2020, no application has been submitted that included anything for the concrete crushing. The application for site plan shows the area as Phase 2, future development, and did not mention anything about an existing use.

Mr. O'Brien stated the use was not established or permitted by the county at the time of annexation. There are two issues that staff have looked at: whether it was a permitted use or where the approved site plan is that shows that approval of use if it was even considered a permitted use. If the understanding was that it was a permitted use, there was over five years since the annexation has occurred so why has there been no formal application submitted. There were no arguments made when staff was dealing with Mr. Dudley and his team for the submission related to that unauthorized use that was happening at the time.

Council Member John stated the council was told that they removed the topsoil and replaced it with engineered fill. He asked if that would have been part of the site plan and if it needed to be tested. Mr. O'Brien asked if Council Member John was asking if there would be land disturbance permits, to which he explained that any of the phases would have been required to meet all engineering requirements.

Council Member Holley asked if they were discussing this under zoning or land use. Ms. Schriever explained they were there to determine whether the denial of the business license was appropriate. If they look at the findings of the city administrator and the original appeal of the applicant, some arguments were based on the interpretation of the code. There are elements regarding interpretation of the code that touch on zoning and land use. There is not a current land use application pending; the last one was 2024 and that was granted with conditions.

Mr. O'Brien stated he was only focused on the zoning component as the basis for why it was denied. They feel that those issues have not been satisfied. He understood the applicant is asking for consideration for business license approval subject to any conditions the council deems appropriate. Mr. O'Brien stated that they have looked at instances in the past where site plan approval was needed prior to receiving their business license. He felt this would be putting the cart before the horse; they need to make sure the business license isn't issued until the conditions are met.

Council Member John asked if any permits, such as land disturbance permits, have been issued. Mr. O'Brien responded he would have to look at records relating to the northern portion, but the southern portion has never been a part of the approved project so no development should have taken place.

Council Member Holley asked if they could approve the business license on condition of approval of a site plan. Ms. Schriever stated that was a reasonable condition, and the applicant had already indicated they would comply with any reasonable conditions.

Council Member Taylor asked why they didn't have a site plan so they could grant a business license. He questioned why they are doing it this way. Mr. O'Brien stated that it was the zoning department's perspective that it was the appropriate steps.

Council Member John asked if that fell within their decision making, since there were no site plan or necessary permits needed to move forward. Ms. Schriever stated that it was correct but pointed out the applicant was there for a business license appeal. Under the ordinance, the council has the option to deny, grant, set conditions, or table as a quasi-judicial appellate body. They could deny the appeal and instruct the applicant to submit a site plan and follow the normal procedures for obtaining a business license.

Council Member Holley stated if the applicants would have to come back before the council for the business license. If they had to, he felt they could expedite the process by saying they can have a business license on condition of an approved site plan.

Council Member Hunter noted they were there to determine if the denial was appropriate, they were not there to approve anything. Council Member Taylor thought they could attach conditions.

Council Member Carroll stated this provision limited what the city council could do. It says they can deny or grant a special exception by modifying or waiving a specific item or take steps to amend the ordinance itself.

Mayor Frost asked if the applicants would have any problem doing that.

Mr. Lambert read from the denial letter that the reason for the denial of the business license was based on Section 17.4.503 I-1 Industrial Zone of the American Fork City Code that concrete crushing/recycling was not found within the permitted uses of the zone. It was not based on whether there was a site plan, which is why he focused on it being a permitted use. He re-stated they did not get a site plan approval in the beginning because it was a mobile equipment, and the material was there for only a short time.

Council Member John asked why they did not get a land disturbance permit. Mr. Dunn stated they did get permits when they started the project. They had land disturbing permits to take the fill out, put the fill back in, and build the streets. They went through all the construction permitting, with SWPPP inspections every two weeks. This was around 2020-2021.

Mr. Bunker asked if there was a land disturbance permit for his property specifically in addition to the subdivision, and if could that provide that permit. Mr. Phelon noted they had one for the subdivision; it was explained that each individual lot needed a permit.

Council Member Carroll stated if they look at B.1.A is where the limitations are. It states that none of the activity on the premises shall produce any noxious odors, perfumes, smoke, noise, vapor, vibration, glare. Under the strict reading, that means absolutely none. They can debate if it is fair, but she felt they needed to have a permit. Since it says none, she felt they needed to go through the permitting process and have them do the same mitigation they have required others in the area to do.

Council Member Taylor felt that was realistic but questioned how they got to that point. Ms. Schriever stated they can uphold the decision of the city administrator, denying the business license application, finding that his findings and conclusions were adequate and that there was substantial evidence on the record to support those. Then Dunn can go through the site plan approval process. The outstanding issue is whether it should be a business license appeal or land use as a permitted use.

Council Member Carroll felt that tonight, they were there to decide whether they should have a business license right now. She commented that if they do not have a site plan, she didn't know how they could have a business license. She thought they should decide on one, then move to the other.

Council Member Holley questioned if they could deny it on anything other than the zone, such as denying it because there was no site plan or there were land use issues. Was that within their parameters of the judicial body since it was not mentioned in the denial. Ms. Schriever pointed out the lack of site plan was listed in the findings of fact.

Council Member Holley asked if there was an approved site plan, to which he was told there was an approved site plan but that did not include the southern portion. The site plan approval stated the southern area was for future development.

Mr. Lambert returned to Council Member Carroll's comments regarding the modifiers. He did not think the language was to be read as she suggested because of the modifiers. He noted it was not to be noxious. He stated it wasn't that there was absolutely no noise. The modifiers made it clear it should be within normal parameters. Mr. Lambert stated the applicants were fine if they table this or continue this or impose conditions. He did not think they had a dispute with the findings of fact, but the appeal was about the conclusions of law. He stated there was no conclusion of law that it was based on no site plan. They think that based on the language of the city administrator's decision, the real issue was if this was something that with appropriate conditions was permitted within the zone. They submitted substantive argument and evidence in support of the

fact that it was a permitted use in the zone if they mean the environmental conditions under the ordinance.

Council Member Holley commented that he read the rest of bullet A which reads that you can't do any of these things which are harmful to persons or which is discernible beyond the boundary of the zone. It wasn't that there couldn't be any noise, but that it can't be harmful to people or discernible beyond the boundary or create a visual impact. What was harmful to people or discernible beyond the boundary? He thought that was very ambiguous.

Mr. O'Brien stated there was one point not brought up earlier that may help the council understand the basis of denial. Section 17.1.200 of the code was Uses Prohibited Unless Expressly Permitted. The first sentence reads that uses of land which are not expressly permitted within the zone are hereby declared to be expressly prohibited therein. The fact that that use was not explicitly called out is the basis for denial. That was the challenge they have throughout the zoning code, which is why businesses go to the council for consideration of the use. He noted that there was not a provision in this code but could be changed with a code text amendment.

Mr. Lambert stated this was an expressly permitted use. This light industrial use was permitted. The issue was whether their use was light industrial, meaning it meets the environmental conditions within the zone.

Mr. Bunker stated that when it comes to ambiguous, they have other codes to look at. For instance, the state of Utah has requirements for dust control and air quality. While it may seem ambiguous in the city's code, that would be a requirement they would have to follow.

Ms. Schriever stated the council could table this for further discussion so that additional evidence could be considered.

Mayor Frost asked if there were any questions or comments, or for a motion if they were ready.

Council Member John felt they have the cart before the horse, which was his concern. They need to do things in the proper order. They have denied others a business license for not having an approved site plan.

Council Member Holley felt they did have an approved site plan, even if it wasn't complete.

Council Member Hunter disagreed and pointed out the site plan was approved for buildings on the north of the property. He noted they were there to evaluate

whether Mr. Bunker misunderstood what it was they were trying to have a business license for. He stated he did have many questions. He commented that suggesting a site plan was approved for a different use on a portion of the same property wasn't warranted or valid.

Council Member Taylor felt they needed to table action on this. There were so many convoluted items that he felt they needed to iron out, so they could come up with something clear and consistent. The council needed to abide by the ordinances in place with the same interpretation they have used with surrounding properties. He felt tabling action should happen, as he did not think they were gaining any ground.

Council Member John agreed.

Council Member Hunter moved to table consideration of the appeal by Dunn Construction LLC and Mike Dunn on the denial of the business license for Dunn Construction LLC. Council Member Tim Holley seconded the motion. Voting was as follows:

RESULT:	TABLED [UNANIMOUS]
MOVER:	Ryan Hunter, Council Member
SECONDER:	Tim Holley, Council Member
YES:	Carroll, Hunter, Holley, John, Taylor

5. Consideration and action to enter into a closed session to discuss items described in Utah State Code 52-4-204 and 52-4-205

Mayor Frost explained the purpose of the closed session was to discuss pending litigation. They would meet in the downstairs workroom for the closed session, and at the end of the closed session they will convene the regular meeting at that location.

Council Member Taylor moved to enter into a closed session at 9:30 p.m. to discuss pending litigation. Council Member John seconded the motion. Voting was as follows:

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Clark Taylor, Council Member
SECONDER:	Ernie John, Council Member
YES:	Carroll, Hunter, Holley, John, Taylor

The City Council entered into a closed session to discuss pending litigation at 9:39 p.m. Those present included Mayor Frost, Council Member Carroll, Council Member Holley, Council Member Hunter, Council Member John, and Council Member Taylor. Also present included City Administrator David Bunker, City Attorney Heather Schriever, Development Services Director Patrick O'Brien, and City Recorder Terilyn Lurker.

Pending litigation was discussed and audio recorded as required by law.

Council Member Ernie John moved to end the closed session and return to the regular session at 10:32 p.m. Council Member Holley seconded the motion. Voting was as follows:

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ernie John, Council Member
SECONDER:	Tim Holley, Council Member
YES:	Carroll, Hunter, Holley, John, Taylor

6. Adjournment.

Council Member Taylor moved to adjourn the meeting. Council Member John seconded the motion. All were in favor.

The meeting was adjourned at 10:32 p.m.



Terilyn Lurker, City Recorder