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FRANKLIN COUNTY PLANNING AND ZONING
COUNTY COMMISSION
FRANKLIN COUNTY GOVERNMENT CENTER
SECOND FLOOR COMMISSION CHAMBERS
400 EAST LOCUST STREET
UNION, MISSOURI 63084

TRANSCRIPT OF PROCEEDINGS
JANUARY 31, 2019
(COMMENCING AT 1:30 P.M.)

Reported by:
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1 P R O C E E D I N G S

2 (JANUARY 31, 2019)

3 CHAIRMAN BRINKER: All right.
4 We're all here. Welcome today, this afternoon, for
5 this public hearing. This is January 31st of 2019.
6 The Franklin County Commission here before you.

7 I'm presiding Commissioner Tim Brinker.
8 To my right is Commissioner Dave Hinson of the Second
9 District. To my left is Mr. Todd Boland of the First
10 District of Franklin County.

11 We're here for the public hearing, and to
12 present the procedures and exhibits, will be Scottie
13 Eagan of our Planning and Zoning Department.

14 MS. EAGAN: At this time, I
15 would like to place into the record the Franklin
16 County Unified Land Use Regulations as Exhibit A, the
17 official Zoning Map as Exhibit B, the official Master
18 Plan as Exhibit C, and the case file for each case as
19 Exhibit D for all the cases to be heard at this
20 hearing.

21 (Thereupon, evidence was
22 marked for identification and
23 submitted for the record as
24 Exhibits A, B, C, and D.)

25 As each case is opened, a staff report

1 will first be read by the Planning and Zoning
2 Department, followed by Commissioners' questions for
3 the staff.

4 Then if anyone in the audience would like
5 to speak or comment during the hearing, they must
6 first print their name on the sign-in sheet provided,
7 and then be sworn in.

8 When it is your turn to speak, you will
9 come to the front of the room to address the
10 Commission and only the Commission, not anyone in the
11 audience, with any questions or comments.

12 Generally the applicant for the rezoning
13 is allowed to speak first, followed by those in
14 support of the rezoning, and then those opposed to the
15 rezoning. The applicant may speak again after comments
16 from the general public to address any questions or
17 issues brought up during the hearing.

18 At the conclusion of all questions,
19 comments, and discussion concerning each case, the
20 public hearing for each case will conclude.

21 The decision will generally be made by
22 Commission Order at a later date during the County
23 Commission's regular meeting time.

24 This is File 18078. The applicant is
25 Landvatter Enterprises, L. L. C.

1 The applicant wishes to rezone
2 approximately 12.68 acres from Community Development
3 to Commercial Activity 3, Community Business.

4 The property is on Old Route 66/West
5 Osage Street, approximately 7/10 mile east of the
6 intersection of Old Route 66/West Osage Street and Old
7 Gray Summit Road in Boles Township.

8 THE FACTS: This rezoning includes two
9 parcels which total approximately 24.3 acres in size.
10 The applicant is requesting to rezone approximately
11 12.68 acres which includes all of parcel
12 19-2-09.0-0-000-030-000 and a portion of parcel
13 19-2-09.0-0-000-030-210. The remaining 11.93 acres
14 will remain Community Development.

15 The current zoning of this property is
16 Community Development. The applicant would like to
17 rezone to Commercial Activity 3, Community Business.

18 The properties between Old Route 66 and
19 Old Gray Summit Road are zoned Community Development.
20 The properties across the road, Old Route 66 and south
21 of Interstate 44, are zoned Commercial Activity
22 Highway Service.

23 These properties are not a part of a
24 subdivision, but there are subdivisions surrounding
25 the proposed site to the west, south and southeast.

1 The property is surrounded by commercial
2 properties to the west, high-density residential
3 properties to the south and southwest, and the
4 railroad on the east.

5 This property has access to Old Route 66.

6 The property is located in Water District
7 Supply Number 3.

8 STAFF COMMENTS: This property appears to
9 be commercial on the Future Land Use Map.

10 Rezoning are allowed in our regulations
11 due to the every-changing conditions that exist in the
12 county and elsewhere. According to Article 14,
13 Section 321, any such change must promote the health,
14 safety, morals, comfort, and general welfare of
15 Franklin County by conserving and protecting property
16 and building values, by securing the most economical
17 use of land and facilitating the adequate provision of
18 public improvements in accordance with the mast plan
19 adopted by Franklin County.

20 At the December 18, 2018 Planning and
21 Zoning Commission meeting, the Planning and Zoning
22 Commission voted to recommend approval, with seven in
23 favor and one opposed.

24 CHAIRMAN BRINKER: Okay. Thank
25 you, Scottie.

1 How we will proceed from this point
2 forward, the applicant will have 15 minutes with which
3 to present. All respondents thereafter will have five
4 minutes each accordingly. And we'll allow for the
5 applicant to go ahead and begin.

6 (Thereupon, the witness was
7 sworn.)

8 MR. DAMIAN STRUZZI:
9 Commissioner, my name is Damian Struzzi. I'm the
10 attorney for the applicants. Landvatter Enterprises
11 is represented today by Roger and Melissa Landvatter.

12 As part of my time this morning, I will
13 ask to have Richard Ward testify as an expert in urban
14 planning and he will be able to fill in some of the
15 County's questions about the County's Master Plan and
16 how this fits with the Master Plan.

17 As was stated, my client owns
18 approximately 24 acres along the frontage road off of
19 Interstate 44 and Gray Summit. He's seeking to rezone
20 approximately just over 12 acres of that property for
21 these CA3 zone.

22 The property now is the CD zone. The CA3
23 zone would include all the same uses of the CD zone,
24 plus additional uses of manufacturing, which would
25 include heavy manufacturing, which my client would

1 like to put a concrete batch plant on this property.

2 I have an aerial photo of the property
3 which is marked Exhibit 1.

4 (Thereupon, evidence was
5 marked for identification and
6 submitted for the record as
7 Applicant Exhibit 1.)

8 In yellow is an outline of the full 24
9 acres. There's an area marked 1, which is where the
10 plant would go, and an area marked 2, which is the
11 area which would not be rezoned. The area not to be
12 rezoned is rather hilly and tree filled. My client
13 intends to keep that property the same as it is now as
14 a buffer between what he would put in and what is now
15 the houses and apartments to the south. It's
16 approximately a 12-acre plot of land as well.

17 The Franklin County -- and I'll move
18 Exhibit 1 into evidence if I could.

19 The Franklin County Future Land Use Map
20 is marked as Exhibit 2.

21 (Thereupon, evidence was
22 marked for identification and
23 submitted for the record as
24 Applicant Exhibit 2.)

25 The area in question is along Interstate

1 44, just south of the Gray Summit exit. The future
2 land use plan is for a mixed commercial/industrial
3 use. There is an institutional use across the street.
4 That is the Department of Transportation's storage
5 yard now.

6 And as was stated, the -- this use would
7 comport with the future land use plans of Franklin
8 County.

9 I move Exhibit 2 into evidence.

10 As Exhibit 3, another aerial view of the
11 plant.

12 (Thereupon, evidence was
13 marked for identification and
14 submitted for the record as
15 Applicant Exhibit 3.)

16 This one is now facing south so the
17 Commission can see the other uses along the frontage
18 road, which includes the MoDOT facility. There's also
19 a large truck repair, a fireworks sales and store, and
20 a different gas station along the interstate and also
21 the railroad and interstate, of course, are running
22 along the property.

23 I move Exhibit 3 into evidence.

24 The applicant's use is not too much
25 different than what's there now as stated due to the

1 other uses that are in the area. The area is near the
2 Shaw Nature Reserve, and some concerns have been
3 raised due to that and due to residential uses being
4 nearby.

5 If the applicant was to put a concrete
6 batch plant on this property, he would have to comply
7 with the Department of Natural Resources for both air
8 quality and water runoff from the property. There are
9 quarterly reviews of at least the water runoff.

10 The plans that he has would also include
11 a two water retention basins, berms, that would devote
12 flow -- divert flow around the plant, and none of the
13 water that is emanating from the plant would leave the
14 site.

15 The water that does leave the site that
16 is coming from rain or other sources has to meet DNR
17 standards, which are like -- which are quarterly
18 reviewed. And if the applicant is ever in violation,
19 the DNR notifies him, and he has to find a way to
20 bring into compliance.

21 These type -- this with the County
22 ordinances will make it -- the impact to the area very
23 minimal in my estimation. And I believe that the
24 applicant's use would be for the economic benefit of
25 Franklin County and the surrounding area.

1 I want to introduce what has previously
2 been provided to the Board of Zoning Adjustment. This
3 is Exhibit 4.

4 (Thereupon, evidence was
5 marked for identification and
6 submitted for the record as
7 Applicant Exhibit 4.)

8 This is a letter detailing in more
9 detailed terms the compliance that the applicant has
10 done with his other concrete facilities, including
11 any noise violations, how he's come into compliance or
12 worked with the neighbors with any noise complaints I
13 should say. He's never really had a noise violation
14 of any county or city ordinance.

15 The -- and also the water and air, any
16 issues raised by DNR in here shows that they have been
17 addressed at his other facilities.

18 This gets me to the Kirkwood facility
19 that the applicant has. The applicant has a concrete
20 batch plant located in the city of Kirkwood. That
21 plant is abutting large subdivisions in Kirkwood with
22 homes that range in the \$300,000 to \$450,000 range.

23 I'll be submitting Exhibit 5, which is
24 the documents for Mr. Ward's testimony, which include
25 pictures of the Kirkwood batch plant, the location of

1 the homes nearby, which are high-value homes, and also
2 the pictures of the area around the proposed rezoned
3 location which include all the uses that are there
4 now.

5 And I'll submit Exhibit 5 into evidence.

6 (Thereupon, evidence was
7 marked for identification and
8 submitted for the record as
9 Applicant Exhibit 5.)

10 In conclusion, the applicant's request
11 comports with the future land use plan of Franklin
12 County, the Master Plan. It would be what's defined a
13 commercial use under the -- or it would fit into the
14 CA3 zone and be a manufacturing use and commercial use
15 in the CA3 zone, and it would be for the betterment of
16 Franklin County's economic development with a limited
17 detriment to any of its neighbors.

18 And I will submit Mr. Ward's testimony.
19 Richard Ward is a planning expert on economic and
20 urban development.

21 MR. RICHARD WARD: Thank you,
22 Mr. Struzzi.

23 Good afternoon.

24 MS. REPORTER: Just a moment.

25 MR. WARD: Sorry.

1 (Thereupon, the witness was
2 sworn.)

3 Good afternoon, presiding Commissioner
4 and fellow Commissioners.

5 My name is Richard Ward. I'm glad to be
6 with you this afternoon. I have a long track record
7 of experience as a consultant in community planning.

8 Over the years, I've worked for numerous
9 cities and counties throughout the greater
10 metropolitan area, as well as the State of Missouri.
11 And in 1985 I even prepared what I believe to have
12 been the first comprehensive plan of Franklin County.

13 I hold professional certification as an
14 urban planner, AICP, and an economic developer, IEDC,
15 and I have a graduate degree in urban and regional
16 planning from Virginia Tech and an MBA from Washington
17 University.

18 My assignment for Mr. Landvatter is to --
19 and his enterprises is to advise and assist in
20 securing the County's approval of the necessary zoning
21 and enable establishment of a concrete manufacturing
22 plant on this property.

23 You heard from Mr. Struzzi the general
24 characteristics of the site and its surroundings. I
25 want to concentrate for the limited time that I have

1 on the other point that he mentioned in closing -- his
2 closing.

3 I was astounded when I visited the
4 Kirkwood site of the Landvatter operation. I've been
5 in land use a long time, and I've seen a lot of
6 different places and things.

7 The coexistence of that plant with the
8 surrounding residential area is really amazing and
9 laudatory. I'm sure there have been rough edges at
10 times and at times inevitably, but it works. And I
11 would suggest it's something that if you have a change
12 you take a few minutes and look at it when you're in
13 town -- in the St. Louis city area or regional area,
14 county I should say.

15 It -- I think I counted about eight homes
16 that directly abut the site. They're not set back to
17 vast open areas like this one is. Their lots back up
18 to the property. The homes vary in distance from 100
19 feet to 300 feet. Most of those seven or eight homes
20 that directly abut were built after the plant was
21 built. I can't assert that every one is, but I think
22 from what I can see, it looks like they all most are
23 -- most were.

24 There were homes built in the last three
25 or four years directly adjacent on, I believe it would

1 be, the west side of the property. This is on the
2 Barrett Station Road. It sits right across the street
3 from the entrance to the Transportation Museum, if you
4 know facility.

5 You have to look twice to realize it's --
6 the plant is there. They have a little office
7 building that sits out front. That's where the
8 company has its headquarters. Behind it is the
9 operating plant and everything that goes with it.
10 Everything that's enclosed that will be provided here
11 is provided there. I think it's about an eight-acre
12 site.

13 There will be about 12 acres here that
14 will accommodate the same operations and facilities.

15 So it works. It may not be what somebody
16 would say I want to live there, I want to live next to
17 a concrete plant. It may not be the first criteria of
18 desire. Nevertheless, it works, and I suggest you
19 look at it.

20 We have 650 feet, give or take, between
21 the edge of the active operations that will be
22 provided, and that's between where the houses are and
23 where the actual plant facilities are.

24 The land in between is mostly -- is
25 wooded. There's two utility rights-of-way that go

1 through there, the sewer being one and pipeline being
2 another, petroleum pipeline or gas.

3 And it's -- then the land rises up about
4 50 feet I believe to where the houses are back on the
5 old state road. And then the Botanical Gardens
6 property beyond that.

7 I would contend -- and I think I'm
8 probably getting close to my closing time. I contend
9 there will be no impact on the Botanical Garden.
10 There'll be no impact on the homes. They will, in the
11 summer months, not even be able to see it.

12 In the winters, yes, you can look through
13 the woods and through the trees and you'll barely be
14 able to see it. But the screening there. The land
15 that has the trees on it and the steep slope behind
16 the homes that might be 500 feet or so from the
17 operating plant is -- I think will have to stay the
18 way it is. It's too steep to build houses on, and
19 it's all part of what I'm considering to be a buffer
20 from this project.

21 Some of that land was platted -- is
22 platted for single-family lots. I can't imagine how
23 anybody could ever do that the way the platting is set
24 out very archaic and basically inaccessible.

25 And so I -- you've got a buffer, and it

1 -- so I don't think it'll be seen. It'll not be seen.
2 It'll not be heard. It will not be polluting people
3 who live in the homes along the state road.

4 And I think that's pretty much covers my
5 assertion, my oversight of this, overview of this
6 sight, the -- I might just say one thing about that --
7 what I was going to say at the beginning.

8 The frontage is industrial/commercial in
9 character the entire length that's there now,
10 including the UE-Ameren substation that sits right
11 there by the entrance. Across the street the State
12 operation is as industrial as you can get; although,
13 it's institutional owned. The staging area for
14 maintaining the highways and all the equipment,
15 repairing, providing storage for all kind of materials
16 involved in road repair and maintenance.

17 It ain't -- it is not pretty. It is very
18 industrial in character, and it just goes along with
19 the overall feeling of this part of the highway that's
20 in front of the proposed site.

21 So if you have any questions, I'll be
22 delighted to answer them.

23 CHAIRMAN BRINKER: Questions,
24 Commissioners?

25 COMMISSIONER BOLAND: No, sir.

1 COMMISSIONER HINSON: No.

2 CHAIRMAN BRINKER: Thank you
3 very much.

4 MR. WARD: Thank you.

5 CHAIRMAN BRINKER: That wraps
6 up the presentation as to the petitioner.

7 Any individuals wishing to speak on
8 behalf of the petitioner as well, will be given five
9 minutes incrementally from this point forward.

10 Please be sworn in.

11 (Thereupon, the witness was
12 sworn.)

13 MR. TOM KELP: My name is Tom
14 Kelp. I own Kelp Contracting, Incorporated.

15 I will not take up five minutes. I will
16 take only a few minutes. I just want to start to
17 begin with to say that the Landvatters are my friends.
18 So full disclosure our history goes back age. They
19 started in 1953. I was born in 1953, and my father
20 was their first driver. So obviously we know the
21 family.

22 I don't buy all my concrete from them.
23 They are our preferred provider, but just as we have
24 right now in this area I do work in Franklin County.
25 I work for the City of Union. I work for the City of

1 Washington. I'm working for the City of Washington
2 right now. I've worked in nine states around this
3 area. So you know, we're geographically, technically
4 I am in Wildwood, but I'm three minutes from the
5 Franklin County line, and probably 30 percent of my
6 work is in Franklin County.

7 Material delivery is a big thing.
8 Concrete material is a perishable product. So there
9 was Franklin County Concrete in Pacific, and I don't
10 know how long it's been gone, but it's been gone a
11 long time.

12 The problem that you have, particularly
13 in hot weather, the concrete gets hot. On Department
14 of Transportation jobs, they literally take the
15 temperature of the concrete when it is delivered. If
16 it is too hot, the load is rejected and that's a
17 thousand dollars down the stream. So these are real
18 issues.

19 Robertsville, we just did some work in
20 the treatment plants over in Robertsville area. No
21 place close -- no one close there to get concrete
22 from. You have to really watch that. So from a
23 contractor's point of view, this is very critical.
24 There's nothing in Gray Summit. There's no place
25 there close by to concrete.

1 Washington has Redimix plants. Union I
2 believe does have some Redimix plants too, but this is
3 ideal, an absolutely ideal location for it. They run
4 a clean operation.

5 I would invite you to go look at them.
6 They're trucks are better looking than everybody
7 else's. I won't say the city name, but we have done
8 city street replacement for years. They have told us
9 that they will pay more for the Landvatter concrete.
10 They will take an up-charge for the Landvatter
11 concrete because they produce excellent material, and
12 the trucks that they bring out to the job don't leave
13 oil puddles on the streets.

14 So that's what a good operation you have
15 with them.

16 So that's all that I have to say. Like I
17 said, they are a wonderful operation. I know the
18 exact location of where they're looking at, and it
19 makes perfectly good senses to have it there.

20 Thank you very much.

21 CHAIRMAN BRINKER: Thank you.

22 Anybody else in the audience wishing to
23 speak in favor of the proposition?

24 (NONE)

25 Thank you.

1 Anybody in the audience wishing to speak
2 in opposition of the proposal at hand?

3 Please come forward and be sworn in, and
4 you'll be given five minutes.

5 (Thereupon, the witness was
6 sworn.)

7 MR. MIKE MASON: All right.
8 I'd like to start out by saying that we would like to
9 request the rezoning from Community Development to
10 Commercial Activity 3 that the Landvatter Enterprises
11 is requesting be denied.

12 This rezoning does not protect the
13 health, safety and property or our values that
14 Franklin County is supposed to do.

15 If their property is rezoned, it will
16 allow any kind of industry to be built there,
17 including the possibility of the concrete plant.

18 If the plant would be allowed to be
19 built, there is very industrial manufacturing with a
20 lot of heavy equipment, outdoor storage. That is very
21 different from the manufacturing that is done inside
22 of a manufacturing facility.

23 If the concrete plant was allowed to be
24 developed in this area, it would greatly affect our
25 property values. I know there are large houses in the

1 Kirkwood plant, but those people choose to build their
2 houses -- to built after the plant was there. They
3 knew what they were building and buying before they
4 bought it.

5 We did not get that choice. We have
6 owned some of these houses for 50 years. We live in a
7 quiet rural area. We chose where we wanted to live
8 because it's quiet, little traffic, lots of wildlife.

9 I have talked to a fence guy that has
10 been working in the Kirkwood putting up privacy fences
11 along the houses close to the Kirkwood plant to help
12 keep down some of the noise and the dust. And this is
13 even after they knew that the plant and the Kirkwood
14 plant was already there.

15 There is something -- this is not
16 something we want to do -- have to do. We were here
17 first.

18 Mr. Landvatter's Kirkwood and St. Charles
19 plants have a long history of repeated DNR violations.
20 Some of these violations were major. We do not want
21 this in Franklin County. We do not want to take a
22 chance that he will pollute our community and damage
23 Shaw's in any way.

24 Shaw's started out here because the
25 pollution in St. Louis, and now we're going to -- all

1 of Franklin County to be polluted also.

2 Where is the dust on the ground -- where
3 the dust pollution on the ground and trees going to
4 go?

5 There will not be any restrictions placed
6 on this plant if this is simply allowed to be rezoned
7 property. Before when he applied for a CUP, the
8 members of the Board felt he needed 11 restrictions
9 placed on it.

10 Mr. Landvatter withdrew the CUP and
11 instead applied for a rezoning. How can he get -- how
12 can we get these restrictions put back on? What is
13 the -- what other industries can move into this
14 location without restrictions also?

15 Mr. Landvatter is only applying for the
16 rezoning of tract one. What happens to the other
17 half? It sounds like a lot of property to be left
18 there for sound buffering. When you look at the way
19 it runs down the road, it's only 20, 30 feet from our
20 house.

21 And also Mr. Landvatter bought this
22 property, purchased equipment which he has on this
23 property, while it was under rezoning litigation. Did
24 somebody give him a guarantee that this property would
25 be rezoned?

1 Mr. Landvatter's wife was also on record
2 in "The Missourian" complaining about putting a
3 wedding venue close to their house. We would love to
4 have a wedding venue there.

5 That's all I have right now. Thank you.

6 MS. REPORTER: State your name
7 for the record, please.

8 MR. MASON: Michael Mason.

9 MS. REPORTER: Okay. Thank
10 you.

11 CHAIRMAN BRINKER: Thank you.

12 Next person to speak in opposition to the
13 proposal at hand. Please come forward, be sworn in,
14 and you'll have five minutes after such.

15 (Thereupon, the witness was
16 sworn.)

17 MS. MAVIS HUFF: Well, number
18 one, I don't like my house being called a slum, and
19 that's the way it sounds like everybody is saying.

20 It's not a \$500,000 home, no, but it's a
21 home that my husband and I worked. My kids were
22 raised there. My son will live there after we're
23 gone, and it's like it doesn't matter to anybody. It
24 doesn't matter to you, you know.

25 And the area is beautiful. We're a very,

1 very close-knit neighborhood. The neighbor on one
2 side of us, her husband passed away. My husband and
3 son always shovels their snow, always there to help
4 them.

5 The other neighbor's wife just passed
6 away. My husband and son and other neighbors, we're
7 just really close, all of us. And we don't want that
8 broke up because it will be, because people are saying
9 I can't -- I can't breathe, I can't live in this.

10 Well, you know what? I can't breathe
11 either. I've had open heart surgery. I had a
12 collapsed lung. I had three tubes in it for three
13 months. It was draining three times a day. A nurse
14 would come and drain it, and that's painful. I don't
15 want to go through that again.

16 I have trouble breathing now, and I don't
17 want to think about not being able to go out and enjoy
18 it. It's just terrible.

19 In behind our house, Mr. Landvatter will
20 own the ground. That's right, but he will also own
21 the ground on both sides of us because previous people
22 did not buy the property like everybody else did.

23 So he can bring anything he wants up and
24 park right next to our property, and I don't want
25 that. At the last meeting, I stood up and asked what

1 kind of guarantee can we have that this boundary, this
2 buffer would be there. And a gentleman on the Board
3 asked him.

4 I asked are they going to sign a release,
5 you know, or something like that. Because when this
6 first started and we went to a work committee meeting,
7 and he was talking about this 12 acres or whatever
8 they were going to use as a boundary, it was more or
9 less, yes, he said it was always going to stay that
10 way.

11 Well, at this meeting, his answer when
12 the gentleman asked him was, well, you can buy it.
13 You can put a park on it, or I'll sell it.

14 Well, where is our boundary? What
15 guarantee are you going to give us that there's always
16 going to be a boundary? That's a beautiful area,
17 gentlemen. And the arboretum, and I love animals.
18 I'm not going to deny that, and I love seeing the deer
19 and the turkey. It's just fantastic.

20 Please don't do that to us. Please. You
21 know, it's wrong. This is not industrial. This is
22 residential, and you're going to be changing our
23 lives. Just think about that. It's our lives. It's
24 up to you three. Please don't do it. Please.

25 Thank you.

1 MS. REPORTER: Excuse me.
2 Could you state your name. State your name for the
3 record.

4 MS. HUFF: Mavis Huff, 2790 Old
5 Gray Summit Road, Pacific, Missouri.

6 MS. REPORTER: Thank you.

7 CHAIRMAN BRINKER: Next.
8 Please be sworn in and state your name.

9 (Thereupon, the witness was
10 sworn.)

11 MS. ABIGAIL LAMBERT: My name
12 is Abigail Lambert, and I live on the property of Shaw
13 Nature Reserve. I'm also in the field of land
14 conservation, but I did feel that this is an
15 invaluable natural resource for not just the county
16 but for the greater St. Louis region, that a lot of
17 people come to visit.

18 And I think the proposed plant will
19 detrimentally affect the esthetics, the experience of
20 visitors there and basically the intent -- you know,
21 the important -- the overall integrity of the
22 property.

23 I just don't think this is the right
24 location for this particular plant. That's all.

25 CHAIRMAN BRINKER: Thank you.

1 Next in opposition of the proposal.

2 Please be sworn in and state your name and sign in.

3 (Thereupon, the witness was
4 sworn.)

5 MR. QUINN LONG: Quinn Long.

6 I'll put my address down here.

7 I'm Quinn Long, Director of Shaw Nature
8 Reserve, and I speak as a representative of the
9 Missouri Botanical Garden.

10 As mentioned, the Shaw Nature Reserve was
11 founded in 1925 to provide a refuge from industrial
12 pollution for the plant collections of the Missouri
13 Botanical Garden. In the intervening nearly 100
14 years, it has grown to be a refuge for native
15 biodiversity and also a refuge for over 70,000
16 visitors annually who come to experience the beauty of
17 the natural world.

18 Our educational programs offer
19 opportunities for visitors ranging from early
20 childhood to lifelong learns to be educated about the
21 natural biodiversity, the flora and fauna of eastern
22 Missouri and the Ozark quarters.

23 The Nature Reserve has even been
24 designated by the U. S. Department of Interior as a
25 national environmental education landmark.

1 We share the concerns of our neighbors
2 along Old Gray Summit Road that the noise and dust
3 from the proposed cement plant would be a detriment to
4 the visitor experience for the many, many visitors
5 from Franklin County and from throughout the St. Louis
6 region and beyond who come to the Nature Reserve to
7 experience the pristine beauty of the natural world.

8 I'd also like to comment as a resident --
9 as a member of the community. I grew up in rural
10 Franklin County throughout most of my childhood. And
11 I'd like to express some concerns as a community
12 member.

13 Specifically, I acknowledge and stated
14 that the location and the desire to build this plant
15 is in anticipation of further economic development of
16 eastern Franklin County which we might anticipate
17 given what a highly desirable area this is to live in.

18 However, I would respectfully urge the
19 members of the Commission to think cautiously about
20 the sustainable growth and economic prosperity of our
21 region, and to take the long view and to be cautious
22 to avoid rezoning that might compromise the very
23 quality of life that makes this area so desirable as
24 our neighbors on Gray Summit Road have expressed.

25 Thank you.

1 CHAIRMAN BRINKER: Thank you.
2 (Thereupon, the witness was
3 sworn.)

4 MS. SARAH WILLEY: My name is
5 Sarah Willey, and I am the director of Development
6 Community Outreach for Great Rivers Environmental Law
7 Center.

8 I'd like to read a few excerpts from the
9 previously submitted Exhibit 1, Part 17, which is a
10 copy of noise complaints that St. Louis County has
11 received about Landvatter's Kirkwood plant from its
12 nearby residents.

13 On Thursday, August 17, 2017, Gary
14 Hollingsworth wrote:

15 "Once again, I have to
16 report noise issues at
17 Landvatter's facility on
18 Barrett Station.

19 "The noise started well
20 before 7:00 a.m., and I
21 suspect the volume has also
22 exceeded legal limits today.

23 "Yesterday, they were
24 jackhammering some of the
25 trucks. The noise sounds like

1 heavy machinegun fire,
2 similar to current chain-guns
3 used by our military forces.

4 "I have mentioned before
5 that this work sounds like
6 a war zone, and it is
7 extremely loud."

8 On Wednesday, August 23, 2017, Ryan Volk
9 wrote:

10 "You have my permission
11 to take a reading from anywhere
12 on my property located at
13 13201 Barrett Road Drive,
14 63122.

15 "I have found Landvatter
16 to start most mornings around
17 5:00 to 5:30. They have been
18 better in the early morning,
19 but only because they started
20 mixing their trucks on the
21 south side of the plant.

22 "While I know they are
23 allowed to have some noise
24 coming from the plant during
25 nighttime hours, my belief is

1 that we are still well above
2 the allowable levels.

3 "Then around 7:00 or
4 7:30 a.m., they start mixing
5 the trucks again on the north
6 side of the plant. This
7 continues all day, as far as
8 I know. They usually wind up
9 around 4:30-ish, which is
10 nice.

11 "However, they have tenants
12 that they lease their parking
13 lot that start working on their
14 dump trucks around 6:00 p.m.
15 This happens usually three to
16 four nights a week, and lasts
17 until 8:30 to 9:00-ish in the
18 summer months.

19 "This consistent hammering,
20 grinding, and a generator
21 running full blast. Robin
22 Lynn Trucking is the company
23 name, and their spot on the lot
24 is in the northeast corner,
25 closest to my house.

1 "They also have another
2 tenant that is an excavation
3 company, but I don't know
4 their name. This company
5 usually loads up and starts
6 their trucks around 4:30 to
7 5:00-ish a.m., but they are
8 right next to Adam's house.
9 So he would better be able
10 to address their noise with
11 them.

12 "In addition to this,
13 they typically have their
14 trucks cleaned out on
15 Saturdays. You never know
16 when, but it happened last
17 weekend. While I wasn't
18 there, the entire street
19 said they were going all
20 morning long.

21 "When they are doing this,
22 they are no doubt running
23 well above 80 decibels for
24 hours on end. It may even be
25 in the 100 range on decibels.

1 It is loud.

2 "Thanks again for your
3 assistance here."

4 On Thursday, September 7, 2017, Adam
5 Bryant wrote:

6 "You have my permission to
7 access my property at 13202
8 Barrett Road Drive, 63122 for
9 sound readings or any other
10 observations needed.

11 "Landvatter's tenants are
12 the first to start the day.
13 Typical mornings start with
14 dump trucks idling, loading
15 equipment onto trailers between
16 4:30 a.m. and 5:30 a.m.

17 "Landvatter operations
18 seem to start around 5:30 most
19 mornings, getting louder as
20 they begin mixing around 7:00.

21 "Echoing Ryan's e-mail,
22 though it is not on a regular
23 or daily basis, the cleaning
24 of the drums or concrete mixers
25 is extremely loud for long

1 periods of time.

2 "Also the tenants work
3 on their equipment and trucks
4 mostly nights and weekends.
5 This consists of generators,
6 air guns, impact wrenches, et
7 cetera for long periods of
8 time."

9 And finally, on Thursday, June 8, 2017,
10 Gary Hollingsworth writes:

11 "Landvatter has been
12 particularly noisy this week.
13 On Tuesday, there was a
14 significant noise coming from
15 what I can only describe as
16 jackhammering inside one of
17 the mixers.

18 "The noise level from this
19 activity is extremely loud and
20 comes right through the walls of
21 our home.

22 "They have in the past
23 contracted other firms to clean
24 out the mixer trucks for
25 hardened concrete.

1 "These contractors use
2 pneumatic chipper hammers
3 to break the hardened concrete
4 free from the inside of the
5 mixer drums.

6 "In past times, they have
7 done this work well into the
8 evenings.

9 "I made a few calls to the
10 County Police a few years ago
11 when this occurred. I also
12 spoke with the plant manager,
13 who at that time said since it
14 was the contractors performing
15 the work, there wasn't anything
16 he could do about it.

17 "Not a particularly
18 responsible answer.

19 "Yesterday, the noise
20 began well before 7:00 a.m.
21 And this morning the
22 jackhammering started again;
23 although after 7:00 a.m. Still
24 just too loud."

25 Thank you.

1 CHAIRMAN BRINKER: Thank you
2 very much. I'm impressed with your timing. Just
3 right under the five-minute mark.

4 (Thereupon, the witness was
5 sworn.)

6 MS. KATHLEEN HENRY: Good
7 afternoon, Mr. Chairman, members of the Commission.
8 I'm Kathleen Henry. I'm an attorney at Great Rivers
9 Environmental Law Center, the non-profit environmental
10 law firm in St. Louis.

11 I represent Kelly and Mike Mason and
12 several other homeowners on Old Gray Summit Road, as
13 well as the Concerned Citizens against Landvatter
14 Redimix.

15 At the P and Z Commission, we filed
16 binders with 54 exhibits. They look like this, and I
17 encourage you to read the exhibits before making your
18 decision. We did not make four additional copies for
19 this Commission because they cost so much, and the
20 attorney for the County assured me that one comes here
21 on the record, if not four, that it is here with all
22 these exhibits in it.

23 (Thereupon, evidence was
24 marked for identification and
25 submitted for the record as

1 Opposition Exhibits 1 and 2.)

2 Several people could not make it to this
3 hearing, including Kelly Mason, Karen Dean, Craig
4 Dean, due to the hearing being held in the daytime.
5 They couldn't get off work. I encourage this
6 Commission to hold public hearings in the evenings
7 when more people are available to get to them.

8 But their written comments are in the
9 binders that we filed before.

10 For many reasons, this Commission should
11 deny the request for rezoning. The people who -- the
12 first is that the current zoning is reasonable.

13 The people who live on Old Gray Summit
14 Road live in an area zoned for residences. The
15 current zoning of the Landvatter property is Community
16 Development. There's been no showings that CD is not
17 suitable for that property.

18 Just because one person chooses to try to
19 put heavy industry on it doesn't mean that it's not
20 suitable for what it's zoned currently.

21 The County doesn't exist to make one
22 person a profit at the expense of others.

23 Then I want to comment on some -- two
24 issues that Mr. Struzzi touched upon earlier today.
25 One I believe he said the noise -- there are no noise

1 violations.

2 St. Louis County did bring an action
3 against Landvatter for the noise violations at the
4 Kirkwood plant, and the noise violations are in the
5 exhibits.

6 The file is confidential. They reached a
7 settlement. I am not allowed to read the settlement.
8 I went to the County to get it, St. Louis County, and
9 I couldn't get the file. So it was that bad that they
10 brought an action.

11 Second is that there is a tree-lined
12 buffer. The 12 acres that go -- that would not be
13 developed for this plant go lengthwise. So as Mr.
14 Mason, there's 20 to 30 feet. Then the prior owner
15 tore down the trees. So there's no trees in that
16 buffer now, or at least a good portion of them were
17 torn down.

18 This rezoning violates the due process
19 and equal protection clauses of the U. S. and Missouri
20 Constitutions.

21 I'm going to -- it's impossible for me to
22 get to all the reasons in five minutes. So please
23 read the comments that I filed today.

24 I'll discuss equal protection. Article
25 7, Section 138. Is it valid? Because it creates an

1 unlawful classification, which is discriminatory in
2 nature in violation of the U. S. Constitution
3 Amendment, the 14th Amendment, and Article 1, Section
4 2 of the Missouri Constitution.

5 The classification it creates is industry
6 the staff calls commercial, and it gets it a
7 commercial district without needing the buffers and
8 requirements that industry needs that's required by
9 Article 7, Section 144, the zoning district titled
10 Industrial Development Zoning District.

11 So those are two industries with
12 different classifications.

13 The industry that's allowed to be sneaked
14 into commercial districts will have no substantial
15 relationship to the public health, safety, comfort or
16 welfare.

17 Legislative bodies may make
18 classifications if they're based on a reasonable
19 distinction, and there's no reasonable distinction for
20 having these two industries.

21 Kelly Mason and the other landowners are
22 prejudiced by this. If the staff had decided the
23 concrete plant was industry subject to Section 144,
24 Landvatter would have needed a Conditional Use Permit,
25 which he did in 2014. And the P and Z put 11

1 conditions on it.

2 But since the staff arbitrarily decided
3 this concrete plant is commercial this time, it can be
4 built with no conditions put on it, and different
5 buffers from a concrete plant that is called
6 industrial.

7 And now let me address due process. I
8 probably have 30 seconds left.

9 I'm arguing that Article 7, Section 138
10 is unconstitutional, both facially and as applied.
11 The courts across the nation employ the duck test. If
12 something walks like a duck, talks like a duck, and
13 acts like a duck, then it's a duck.

14 The plant proposed by the Landvatters
15 walks, talks and acts like heavy industry. It is
16 heavy industry, and it does not belong in a commercial
17 district.

18 Thank you.

19 CHAIRMAN BRINKER: Thank you.

20 Is there anybody else in the audience
21 wishing to speak in opposition to the proposal?

22 (NONE)

23 Anybody wishing to speak for
24 informational purposes only?

25 (NONE)

1 With that, I will allow the applicant
2 five additional minutes if they wish to respond.

3 MR. STRUZZI: Briefly.

4 To address the issue regarding the noise
5 ordinances, my statement was that Mr. Landvatter's
6 company was never found in violation of St. Louis
7 County. There was a ticket issued. It was disputed,
8 and it's my understanding the ticket was dropped. Mr.
9 Landvatter has worked with his neighbors in Kirkwood
10 and tried to do what he could to meet their concerns.

11 And I believe that the neighbors now have
12 felt that he's sufficiently addressed those concerns.

13 There was an issue with a subletter in
14 his facility in Kirkwood which was resolved, and that
15 was most of the noise complaints at that time.

16 I'm not saying this is not going to be an
17 operation that would create some noise, but we're in
18 an area where you have the railroad, you have the
19 interstate and you have other industrial like uses
20 around the area that are already there.

21 Mr. Landvatter's concrete plant would be
22 very similar to what's already in this area.

23 The road that would be used is the
24 frontage road, not the Gray Summit Road. So the road
25 that the folks in opposition are using to access their

1 homes would not be used by the concrete plant.

2 The Nature Reserve does not immediately
3 abut to Mr. Landvatter's property either, and the
4 closest area to the Nature Reserve is also an are not
5 to be rezoned.

6 There are other industrial uses that are
7 around the Reserve as it stands now. There's a
8 construction company, among others, that's I believe
9 zoned Industrial, but it's further down the road, down
10 the interstate, but it's near the Reserve.

11 I do not believe that Mr. Landvatter's
12 proposed use would impact the Shaw Nature Reserve as
13 Mr. Ward has already testified his expert opinion on
14 that matter.

15 I would like to bring to the Commission's
16 attention that this matter, this rezoning, was already
17 approved by this Commission previously. It was taken
18 up on appeal. The Eastern District actually found
19 nothing wrong with the rezoning; however, resent the
20 issue back to the County because there was no public
21 hearing at the Board of Zoning level. It was just a
22 technicality. However, the previous rezoning was not
23 an issue.

24 And I would ask the Board to once again
25 approve the rezoning as requested.

1 The County is free to create its own
2 definitions and zonings and master plan, and it's done
3 so. There's nothing illegal or fraudulent or whatever
4 other accusations have been made against that. The
5 County is free to create their own ordinances and
6 follow them, and that's what's done here.

7 The CD and CA3 zoning allow for mixed
8 uses of both residential, commercial and what's called
9 manufacturing under the County's ordinances. And the
10 County can legally do that. There's no cases or any
11 law cited other than, I believe, the duck test here
12 today that is contrary to what the County's doing.

13 I believe the County is acting lawfully
14 by following its own ordinances and is free and
15 legally able to rezone this property.

16 Thank you.

17 CHAIRMAN BRINKER: Thank you
18 very much.

19 Do the Commissioners have any commentary?

20 COMMISSIONER HINSON: I do not.

21 COMMISSIONER BOLAND: No.

22 CHAIRMAN BRINKER: Just for the
23 sake of the record, I wish to thank everybody for
24 their participation here today.

25 This process is not designed to be easy,

1 but it's designed to be fair and free and transparent.

2 The evidence submitted will definitely be
3 gleaned for the decision made by this Commission and
4 will be utilized to its utmost.

5 A few things for the record, and I wish
6 to speak on behalf of our staff here at Franklin
7 County. Never have I experienced any attempts by my
8 Planning and Zoning director or Planning and Zoning
9 Department to sneak anything into commercial
10 districts. We don't sneak things here in Franklin
11 County. We're very transparent and allow for things
12 to be forthright.

13 No decision ever has been made
14 arbitrarily in allowing opportunity for anyone to do
15 anything in this county that's by the law.

16 And I just wanted to say that for the
17 record, and I just wish to thank everybody once again.
18 And this portion of this public hearing will be
19 closed.

20 Thank you.

21 (Thereupon, the public
22 hearing was concluded.)

23 Next up on the agenda is Article 14
24 amendments.

25 MS. EAGAN: I'll start by

1 reading the hearing procedures.

2 At this time, I would like to place into
3 the record the Franklin County Unified Land Use
4 Regulations as Exhibit A, the official Zoning Map as
5 Exhibit B, the official Master Plan as Exhibit C, and
6 the case file for each case as Exhibit D for all the
7 cases to be heard at this hearing.

8 (Thereupon, evidence was
9 marked for identification and
10 submitted for the record as
11 Exhibits A, B, C, and D.)

12 As each case is opened, a staff report
13 will first be read by the Planning and Zoning
14 Department, followed by the Commissioners' questions
15 for the staff.

16 Then if anyone in the audience would like
17 to speak or comment during the hearing, they must
18 first print their name on the sign-in sheet provided,
19 and then be sworn in.

20 When it is your turn to speak, you will
21 come to the front of the room to address the
22 Commission and only the Commission, not anyone in the
23 audience, with any questions or comments.

24 Generally the applicant is allowed to
25 speak first, followed by those in support, and then

1 those opposed. The applicant may speak again after
2 comments from the general public to address any
3 questions or issues brought up during the hearing.

4 At the conclusion of all questions,
5 comments, and discussion concerning each case, the
6 public hearing for each case will conclude.

7 The decision will generally be made by
8 Commission Order at a later date during the County
9 Commission's regular meeting time.

10 This is File 180273. The applicant is
11 the Planning and Zoning Department.

12 The applicant is seeking to amend the
13 Unified Land Use Regulations of Franklin County. The
14 proposal includes amendments to Article 14,
15 Amendments.

16 So what this is, I gave a copy to each of
17 you and kind of circled Section 323, Planning and
18 Zoning Commission Consideration for Proposed
19 Amendments.

20 We realized that a couple of months ago
21 when we redid our public hearing procedures for the
22 Planning and Zoning Commission, that we didn't have
23 anything for rezonings, an actual policy in place.
24 There's a policy they use, but no regulation to go
25 along with it.

1 So we wanted to put something under
2 Amendments. So now it says:

3 "The Planning and Zoning
4 Commission will allow up to 15
5 minutes for the presenters of the
6 application and up to 5 minutes
7 per witness on the presentation
8 of evidence and arguments, not
9 including questions posed by the
10 Planning and Zoning Commission.

11 "The Planning and Zoning
12 Commission will then allow a
13 three-to-five-minute rebuttal
14 of the presenter.

15 "The Planning and Zoning
16 Commissioner reserves the right
17 to modify the time parameters.
18 If the time parameters are to
19 be modified, such will be set
20 forth in the notice for public
21 hearing."

22 And that is the only change to Article
23 14.

24 CHAIRMAN BRINKER: All right.
25 Thank you.

1 Anybody in the audience wishing to speak
2 in favor?

3 (NONE)

4 Anybody in the audience wish to speak in
5 opposition?

6 (NONE)

7 Informational purposes only?

8 (NONE)

9 Thank you.

10 Any Commissioners wish to comment on
11 procedure?

12 COMMISSIONER HINSON: I do not.

13 COMMISSIONER BOLAND: No, sir.

14 CHAIRMAN BRINKER: All right.

15 Hearing none on all the above, we will set this in the
16 record, and then make a decision on it accordingly.

17 That concludes the public hearing for
18 today, this January 31, 2019.

19 Thank you.

20 (Thereupon, the proceedings
21 concluded at 2:30 p.m.)

22 o8o

23

24

25

1 CERTIFICATE OF REPORTER
2 I, PATSY A. MAYBERRY, Professional Court
3 Reporter and Notary Public within and for the State of
4 Missouri, before whom the foregoing proceeding was
5 taken, do hereby swear that: the aforementioned was
6 held at the time and in the place previously
7 described; the proceedings were taken down in
8 stenographic notes by me and transcribed by me, or
9 under my supervision, to the best of my ability; and
10 that the aforementioned represents a true and accurate
11 transcript of said proceedings.

12 IN WITNESS WHEREOF, I have hereunto set
13 my hand.

14 _____
15 Patsy A. Mayberry, Court Reporter
16 Notary Public, State of Missouri
17
18
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25

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