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

TRANSCRIPT OF PROCEEDINGS

PUBLIC HEARINGS

MARCH 2, 2016

(Commencing at 10:00 a.m.)

23 Reported by:
24 Patsy A. Hertweck, C. R.
25 Midwest Litigation Services

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A P P E A R A N C E S

COMMISSION MEMBERS:

- John Griesheimer, Chairman
- Timothy Brinker, Commissioner
- Jeff Maune, Commissioner

LEGAL COUNSEL AND STAFF:

- Mark Vincent, Attorney
- Ms. Scottie Eagan, Planning Director

MIDWEST LITIGATION SERVICES:

By: Patsy A. Hertweck, C. R.
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1 P R O C E E D I N G S

2 [MARCH 2, 2016]

3 CHAIRMAN GRIESHEIMER: We'll go ahead and
4 get started.

5 We are here for File Number 150195, which is
6 Thriftee Grocery Company rezoning two particles from Non-Urban
7 and Agricultural to Commercial Activity Highway Service.

8 Scottie?

9 MS. EAGAN: First I'll start with the
10 hearing procedures.

11 At this time, I would like to place into the record
12 the Franklin County Unified Land Use Regulations as Exhibit A,
13 the official Zoning Map as Exhibit B, the official Master Plan as
14 Exhibit C, and the case file for each case as Exhibit D for all
15 the cases to be heard at this hearing.

16 [Thereupon, evidence was marked
17 for identification as Exhibits A, B, C,
18 and D.]

19 As each case is opened, the staff report will first
20 be read by the Planning and Zoning Department, followed by the
21 Commissioners' questions for the staff.

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

25 When it is your turn to speak, you will come to the

1 front of the room to address the Commission and only the
2 Commission, not anyone in the audience, with any questions or
3 comments.

4 Generally, the Applicant for the rezoning is allowed
5 to speak first, followed by those in support of the rezoning and
6 then those opposed. The Applicant may speak again after comments
7 from the general public to address any questions or issues
8 brought up during the hearing.

9 At the conclusion of all questions, comments, and
10 discussion concerning each case, the public hearing for each case
11 will conclude. The decision will generally be made by Commission
12 Order at a later date during the County Commission's regular
13 meeting time.

14 And this is File 150195 Thriftee Grocery
15 Distribution.

16 The Applicant requests to rezone two parcels from
17 Non-Urban and Agricultural to Commercial Activity Highway
18 Service.

19 The property is located at 2894 Jeffriesburg Road
20 approximately 40 feet east of Highway 50 in Union Township.

21 The Facts: The total area for the rezoning is
22 approximately 2.5 acres and consists of two parcels.

23 The zoning of this property is Non-Urban and
24 Agricultural. The Applicant would like to rezone to Commercial
25 Activity Highway Service.

1 Commercial Activity Highway Service zoning
2 accommodates commercial uses that draw business primarily along
3 major highways within the county.

4 The properties surrounding the proposed site are
5 primarily zoned Non-Urban and Agricultural. This property is
6 surrounded by low-density residential land with a few undeveloped
7 parcels nearby.

8 The Applicant is currently in violation for running
9 an ATV sales business at this location. Changing the zoning to
10 Commercial Activity Highway Service would remedy the violation of
11 running the business.

12 Staff Comments: This request is for two parcels.
13 The Applicant is the owner of one of the parcels, while it
14 appears the A and S Railway is the owner of the other parcel.
15 After extensive research, it is unclear who actually owns the
16 second parcel. We do have an e-mail from the railroad giving
17 permission to the Applicant to rezone the second parcel if it is
18 owned by A and S Railway.

19 Rezoning are allowed in our regulations due to the
20 ever-changing conditions that exist in the county and elsewhere.
21 According to Article 14, Section 321, any such change must
22 promote the health, safety, morals, comfort, and general welfare
23 of Franklin County by conserving and protecting property and
24 building values, by securing the most economical use of land and
25 facilitating the adequate provision of public improvements in

1 accordance with the Master Plan adopted by Franklin County.

2 Planning and Zoning Commission recommended approval
3 of this file with 9 in favor and 1 opposed.

4 CHAIRMAN GRIESHEIMER: Is there anyone
5 here regarding the Applicant -- representing the Applicant for
6 the Applicant? Yeah, come on forward. Sign in. Then you'll be
7 sworn in.

8 [Thereupon, the witness was sworn.]

9 MR. MICHAEL PARMENTIER: Mike Parmentier,
10 and I'm president of Thriftee Grocery Distributors.

11 And what would you like to know?

12 CHAIRMAN GRIESHEIMER: Can you hear in the
13 back?

14 AUDIENCE MEMBER: No.

15 CHAIRMAN GRIESHEIMER: Okay. If you will,
16 move up a little bit, or if you want to like talk closer into the
17 mic.

18 MR. PARMENTIER: Can you hear me now?

19 CHAIRMAN GRIESHEIMER: No.

20 [Off the record]

21 MR. PARMENTIER: Okay. Is it working? It
22 is working. Hello. Okay.

23 CHAIRMAN GRIESHEIMER: There you go.

24 MR. PARMENTIER: Okay. I'm Mike
25 Parmentier, President of Thriftee Grocery Distributing. And the

1 tenant renting the building too is trying to run the motorcycle
2 four-wheeler repair, and the zoning didn't -- wouldn't work for
3 what was there.

4 I'm trying to rezone it, which would probably be
5 better for me in the future to find a tenant, and I think it
6 would work out better for just being along the highway being
7 zoned that way.

8 CHAIRMAN GRIESHEIMER: Okay.

9 Questions for the Applicant?

10 I guess my question is, Scottie, one of the parcels
11 is owned by the railway. Why is -- does he need the other parcel
12 because of the -- I guess, the amount of footage, square footage,
13 or something?

14 MS. EAGAN: His building is built across
15 the property line.

16 CHAIRMAN GRIESHEIMER: Okay.

17 MR. PARMENTIER: It's an old MFA building.
18 They were, you know, all on railroad property, and the property
19 line is directly in -- down the center of the building.

20 CHAIRMAN GRIESHEIMER: I see.

21 COMMISSIONER BRINKER: Well, who was in
22 charge of that?

23 COUNTY ATTORNEY VINCENT: Jesse James.

24 COMMISSIONER MAUNE: That's the way they
25 did it back then. They relied on the railroad to bring their

1 product in. So it was kind of a symbiotic relationship there.

2 MR. PARMENTIER: Yeah, at the time, the
3 railroad owned both pieces of property, and probably 20 years ago
4 my dad bought half the property, the only part they would sell.

5 COMMISSIONER BRINKER: Hopefully the good
6 part for your father's sake.

7 MR. PARMENTIER: Yeah.

8 COMMISSIONER BRINKER: So the rezoning
9 is -- correct me if I'm wrong -- just to get the existing use in
10 line with what --

11 MR. PARMENTIER: Yes.

12 COMMISSIONER BRINKER: -- you use it for
13 and intents for future use?

14 MR. PARMENTIER: Correct.

15 COMMISSIONER BRINKER: Obviously the
16 rezoning would allow for other interests if it changed in the
17 future, but --

18 MR. PARMENTIER: Correct.

19 COMMISSIONER BRINKER: -- I just want to
20 make sure that I understand. And that makes total sense if you
21 clean it up.

22 How -- have we gotten any further on identifying
23 exactly --

24 CHAIRMAN GRIESHEIMER: Pull your
25 microphone a little bit.

1 COMMISSIONER BRINKER: Hello -- as to the
2 ownership of that other piece?

3 MS. EAGAN: We tried and tried and could
4 not --

5 COMMISSIONER BRINKER: I love just in case
6 the railroad does own it, they said it was okay.

7 MR. PARMENTIER: Well, I'm sure the
8 railroad owns -- I'm not going to fight the railroad over the
9 piece of ground --

10 COMMISSIONER BRINKER: Right.

11 MR. PARMENTIER: -- because I don't think
12 I'll win.

13 COMMISSIONER BRINKER: Right. I just
14 don't want to create more than we have to create.

15 MR. PARMENTIER: Yeah.

16 COMMISSIONER BRINKER: Keep it as clean as
17 possible.

18 That's all I have. Thank you.

19 CHAIRMAN GRIESHEIMER: Jeff, anything?

20 COMMISSIONER MAUNE: Well, Scottie, some
21 of the questions that have been raised by the letters that we've
22 gotten have to do with the facilities and the building septic
23 tank and other code type issues. Is that a -- is that part of
24 this hearing at all?

25 MS. EAGAN: No.

1 COMMISSIONER MAUNE: Okay. That's kind of
2 what I thought.

3 CHAIRMAN GRIESHEIMER: All right. That's
4 all we have I guess.

5 MR. PARMENTIER: Thank you.

6 CHAIRMAN GRIESHEIMER: I'll see if anybody
7 else is opposed.

8 Is anybody in the audience wish to testify in favor
9 of the rezoning, in favor?

10 Okay. Why don't you come up.

11 [Thereupon, the witness was sworn.]

12 MR. BRAD YOUNG: My name is Brad Young.
13 I'm actually the tenant that's in the building trying to get a
14 ATV shop started. If anybody has had any problems with me being
15 there or anything I'm doing, I mean, Mrs. Purschke here has
16 already approached me about some lights I put up around the back
17 that we're going to change to help her out. I have no problem
18 catering to the people in the area to try to make it more
19 comfortable for them and everything else.

20 With the arrangement me and Mr. Parmentier have, I
21 don't plan on going anywhere else. I plan on being there for a
22 long time if that's anybody else's concern about other businesses
23 that might try to come into the area on that property.

24 I'm just trying to earn a living like the rest of
25 everybody else, and more than willing to work with anybody or

1 anything that needs to be done to make it go smoothly and easily
2 as possible.

3 CHAIRMAN GRIESHEIMER: Any questions for
4 the witness?

5 COMMISSIONER BRINKER: No.

6 CHAIRMAN GRIESHEIMER: No. Seeing none,
7 thank you very much.

8 MR. YOUNG: Okay. Thank you.

9 CHAIRMAN GRIESHEIMER: Anyone else in the
10 audience wish to testify in favor, in favor, of the rezoning?
11 [None] Okay.

12 Seeing none, anyone in the audience wish to testify
13 in opposition to the rezoning? Rachel, you're first. Then we'll
14 take it as we go.

15 [Thereupon, the witness was sworn.]

16 MS. RACHEL PURSCHKE: Good morning. My
17 name is Rachel Purschke. I live within 600 feet of the proposed
18 rezoning location, and I think I've probably harassed the
19 majority of you about this issue trying to find some resolution.

20 I am opposed to the rezoning for a variety of
21 reasons, which I'll explain, but I am not here to testify that
22 I'm opposed to the business.

23 So what I have -- what I have accomplished in my
24 investigation I read through the codes. I know that right now
25 the property in question is zoned Agricultural and Non-Urban. I

1 also know that permitted uses contained in that zoning district
2 right now include equipment, machinery sales and services. And
3 then that non-agricultural uses for conditional uses includes
4 motor vehicle service, to include installation of parts, repair
5 and maintenance, which I think we can all agree is relatively
6 close to what it is that Mr. Young is trying to accomplish within
7 the facility right now. And that's in the zoning district that
8 it already is.

9 The services permitted under zoning Community
10 Development and Commercial Activity are the all-terrain vehicle
11 sales and services, but that category, all-terrain vehicle sales
12 and services, as I understand it and I haven't been involved in
13 Planning and Zoning forever, but as I understand it, that exact
14 use used to be either permitted or conditional in the zoning that
15 it already is. So sometime in the history of this, it was
16 removed for some reason from the non-agricultural use and placed
17 into other categories.

18 I think that it would be most efficient for all of
19 the concerns that have been raised and for Mr. Young's purposes
20 to -- rather than make a decision today about actually rezoning
21 the property, to give the Planning and Zoning with a letter from
22 my office and maybe letters from the community the opportunity to
23 consider re-categorizing the use of all-terrain vehicles sales
24 and services and place it back in the Non-Agricultural District,
25 which is already what the property is zoned, and then it

1 alleviates the need for rezoning the property.

2 There are a variety of reasons why I am concerned
3 about the possibility of this piece of land being rezoned
4 commercial. I have read through what the uses are available for
5 commercial activity zoning, and the list is extensive. In fact,
6 it's almost non-exclusive. I can't think of a business that
7 wouldn't fall into that category in fact. And I am in a house
8 that I just bought two years ago, and I have a child that's under
9 the age of two, and the idea of the possibility -- and I realize
10 that Mr. Young intends to be there for a long time, but I intend
11 to be there forever. So -- well, until I die, obviously. But I
12 can foresee the possibilities that a bar could go there, and I
13 don't expect that that's Mr. Parmentier's goal either, but the
14 possibility exists. And I know, as well as you all know, that
15 once the commercial zoning decision is made, there are no -- you
16 can't take it back. There are no way that I can come in to you
17 all and say, well, I know I agreed that it should be rezoned
18 commercial, but now I really just don't want that particular
19 business there.

20 So instead, what I'm trying to accomplish here in my
21 proposal that we kind of punt on the issue today and give the
22 Planning and Zoning an opportunity to consider re-addressing the
23 Code itself is a way to diplomatically resolve all of the issues
24 and allow Mr. Young to keep his business but also alleviate the
25 concerns that I have about my property value and future potential

1 business uses and concerns that the other neighbors may have.

2 I am not offended by the ATV dealership as it sits
3 right now, and as Mr. Young alluded to, I had an issue with
4 lights. I talked to him about it, and he's going to remedy it.

5 I think that Article 7 needs to be amended to allow
6 the all-terrain vehicles to go back into the Non-Urban
7 Agricultural use, and that would alleviate the need for this
8 rezoning altogether.

9 Do you have questions for me?

10 CHAIRMAN GRIESHEIMER: Questions for the
11 witness?

12 I guess I have one for Scottie. Do you know, was
13 that a conditional use at one point?

14 MS. EAGAN: Honestly I can't remember. We have
15 never had ATV businesses come through us since I've been here. I
16 think part of the reasons probably why it was taken out is
17 because motor vehicle sales are not allowed in that district and
18 the ATV sales and service is together. So probably I could see
19 the thought processes being well, if we don't allow motor vehicle
20 sales, why are we allowing ATV sales?

21 But I can understand her point of making it equal
22 with motor vehicles, but then sales wouldn't be allowed in that
23 district, and I don't know if that would still help the gentleman
24 or not.

25 COMMISSIONER BRINKER: Do you know, was

1 any of this brought up at the P and Z level?

2 MS. EAGAN: No.

3 COMMISSIONER BRINKER: Just referencing
4 the 9 to 1 vote in favor of allowance.

5 MS. EAGAN: Are you talking about amending
6 Article 7 or the zoning itself?

7 COMMISSIONER BRINKER: The Planning and
8 Zoning Commission recommended approval with nine in favor and one
9 opposed.

10 MS. EAGAN: The one opposed was based on
11 what's allowed in that district.

12 CHAIRMAN GRIESHEIMER: And also, Scottie,
13 do you know what the Master Plan calls for?

14 MS. EAGAN: I think we actually misspoke
15 at the Planning and Zoning and said it was commercial. We looked
16 again and zoomed in on it, and it's agricultural.

17 CHAIRMAN GRIESHEIMER: Okay. So the
18 Master Plan does not reflect this zoning here?

19 MS. EAGAN: No.

20 CHAIRMAN GRIESHEIMER: Okay. You have
21 anything else before we close out with her?

22 COMMISSIONER BRINKER: [Negative head
23 shake.]

24 CHAIRMAN GRIESHEIMER: Jeff?

25 COMMISSIONER MAUNE: No, we're good.

1 CHAIRMAN GRIESHEIMER: No, okay. All
2 right.

3 Thank you very much.

4 Anyone wish to testify in opposition to the
5 rezoning? Yeah, come on up.

6 [Thereupon, the witness was sworn.]

7 MS. REBECCA RALSTON: My name is Rebecca
8 Ralston, and I am a property owner and actually have lived in the
9 area -- or my family has lived in the area for four generations
10 from both sides of the family.

11 You also have my testimony up there. I think
12 Nichole gave it to you earlier.

13 I oppose the request for changing the zoning of the
14 2.5 acre parcel located at the site of the former MFA fertilizer
15 plant from Non-Urban and Agricultural to Commercial Activity
16 Highway Service.

17 The purpose of the small town of Jeffriesburg as was
18 originally established by the founders was for a small non-urban
19 agricultural area. The person who the town is named after,
20 according to oral history, was Jeffries. He was foresightful and
21 even planed a small residential subdivision that would support
22 the families and the agricultural area. The fertilizer plant was
23 providing a service for the farmers, which we talked about or has
24 been talked about.

25 Hence, again, by oral history, the railroad allowed

1 the plant to be built on the railroad easement, which is the
2 reason the building seems to be located so close to the tracks.

3 The purpose of the Non-Urban and Agricultural zoning
4 is to allow agricultural, recreation, wildlife, forestry, open
5 space, farming and related uses to mix with low-density
6 residential development.

7 The purpose of Commercial Activity Highway Service
8 is to accommodate commercial uses that drew businesses primarily
9 along major highways within the county. Commercial zoning of
10 this type does not allow the mix with low-density resident
11 development to me. It's aim is to take over. To me, a much
12 better use for the property and something that would fit with the
13 Non-Urban and Agricultural zoning which has been in place since
14 the area was zoned would be to work with the Rock Island Railroad
15 group that's currently working to preserve the Rock Island
16 Railroad corridor as a linear park. The location would make a
17 great Jeffriesburg trailhead for the linear park without
18 disturbing the rich culture and history of the small rural
19 community. This type of business would bring tourists to the
20 area on the days and allow for the small local businesses who
21 meet the current Non-Urban Agricultural zoning to increase their
22 business and possibly even to help others to grow.

23 Changing the zoning to Commercial Activity Highway
24 Services would greatly change the area and definitely not mix
25 with the low-density residential development that we currently

1 have all over our wonderful small rural community.

2 I also believe that allowing this zoning change
3 would decrease the value of local property owners due to the
4 increased noise, traffic pollution, fluorescent lights for
5 security, which are very intrusive to all of the neighbors.

6 I would also like to pose some questions to the
7 Commissioners for their consideration. Some of these you've
8 already heard.

9 The first parcel states that the property is 1.3
10 acres. The second parcel is 026.010 states that is 0 acres. I
11 have given those to them, to Scottie. The legal description also
12 says southeast corner, southeast, southeast lease, which I'm
13 wondering if that means that it's leased from the railroad. And
14 I don't know. If this is truly the other 1.2 acres, why is --
15 that is supposedly owned, why isn't that indicated in the acres
16 in the top of County records or is the property actually leased
17 from the railroad?

18 Other questions are what type of chemicals are
19 housed in the fertilizer plant when it was a fertilizer plant and
20 when that local businesses had stored stuff in the buildings like
21 tires and tractor-trailers, et cetera?

22 And are there any hazardous materials that, because
23 of the running of engines and frequent driving fast, makes the
24 dust and the particles of potential hazards bourne into the air
25 that's clothing the surrounding area?

1 And where do the current bathroom facilities drain?

2 Is there proper sanitation for these facilities?

3 Thank you very much. Respectfully submitted,

4 Rebecca Ralston.

5 Any questions for me?

6 CHAIRMAN GRIESHEIMER: Thank you.

7 Any questions for the witness? [None]

8 Doesn't look like any. Thank you very much.

9 Anyone else wish to testify in opposition to the
10 rezoning? Yeah, come on up.

11 [Thereupon, the witness was sworn.]

12 MR. DAN MOSS: My name is Dan Moss. I
13 live directly across on Jeffriesburg Road. I've been out there
14 for 40 years now. It's a small community out there, and it's a
15 very quite and relaxed atmosphere out there, and I don't know.
16 I'm not going to bring up any of the commercial codes or anything
17 like that. I'm sure that will be discussed later on if this goes
18 through for him.

19 But what I wanted to say was putting a commercial
20 trucking distribution or a four-wheeler motorcycle repair or
21 sales business on the 1.3 or 2.5, whichever it's going to turn
22 out to be, would just ruin the peacefulness of the area.

23 Last weekend when we had them 70-degree days, we
24 couldn't even sit on our front porch without hearing ATVs running
25 up and down Jeffriesburg Road and around the green building, and

1 normally I hear highway traffic, but I couldn't hear the highway
2 traffic from the ATVs running up and down the road because the
3 noise pollution.

4 I don't know if that's going to continue or what's
5 going to happen there, but another big problem that I see in
6 having the trucking business out there is that there are many
7 times that I've looked both ways before I pull out of my driveway
8 and before I knew it, I had someone right on my tail, and the big
9 rigs, they don't get up to speed nearly as fast as what a car can
10 do, and I think that would be a hazard for everyone on the
11 highway.

12 And if we were to go -- well, actually it's if they
13 were to go east -- let's see, east, west, south on Highway 50,
14 it's an uphill grade there, and it would -- I mean, it wouldn't
15 get up to speed until they got almost probably to EE. And it's
16 just that -- it's just -- you know, that's my main concern, is
17 I'm afraid that it's just going to ruin the quality of life that
18 we've had up there for the past 40 years if we put a commercial
19 business in there.

20 CHAIRMAN GRIESHEIMER: All right. Any
21 questions for the witness?

22 COMMISSIONER BRINKER: [Negative head
23 shake.]

24 CHAIRMAN GRIESHEIMER: Seeing none, thank
25 you very much.

1 MR. MOSS: Thank you.

2 CHAIRMAN GRIESHEIMER: Anyone else wish to
3 testify in opposition to the rezoning? You've tried several
4 times to come up.

5 [Thereupon, the witness was sworn.]

6 MR. SCOTT SCHULTY: Good morning. My name
7 is Scott Schulty [phonetic]. I'm a property owner near
8 Jeffriesburg off of Charles Henry Lane, and my biggest concern is
9 the safety of the families, the children and grandchildren in the
10 area.

11 I personally own four-wheelers, and I keep them on
12 my property besides just going down my road to check the mail and
13 coming back because I'm a disabled veteran. I was wounded in
14 Afghanistan, and it's very hard for me to walk my long driveway.
15 And we have horses, and the reason I have horses is because my
16 wife has always been a horse person, always had them. My
17 children and my grandchildren enjoy the horses.

18 We -- when the weather permitting, we ride the
19 horses. We ride them on our own property. We ride them down the
20 road. We ride them down the driveway, which is all legal.
21 Nobody has ever had an issue with it. There's many horse people
22 in the local area. My biggest issue was when my three-year-old
23 granddaughter was on the horse and there's a little hill right
24 there on Jeffriesburg. We are riding up the hill, and a
25 four-wheeler come screaming by, spooked the horses, which they're

1 used to dogs, they're used to four-wheelers as long as, I mean,
2 they're reasonable about it. But when a four-wheeler comes
3 screaming by, the horse reared, my daughter fell off, busted her
4 arm. That really upset me.

5 It is a community for families to enjoy families. I
6 don't -- I support his business in trying to earn a living, but
7 the reason we bought in that area was so we can could have our
8 families, we could have our horses, we could have our nice quiet
9 community without the fear of letting my children, my
10 grandchildren, myself -- my horse is a therapeutic horse. It's
11 for my service injuries. I ride my horse for therapy.

12 I can't be worried when I'm out on my horse that
13 they're going to get spooked by a four-wheeler coming up the hill
14 around the hill, and they're not considerate. If people were
15 considerate, I would have a little bit more tendency to respect
16 what they are doing. I understand they're trying them out,
17 they're inspecting them, whatever the case is. That's fine. But
18 for one, it's illegal to ride four-wheelers up and down the road
19 consistently.

20 For two, when you have horses, the majority of
21 people from -- this is just my opinion -- respect horse riders.
22 When they see a horse rider, they'll slow down because you don't
23 know what a horse is going to do. When you're out at Greensfield
24 or any public riding facility and there's bicyclists, they have
25 to yield to the horses because horses get spooked. Bicyclists

1 don't. They understand.

2 My concern is the safety of the community, the
3 safety of the children that are trying to enjoy life, me. With
4 my PTSD, I moved to that community where I was away from people.
5 I'm off the road. I don't have any real close neighbors. Part
6 of my therapy is riding my horse. If I can't ride my horse like
7 I expect I should be able to because of the fear of being
8 spooked, that just doesn't sit well with me, doesn't sit well
9 with my children. My grandchildren are scared to ride their
10 horses outside my property, which I understand a lot of people
11 are going to say you need to ride on your own property. But it
12 is okay to ride on the road to go visit the neighbors, to go
13 visit the rest of my family. It's okay. It's legal. It's not
14 legal for a four-wheeler to come screaming by, and when he sees
15 the horse acting up, they just continue to go. And then on the
16 way back, they do the same thing. It's unsafe for the community.
17 It's unsafe for me.

18 I appreciate it.

19 CHAIRMAN GRIESHEIMER: Any questions for
20 the witness?

21 COMMISSIONER BRINKER: No. Thanks for
22 your service.

23 CHAIRMAN GRIESHEIMER: That's what I was
24 going to say too. Thanks for your service.

25 MR. SCHULTY: Thank you.

1 CHAIRMAN GRIESHEIMER: Anyone else wishing
2 to testify in opposition to the rezoning?

3 [Thereupon, the witness was sworn.]

4 MR. HENRY FRYE: My name is Henry Frye
5 [phonetic], and I live right down the road from the plant where
6 they got their four-wheel thing set up. And I've been -- I'm 73
7 years old. Been retired. I was born in the area, and spent 60
8 years, the last 60 years, at the location where I am at now. I
9 was a military veteran. Went to Viet Nam for a year and a half,
10 in 65 to 66, and got discharged with an honorable discharge.

11 I owned and operated my own excavating business for
12 several years. During the -- all these years, the neighborhood
13 was calm, quiet, and last summer when the four-wheelers showed up
14 at 2894 Jeffriesburg Road, opening up a performance shop for
15 four-wheelers, and since then, there have been total chaos of
16 noise running back and forth on Jeffriesburg Road. They run
17 around the building causing more noise, more danger to the
18 public. And by the time they are flying around the building up
19 there on Jeffriesburg where they've got their thing at, and I
20 seen them going around that building a few times with two wheels,
21 throwing the gravel all over the place. Which if they had blown
22 out a tire or have any kind of malfunction, they are -- they
23 would have wound up on Jeffriesburg Road, maybe cause an
24 accident.

25 And that would -- and when them guys are up there

1 flying around the building, it sounds like a motocross race. It's
2 so loud you can't hardly hear yourself think. I'm sure you guys
3 that live in a nice area where you live at, if you're outside
4 barbecuing on your deck, who would want to hear a four-wheel like
5 that come flying down the highway and disturbing all your -- all
6 your -- destroying your afternoon with all the noise.

7 And there is the value of the real estate goes down,
8 and this real estate -- people that live out with them guys
9 flying up and down the road, and this is a performance shop that
10 just makes more noise with all the noise out of their headers on
11 your machines just up and down.

12 And there is also concern about some of the senior
13 citizens driving up and down Jeffriesburg Road. If they see one
14 of those four-wheelers flying down through there, why, that would
15 cause an accident. And seniors' reaction time on something like
16 that is a lot less than somebody that's maybe 40 years old.

17 They just need to be -- we just want our
18 neighborhood back the way it was before the four-wheelers showed
19 up.

20 And that's about it in a nutshell.

21 CHAIRMAN GRIESHEIMER: Any questions for
22 the witness?

23 COMMISSIONER BRINKER: No, sir. Thank you
24 for your service, sir.

25 CHAIRMAN GRIESHEIMER: I was going to say

1 the same thing.

2 Henry, I have not seen you for a number of years,
3 but I can tell you I have a hard time believing that you living
4 in the neighborhood that the neighborhood is quiet.

5 I know one thing. You could operate a heavy piece
6 of equipment. I do know that.

7 MR. FRYE: Thank you. We're still out
8 here at the fair ground doing that too, pull the tractor and
9 stuff. Thank you a lot.

10 CHAIRMAN GRIESHEIMER: Thank you.

11 Anyone else wish to testify in opposition? Come on
12 up.

13 [Thereupon, the witness was sworn.]

14 MR. ALFRED PEIRIAT: Good morning,
15 gentlemen. My name is Alfred Peiriat [phonetic]. I've lived on
16 Jeffriesburg since 1952. I'm also a military vet. I retired
17 from Chrysler. I do some farming and do run a dump truck part
18 time.

19 Just like Henry was saying, I live a mile and 8/10
20 past where this business is going on, and there's been numerous
21 times we've seen four-wheelers go up and down the road, make a
22 U-turn, head back. And the vehicles they have for sale, they're
23 usually parked up there along Highway 50. But there's been more
24 than one time there was a group of people up there looking at the
25 four-wheelers, and I was going up Jeffriesburg Road up towards

1 Highway 50. There would be three or four of them walking
2 downhill back towards the shop, and they're walking down the
3 middle of the road. You know, you got to choose to either stop
4 and let them go by or run over them, and that isn't right. I
5 mean, that's a public road. It's not a sidewalk.

6 That's about all I have to say. Everybody else
7 pretty well covered everything else.

8 CHAIRMAN GRIESHEIMER: Any questions for
9 the witness?

10 COMMISSIONER MAUNE: No.

11 COMMISSIONER BRINKER: No.

12 CHAIRMAN GRIESHEIMER: Thank you for your
13 service, too.

14 MR. PEIRIAT: Thank you.

15 CHAIRMAN GRIESHEIMER: Anyone else in the
16 audience wish to testify in opposition to the rezoning, in
17 opposition? [None] Okay.

18 How about for informational purposes only on the
19 rezoning? [None] Seeing none, that will conclude the hearing.

20 Oh, yeah, I'm sorry. You're right. Right. Excuse
21 me. We do have a rebuttal, if the Applicant would like to.
22 Yeah, I forgot about that. Sorry about that. If you'd like to
23 comment.

24 MR. PARMENTIER: Thank you. I'd like to
25 say that I'm trying to rezone the property. If my tenant is a

1 problem to the neighborhood, that's kind of a law enforcement
2 issue, you know. I'm not wanting him to run up and down the
3 road, you know, and I know the property to the east I believe is
4 zoned this way. Where the building burnt down where the man was
5 trying to put a gun shop or something at one time, I think that
6 property is zoned highway commercial.

7 AUDIENCE MEMBER: No, it's not.

8 MR. PARMENTIER: It's not? Pardon me. I
9 thought on the map maybe, Scottie.

10 AUDIENCE MEMBER: It's not.

11 MS. EAGAN: This is what the zoning looks
12 like.

13 CHAIRMAN GRIESHEIMER: Yeah, it's all 'A'.

14 MS. EAGAN: So if you're out there, but
15 it's not. It's BB or something.

16 MR. PARMENTIER: I might be mistaken.
17 That's what I thought they told me last meeting. I looked into
18 trying to get a variance, and they told me I had to go this route
19 to do it, you know. So I'm not trying to upset anybody, and I
20 know there is other things out there that make noise, you know,
21 besides the four -- people do other things out there, and it's
22 not just four-wheelers making all the noise in the neighborhood.

23 And for the reason because the sales aren't allowed,
24 you know, he's wanting to -- also to sell the units, and I know
25 he's gone through and had the Fire Department -- and he's had the

1 inspection by the Fire Department. He's trying to do the right
2 thing out there, I think, and he keeps the place clean, as clean
3 as it's been, you know, probably in 20 or 30 years.

4 And you know, as far as the highway goes, I mean,
5 there's tractors pulling out, trucks, dump trucks pulling out.
6 This isn't going to make any difference on what's pulling out on
7 the highway, you know. People pull out on the highway every day,
8 and --

9 Do you have any questions?

10 CHAIRMAN GRIESHEIMER: Any questions for
11 the Applicant?

12 COMMISSIONER BRINKER: How long has the
13 current tenant been with you?

14 MR. PARMENTIER: I'm guessing six, seven
15 months.

16 COMMISSIONER BRINKER: Okay. And when did
17 the non-compliant use get discovered?

18 MR. PARMENTIER: Oh, probably a couple of
19 months after he was in there.

20 COMMISSIONER BRINKER: As the result of?

21 MR. PARMENTIER: Probably him setting
22 vehicles out for sale. I don't know if there were complaints, I
23 don't know if the enforcement officer just went by and saw
24 something. I really don't know what happened there.

25 COMMISSIONER BRINKER: Well, I say that

1 because, as good as we are in our department, some -- most of the
2 time it's driven by input from the public.

3 MR. PARMENTIER: Yes. I realize that,
4 yes.

5 COMMISSIONER BRINKER: So if -- I don't
6 have any other questions of you, sir, but if I can ask your
7 tenant some questions.

8 MR. PARMENTIER: Okay, thank you.

9 COMMISSIONER BRINKER: Thanks.

10 MR. YOUNG: Yes, sir.

11 COMMISSIONER BRINKER: So in hearing what
12 your neighbors are saying -- in hearing what you're neighbors are
13 saying, what -- is it typical for your clients and customers to
14 take a ATV, or what have you, up and down the road for a couple
15 of miles, turn around with you?

16 MR. YOUNG: No, anybody that's actually
17 with me in my shop, we -- usually right there at the first corner
18 just past Henry's place, if we're doing a little test on them,
19 that's where we'll turn around and come back to the shop.

20 If it's fixing something that we don't have to do,
21 you know, relatively where we need a lot of the room to do what
22 little tests we're doing, we actually stay within the property at
23 the shop around the building itself.

24 And the gentleman was saying something about his
25 younger one with the horse and everything else.

1 COMMISSIONER BRINKER: Uh-huh.

2 MR. YOUNG: I grew up around horses. I
3 rode saddle bronc horses in rodeos for 15 years. It was not me
4 personally that was in on that, and I can almost guarantee that
5 it was not anybody that was affiliated with that business or
6 establishment.

7 COMMISSIONER BRINKER: I guess where I'm
8 going with this is was it your standard practice as a business
9 owner for your clients and your service folks to utilize and run
10 these things up and down the road? And I want to establish this
11 on both sides of the issue.

12 MR. YOUNG: No, sir. I use -- if I have
13 to have a stretch to where I have to open it up, like I said, I
14 use that very short stretch within right in front of the
15 building. I make sure no one's around, no one is coming, no cars
16 are there, it's open both ways, you can see clearly. By all
17 means, I try to stay off the road as much as possible.

18 COMMISSIONER BRINKER: And I understand a
19 lot of this is out of your control too and there could be other
20 folks out on the road.

21 MR. YOUNG: Right. I know there's a few
22 other groups of four-wheelers that actually do cut through that
23 live and they ride down -- down the road or tracks that cut
24 through Jeffriesburg and actually rode their four-wheelers to my
25 shop personally to talk to me about parts and everything else.

1 I'm not the only one out in the area with
2 four-wheelers that will be out seen. Anything that's tied to the
3 shop will be within the relative area of the shop to try to --
4 just to try to keep the disturbance down for other people trying
5 to enjoy their days. We don't run crazy hours. You know, we try
6 to be there from like 9:00 to 6:00 during the week, and 9:00 to
7 4:00 on Saturday, closed Sunday so everybody can have their peace
8 and quiet. You know, just as a normal business would.

9 I'm trying to go through at all the proper channels
10 to make sure, you know, everything is up to par with everybody in
11 the area, like -- and too, you know, any complaints with any of
12 the people in the area. If there's something I'm doing that I
13 can put a stop to or change or do something else to make
14 everybody else happy to let me stay there and operate my
15 business, I'm more than willing to try to help and see what I can
16 do.

17 I don't know what else to say.

18 COMMISSIONER BRINKER: Thank you. I don't
19 have any other questions for you.

20 CHAIRMAN GRIESHEIMER: Jeff?

21 COMMISSIONER MAUNE: No.

22 CHAIRMAN GRIESHEIMER: Thank you very
23 much.

24 COMMISSIONER BRINKER: Could I ask Scottie
25 a question --

1 CHAIRMAN GRIESHEIMER: Yeah.

2 COMMISSIONER BRINKER: -- as it relates
3 to --

4 CHAIRMAN GRIESHEIMER: I'm going to ask
5 her one too.

6 COMMISSIONER BRINKER: -- the zoning code
7 of the existing zone NUA, and because I didn't get into it
8 in-depth as to the allowances beyond what's stated here?

9 So it's within the Code to be able to do what, from
10 a mechanical perspective?

11 MS. EAGAN: In NUA you can do motor
12 vehicle service.

13 COMMISSIONER BRINKER: You can do motor
14 vehicle service. So I could, in essence just from a random
15 thought perspective, work on my four-wheel drive truck and fire
16 it up and drive it up and down the road to make sure it's okay
17 and come back down to the shop?

18 MS. EAGAN: Yes. As long as you get a
19 conditional use permit, you can.

20 COMMISSIONER BRINKER: With a CUP?

21 MS. EAGAN: Uh-huh.

22 COMMISSIONER BRINKER: Okay. But I'm
23 trying to get this existing code versus must go to this
24 alternative code that allows for things and as well as -- because
25 it sounds like a lot of nuisance that has perhaps a combination

1 of the existing use and the neighboring property, et cetera,
2 along with the commingling of the Code here and the allowance
3 within it.

4 So that's why I'm trying to get all the info I can
5 on it.

6 CHAIRMAN GRIESHEIMER: My question was I'm
7 thinking -- maybe this is a question for the Applicant, but it
8 seemed to me just several years ago there was some type of either
9 resale shop or somebody had something in that building where they
10 were, you know, old furniture and stuff like that and they were
11 selling out of that -- they were selling out of that shop, as I
12 recall. Wasn't there?

13 MR. PARMENTIER: Not there.

14 MS. EAGAN: I think up the road there was
15 a flea market type business, but --

16 CHAIRMAN GRIESHEIMER: Yeah, something
17 like that. Was that -- that was not here? That was --

18 COMMISSIONER MAUNE: No.

19 CHAIRMAN GRIESHEIMER: -- down the road?

20 MS. EAGAN: That was down the road.

21 MR. PARMENTIER: The tenant before stored
22 tractors and worked on tractors a little bit. I don't think he
23 sold anything right out of the building. You know, I don't
24 believe it's -- basically it was storage for John Lamke
25 [phonetic], Lee Byrick [phonetic]. My dad used it for grocery

1 distributor for a number of years to divide up loads before they
2 went out. And that's all I recall.

3 CHAIRMAN GRIESHEIMER: Okay. Thank you.

4 COMMISSIONER MAUNE: Scottie, I think
5 I'm --

6 CHAIRMAN GRIESHEIMER: Go ahead.

7 COMMISSIONER MAUNE: I think I'm -- I
8 think I'm correct in this parcel does not actually front Highway
9 50.

10 MS. EAGAN: Part of it does.

11 COMMISSIONER MAUNE: Well, on farther west
12 though?

13 MS. EAGAN: North-ish. Northwest.

14 COMMISSIONER MAUNE: Yeah. Okay.

15 COMMISSIONER BRINKER: Kind of in the
16 middle.

17 COMMISSIONER MAUNE: And the ATVs that
18 have caused a problem being for sale, I think I have driven by
19 and seen them parked up by the stop sign.

20 MS. EAGAN: Yeah.

21 COMMISSIONER MAUNE: And I think that's
22 where part of that issue comes in. They're not even parking
23 these for-sale on their property.

24 AUDIENCE MEMBER: Because there's a safety
25 issue --

1 COUNTY ATTORNEY VINCENT: If you're going
2 to testify, you have to come up here.

3 CHAIRMAN GRIESHEIMER: Yeah. Yeah, you
4 can't -- you cannot talk back there. If you want --

5 COUNTY ATTORNEY VINCENT: You can't do
6 that. You have to come forward to --

7 CHAIRMAN GRIESHEIMER: Yeah, you got to
8 come forward to the microphone so they can be --

9 COMMISSIONER MAUNE: I'm just trying to
10 clarify here on these things. So that's not really a zoning
11 issue because they were -- because it's happening off the
12 property?

13 MS. EAGAN: I don't know if it's on their
14 property or on the right-of-way.

15 CHAIRMAN GRIESHEIMER: Okay. We'll take
16 first Mr. Parmentier, and then I'll get you in the back again.

17 MR. PARMENTIER: I believe our property, it
18 angles up and goes to the east side of Jeffriesburg Road all the
19 way up to the highway easement. Just a small piece is on that
20 side of Jeffriesburg Road where he was sitting the equipment, I
21 think. Yeah, I didn't dig my paperwork out, but I think we
22 looked at that before, and it's like a pie shape heading up the
23 hill. And there is just a little piece of it on the east side of
24 Jeffriesburg Road.

25 COMMISSIONER MAUNE: Oh, okay.

1 CHAIRMAN GRIESHEIMER: Yeah, come on up to
2 the microphone. You might want to say who are you again.

3 MS. RALSTON: I'm Rebecca Ralston. I
4 actually own the property that borders Highway 50 at the top, and
5 my mom bought that piece of property from my uncle and aunt at
6 some point in time. So you have this picture I think in your
7 paperwork somewhere. So this is where the fertilizer plant is.
8 This piece of property that borders Highway 50 on up from the
9 plant is ours. We own behind them and down to the little pond
10 that was a railroad pond. And my mom bought that little piece of
11 property too. And I think their -- I don't know whether or not
12 theirs is -- goes up to the highway or not, but we have
13 Wonderlick's survey where we called them and asked them to setup
14 some stakes for us so that we can actually map out where our
15 property is so that we can keep them off of ours.

16 Questions? Questions for me?

17 CHAIRMAN GRIESHEIMER: Mark, I have a
18 question for you.

19 COUNTY ATTORNEY VINCENT: Yes, sir.

20 CHAIRMAN GRIESHEIMER: When we -- if you
21 look at the zoning, okay, or if you look at like this map that we
22 have here, would this rezoning constitute -- the way the work is
23 being proposed, would this constitute spot zoning?

24 COUNTY ATTORNEY VINCENT: It could be
25 interpreted to be spot zoning, but bear in mind, spot zoning is

1 not, per se, illegal.

2 CHAIRMAN GRIESHEIMER: Okay.

3 COUNTY ATTORNEY VINCENT: Okay. There's a
4 misconception that if we have spot zoning, that it's by --
5 automatically it's not proper. That's not true.

6 CHAIRMAN GRIESHEIMER: Okay.

7 COUNTY ATTORNEY VINCENT: Okay.

8 CHAIRMAN GRIESHEIMER: All right, thank
9 you.

10 Do the Commissioners have any more questions?

11 COMMISSIONER BRINKER: Not at this time,
12 no.

13 CHAIRMAN GRIESHEIMER: Okay.

14 COMMISSIONER MAUNE: No more questions.

15 CHAIRMAN GRIESHEIMER: I think we need to
16 conclude the hearing on File Number 150195 and take this under
17 advisement.

18 So this hearing is hereby concluded.

19 [Thereupon, the proceedings concluded
20 at 10:57 a.m.]

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CERTIFICATE OF REPORTER

I, PATSY A. HERTWECK, Professional Court Reporter and Notary Public within and for the State of Missouri, before whom the foregoing proceeding was taken, do hereby swear that the aforementioned was held at the time and in the place previously described.

IN WITNESS WHEREOF, I have hereunto set my hand.

Patsy A. Hertweck, Court Reporter
Notary Public, State of Missouri

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