

1 FRANKLIN COUNTY PLANNING AND ZONING
2 FRANKLIN COUNTY GOVERNMENT CENTER
3 SECOND FLOOR COMMISSION CHAMBERS
4 400 EAST LOCUST STREET
5 UNION, MISSOURI 63084

6
7
8 TRANSCRIPT OF PROCEEDINGS
9 PLANNING AND ZONING COMMISSION
10 JUNE 16, 2020
11 (COMMENCING AT 7:00 P.M.)

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Reported by:
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1 P R O C E E D I N G S
2 (JUNE 16, 2020)
3 CHAIRMAN EVANS: I'd like to
4 all to order the June 16th meeting of the Franklin
5 County Planning and Zoning Commission.
6 Nichole, will you please take roll.
7 MS. ZIELKE: Bill Evans?
8 CHAIRMAN EVANS: Here.
9 MS. ZIELKE: Mark Frankenberg?
10 COMMISSIONER FRANKENBERG: (Not
11 present.)
12 MS. ZIELKE: Jim Grutsch?
13 COMMISSIONER GRUTSCH: Here.
14 MS. ZIELKE: Dan Haire?
15 COMMISSIONER HAIRE: Here.
16 MS. ZIELKE: Dennis Hartmann?
17 COMMISSIONER HARTMANN: Here.
18 MS. ZIELKE: Mike Klenke?
19 COMMISSIONER KLENKE: Here.
20 MS. ZIELKE: Bill McLaren?
21 COMMISSIONER McLAREN: Here.
22 MS. ZIELKE: Tim Reinhold?
23 COMMISSIONER REINHOLD: Here.
24 MS. ZIELKE: Stan Voss?
25 COMMISSIONER VOSS: (Not

1 present.)

2 MS. ZIELKE: Debbie Willette?

3 COMMISSIONER WILLETTE: Here.

4 MS. ZIELKE: We have a quorum.

5 CHAIRMAN EVANS: Thank you.

6 At this time, I will give the Planning
7 and Zoning Commissioners the opportunity to declare
8 any conflict, communication or relationship they may
9 have had that might influence their ability to
10 consider today's issue impartially.

11 (NONE)

12 If there are no declarations, Nichole,
13 can you please give us a presentation of the meeting
14 proceedings and exhibits.

15 MS. ZIELKE: Tonight's Planning
16 Commission meeting is governed by the Franklin County
17 Unified Land Use Regulations.

18 Some matters on the agenda may be for
19 action by the Planning and Zoning Commission. These
20 matters do not involve public hearings.

21 Other matters on the agenda require
22 public hearings under Missouri law. If a matter
23 involves a public hearing, all individuals who desire
24 to testify will be given an opportunity to do so.

25 At this time, I would like to place into

1 the record these regulations as Exhibit A, the
2 official Zoning Map as Exhibit B, the official Master
3 Plan as Exhibit C, and the case file for each case as
4 Exhibit D for all the cases to be heard during the
5 public meeting.

6 (THEREUPON, EVIDENCE WAS
7 MARKED FOR IDENTIFICATION AND
8 SUBMITTED FOR THE RECORD AS
9 EXHIBITS A, B, C, AND D.)

10 All Unfinished Business items on the
11 agenda will be dealt with first. Once the Unfinished
12 Business issues have been taken care of, each item of
13 New Business will be opened.

14 As each case is opened, a staff report
15 will first be read to the Commission, followed by any
16 questions for the staff.

17 Then if anyone in the audience would like
18 to speak or comment on a file that is part of the
19 public hearing, they must first print their name on
20 the sign-in sheet provided, and then be sworn in.

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

25 It is possible for the Planning

1 Commission to decide to move a New Business issue to
2 Unfinished Business and vote on it the same night.

3 At the conclusion of all questions,
4 comments, and discussion concerning each case, the
5 Planning Commission will proceed. Any final decision
6 by the Planning and Zoning Commission concerning
7 Conditional Use Permits may be appealed to the Board
8 of Zoning Adjustment any time within 90 days.

9 Applications for such an appeal may be
10 acquired from the Department offices during normal
11 business hours.

12 CHAIRMAN EVANS: Thank you.

13 One change in the agenda. We are going
14 to take the fourth file All Professionals, L. L. C.
15 and move that up in front of River Cement Company File
16 200068. So it will be addressed last.

17 All Commissioners should have received a
18 copy of the May 26th minutes. We do not yet have a
19 copy of the June 9th minutes. Are there any
20 corrections or additions? If not, the Chair would
21 entertain a motion to approve.

22 (NONE)

23 COMMISSIONER GRUTSCH: Mr.
24 Chairman, I would like to make a motion to approve the
25 May 26th minutes as submitted.

1 COMMISSIONER WILLETTE: I'll
2 second that.

3 CHAIRMAN EVANS: We have a
4 motion and a second to approve the May 26th minutes as
5 submitted. All in favor signify by saying aye.

6 COMMISSIONER REINHOLD: Aye.

7 COMMISSIONER McLAREN: Aye.

8 COMMISSIONER WILLETTE: Aye.

9 COMMISSIONER GRUTSCH: Aye.

10 CHAIRMAN EVANS: Aye.

11 COMMISSIONER KLENKE: Aye.

12 COMMISSIONER HAIRE: Aye.

13 COMMISSIONER HARTMANN: Aye.

14 COMMISSIONER FRANKENBERG: Aye.

15 CHAIRMAN EVANS: Opposed?

16 (NONE)

17 The minutes are approved.

18 Communication and Visitors Comments.

19 Anyone present wishing to address the Commission?

20 (NONE)

21 If not, we'll move on to Unfinished
22 Business. File 200045 is tabled and will remain
23 tabled.

24 New Business. File 200057Ryan Knibb.

25 Nichole, would you give us the details.

1 MS. ZIELKE: The applicant is
2 requesting to operate an Office: Independent
3 Contractor for a family lawn and landscaping business
4 in the W Zoning District.

5 The property is located on Robertsville
6 Road, approximately 1.5 miles north of Highway O In
7 Boles Township.

8 FACTS: The total area for the property
9 is approximately 29 acres, but this property is in the
10 process of being subdivided leaving approximately 3.1
11 acres for the business.

12 The zoning of this property is W. In
13 this district, Offices: General, Professional,
14 Medical or Dental, and Independent
15 Contractor/Construction Business (no outdoor
16 machinery, equipment or commercial storage) request a
17 Conditional Use Permit.

18 The surrounding properties are zoned W.

19 This property has access to Robertsville
20 Road. This is a County-maintained road with a
21 right-of-way width of 60 feet.

22 This property is surrounded by
23 low-density residential property and undeveloped land.

24 This property is located within Public
25 Water Supply District No. 3 boundaries.

1 The applicant is proposing to build a
2 50-foot by 60-foot metal garage to house his equipment
3 and supplies.

4 The applicant states that no customer
5 visits or sales will take place on the property.

6 The applicant is not the current owner of
7 the property, but does have a contract to buy
8 contingent upon approval of the CUP.

9 STAFF COMMENTS: Any buildings used or
10 built in connection with this CUP will need to be
11 approved by the Franklin County Building Department
12 for a commercial building.

13 All new and/or existing entrances onto
14 Robertsville Road will need to be examined by the
15 Franklin County Highway Department for a commercial
16 entrance. Planning and Zoning shall receive a copy of
17 the permit prior to the applicant commencing any
18 activities on the property.

19 All conditions shall be completed within
20 one year of approval unless otherwise stated. Failure
21 to meet all conditions may result in the application
22 expiring.

23 The applicant is allowed one building in
24 connection with this CUP. The building should be no
25 larger 50 foot by 60 feet as stated in the

1 application.

2 There shall be no sales on the property.

3 There shall be no customer visits on the
4 property.

5 The Conditional Use Permit shall be tied
6 to the 3.1-acre property that is being divided off of
7 the parent parcel.

8 The issuance of the CUP shall be
9 contingent upon the subdivision being finalized with
10 the Planning and Zoning Department.

11 Which I believe it has been at this
12 point.

13 CHAIRMAN EVANS: Thank you.

14 Is the applicant present. Come forward,
15 please. Please state your name and address and sign
16 in, please.

17 (THEREUPON, THE WITNESS WAS
18 SWORN.)

19 Give us a little detail on what you're
20 proposing.

21 MR. RYAN KNIBB: What I'd like
22 to do I believe is very simple. I'd like to just to
23 have my home and my business at the same place.

24 You see a lot of people in Robertsville
25 there may be a big barn behind their house, and they

1 park their stuff out there. But I just wanted to make
2 sure that I did everything right before I bought
3 ground and then built a barn and a little house. Just
4 get all my ducks in a row. So just wanted to run
5 everything by you all and make sure that it's okay to
6 basically have a barn and have my equipment stored in
7 that and have my employees visit in the morning, pick
8 up their stuff, and be on their way. I'm just
9 clearing the way for that.

10 CHAIRMAN EVANS: Any questions
11 from the Commissioners?

12 COMMISSIONER HAIRE: You
13 indicated there will be no outdoor storage of
14 equipment or any other machinery?

15 MR. KNIBB: Potentially
16 trailers and trucks, but other than that, small hand
17 equipment and mowers would all be inside.

18 COMMISSIONER GRUTSCH: The
19 equipment that you store outside, if at all, would all
20 be licensed like a pickup truck or a trailer?

21 MR. KNIBB: Correct, yes.

22 CHAIRMAN EVANS: So your
23 employees will come to the site --

24 MR. KNIBB: Correct.

25 CHAIRMAN EVANS: -- and park

1 their cars?

2 How many employees, how many vehicles?

3 MR. KNIBB: I have four guys
4 that work for me now.

5 COMMISSIONER McLAREN: So are
6 you buying -- how many acres in total is this tract?

7 MR. KNIBB: I'm buying 15. So
8 three of that is divided for the lawn service, and the
9 other twelve will be my personal use.

10 COMMISSIONER McLAREN: Okay.
11 And then somebody else is buying some of this also?

12 MR. KNIBB: The Ballards are
13 splitting off a field that their parents own. So they
14 are splitting 15 acres to one person and 15 acres to
15 another. So that's correct.

16 COMMISSIONER McLAREN: Okay.
17 And is there a house kind of on this site too?

18 MR. KNIBB: Yes, there is a
19 house. The seller's house is on there, and I believe
20 he has five acres around his house. But both 15-acre
21 parcels that are up for sale are the vacant
22 undeveloped land.

23 COMMISSIONER McLAREN: Okay.
24 Has the site just been mowed in the last couple of
25 days, or am I in the wrong place?

1 MR. KNIBB: I have not been out
2 there. I do not think so.

3 COMMISSIONER McLAREN: Okay.
4 So my last question is, as I drove south on
5 Robertsville Road today, there's a sign right before I
6 get to that driveway that says dangerous intersection
7 ahead. Is that -- am I in the right place?

8 MR. KNIBB: You're close. The
9 dangerous intersection is close to where the seller's
10 house is. And my -- the parcel I would be buying
11 would be the field behind his house and then farther
12 on the road.

13 COMMISSIONER McLAREN: Okay.
14 Right across from Daily Lane. Is that --

15 MR. KNIBB: It is north of
16 Daily Lane.

17 COMMISSIONER McLAREN: Okay.
18 Should we even be concerned about the
19 sign where it says dangerous intersection ahead? I
20 mean, we're right in that spot.

21 COMMISSIONER GRUTSCH: I've
22 driven past where this is shown on the plat, and it
23 doesn't look like if you're going to have more
24 employees coming and going, your trucks pulling in and
25 out, it doesn't look like there would be a hazard with

1 that. It looks like there's adequate sight distance
2 for a pickup and a trailer pulling in.

3 MR. KNIBB: We did have the
4 Highway Department take a look at it and give a -- I'm
5 not sure if it would be that exact --

6 COMMISSIONER GRUTSCH: Good
7 sight distance.

8 MR. KNIBB: And they said it
9 was fine with -- we would need to put up some sort of
10 a sign that said caution driveway entrance or
11 something like that.

12 COMMISSIONER GRUTSCH: Yes.

13 CHAIRMAN EVANS: Any other
14 questions?

15 What will your hours be?

16 MR. KNIBB: My personal hours
17 is I work all the time, but the employees typically
18 come around 7:00 and put their stuff away anywhere
19 from 3:00 to 5:00.

20 CHAIRMAN EVANS: And that's
21 five days a week or six days?

22 MR. KNIBB: Five days a week
23 most of the time. In the spring, it sometimes can be
24 six days.

25 CHAIRMAN EVANS: Any other

1 questions?

2 (NONE)

3 Thank you.

4 MR. KNIBB: Thank you.

5 CHAIRMAN EVANS: Nichole.

6 MS. ZIELKE: Yeah, I just
7 wanted to make one comment about this. With an
8 office, you're allowed to have up to two commercial
9 vehicles stored on the premises. So it could be more
10 than that. Trailers don't count toward that, but a
11 vehicle would only two.

12 CHAIRMAN EVANS: Thank you.

13 Thank you.

14 Anyone else present wishing to speak in
15 support of this Conditional Use Permit?

16 (NONE)

17 Anyone present wishing to speak in
18 opposition?

19 (NONE)

20 If not, the floor is open for discussion
21 among the Commissioners.

22 COMMISSIONER McLAREN: Is there
23 a limit of how many people are supposed in the office
24 whatever we're approving here? How many employees?

25 CHAIRMAN EVANS: He said that

1 he would have four.

2 COMMISSIONER McLAREN: Well,
3 that's what he said he has right now.

4 COMMISSIONER KLENKE: So you're
5 asking about growth?

6 COMMISSIONER McLAREN: Yes, and
7 whether he's counting himself.

8 CHAIRMAN EVANS: Do we have a
9 condition in there that would require --

10 MS. ZIELKE: There is not
11 currently a condition that would limit the number of
12 employees or the hours of operation. So that's
13 something that you would have to add if would like to
14 include it.

15 CHAIRMAN EVANS: Okay.
16 Concerned with that, Bill? Would you
17 like to put a number in or just --

18 COMMISSIONER McLAREN: No, I'm
19 not overly concerned with it. I just, you know, if
20 somebody's going to start a business, I want them to
21 have the opportunity to succeed and don't necessary
22 want to tie their hands to start with.

23 COMMISSIONER HAIRE: Do we need
24 him to change the number of trucks and autos, though?
25 You said there was only two.

1 MS. ZIELKE: So that is
2 actually under the definition for an office. So if
3 we're going to classify you as an office and allow you
4 in a specific district, that definition says only two
5 commercial vehicles on property. That's automatic in
6 our regulations.

7 COMMISSIONER HAIRE: So does
8 that -- so we would have amend that in the CUP, or can
9 we?

10 MS. ZIELKE: No, you cannot
11 because that's something that would have to be amended
12 in the regulations if that's something that they would
13 like to see.

14 COMMISSIONER WILLETTE: Mr.
15 Chair.

16 So, Nichole, can we -- is it all right
17 for the operator of the business license to have
18 vehicles inside? Does that help toward the two
19 vehicles?

20 MS. ZIELKE: Well, I thought
21 about that, Debbie, but it actually doesn't -- it
22 doesn't specify, but it does say on premises. So I
23 have to assume we mean with regardless of where it's
24 stored on a technicality.

25 CHAIRMAN EVANS: Any other

1 questions?

2 Do we want to put anything on hours of
3 operation or are we with leaving it open?

4 (NO COMMENTS)

5 If we don't see any need for additional
6 conditions other than as submitted, the Chair would
7 entertain a motion. And that would be to move the
8 file to Unfinished Business.

9 COMMISSIONER GRUTSCH: Mr.
10 Chairman, I would like to make a motion that we move
11 this Old Business with the conditions as submitted by
12 Planning and Zoning Department.

13 COMMISSIONER HAIRE: I will
14 second it.

15 CHAIRMAN EVANS: We have a
16 motion and second to move File 200057 to Unfinished
17 Business. All in favor signify by saying aye.

18 COMMISSIONER REINHOLD: Aye.

19 COMMISSIONER McLAREN: Aye.

20 COMMISSIONER WILLETTE: Aye.

21 COMMISSIONER GRUTSCH: Aye.

22 CHAIRMAN EVANS: Aye.

23 COMMISSIONER KLENKE: Aye.

24 COMMISSIONER REINHOLD: Aye.

25 COMMISSIONER HARTMANN: Aye.

1 COMMISSIONER FRANKENBERG: Aye.

2

3 CHAIRMAN EVANS: Opposed?

4

(NONE)

5

The motion is carried.

6

Moving on to File 200060. Wunderlich

7

Surveying/Haslag Properties, L. L. C.

8

Nichole, please give us the details.

9

MS. ZIELKE: The applicant
10 wishes to continue operating a Manufacturing: Light
11 facility with more than five employees in the W Zoning
12 District.

13

The property is located at 6540 Highway
14 YY, approximately .25 miles west of Highway A in Union
15 Township.

16

FACTS: The total area of the property is
17 12.35 acres in size.

18

This property is located in the W Zoning
19 District. In this district, Manufacturing: Light
20 requires a Conditional Use Permit.

21

The properties directly north and east
22 along Highway YY and Highway B are zoned B. In the B
23 District, there are a mixed use district that allows
24 for commercial development as well as residential
25 development.

1 The properties to the west and the south
2 of the application are zoned W. The area surrounding
3 the proposed site is generally low-density residential
4 properties.

5 Directly north and east of the
6 application is St. Gertrude's School and Parish.

7 The applicant has access to Highway YY.
8 This is a State-maintained road with a right-of-width
9 of 50 feet.

10 The applicant is currently operating at
11 this location, and would like to add an additional
12 building on the property.

13 STAFF COMMENTS: Any building used or
14 built in connection with this CUP will need to be
15 approved by the Franklin County Building Department
16 for a commercial building.

17 All new and/or existing entrances will
18 need to be examined by MoDOT for a commercial
19 entrance. Planning and Zoning shall receive
20 documentation of approval prior to issuance of the
21 CUP.

22 CHAIRMAN EVANS: Thank you.

23 Is the applicant present? State your
24 name and address and sign in, please.

25 (THEREUPON, THE WITNESS WAS

1 SWORN.)

2 MR. CAMERON LUEKEN: Good
3 evening, you guys. My name is Cameron Lueken with
4 Wunderlich Surveying and Engineering representing
5 Haslag Properties, L. L. C. tonight. The owners are
6 here, as well as the builder of the new warehouse.

7 As Nichole stated, we're applying for a
8 Conditional Use Permit, and the history behind this is
9 this manufacturing facility, I'm sure you're aware of,
10 has been at the current location since 1983, upward 37
11 years.

12 Recently, the zoning district was changed
13 to W. What the Light Manufacturing with five or fewer
14 employees is a permitted use in W. However, they have
15 more than five employees. So the purpose tonight is
16 to obtain a CUP for Light Manufacturing with more than
17 five employees.

18 And currently what we are applying for is
19 we are replacing an existing warehouse. There is a
20 warehouse there on the south side of the office as you
21 walk that is older, and they need to basically replace
22 it, raise the eaves and expand it just a bit.

23 So as you can see here on the above
24 photograph, there's Highway A on the east, Highway YY
25 on the north, and here's the facility, you might say.

1 Right there is the office as you pull in. So as you
2 pull in there -- so right there is the existing office
3 as you pull into Haslag's. The building they're
4 replacing is this one right here. I think it's got a
5 green roof on it, I believe, or a green sider perhaps.

6 So what that looks like, the existing
7 parcel that that sits on is about 12.3 acres, and if
8 you look at a tax map, you'll see there's another --
9 as you look at it on the zoning map, here's the B
10 Zoning District and this is white. This is the W
11 Zoning District that sits right there, and as I was
12 getting ready to say is you can see there's another
13 parcel here. And what that is, when you look at it
14 closer, you'll see the -- here's the parcel we're
15 applying for the CUP on. There's property here that
16 basically the assessor just went around and is
17 accessing that particular parcel as commercial and the
18 rest as whatever they're accessing it as.

19 So like I said, the CUP we're applying
20 for is that entire 12.3 acres. As I mentioned before,
21 there is an existing warehouse right there. The
22 intent is to replace that warehouse. And what does
23 that look like?

24 What that looks like is this existing
25 building that sits here, here's the office up here.

1 So the building is set in here. So we're going to
2 replace -- there's an overview of the bigger picture.
3 There's -- that blue spot right there is -- that blue
4 spot right there, that's the existing building, and
5 the red spot is the red building replacing it. That's
6 about a 4,000 square foot building, 55 by 75 is the
7 size of that new warehouse.

8 In doing so, basically we're asking for
9 more than five employees, and what that is they've got
10 30 full-time employees right now and 6 part-time
11 employees. Their hours of operation are Monday
12 through Friday, 7:00 to 5:00.

13 As I said before, they've been at that
14 facility for 37 years. This warehouse is not going to
15 create any additional employees, and as I stated, the
16 intent is replace the existing warehouse.

17 The owners are here and the builder's
18 here if you have any questions for any of us.

19 COMMISSIONER HAIRE: So you're
20 not changing any of the functionality of the buildings
21 in the new building at all?

22 MR. LUEKEN: Correct.

23 CHAIRMAN EVANS: Nichole, a
24 question for you.

25 If they would not have done this change

1 to this building, would they have more or less have
2 been grandfathered in there with that number of
3 employees?

4 MS. ZIELKE: That is my
5 understanding. I don't know when they -- when the
6 regulations went into place that actually made them
7 grandfathered. So I can't say that with absolute
8 certainly, but that's my understanding, is that they
9 were operating prior to the regulations that made
10 this, you know, a difficulty for them.

11 CHAIRMAN EVANS: So there is
12 basically a substantial enough change, but the number
13 of employees will remain exactly the same?

14 MS. ZIELKE: Right. Anytime
15 there's a non-conforming use or a non-conforming
16 situation, when you start changing, I think it's,
17 percentages of buildings, you know, or cost
18 percentages and start getting into having to comply
19 with current requirements. Or if you're wanting to
20 expand the business, then you're starting to have to
21 get into current requirements, and that's where they
22 fall in.

23 CHAIRMAN EVANS: So
24 operationally nothing will change, you're just
25 basically replacing that building?

1 MS. ZIELKE: Correct,

2 MR. LUEKEN: Yes.

3 CHAIRMAN EVANS: Any other
4 questions for Cameron? Bill?

5 COMMISSIONER McLAREN: Before
6 we rezoned this, was this considered a non-conforming
7 property at that time, or what was it considered
8 before our rezoning four months ago?

9 MS. ZIELKE: All right. They
10 were currently zoned CD, which was also a Conditional
11 Use Permit for Manufacturing: Light with more than
12 five employees.

13 COMMISSIONER McLAREN: Okay.

14 CHAIRMAN EVANS: Any other
15 questions?

16 (NONE)

17 Thank you, Cameron.

18 MR. LUEKEN: Thank you.

19 CHAIRMAN EVANS: Anyone else
20 present wishing to speak in favor of this Conditional
21 Use Permit?

22 (NONE)

23 Anyone present wishing to speak in
24 opposition?

25 (NONE)

1 If not, the floor is open for discussion.

2 COMMISSIONER McLAREN: Mr.
3 Chairman, this business has been here for 37 years.
4 It was pointed out to us.

5 It would seem that we should have made it
6 commercial when we did our rezoning. My only comment
7 is I have no issue with the CUP as long as we don't
8 once again in this process eliminate their ability to
9 grow from 37 employees. If they want to go to 40
10 employees or 45 employees, I don't want to limit that
11 ability in this CUP by the fact that they've already
12 been there for 37 years. And obviously they're good
13 neighbors, or somebody would be here unhappy with
14 them.

15 COMMISSIONER HAIRE: Nichole,
16 what are our rules in defining the number of
17 employees? Can we do that under a Conditional Use
18 Permit?

19 MS. ZIELKE: You can do that
20 under a Conditional Use Permit. I don't know what you
21 have in mind as far as making them stick with their
22 current number, or --

23 COMMISSIONER HAIRE: No.

24 MS. ZIELKE: Okay.

25 CHAIRMAN EVANS: I think the

1 idea was to come up with just a larger number because
2 right now --

3 COMMISSIONER McLAREN: That's
4 my comment.

5 CHAIRMAN EVANS: Right. But
6 we're at 37 -- if they wanted to grow, to pick a
7 number to go ahead and put it in the CUP now so they
8 wouldn't have to --

9 COMMISSIONER McLAREN: Or
10 eliminate the number.

11 MS. ZIELKE: At this point,
12 there's no limit on the number of employees that they
13 can have. So if you were to have a -- approve the CUP
14 without conditions about employees, there wouldn't be
15 any issues there.

16 It would be if they wanted to expand a
17 building, rebuild a building, that's where we would
18 start looking into the CUP. So at this point, we
19 don't even get into number of employees.

20 The only reason that we would need to is
21 if you decided to add a condition on there about
22 employees. But they can utilize the existing
23 structures with the existing uses as they are without
24 any current limits to the employees.

25 CHAIRMAN EVANS: Okay. That

1 takes care of that issue.

2 COMMISSIONER McLAREN: All

3 right.

4 CHAIRMAN EVANS: Any other

5 discussion?

6 COMMISSIONER McLAREN: Mr.

7 Chairman, I would make a motion to send this to Old

8 Business as presented.

9 COMMISSIONER HAIRE: I'll

10 second that.

11 CHAIRMAN EVANS: We have a

12 motion and a second to send File 200060 to Unfinished

13 Business. All in favor signify by saying aye?

14 COMMISSIONER REINHOLD: Aye.

15 COMMISSIONER McLAREN: Aye.

16 COMMISSIONER WILLETTE: Aye.

17 COMMISSIONER GRUTSCH: Aye.

18 CHAIRMAN EVANS: Aye.

19 COMMISSIONER KLENKE: Aye.

20 COMMISSIONER HAIRE: Aye.

21 COMMISSIONER HARTMANN: Aye.

22 COMMISSIONER FRANKENBERG: Aye.

23 CHAIRMAN EVANS: Opposed?

24 (NONE)

25 The motion is carried.

1 Moving on to File 200096 All
2 Professionals, L. L. C.

3 Nichole, please give us the details.

4 MS. ZIELKE: The applicant is
5 requesting to operate an Office: Independent
6 Contractor for a remediation company in the WW
7 District.

8 The property is located at 4590 Elder
9 Road, approximately .5 miles west of Coleman Road and
10 .1 mile south of Elder Road.

11 FACTS: The total area for the property
12 is approximately 10 acres.

13 The zoning of this property is W. In
14 this district, Offices: General, Professional, Medical
15 or Dental, and Independent Contractors/Construction
16 Business (with no outdoor machinery, equipment or
17 commercial storage) requires a Conditional Use Permit.

18 The surrounding properties are zoned W.
19 This property has access to Elder Road, a
20 County-maintained road.

21 This property is surrounded by
22 low-density residential property and undeveloped land.

23 This property is located within Public
24 Water Supply District No. 3 boundaries.

25 The applicant is proposing to use an

1 existing 50-foot by 30-foot metal garage to house the
2 office equipment and supplies.

3 The applicant states no customer visits
4 will take place on the property.

5 According to Article 2 of the Unified
6 Land Use Regulations, all offices can have up to two
7 commercial vehicles stored on the premises.

8 The applicant states that they will have
9 no outside employees.

10 STAFF COMMENTS: Any buildings used or
11 built in connection with this CUP will need to be
12 approved by the Franklin County Building Department
13 for a commercial building.

14 Any new and/or existing entrances onto
15 Elder Road will need to be examined by the Franklin
16 County Highway Department for a commercial entrance.
17 Planning and Zoning shall receive a copy of the permit
18 prior to the applicant commencing any activities on
19 the property.

20 All conditions shall be completed within
21 one year of approval unless otherwise stated. Failure
22 to meet all conditions may result in the application
23 expiring.

24 The applicant is allowed one building in
25 connection with this CUP which shall be no larger than

1 the existing 50-foot by 30-foot structure.

2 There shall be no customer visits on the
3 property.

4 CHAIRMAN EVANS: Thank you.

5 Is the applicant present? Will you
6 please state your name and address and sign in,
7 please.

8 MR. JOSH COPELAND: Josh
9 Copeland.

10 (THEREUPON, THE WITNESS WAS
11 SWORN.)

12 CHAIRMAN EVANS: If you'll just
13 give us a little detail on what you're proposing.

14 MR. COPELAND: Yes. All
15 Professionals, we're basically a janitorial company.
16 No customers come to our facility. Our employees meet
17 at the client's home.

18 We do have two vehicles on site, and we
19 do have one trailer. The vehicles can be stored
20 inside. Our entire property is heavily wooded. No
21 one can see anything from the streets.

22 We've got an existing driveway we will be
23 using.

24 CHAIRMAN EVANS: Basically you
25 live on the property, the house is existing, and the

1 building you're going to use is existing?

2 MR. COPELAND: Yes. We
3 currently bought the house ten months ago. In July
4 it'll be a full year.

5 We bought the building, and then our
6 intentions were if our business grew, we were going to
7 keep an office. And then with times kind of slowed up
8 a little bit, so we're seeing if we can move our
9 office back to our home. And if we grow in the
10 future, we'll move out and get an office off-site.

11 CHAIRMAN EVANS: And again, we
12 have the two vehicles. How many vehicles do you have?

13 MR. COPELAND: It's two
14 vehicles, and they are marked -- unmarked.

15 CHAIRMAN EVANS: Any questions
16 for the applicant?

17 (NONE)

18 All right. Thank you.

19 Anyone else wishing to speak in favor of
20 this CUP?

21 (NONE)

22 Anyone wishing to speak in opposition?

23 (NONE)

24 If not, the floor is open for discussion.

25 COMMISSIONER GRUTSCH: Mr.

1 Chairman, with what they're proposing based on the
2 presentation that the Planning and Zoning has given, I
3 would like to make a motion to approve this and move
4 it to Old Business this evening -- Unfinished
5 Business. I'm sorry.

6 COMMISSIONER KLENKE: Second.

7 CHAIRMAN EVANS: We have a
8 motion and a second to move File 200096 to Unfinished
9 Business. All in favor signify by saying aye.

10 COMMISSIONER REINHOLD: Aye.

11 COMMISSIONER McLAREN: Aye.

12 COMMISSIONER WILLETTE: Aye.

13 COMMISSIONER GRUTSCH: Aye.

14 CHAIRMAN EVANS: Aye.

15 COMMISSIONER KLENKE: Aye.

16 COMMISSIONER HAIRE: Aye.

17 COMMISSIONER HARTMANN: Aye.

18 COMMISSIONER FRANKENBERG: Aye.

19 CHAIRMAN EVANS: Opposed?

20 (NONE)

21 The motion is carried.

22 Moving on to File 200068, River Cement
23 Company, d/b/a Buzzi Unicem USA.

24 Nichole, please give us the details.

25 MS. ZIELKE: The applicant

1 wishes to operate a mining operation in the W Zoning
2 District.

3 The property is located at 5083 Farrell
4 Road, approximately 2,500 feet west of Grog Road in
5 Boone Township.

6 FACTS: The total parcel is just less
7 than 100 acres in size. According to the application,
8 the mining operation would only be using approximately
9 four acres.

10 This property is located in the W Zoning
11 District. In this district, extraction, quarrying or
12 mining of sand, gravel, topsoil, or other material
13 uses requires a Conditional Use Permit.

14 The properties around the proposed site
15 are zoned W.

16 The area surrounding the proposed side is
17 primarily low-density residential properties.

18 There appears to be two agricultural
19 buildings on the entire property. However, no
20 buildings appear to be on the proposed four-acre
21 mining site.

22 The proposed site does have access to
23 Farrell Road. This is a county road with a
24 right-of-way width of 40 feet.

25 The applicant is not the current owner of

1 the property, but they do have mineral rights on the
2 property.

3 STAFF COMMENTS: Any buildings used or
4 built in connection with the CUP will need to be
5 approved by the Franklin County Building Department
6 for a commercial building.

7 All new and/or existing entrances onto
8 Farrell Road will need to be examined by the Franklin
9 County Highway Department for a commercial entrance.
10 Planning and Zoning shall receive documentation of
11 approval prior to issuance of the CUP.

12 The applicant should have hours of
13 operation.

14 The applicant must have all the necessary
15 licenses, permits and certificates required to do
16 business in the county and state. Planning and Zoning
17 shall receive documentation prior to issuance of the
18 CUP.

19 No storage of construction material,
20 including debris and trash, shall be outside the
21 limits of the quarry.

22 The applicant shall dedicate an
23 additional 5 feet of right-of-way along Farrell Road
24 for a total of 25 feet from the center line.

25 CHAIRMAN EVANS: Thank you.

1 Nichole, just to clarify, they are currently operating
2 in violation or --

3 MS. ZIELKE: Well, there is no
4 open violation filed that I'm aware of. However, I
5 have been told that they are operating. I have not
6 seen it myself, but others have.

7 CHAIRMAN EVANS: Thank you.

8 Is the applicant present? Can you please
9 state your name and address and sign in, please.

10 MS. AMELIA TURNELL: Amelia
11 Turnell, 1000 Cement Road in Festus, Missouri.

12 (THEREUPON, THE WITNESS WAS
13 SWORN.)

14 Amelia Turnell. I'm representing Buzzi
15 Unicem. Buzzi Unicem is the cement plant, and we're
16 located in Festus, Missouri.

17 As part of our raw materials that we use
18 to produce clinker (ph.), which is one -- basically
19 the basis of cement. We use different materials, and
20 then we use clay.

21 So these conditional use permits would be
22 to be able to mine clay out of these four acres. The
23 pit is actually one acre.

24 Based on the mining company, we have a
25 mining company that does all our mining throughout the

1 state, and we try to locate the clay close by to the
2 plant because of the transportation costs.

3 So they -- depending on the weather, when
4 I talk to them, we expect to mine about 25,000 to
5 30,000 tons of clay complete. And we expect to --
6 expect probably to not take any longer than three
7 months in doing the whole operation.

8 Now, of course, this depends upon the
9 weather. If it's sunny, I've been told that they will
10 be there every day. Other days, they'll just be there
11 maybe twice a week. So it's just depending on the
12 weather mostly.

13 CHAIRMAN EVANS: Do the
14 Commissioners have any questions?

15 MS. TURNELL: Oh, and then --

16 CHAIRMAN EVANS: Oh, I'm sorry.
17 Go ahead.

18 MS. TURNELL: The other thing,
19 there's no buildings. There's just the trucks going
20 in and out. When we're finished with all the
21 extracting of this pit, we have our reclamation plan
22 which has been approved already by the Missouri
23 Department of Natural Resources, and it's standard
24 procedure of what we do with all the pits that we have
25 throughout the area.

1 I guess that's it.

2 CHAIRMAN EVANS: Okay.

3 COMMISSIONER HAIRE: How many
4 trucks will be out in a day from the mining operation?

5 MS. TURNELL: The operations
6 what I have is they work in two shifts. They call it
7 shift one. They start at midnight, and they go until
8 6:00 in the morning.

9 Shift two, they'll start probably about
10 7:30 and they will finish by 2:00 p.m. The idea is
11 that they'll have enough time to load, turn around and
12 drive all the way to the plant because the scales
13 close by about 3:30 or 4:00.

14 They're going to be there about every
15 hour, but that is when they are fully operating.
16 There are some days that they might not be there at
17 all.

18 COMMISSIONER HAIRE: So how
19 many trucks will be going out each day?

20 MS. TURNELL: So about -- so
21 between midnight and 7:30 will be about 40 loads, and
22 that will be about 20 trucks because the truck will go
23 in, load, turn around, come back, and it's probably
24 about two trucks an hour.

25 COMMISSIONER HAIRE: And one

1 other question. What's your -- how are you going to
2 re-purpose the pit when you're completed the mining
3 operation?

4 MS. TURNELL: What we have in
5 the permit for the reclamation plan is the pit will
6 actually become a pond, and then we will -- this area
7 that's wide like, that's what we applied for. So the
8 surrounding will be seeded, and then it won't get
9 released until the M-DNR deems it completely
10 reclaimed based on our plan.

11 So basically one-acre pond and three
12 acres of surrounding property, which it's a total of
13 four acres.

14 CHAIRMAN EVANS: Now, you
15 stated you would be there for three months?

16 MS. TURNELL: The complete
17 operation of extraction from start to finish will
18 probably be three months if we are allowed to go both
19 shifts.

20 It could be a little -- it could be less.
21 It could -- probably it could be less if we're -- if
22 the mining company is going to be there every day.

23 CHAIRMAN EVANS: So basically
24 even if it was an extra month or two, at that point in
25 time, you would vacate it and start your reclamation?

1 MS. TURNELL: Correct. Once
2 the pit is -- once the clay is all out, we will start
3 the reclamation. After -- while the reclamation is
4 going on, there wouldn't be trucks going in and out.
5 It will just be the vehicles going in and out because
6 we have to seed. We usually do that early spring and
7 early fall, and then we have to do the follow up to
8 make sure that the vegetation is actually growing.

9 CHAIRMAN EVANS: All right.
10 Thank you.

11 COMMISSIONER WILLETTE: Mr.
12 Chairman.

13 CHAIRMAN EVANS: Debbie.

14 COMMISSIONER WILLETTE: Do you
15 have other similar operations where you maybe just run
16 the daytime shift?

17 MS. TURNELL: No. No. The
18 operations of the mining company, that's the shifts
19 they do because of the restriction of how late they
20 could actually deliver on the plant.

21 If that would be something that would be
22 required, we will have to work with the mining company
23 and see if they could accommodate us.

24 COMMISSIONER WILLETTE: Thank
25 you.

1 COMMISSIONER McLAREN: Do you
2 currently have a permit, or are you applying for a
3 permit?

4 MS. TURNELL: We have our
5 permit right now to mine the property, but we do not
6 have the Conditional Use Permit.

7 COMMISSIONER McLAREN: Do you
8 have a permit from DNR to mine?

9 MS. TURNELL: DNR yes, with an
10 approved reclamation plan.

11 COMMISSIONER McLAREN: Okay.

12 MS. TURNELL: Yes.

13 COMMISSIONER McLAREN: Does the
14 property owner have to agree to the right-of-way
15 addition, or can you all agree to that by having
16 mineral rights?

17 MS. TURNELL: That I'm unsure.

18 COMMISSIONER McLAREN: Right.
19 That looks to me like a sticking point of how to, you
20 know, get the other five feet of additional
21 right-of-way without -- I mean, you have mineral
22 rights. You do not have other rights to this
23 property, right?

24 MS. TURNELL: Correct.

25 COMMISSIONER McLAREN: You

1 can't grant that?

2 MS. TURNELL: Correct.

3 COMMISSIONER McLAREN: Okay.

4 COMMISSIONER GRUTSCH: What
5 brought you here this evening?

6 MS. TURNELL: Well, basically
7 we -- because we had a permit with DNR already, we
8 were mining the property in March. I'll say early
9 March, and some gentleman called the office or the
10 plant and said that we had to stop the operations by
11 the next day at 4:00 p.m. unless we apply for this
12 Conditional Use Permit because this area, based on the
13 current permit -- or it was not a current permit, but
14 the current zoning wasn't zoned for mining or
15 extraction of any type.

16 So what we did is we contacted the mining
17 company and asked everybody to leave, and then we
18 filed the application for the Conditional Use Permit.
19 And then they give us a date of May for this, but I
20 believe that was canceled. So then they just moved us
21 to June.

22 COMMISSIONER GRUTSCH: All
23 right. You were operating without a permit from the
24 County for the extraction. Is this -- obviously it's
25 new to you. You had no idea that this was required.

1 MS. TURNELL: Well, the zoning,
2 we had no idea that we required a Conditional Use
3 Permit for the zoning to allow for the extraction.

4 This is something particular to this
5 county, to Franklin County, yeah.

6 COMMISSIONER GRUTSCH: Do you
7 have any other properties that you have mineral rights
8 for in Franklin County?

9 MS. TURNELL: I do not know.
10 We have about 20 something properties currently, but
11 they are located in different areas. That's something
12 I could find out for you.

13 COMMISSIONER GRUTSCH: Okay. I
14 think that would be helpful, especially going forward.
15 So for your own information if you ever wanted to
16 consider doing it again, you could apply for a permit
17 before having to stop and close the operation.

18 MS. TURNELL: I know. It's
19 quite inconvenient.

20 COMMISSIONER GRUTSCH: It was
21 quite inconvenient for us as well --

22 MS. TURNELL: Yeah.

23 COMMISSIONER GRUTSCH: -- that
24 you were operating because of --

25 MS. TURNELL: Yeah.

1 COMMISSIONER GRUTSCH: -- the
2 consequences the County suffered.

3 MS. TURNELL: Uh-huh.

4 COMMISSIONER GRUTSCH: In the
5 operation that you were doing in February and March,
6 there's quite a bit of track-out, gravel, clay, mud
7 being tracked out onto the county roads. And it was
8 brought to our attention by numerous residents out
9 there. We had to sent crews out there to start
10 cleaning up the property, the road, from the track-out
11 and establish what we could do to salvage the road.
12 The road started breaking up, and at that point, the
13 Highway Department along with consulting with Planning
14 and Zoning and the discovery that they had not issued
15 a permit for you.

16 So that's a little bit of the history
17 that was on our side.

18 Since then, we've examined a lot of the
19 roads that are around that area, and there is
20 substantial damage to the roads. And I believe a lot
21 of that is attributed to the trucks that were going up
22 and down the roads. There were trucks that were
23 overloaded.

24 The State of Missouri stopped several of
25 the trucks, scaled them, and they were ticketed for

1 overweight loads.

2 So that pretty well demonstrates that
3 there was no control at the extraction site as far as
4 the load size. There were even a couple of trucks
5 that tipped over onto private property, which caused
6 damage to some of the private property owners.

7 And you're saying that you work from
8 midnight till 2:00 in the afternoon is your typical
9 work day?

10 MS. TURNELL: That is for the
11 people who do the mining.

12 COMMISSIONER GRUTSCH: Correct,
13 and that's all we're interested in, --

14 MS. TURNELL: Yeah.

15 COMMISSIONER GRUTSCH: -- is
16 what happens in Franklin County. What you do in
17 Festus really doesn't matter to us.

18 MS. TURNELL: Yeah.

19 COMMISSIONER GRUTSCH: Mr.
20 Chairman, that's all I have right now.

21 CHAIRMAN EVANS: Any other
22 questions?

23 COMMISSIONER McLAREN: Mr.
24 Chairman, can I ask one more question?

25 CHAIRMAN EVANS: Sure.

1 COMMISSIONER McLAREN: You know
2 I may be confused here, but you keep on referring to
3 the people that are mining. Your -- these are
4 subcontractors to you, I suspect?

5 MS. TURNELL: It's a separate
6 independent company.

7 COMMISSIONER McLAREN: It has
8 nothing to do with you all?

9 MS. TURNELL: No, we hire them
10 for them to provide a service.

11 COMMISSIONER McLAREN: Well,
12 what controls do you have over them or what controls
13 can we expect that you would have over an independent
14 company?

15 MS. TURNELL: If a Conditional
16 Permit is granted for them to continue their
17 operations and you'll have restrictions, you will have
18 to put it in writing, and then we'll have to discuss
19 it --

20 COMMISSIONER McLAREN: I know
21 what we have to do. I'm asking what --

22 MS. TURNELL: -- with them.

23 COMMISSIONER McLAREN: I know
24 what we have to do. I'm asking what you do to control
25 your subcontractor if we issue the CUP to you. You're

1 hiring a subcontractor. I'm asking what your controls
2 are on that subcontractor to make sure he adheres to
3 our conditions. That's my question.

4 MS. TURNELL: I guess we'll
5 have to do regular inspections to make sure they are
6 adhering to the contract. Not the contract, but the
7 conditions in the permit.

8 COMMISSIONER McLAREN: Do you
9 have a contract with them, --

10 MS. TURNELL: We have --

11 COMMISSIONER McLAREN: -- with
12 the mining company?

13 MS. TURNELL: We have an
14 ongoing contract because they mine all our properties.

15 COMMISSIONER McLAREN: Okay.
16 Where are they located at? Where is their business
17 located at?

18 MS. TURNELL: I believe he's
19 west, St. James.

20 COMMISSIONER McLAREN: Okay.

21 MS. TURNELL: St. James,
22 Missouri.

23 CHAIRMAN EVANS: I guess the
24 point being is that CUP would be issued, and you would
25 be responsible for it. Whether it was your company, a

1 wholly owned sub or a totally separate company, you
2 would be held responsible for the conditions of the
3 Conditional Use Permit being met.

4 MS. TURNELL: We understand
5 that. Yes. That's why we're here for the permit, not
6 them.

7 COMMISSIONER HAIRE: I have one
8 question. What type of extraction methods is the
9 mining company using on your properties?

10 MS. TURNELL: They are using
11 excavators.

12 CHAIRMAN EVANS: Any other
13 questions? Jim.

14 COMMISSIONER GRUTSCH: In your
15 testimony here, you said that the clay pit itself
16 would be one acre in size. I personally witnessed the
17 pit that you have out there on this site, and the pit
18 is almost five acres where it's excavated at least ten
19 feet below the surround elevations.

20 And the site of the entire disturbed area
21 is almost 18 acres. You're saying the disturbed area
22 of four to five acres.

23 MS. TURNELL: Uh-huh.

24 COMMISSIONER GRUTSCH: What
25 sort of assurance do we have that you're not going to

1 go beyond the four acres of disturbed area and the
2 one-acre pit? Because I witnessed people down there.
3 They couldn't get out one way, so they tore up through
4 a field another way, and when they did that, they got
5 stuck and they had to be pushed out.

6 It was quite a mess.

7 MS. TURNELL: Okay. Like I
8 said, at this point, our permit is for four acres. I
9 have not actually seen what you've seen in early
10 March. With the COVID, we weren't supposed to be
11 going out and visiting sites because of restriction,
12 even until now, we're quite restricted.

13 But the process is unique to remove all
14 the topsoil and then you stockpile it. And the idea
15 is you stockpile it to complete the reclamation when
16 you're done.

17 When you stockpile it, depending on how
18 much material you are removing, it could appear to be
19 an area much bigger than the intended area.

20 Like I said, I have not seen it, but
21 that's the procedure. If that is a restriction with
22 the site, where they're going in and out and the big
23 truck going over the boundaries, then we'll have to
24 address that with that mining -- with the mining.

25 COMMISSIONER GRUTSCH: The

1 Missouri Department of Natural Resources, because it's
2 larger than one acre of disturbed area, requires
3 erosion control, silt fence, containment of stormwater
4 and silt and best practices for that.

5 When I was out there in March trying to
6 find out who was running this operation, I did not see
7 any of that evident.

8 Do you have paperwork that shows your
9 weekly inspections by the stormwater runoff officer
10 that who would have in charge of this site?

11 MS. TURNELL: What we have is
12 quarterly discharges, quarterly reports that we need
13 to file with the M-DNR if we had discharges.

14 COMMISSIONER GRUTSCH: And in
15 the quarterly reports, you have to have an individual
16 inspect that on a weekly basis. One of your own staff
17 or it can be a subcontractor, but you have to have
18 weekly reports.

19 MS. TURNELL: Uh-huh.

20 COMMISSIONER GRUTSCH: And any
21 time you have a rain event of larger than 2 inches in
22 24 hours, you have to file a report for that as well.

23 Do you have copies of those reports?

24 MS. TURNELL: I'll have to get
25 them from the mining company. They are the ones who

1 take the grabbing of the samples. We have a
2 stormwater protection program in place for all the --
3 for this pit, and we follow that stormwater plan.

4 COMMISSIONER GRUTSCH: Is there
5 a representative from the excavating company, the
6 mining company that you have contracted, do you have
7 someone here present that could speak for them?

8 MS. TURNELL: They are not
9 here.

10 COMMISSIONER GRUTSCH: Okay.
11 Thank you.

12 COMMISSIONER McLAREN: Is it
13 okay if I ask him a question?

14 CHAIRMAN EVANS: Yeah.

15 COMMISSIONER McLAREN: So as I
16 look at this aerial photograph and I look at this
17 diagram on your overhead, where is the -- where is the
18 entire piece of property at, the hundred acres? What
19 is the hundred acres?

20 COMMISSIONER GRUTSCH: On the
21 permits, the green is the hundred acres.

22 COMMISSIONER McLAREN: Okay.

23 COMMISSIONER GRUTSCH: Right up
24 here.

25 (STUDYING DIAGRAM/MAP)

1 COMMISSIONER McLAREN: Okay. I
2 was just trying to get size.
3 COMMISSIONER GRUTSCH: Yeah.
4 COMMISSIONER McLAREN: So this
5 lake area is already stripped?
6 COMMISSIONER GRUTSCH: Yeah,
7 that's an old area.
8 COMMISSIONER McLAREN: Okay.
9 CHAIRMAN EVANS: Any other
10 questions for the applicant?
11 (NONE)
12 Thank you.
13 Anyone else present wishing to speak in
14 support of the Conditional Use Permit?
15 (NONE)
16 Anyone present wishing to speak in
17 opposition? Come forward, please. State your name
18 and address and sign in, please.
19 MS. STACY MIDYETT: My name is
20 Stacy Midyett. I live at 5241 Farrell Road.
21 (THEREUPON, THE WITNESS WAS
22 SWORN.)
23 CHAIRMAN EVANS: And everyone
24 speaking has up to five minutes.
25 MS. MIDYETT: Okay. I just

1 want to start by saying thank you for letting me voice
2 my concerns. I have supplied a letter to you all,
3 which you will find in your packet. I've also
4 supplied you pictures. I have four major concerns for
5 this mining activity that has taken place earlier this
6 spring.

7 The damages to the road, as you can see,
8 is evident in the pictures. In front of my house
9 alone, there are two huge spots that have had to have
10 been dig out by the county and replaced with rock. I
11 live on a pave road, not a gravel road.

12 I have two brand new vehicles that are
13 covered in dust because of this.

14 My husband has spoken with the
15 Commissioner, the road Commissioner, and he has even
16 said that these roads are not designed for this kind
17 of traffic and this kind of weight.

18 CHAIRMAN EVANS: I will just
19 say this is the highway administrator here. This is
20 who he would have talked to.

21 MS. MIDYETT: Okay. So you
22 know, there are a lot of concerns. The accidents that
23 have happened, there have been at least two. One on
24 Champion City Road, and it had damaged Mr. Gene
25 Watson's fence that has yet to be repaired.

1 Also in the city of Gerald on Highway H,
2 they turned over in someone's ditch. Okay.

3 Those are two concerns. The third
4 concern is the hours that they are running. They are
5 running very late at night, early in the morning, and
6 you can hear them flying by our house waking us up at
7 2:30 in the morning, when we have to get up at 4:30
8 anyway. So we're getting woken up two hours early
9 every day because of this activity.

10 And then they have claimed that they're
11 not blasting and that they're excavating this. They
12 are indeed blasting. I work at home. I've witnessed
13 at least two occasions where they were blasting. It
14 shook my entire house and rattled my windows.

15 So I'm very concerned about the
16 structural damage that it could cause as well as the
17 damages to our well and anyone around us.

18 And that's all I have to say.

19 CHAIRMAN EVANS: All right,
20 thank you. Jim, questions?

21 COMMISSIONER GRUTSCH: Thank
22 you for your testimony. Speaking for the Highway
23 Department, we will be out there very soon to take the
24 rock out and replace those with asphalt. Those are
25 paved roads, and they do need to be repaired. The

1 County is going to go ahead and repair those as we do
2 anyway.

3 And as far as the hours, I don't know of
4 any other place in the county where we allow during an
5 extraction process and there are quarries in the
6 county that we allow extraction of materials, but
7 those are limited to 7:00 to 5:00. So...

8 MS. MIDYETT: And I don't -- I
9 don't mean to condemn the County work that they've
10 done because they have been right out there to fix
11 that spot. We can't even mow our ditch. You guys
12 have done a great job, but I know that, you know, that
13 you can't really do anything until this goes on. I
14 understand that.

15 But you know, we can't even mow our
16 ditch. You know, the speed limit is 40 miles an hour
17 on that road, and they're going much faster than that
18 when they were traveling these roads. So there are
19 very valid concerns here because some of these people
20 have very small children.

21 COMMISSIONER GRUTSCH: Thank
22 you very much.

23 MS. MIDYETT: Thank you.

24 CHAIRMAN EVANS: Anyone else
25 present wishing to speak in opposition? Please state

1 your name and address and sign in, please.

2 MR. ED SZAKAL: Ed Szakal, 5046
3 Farrell Road.

4 (THEREUPON, THE WITNESS WAS
5 SWORN.)

6 I'm against this simply because of the
7 damage that's been done to the road. The hours of
8 operation are not fit for a residential area. I leave
9 for work at five o'clock most mornings, and have
10 counted the trucks coming out of Warren Road.

11 The dirt that was constantly being piled
12 up on the road is being strewn everywhere as you drove
13 up and down the road. If you drive up the road, as
14 I'm sure you have, you can see that the entire right
15 shoulder of the road, as close to a shoulder for that
16 type of road, is eroded. The two sections that she's
17 spoken about near her house there is full of gravel.

18 My worry is they're operating there
19 before and touched nothing. The only thing that kept
20 the road semi clean was the constant rains we're
21 having. My worry is that if they're allowed to
22 operate this mining operation, what are the roads
23 going to look like on a daily basis? And at what
24 expense is Franklin County going to have to incur as
25 we go forward? That's our tax dollars.

1 So my concern here is what -- what is the
2 residual effect after the mining is going on?

3 CHAIRMAN EVANS: Thank you.

4 Anyone else wishing to speak in
5 opposition? Can you please state your name and
6 address and sign in, please.

7 MS. CHARLOTTE LaCHANCE:
8 Charlotte LaCance.

9 (THEREUPON, THE WITNESS WAS
10 SWORN.)

11 They were driving all hours of the night,
12 day and night, not just at night, not just in the day.
13 They're speeding through there. I know of one truck
14 that did turn over, and it was in town, in Gerald.
15 And it tore up some of this person's property, and
16 they refused to fix it.

17 And he's going through having to sue
18 because they're saying it's his problem, and it's not
19 his problem. It's their problem.

20 And I -- I am totally against them being
21 out there because our roads are horrible, and it tears
22 up my car too. And I don't know what else to tell
23 you. It's just horrible.

24 CHAIRMAN EVANS: Thank you.

25 Anyone else wishing to speak in

1 opposition? State your name and address and sign in,
2 please.

3 MS. JOANNE SZAKAL: Joanne
4 Szakal, 5046 Farrell Road. I'm not going to go over
5 everything everybody else has said. My concern is for
6 the --

7 MS. REPORTER: Just a minute.

8 (THEREUPON, THE WITNESS WAS
9 SWORN.)

10 My concern is the oversight of the mining
11 company itself. No offense to this nice little lady,
12 but she doesn't seem to have a grip on what's going on
13 out there. Like you said, it looked like there was
14 more than an acre that was mined. There's blasting
15 going on that she doesn't know about. The condition
16 of the road, the weight of the trucks, that's one of
17 my concerns, that if you go ahead and give them their
18 permit, that it's just going to go on the way it is
19 without any oversight by this company.

20 That's my concern.

21 CHAIRMAN EVANS: Thank you.

22 Anyone else wishing to speak in
23 opposition?

24 (NONE)

25 COMMISSIONER REINHOLD: I have a

1 question. In a situation like this, you know, we're
2 in the construction business too, when we go onto
3 projects like this, sometimes we have to put a bond up
4 as we go into a subdivision or building a new facility
5 or something in there.

6 I don't know if we can do this or not,
7 but a -- if you give them the okay to do this, why
8 can't you make them put a bond up to cover the repair
9 of the road as part of the condition?

10 And I don't know if that's legal or what,
11 but if they do the damages to the road, it seems to me
12 that as part of the condition, they would have to put
13 up a bond to perform to repair the road.

14 CHAIRMAN EVANS: Yeah, I guess
15 I don't know if that's the highway and/or legal
16 question since normally we don't -- we're about land
17 use rather than the roads. But obviously this is kind
18 of in there because of the overload stuff. So I don't
19 know that we required it before, and, Mark, is that
20 something that is feasible?

21 COUNTY ATTORNEY PIONTEK: It
22 would be if you could determine now what the value of
23 the damages would be in the future to the road. You
24 would have to set the bond high enough that it would
25 cover all of the conceivable damages for whatever

1 period of time they're going to use that road.

2 I don't know what number that might be.

3 I spoke to Jim, they have a guess, but that's all it
4 would be is a guess. But yes, you could require that
5 as a condition in your conditions.

6 CHAIRMAN EVANS: Thank you.

7 COMMISSIONER GRUTSCH: To
8 address Mark's question and statement there, the
9 Highway Department is going to measure the broken
10 areas, the disturbed areas. It's about 3,000 square
11 yards of pavement, and that was at the end of March.
12 And typically what we budget per square yard, it would
13 be about 80 to 90 thousand dollars to repair those
14 areas to bring the road back up in those areas that
15 have been damaged up to the standard where they are
16 now.

17 It wouldn't improve it for big loads, but
18 it would repair the pavement where it is broken and
19 obviously distressed because of the loads in the
20 corners and the intersections and on Farrell Road and
21 itself.

22 COMMISSIONER HAIRE: And, Jim,
23 so if they're going to go for four months of operation
24 in the mining, how much additional damage would you
25 predict?

1 COMMISSIONER GRUTSCH: They
2 were saying they were going to extract 25 to 30
3 thousand tons. I don't know how much they have out.
4 If that was the end of it and they were finished, I
5 could say that's where we are.

6 But if they've only gotten 10 percent of
7 their material out, I don't know. I don't know if
8 they're going to run for another three months or
9 another three weeks.

10 COMMISSIONER McLAREN: How
11 heavy -- do you know how overweight the trucks
12 actually were, Jim?

13 COMMISSIONER GRUTSCH: The
14 truck that was -- the trailers that they used, the
15 total weight of the vehicle by Missouri law should be
16 74,000 pounds. The truck that was overscale, the one
17 that was ticketed by the Highway Patrol was 84,000.
18 It was 10,000 pounds over.

19 Now, 10,000 pounds doesn't sound like a
20 lot, but in pavements and pavement design, a little
21 bit more does substantially -- it's exponential. It
22 would cause a lot more damage than being inside the
23 weight limit.

24 COMMISSIONER McLAREN: Well,
25 obviously I would assume that they consciously knew

1 they were overweight because they had scale tickets on
2 the other end. I think there was testimony about the
3 scales only open at certain times.

4 COMMISSIONER GRUTSCH: Correct.

5 And I'm sure that's how they get paid for
6 what they deliver down at the cement plant.

7 CHAIRMAN EVANS: Debbie?

8 COMMISSIONER WILLETTE:

9 Commissioner, your estimates are to bring the roads
10 back from this damage, that's like a one-time repair.
11 If this is ongoing say for another four months, you
12 most likely would be having to -- you would have to
13 come in and do a few repairs before they're finished.
14 So you would go in more than once; --

15 COMMISSIONER GRUTSCH: Yes.

16 COMMISSIONER WILLETTE: -- is
17 that correct?

18 COMMISSIONER GRUTSCH: Correct.

19 COMMISSIONER WILLETTE: So
20 that's very hard to estimate what that cost may be.

21 COMMISSIONER REINHOLD: If it
22 was me, I would be a high estimate on it because then
23 they would control their trucks for all the damage
24 that they're doing to the road.

25 I mean, if it's \$90,000 worth of damage

1 right now, I would put a \$200,000 bond on that road
2 and whatever damage is done to it, you would be able
3 to take out of that to fix the road.

4 Why should the City or the County pay for
5 the damage that somebody else's using the road for?

6 COMMISSIONER GRUTSCH: Probably
7 what I would like to suggest we've not heard complete
8 testimony. We've not gotten all the information we
9 requested from the applicant. And I've not had an
10 opportunity subsequent to when all the damage was done
11 to go out there and take another look. They did stop
12 when we gave them the 24-hour notice, they did stop
13 their operation, and they moved to Gasconade County,
14 and now they're extracting our of Gasconade County.

15 But I'm sure they want to come back here
16 as quick as they can because it's closer for them.
17 But that's just a thought on my part, that we continue
18 this if that's appropriate.

19 CHAIRMAN EVANS: Yeah,
20 obviously it's a permitted use with conditions, but it
21 seems like it would be real difficult with the
22 information we have to come up with conditions that
23 would be appropriate without getting additional
24 information.

25 I would probably suggest that we would

1 want to table and postpone this and Jim or Nichole to
2 get the request specific additional information that
3 you think would be appropriate.

4 MS. ZIELKE: I would feel more
5 comfortable if that was something that you specified
6 at the meeting tonight so the applicants are aware of
7 it now, and you are getting what you're looking for
8 because you are the ones making the decision. So I
9 don't feel like I should be deciding what they should
10 submit.

11 CHAIRMAN EVANS: Okay. Jim, do
12 you have reports. I'm sure you have a --

13 COMMISSIONER GRUTSCH: I would
14 like -- as mentioned, I would like to see the weekly
15 reports that should have been submitted to DNR for the
16 stormwater runoff and the stormwater pollution
17 prevention, and if I am furnished the amount of
18 material that they have removed from the site so far.
19 I'm sure they have scale tickets and records of that.

20 And also how they plan on getting the
21 five foot additional right-of-way along Farrell Road,
22 and that would -- that would have to be deeded before
23 we could even considering a Conditional Use Permit.

24 MS. ZIELKE: I actually have a
25 question about that to Mark.

1 This wasn't a condition that was placed
2 in here by Scottie. Do you happen to know what
3 standing we have to require that as part of the
4 Conditional Use Permit?

5 COUNTY ATTORNEY PIONTEK:
6 You're talking about which condition?

7 MS. ZIELKE: Applicant shall
8 dedicate an additional five feet of right-of-way along
9 Farrell Road for a total of 25 feet from the center
10 line.

11 COUNTY ATTORNEY PIONTEK: You
12 can -- again, you have fairly broad discretion to add
13 conditions to a conditional use permit as long as
14 they're intended to address a particular problem, if
15 you will, with that use.

16 So if this is going to address some of
17 the issues with the traffic on the road and trucks on
18 the road, you can include that as a condition of the
19 conditional use.

20 I did want to go back to one of the
21 things that actually Tim brought up, the suggestion of
22 a bond.

23 The idea of getting a bond from the
24 company on the surface seems like a great idea. I
25 will tell you in practice I've had to go after a

1 couple of bonds over the years, and it's very
2 difficult to get the insurance company -- because it's
3 an insurance company that's posting the bond, it's
4 very difficult to get them to pay off.

5 It's very time-consuming and in some
6 cases it's taken well in excess of a year to get the
7 bonding company to pay up. So it sounds like a
8 reasonable solution. It sounds like a quick fix, but
9 in practice, at least in my experience, it's very
10 difficult to actually get the bonding company to pay
11 up.

12 So you may be waiting in excess of a year
13 to get the money to get paid.

14 COMMISSIONER REINHOLD: Or you
15 know, you could set an amount and maybe have them have
16 a letter of credit.

17 COUNTY ATTORNEY PIONTEK: You
18 can require a letter of credit.

19 COMMISSIONER REINHOLD: From
20 the bank?

21 COUNTY ATTORNEY PIONTEK: Yes.

22 COMMISSIONER REINHOLD: Because
23 that's what they require when you do a subdivision.

24 COUNTY ATTORNEY PIONTEK: Yes.

25 COMMISSIONER REINHOLD: You got

1 to put it down there, and if you don't finish the road
2 or don't repair the road, you have to -- they can
3 collect on that.

4 COUNTY ATTORNEY PIONTEK: And
5 the letter of credit is much easier to grab. I mean,
6 that's ready money that's sitting in a bank somewhere,
7 and as long as you satisfy the terms of the letter of
8 credit in order to make a claim, you just file a claim
9 with the bank, and the bank has that already.

10 That's much easier than a bond.

11 CHAIRMAN EVANS: Jim, a
12 question on the 25 feet from the center line for a
13 right-of-way. I hate to say standard, but is that --
14 on the county road, is that what we normally require?

15 COMMISSIONER GRUTSCH: I
16 believe that because this is a commercial property,
17 it's a commercial operation, that requires a 50-foot
18 road. Is that correct, Nichole?

19 MS. ZIELKE: We don't have any
20 requirements that a commercial operation has to have a
21 certain width road accessing it unless it's something
22 that we put conditions on. So no, if somebody goes
23 and subdivides the property, we require them to
24 dedicate additional right-of-way to meet the East/West
25 Gateway or the classifications found in the East/West

1 Gateway plan.

2 So my guess is Farrell Road in this area
3 is supposed to be 50 feet according to that plan, and
4 that's why this is in here.

5 I'm just not sure why it's on the CUP
6 rather than a subdivision.

7 COMMISSIONER GRUTSCH: All
8 right, but it is required a 50-foot as a condition
9 that the Planning and Zoning determined that it should
10 be a 50-foot right-of-way.

11 So they would need to get a five-foot
12 widening for this, correct?

13 MS. ZIELKE: Well, so if this
14 is something that the Planning and Zoning Commission
15 wants to do, that's fine. If they want Farrell Road
16 widened, you know, with the goal in mind of 50 feet.
17 But again, as Mark stated, it would have to be
18 something that was being done to remedy an issue with
19 the property or the operation.

20 I don't know what to say. I didn't put
21 this in here.

22 CHAIRMAN EVANS: I would say
23 since it was put in there by Scottie that, unless
24 there is a reason or we get an explanation why it
25 shouldn't be there, then we should leave it there.

1 COMMISSIONER GRUTSCH: I would
2 suspect this is not the first time that they've done
3 clay extractions on this particular property. So
4 perhaps the thought was for this Conditional Use
5 Permit and going forward, since there is so much
6 traffic going to be going in and out with their mine,
7 that this would maintain or allow us to stabilize the
8 road and make the ditches to where they're not going
9 to fall apart.

10 That would seem to make sense.

11 COMMISSIONER HAIRE: There's
12 one other condition that I would like to see if we're
13 going to table and after they come back, and I'd like
14 to see a representative from the mining operation
15 present at the next meeting.

16 COMMISSIONER McLAREN: I would
17 concur with what Dan said, and to me, I'm going to go
18 back to something that Jim said.

19 There is no way that I want to do a CUP
20 that they're traveling and mining at night. That --
21 everything about this -- my words, if I really say
22 what I'm thinking, are very, very harsh, that this has
23 been one of the more difficult requests for a CUP that
24 I think that's come before us since I've been here.

25 It just seems like a comedy of errors

1 that, you know, they're working at night, that the
2 roads have been broke up, that we -- several of us
3 understand about the swift plan that doesn't seem to
4 be acknowledged. We don't have any acknowledgment
5 from the contractor that's going to be here. So we
6 begin with CUP to a third party. You know, somehow or
7 another I am not interested in doing a CUP and having
8 a third party performing the work without, you know,
9 having some kind of understanding with them.

10 COMMISSIONER GRUTSCH Nichole,
11 would it be possible for you to invite the property
12 owner to the next meeting so we can get their side of
13 this?

14 Their absence here is noted, and I would
15 like to hear from a representative from them. They
16 own the hundred acres, and I want to see what they
17 have to say about the one acre of development,
18 supposedly, that's going on. The one-acre pond
19 they're going to build.

20 MS. ZIELKE: So --

21 COMMISSIONER McLAREN: They may
22 not have any choice in it.

23 MS. ZIELKE: They do receive a
24 postcard notifying them of the meeting, and obviously
25 chose not to attend. So I can send a letter to them

1 that -- but I'm a little unsure as to how to word that
2 letter without it sounding like we're summoning them,
3 or you know what I mean.

4 CHAIRMAN EVANS: We don't have
5 subpoena power.

6 MS. ZIELKE: So I mean, I can
7 send a letter saying that you would just like to
8 invite them for their comments.

9 COMMISSIONER GRUTSCH: Right,
10 and I'd just like to see what their impressions are
11 and what their comments are.

12 MS. ZIELKE: Okay. I do have
13 one question about that, that right-of-way. So one of
14 the things that you said that they need to determine
15 between this meeting and when we pick this back up is
16 whether or not they can get the five foot of
17 right-of-way. Is that something they actually do need
18 to figure out, or is that going to be a condition
19 regardless? Is that going to change?

20 CHAIRMAN EVANS: I don't think
21 that's going to change. I think we're not going to
22 change that as far as the condition right now, and
23 again, since they only have mineral rights, that's
24 something they have to address.

25 The property owner is the only that can

1 do that. So -- but I mean, if you're asking if we're
2 going to leave it in there, I --

3 MS. ZIELKE: And are you going
4 to require it on the frontage of the entire property
5 on which this is located? Because that owner owns
6 quite a bit of road frontage, and dedicating another
7 five feet will amount to a good piece of acreage
8 probably.

9 CHAIRMAN EVANS: And how was
10 that stated as a condition?

11 MS. ZIELKE: Five feet of
12 right-of-way along Farrell Road.

13 COMMISSIONER HAIRE: I mean,
14 when I was out there, I would say -- given what I've
15 heard so far, I would require them to do Farrell Road.

16 MS. ZIELKE: Okay.

17 COMMISSIONER GRUTSCH: And,
18 Nichole, when we do road conversions for the county,
19 we do require the entire length of the property. So
20 if it's a thousand feet long, the whole thousand feet,
21 even if it's just in an intersection, we require the
22 whole thousand feet.

23 CHAIRMAN EVANS: Any other
24 discussion? Debbie.

25 COMMISSIONER WILLETTE: I want

1 to say I do agree with Commissioner McLaren about the
2 operation at night. I have a real problem with that.

3 There's one other thing I want to make
4 sure that the people that come to discuss this next
5 time know that we are interested in the oversight, how
6 the weight limits and the operation of the acreage,
7 how much acreage is used. We'd like to see an
8 oversight plan, how that's going to be guaranteed.
9 We'd like to discuss that.

10 CHAIRMAN EVANS: I think we
11 need a motion, but I'm not sure what the -- exactly to
12 put in that motion as far as the requirements.

13 COMMISSIONER HAIRE: It would
14 just be a table motion till the next meeting?

15 CHAIRMAN EVANS: Yeah, we could
16 go ahead and do that. It's just since we discussed
17 the information we wanted is how we make sure that's
18 communicated.

19 COUNTY ATTORNEY PIONTEK: Mr.
20 Chairman, under your rules, the motion would be the
21 motion to continue this public hearing to whatever the
22 dates are if you're continuing the public hearing.

23 COMMISSIONER HAIRE: So we have
24 an open file to the next meeting then, correct?

25 COUNTY ATTORNEY PIONTEK: Yes,

1 sir.

2 CHAIRMAN EVANS: That's right
3 because the table would be closing the public hearing,
4 and obviously we have -- we still have a lot of
5 testimony to hear.

6 And again, I guess I'm asking the
7 Commissioners again how do we -- and, Jim, you stated
8 what we require. And we're just going to continue it,
9 so again, you stated and it'll be available on minutes
10 and the applicant, I guess, can talk to you again if
11 she has questions on what she -- you're requiring or
12 requesting.

13 COMMISSIONER GRUTSCH: Right.

14 MS. ZIELKE: Now, when we
15 continue a public hearing generally, we will give it
16 until let's say a week before the meeting date so that
17 we can get the packets out or something along those
18 lines. So I just want to verify that you want to keep
19 it open through the next meeting, or are we going to
20 set a date for submitting items?

21 CHAIRMAN EVANS: It's up to the
22 Commissioners. I would think we would want to keep it
23 open through the next meeting. I think there's a lot
24 of questions.

25 Mark, there's no problem with that, is

1 there?

2 COUNTY ATTORNEY PIONTEK: No.

3 COMMISSIONER McLAREN: I think
4 we would want to keep it open until they want to come
5 back with the proper --

6 CHAIRMAN EVANS: Right. So I
7 think we want a motion to continue it through the next
8 meeting.

9 COMMISSIONER HAIRE: And that
10 also allows public opinion testimony again?

11 COMMISSIONER GRUTSCH: Yes.

12 COUNTY ATTORNEY PIONTEK:
13 Right.

14 COMMISSIONER HAIRE: Okay.

15 COUNTY ATTORNEY PIONTEK: It's
16 still a public hearing.

17 COMMISSIONER HAIRE: Okay.

18 CHAIRMAN EVANS: Mark, that
19 begs the question then since we've gone through the
20 applicant and the form again by continuing it, does
21 that give a second chance to everybody?

22 COUNTY ATTORNEY PIONTEK:
23 That's really you call. If you want to, there's no
24 problem with that. If you don't, there's no problem
25 with that either.

1 CHAIRMAN EVANS: All right. I
2 had to ask because --

3 COMMISSIONER McLAREN: I want
4 to make a motion to continue File 200068 to when the
5 applicant wants to bring us back more information and
6 keep it open until then for testimony forward against
7 this file.

8 CHAIRMAN EVANS: I don't know
9 that we want to -- you can't continue it indefinitely.
10 You have to have a specific date for a continuance.

11 COMMISSIONER McLAREN: Till the
12 next meeting.

13 CHAIRMAN EVANS: So which will
14 be through the meeting on July 21st.

15 COMMISSIONER HAIRE: I'll
16 second that.

17 CHAIRMAN EVANS: We have a
18 motion and a second to continue File 200068 through
19 the meeting on July 21st. All in favor signify by
20 saying aye.

21 COMMISSIONER REINHOLD: Aye.

22 COMMISSIONER McLAREN: Aye.

23 COMMISSIONER WILLETTE: Aye.

24 COMMISSIONER GRUTSCH: Aye.

25 CHAIRMAN EVANS: Aye.

1 COMMISSIONER KLENKE: Aye.

2 COMMISSIONER HAIRE: Aye.

3 COMMISSIONER HARTMANN: Aye.

4 COMMISSIONER FRANKENBERG: Aye.

5 CHAIRMAN EVANS: Opposed?

6 (NONE)

7 The motion is carried.

8 We appreciate everyone's patience. We
9 will now move back to Unfinished Business.

10 File 200057, Ryan Knibb. Is there any
11 further discussion?

12 (NONE)

13 If not, the Chair would entertain a
14 motion.

15 COMMISSIONER HAIRE: I'll make
16 a motion to approve File 200057.

17 COMMISSIONER McLAREN: Second.

18 CHAIRMAN EVANS: We have a
19 motion and a second to approve File 200057. All in
20 favor please signify by saying aye.

21 COMMISSIONER REINHOLD: Aye.

22 COMMISSIONER McLAREN: Aye.

23 COMMISSIONER WILLETTE: Aye.

24 COMMISSIONER GRUTSCH: Aye.

25 CHAIRMAN EVANS: Aye.

1 COMMISSIONER KLENKE: Aye.
2 COMMISSIONER HAIRE: Aye.
3 COMMISSIONER HARTMANN: Aye.
4 COMMISSIONER FRANKENBERG: Aye.
5 CHAIRMAN EVANS: Opposed?
6 (NONE)
7 Motion is carried.
8 CHAIRMAN EVANS: Moving on to
9 File 200060, Wunderlich Surveying/Haslag Properties.
10 Any further discussion?
11 (NONE)
12 If not, the Chair will entertain a
13 motion.
14 COMMISSIONER McLAREN: I make a
15 motion to approve the file.
16 COMMISSIONER REINHOLD: I'll
17 second it.
18 CHAIRMAN EVANS: Motion and a
19 second to approve File 200060. All in favor signify
20 by saying aye.
21 COMMISSIONER REINHOLD: Aye.
22 COMMISSIONER McLAREN: Aye.
23 COMMISSIONER WILLETTE: Aye.
24 COMMISSIONER GRUTSCH: Aye.
25 CHAIRMAN EVANS: Aye.

1 COMMISSIONER KLENKE: Aye.
2 COMMISSIONER HAIRE: Aye.
3 COMMISSIONER HARTMANN: Aye.
4 COMMISSIONER FRANKENBERG: Aye.
5 CHAIRMAN EVANS: Opposed?
6 (NONE)
7 Motion is carried.
8 Moving on to File 200096, All
9 Professionals, L. L. C.
10 Any further discussion?
11 (NONE)
12 If not, the Chair would entertain a
13 motion.
14 COMMISSIONER WILLETTE: Mr.
15 Chairman, I'd like to make a motion to approve File
16 200096.
17 COMMISSIONER KLENKE: Second.
18 CHAIRMAN EVANS: We have a
19 motion and a second approve File 200096. All in favor
20 signify by saying aye.
21 COMMISSIONER REINHOLD: Aye.
22 COMMISSIONER McLAREN: Aye.
23 COMMISSIONER WILLETTE: Aye.
24 COMMISSIONER GRUTSCH: Aye.
25 CHAIRMAN EVANS: Aye.

1 COMMISSIONER KLENKE: Aye.

2 COMMISSIONER HAIRE: Aye.

3 COMMISSIONER HARTMANN: Aye.

4 COMMISSIONER FRANKENBERG: Aye.

5 CHAIRMAN EVANS: Opposed?

6 (NONE)

7 The motion is carried.

8 Preliminary Plats. We have none.

9 And again, I would like to thank everyone
10 for taking the time to come tonight. We appreciate
11 your participation.

12 Preliminary Plats. We have none.

13 Planning and Zoning Commission Forum.

14 Discussion regarding minor modifications to CUP 130030
15 for Robert Dix.

16 Nicole.

17 MS. ZIELKE: Okay. So the
18 reason that we are talking about this is because we
19 were contacted by ETF, and they said that Robert Dix
20 would like to begin selling firearms from the Top Gun
21 Sportsman Club off of Highway 47. We have an existing
22 conditional use permit for them that was issued in
23 2013, I believe.

24 So the way it works, is whenever there is
25 a request to modification to a conditional use permit,

1 under our regulations, the Planning Director or in
2 this case the representative would decide if the
3 change is considered insignificant, minor or if it's
4 significant enough that they have to do a new
5 application.

6 So in this case, I would have said it was
7 an insignificant deviation from what was approved
8 already because they currently have a pro shop at the
9 facility already. They current rent firearms to their
10 club members. However, at the meeting when the
11 conditional use permit was approved, Mr. Dix stated
12 that they would not be selling guns from that
13 location.

14 So just in case there was any reason why
15 the Planning and Zoning Commission or if they based
16 their decision partially on that statement, I figured
17 it should come back before you guys for your approval.

18 So you should have his request in front
19 of you, and it's just up for your discussion on
20 whether or not to allow that.

21 COMMISSIONER HAIRE: Nichole,
22 if I remember right on this one, did we allow them to
23 have liquor on premises?

24 MS. ZIELKE: We did an
25 amendment. I want to say 2017 we did an amendment to

1 the Conditional Use Permit through this exact same
2 process, and yes, they were allowed to sell alcohol on
3 the premises. And yes, that was 2017.

4 COMMISSIONER HAIRE: Okay.
5 Hope they're not selling the beer next to the gun
6 selling.

7 CHAIRMAN EVANS: I had talked
8 to Nichole about this, and during their -- the initial
9 CUP, I think one of our big concerns was that this
10 would remain a private club and not a public gun range
11 type of thing. And so I think they were limited to a
12 hundred and something private members. And that would
13 be it.

14 And I have seen where they have
15 advertised for four-hour sessions, selling it to the
16 public, which to me would not be a private membership
17 club. Which also begs the question, if they're
18 selling to their members at the club, what do they
19 consider these people who are only out there for four
20 hours?

21 So that's -- it's really either a private
22 membership club, or if you can go out for basically --
23 it's a group, you go sign up for four hours, they give
24 you ammo, you shoot, you go home.

25 So are you a private member as defined in

1 their CUP?

2 COMMISSIONER HAIRE: I mean, I
3 don't -- I'm trying to think about how we approved
4 that because I think you're right. I think they
5 mentioned that the members would have guests, but it
6 was going to be a private membership.

7 Is that how we stipulated; do you
8 remember?

9 MS. ZIELKE: I can look -- I
10 could read the existing conditions if you would like.

11 COMMISSIONER HAIRE: Okay.

12 MS. ZIELKE: Because you're
13 familiar with what all is there, so in addition to the
14 amendment that allowed alcohol on the premises -- and
15 I don't know that they're selling alcohol but allowing
16 it on the premises. I think I should specify that
17 because I do not believe that they got an alcohol
18 license to sell at that property.

19 CHAIRMAN EVANS: And I think it
20 could be provided or the guests could bring it or
21 there could be caterers, but they could have alcohol,
22 but they couldn't sell it.

23 COMMISSIONER HAIRE: I think it
24 was for some tournament events that was what they were
25 looking for, planning charity functions or whatever.

1 MS. ZIELKE: Right.

2 So in addition to that, it was the
3 entrances had to be approved by MoDOT. They had to be
4 -- the conditions had to be completed within one year
5 of approval. Buildings had to be approved by the
6 Building Department.

7 And then it goes on to say that the
8 applicant shall be limited to 250 individual and/or
9 family memberships. The applicant shall provide
10 Planning and Zoning with an affidavit annually
11 verifying numbers of members. The applicant shall
12 meet all NRA and NSSF regulations.

13 The applicant shall be limited to five
14 shooting bays at the rifle/pistol range. All shooting
15 bay pavilions shall be designed and constructed in
16 accordance with plans approved by an acoustical
17 consultant to minimize noise.

18 The shooting aspect of the club can run
19 from 9:00 a.m. to 5:30 p.m. The applicant shall post
20 adequate signage along Soaring Hawk Trail that reads
21 "Private Property - No Trespassing" or something
22 similar.

23 Anyone under the age of 18 shall be
24 accompanied by a parent, grandparent or legal guardian
25 while on the gun range and shooting clays.

1 The applicant shall provide Planning and
2 Zoning with a plan of the property. The applicant
3 shall develop the property according to the plan
4 attached as Exhibit A.

5 And no fully automatic weapon shall be
6 allowed on the property at any time.

7 COMMISSIONER McLAREN: So you
8 have reports of how many member they have?

9 MS. ZIELKE: So we got reports
10 for the first couple of years, and when I got this
11 request, I didn't -- I was looking through the file.
12 So this is something that the zoning enforcement
13 officer was supposed to review these conditional use
14 permit applications. It looks like the last time he
15 actually inspected the property was in 2016.

16 And I saw that there were no numbers in
17 there. So I actually requested that they provide us
18 with a number of their members at the end of 2019. So
19 I have that in the file, but I don't have the previous
20 years after the first couple.

21 COMMISSIONER McLAREN: So what
22 was 2019?

23 MS. ZIELKE: 2019 there was 149
24 active members.

25 CHAIRMAN EVANS: And I think

1 they -- were they -- back then when they defined
2 members, it was going to be like a thousand, two
3 thousand a year, something like that, the access. And
4 again, that's when I saw it in Group-On and they're
5 selling half-day sessions that we were very concerned
6 that that was not going to be a public range, that it
7 was very controlled private club.

8 So that begs the question, if you had it
9 on Group-On selling it for, you know, \$200 value for
10 99.95, ammo included, is that a private club or is it
11 some violation, or at least we wouldn't have approved
12 this request for them without a little further
13 investigation.

14 COMMISSIONER REINHOLD: Is that
15 for that location or for all their locations?

16 CHAIRMAN EVANS: Only for the
17 club out on 47. Their retail store being down in
18 Arnold or whatever, you know, is open to the public.

19 It's just that this piece of it is a
20 private shooting club.

21 COMMISSIONER REINHOLD: I mean,
22 myself, if you're going to allow guns there, you're'
23 going to allow people shooting guns there, the people
24 that go there might not want to see new guns and buy
25 them. I can't see there's a big deal if they bought

1 it and everything else there, why wouldn't you let
2 them.

3 CHAIRMAN EVANS: Yeah, and my
4 only concern was that -- again, being on the
5 Commission back then, is that we were very concerned
6 if this is a private club. And I would just hate to
7 think that it's not a private club, and that they're
8 obviously, you know, in violation going on Group-On
9 and advertising.

10 It seems that they're not matching up
11 with what we were very concerned with when we granted
12 the CUP.

13 Again, it's just for discussion, and we
14 can bring it up, but my take would be that my opinion
15 is to advise Nichole not to approve right now till we
16 look into it a little bit farther.

17 I don't know if the Commissioners have
18 any other opinion.

19 COMMISSIONER HAIRE: Nichole,
20 can we require them to come for the modification on
21 their existing CUP?

22 MS. ZIELKE: I'm sure if you
23 would ask them to come, they would be happy to.

24 One thing with this I would assume that
25 we're viewing this, and I have to kind of agree with

1 Bill here. If we're viewing this as a violation of
2 the Conditional Use Permit, then what I would have to
3 do is issue -- you know, if it's not rectified, I have
4 to issue a letter of violation letting them know that
5 they have so long to remove this type of thing and
6 that it's only restricted to private club owners.

7 So you could wait to do a modification
8 until that's addressed until the zoning violation file
9 is closed. Or was can bring them in to talk about it,
10 and it maybe as simple as just having a discussion
11 with him at a meeting, and maybe he'd be willing just
12 to say oh, we're going to quit doing that. We didn't
13 realize. I don't know.

14 COMMISSIONER HAIRE: If we want
15 to bring it to their attention, Nichole, I think
16 that's the right idea. Go ahead and issue that. See
17 how they respond to it. Because if they start on
18 Group-On, it is sort of a violation of what we
19 originally intended.

20 So let them speak to that, and decide it
21 was a good response. Then we can move forward.

22 COMMISSIONER McLAREN: You
23 know, it just seems to me like if there's only 190
24 members, that they have a storefront in Arnold, if
25 somebody wants, they could do the paperwork from

1 Arnold.

2 To me it seems extravagant to want to
3 have the ability to sell out there too. I mean, if
4 they didn't have a store in Arnold, I could have a
5 different opinion, but when they've already got a
6 store that they can sell from...

7 COMMISSIONER HAIRE: They could
8 deliver it to the Lonedale location.

9 COMMISSIONER McLAREN: Right.

10 COMMISSIONER HAIRE: Sell it in
11 Arnold, and deliver it to Lonedale.

12 CHAIRMAN EVANS: You know that
13 was my major concern, is they've had this CUP since
14 2013. Why didn't they need the FFL before? You know,
15 they've gone six or seven years without an FFL. If
16 you've got an FFL, you can sell guns and ammo and
17 anything you want.

18 I mean, except we specified no automatic
19 weapons, but they could go in for suppressors and any
20 kind of guns and any kind of ammo that the FFL allows
21 them to do.

22 COMMISSIONER McLAREN: So is
23 this a conversation, or do we need some kind of motion
24 or action?

25 CHAIRMAN EVANS: I mean, it's

1 just a conversation at this point to bring up. And we
2 can, you know, might table this to -- you know, we can
3 ask Nichole to tell them or request some information,
4 or we can just carry over if people want to look at
5 it, say let's -- again, it's just a discussion point
6 trying to get the other Commissioners to see if
7 there's any consensus to see what we want to do.

8 COMMISSIONER REINHOLD: Do you
9 know whether we had any other complaints or anything
10 with what's going on out there?

11 MS. ZIELKE: We haven't
12 received any written complaints for sure.

13 CHAIRMAN EVANS: Yeah, this was
14 a very continuous CUP when it was granted. And so
15 it's one that we were pretty clear on what those
16 conditions were. It was one of the most continuous
17 ones we've had.

18 COMMISSIONER HAIRE: I'll make
19 the motion. I move that Nichole sends a letter asking
20 for clarification on their membership and the use of
21 Group-Ons and present that to us. And then when we
22 get that, we'll discuss it and decide at that point
23 whether we want to do a modification of the CUP then.

24 CHAIRMAN EVANS: Yeah, and it's
25 just -- Mark, correct me if I'm wrong. We can just

1 do with a consensus. We don't need a motion under...

2 COUNTY ATTORNEY PIONTEK: No.

3 COMMISSIONER HAIRE: Great.

4 MS. ZIELKE: I'm sorry. Just
5 to clarify. I'm not inviting him to the meeting. I'm
6 just asking for an opportunity -- or giving him an
7 opportunity to explain in writing --

8 CHAIRMAN EVANS: Correct.

9 MS. ZIELKE: -- what his intent
10 is?

11 CHAIRMAN EVANS: Correct. All
12 right.

13 Anything else we want to discuss?

14 (NONE)

15 Planning Director's Report.

16 MS. ZIELKE: There's not a
17 whole lot in the last week to give you.

18 I will say that Stan Voss' brother has
19 passed away. His name, I believe, is Lynn. So that's
20 why he's not at the meeting tonight. So just kind of
21 keep their family in your prayers, because that's
22 also, you know, Don Voss' son and he was on our
23 Commission for a very long time.

24 CHAIRMAN EVANS: Thank you.

25 If there is nothing else, the Chair would

1 entertain a motion to adjourn.

2 COMMISSIONER McLAREN: Motion
3 to adjourn.

4 COMMISSIONER KLENKE: Second.

5 CHAIRMAN EVANS: Motion and a
6 second to adjourn. All in favor signify by saying
7 aye.

8 COMMISSIONER REINHOLD: Aye.

9 COMMISSIONER McLAREN: Aye.

10 COMMISSIONER WILLETTE: Aye.

11 COMMISSIONER GRUTSCH: Aye.

12 CHAIRMAN EVANS: Aye.

13 COMMISSIONER KLENKE: Aye.

14 COMMISSIONER HAIRE: Aye.

15 COMMISSIONER HARTMANN: Aye.

16 COMMISSIONER FRANKENBERG: Aye.

17 CHAIRMAN EVANS: Opposed?

18 (NONE)

19 We're adjourned.

20 (THEREUPON, THE PROCEEDINGS

21 CONCLUDED AT 8:48 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.

Patsy A. Mayberry



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

17 My Commission Expires:
 18 August 26, 2022

19
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 22
 23
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 25

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