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Planning & Zoning Meeting

March 28, 2024

Jefferson County, Missouri

JEFFERSON COUNTY, MISSOURI
PLANNING AND ZONING COMMISSION
MEETING AND PUBLIC HEARING

March 28, 2024

6:30 P.M.

Jennifer M. Jett, CCR
MISSOURI CCR NUMBER: 634

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| <p>1 EXHIBITS</p> <p>2</p> <p>3 Exhibits Description Identified</p> <p>4 Exhibit A Official Master Plan for Page 10</p> <p>5 Jefferson County, Missouri</p> <p>6</p> <p>7 Exhibit B Jefferson County Code of Page 10</p> <p>8 Ordinances - Chapter 400</p> <p>9 Unified Development Order</p> <p>10</p> <p>11 Exhibit C Planning Division Page 11</p> <p>12 Staff Report and Respective</p> <p>13 Case Files</p> <p>14</p> <p>15 [Exhibits retained by Counsel.]</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p>1 IT IS HEREBY STIPULATED AND AGREED by and</p> <p>2 between the parties, that this meeting may be taken in</p> <p>3 shorthand by Jennifer M. Jett, a Certified Court</p> <p>4 Reporter, and afterwards transcribed into typewriting.</p> <p>5 -----</p> <p>6 COMMISSIONER SCHERRER: Ladies and</p> <p>7 gentlemen, this evening's activities represent a</p> <p>8 public hearing before the Planning and Zoning</p> <p>9 Commission. This public hearing is designed to allow</p> <p>10 for citizens and other interested parties to provide</p> <p>11 the Commission and, ultimately, the County Council</p> <p>12 with information, comments, testimony, and evidence to</p> <p>13 assist the Commission in making a more informed</p> <p>14 decision relative to the application before it and for</p> <p>15 making recommendations to the council on those</p> <p>16 applications.</p> <p>17 Each individual wishing to address the</p> <p>18 Commission on a specific application must complete an</p> <p>19 oath form. These forms are located in the rear of the</p> <p>20 room. It is important that speakers place the agenda</p> <p>21 item number on this form so that an accurate record</p> <p>22 can be maintained. You are also required to print</p> <p>23 your name and address and sign this form. When the</p> <p>24 chairman asks if anyone is in attendance wishing to</p> <p>25 speak on a specific application, those wishing to</p> |
| <p>1</p> <p>2 JEFFERSON COUNTY PLANNING AND ZONING</p> <p>3 COMMISSION MEETING AND PUBLIC HEARING, March 28, 2024,</p> <p>4 between the hours of 6:30 in the evening and 7:54 in</p> <p>5 the evening of that day, at the Jefferson County</p> <p>6 Administration Center, 729 Maple Street, Hillsboro,</p> <p>7 Missouri 63050, before Jennifer M. Jett, MO-CCR.</p> <p>8</p> <p>9 APPPEARANCES</p> <p>10</p> <p>11 PLANNING AND ZONING COMMISSION:</p> <p>12 Jessie Scherrer</p> <p>13 Danny Tuggle</p> <p>14 Greg Bowers</p> <p>15 Johnathan Sparks</p> <p>16 Larry Adkins</p> <p>17 Mike Huskey</p> <p>18</p> <p>19 PLANNING DIVISION STAFF:</p> <p>20 Dennis J. Kehm, Jr.</p> <p>21 Josh Jump</p> <p>22 Rachel Krispin</p> <p>23 Elaine Roesch</p> <p>24</p> <p>25 COUNTY COUNSELOR:</p> <p>26 Jason Cordes</p> <p>27 Jalesia Kuenzel</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> | <p>1</p> <p>2 provide comment are required to come forward, provide</p> <p>3 their name and address, and address their comments to</p> <p>4 the Planning and Zoning Commission.</p> <p>5 It is important to remember that members of</p> <p>6 the Planning and Zoning Commission will make a</p> <p>7 decision on each application and you should direct all</p> <p>8 comments to the Commission. Responding to the</p> <p>9 audience both wastes time and may reduce the impact of</p> <p>10 your statement. Members of the Planning and Zoning</p> <p>11 Commission may question any speaker. This Commission</p> <p>12 will not tolerate verbal outbursts or disruptions from</p> <p>13 the audience nor will this Commission tolerate verbal</p> <p>14 or abusive attacks directed at county staff.</p> <p>15 The structure of the meeting is as follows:</p> <p>16 The chairman will introduce each project by</p> <p>17 both name and number and will then direct the staff of</p> <p>18 the Planning Division to present the application. The</p> <p>19 staff representative will then present a brief</p> <p>20 overview of the application. The Commission may</p> <p>21 question the staff relative to the project. The</p> <p>22 chairman will then call the petitioner, the party that</p> <p>23 submitted the application.</p> <p>24 The petitioner may call additional</p> <p>25 individuals, generally supporting consultants, and is</p> <p>26 allowed a ten-minute, uninterrupted period of</p> |

1 presentation of facts surrounding the application.
 2 After complete -- completion of the presentation of
 3 the application, the members of the Commission may ask
 4 questions of the petitioner relative to the
 5 application. There is no time limit for questions
 6 from the Commission.

7 After all questions from the Commission
 8 have been heard, the chairman will ask for any
 9 citizens wishing to address the Commission who are in
 10 favor of this application to come forward. There will
 11 be a total of five minutes allocated for public
 12 comment in favor of this application. The Commission
 13 may ask questions of any speaker. The time used for
 14 speakers to answer questions will not be subtracted
 15 from the five minutes allocated for this portion of
 16 the hearing.

17 After all questions from the Commission
 18 have been heard, the chairman will ask for any
 19 citizens wishing to address the Commission who are
 20 opposed to this application to come forward. There
 21 will be a total of 20 minutes allocated for public
 22 comment in opposition to the application. No one
 23 speaker will be allowed to speak for more than three
 24 minutes. The Commission may ask questions of any
 25 speaker. The time used for speakers to answer

1 questions will not be subtracted from the 20 minutes
 2 allocated for this portion of the hearing.

3 Because time is limited, we strongly
 4 recommend that speakers be prepared and know the facts
 5 regarding the application. We recommend that you
 6 avoid repetition. If you are part of a larger group,
 7 we suggest that you designate a spokesperson to
 8 provide comments for the group. The speaker may
 9 acknowledge that he or she represents a larger group.
 10 This will be the sole public hearing before a public
 11 body regarding the application.

12 The petitioner will then have five minutes
 13 to respond to issues raised during the comment period.
 14 The Commission may further question the petitioner.
 15 Time used to respond to questions from the Commission
 16 will not count against the time allocation.

17 After closure of the comment period, the
 18 Commission will then deliberate on the application.
 19 The Commission may direct additional questions to
 20 staff or it may proceed directly to considering the
 21 application. Decisions of the Planning and Zoning
 22 Commission will be forwarded to the County Council for
 23 final action. Final action by the County Council will
 24 generally take the form of an ordinance approving the
 25 application or a resolution denying the application.

1 In most instances there will be no further public
 2 hearing before the County Council.
 3 Madam Secretary, I now call this meeting to
 4 order. Would you please call roll?
 5 MS. ROESCH: Danny Tuggle.
 6 COMMISSIONER TUGGLE: Here.
 7 MS. ROESCH: Greg Bowers.
 8 COMMISSIONER BOWERS: Here.
 9 MS. ROESCH: Johnathan Sparks.
 10 COMMISSIONER SPARKS: Here.
 11 MS. ROESCH: Larry Adkins.
 12 COMMISSIONER ADKINS: Here.
 13 MS. ROESCH: Jeffrey Spraul.
 14 Tim Dugan.
 15 Jessie Scherrer.
 16 COMMISSIONER SCHERRER: Here.
 17 MS. ROESCH: Mike Huskey.
 18 COMMISSIONER HUSKEY: Here.
 19 MS. ROESCH: We have a quorum.
 20 COMMISSIONER SCHERRER: Is there a motion
 21 to approve the agenda?
 22 COMMISSIONER BOWERS: Make a motion to
 23 approve the agenda.
 24 COMMISSIONER TUGGLE: Second.
 25 COMMISSIONER SCHERRER: Commissioner Bowers

1 made a motion to approve the agenda; it was seconded
 2 by Commissioner Tuggle.
 3 All in favor say aye.
 4 COMMISSION: Aye.
 5 COMMISSIONER SCHERRER: Opposed?
 6 Approval of the agenda passes unanimously.
 7 Approval of the minutes for March 14, 2024.
 8 COMMISSIONER BOWERS: Make a motion to
 9 approve the minutes.
 10 COMMISSIONER ADKINS: Second.
 11 COMMISSIONER SCHERRER: Commissioner Bowers
 12 made a motion to approve the minutes from March 14,
 13 2024; it was seconded by Commissioner Adkins.
 14 All in favor say aye.
 15 COMMISSION: Aye.
 16 COMMISSIONER SCHERRER: Opposed?
 17 Approval of the minutes from March 14,
 18 2024, passes unanimously.
 19 Swearing in of witnesses.
 20 MR. KEHM: Thank you, Mr. Chair.
 21 Again, everyone, good evening and thank you
 22 for attending the Planning and Zoning Commission
 23 tonight.
 24 As I said earlier, if you're going to be
 25 speaking on either of the two cases tonight, your

1 testimony is going to be -- is going to need to be
 2 sworn testimony. So rather than do that individually,
 3 we do it all at once here at the beginning of the
 4 meeting. So if you're going to be talking tonight,
 5 please do go ahead and stand up right now, raise your
 6 right hand, and the commission secretary over here
 7 will swear you in.

8 [Witnesses sworn by Secretary Roesch.]

9 MR. KEHM: Thank you very much.

10 Please have a seat. Again, remember to
 11 grab, if you haven't already done so, one of those
 12 speaker slips and have that ready when you do come up.
 13 When you hit that podium, make sure you say your name,
 14 state your address, and then state for the record that
 15 you have been sworn in. Thank you.

16 COMMISSIONER SCHERRER: Thank you, sir.
 17 Introduction of evidence.

18 MR. KEHM: Members of the Jefferson County
 19 Planning and Zoning Commission, the county would ask
 20 that the following exhibits be entered into the record
 21 for the two cases to be heard by you this evening.
 22 Those exhibits are the Official Master Plan for
 23 Jefferson County, Missouri, which was adopted on
 24 August the 6th of 2003 and was made effective on April
 25 the 2nd, 2008. Exhibit B, the Code of Ordinances of

1 Jefferson County, specifically, Chapter 400, the
 2 Unified Development Order, that was also adopted on
 3 April the 2nd, 2008, and has been amended numerous
 4 times since then. And, finally, Exhibit C, said
 5 exhibit consisting of the staff reports and the
 6 respective case files for the two cases to be heard by
 7 you this Thursday, March the 28th of 2024.

8 COMMISSIONER SCHERRER: Thank you, sir.
 9 Is there a motion to accept the
 10 introduction of evidence?

11 COMMISSIONER BOWERS: So moved.

12 COMMISSIONER ADKINS: Second.

13 COMMISSIONER SCHERRER: Commissioner Bowers
 14 made a motion to approve the introduction of evidence;
 15 it was seconded by Commissioner Adkins.

16 All in favor?

17 COMMISSION: Aye.

18 COMMISSIONER SCHERRER: Opposed?

19 Introduction of evidence is accepted
 20 unanimously.

1 COMMISSIONER SCHERRER: New business:
 2 Consideration PC24009. Mr. Jump.
 3 MR. JUMP: Thank you.
 4 This is Case No. PC24009. The petitioner's
 5 request is a revised development plan approval for the
 6 parcel number listed.

7 Little bit about the subject property:
 8 It's located at 1740 Old Highway 141. Is it currently
 9 zoned planned commercial. It's in Council District 2.
 10 It is in the primary growth area, a suburban
 11 development pattern applies here, and it's 3.86 acres
 12 in size.

13 As mentioned before, it's at 1740 Old
 14 Highway 141. It was rezoned planned commercial and a
 15 development plan was approved in 2001 (sic), PC21097
 16 was the case number for that to take a vacant
 17 single-family house as well as the vacant home pad
 18 sites and reperson -- repurpose them into a commercial
 19 site. Petitioner would like to utilize the subject
 20 property as an office and construction contractor with
 21 machinery, equipment, and storage, and add an
 22 additional building which is why it's back before you
 23 this evening.

24 According to the flood rate maps there is a
 25 significant water issue with this property. Portions

1 of it are in the floodway; large portions of it are in
 2 the floodplain; and a Stream Order 3 traverses the
 3 rear of the property and you'll see that on the
 4 upcoming maps. The frontage that it uses is on Old
 5 141.

6 This is your zoning map. So this is Old
 7 141. This is 141. You've got a layer of commercial
 8 zoning here, some residential zoning that surrounds
 9 it. This is a old mobile home site that is now an R
 10 -- converted into like an RV campsite type thing.
 11 It's Babs RV Park. And then there's several parcels
 12 that have kind of over time been converted to that.
 13 And then you've got commercial on the frontage of
 14 El Jon and Old 141. And then your Stream Order 3 is
 15 at Saline Creek back here, which you'll see in the
 16 next slide as well that will show you the topography
 17 and the flood map -- flood maps.

18 This topo map kind of gives you an idea.
 19 There's the Saline Creek, the extent of the floodway
 20 is that red boundary line there and then the
 21 hundred-year floodplain on out to the unregulated
 22 500-year flood -- floodplain as you get closer to the
 23 highway.

24 A little bit of background: The site
 25 previously went through a rezoning in 2021 to planned

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| <p style="text-align: right;">Page 14</p> <p>1 commercial. The prior use was a mobile home park that 2 had fallen into disarray. The previously approved 3 planned commercial plan is shown here. The petitioner 4 would like to add a building that was not on the 5 previous plan requiring a revised development plan. 6 This is that revised development plan. The 7 reason you're here -- we're here this evening is this 8 addition, right here. It's a building and supporting 9 features with it which we'll go through on the next 10 slide. The submitted development plan shows the 11 following:</p> <p>12 The gravel contractor storage yard which 13 was part of the '21 plan, as well, and then a new 14 70x120 or 8,400 square foot building, right there. 15 The infrastructure, it shows four parking spaces, 16 entrance to the property, and then the remaining tree 17 mass near the eastern property line and buffer 18 locations.</p> <p>19 The petitioner has requested three 20 modifications:</p> <p>21 The required relief from the 125-foot 22 offset for their entrance.</p> <p>23 The requirement for relief from buffer and 24 screening.</p> <p>25 And then the relief from the design and</p> | <p>1 The last one, the design and improvement of 2 parking lots. The petitioner is requesting relief 3 from the requirement to pave the required parking 4 spaces and drive aisles. The 8,400 square foot 5 building requires a minimum of five parking spaces 6 and, therefore, is required to be paved. This would 7 be only from the entrance at Old Highway 141 to the 8 far end of the parking spaces. The petitioner has 9 presented no evidence of any hardship which would 10 justify granting the request.</p> <p>11 The development plan analysis: Staff has 12 incorporated conditions of approval to address the 13 risks to public health, safety, and welfare from the 14 development. The development does not appear to have 15 any features that would impede the normal and orderly 16 development and improvement of surrounding properties. 17 Staff believes the proposed use of the 18 property as an office and construction contractor is 19 appropriate. Due to the flooding issues, it is 20 appropriate to utilize the property with material that 21 can be moved out in flooding events. The property is 22 suitable for the proposed uses stated in the 23 development plan. The development plan satisfies the 24 requirements of the UDO applicable to the commercial 25 use as proposed. And there be should no injurious</p> |
| <p style="text-align: right;">Page 15</p> <p>1 improvements of parking lots.</p> <p>2 These are some photos from the site. As 3 you can see, it's already been pretty developed -- 4 redeveloped with a nice, wide entrance, paved 5 entrance, and kind of being used as a contractor 6 storage yard currently.</p> <p>7 So our analysis of a couple things here. 8 We've got the modification analysis and then the zone 9 change or development plan analysis next. On the 10 first one, the 125-foot offset, petitioner's proposing 11 two entrances from Old 141 to the subject property. 12 There is no available location which will not create 13 offsets. This identical request was approved in the 14 previous case in PC21097 so nothing's changing from 15 that case.</p> <p>16 That kind of follows with the relief from 17 buffer and screening. On the eastern and southern 18 property lines, medium-impact privacy or landscaping 19 screening is required. Staff finds it acceptable to 20 receive relief from buffer requirements in areas 21 within the stream buffer; however, staff would place 22 the condition of proposed remaining vegetation along 23 properties as proposed remain undisturbed. Again, an 24 identical request was approved in the previous case, 25 PC21097.</p> | <p>1 effect or detriment to neighboring properties if all 2 the requirements of the UDO are met with the exception 3 of the requested modification to the parking. 4 So our recommendation, staff is 5 recommending approval of the revised plan along with 6 the recommendation following the modifications: 7 Approval of the 125-foot offset. 8 Approval of the buffering. 9 And denial of the improvement of the 10 parking lot. 11 And I will be happy to take any questions. 12 COMMISSIONER SCHERRER: Thank you. 13 Are there questions for staff? 14 COMMISSIONER SPARKS: I have a few. 15 MR. JUMP: Yep. 16 COMMISSIONER SPARKS: Would it be safe to 17 say -- I'm just doing the rough math here -- that that 18 structure will now be twice as large as it initially 19 was indicated on the prior rezoning? 20 MR. JUMP: Yes. That's about right, yeah. 21 COMMISSIONER SPARKS: Okay. I noticed on 22 some of those slides that you showed it looked like 23 there was a lot of stuff already completed. 24 Currently, is this property in compliance 25 with the former zoning rules that were imposed?</p> |

5 (Pages 14 to 17)

1 MR. JUMP: As far as I know, yeah.
 2 COMMISSIONER SPARKS: Okay.
 3 MR. JUMP: Yep.
 4 COMMISSIONER SPARKS: And with the addition
 5 of with -- with their request of the parking, is there
 6 an ADA compliance in there if they didn't have five
 7 spaces or four spaces or gravel or?
 8 MR. JUMP: I believe you're required to
 9 have one ADA space regardless.
 10 COMMISSIONER SPARKS: Right, it's Federal
 11 Statute --
 12 MR. JUMP: Yeah.
 13 COMMISSIONER SPARKS: -- 25 or less.
 14 MR. JUMP: And those, generally, have to be
 15 paved.
 16 COMMISSIONER SPARKS: Right.
 17 MR. JUMP: The ADA space, not the -- not
 18 the additional spaces --
 19 COMMISSIONER SPARKS: Okay.
 20 MR. JUMP: -- necessarily. But the ADA
 21 space, yes, it would -- would generally have to be
 22 paved.
 23 COMMISSIONER SPARKS: Okay. That's all I
 24 have.
 25 MR. JUMP: Yeah.

1 COMMISSIONER SPARKS: Thank you.
 2 COMMISSIONER SCHERRER: Other questions for
 3 staff?
 4 Okay. Is the petitioner present?
 5 Please come forward. State your name,
 6 address, and that you have been sworn in. And as a
 7 reminder, you have ten minutes. We'll just do one at
 8 a time, you know, you can both be there but one at a
 9 time and then, so name, address, and that you've been
 10 sworn.
 11 MS. MCCUNE: Yes. Kaylee McCune. I live
 12 at 10561 Litz Avenue in Saint Ann, Missouri, and I
 13 have been sworn in.
 14 COMMISSIONER SCHERRER: Thank you.
 15 MS. MCCUNE: I am the attorney for
 16 Bommarito Construction. We have put this forward. I
 17 wanted to address what you mentioned as it being
 18 double the size of the original. In our original
 19 petition, we were intending to utilize a home that was
 20 existing on the property. Due to that home not being
 21 kept by the previous owners, we were unable to salvage
 22 that home and use it so we ended up having to tear it
 23 down which had led us to needing that space to be
 24 absorbed in the new building so that is why we are
 25 here.

1 And if you guys have any questions, I'm
 2 more than happy to answer them.
 3 COMMISSIONER SCHERRER: Okay.
 4 Are there questions?
 5 COMMISSIONER BOWERS: Do you have a problem
 6 with the requiring with the five parking spaces and
 7 the pavement to that?
 8 MS. MCCUNE: No.
 9 COMMISSIONER BOWERS: You don't have a
 10 problem with that?
 11 MS. MCCUNE: No.
 12 COMMISSIONER BOWERS: Okay. Thank you.
 13 MS. MCCUNE: Thank you.
 14 COMMISSIONER SCHERRER: Is there something
 15 you'd like to add?
 16 MR. PAY: No.
 17 COMMISSIONER SCHERRER: No, okay.
 18 MS. MCCUNE: Sorry. He's the project
 19 manager. He knows a lot more about this so I thought
 20 if there were any really detailed questions he would
 21 be my backup but...
 22 COMMISSIONER SCHERRER: We will probably
 23 call you back, ma'am.
 24 MS. MCCUNE: Okay. Perfect. Thank you so
 25 much.

1 COMMISSIONER SCHERRER: Thank you.
 2 Are there citizens wishing to be heard that
 3 are in favor of this project?
 4 Anyone wishing to be heard that is in favor
 5 of it?
 6 Citizens wishing to be heard that are
 7 opposed to the project?
 8 Please come forward. State your name,
 9 address, and that you have been sworn in. This
 10 portion allows for 20 minutes but no one speaker will
 11 be allowed to speak for more than three minutes.
 12 MR. DAY: My name is Henry Day. I live at
 13 1722 South Old Highway 141. The storage area --
 14 COMMISSIONER SCHERRER: And that you have
 15 been sworn, sir.
 16 MR. DAY: Yeah, I have.
 17 COMMISSIONER SCHERRER: All right. Thank
 18 you.
 19 MR. DAY: Uh-huh. This storage shed that
 20 they want to enlarge -- I been living there for
 21 50 years, my wife and I. I live at 1722. Anyway, we
 22 got on the bad terms of the gravel. It's like 2-foot
 23 above the grade in back by the creek which when that
 24 floods, it backs up the creek all over and they
 25 enlarged it. How they got by with that, I don't know.

1 But my main concern now with the shed and all, more
 2 traffic; they put a privacy fence up; we have, backed
 3 up against there, starting engines, gas coming over,
 4 fumes, and it's just -- it's just a serious problem
 5 with Bommarito. My personal opinion they should go to
 6 more a rural area. I'm voting no on it is -- and
 7 that's the way I feel.

8 COMMISSIONER SCHERRER: Okay. Are there
 9 questions for this citizen?

10 So your concern is the rock they used --

11 MR. DAY: Not the rock, the building itself
 12 and they don't even need a building there. They got
 13 storage buildings all out in there and they don't even
 14 use those. I mean, I don't understand why they --
 15 they need a new -- a storage building.

16 COMMISSIONER SCHERRER: You mentioned
 17 something about rock backing up the creek or?

18 MR. DAY: Oh, oh, yeah. They come in there
 19 and they chatted rock. They brought that up. It's
 20 all over and up against my easement there. They took
 21 my easement over. They surveyed it off, 10-foot
 22 easement, I've had it for 50 years from the other.
 23 They took it. Joe don't even know what's happening at
 24 Bommarito to be truthful; he leaves it up to his other
 25 crew. But they pushed that chat all the way up

1 against my fence and everything else. And I was
 2 supposed to have a 10-foot easement, they didn't even
 3 honor that. They just started pushing and -- and the
 4 way I feel that they shouldn't enlarge their building.
 5 It shouldn't even be there, period.

6 They got all kinds of storage and they're
 7 getting more and more vehicles every day. They
 8 started off with two pieces of claws out there, two
 9 dump trucks. As I left today, they got, I think it's
 10 six dump trucks, six claws, and they just keep
 11 enlarging, enlarging and it -- lights. They get there
 12 at 6:30 in the morning. We're retired, both of us,
 13 and they continue. The lights come in our side
 14 window. We got the blinds, they still come in.

15 I don't think they should be there is -- is
 16 my -- you know, I'm voting no to enlarge the building.

17 COMMISSIONER SCHERRER: Okay. Anything
 18 else you'd like to add?

19 MR. DAY: That's it, sir.

20 COMMISSIONER SCHERRER: All right. Thank
 21 you.

22 MR. DAY: Appreciate it. Thank you.

23 COMMISSIONER SCHERRER: Any other wish --
 24 citizens wishing to be heard that are opposed to the
 25 project?

1 Citizens wishing to be heard that are
 2 opposed to the project?

3 Yeah. Yes, go ahead. Please come forward.
 4 State your name, address, and that you have been sworn
 5 in.

6 Can you put the property back up?

7 MR. JUMP: Yes.

8 MS. DAY: Hello. My name is Ruth Day. I
 9 live at 1722 South Old Highway 141 and I have been
 10 sworn in.

11 COMMISSIONER SCHERRER: Thank you.

12 MS. DAY: Well, first, my husband and I
 13 feel a little different. I think they've been fairly
 14 decent neighbors. We constantly, though, worry about
 15 the flooding of the area and the -- anything being
 16 built up which would divert more toward us 'cause
 17 we're right next door to it but that's my big concern.

18 And then the other concern is our view from
 19 our windows where before, you know, we could look out
 20 and we could see grass, the road, and, you know, just
 21 -- and, now, when you look out our living room window
 22 you see the back of the dump trucks. And our bedroom
 23 window, you see the -- the cabs from the Caterpillars
 24 looking straight in. You know, you wonder, is anybody
 25 in there, you know.

1 But -- but they're -- they're decent
 2 people. They're nice neighbors. They helped us out
 3 in an occasion where we had some trees trimmed and
 4 they were very thoughtful but it's just we greatly
 5 worry more about the flooding and anything that would
 6 have -- divert toward us, any building. Oh, that
 7 would be all I have to say.

8 COMMISSIONER SCHERRER: Are there
 9 questions?

10 We have one question.

11 COMMISSIONER SPARKS: Obviously, you've
 12 lived there for a very long time and, I guess, from
 13 2021 it was a abandoned mobile home park?

14 MS. DAY: Right. It got flooded out.

15 COMMISSIONER SPARKS: Is the view -- is the
 16 view better or worse right now in your opinion?

17 MS. DAY: From the abandoned, I would say
 18 it's better 'cause --

19 COMMISSIONER SPARKS: Okay.

20 MS. DAY: -- they had a lot of, you know,
 21 kids hanging out and it was kind of...

22 COMMISSIONER SPARKS: So the riffraff is --
 23 MS. DAY: Yeah.

24 COMMISSIONER SPARKS: -- vacated --

25 MS. DAY: Yeah.

1 COMMISSIONER SPARKS: -- with the dump
 2 trucks coming in is what you're saying?
 3 MS. DAY: Right.
 4 COMMISSIONER SPARKS: Okay. Thank you.
 5 COMMISSIONER SCHERRER: Other citizens
 6 wishing to be heard that are opposed to this
 7 application?
 8 Anyone wishing to be heard that are opposed
 9 to this application?
 10 Would the petitioner please come back?
 11 So we had something about some rock,
 12 flooding concerns, and easement issues. Can you
 13 address those?
 14 MS. MCCUNE: Yes. And I would like to now
 15 pass to Chris Pay --
 16 COMMISSIONER SCHERRER: Okay.
 17 MS. MCCUNE: -- who is very knowledgeable.
 18 MR. PAY: Good evening, Commission. My
 19 name's Chris Pay. I live at 710 South Rock Hill in
 20 Webster Groves, Missouri, and I have been sworn in.
 21 COMMISSIONER SCHERRER: Thank you.
 22 MR. PAY: To address the rock, I think when
 23 we initially did the -- the first phase of the
 24 development we were provided with finish grade
 25 elevations that we could achieve with bringing in

1 erosion of the site any further with the -- the
 2 placement of the rock and are hoping that we're not
 3 creating a burden on anybody else.
 4 COMMISSIONER SCHERRER: Okay. And then the
 5 gentlemen that spoke felt that you encroached upon his
 6 easement. Can you speak to that?
 7 MR. PAY: I do recall we had a discussion,
 8 I guess, when we were initially beginning the -- the
 9 construction, the redevelopment of the site, and that
 10 was brought up with the easement and we did confirm
 11 with our surveyor and with the county that the
 12 easement was not there that we were capable to develop
 13 and design it as we planned.
 14 COMMISSIONER SCHERRER: And do you know if
 15 that was a -- an easement that he had for a road
 16 easement or was it a utility easement or?
 17 MR. PAY: I'm not really sure.
 18 COMMISSIONER SCHERRER: Okay.
 19 MR. PAY: When we did do some homework on
 20 it to try to find out, we found out that it did not
 21 exist in the terms --
 22 COMMISSIONER SCHERRER: Okay.
 23 MR. PAY: -- that we were presented, so.
 24 COMMISSIONER SCHERRER: All right.
 25 MR. PAY: We did build the site up and

1 rock. And so in order to bring that rock in, we were
 2 to over-excavate that a foot to bring in a foot of
 3 rock so that we weren't changing the -- the grade of
 4 that and -- and then grading or displacement within
 5 that flood zone so that's what we did.
 6 We took a survey of the site before we did
 7 any of the earth work and then made sure that we could
 8 confirm after we did all of our regrading, import
 9 rock, and that kind of thing to stabilize the site
 10 that we would be achieving and maintaining the same
 11 grades that were there prior to our -- our activity.
 12 COMMISSIONER SCHERRER: Okay. I don't know
 13 what you can tell me about the flooding. I'm familiar
 14 with the area and I know how bad the flooding is but
 15 could you speak -- please speak to the flood concerns
 16 that were brought up?
 17 MR. PAY: We're relatively new to this site
 18 so we haven't -- we don't have the history of knowing
 19 kind of the capabilities of that flood plain and what
 20 it's able to achieve. We have -- in the time that
 21 we've been out there, we've encountered high waters
 22 where materials and stuff have floated down the creek
 23 and landed on our property, which we cleaned up and
 24 that sort of thing. But other than that, we -- with
 25 it being more stable, we're preventing, you know, the

1 we're -- ended it in that way but there are some BMPs
 2 that are along that northern corridor, too, that allow
 3 that if water is to shed off of our site, it will
 4 catch that BMP and then go straight to the creek and
 5 not encroach on their property.
 6 COMMISSIONER SCHERRER: Okay. Are there
 7 questions?
 8 Please, go ahead.
 9 COMMISSIONER SPARKS: I have a question for
 10 counsel for Bommarito there. Your previous statement
 11 about the size of the building and reutilization of a
 12 structure that was on-site --
 13 MS. MCCUNE: Yes.
 14 COMMISSIONER SPARKS: -- so there was a
 15 footprint of that structure and the plan was to use
 16 that?
 17 MS. MCCUNE: Yes.
 18 COMMISSIONER SPARKS: Correct?
 19 MS. MCCUNE: Yes.
 20 COMMISSIONER SPARKS: My question to you is
 21 if it was not suitable to be used and utilized in that
 22 area and it had to be demoed, why isn't it the same
 23 size as that footprint now?
 24 MS. MCCUNE: So the original plan, we had
 25 the home that was existing and we had put a small

1 building that we were thinking of adding at some
 2 point. With the teardown of the building, instead of
 3 doing two smaller buildings, we wanted to consolidate
 4 and do one larger building. The idea was to build a
 5 building for storage and use the home as an office of
 6 sorts for our field staff which is now, currently, I
 7 think two people who work down there during the day.
 8 And with the house not being able to be used, we then
 9 had to incorporate office space into the original
 10 warehouse plan thereby slightly expanding the
 11 footprint of the proposed building, the new structure.

12 COMMISSIONER SPARKS: Thank you.

13 COMMISSIONER SCHERRER: Other questions?

14 COMMISSIONER BOWERS: It was mentioned
 15 about trucks starting early in the mornings, warming
 16 up trucks and things like that. Do you have a -- your
 17 hours of operation?

18 Can you speak to that?

19 MS. MCCUNE: Yes.

20 COMMISSIONER BOWERS: What time you're
 21 going to be starting and things like that?

22 MS. MCCUNE: Normally, we try to get crews
 23 to the yard no earlier than 6:30 in the morning and
 24 that is so that they can be at their sites by seven.

25 We have -- not all of our crews go through the yard,

1 only certain crews and that's only to pick up
 2 equipment. They are there for a very short period of
 3 time.

4 I do understand that that can be
 5 frustrating with lights coming on and there being some
 6 level of noise. We do -- however, we do not have
 7 operations at the yard full time. It's really just a
 8 storage yard for them to grab and go to their sites
 9 around town but we do 6:30 to about four is what's
 10 expected with our field working from the about seven
 11 to 3:30 every day.

12 COMMISSIONER BOWERS: Any way to position
 13 the trucks on the other side of the lot or anything
 14 like that?

15 Have you thought about that since you have
 16 neighbors living right next door to you?

17 MS. MCCUNE: Yeah, we can definitely look
 18 into reassessing the site with the construction that
 19 will go into place with the building. That gives us
 20 an opportunity to take the concerns and see if there's
 21 a way that we can work together to move things around
 22 the property that can please both parties.

23 COMMISSIONER BOWERS: Thank you.

24 MS. MCCUNE: Thank you.

25 COMMISSIONER SCHERRER: Other questions?

1 COMMISSIONER SPARKS: Just one more
 2 question because the other member brought up, you
 3 know, can you move stuff around. Looking over this,
 4 there's some deleting of, you know, buffer area and
 5 stuff. Is currently the vehicles that sit there no
 6 buffer at all between where those trucks sit and where
 7 their property, you know, is in line of sight
 8 currently?

9 MR. PAY: Yes, currently, there is the
 10 vinyl fence that we put in with the part of the
 11 original development. There are some buffer plantings
 12 that are to go in there as completion of that initial
 13 floodplain -- floodplain development permit that we
 14 have out. I don't know that they'll be substantially
 15 taller than the trees. There's quite a bit of tall
 16 trees there as well, currently, but we will get those
 17 in, in order to try to mitigate that as well.

18 COMMISSIONER SPARKS: Do you think that
 19 there's anything that you guys could do as a good
 20 neighbor to maybe increase the buffer voluntarily with
 21 some kind of sound damp -- dampening that would help
 22 some of the neighbors that the -- live behind the
 23 facility or is it in the plan at all?

24 MS. MCCUNE: It wasn't in the plan but we
 25 can definitely take it under consideration, see what

1 we can do to either widen that buffer, move things
 2 around, even if it's planting taller trees or whatever
 3 we can do.

4 We enjoy using the property. It's been a
 5 very big advantage to our company. It's allowed us to
 6 grow and perform a lot of the ILJA money that's been
 7 coming out and then, you know, improve our communities
 8 as a whole so it's been a huge benefit having the
 9 property and we're definitely committed to making sure
 10 that our neighbors are happy with us and that we
 11 continue to have a good atmosphere...

12 COMMISSIONER SPARKS: All right. That's
 13 all I have. Thank you.

14 MS. MCCUNE: Thank you.

15 COMMISSIONER SCHERRER: Other questions?

16 COMMISSIONER TUGGLE: No.

17 COMMISSIONER SCHERRER: No, okay.

18 Anything else you'd like to add?

19 MS. MCCUNE: No, I think we're okay. Thank
 20 you, guys.

21 COMMISSIONER SCHERRER: All right. Thank
 22 you very much.

23 MS. MCCUNE: Thanks.

24 COMMISSIONER SCHERRER: Discussion amongst
 25 commissioners?

1 COMMISSIONER TUGGLE: I -- so I just want
2 to make sure --
3 COMMISSIONER SCHERRER: Turn your mic on.
4 COMMISSIONER TUGGLE: Sorry.
5 COMMISSIONER SCHERRER: That's all right.
6 COMMISSIONER TUGGLE: What's going to make
7 sure that they enhance this area to help this neighbor
8 out?
9 COMMISSIONER SCHERRER: Well, so I drive by
10 this site at least twice a day.
11 COMMISSIONER TUGGLE: Me too.
12 COMMISSIONER SCHERRER: And I can tell you
13 that it is one million times cleaner, neater, nicer
14 than it was two years ago, three years ago, whatever
15 it was. There was derelict trailers that were caved
16 in and falling in and then there was some other
17 trailers that were moved in there and they were put up
18 on 4-foot tall pads and it was a mess and what's there
19 now is much nicer. The property is zoned
20 commercially; we did this, what, in two-thousand --
21 MS. KRISPIN: '21.
22 COMMISSIONER SCHERRER: -- twenty-one so
23 the -- the screening and the buffering and all the
24 work that goes into the -- to the area that floods,
25 that's kind of already been decided back in 2021.

1 If Bommarito would like to do something to
2 be a good neighbor, that's -- that's really nice of
3 them but it's much better than what it was, so.
4 COMMISSIONER TUGGLE: I understand that.
5 COMMISSIONER SCHERRER: Other discussion?
6 COMMISSIONER TUGGLE: So my question is
7 since they have made the statement that they will go
8 in there and make some changes, see what they can do,
9 take it under consideration, what's going to make sure
10 they do that?
11 Nothing?
12 COMMISSIONER SCHERRER: Well, nothing
13 unless that we put something into the approval or not
14 the denial but you know -- but I would caution us on
15 that because that's not really our forte.
16 COMMISSIONER BOWERS: I mean, and just to
17 add, it was stated by one of the other witnesses that
18 they had been -- they had been good neighbors and all
19 that, you know, and I think we have to take a -- if
20 you want to call it a leap, leap of faith but...
21 COMMISSIONER SPARKS: I mean, I think, you
22 know, they seem -- you know, everything's in
23 compliance currently. We have a lot of people that
24 start stuff and then come in here and ask us for
25 forgiveness instead of permission, okay, so I think

1 that speaks on their character myself, personally, so
2 I like to see that.
3 I think as written that the denial because
4 there's no evidence that there's any hardship to be
5 within compliance of that parking, I think, as
6 written, I think, approvals and the denial for the
7 parking, I think, is warranted in my opinion.
8 COMMISSIONER SCHERRER: Other discussion or
9 a motion?
10 COMMISSIONER BOWERS: I'll make a motion to
11 approve PC24009 with all staff recommendations with
12 the approval of the two reliefs and denial of the
13 third.
14 COMMISSIONER SCHERRER: Is there a second?
15 COMMISSIONER TUGGLE: Second.
16 COMMISSIONER SCHERRER: Commissioner Bowers
17 made a motion to approve PC24009 with staff
18 recommendations; it was seconded by Commissioner
19 Tuggle.
20 All in favor?
21 COMMISSION: Aye.
22 COMMISSIONER SCHERRER: Opposed?
23 PC24009 passes unanimously.
24
25

1 COMMISSIONER SCHERRER: Next up, VR24014.
2 Ms. Krispin.
3 MS. KRISPIN: Thank you.
4 This is VR24014. The petitioner is
5 requesting relief from Section 505.170.B.3.
6 COMMISSIONER BOWERS: Ms. Krispin, turn on
7 your mic, please.
8 MS. KRISPIN: Thank you.
9 That requires a 25-foot bumper for a Stream
10 Order 1 and a Stream Order 2 for the construction of a
11 lake.
12 The subject property is located at 14700
13 Maples Holler in De Soto. The property is zoned large
14 lot residential and is about 41 acres in size.
15 Floodplain traverses the southern portion of the
16 property in addition to both the Stream Order 1 and 2.
17 This is a look at the zoning map. The
18 subject property is outlined in red. Surrounding it
19 is large lot residential LR2 as well as RA5.
20 This is a look at the zoning map or, I'm
21 sorry, the topography map. This is the stream --
22 Stream Order 1 that traverses. The Stream Order 2 is
23 right down here, as well as the 100-year floodplain.
24 This was the submitted site plan showing the area of
25 the lake as well as that stream buffer.

1 For the analysis, the Department of Public
 2 Works Stormwater Division is responsible for enforcing
 3 the Erosion and Sediment Control and Stormwater
 4 Management Design Manual and, therefore, provided the
 5 analysis. The Jefferson County engineer with the
 6 Stormwater Division is recommending that the Planning
 7 and Zoning Commission temporarily deny or continue the
 8 above variance request for the reasons listed below:

9 The first one being the floodplain permit
 10 hasn't been applied for or issued.

11 And the second one that the Jefferson
 12 County Stormwater Division does not have a complete
 13 land disturbance permit application submission.

14 So the recommendation: The Department of
 15 Public Works is requesting to temporarily deny or
 16 continue the requested relief from Section 505.170.B.3
 17 that requires a 25-foot buffer for a Stream Order 1
 18 and a Stream Order 2 for the construction of a lake
 19 and I believe Mr. Cordes would like to add a few
 20 things so I'm going to turn it over to him.

21 MR. CORDES: Thank you, Rachel.

22 And I just wanted to speak to the -- the
 23 two things that the Stormwater Division requested. So
 24 the first is a temporary denial. That's not really
 25 something you have a mechanism for or could

1 sworn.

2 COMMISSIONER SCHERRER: Thank you.

3 MR. FRIBIS: This project is very unusual.

4 Many of you have heard me talk before and most of our
 5 applications are about subdivisions and stream buffers
 6 for the subdivisions and such. This is not a
 7 subdivision. My clients own 40 acres, as Rachel has
 8 mentioned, and they want to put a 1-acre lake in, in
 9 that 40 acres in the extreme south, yeah, it'd be the
 10 southeast part of the project.

11 What we're here for tonight is a stream
 12 buffer variance. Now, in a lake the use of the term
 13 "stream buffer" becomes inappropriate. The stream
 14 runs in -- like all lakes, there's a stream or river
 15 that runs into it. We have a dam at the left side of
 16 that project and the creek then is at the bottom of
 17 the lake once the lake fills up. So the dashed lines
 18 that I have drawn kind of diagonally through the
 19 middle of that lake is about where we think the
 20 existing stream was.

21 Now, we've sent surveyors out there and
 22 shot elevations around this complete area but the
 23 ground was disturbed enough in the middle that we
 24 couldn't identify for sure where the original stream
 25 was but the 25-foot buffer would still be under water

1 practically do. The second one is a continuance which
 2 you could do; however, it's not something that there's
 3 a lot of precedent for amongst this body and,
 4 moreover, it involves then re-noticing up everything
 5 we have to do tonight.

6 So I would suggest to you gentlemen that in
 7 considering this, one, you could deny it or if you
 8 wanted to approve it you could -- somebody could
 9 always make a motion to approve it with the conditions
 10 that they, you know, apply for and obtain the
 11 floodplain permit and apply for obtaining a land
 12 disturbance permit but this temporary denial is not
 13 really something you could practically do, so.

14 COMMISSIONER SCHERRER: All right. Thank
 15 you, sir.

16 You finished?

17 MS. KRISPIN: Uh-huh.

18 COMMISSIONER SCHERRER: Okay. Is the
 19 petitioner present?

20 Please come forward. State your name,
 21 address, and that you have been sworn in.

22 MR. FRIBIS: Good evening, gentlemen. My
 23 name is Gene Fribis. I'm the engineer on this
 24 project. Our office is located at 3838 Jeffco
 25 Boulevard, Suite No. 6 in Arnold and I have been

1 so it makes no sense to really have a stream buffer in
 2 what is going to be a future lake.

3 Now, the stream buffers make a heck of a
 4 lot of sense in a subdivision and that's what we do
 5 mostly because the developers, usually, there's some
 6 creek on a subdivision, they're going to be selling
 7 houses to people that back up to that creek and it
 8 makes a lot of sense to have a stream buffer in that
 9 case because the future buyers, owners of the homes
 10 will want to be assured that there's not going to be
 11 any flooding in their backyard. And, furthermore, the
 12 county and the developers would prefer that the future
 13 home buyers don't encroach into that stream buffer by
 14 taking down trees or putting up swing sets or whatever
 15 may happen. But that stream buffer definition that
 16 we've used now for many years simply doesn't apply to
 17 this project.

18 We have a lot of engineering work to do yet
 19 but we'd like to leave here with that, at least,
 20 knowledge that a stream buffer variance is granted.
 21 Now, we'll have another three or four weeks and,
 22 although, I've addressed some of those issues on this
 23 plan, we're not really addressing those tonight.
 24 We've got erosion control blankets and silt fences, a
 25 lot of things that we need to do around the lake which

1 we will do later. But, first, it seems like we ought
 2 to take care of the stream buffer issue and get that
 3 approved so that we can move ahead.

4 I'm going to stop there. I've done a lot
 5 of extra work on this site. I'm not sure it's
 6 relevant to our application tonight but if it will
 7 help you all to understand the project better, I can
 8 answer the questions.

9 COMMISSIONER SCHERRER: Okay. Are there
 10 questions for the petitioner?

11 COMMISSIONER HUSKEY: Yeah, Gene, it's
 12 going to be the minimum height on the dam, you won't
 13 have to go through the Army Corps; will you?

14 MR. FRIBIS: Actually, because it's -- they
 15 said no, that they would not take any position on
 16 this. The project is so small, the creek is so small,
 17 impact is so small and that's what I'm assuming they
 18 think because they have basically elected, in writing,
 19 that they would not offer an opinion on this site.

20 COMMISSIONER HUSKEY: 'Cause it's going to
 21 be below 35 feet than the dam?

22 MR. FRIBIS: The dam is going to be about 8
 23 to 10 feet high.

24 COMMISSIONER HUSKEY: Yeah.

25 MR. FRIBIS: And I did do some work on --

1 siltation devices and the grading in general.
 2 And I have submitted the hydraulics to
 3 Craig Burgard at the -- at the County Building
 4 Department to show that we wouldn't be backing up any
 5 water to our upstream neighbor. And I also wanted to
 6 show that our spillway, which is going to just be a
 7 trapezoidal section cutout in the dam, in the upper
 8 side of that dam, I had to make sure that we could
 9 handle all the water that would be coming down the
 10 stream and, eventually, flowing over.

11 So we've done a lot of engineering things
 12 but those items that I just mentioned will be worked
 13 on later assuming we get approval of the stream buffer
 14 variance this evening.

15 COMMISSIONER BOWERS: So you don't have a
 16 problem with it being approved with the conditions of
 17 the permits being --

18 MR. FRIBIS: That's correct. That's what
 19 we always anticipated.

20 COMMISSIONER BOWERS: Thank you.

21 MR. FRIBIS: We just want to get the stream
 22 buffer issue out of the way but I got a lot of work to
 23 do in the next month to satisfy the Public Works
 24 Department and the Stormwater Department, in
 25 particular, and we're certainly ready to do that.

1 COMMISSIONER HUSKEY: That's not going to
 2 be involved?

3 MR. FRIBIS: -- the dam because we don't
 4 want to back up any water on an upstream property
 5 owner. If you look at the bottom right of that
 6 drawing -- and I have an updated drawing but it's,
 7 essentially, the same for our purposes tonight -- the
 8 line on the right side of that drawing is the property
 9 line so we're pretty close to our upstream neighbor.
 10 And I don't want to make the dam so high that it backs
 11 up property at normal pool elevation that would get
 12 into their creek.

13 So we actually have kept it pretty low. I
 14 mean, it's like an 8- or 10-foot high dam and the
 15 rest of the issues we'll take care of later. You
 16 know, I've got another three, four weeks we have to do
 17 on this project but I think that's completely
 18 independent of getting this issue of the stream buffer
 19 when there is no stream. I'd like to get that taken
 20 care of tonight so we can move ahead with the
 21 confidence that all we need to do from this point
 22 onward, if we get this variance, is simply knock out
 23 all the engineering details and there's a lot of them,
 24 then we'll be submitting another plan to the Public
 25 Works Department to get approval on all of our

1 COMMISSIONER SPARKS: I got a -- I mean, to
 2 me, it might be an obvious question but it might not
 3 be an obvious question 'cause I am not an engineer.
 4 It's a 1-acre lake.

5 MR. FRIBIS: Correct.

6 COMMISSIONER SPARKS: Move it 25 feet,
 7 right?

8 Just move it 25 feet?

9 Move it out of the place we're -- we're
 10 having issues or am I just wrong?

11 MR. FRIBIS: No, I don't understand. Move
 12 it where?

13 COMMISSIONER SCHERRER: You -- you can't
 14 move it.

15 MR. FRIBIS: Yeah.

16 COMMISSIONER SCHERRER: You wouldn't be
 17 able to get water to it to fill it up if you moved it.
 18 They're using the creek, which is part of the stream
 19 order and the storm -- or stream buffer to fill --

20 COMMISSIONER SPARKS: To fill --

21 COMMISSIONER SCHERRER: -- to fill the
 22 lake, yeah. They're building the lake right in the
 23 middle of it; otherwise, you couldn't get water to it
 24 without pumping it or raining.

25 COMMISSIONER SPARKS: Right.

1 COMMISSIONER SCHERRER: A lot of rain.
 2 Other questions?
 3 COMMISSIONER SPARKS: Has any excavation
 4 started on this project yet?
 5 MR. FRIBIS: Yes.
 6 COMMISSIONER SPARKS: Why?
 7 MR. FRIBIS: The owner didn't know. It's a
 8 very isolated part of the county. It's about a half a
 9 mile from the Washington County line off of Highway 21
 10 back on about a 2,000-foot gravel road that gets
 11 access to his property. And, by the way, I should
 12 mention his house, when I say his it's a married
 13 couple and they own a house kind of in the -- in the
 14 middle, to the right of the bottom of that rectangle
 15 that's drawn in. So they have one house on the
 16 property and not -- they're not asking for any
 17 subdivision of the property at all.
 18 But he -- I mean, people in an area like
 19 that, there's been no development down there, they
 20 don't know that they can't go to their 40 acres of
 21 ground and build a 1-acre lake. I mean, you could
 22 say, well, there's -- ignorance of the law is no
 23 excuse but I think it's reasonable that that happened.
 24 And the owners have been very cooperative. They
 25 understand what needs to be done.

1 They had to put in -- and I think it's okay
 2 to say this -- to ensure that everything would be done
 3 properly, they had to write a check for \$70,000 to the
 4 county as an insurance policy, is my word for it, to
 5 -- that they will get back if they do everything that
 6 the county asks us to do on what remains on this
 7 project.
 8 COMMISSIONER SPARKS: When the people
 9 built their home there, did Jefferson County have,
 10 basically, a UDO and zoning and enforcement or is this
 11 something that predates --
 12 MR. FRIBIS: I don't know when the home was
 13 built. I've seen it, haven't been inside of it. I
 14 would say that it -- there may not have been a code at
 15 that time.
 16 COMMISSIONER SPARKS: Okay.
 17 COMMISSIONER SCHERRER: Other questions?
 18 All right. Thank you, sir.
 19 MR. FRIBIS: Okay. Thank you, all.
 20 COMMISSIONER SCHERRER: Are there other
 21 citizens, supporting consultants that would like to
 22 speak on this?
 23 Are there citizens wishing to be heard that
 24 are in favor of the project?
 25 Anyone wishing to be heard that is in favor

1 of the project?
 2 Anyone wishing to be heard that is opposed
 3 to the project?
 4 You're opposed?
 5 Please come forward. State your name,
 6 address, and that you have been sworn in.
 7 MR. RAWSON: My name's Dustin Rawson.
 8 Address is 14777 Maples Holler. I have been sworn in.
 9 Basically, my concern is my property would
 10 be directly below that dam, the L-shaped piece of
 11 property, the 008. My concern is if this -- if this
 12 dam was to fail, what's it going to do to my place?
 13 'Cause, I mean, I'm fixing to build a house
 14 down there and everything else so that's my concern.
 15 And, also, I have -- I have not trespassed up there to
 16 see what's going on but I've heard there's already a
 17 dam built there. Is that correct?
 18 COMMISSIONER SCHERRER: We can ask the
 19 petitioner.
 20 MR. RAWSON: It is okay if I ask him?
 21 COMMISSIONER SCHERRER: No, not yet.
 22 MR. RAWSON: Okay.
 23 COMMISSIONER SCHERRER: We'll ask him.
 24 MR. RAWSON: Okay.
 25 COMMISSIONER SCHERRER: So your concerns or

1 your concern is failure of the dam?
 2 MR. RAWSON: Yeah. So I'm -- I'm concerned
 3 if -- if the dam fails that it's going to pretty much
 4 wipe out everything I own and take me down the river
 5 with it because, I mean, my place basically runs right
 6 along that creek. And I've seen that creek. There's
 7 a lot of water that comes down that creek 'cause I've
 8 owned that for about ten years now, so. And it's
 9 concerning to me the -- the size, the kind of spillway
 10 that's going to need to handle that kind of water that
 11 comes down that and not -- not tear that dam apart.
 12 COMMISSIONER SCHERRER: Okay. Is there
 13 anything else?
 14 MR. RAWSON: No, not -- not right now.
 15 COMMISSIONER SCHERRER: Are there questions
 16 for this citizen?
 17 All right. Thank you, sir.
 18 MR. RAWSON: You're welcome.
 19 COMMISSIONER SCHERRER: Other citizens
 20 wishing to be heard that are opposed to the project?
 21 Please come forward. State your name,
 22 address, and that you have been sworn.
 23 MR. MEYER: My name is Martin Meyer. My
 24 address is 5600 Stillwater Acres, De Soto, 63020. I
 25 have been sworn.

1 COMMISSIONER SCHERRER: Thank you.
 2 MR. MEYER: Excuse me.
 3 One thing besides what I have to say is
 4 that we were just looking at your paperwork that they
 5 had on the board. He's saying a 1-acre, the paper
 6 shows about 2, 2 1/2 acres?
 7 MR. RAWSON: 2.1 acres.
 8 MR. MEYER: 2.1 acre lake, which is double
 9 what he just said in his conversation.
 10 One of the -- well, there's a couple main
 11 things that concern me. I'm on the -- the bottom --
 12 like our -- my property, I have 60 acres and a home
 13 and a barn and everything, and it -- as you go north,
 14 you come to the petitioner's property, his 40 acres,
 15 okay. My line is on the creek where and -- and I
 16 cross this creek. It's a, what you call, I guess, a
 17 low-water crossing. And I've been there probably
 18 longer than any but I been there close to 40 years.
 19 And I have seen so much water come down through here
 20 in such force that nobody could believe it unless they
 21 came when it was happening.
 22 And where I cross, you know, it'll -- the
 23 rain will come like it does, go through, and then --
 24 and then it goes down. But as it comes down this
 25 creek, it comes and I -- I dip through, this is so

1 hard but as it narrow -- narrows right there where I
 2 cross and any kind of huge rock, debris, anything from
 3 that can come down through there. Well, normally, you
 4 have -- that's bad enough, it goes through and it'll
 5 go on down toward the bigger rivers at like another
 6 900 feet or so further down than where I cross. But
 7 if that dam and the problems with all this excavation
 8 in there comes down through there and blocks this --
 9 this hole, I can't get out. It's my only way out.
 10 I've had a lot of health -- health issues.
 11 I had my mother, who passed away, living there who had
 12 to get in and out for the doctor all the time and that
 13 was very concerning that, you know, they, evidently,
 14 from what I understand have done this excavation. And
 15 as I had to kind of enjoy Mr. Sparks' analogy of it:
 16 They don't come to ask permission; they come to ask
 17 forgiveness. And I've heard in other ways people say,
 18 well, do what you gotta do and then, you know, let
 19 them try to figure out how to fix it.
 20 Well, if -- if I can't get out because I
 21 can't get across from what they do in that, I don't
 22 see any way from what I've seen there all these years,
 23 that that cannot break that through and come down and
 24 jam right exactly where I cross that it couldn't cost
 25 me my life. And I'm not one of these people that run

1 around crying wolf and the sky is falling but I don't
 2 want to die because somebody else decided they're
 3 going to excavate and do everything they want to do
 4 without talking to your commission and your permit
 5 people or even me.
 6 I don't -- I've never met the people back
 7 there. I don't know much about it except that, you
 8 know, everything comes down where I'm at and as --
 9 COMMISSIONER SCHERRER: You have about --
 10 you have about 30 seconds left, sir.
 11 MR. MEYER: Okay. Yeah, as it pass -- you
 12 know, as it passes me, that's bad enough but it goes
 13 right into the other neighbor across the creek. They
 14 have like an artesian well right there; if that comes
 15 down and blocks all that up when that breaks, and I'm
 16 assured it will, you know, we all lose for their --
 17 for their lake, so --
 18 COMMISSIONER SCHERRER: Okay.
 19 MR. MEYER: -- to me, it's a life-and-death
 20 thing in my behalf if I can't get out like any of yous
 21 wouldn't want to be trapped.
 22 COMMISSIONER SCHERRER: Right.
 23 MR. MEYER: And I'd just ask you to take
 24 that in consideration.
 25 COMMISSIONER SCHERRER: Thank you.

1 MR. MEYER: Thank you.
 2 COMMISSIONER SCHERRER: Are there questions
 3 for this citizen?
 4 MR. MEYER: Oh, I'm sorry.
 5 COMMISSIONER SCHERRER: Thank you, sir.
 6 Other citizens wishing to be heard that are
 7 opposed to this project?
 8 Other citizens wishing to be heard that are
 9 opposed to the project?
 10 Would the petitioner please come back?
 11 So we had failure of the dam.
 12 Is there a dam in place?
 13 And the acre discrepancy, which I
 14 understood the acreage -- acre discrepancy. The 2.18
 15 acres was the total land clearing.
 16 MR. FRIBIS: It's a land disturbance area,
 17 yes.
 18 COMMISSIONER SCHERRER: The actual body of
 19 water, you're claiming, is only an acre?
 20 MR. FRIBIS: That's right. And that's
 21 illustrated on --
 22 COMMISSIONER SCHERRER: Okay.
 23 MR. FRIBIS: -- on the plan with a bunch of
 24 blue dots.
 25 COMMISSIONER SCHERRER: Sure.

1 MR. FRIBIS: So, I mean, they're -- they're
 2 right about the 2 acres and I'm right about the --
 3 the 1 acre.

4 COMMISSIONER SCHERRER: Right.
 5 Okay. Is there a dam in place currently?

6 MR. FRIBIS: Yes.

7 COMMISSIONER SCHERRER: Okay. Who is
 8 ensuring that the keyway and all of that stuff is
 9 being done properly?

10 MR. FRIBIS: I'm -- it's not going to be me
 11 on the dam itself, you know, like the core is what
 12 you're talking about when you say the keyway. And I
 13 wasn't there when it was built and I don't have any
 14 knowledge about that.

15 What I can speak to is the spillway that I
 16 designed that would be required to get rid of all the
 17 water that the people are -- that the gentlemen are
 18 talking about because they're right. I mean, there's
 19 a lot of -- it's a big creek. A lot of water comes
 20 down that creek. The top of bank, the existing creek
 21 both above the lake and below the lake is about
 22 30 feet from top of bank to top of bank. The spillway
 23 that I'm putting in is going to be a trapezoidal
 24 channel on the side of the dam and I'm -- I needed to
 25 make that 60 feet wide, so twice the width of the

1 erosion devices proposed but the county Stormwater
 2 Department has put a stop work order on the project.
 3 And I understand that in part but they need to let
 4 them go in and put up the siltation fences so that we
 5 don't have an ongoing problem. It's kind of another
 6 issue, not really a decision that you guys would make
 7 but I want to let you know that we are aware of that
 8 and I have talked to Mike Cook about lifting the
 9 current stop work order 'cause it's actually making
 10 things worse. We need to get in there. When I say
 11 we, the owner and his contractor, if he has one, they
 12 need to get in there and finish the project as soon as
 13 possible so it's kind of a side issue. I'm sorry.

14 It's the stream, again, the stream buffer
 15 is all we really want the variance for tonight.
 16 That's what we've applied for and I didn't know --
 17 Jason -- did Jason leave?

18 COMMISSIONER SCHERRER: I'm sorry?

19 MR. FRIBIS: The Public Works director?

20 MR. KEHM: No, he's not here.

21 MS. KUENZEL: He's not here.

22 MR. FRIBIS: Oh, I thought somebody spoke
 23 but, okay. Well, you know, those issues I -- I will
 24 probably end up working out more of that with Jason
 25 because the Stormwater Department and, also, Craig

1 existing creek to get rid of all that water. So,
 2 certainly -- and five minutes after I learned about
 3 the project, I knew we've got to figure out how much
 4 water's coming in. We went to the USGS, got their
 5 data and I've designed that spillway accordingly.

6 But your first part of your question about
 7 the core of the dam, I don't do that work. I don't
 8 feel that I'm qualified. I'm not -- I worked on a lot
 9 of dams but more the periphery not the soil compaction
 10 and the core and all those things. So we would -- I
 11 would advise my client to certainly do that.

12 And the dam is a little too high, right
 13 now, anyway because I -- as I mentioned before in my
 14 presentation, I gotta keep that water level low enough
 15 even when the -- we have a big storm so it doesn't
 16 back up on our upstream neighbor. And I have to lower
 17 the dam, actually, 2 feet to make that happen.

18 So although, again, we're here tonight just
 19 to get the stream buffer variance, which I thought
 20 would be pretty obvious, the other issues that are
 21 brought up by the gentlemen and that you're referring
 22 to are legitimate and that needs to be done over the
 23 next month or two to make the project go.

24 Now, in the interim there's other work that
 25 needs to done. I have a lot of siltation devices and

1 Burgard don't have much knowledge about the
 2 hydraulics. Craig has our stuff. He's a floodplain
 3 manager but when it comes to the spillway it's a lot
 4 of complicated open-channel hydraulic calculations
 5 that you'd have to do on that and -- and I know how to
 6 do it but I think Jason might be the only person in
 7 the county that understands that and can review our
 8 work. And I'm happy to have his participation on
 9 that, believe me.

10 COMMISSIONER SCHERRER: So if the -- if the
 11 petitioner would have known the proper way to start
 12 this project, if they would have gotten their
 13 floodplain permit and their land disturbance permit,
 14 these stream buffer issues would have come to light a
 15 lot sooner, probably cause a lot less headache, and a
 16 lot of these questions would have been answered during
 17 that process, and then all you would be here for was
 18 your -- was your variance request.

19 I think these other issues cause concern
 20 and questions for the commissioners. I'll leave that
 21 to them to address. Maybe -- maybe -- maybe I'm the
 22 only one, I -- I don't know.

23 Are there other questions for the
 24 petitioner?

25 COMMISSIONER BOWERS: So I just want to

1 state that we're really not here to talk about a
 2 permit for a lake or building a lake or anything like
 3 that; we're here to -- and I would like -- I would
 4 like Mr. Cordes' opinion on that to make sure so we
 5 understand we're -- we're not here talking about a --
 6 a permit to build a lake or do anything like that.
 7 We're here about a variance for this stream buffer.
 8 MR. CORDES: That's correct. And, again,
 9 as I said earlier, the Stormwater Division has
 10 recommended a temporary denial which is problematic.
 11 I don't really know what that is. If you want to deny
 12 it, just deny it, right; or a continuance, which
 13 you've got -- we've discussed is also kind of (a) not
 14 really something we have a lot of precedent for and
 15 (b) somewhat, you know, problematic.
 16 And your other options are if you were
 17 inclined to, you know, approve this -- and, yes,
 18 you're correct, Mr. Bowers, we are just talking about
 19 the -- the -- the buffers -- but if you were inclined
 20 to approve it, I mean, it will certainly have to be
 21 with the conditions that these other permits get
 22 obtained and any other best management practices that
 23 the county Stormwater Division would -- would require,
 24 as probably a minimum the conditions that you would
 25 want to put on it if you were so inclined to do that.

1 But, obviously, that leaves you with the problem is
 2 you're kind of hanging out there with this approval,
 3 right, until we get this -- these other items. If
 4 you, again, if you are inclined --
 5 MS. KUENZEL: If they get them.
 6 MR. CORDES: Yeah, if they get them, right,
 7 so.
 8 MR. KEHM: Just -- just real quick to
 9 follow up on that, I mean, yes and no. If you were to
 10 deny this then that stream must stay exactly where it
 11 is; the banks have to go back where they were and
 12 there is no lake, right. So, I mean, while you're
 13 only here to dis -- decide whether you should issue a
 14 stream buffer -- or variance or not, the -- the
 15 practical effect of not giving them the variance is
 16 that lake can't go there at least as it's -- as it's
 17 been designed as of yet. And, I mean, that may be
 18 something you should consider.
 19 I mean, I understand Mr. Fribis' position
 20 is why are we worrying about a stream buffer variance;
 21 there's going to be a lake there. Well, because
 22 there's a stream there today, honestly. The only
 23 reason that it's not going to be there is 'cause it's
 24 going to be obliterated by all the work that's already
 25 been done out there. So, yeah, while -- while,

1 technically, the issue of lake or no lake is not in
 2 front of you, that is practically what -- what you're
 3 here to decide.
 4 COMMISSIONER BOWERS: Thank you.
 5 MR. FRIBIS: And I might add -- and I think
 6 your concerns about what happens in the future concern
 7 me too. You gotta get all that done. But I think I
 8 mentioned earlier that the county is in receipt of
 9 \$70,000 to guarantee that improvement. I don't think
 10 they're going to walk away from 70 grand. So that was
 11 something that was requested of my client and they've
 12 got the money, you know, I wasn't -- I wasn't part of
 13 that but I know the county has \$70,000.
 14 So I think, like Mr. Kehm just said, we're
 15 here for the stream buffer. It's -- it's a sit --
 16 I've never had a situation like this. It's weird.
 17 We're trying to get a stream buffer; it's like if you
 18 went to Bagnell Dam and wanted to get a stream buffer
 19 on the Osage River now. I mean, it's not -- it
 20 doesn't make sense. There's no -- we've had so much
 21 trouble because there's nothing in the regulations
 22 that really cover a unique situation like this. But
 23 help us go to the next step and that is just to get
 24 this little piece.
 25 In a way, it's really insignificant from a

1 -- a construction point of view but in terms of their
 2 confidence for moving ahead, it would really be
 3 helpful to, I think, everybody involved to get that
 4 variance tonight.
 5 And as the gentleman mentioned here,
 6 there's a lot of water and we're paying a lot of
 7 attention to how much water comes down that creek and
 8 how it impacts the downstream property owners.
 9 Overall, it's going to be the same amount of water.
 10 The watershed hasn't changed at all. And more often
 11 than not, the lake will act as a detention basin that
 12 when we have that big, giant storm then it will start
 13 coming out the spillway. And I can calculate all that
 14 and determine that it would be safe for the downstream
 15 property owners. But that's not tonight. That will
 16 be over the next month or two when we get into that
 17 sort of detail. So I just want to get started tonight
 18 so we can move ahead. I think that's all I have
 19 unless you have any other questions.
 20 MR. CORDES: And, of course, as all the
 21 commissioners know, I mean, obviously, the applicant
 22 could always withdraw and resubmit, so.
 23 MS. KUENZEL: Yeah. And when we mean that,
 24 you know, if they were to withdraw and to go through
 25 the proper procedure which is to get the floodplain

1 permit issued, to get the land disturbance permit
 2 application issued then that would come in front of
 3 you guys but it's backwards how this was done.

4 MR. FRIBIS: Yeah.

5 MS. KUENZEL: I mean, it just is not --

6 MR. FRIBIS: Yeah, we -- we --

7 MS. KUENZEL: -- the appropriate way to do
 8 it.

9 MR. FRIBIS: We had to deal with --

10 MS. KUENZEL: No.

11 MR. FRIBIS: -- what was -- when I got
 12 involved it was -- the project was already happen --

13 MS. KUENZEL: Well, I'll tell you why this
 14 is a -- this is a back -- this is the backwards way of
 15 doing this.

16 COMMISSIONER SCHERRER: Which -- which is
 17 exactly my concern. I am -- I am fully aware that
 18 this is a variance request and that we have really no
 19 authority over the -- the permitting or the land
 20 disturbance but we -- and I'm not going to try to
 21 quote our bylaws but we do have a responsibility for
 22 risk and human life. And if you would like to quote
 23 that subsection, I'd be happy to listen but...

24 MR. CORDES: Well, health, safety, and
 25 welfare is what you're -- what you're driving at, I

1 don't know how enforceable it would be from this --
 2 from the Planning and Zoning Commission but,
 3 certainly, we intend on doing that so I would have no
 4 problem with a condition that says this variance
 5 request assumes that we're going to move ahead with
 6 the -- the entire lake and finish the project in
 7 accordance with all the -- all the requirements.

8 Also, one other kind of unimportant thing,
 9 as you mentioned the land disturbance permit, we
 10 already have the land disturbance permit and have paid
 11 for it from the State of Missouri.

12 MS. KUENZEL: County one.

13 MR. FRIBIS: But anyway.

14 MS. KUENZEL: You need a county one.

15 MR. FRIBIS: I don't know what to do,
 16 actually.

17 MS. KUENZEL: You need a county one.
 18 There's a -- it references the county.

19 MR. FRIBIS: Okay. Well, I've submitted
 20 the county one, also.

21 COMMISSIONER SCHERRER: I believe we still
 22 -- we still go back to my earlier comment that there
 23 is no guarantee, even by your own words --

24 MR. FRIBIS: Right.

25 COMMISSIONER SCHERRER: -- that this

1 believe.

2 COMMISSIONER SCHERRER: That's exact --
 3 absolutely right.

4 And had this been done in a proper way, I
 5 assume that someone from the Stormwater Division or
 6 the county offices would have been involved in this
 7 process to inspect the progress to make sure that the
 8 key components of this -- of this dam were built
 9 correctly. We have no guarantee that this was done
 10 correctly. We're -- you're asking us, not you, but
 11 you're asking us to approve a variance that,
 12 ultimately, leads to a project that could potentially
 13 fail and cause loss of life or limb in the first large
 14 rain event.

15 MR. FRIBIS: I understand that.

16 COMMISSIONER SCHERRER: I -- I know. And
 17 I'm not trying to be --

18 MR. FRIBIS: Yeah.

19 COMMISSIONER SCHERRER: -- combative with
 20 you --

21 MR. FRIBIS: I know.

22 COMMISSIONER SCHERRER: -- Mr. Fribis.

23 MR. FRIBIS: I know you're not.

24 I would just ask -- I think Mr. Cordes
 25 might have mentioned something about maybe -- I -- I

1 project was started correctly and we have no way to be
 2 sure of that. So we could say, yes, we approve this
 3 variance request on this stream buffer with the
 4 departmental comments and all of the permits being
 5 granted and everything else --

6 MR. FRIBIS: Uh-huh.

7 COMMISSIONER SCHERRER: -- and we're still
 8 building on a foundation that we don't know -- you're
 9 moving from this day forward on a project that you
 10 yourself aren't even sure is correct.

11 MR. FRIBIS: Okay. My question then would
 12 be this, in terms of timing and how this is done, who
 13 will make that determination about the acceptability
 14 of the dam?

15 I'm assuming the way you're headed maybe
 16 the departments will say you gotta take it all out and
 17 you gotta put it back in and we have to have a
 18 geotechnical engineer, which would not be me, certify
 19 that it's compacted, etc., etc. So if that's going to
 20 happen anyway, and it needs to happen for my clients'
 21 benefit, is that -- can that -- can we still move
 22 ahead tonight with that condition?

23 'Cause it's not going to be this body that
 24 approves -- approves the dam construction and I don't
 25 even know who would do that. I don't think there's

1 any person in the county government that has that
 2 expertise but the Stormwater Department can certainly
 3 require that the owner get a geotechnical engineer to
 4 verify the stability of the dam. I mean, that makes
 5 -- just makes sense for my client.

6 COMMISSIONER SCHERRER: Absolutely. Yeah.

7 COMMISSIONER BOWERS: I mean, is there --
 8 is there a guarantee that the floodplain permit and
 9 the land disturbance permit will be issued?

10 The only thing I can say if they're -- you
 11 know, you can make the -- have this variance approved
 12 and then...

13 MR. KEHM: No. I mean, no, they're
 14 going --

15 COMMISSIONER BOWERS: Okay.

16 MR. KEHM: -- if those permits are, in
 17 fact, applied for they're going to have to meet the
 18 county's code.

19 I wish I had my microphone. It's got me
 20 all out of sorts.

21 They will have to meet the county's
 22 ordinances and codes. Now, whether that can be done
 23 or not, we don't know. And I don't want to belabor
 24 the point but I think we need to keep sight of the
 25 fact that -- and, again, I don't want to quarrel with

1 Mr. Fribis either but if the argument is that it's
 2 silly to maintain a stream buffer where there's going
 3 to be a lake, well, maybe there shouldn't be a lake
 4 because the stream buffer should be protected there,
 5 right. I mean, and again, I think that's really,
 6 ultimately, what question is in front of you folks
 7 tonight.

8 A lot of work has already been done, a
 9 whole lot of work, that's either going to have to be
 10 repaired and done correctly, whatever correctly means,
 11 or it's going to have to be remediated and put back
 12 the way that it was before this all happened. I mean,
 13 one of those two things is going to happen but, you
 14 know, I -- I think we shouldn't lose sight of the fact
 15 that, ultimately, what -- what we're doing here is
 16 should this stream stay the way that it was, is/was,
 17 or should the variance be granted and allowed to be
 18 dammed up and a lake created. That's really -- I
 19 mean, I know we're trying to avoid saying those words
 20 but that's what we're here to decide tonight.

21 COMMISSIONER SCHERRER: Is there anything
 22 else you'd like to add?

23 MR. FRIBIS: No.

24 COMMISSIONER SCHERRER: Other questions for
 25 this -- yes.

1 COMMISSIONER HUSKEY: I have a question for
 2 the counselors. What's the requirements if they put
 3 up the \$70,000 bond?

4 MR. FRIBIS: What are the requirements?

5 COMMISSIONER HUSKEY: Well, I think they
 6 need to answer.

7 MR. CORDES: This is the first I've heard
 8 of the -- I mean, there may be guarantee agreements
 9 and things like that in the code.

10 COMMISSIONER HUSKEY: Yeah.

11 MR. CORDES: And I'm presuming that that's
 12 what Mr. Fribis is referring to but this is the first
 13 I've heard of the --

14 MR. FRIBIS: Yeah.

15 MR. CORDES: -- the \$70,000 either cash
 16 guarantee or bond. I don't know -- I don't know what
 17 you want to --

18 MR. KEHM: That -- that is the --

19 MR. CORDES: Yeah.

20 MR. KEHM: -- cash guarantee or security
 21 for the land disturbance permit that they've applied
 22 for.

23 MR. FRIBIS: Yes, it's not a bond.

24 MR. KEHM: So any land disturbance permit
 25 requires --

1 MR. FRIBIS: They wrote a check.

2 MR. KEHM: -- financial guarantee to ensure
 3 that they (a) do all the things that they're supposed
 4 to during construction and then remediate the site at
 5 the end of it, whatever -- whatever that particular
 6 job calls for. So every applicant for a land
 7 disturbance permit has to put forward some type of
 8 security.

9 COMMISSIONER HUSKEY: So they did get the
 10 land disturbance permit?

11 MR. KEHM: No, that's --

12 MR. FRIBIS: We got -- we got it from the
 13 state.

14 COMMISSIONER HUSKEY: You got it from the
 15 state?

16 MR. FRIBIS: We got it from the state.

17 COMMISSIONER HUSKEY: The county got the
 18 money.

19 MR. FRIBIS: Yeah, right.

20 MR. KEHM: Well, no, no, no. No, no, no.

21 (Overlapping conversation)

22 MR. FRIBIS: (Inaudible).

23 MR. KEHM: There's a State of Missouri land
 24 disturbance permit that has very minimal requirements
 25 and then there's the county land disturbance permit.

1 COMMISSIONER HUSKEY: So whose got the
 2 \$70,000?
 3 MR. KEHM: The county --
 4 MR. FRIBIS: The county.
 5 MR. KEHM: -- which is what Mr. Fribis is
 6 saying. That's -- they pay that with their
 7 application. That application has not been -- been
 8 approved, issued, or anything; it's just sitting there
 9 'cause it's not going to get approved depending on
 10 what happens here tonight.
 11 COMMISSIONER HUSKEY: You may have cleaned
 12 up the muddy water.
 13 MR. KEHM: It's very muddy water if you
 14 would see that site out there right now.
 15 COMMISSIONER HUSKEY: Yeah, that's what I'm
 16 saying.
 17 COMMISSIONER SCHERRER: Is there any -- is
 18 there any way in which your petitioner withdraws the
 19 application until some of this stuff is sorted out?
 20 MR. FRIBIS: Well, if you say that's the
 21 only path, I would say he will -- you know, he would
 22 do it.
 23 COMMISSIONER SCHERRER: Well, you have that
 24 option as the petitioner's representative, I guess, to
 25 either withdraw or we move for a vote of approval or

1 MS. KUENZEL: Okay. Just on the 70, you
 2 can get that back if this gets denied, just I'm
 3 letting you know that.
 4 MR. FRIBIS: I guess so. I don't know.
 5 You're the attorney but I would think so.
 6 MS. KUENZEL: Uh-huh.
 7 MR. FRIBIS: But then there's still going
 8 to be some remedial work that's going to have to be
 9 done out there because right now, as it sits, the
 10 creek is pretty much gone so I don't know. I've never
 11 been in this situation before and I understand all the
 12 concerns. All I want's that little bit to get us to
 13 the next step which is to finish the project which is
 14 really in the best interest of everyone.
 15 COMMISSIONER BOWERS: So I have a question
 16 again. So if this is deny -- is denied and they go
 17 forth with the permit, the permit could be approved
 18 with the condition that this comes back before us; is
 19 that --
 20 COMMISSIONER SCHERRER: Explain that; would
 21 you please, Dennis?
 22 COMMISSIONER BOWERS: Am I -- am I --
 23 MR. KEHM: So --
 24 COMMISSIONER BOWERS: -- 'cause you said
 25 here -- I think you said if this variance is denied,

1 denial.
 2 MR. FRIBIS: I would prefer that given the
 3 fact that there's \$70,000 that you have in your bank
 4 account now someplace that we could at least get what
 5 I came here for tonight with just the stream buffer
 6 and you can make that contingent upon and it's kind of
 7 automatically contingent upon all the other things
 8 we've talked about 'cause we've got to get a permit
 9 from Public Works Department for a number of things
 10 that are not on the agenda for tonight so it's not
 11 like we're done, it's finish construction, you know,
 12 next Monday. There is -- we're several months away.
 13 COMMISSIONER SCHERRER: Okay.
 14 MR. FRIBIS: So if you can give us just a
 15 little bit of leeway given the fact that we -- we know
 16 a lot about the situation; we understand that we've
 17 got obligations to the downstream property owners; and
 18 you have money that has been put up by the owner to
 19 guarantee improvements, well, maybe guarantee the
 20 improvements is the wrong word, but you got \$70,000,
 21 whatever that pays for which is a number that the
 22 county actually came up with. They originally wanted
 23 \$118,000. My client objected to that but they took --
 24 county took 70. I wasn't part of that discussion but
 25 I just know that's true.

1 then they gotta put it back together and it's done.
 2 MR. KEHM: Right. Because they cannot --
 3 they cannot -- if this per -- if this variance is
 4 denied then they cannot disturb that stream buffer,
 5 correct?
 6 COMMISSIONER BOWERS: Right.
 7 MR. KEHM: And --
 8 COMMISSIONER BOWERS: Which they've already
 9 done?
 10 MR. KEHM: They have already done that.
 11 COMMISSIONER BOWERS: Okay.
 12 MR. KEHM: And if this permit is denied or,
 13 I'm sorry, this variance is denied then they're going
 14 to have to remediate what they have done out there.
 15 And if they don't do it then we're going to take the
 16 -- I shouldn't say we, the county -- Public Works
 17 Department is going to take that money and it's going
 18 to do it and get it back the way it was as best they
 19 can. That's why that financial guarantee is there,
 20 right.
 21 So I would -- the issue is going to be if
 22 -- if -- if we say, well, we're going to approve it
 23 contingent on getting this permit and that permit,
 24 those permits are not going to be issued until this
 25 matter is decided. Now, you can get -- get it further

1 down the road and get them to the point where the only
 2 outstanding matter is whether or not the stream buffer
 3 is going to be varied or not. But Public Works will
 4 not issue that land disturbance permit and we will not
 5 issue that floodplain development permit as long as
 6 that stream buffer still exists and there's no
 7 variance to it. Does that make sense?

8 COMMISSIONER BOWERS: Yes, sir.

9 MR. KEHM: 'Cause we're not going to
 10 violate the -- the county's ordinance until you all
 11 have -- have had a chance to decide that.

12 Now, we can get them and they -- they can
 13 get up right to that point and I don't think they're
 14 there yet. I think there's a lot of work that still
 15 needs to be done. But, ultimately, we're going to
 16 land back here and we're going to be having the same
 17 exact conversation should they be allowed to dam that
 18 creek up or not.

19 COMMISSIONER SCHERRER: Other questions?

20 Other comments?

21 Motion to approve or deny or something
 22 else?

23 COMMISSIONER SPARKS: I'd like to make a
 24 motion to deny. I had the number here in front of me
 25 but I lost it now. Chairman?

1 VR24014, motion for a denial.
 2 COMMISSIONER SCHERRER: Commissioner Sparks
 3 -- Commissioner Sparks made a motion to deny VR24014.

4 Is there a second?

5 COMMISSIONER ADKINS: Second.

6 COMMISSIONER SCHERRER: Commissioner Adkins
 7 -- Adkins seconded the denial of VR24014.

8 All in favor say aye.

9 COMMISSION: Aye.

10 COMMISSIONER SCHERRER: Opposed?

11 COMMISSIONER HUSKEY: I oppose.

12 COMMISSIONER SCHERRER: Madam Secretary,
 13 will you please call roll?

14 And a yes vote is for denial; a no vote is
 15 for approval.

16 MS. ROESCH: Danny Tuggle.

17 COMMISSIONER TUGGLE: Yes.

18 Sorry. Yes.

19 MS. ROESCH: Mike Huskey.

20 COMMISSIONER HUSKEY: No.

21 MS. ROESCH: Greg Bowers.

22 COMMISSIONER BOWERS: Yes.

23 MS. ROESCH: Larry Adkins.

24 COMMISSIONER ADKINS: Yes.

25 MS. ROESCH: Johnathan Sparks.

1 COMMISSIONER SPARKS: Yes.
 2 MS. ROESCH: Jessie Scherrer.
 3 COMMISSIONER SCHERRER: Yes.
 4 MS. ROESCH: Motion for denial carries.
 5 COMMISSIONER SCHERRER: 5:1?
 6 MS. ROESCH: 5:1.
 7 COMMISSIONER SCHERRER: VR24014 is denied
 8 by a vote of 5:1.
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1 COMMISSIONER SCHERRER: Reports to the
 2 Commission.

3 MR. KEHM: Just very briefly. Our next
 4 meeting is April the 25th.

5 Is that correct, Elaine?

6 MS. ROESCH: Yes.

7 MR. KEHM: So we do not have a meeting on
 8 the first April date so we'll be back here on
 9 April 25th and that is correct.

10 And I know he's going to say a few words
 11 but on behalf of the planning staff, we want to thank
 12 Mr. Bowers for his service to the county and for all
 13 the work that he's put in and he's been a wonderful
 14 person to work with, he's been very gracious to all of
 15 our staff and all of our folks so we're going to miss
 16 him. But, again, thank you for -- for working with
 17 us. We greatly appreciate it.

18 COMMISSIONER BOWERS: Thank you.

19 COMMISSIONER SCHERRER: Thank you, sir.

20 Citizens to be heard?

21 Mr. Bowers?

22 COMMISSIONER BOWERS: Thank you,
 23 Mr. Scherrer, for the opportunity to speak.

24 As many of you are aware, this is my last
 25 meeting. The County Council voted 4:3 on February

1 26th against my nomination for another term.
 2 I would like to thank Mr. Gannon for the
 3 nomination and Mr. Haskins, Mr. Seek, and Mr. Stallman
 4 for their votes of approval.

5 To my critics, your closed-minded faction
 6 is holding the council back. Your personal vendettas
 7 and self-serving agendas are doing nothing for our
 8 county.

9 I have always approached this position with
 10 respect and integrity. My decisions were based on the
 11 evidence presented using the UDO as my guide.
 12 Although some decisions were not popular, I have
 13 always tried to have the best interest of the county
 14 with my vote.

15 I do want to thank the county staff for
 16 their professionalism and job excellence, made this
 17 position much easier and very enjoyable over my
 18 tenure. I also want to thank the remaining members of
 19 the Commission for their dedication to the county,
 20 your confidence when electing me vice chair, and
 21 especially your leadership and friendship. I wish you
 22 all the best. Thank you, all. It has been a
 23 privilege to serve with you on this Commission. Thank
 24 you.

25 COMMISSIONER SCHERRER: Thank you, sir.

1 And as I may say, it's been -- it's been
 2 enjoyable serving with you and I'm sorry to see you
 3 go.

4 COMMISSIONER BOWERS: Thank you, sir.
 5 COMMISSIONER SCHERRER: Other citizens to
 6 be heard?

7 Yes, sir.

8 MR. MEYER: Yeah. I'm just wondering
 9 because of your vote and I've never been through all
 10 this to know what you do but with that being that you
 11 denied that --

12 COMMISSIONER SCHERRER: Uh-huh.

13 MR. MEYER: -- does that mean, now, 'cause
 14 this is flood season right now, does that mean that
 15 they need to start putting that back immediately
 16 because before his house goes and my entry goes?

17 COMMISSIONER SCHERRER: I'm going to turn
 18 my mic on, maybe. I'm going to defer that question to
 19 Mr. Kehm.

20 MR. KEHM: So that will be an issue that's
 21 dealt with by Public Works and the Stormwater Division
 22 as to how they go forward here.

23 COMMISSIONER SCHERRER: Did that answer
 24 your question, sir?

25 MR. MEYER: Yeah, I just wasn't sure who we

1 had to rely on. I mean, I appreciate what you guys
 2 have -- all of you have done, every one of you, but
 3 it just kind of leaves us hanging with a down -- you
 4 know, all the April storms and rain. I mean, it -- it
 5 is horrendous what comes down through there so just
 6 wondering what'll happen before they even try to do
 7 anything to stop it.

8 COMMISSIONER SCHERRER: I wouldn't expect
 9 to see work crews tomorrow.

10 MR. MEYER: Right. Right.

11 COMMISSIONER SCHERRER: But I'm sure that
 12 there's a process that will be followed throughout
 13 Public Works. I'm sure there's going to be some
 14 conversations. Like I said, I wouldn't expect to see
 15 crews tomorrow but unless another application is
 16 brought forward or something else is done, the land
 17 should be returned to its original state.

18 MR. MEYER: That was my --

19 COMMISSIONER SCHERRER: And I don't -- I
 20 can't tell you if that's going to be next week, next
 21 month, next year. I can't give you a time on that but
 22 there is -- there is a process.

23 MR. MEYER: Okay. Well, I appreciate what
 24 you have all done.

25 COMMISSIONER SCHERRER: Thank you.

1 MR. MEYER: Thank you.

2 COMMISSIONER SCHERRER: Other citizens to
 3 be heard?

4 Barring none, motion to --

5 COMMISSIONER TUGGLE: I got something.

6 COMMISSIONER SCHERRER: Yes, sir. Please,
 7 go ahead.

8 COMMISSIONER TUGGLE: I been on a lot of
 9 boards, served with a lot of people. I have never
 10 worked with anybody that I'd rather work with than
 11 Mr. Bowers.

12 COMMISSIONER SCHERRER: I agree.

13 COMMISSIONER BOWERS: Thank you.

14 COMMISSIONER TUGGLE: And this was strictly
 15 political.

16 COMMISSIONER SCHERRER: Yes, sir.

17 COMMISSIONER TUGGLE: We know it and I
 18 resign right now. Done.

19 COMMISSIONER SCHERRER: Well, Mr. Tuggle,
 20 I'm sorry you feel that way.

21 COMMISSIONER TUGGLE: That's all right.

22 COMMISSIONER SCHERRER: I'm sorry to see
 23 you go.

24 COMMISSIONER TUGGLE: It'll just be --
 25 it'll be me next time.

1 COMMISSIONER SCHERRER: I -- I understand.
 2 COMMISSIONER TUGGLE: Okay.
 3 COMMISSIONER SCHERRER: And I agree with
 4 everything you said.
 5 COMMISSIONER TUGGLE: Thank you.
 6 COMMISSIONER BOWERS: Mr. Tuggle, I thank
 7 you. Thank you but I ask you to reconsider. With
 8 working with you on this Commission has been one of my
 9 pleasures and you are a staple to this. I would -- I
 10 wish you would reconsider that, sir.
 11 I thank you for your -- for your -- for
 12 your friendship and everything but, please, I know it
 13 is hard to get volunteers for this but I wish you
 14 would please reconsider. Thank you.
 15 COMMISSIONER TUGGLE: You waiting on me?
 16 COMMISSIONER SCHERRER: Not necessarily.
 17 COMMISSIONER BOWERS: No. No.
 18 COMMISSIONER TUGGLE: Yeah, I will
 19 reconsider and not resign tonight but --
 20 COMMISSIONER SCHERRER: Thank you, sir.
 21 COMMISSIONER TUGGLE: -- I wanted to get
 22 that out there.
 23 COMMISSIONER SCHERRER: Thank you, sir.
 24 COMMISSIONER BOWERS: Thank you.
 25 COMMISSIONER TUGGLE: I mean, yeah, it's

1 crazy.
 2 COMMISSIONER SCHERRER: Yes, sir.
 3 COMMISSIONER TUGGLE: Thank you.
 4 COMMISSIONER SCHERRER: Other citizens to
 5 be heard?
 6 Barring none, is there a motion to adjourn?
 7 COMMISSIONER BOWERS: So moved.
 8 COMMISSIONER SCHERRER: Attaboy.
 9 Commissioner Bowers made a motion to
 10 adjourn; Commissioner Scherrer seconded.
 11 All in favor?
 12 COMMISSION: Aye.
 13 COMMISSIONER SCHERRER: We are adjourned.
 14 [Adjourned 7:54 p.m.]

1 C E R T I F I C A T E
 2
 3 I, JENNIFER M. JETT, a Certified Court
 4 Reporter, in and for the State of Missouri, do hereby
 5 certify that I was present at the time and place
 6 hereinbefore set forth; that said proceedings were had
 7 as appears herein; and that this is a true and
 8 accurate record of said proceedings.
 9
 10 IN TESTIMONY WHEREOF, I have hereunto
 11 subscribed my name on this 31st day of March, 2024.
 12
 13
 14 JENNIFER M. JETT, CCR
 15 MISSOURI CCR NUMBER: 634
 16
 17
 18
 19
 20
 21
 22
 23 March 28, 2024,
 24 Jefferson County Planning and Zoning Meeting
 25

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