In the Missouri Court of Appeals
Eastern District

DIVISION TWO

KIM LYNCH, et al.,	)	No. ED107731
	)	
Appellants,	)	Appeal from the Circuit Court
	)	of Franklin County
vs.	)	
	)	Honorable Ada Brehe-Krueger
FRANKLIN COUNTY, MISSOURI, et al.,	)	
	)	
Respondents.	)	FILED: May 5, 2020

Kim Lynch and Hootie's Rescue Haven ("Appellants") appeal from the judgment of the circuit court upholding the decision of the Franklin County Board of Zoning Adjustment (the "Board"). The Board approved the order of the Planning and Zoning Commission (the "Commission") granting Meramec Aggregates, Inc.'s ("MAI") application for a conditional use permit for a gravel-mining operation (the "Permit"). Appellants raise two points on appeal. Appellants first argue that the voting procedure undertaken by the Commission to approve the Permit violated Franklin County's Unified Land Use Regulations, thereby invalidating the permitting process such that the Board's denial of their appeal was unlawful. Appellants next allege that the Board's decision to deny their appeal was not supported by substantial evidence. Appellants suggest the record shows MAI's proposed gravel operation would fail the jurisdictional requirements of Reg. Section 91 because the gravel pit operations would be significantly detrimental to public health and safety, would substantially injure the value of neighboring property, and lacked conformity with the County master plan.

AFFIRMED.

DIVISION TWO HOLDS: Because the Commission exercised its discretion to impose additional, substantive conditions by voting to approve the Permit with a ninth condition limiting truck operations following a discussion and rejection of the Permit with only eight conditions, the Commission did not violate the County's regulation against reconsidering permit denials. Appellants' claim that the Commission's voting procedure violated Robert's Rules of Order fails because no point of order was timely raised and Appellants were not deprived of an opportunity to be heard by the Commission or the Board. Thus, because the Commission's approval of the Permit was valid, the Board's approval of the Permit was authorized by law. Because the record as a whole reflects that the Board carefully considered the County's jurisdictional requirements

and determined that Appellants did not clearly and convincingly show that the conditions and regulations imposed on the Permit inadequately protected the jurisdictional interests of health and safety, neighboring property value, and harmony with the area, the Board's approval of the Permit was supported by competent and substantial evidence. Accordingly, we affirm the circuit court's judgment upholding the Board's denial of the Permit appeal.

Opinion by: Kurt S. Odenwald, Judge
Philip M. Hess, P.J., and Lisa P. Page, J., concur.

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THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.