

CLAY COUNTY PLANNING AND ZONING COMMISSION MINUTES

October 4, 2016

Regular meeting of the Clay County Planning and Zoning Commission, Commission Hearing Room, 3rd Floor, County Administration Building, One Courthouse Square, Liberty, MO.

Call to Order at 6:30 pm.

Roll Call

Members Present: Mark Beggs, Chris Higgins, Tom Decker, and Darin Sanders

Members Absent: David Rhodus and Jim Carlson

Staff Present: Kipp Jones, Planning and Zoning Manager
Debbie Viviano, Planner
Angie Stokes, Secretary
Andy Roffman, Assistant County Counselor

Mr. Beggs: Good evening ladies and gentlemen I would like to welcome you to the October 4, 2016 meeting of the Clay County Planning and Zoning Commission, roll call.

Mr. Jones: Darn Sanders?

Mr. Sanders: Present.

Mr. Jones: David Rhodus?

Mr. Rhodus: Absent.

Mr. Jones: Jim Carlson

Mr. Carlson: Absent.

Mr. Jones: Tom Decker?

Mr. Decker: Present.

Mr. Jones: Chris Higgins?

Mr. Higgins: Present.

Mr. Jones: Chairman Mark Beggs?

Mr. Beggs: Present.

Mr. Beggs: A few housekeeping items, we will be recording the meeting tonight it will be transcribed for our minutes. So we ask if you are going to speak, we ask that you step to the podium and state your name and address for the record and even if you come up multiple times we ask you to repeat that it helps when we are transcribing the meeting, it keeps track of who is saying what it's hard when you listen to the recording, so we ask that you do that. All the applications that we hear tonight will go before the County Commission in this room on November 7th, 10 am that will be in this room.

Mr. Jones: And that is tentative, because that is so far out so just check with Planning and Zoning.

Mr. Beggs: Okay did everybody catch that that meeting date is tentative so will want to confirm that with Clay County before you come to the Commission meeting. With that said I direct the member's attention to the September 13th Planning and Zoning Commission meeting minutes, you reviewed those and is there any changes or discussion?

Mr. Decker: I will make a motion to approve the September 13, 2016 minutes as presented.

Mr. Beggs: Thank you do I have a second?

Mr. Higgins: I'll second.

Mr. Beggs: Vote please.

Mr. Jones: Darin Sanders?

Mr. Sanders: Abstain.

Mr. Jones: Tom Decker?

Mr. Decker: Approve.

Mr. Jones: Chris Higgins?

Mr. Higgins: Approve.

Mr. Jones: Chairman Mark Beggs?

Mr. Beggs: Approve.

Final Vote: 3/0/1 Approve September 13, 2016 Minutes

Mr. Beggs: Before we get into the regular agenda I will also draw your attention to the Clay County Planning and Zoning Department's monthly reports for June, July, August and September and if there are any questions on those now would be the time to bring those up. Moving on to our regular agenda for this evening our first case is case number October 16-130RZ/F this is a request for rezoning from Agricultural (AG) District to Residential Rural (R-1) District for proposed Lot 1 and Residential Ranchette (R-5) District for proposed Lot 2 with an Agricultural Land Preservation (ALP) overlay district for Lot 1 only, and final plat approval for the proposed subdivision of McCubbin Fields (Replat of Lot 1A, Replat of Lot 1McCubbin Acres) located at approximately 16200 Clevenger Road, the applicant is Jessica Thompson, Morton Jones and Associates, representing David McCubbin, is there a representative here? Okay very good, can we have a staff report?

Ms. Viviano: Yes, Mr. Chairman and if I could can I attach the staff report as part of the minutes?

Mr. Beggs: So be it.

Ms. Viviano: Summarized the staff report October 16-130RZ/F dated September 22, 2016.

Mr. Beggs: Thank you, any questions of the Commission for staff? Can I have the representative of the applicant come forward please, state your name and address for the record.

Ms. Thompson: Jessica Thompson, 310 NW Englewood Road, Gladstone, MO 64118.

Mr. Beggs: And are you familiar with the staff's report?

Ms. Thompson: I am.

Mr. Beggs: Are you in agreement with the conditions that they have set forth?

Ms. Thompson: Yes.

Mr. Beggs: Okay very good, any questions from the Commission for the applicant? Thank you, I will open the floor for public comment on this application. Being none I will close the floor for public comment, any discussion amongst the Commissioners on this application? I will entertain a motion.

Mr. Decker: I will make a motion to approve the final plat of McCubbin Fields Replat of Lot 1A, Replat of Lot 1 McCubbin Acres with the conditions set forth in Exhibit A.

Mr. Jones: Did we say rezone?

Mr. Beggs: Yes need to do the rezoning first.

Mr. Decker: I am sorry; I will make a recommendation that we approve the rezoning from Agricultural to Residential Rural (R-1) for Lot 1 and Residential Ranchette (R-5) for Lot 2.

Mr. Beggs: Thank you do we have a second?

Mr. Higgins: I'll second.

Mr. Beggs: Vote please.

Mr. Jones: Darin Sanders?

Mr. Sanders: Approve.

Mr. Jones: Tom Decker?

Mr. Decker: Approve.

Mr. Jones: Chris Higgins?

Mr. Higgins: Approve.

Mr. Jones: Chairman Mark Beggs?

Mr. Beggs: Approve.

**Final Vote: 4/0/0 Approve; October 16-130RZ/F; McCubbin Fields– Rezoning
With zero (0) Conditions**

Mr. Beggs: We also need the final plat approval is that correct?

Mr. Jones: Yes.

Mr. Beggs: Set the motion for the final plat approval as well.

Mr. Decker: Okay I will say it again, I'll make a motion to approve the final plat for McCubbin Fields, Replat of Lot 1A and Replat of Lot 1 McCubbin Acres with the conditions set forth in Exhibit A.

Mr. Beggs: Thank you do I have a second?

Ms. Higgins: I'll second.

Mr. Beggs: Vote please.

Mr. Jones: Darin Sanders?

Mr. Sanders: Approve with conditions.

Mr. Jones: Tom Decker?

Mr. Decker: Approve with conditions.

Mr. Jones: Chris Higgins?

Mr. Higgins: Approve with conditions.

Mr. Jones: Chairman Mark Beggs?

Mr. Beggs: Approve with conditions.

**Final Vote: 4/0/0 Approve; October 16-130RZ/F; McCubbin Fields– Final Plat
With one (1) Condition**

Mr. Beggs: Motion carries. This will be taken up by the County Commission on November 7th. Our second case is case number October 16-131RZ/P this is a request for rezoning from Agricultural (AG) District to Residential Ranchette (R-5) District with a Shadow Plat (SP) overlay district for only Lot 1, and preliminary plat approval for the proposed subdivision of Horse Hideaway located at approximately 12608 NE 112th Street, the applicant is Amy Swanson, Triple H Team, Re/Max Innovations, representing Andrea Burgis, is there a representative of the applicant here? Okay thank you, staff report.

Mr. Jones: I would like to add the staff report as part of the official record.

Mr. Beggs: So be it.

Mr. Jones: Summarized the staff report October 16-131RZ/P dated September 27, 2016.

Mr. Beggs: I've got a few questions to start off, where is that existing water line right now? Where would they have to extend to?

Mr. Jones: The applicant might be able to speak to that end of that, I believe, Debbie if you zoom out a little bit, I believe it's in this area but I will let the applicant give you that.

Mr. Goessling: Southwest corner.

Mr. Beggs: Second question, zoom back in on the end of that cul-de-sac on Gallatin Street if you would. Where that existing structure is right next to that cul-de-sac, right in there, can you zoom in on that?

Mr. Jones: Debbie zoom in on the existing cul-de-sac.

Mr. Beggs: Is that a dash line, maybe I can see it better on here. The problem is the building is not on here, is that a utility easement or is that a setback line off of that north property line on that ten acre tract? Yes that line right there is that a setback line or is that a utility easement?

Mr. Jones: It should be a setback line; I would have to look at the plat to make sure.

Mr. Beggs: I am concerned about having enough setbacks on this structure to the north that looks really close to me.

Mr. Jones: Yes and we measured that in office and it meet the minimum setbacks.

Mr. Beggs: Okay it just looked really tight on there.

Mr. Jones: It does and we took this off the GIS so it's not surveyed grade accurate.

Mr. Beggs: Okay any other questions for staff on this report? Can I have the applicant please come forward, state your name and address for the record please.

Ms. Swanson: My name is Amy Swanson my address is 1365 NE Pulliam Road in Lathrop, Missouri, and I think that the staff report covers everything I needed to say and I think all the information is there I would like to let you know that the potential buyer Mr. Goessling is here and he is the one that has put together a lot of the homework on this plat and I think he would be able to answer some of these questions for you if wish.

Mr. Beggs: Please step forward and state your name for the record

Mr. Goessling: My name is Scott Goessling our address is 4300 Jasmine Lane, Mansfield, TX 76063.

Mr. Beggs: So the water line, do you know where it is?

Mr. Goessling: Yes I do, if you could zoom out to see 115th and Gallatin, it's on the southwest corner. If you could zoom in on this area here, Debbie please, it's right where I am circling right around there.

Mr. Jones: Debbie zoom in on that please.

Mr. Goessling: There you go, so this is the existing house and the outbuilding behind it right next to the northern edge of the property, this is the existing cul-de-sac, Gallatin runs down to 115th, this is 115th and I think it changes names somewhere in here, the existing water is right here on this southwest corner. We worked with Mike McMillian from the water department and actually had contractors go out and take a look and find it. What the current state is is this house and this house have a 3/4" line that goes down to the main that is down there. I have to extend the main up onto the property through the easements that on. I would use the west side easement because that is where the water is now and when we looked at the designs and we did the shadow plat for any future development that's basically saying this where I have to follow when I build my own home. We put in the utility easements that continued on both the east and the west side of the proposed road. So the water would go from 115th up through under this driveway and then onto the property here where I can then extend it using the proposed easements and that was another reason for the shadow plat so we could know where all this stuff would have to go so it wouldn't have to be moved later.

Mr. Beggs: So how big of a line are you putting in?

Mr. Goessling: It's a six inch line.

Mr. Beggs: So are you going to provide new taps for the residence on Gallatin?

Mr. Goessling: Their taps are existing; I don't have to bother the taps that are already there I just have to extend the six inch up and I believe for the fire department I also have to put in a fire hydrant there.

Mr. Beggs: Okay that's a new one.

Mr. Higgins: Shouldn't that water line be provided by the developer there...

Mr. Goessling: Yes it should have and unfortunately I have to bear the brunt of that cost so far I haven't been able to find a way to recoup its outside the (*inaudible*)

Mr. Higgins: Right I understand that..

Mr. Goessling: It's outside the development but that is a true point that the main should have been extended up here underneath or right here at this cul-de-sac where I should have had a very short run but it's created a lot of additional cost of trying to run that six inch that far.

Mr. Beggs: And sanitary line?

Mr. Goessling: The sewers are right here, this is where the existing valve is for the sewers, it's a pressurized system so I can then extend that as well.

Mr. Beggs: Okay and so all the right-of-way easements are in place.

Mr. Goessling: All the right-of-ways and easements are planned, so the existing easements along Gallatin are already there those are already approved. When you approve I believe the preliminary and the final these easements are what's in the shadow plat and those are the easements that we will be required to use as we build or do our final building plan.

Mr. Beggs: I am concerned about the gap between where those existing easements stop and where yours begin is there a gap in the easements so you do have

Mr. Goessling: No those are continuation of the existing easements.

Mr. Beggs: So you do have easements all the way from your property line.

Mr. Goessling: Yes they are already there; the easements go through, down the west side of the cul-de-sac and continue on this side of the cul-de-sac they go all the way to the end of the property.

Mr. Beggs: I see that's been confirmed by staff? Any other questions for the applicant from the Commission? So I will ask the representative of the applicant to step back forward I just want to make sure that you understand the staff's report and you are in agreement with all the conditions that they have set forth.

Ms. Swanson: Yes sir.

Mr. Beggs: Okay thank you. Now I will open it up for public comment any comments on the application please step forward and state your name and address for the record.

Mr. Amick: My name is John Amick, I live at 11600 Plattsburg Road in Private Gardens, the shadow plat does show the similar development being shadow platted but it also shows the concern this evening a single division of ten acres off of Private Garden. Our concern as a neighborhood would be that we

have (inaudible) our stipulations available that no nuisance activity that some are allowed inside the County Government in this rural area certain with the homes that are under a homeowners association and covenants and deed restricts that given adjacent to this property we would like some assurances that that would not be the County's intent or allowed. We would expect this to be a single family home and single family use not commercial and for the most part the house sizes and lot sizes be consistent with previously built within Private Gardens, as shadow plated we will not have an objection, except for we believe that this will become a true subdivision at some point and our concern is is that is a slippery slope situation which ought to be considered either as a whole project individually or if it's separate proposal where it stays as a one lot development.

Mr. Beggs: Let me back up you are talking about nuisance uses if I hear you correctly.

Mr. Amick: Correct.

Mr. Beggs: So what are you eluding to there? Because currently its zoned Ag and R-5 would be probably be more restrictive than what could happen on there.

Mr. Amick: (inaudible) and I lived within city limits of Liberty and I've had a newspapers routes ran out of residential homes and they come at two in the morning and wake up kids I would consider that a nuisance it's one of the reasons I moved previously. I consider having certain trailers or things parked in rural nature we had previously in Clay County neglected swimming pools and things that the County doesn't seem to be effective in maintaining the codes and restrictions. I would say those are nuisance's things that would decrease our property value.

Mr. Beggs: I also want to address the concern of lot sizes you mentioned that, I think you're concerned with it kind of fitting in with what's going on in Private Gardens.

Mr. Amick: I see it as almost an extension of Private Gardens just because of the geography of its access so regardless if that's intent or by coincidence it still affects us deeply especially in real estate pulling comps so I'm not; I mean certainly it would be my concern that it would affect the investments of people who are already in Private Gardens that's why I am kind of wanting to make sure that we say, well since it is within one mile of (inaudible) zone you have high density the city has indicated in your report that they wanted one acre or larger lots if that is a stipulation you can put in there then that's great I think it ought to be very similar as Private Gardens is, I think it ought to have restrictions like Private Gardens has I can't force that on anyone I can offer to let them the access into Private Gardens if they wanted to voluntarily do that but again for me I am looking for a consistency from the County on this property and I understand that it's one lot of ten acres that there will be consistency the houses that were built on it were similar to what's in Private Garden or bigger that will be a consistency but the unknown is great enough that I am here speaking.

Mr. Beggs: I believe I am going to let Kipp address that but I think as far as this Commission goes we cannot extend covenants conditions or restrictions from your development to this piece of ground. That's a private agreement amongst the residences there and the developer so it's kind of separate because it's not part of that development so as a Board or as a Commission the County cannot guarantee that the homes that will be built there be will be of similar size.

Mr. Amick: So the minimum size that could be put on there per the County my understanding is 1,000 square feet.

Mr. Jones: Of living space for a one level, 1,400 square foot of living space for anything other than that.

Mr. Beggs: So that's kind of what we are stuck with that's the County regulations so that is it. But we do control the zoning so I think that the R-5 that they are asking for is pretty consistent with what's going on that's the one home on five acres that is pretty consistent with the lot sizes that are in Private Gardens now and I think the shadow plat and I guess I just want to make sure everybody understands the shadow plat is not something that is cast in stone that is just an idea of what that development would look like if it were to be developed and we do that because it's so close to the city that eventually development will get there and we just want to make sure there's a logical progression of development once it hits. So that shadow plat is not cast in stone and it can be changed and as the Director mentioned if they make it more dense or if they change it even from this one ten acre tract it will have to be rezoned to go more dense so again that will come here everybody will have a change to speak about it so if they wanted to go in and put a more dense neighborhood in there it will have to be rezoned for that.

Mr. Amick: So off the topic here then how long can a cul-de-sac be? And how many houses can you put on there?

Mr. Beggs: It depends on the front (*inaudible*) and setbacks.

Mr. Jones: There is bunch of different situations that get involved.

Mr. Beggs: You see some that are 65 foot frontages on you know you get into a subdivision you will see they always make it wider as you go back and narrow at the cul-du-sac.

Mr. Jones: This property can only have one; this ten acres lot can only have one house at this point.

Mr. Beggs: Yes that is the zoning for this being considered tonight.

Mr. Amick: If that's the one you want me to speak I will be quiet but if you want me to speak to my concerns I have additional concerns which is we have 47 homes in all of Private Gardens and there's thirty some acres here so you are talking a potential of 37 more homes coming down Gallatin and 115th and our worst case scenarios, thank you.

Mr. Beggs: Appreciate it, any other comments?

Mr. Edwards: John Edwards and I have lot 25, 26 it's 12414 NE 115th Terrace, and I was one of the original owners that came into Private Gardens the intent of the community I do think is to stop or halt any developments or any progress of community or in the County itself, the concern like Dr. Amick pointed out is around a lot of uncertainties of what could happen here and by allowing this the way it's set out right now and not made some forms of requirements on the property could open the door for further developments down the road in the same area on the same piece of property, I want to talk a little bit about keeping in mind fire if now have 30, 40 homes up here that are coming out from that one area what would happen if you had a car stalls out it creates a situation where a fire crew cannot get through you have homes that are in close density then you start having two or three homes where you can't get to it. The way this is a set up the potential future addition doesn't allow for a safe environment there. The other aspect is the roads counting 30 or 40 homes coming out of that one area creates a lot of traffic it would become hazardous for the kids in the area as well as other people who live down the from it. Other certainties we don't know about are what are the requirements can they just have a gravel driveway or do they have to have a similar requirements as Private Gardens? I would argue that they should, you have Fishing River Division to the west side of us they have similar requirements where they have roads they storm sewers type items in there. To put this piece in the old spot zoning all around Private Gardens in an area that you know is going to be developed as part of Liberty or Kearney one's going to fight over us to get us. It's going into the city at some point but to piece meal this in that way is not going to serve either one very well in development in the future or consistency when other lots are going to come up in the county that's going to ask for the same sort of variances and the same sort of thing. The other concerns we have around the street use as well is what is going to restrict that to businesses that somebody can run out of their house even if it's one house we could end up with a big out building put up out there where there is semi rigs being worked on and (*inaudible*) possible so I think we really need to look at and consider what can be done to take in account future of Clay County, the future of Liberty, Kearney whoever is going to end up taking over this area and ensuring that we have good use of the lands and done the way it's going to be helpful to our future, thank you.

Mr. Beggs: Thank you, Kipp do you want to speak to some of the uses of R-5 what the County's standards are.

Mr. Jones: Yes I am hearing quite a bit about home occupations, there are certain home occupations that are allowed per our Land Development Code our rules and regulations are in our Land Development Code so there are some home occupations that you can do out of your house and I don't want to read all of this but there are tons of restrictions there are certain home occupations that are not allowed. One of those being auto repair so no he can't he's not going to have 18 wheelers in there repairing 18 wheelers, it's just not allowed. Other ones are animal care or boarding, antique shops, clinics or hospitals, clubs or lodges there is a big list of them and then they cannot have employees that are non-residences so you can't have people coming and going, you can't have retail sales unless it's not the primary use and you can only have so many customers coming through a day and I think that number is six. So I would be happy if you have concerns about that I would be happy for you to come in to Planning and Zoning or call Planning and Zoning and we will go over or get you a copy of this,

this is also on our website you can find as well so we do have rules and regulations that will restrict quite a bit of that.

Mr. Beggs: I would also like you to speak, I am hearing some concerns about fairly high density development in this area, numbers 30-40 and for that to happen what would be the process before that would ever get approved.

Mr. Jones: There would have to be interior streets being so close to the cities, the cities would have to approve that and you would have to have municipal level services and for the County water or septic's I doubt that Private Garden's septic could handle that, it would have to be annexed into the city at that point, speaking in general it's not something that's going to happen through the County.

Mr. Beggs: I think I got the high points; did I catch all of your concerns? Did we address some of those? Any other comments from the public?

Mr. Porter: My name is Craig Porter, 11306 Plattsburg Road; I might remind everybody the City of Liberty tried to annex this property about eight years ago and it was voted down by the residence so to say it's not on Liberty's radar it may not be right now but I confirmed today with Liberty that I think they call it Aviana, which is the property that Hallmark owns all around Liberty North and some of it's on the north side of 112th Street is moving forward it will be one of the largest developments in the Kansas City area so I think for us to say this won't be part of Liberty one of these days maybe not in my lifetime but I think it will be part of Liberty one of these days. I have a little bit of an unique prospective I was on the committee that did the first master plan in 1995 and then I was on the County Commission when we redid the plan in to finish it in 2008, started in 2006 and was there for most of the meetings and (*inaudible*) and things and I would like to read or just point out some of things that are in this Land Use plan I assume you all know what's in it but Chapter 4 talks about future land use I won't read all of it but some of the bullet points say once property is split or subdivided and developed with low density suburban or rural residential uses such areas become pockets of land that obstruct the logical urban growth pattern for the County's cities, due to their size and configuration developed acres typically are much more difficult to redevelop as more dense urban subdivisions and acreage may be located in the most logical path for extension of public utility. So if you ever wanted to extend Gallatin and take it out to 112th Street this owner if he's not for it, if he's not for building his part then whoever the entity is whether it's the County or the city or whoever is going to have to come in and build it, because you can't make him build it. Conflicts tend to occur between residences of acreage properties and proposed urban development as the surrounding area becomes urbanized and the rule character of the area changes. It becomes more difficult to locate suitable large tracts of land for development of new employment and commercial uses and I can tell you that is huge problem in Kearney right now, if you have ever seen Kearney's city limits it looks like a jigsaw puzzle with pieces missing because they've had to dodge all the ten acre tracts and five acre tracts and three acre tracts. Further on down it talks about land use tier policy the basic principle of the land use tier system is to plan for and approve urban density development in areas near cities expected to become urban and directing low density development acreage and large lot subdivisions to areas not easily providing the municipal's sewer services that the development tiers are based on the following, and this is in the high density development tier, and even though Liberty says they don't have any intension of annexing it they tried to annex it a few years ago and I can't believe it's not located within their annexation intent area. There is a table 4.2, it talks about land use planning tiers, the residential uses under the urban services tier it says one of the comments is 20 acre minimum for agricultural and rural residential uses until such time as urban development occurs. And then there's a graph on the next page that talks about the different types of land uses, the second one down says that lots that are ten acres in size generally do not allow for the appropriate subdivision of land into lots for residential use. It is difficult to create connectivity with adjacent developments when subdividing a ten acre tract or ten acre lot. One of the things, one of the reasons I ran for County Commissioner is I own lots in the areas around the cities, basically just get chopped up, let's get the quick buck, get out of town and that's what they were doing. Kearney is suffering from that terribly and I can tell you that's why Liberty couldn't pass their annexation because so many people live on acreages, they don't want to be annexed, you know. We were given good streets in the County, the Sheriff was giving them good police protection, why the heck would they want to pay Liberty City taxes, it doesn't mean it's the right thing but that's what's happened and part of the reason I ran was to try to get this under control, it's a problem. Now I can tell

you I've been in the development business for 40 years and in Clay County you don't have to have a neighborhood meeting, you know, if I did this in one of the municipalities I develop in Gardner, Spring Hill, Kearney, Liberty, Blue Springs, Kansas City if I did something like this I'd have to have a neighborhood meeting, not in Clay County do I have to have one. I'd have to have an environmental study, no environmental study done on this; I'd have to have a stormwater study, no stormwater study. This is just the easy way to do things I think everybody thinks we are just good old country folks out and we don't pay much attention when they do things like this, it's something I think is wrong, I fought to get a lot of this stuff in the Land Use Plan, I think it hurts our cities and our cities are the growth centers for this county and obviously I am not for it. My wife is an attorney; we didn't have anybody to keep our son tonight so she sent this along with me, excuse me my mouth gets dry from some medication I take. This is the approval criteria; number one is whether or not the proposed amendment corrects an error, inconsistency or meets the challenge of the change in condition in the area, obvious it doesn't, number two whether or not proposed amendment is consistent with the Comprehensive Plan and stated purpose and intent of section 151-1.7 it doesn't, it's not consistent with the Comprehensive Plan. I won't go into the legal speech she's got here, I think if I were and I can tell you I live just to the right of the pink section there, we own 35 acres there, if he wanted to do this like Private Gardens I'd say great do it I'll be your biggest fan, if you want to build houses like Private Gardens or develop lots like Private Gardens and put the restrictions like Private Gardens, I'd love to have you as a neighbor but the things that can go on on that five acre tract you know and I understand what the rules and regulations are but I can tell you as eight years as a Commissioner we go one person, one out of several to actually correct a violation and the way we got them to do it was to build an eight foot fence around their junkyard out between Missouri City and Excelsior Springs. The people the manpower to get this done and eventually have to take them to court, County doesn't like to do that, I understand it we took that one person to court and the judges hate to see these things show up, so you know you can have rules but is it practical to think that we can get them enforced, I don't think it is because I didn't see that for the eight years I was on the Commission. I went out and litigated somethings we got some arguments settled but we didn't get near all of the violations corrected. I might mention one more thing also, I don't live in Private Gardens but Private Gardens was in a middle, the County was in the middle of a lawsuit over Private Gardens when I took office, we negotiated that with the people that live in the area, I told the people then that it would be a subdivision that would be something the County would be proud of, that I thought, I think it's turned out to be that way but if I were the people in Private Gardens, especially the ones that live along that property line I'd have some heartburn about this, because I don't know if any, I know the applicant talked to some of the residence before the meeting but I don't think any of them know for sure what's going there and I guarantee if it was me doing it I would have been to the residence first and I'd been telling them here's what I'm, I'd like to have you on board, here's what I'm planning, here's my house plans, here's what I am doing. And some cities you would have been mandated to do that, not here but so I would just like for you to give a long hard thought to this doesn't meet the Comprehensive Plan and I would hope that if it gets done that it doesn't get done very often because I can tell you as somebody that's currently developing in and around Kearney it's a problem we fight every day. I just purchased a piece of ground in Kearney right across the street I've got a ten acre tract that it's in the County, it's not in Kearney it's in the County and the guy basically runs an excavation business and all the crap he gets when he finishes up the day he comes and dumps in his yard so that's going to be across from the new subdivision that I want to do. I appreciate your time; if you've got any questions I'd be happy to answer them.

Mr. Beggs: I don't have any questions but I have some comments, I agree with a lot of what you are saying and I think these piano key type developments, we've tried really to cut down and the work that you guys did in this 2008 Plan surely helps us make that happen because we can only enforce what the County Commission puts in front of us.

Mr. Porter: And it doesn't make any difference what you guys say the Commission will over ride you anyway.

Mr. Beggs: That's exactly right and I don't know if everybody knows that we are just an advisory board we give recommendations.

Mr. Porter: You guys have a lousy job.

Mr. Jones: But they do it so well.

Mr. Beggs: But somebody's got to do it.

Mr. Porter: I use to tell the Planning and Zoning guy when I was on the Commission, I said you guys got the worst job in the world, I said at least I get paid to get yelled at, you guys don't even get paid to get yelled at.

Mr. Sanders: Chairman I would like to ask Mr. Porter a couple of things we've heard about tonight is some of the concerns is that the potential future development of this whole tract here, this what is it 28, 29 acres would be directing traffic back out onto Gallatin, I would like from a developers point view if you going to develop the rest of this out would you connect into 112th Street?

Mr. Porter: Absolutely you would have to.

Mr. Sanders: That is what I thought.

Mr. Porter: I mean I am not sure you can meet, I am sure I will get the acronym wrong, the A whatever guidelines ADWA guidelines unless you did it and somebody asked about the length of the cul-de-sac, I know that most cities it's 400 feet, isn't that right?

Mr. Saunders: I believe it is.

Mr. Porter: I don't know what it is in the County but most cities it's 400 feet which you can't have a cul-de-sac longer than 400 feet unless you get a variance or something, so you know to me, I mean if you're going to do this take it all the way out to 112th Street and do it. I mean if you are going to be a developer be a developer don't do it half way and I don't want disservice the applicant I don't know his history but I know that in Clay County we've had a history of lets grab a buck and head down the road and some of the cities are suffering from it, in Kearney you know they have a hard time developing in any direction because they got those big lot subdivisions circling the town and it is hard for the city to go ahead and annex them because they've got to keep up the roads in front of them and give them sewer and give them water and all that stuff and I think it is what five years or three years or something if it's a hostile annexation they can't afford to do that. Any other questions?

Mr. Beggs: Thank you, any other public comments? So Director Jones I think you might want to add that as an attachment to the application.

Mr. Kramer: My name is Zachary Kramer and I live at 11703 Riverview Road which is also in Private Gardens subdivision, I don't really want to read through everything because some of these points have been well addressed the main one that I would like to talk about is from the Comprehensive Plan on page 50 there is a 20 acre minimum for agricultural in a rural residential uses until such time as development occurs, so I feel that what we are doing is doing spot zoning on ten acres instead of taking a more comprehensive approach like the County Comprehensive Plan suggested. The guideline is that we keep things the way they are at a minimum 20 acres until such time for urban development and this falls within the urban services tier and then on page 51 of the Comprehensive Plan there is a diagram that shows when you get into spaces that are ten acres and less that it's really hard to do it properly and so I would just ask the Board to instead of approving this rezoning to kick it back and ask for a more comprehensive approach to it for the whole property, so we are taking a property that's barely big enough to develop now which is the whole property and we are making it smaller and we are giving it a go instead of addressing it from the beginning, so that is what I ask of you, thank you all for your time, thank you.

Mr. Jones: Chairman, can we add the first attachment as Attachment D and second attachment as Attachment E.

Mr. Beggs: So be it. Do you want to address shadow plats again? For their purposes and when we get into urban services tier and how they work.

Mr. Jones: So yes the Comp Plan does say minimum of 20 acres but it also does give a chart that gives exceptions and one of those exceptions is the ten acre lot with a shadow plat so.

Mr. Beggs: And that is table 4.3 that Mr. Porter (*inaudible*).

Mr. Jones: Yes that is part of the staff report if you have the staff report so that's where this fits in my opinion within the Comprehensive Plan.

Mr. Kramer: So can you explain to me because if you look table 4.3 when it says subdivisions of land of ten plus acre lots provided shadow plat, so I guess that is what you are referencing?

Mr. Jones: Yes.

Mr. Kramer: Okay.

Mr. Jones: So the two exceptions you can get from that 20 acre minimum in the urban services tier is doing the ten acre with a shadow plat or see the next one down says the city within one mile may review and recommend to other exceptions granted in other tiers. So Liberty or Kansas City could have said they do a five plus acre lot but put an Agricultural Land Preservation and if they would have stated that was what they wanted then it would have been in the spirit of the Comprehensive Plan.

Mr. Kramer: And I am for development, I would like to see growth in Clay County, I would just like to see a more comprehensive approach, I don't see why we are taking an already small piece of property which is under 40 acres, making it smaller, giving it its own rules instead of addressing the whole thing at the same time so that it's more comprehensive and become a better outcome for everyone. So there's probably 25 million dollars' worth of existing property values within a mile, if you take into account all the houses in Private Gardens and the other farms around it, so whatever happens on this ten acres or what happens down the road it affects everyone and that's what I would want, I want to have a comprehensive plan that addresses everything not just giving one person with ten acres what they want. Thank you all I appreciate it.

Mr. Beggs: Thank you, any other comments? I am going to close the floor for public comments and I am going to ask the applicant if they want to come up and speak to any of these concerns, I am just going to give you the opportunity I am not saying you have to I am just going to give you the opportunity if you want.

Mr. Goessling: Sure, so I can appreciate the concern.

Mr. Beggs: If you would state your name, just so we can have it on record.

Mr. Goessling: Scott Goessling, 4300 Jasmin Lane, Mansfield, TX 76063. I am going to turn this way, so I can appreciate the concerns and I think that was something we tried to address with the shadow plat it is a series of steps as developers know, not all circumstances allow you to do everything that you would like to do upfront. However being from the area, my family is from the area, my wife is from (*inaudible*), I have family down the street on 152 but we currently live in Texas, this is a chance for us to come home. So at a minimum I want to put one house there, however being a good neighbor of the city and of the county and understanding developer rules and understanding what Liberty would like to do and what Kansas City would like to do, what we said was here's our idea to try and abide by the Comprehensive Plan and be a good a neighbor we would like to say if we do develop this this is how we would develop it. Those lots are as good or larger than some of the lots that are in Private Gardens they are 1.8 acres at a minimum, that's the zoning. We're trying to match what you see when you come through Private Gardens. The only access is by Gallatin, so coming through Gallatin you see all these beautiful homes, lovely area I am not spending all of this money for this land to park a trailer on, that's expensive dirt, very expensive, right. There's beautiful homes, I am hoping the homes help my comp value as I build mine, I think you all have a little bit upside down in that your values are going to help me as well as mine is going to help you, right. So we did put this plan at here to say if I build that road, can I use this? Per the rules, now everybody's had a seat at the table from water to sewer to highway department, if I go to subdivide this I am required to build this proposed road and I have to build it as a hard surface, somebody asked me about gravel, I have to build it as a hard surface.

Mr. Beggs: I am going to back up, that is if you get the zoning.

Mr. Goessling: If I can get the zoning, to do that I still have to go through another zoning meeting to subdivide this, today is for one house, one lot that is today. You can't go any further until then, I heard the comment about I should have come in with a house plan, I spent a lot of money on engineering I don't want to spend more money designing a house if I don't own the land, I really rather own the land first, okay. So we have to go through another zoning if we choose to subdivide this at that time I am going to be required to put in the road which the driveways can come off of that road, I am required I have to do that, those lots mimic if you look at the lots over here these lots are bigger, these are much bigger. So what we are trying to do is to match what you drive through to get here I don't, or I will not own this down here I can't talk to that, all I can talk to is this that I am trying to buy here and what I am trying to do as a good neighbor matches as I heard the neighbor to the east say that lives over here he would love it if I do something that matches Private Gardens. Well, we are a step ahead of you that's what we are thinking because that's what we will do. But I can't go through and do all of this until I own the land and it's also pretty expensive if you haven't done a lot of this, it's expensive to build roads, it's expensive to build sewers, it's expensive to run water. I have to run a six inch water all the

way from 115th all the way up here, as a developer you understand, that's ten, twelve thousand dollars just to run water that's a lot of money being invested here so it's too expensive for me to park trailers on it and do something that's a nuisance. What we are trying to be is good neighbors so tonight it's one house one lot we don't even have a final build for the house. There's board meetings when you go build a house, right today we are just trying to get this ten acres sectioned off so we can then begin the next step, we've got the shadow plat per the Comprehensive Plan, we followed all the rules the shadow plat shows what we plan to do, that is the intention if something changes between now and then I have to abide by those rules, okay any questions or comments, yes.

Mr. Edwards: I just have a question, so I understand the purpose of the shadow plat but if you're just shadow plat this you actually follow this design or layout I am not sure I understand how you are going to run the driveway to the back if you have two lots in the front of your lot.

Mr. Goessling: Okay fair enough.

Mr. Edwards: I guess I am just kind of concerned the way this is chop up it seems pretty goofy the way it's designed, it doesn't seem like it's a good use of all of the land you set up for attaining the lot there necessarily. Or you are going to chop it up and put littler lots to me it is has an impression that it's going to be further developed down the road but I would like to hear your comment.

Mr. Goessling: Well I guess as neighbors you hope there will be more development down the road, from what I hear from everybody they would like to see more density there. So as far as the driveway. So there are easements that run along every road that's built, utility easements on both sides, correct and this road ends in a cul-de-sac here it's called a temporary cul-de-sac, just like this one, this is a temporary cul-de-sac, per the rules for development here you have to end in a temporary cul-de-sac at the edge of the property so you can connect it later part of planning that so what we said was okay well let's run the road through let's plan a temporary cul-de-sac just like there is today we are just extending it. We are extending Gallatin across the property north and south we are putting in a cul-de-sac. The driveway if you build on the west comes through these easements that are here there's an easement there for a driveway and utilities, this bit of land right here is just an extra part but this easement allows for a driveway to be put there so if there is any kind of development later you can develop it right here, fair enough? I can't do anything to the west there's a big creek here there is a blue line, there's a lot of setbacks, the first and second setback that you have to stay away from so the closes I could get from west is here so for my development standpoint this plat (*inaudible*) in the middle makes the most sense. There is also challenges that this is very narrow but wide, if that makes sense, not very deep so it didn't make sense to try and run a road east to west through this property that didn't make any sense the road comes in on the very northeast corner of this lot if it came in the middle I'd have a few more options but I don't it come in on the northeast corner so from a planning standpoint the only way I could do this is to build a road with the easements and put 1.8 acre lot here and another one on the other side of the road and leave this back on for me. That's the only configuration that made any sense to all the people who were at the table engineers, designers, Highway Department, water, sewer, Planning and Zoning all these people were at the table trying to figure out what makes the most sense and this seems to make the most sense where I can continue what's in front of it to the north, Private Gardens and I could leave room if something does future develop to the south, so I can connect through, if need to. We tried to consider every single requirement that was given we tried to follow along with the Comprehensive Plan we tried to plan for additional density, we tried to account for all of these things, the events for today, but it seems like the best alternative for that property. Any other comments or questions?

Mr. Williams: Providing you do get approval when do you plan on to start the work?

Mr. Goessling: I still have to go through development plans and (*inaudible*) plans all of that so there is still quite a bit of time before that starts.

Mr. Williams: I understand that so a year (*inaudible*)

Mr. Goessling: Six month to a year.

Mr. Porter: I haven't done a subdivision in the city in the last at least 15 years where I wasn't required to submit a covenants and restrictions along with my plans so...

Mr. Goessling: There is no subdivision.

Mr. Porter: If you are serious about being a good neighbor get a set of covenant and restrictions written up and submit them with this plat so these people know what you are going to do.

Mr. Goessling: There is not subdivision, there's only one lot.

Mr. Porter: There's no subdivision when I submitted mine either but I had to submit them with the plat to be approved along with the plat.

Mr. Goessling: When I do subdivide that *(inaudible)*....

Mr. Porter: *(inaudible)* so they are going to know what I am going to do in that subdivision otherwise they can approve the plat and the zoning and I sneak in and build 800 square foot houses somewhere, every city around here requires that now you submit covenant restrictions with your plat and with your zoning request and if you don't submit them they don't hear it.

Mr. Goessling: I understand that, a good comment and fair I totally agree so in this the plat that is being submitted is one ten acre with a shadow plat when I come back and do this subdivision you are absolutely correct I provide a covenant with the subdivision when I divide into those three acres, today that's not done, today is one lot.

Mr. Porter: I don't agree with that at all I think if you want to do it you can do it right now you submit it with a ten acre tract and that way if you go in and act on the shadow plat then that will be in place.

Mr. Goessling: I can't act on the shadow plat without the zoning.

Mr. Porter: *(inaudible)* it would be these covenant restrictions over a legal description of property or you could put them over lots one through 30 or whatever you want to do they can be made over just the meets and bounds legal description.

Mr. Beggs: But the Commission would not ever look at those CCR's that would not be part of the zoning that would be an agreement amongst him and the people that are buying and the people around him *(inaudible)*.

Mr. Porter: *(inaudible)*

Mr. Beggs: I agree but as far as the Commission goes we don't look at private agreement between, as you know, the developer and the people that are buying the lots.

Mr. Porter: Well but *(inaudible)*

Mr. Beggs: We have the regulations *(inaudible)* and that is what we have to live by so I cannot enforce anybody.

Mr. Porter: It's not in the County Comprehensive Plan I am just saying there's been a lot of talk here tonight about being a good neighbor, if you want to be a good neighbor, I just did a subdivision in Kearney where I purchased the remaining properties from a developer that went bankrupt first thing I did was put the covenant restricts together and gave them to the surrounding people so they could see what I was doing. I also told them I wouldn't add any lots that we would keep the same number of lots in the existing subdivision but I was going to tweak the roads because the roads had a lousy layout. So these people we had a planning and zoning in Kearney the only people that showed up zero, zero because I had taken care of this up front.

Mr. Beggs: And I am not saying it's not good practice I am saying the Commission doesn't deal with covenants, but I hear what you are saying. Okay I am going to close it.

Mr. Kramer: So again I am Zachary Kramer and I live at 11703 Riverview Road, so from this discussion the point I would like to reiterate is that we are talking about ten acres that has much larger implication down the road and that's why I think that we should be looking at the whole property instead of just a section of an already small piece of property, thank you.

Mr. Beggs: Any other comments, I am going to close it for public comment. Discussion from the Commission, questions to the applicant or the public, staff? I will entertain a motion.

Mr. Decker: I will make a motion to approve the rezoning from Agricultural (AG) to Residential Ranchette (R-5) for the shadow plat overlay district for only lot one of Horse Hideaway.

Mr. Beggs: Do I have a second?

Mr. Sanders: I will second it.

Mr. Beggs: Vote please.

Mr. Jones: Darin Sanders?

Mr. Sanders: Approve.

Mr. Jones: Tom Decker?

Mr. Decker: Approve.

Mr. Jones: Chris Higgins?

Mr. Higgins: Approve.

Mr. Jones: Chairman Mark Beggs?

Mr. Beggs: Approve.

**Final Vote: 4/0/0 Approve; October 16-131RZ/P; Horse Hideaway– Rezoning
With zero (0) Conditions**

Mr. Beggs: Motion carries. We'll entertain a motion on the preliminary plat.

Mr. Decker: I will make a motion to approve the preliminary plat of Horse Hideaway to be approved with the conditions set forth in Exhibit A.

Mr. Jones: Thank you do I have a second?

Mr. Sanders: Second.

Mr. Beggs: Vote please.

Mr. Jones: Darin Sanders?

Mr. Sanders: Approve with conditions.

Mr. Jones: Tom Decker?

Mr. Decker: Approve with conditions.

Mr. Jones: Chris Higgins?

Mr. Higgins: Approve with conditions.

Mr. Jones: Chairman Mark Beggs?

Mr. Beggs: Approve with conditions.

**Final Vote: 4/0/0 Approve; October 16-131RZ/P; Horse Hideaway– Preliminary Plat
With three (3) Conditions**

Mr. Beggs: Motion passes and this will be considered November 7th at the County Commission.

Mr. Jones: He still has the final, Mark. I guess that is separate, I am sorry.

Mr. Beggs: That is separate.

Mr. Jones: You are right.

Mr. Beggs: Next case is case number October 16-132F this is a request for Final Plat approval of the proposed subdivision of Horse Hideaway located at approximately 12608 NE 112th Street, the applicant is Amy Swanson, Triple H Team, Re/Max Innovations, representing Andrea Burgis, staff report.

Mr. Jones: I would like to add the staff report as part of the official record.

Mr. Beggs: So be it.

Mr. Jones: Summarized the staff report October 16-132F dated September 28, 2016.

Mr. Beggs: Any questions for staff or the Commission?

Mr. Sanders: One question here, this one does not include any platting of the shadow plat?

Mr. Jones: It does not the shadow plat will not be recorded.

Mr. Sanders: Thank you.

Mr. Beggs: May I have the representative of the applicant step forward please.

Ms. Swanson: Amy Swanson, 1365 NE Pulliam Road in Lathrop, Missouri.

Mr. Beggs: Are you familiar with staff's report.

Ms. Swanson: I am familiar with the staff's report.

Mr. Beggs: Are you in agreement with what was stated.

Ms. Swanson: Yes I am.

Mr. Beggs: Very good.

Ms. Swanson: Thank you.

Mr. Beggs: I will open it up for public comment; I am going to close it to public comment, any questions for the applicant from the Commission? Okay I will entertain a motion for the final plat.

Mr. Decker: I will make motion to approve the final plat of Horse Hideaway with the condition set forth in Exhibit A.

Mr. Beggs: Thank you do I have a second?

Mr. Sanders: Second.

Mr. Beggs: Vote please.

Mr. Jones: Darin Sanders?

Mr. Sanders: Approve with conditions.

Mr. Jones: Tom Decker?

Mr. Decker: Approve with conditions.

Mr. Jones: Chris Higgins?

Mr. Higgins: Approve with conditions.

Mr. Jones: Chairman Mark Beggs?

Mr. Beggs: Approve with conditions.

**Final Vote: 4/0/0 Approve; October 16-132F; Horse Hideaway–Final Plat
With three (3) Conditions**

Mr. Beggs: Motion passes, good luck. Next case is case number October 16-133RZ/P this is a request for rezoning from Agricultural (AG) District to Residential Rural (R-1) District for only proposed lots one through four, and Residential Ranchette (R-5) District for proposed lots five and six, with an Agricultural Land Preservation (ALP) overlay district for lots one through four and six and preliminary plat approval for the proposed subdivision of Ivy Bend Farms located at approximately the southwest corner of MM Highway and Endicott Road and 17319 Endicott Road, the applicant is Marshall Neth, Show-Me Real Estate, representing Ivy Bend Farms and Johonny and Donna Endicott, is the representative present? Thank you can we have staff report?

Ms. Viviano: Yes Commissioner if it would be okay I would like to attach the staff report as part of the minutes.

Mr. Beggs: So be it.

Ms. Viviano: Summarized the staff report October 16-133RZ/P dated September 27, 2016.

Mr. Beggs: Can I have the representative of the applicant step forward? State your name and address for the record.

Mr. Neth: Marshall Neth, 1609 NE 108th Street, Smithville, Missouri.

Mr. Beggs: And you are familiar with the staff's report?

Mr. Neth: Yes.

Mr. Beggs: And you are in agreement with the conditions in there?

Mr. Neth: Yes.

Mr. Beggs: Okay thank you, any questions from the Commission for the applicant, any public comment? Yes come up to the podium and state your name and address.

Mr. Phillips: Chris Phillips, 24209 Regal Ridge.

Mr. Beggs: And your question was.

Mr. Phillips: What is R-1 zoning?

Mr. Beggs: One house per ten acres.

Mr. Jones: Yes it is considered residential rural district it's our current zoning when a lot is being subdivided for ten plus acres anywhere from ten to twenty acres it gets zoned R-1.

Mr. Phillips: And what's the R-5, it is 1,400 square foot what is it for the R-1.

Mr. Beggs: R-1 is the minimum of ten acres, oh you are talking about a house, it's the same 1,000 square foot for a one level home and 1,400 for anything over that.

Mr. Phillips: Can a mobile home or a modular home be brought in?

Mr. Jones: A mobile home would have to be in a mobile home parks and modular homes are allowed if they meet the standards.

Mr. Phillips: Okay.

Ms. Phillips: Jenny Phillips, 24209 Regal Ridge, my question is and please forgive me we just received this letter and found out about this two days ago and so we just moved and bought this house my concern is we moved out of the city to the rural for a reason, the view that we have is absolutely amazing all these lots are directly in my view. I didn't buy this house for me to look at other properties, I bought this house for the view that I have, honestly it's an amazing view and kid is out and in the country where we wanted so the education that we had is that there wasn't going to be any type of development and then shortly after we moved and spoke with some people we found that that was different so I guess my question is can you pull up lots one through four so I can see exactly where those.

Ms. Viviano: Well you know there will only be one house here, one house here, one house on this lot and one house on this lot. So one here, one there, one there, and one there and there is already an existing house on the other two on the other side of the road. So you are only talking about one, two, four more houses.

Ms. Phillips: Yes that is four more houses I have to look at, where my view is right now is a rural area and another concern is a modular home so the value of my house could be I mean I understand that but that's our question is that, our main concern what that can a trailer home go in or a ground modular home.

Mr. Jones: I am not sure we are talking about the same thing, a modular home is a home that is built to building code standards but it's built off site so it still meets our building codes standards but it come in sections so a lot of times they look very similar to a regular home so I just want to make sure we're talking about the same thing.

Ms. Phillips: Correct and the cul-de-sac that we are in there's not one house in that cul-de-sac that is less than \$200,000 at 1,400 square foot home that's our concern, I understand that's not your concern, that's our concern six months in of a new purchase of a home.

Ms. Viviano: Absolutely, I understand what you are coming from, now a modular home would have to be large it would have to be...

Mr. Jones: It would just have to meet our building standards just like any other house.

Ms. Phillips: Which is 1,400 square foot correct?

Mr. Jones: For a two level.

Ms. Phillips: So for a one level home it's ...

Mr. Beggs: 1,000 for one level, 1,400 for two levels.

Ms. Phillips: So going into this if we had known that this was you know we would have probably looked a little further out, we thought we were further enough out in the county and not only that as far as that's going to bring more traffic for our kid thinking that we are no longer in the city so that is the concern and it's not just ours but neighbors as well. You know I don't understand how they are going to piece out what you can't do anything with those two lots why is that?

Mr. Jones: Which two lots?

Ms. Phillips: The shaded.

Mr. Beggs: The ALP area.

Mr. Jones: Those are considered portions of the, there are only four lots there the shaded portion is just the half they cannot build structures on, so they are not separate lots.

Ms. Phillips: So what are they?

Mr. Jones: They are part of the lot, so lot one is the north lot it's the shaded and non-shaded area lot two is the one that Debbie was on that one is lot one, that's all one lot.

Mr. Decker: The shaded area is the land preservation.

Ms. Phillips: So they have to build on this side.

Mr. Decker: They cannot build on the shaded area.

Mr. Jones: They have to build on the right side.

Ms. Phillips: Okay.

Ms. Viviano: This portion of lot one right here that you are talking about that is what we call an ALP area Agricultural Land Preservation and in our code we do not allow any buildings to be put on that portion of the lot so no structures can be built on this portion, no structures can be built on this, no structures are allowed to be built on this and no structures are going to be allowed to be built on this portion of this lot and sense these lots are going to be zoned residential there are going to be quite a few and Kipp can address the residential building requirements that we are going to have about being not bigger not taller not larger than their principle dwelling, so they can't come out and build a 2,000 square foot accessory building and only have a 1,000 square foot home.

Ms. Phillips: So another concern that I have is this bridge have they looked at this bridge? As far as emergency vehicles and do they actually go out and assess this because this bridge is a concern.

Mr. Jones: Darin do you want to...

Mr. Sanders: Sure, the bridges are being inspected every two years by Missouri Department of Transportation this bridge as long as the bridge is over 20 feet in length which this one I believe is is looked at every two years by the Missouri Department of Transportation and they give us an efficiency

rating for this bridge. The bridge structure has a low limit of 15 tons, school buses cannot go over anything less than 8 tons, or 10 tons I think I have to look back directly what it is, this bridge is satisfactory for emergency vehicles or anything like that the only thing that would not be allowed to go over it is large dump trucks in excess of 15 tons will multiple axles or ...

Audience: I've seen them.

Mr. Sanders: I know. The thing is it's a constant battle that we are fighting all the time and I've been in contact with the Sheriff's Department and State Highway Patrol and there are issues that we have to try and get it figured out, not necessarily on our end but on other's end.

Ms. Phillips: So as far as when we have looked at property to build and in the same area as far as a fire hydrant so the one lot there is one there and what we are trying to find out is is that an actual fire hydrant or do they have to place them on any of the lots if they are further down off of Endecott towards MM?

Mr. Sanders: That would be something that will be controlled by the water department.

Ms. Phillips: Okay.

Mr. Sanders: By the Public Water District.

Mr. Jones: Typically the water district can't serve enough water to build out here so if there is a hydrant there that would be a good question for the water districts it may be a dry hydrant, I don't know.

Ms. Phillips: Okay, thank you.

Mr. Hudson: Dave Hudson, 17717 Kempter Road, my house is right on the corner of that property, here I will show you really quick, I live right here so I see all that down there and all of this now a modular home is a trailer, they bring it on a trailer put it together and they skirt it. If they are going to put a house in there that is fine I don't want modular homes, I don't want a trailer, I can see all that and I know what that brings.

Mr. Jones: Ours would have to be on a foundation and they get stamped by the Missouri Public Services Commission, we would not allow that we would consider that a trailer which would not be allowed on that property.

Mr. Hudson: So they have to put it on a basement a full basement?

Mr. Jones: No I didn't say basement they could put it on a slab but they have to put it on a footing.

Mr. Hudson: It's still a trailer though; they do that in trailer parks.

Mr. Jones: If it's considered a modular home and it's been stamped by the Missouri Public Services Commission and it's on a full footing it's not a trailer, it's what we would consider a modular home.

Mr. Beggs: But again your County Commissioner that's the guy you need to talk to because we only run by the rules that they make so we don't make them we just abide by same rules that the County Commissioner makes, so I say that up with your County Commissioner if you want modular homes taken out.

Mr. Hudson: I don't want a modular home because it's going to bring my property value down.

Mr. Beggs: Again it's allowed the County Commission allowed that they make the rules they are your legislative branch of the County so they are the ones that make the rules and approve them, so if they says modular homes we can't tell someone they cannot put one there, it's just not in the regulations, it's beyond our control.

Mr. Hudson: Okay, thanks.

Mr. Beggs: Sorry.

Mr. Sanders: Can I ask something of the staff? Kipp when we are talking about a modular home, we're talking about one where the rooms are built individually and loaded on a trailer, brought out craned off and set down where it's almost like a jigsaw puzzle, we are not talking about a double wide mobile home or anything like that.

Mr. Jones: No, they come in pieces and they get bolted to the foundation just like if somebody was to stick frame a house. It's, I think we we're maybe talking about two different things.

Mr. Hudson: So it's not the two halves.

Mr. Sanders: No, you are thinking about a double wide trailer.

Mr. Higgins: A double wide trailer.

Mr. Sanders: And I grew up in the time when those were called modular homes, what they call a modular home now is basically built almost, it reminds me of kids Legos where there's little rooms

built and they set them all and bolt them together, they bolt them down were the wiring is already partially run and when it's all said and done it looks just like, they are all built out of wood they are not built on a trailer where they slide the axles out.

Mr. Beggs: With pitched roofs.

Mr. Sanders: With pitched roofs.

Mr. Hudson: How come they are not required to have a basement, I know this is nothing to do with Clay County but one of the stipulations I did when I was going to move up to Kidder, MO you had to have a basement for a modular home.

Mr. Beggs: I don't know, I can't say why, it gets down to the point where do you want the government telling you have to build and at some point, so somebody doesn't want a basement build it on a slab, I don't know I cannot answer that question why the county doesn't require it.

Mr. Sanders: But the definition of modular home that we have in our code is not the same as what you're thinking, when you all I believe are thinking of a modular home you're thinking of a double wide trailer where the two halves come in they are set together and it has the skirting around it, I think it's basically way you would describe it. Yes they have three pieces with basically a flat roof, these are all pitched roofs 4:12 pitch roof houses they come in they've got either trusses or (*inaudible*) but everything is already basically built where they have to build a level pad or a basement foundation of some sort to be able to set these on the anchor bolt that are already sunk in and they go up from there, that's what our definition of a modular home is in our codes.

Mr. Hudson: Thank you.

Mr. Noble: My name is David Noble, 17815 Endicott Road, I have got a concern as far that creek and the bridge you were talking about, I've got livestock on both sides of this property on the east side and the west side that last big rain we got one side I lost a water gap and 50 foot of fence the other side I lost water gap and 100 foot of fence, I don't understand what one time there was a contract signed on (*inaudible*), nobody said anything to us they come up and they took out 34 foot of (*inaudible*) we had a ten foot of grain bins and 24 foot shed that they said they had to take out for rezoning they opened up the pasture there was a cow out in that pasture they did not put a fence there. I contacted Tally that works for Show Me Real Estate, the guy that was working on that shed and I told the guy that he needed to put fence there because there's a cow out there if she gets out you all are responsible, he said he talked to Tally I don't know what come of that deal but I called Tally two weeks ago and told him the deal and there's still no fence. Now whether this has anything to do with this or not I have no idea.

Mr. Jones: So I am a little confused, did they tear down your fence?

Mr. Noble: I am sorry?

Mr. Jones: Did they tear down your fence?

Mr. Noble: No they tore down the shed that the contract was already signed on what my father was going to buy.

Mr. Jones: So you are talking about a shed on this property here that I am showing on...

Mr. Noble: Yes.

Mr. Jones: Okay, we don't have any regulation over what they tear down or do.

Ms. Phillips: Yes she talked about it, she said that they...

Mr. Jones: Right they did, I guess I am confused as to what your question is, because they had to tear down part of the shed down yes that is true.

Mr. Noble: For the rezoning.

Mr. Jones: Yes to make this fit within the codes because this building was sitting in front of the house and because it was getting rezoned from Agricultural to Residential it could not sit in front of the house.

Mr. Noble: I understand that, like I said I don't know if this has anything to do with this or not but that creek builder was called out I had a feeling it would have something to with it because I lost the water gap and 100 foot of fence on how far, whoever buys that parcel they've got to be careful when they set a house up or that creek will get into it.

Mr. Jones: And we have if you can see on this lot there are stream side setbacks from the stream so they cannot build in this section here of that lot so their house would have to go up here. As far as, Darin talked about the bridge I can't speak anymore to that and honestly the fence sounds like a civil matter between you and the other owner.

Mr. Noble: I didn't know if this had anything to do with because the shed was part of it.

Mr. Jones: It was they had to do that so they could meet our codes but I can't, we don't have any code that would require them to rebuild a fence that would be a civil matter between you and the other owner.

Mr. Noble: (inaudible)

Mr. Jones: They can.

Mr. Nobel: (inaudible)

Mr. Jones: I don't have any, now if the cattle get out and are a nuisance then the Sheriff's Department have to consider them a nuisance that would be a Sheriff's Department call not a Planning and Zoning call but I don't have any fencing, well why don't you call Planning and Zoning and we can discuss that more, it's probably not the best subject for this format.

Mr. Nobel: Like I said I might be speaking out of turn, I had no idea, as far as that creek that is what I was concern about, as much fence that I have lost, just so nobody build down where floodwater.

Mr. Jones: And we appreciate that we can go over the code with you as far as the animal regulations and figure out something.

Mr. Nobel: Also that bridge needs a little more work done on it.

Mr. Sanders: I will check, thank you very much.

Ms. Phillips: Our school buses go over it.

Mr. Beggs: Any other comments? Okay I am going to close it to public comment, any questions from the Commission for the applicant or the staff? I will entertain a motion on rezoning.

Mr. Decker: I will make a motion to approve the rezoning from Agricultural (AG) to Residential Rural (R-1) District for lots one through four and Residential Ranchette (R-5) District for lots five and six with an ALP overlay for lots one through four and six for Ivy Bend Farms.

Mr. Beggs: Do I have a second?

Mr. Higgins: I will second it.

Mr. Beggs: Vote please.

Mr. Jones: Darin Sanders?

Mr. Sanders: Approve.

Mr. Jones: Tom Decker?

Mr. Decker: Approve.

Mr. Jones: Chris Higgins?

Mr. Higgins: Approve.

Mr. Jones: Chairman Mark Beggs?

Mr. Beggs: Approve.

Final Vote: 4/0/0 Approve; October 16-133RZ/P; Ivy Bend Farms– Rezoning

Mr. Beggs: Motion passes; I will entertain a motion on the preliminary plat.

Mr. Decker: I will make a motion to approve the preliminary plat of Ivy Bend Farms with the conditions attached and set forth in Exhibit A.

Mr. Beggs: Thank you do I have a second?

Mr. Higgins: I'll second.

Mr. Beggs: Vote please.

Mr. Jones: Darin Sanders?

Mr. Sanders: Approve with conditions.

Mr. Jones: Tom Decker?

Mr. Decker: Approve with conditions.

Mr. Jones: Chris Higgins?

Mr. Higgins: Approve with conditions.

Mr. Jones: Chairman Mark Beggs?

Mr. Beggs: Approve with conditions.

**Final Vote: 4/0/0 Approve; October 16-133RZ/P; Ivy Bend Farms– Preliminary Plat
With three (3) Conditions**

Mr. Beggs: Motion passes; case number October 16-134F is a request for final plat approval of the proposed subdivision of Ivy Bend Farms located at approximately the southwest corner of MM Highway and Endicott Road and 17319 Endicott Road, the applicant is Marshall Neth, Show-Me Real Estate, representing Ivy Bend Farms and Johnny and Donna Endicott, staff report.

Ms. Viviano: If Commission agrees I would like to attach the staff report as part of our record.

Mr. Beggs: So be it.

Mr. Viviano: Summarized the staff report October 16-134F dated September 28, 2016.

Mr. Beggs: Thank you, will the applicant step forward, state your name and address for the record please.

Mr. Neth: Marshall Neth, 1609 NE 188th Street, Smithville, Missouri.

Mr. Beggs: And you are familiar with the staff's report?

Mr. Neth: Yes.

Mr. Beggs: And you are in agreement with the staff's report and the conditions set forth?

Mr. Neth: Yes.

Mr. Beggs: Thank you, any public comment? Any questions from the Commission for staff or the applicant? I will entertain a motion for final plat approval.

Mr. Decker: I will make a motion to approve the final plat for Ivy Bend Farms with the conditions attached and set forth in Exhibit A.

Mr. Beggs: Thank you do I have a second?

Mr. Sanders: Second.

Mr. Beggs: Vote please.

Mr. Jones: Darin Sanders?

Mr. Sanders: Approve with conditions.

Mr. Jones: Tom Decker?

Mr. Decker: Approve with conditions.

Mr. Jones: Chris Higgins?

Mr. Higgins: Approve with conditions.

Mr. Jones: Chairman Mark Beggs?

Mr. Beggs: Approve with conditions.

**Final Vote: 4/0/0 Approve; October 16-134F; Ivy Bend Farms–Final Plat
With three (3) Conditions**

Mr. Beggs: Motion passes, November 7th in this room 10 o'clock, thank you and good luck. Next case is case number October 16-135RZ/F this a request for rezoning from Residential Rural (R-1) District to Community Services (C-3) District and final plat approval for the proposed subdivision of Paradise Storage Second Plat (A Replat of Lot 3, Paradise South and A Replat of Lot 1 Paradise Storage) located at 18316 Collins Road, the applicant is Cara L. Massie, representing Paradise Storage, LLC and Rodger and Susan Burton, you are the applicant and you are the representative.

Ms. Massie: I am the last one, right.

Mr. Beggs: Staff report.

Mr. Jones: I would like to add the staff report as part of the official record.

Mr. Beggs: So be it.

Mr. Jones: Summarized the staff report October 16-135RZ/F dated September 27, 2016.

Mr. Beggs: Thank you, any questions for staff? I will have the applicant step forward and state your name and address for the record.

Ms. Massie: Cara Massie, 401 Lakeview Drive, Smithville, Missouri.

Mr. Beggs: And you're familiar with the staff's report?

Ms. Massie: I am.

Mr. Beggs: And you are in agreement with the report?

Ms. Massie: Yes.

Mr. Beggs: Thank you any questions for the staff?

Ms. Massie: No.

Mr. Beggs: Any questions from the Commission to the applicant? Alright thank you. Do you have any comments? We have one person left in the audience.

Mr. Massie: The other half here.

Ms. Massie: We allow him no comments.

Mr. Beggs: Any questions from the Commission, I will entertain a motion.

Mr. Decker: This is for the rezoning?

Mr. Beggs: This is the rezoning.

Mr. Decker: I will make a motion to approve the rezoning from Residential Rural (R-1) District to Community Services (C-3) District on ten acres plus or minus for proposed Paradise Storage Second Plat to be approved.

Mr. Beggs: Thank you can I have a second?

Mr. Sanders: Second.

Mr. Beggs: Vote please.

Mr. Jones: Darin Sanders?

Mr. Sanders: Approve.

Mr. Jones: Tom Decker?

Mr. Decker: Approve.

Mr. Jones: Chris Higgins?

Mr. Higgins: Approve.

Mr. Jones: Chairman Mark Beggs?

Mr. Beggs: Approve.

**Final Vote: 4/0/0 Approve; October 16-135RZ/F; Paradise Storage Second Plat–
Rezoning**

Mr. Beggs: Motion passes; I will entertain a motion for the final plat.

Mr. Decker: I will make a motion to approve the final plat of Paradise Storage Second Plat with the conditions attached and set forth in Exhibit A.

Mr. Beggs: Thank you do I have second?

Mr. Sanders: Second.

Mr. Beggs: Vote please.

Mr. Jones: Darin Sanders?

Mr. Sanders: Approve with conditions.

Mr. Jones: Tom Decker?

Mr. Decker: Approve with conditions.

Mr. Jones: Chris Higgins?

Mr. Higgins: Approve with conditions.

Mr. Jones: Chairman Mark Beggs?

Mr. Beggs: Approve with conditions.

**Final Vote: 4/0/0 Approve; October 16-135RZ/F; Paradise Storage Second Plat–Final
Plat With two (2) Conditions**

Mr. Beggs: Motion passes; case October 16-136V is a request to vacate utility easements within Lot 1 of Paradise Storage and Lot 3 of Paradise South located at approximately 18316 Collins Road, the applicant is Cara L. Massie, representing Paradise Storage, LLC and Rodger and Susan Burton, staff report.

Mr. Jones: I would like to attach the staff report as part of the official record.

Mr. Beggs: So be it.

Mr. Jones: Summarized the staff report October 16-136V dated September 27, 2016.

Mr. Beggs: Thank you, that easement has it been changed before? Has that been before us before?

Mr. Jones: No.

Mr. Beggs: It's a funny shaped easement.

Mr. Jones: That is just the two lots that inside lot is Paradise South; the CUP came before you last year.

Mr. Beggs: Okay thank you, can the applicant step forward, state your name and address for the record.

Ms. Massie: Cara Massie, 401Lakeview Drive, Smithville, Missouri.

Mr. Beggs: And you are familiar with staff's report?

Ms. Massie: I am.

Mr. Beggs: And the conditions they have stated?

Ms. Massie: Yes sir.

Mr. Beggs: And you are in agreement?

Ms. Massie: Yes sir.

Mr. Beggs: Okay thank you, I will entertain a motion for vacation of that easement.

Mr. Decker: I will make a motion to approve to vacate of the utility easement within Paradise Storage lot one and of lot three in Paradise South with attached conditions as set forth in Exhibit A.

Mr. Beggs: Thank you do I have a second?

Mr. Sanders: Second.

Mr. Beggs: Vote please.

Mr. Jones: Darin Sanders?

Mr. Sanders: Approve with conditions.

Mr. Jones: Tom Decker?

Mr. Decker: Approve with conditions.

Mr. Jones: Chris Higgins?

Mr. Higgins: Approve with conditions.

Mr. Jones: Chairman Mark Beggs?

Mr. Beggs: Approve with conditions.

**Final Vote: 4/0/0 Approve; October 16-136V; Paradise Storage Second Plat–Vacation
With one (1) Condition**

Mr. Beggs: Motion passes; case number October 16-137CUP is a request for a conditional use permit (CUP) to operate Recreational Equipment Storage on proposed Commercial Services (C-3) District zoned property of Paradise Storage Second Plat, (A Replat of Lot 3, Paradise South and A Replat of Lot 1 Paradise Storage), a proposed subdivision at 18316 Collins Road, the applicant is Cara L. Massie, representing Paradise Storage, LLC and Rodger and Susan Burton, staff report.

Mr. Jones: I would like to add the staff report as part of the official record.

Mr. Beggs: So be it.

Mr. Jones: Summarized the staff report October 16-137CUP dated September 27, 2016.

Mr. Beggs: I didn't see the highway review in here.

Mr. Jones: It's a condition.

Mr. Sanders: It is the first paragraph under outside agency review on page six.

Mr. Beggs: Okay I see it here, thank you. Any questions for staff from the Commission?

Mr. Decker: What did we do for these folks about a year or so ago?

Mr. Jones: The applicant may know better than I would.

Ms. Massie: In 2015 Tom and I owned four little parcels and so I came before the Commission as that point and asked could I please vacate all those property boundaries because we were paying four property tax bills and there were easements running everywhere and so we wiped that all out and cleaned it all up and combined all four of those and when we did that then that required that we obtain a new conditional use permit because we re-plated everything so that's what we did last time and so we hope to do that again, have one clean parcel.

Mr. Decker: Kind of clean it up again, your purchasing this Paradise South by March of 2017.

Ms. Massie: Correct, yes sir contingent upon this application being successful.

Mr. Higgins: (*inaudible*)

Ms. Massie: Yes, exactly so it would look exactly like the fencing example that I provided on page 28, so that is the fencing that runs along the north property line now that is currently in place and then we

would just run an extension of that along that north property line. Mr. Sanders and I kind of drove the property together and we talked about the need of pushing it back ten feet off of Fairview so that the Highway Department could have better access to clear the roads during inclement weather.

Mr. Jones: And I should add there is a condition if we receive reasonable complaints that are validated by staff they may be required to add a solid screen fence along the north property line that abuts to residential that is condition number six under Exhibit A.

Ms. Massie: Yes that was the variance that was granted in the 2015 CUP so we hopeful that that variance would just carry forward in this request as well and I don't believe have had any...

Mr. Jones: We have not received any complaints.

Mr. Massie: The current concern is that the property sits lower than the houses on the Fairview so even if we built the fence they can still see over it.

Mr. Beggs: Any other questions?

Mr. Sanders: Yes, Kipp could you explain condition number 12 please for clarification on this.

Mr. Jones: Yes, so that was put in and I may rely on Debbie on this if I don't explain this right. So when the Burton's owned, currently own Paradise South which is the lot to the left they asked for an ingress/egress to be put in there so they did not have to go through Paradise to get back to that lot, just because the applicant granted them that, this was included this condition 12 is included in last year's CUP conditional use permit and after Debbie and Cara and I did some research on it we felt it should stay because the way we read it how it was written and recorded it gives them the right to have a second entrance there, if that makes sense.

Mr. Sanders: Yes, because of the way I, that is the reason I wanted a clarification, because the way I initially read it, it was for an extension of that street...

Mr. Jones: Yes and we pulled..

Mr. Sanders: Fairview whatever that is coming off of.

Mr. Jones: And we pulled how it was recorded and it was granted back to the Massie's as a second entrance is the way we understood it.

Mr. Sanders: Okay thank you.

Ms. Massie: I had the same concerns Mr. Sanders and so we had some conversation in the P&Z office yesterday to just make sure we had some clarification on that condition.

Mr. Decker: Item 11 the fence will be seven feet tall.

Mr. Jones: That's my understanding does that include the barbwire on top?

Mr. Massie: Yes that would match the current existing fence.

Mr. Jones: And that was allowed in the previous conditional use permits.

Mr. Beggs: We had a discussion on that fence as I remember; they brought quite a few people last time.

Ms. Massie: This is glorious.

Mr. Beggs: I didn't say with them.

Ms. Massie: I am enjoying your company here very much. So we did have quite a bit of conversation in the past, so we came before the Commission for a CUP in '04, and 2010, and 2015 and then I am back again in 2016, and so I do think perhaps it is fair to note that between '04 and 2016 we've not received any complaints or concerns voiced by neighboring residences or other Clay County citizens so I am hopeful that we're doing the job we should be doing.

Mr. Beggs: Any other questions? I will entertain a motion.

Mr. Decker: I will make a motion to approve the conditional use permit to establish a commercial Recreational Equipment Storage facility on lot one of Paradise Storage Second Plat 23 plus or minus acres with the attached conditions set forth in Exhibit A.

Mr. Beggs: Thank you do I have a second?

Mr. Sanders: Second.

Mr. Beggs: Vote please.

Mr. Jones: Darin Sanders?

Mr. Sanders: Approve with conditions.

Mr. Jones: Tom Decker?

Mr. Decker: Approve with conditions.

Mr. Jones: Chris Higgins?

Mr. Higgins: Approve with conditions.

Mr. Jones: Chairman Mark Beggs?

Mr. Beggs: Approve with conditions

**Final Vote: 4/0/0 Approve; October 16-137CUP; Paradise Storage Second Plat-
Conditional Use Permit With thirteen (13) Conditions**

Mr. Beggs: Motion passes, again these will be considered by the County Commission on the 7th.

Ms. Massie: Appreciate your time, thank you.

Mr. Beggs: Good luck. Any comments?

Mr. Jones: No, the previous cases have not fully made it through County Commission yet, we should know in a week or so and we have one application for next month so we will have a meeting.

Mr. Higgins: When is that?

Mr. Jones: November 1st.

Mr. Beggs: Any comments from legal counsel?

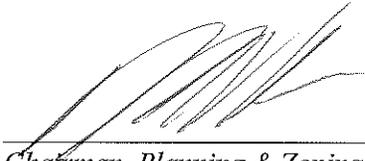
Mr. Roffman: No.

Mr. Beggs: Thank you, everyone in favor of adjournment? Say aye.

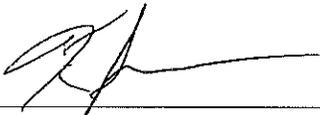
All: Aye.

Mr. Beggs: Meeting is adjourned.

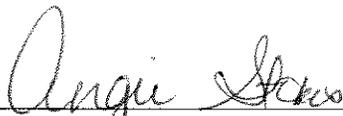
Meeting Adjourned



Chairman, Planning & Zoning Commission



Secretary, Planning & Zoning Commission



Recording Secretary