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

PUBLIC MEETING  
JANUARY 19, 2016  
[Commencing at 7:00 p.m]

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

**PUBLIC MEETING 1/19/2016**

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1 A P P E A R A N C E S

2

3 BOARD OF PLANNING AND ZONING COMMISSION MEMBERS:

4 William Evans, Jr., Chairman

5 Jay Schulteheinrich, Co-Chairman

6 Donald Voss, Commissioner

7 Bill McLaren, Commissioner

8 Ray Cunio, Commissioner

9 Ron Williams, Commissioner

10 Todd Boland, Commissioner

11 Dan Haire, Commissioner

12 Tom Tobben, Commissioner

13 Russell McCreary, Commissioner

14 PLANNING AND ZONING STAFF:

15 Ms. Scottie Eagan, Planning Director

16 Ms. Nichole Zielke, Administrative Assistant

17

18 LEGAL COUNSEL:

19 Mark Vincent, County Attorney

20 MIDWEST LITIGATION SERVICES:

21 By: Patsy A. Hertweck, C. R.

22 711 North Eleventh Street

23 St. Louis, Missouri 63101

24 (314) 644-2191

25

1 P R O C E E D I N G S

2 [JANUARY 19, 2016]

3 CHAIRMAN EVANS: I'd like to go ahead and  
4 call to order the January 19th meeting of the Franklin County  
5 Planning and Zoning Commission.

6 Scottie, if you would, please take role.

7 MS. EAGAN: Bill Evans?

8 CHAIRMAN EVANS: Here.

9 MS. EAGAN: Jay Schulteheinrich?

10 COMMISSIONER SCHULTEHENRICH: Here.

11 MS. EAGAN: Todd Boland?

12 COMMISSIONER BOLAND: Here.

13 MS. EAGAN: Tim Reinhold?

14 COMMISSIONER REINHOLD: [Not present]

15 MS. EAGAN: Ray Cunio?

16 COMMISSIONER CUNIO: Here.

17 MS. EAGAN: Tom Tobben?

18 COMMISSIONER TOBBEN: Here.

19 MS. EAGAN: Bill McLaren?

20 COMMISSIONER McLAREN: Here.

21 MS. EAGAN: Don Voss?

22 COMMISSIONER VOSS: Here.

23 MS. EAGAN: Dan Haire?

24 COMMISSIONER HAIRE: Here.

25 MS. EAGAN: Russell McCreary?

1 COMMISSIONER McCREARY: Here.

2 MS. EAGAN: And, Ron Williams?

3 COMMISSIONER WILLIAMS: Here.

4 CHAIRMAN EVANS: At this time, I'll give  
5 the Planning and Zoning Commissioners the opportunity to declare  
6 any conflict, communication or relationship that they may have  
7 that might influence their ability to consider today's issues  
8 impartially. [None]

9 Okay, seeing there is none, Scottie, please give us  
10 the proceedings and exhibits.

11 MS. EAGAN: Tonight's Planning Commission  
12 meeting is governed by the Franklin County Unified Land Use  
13 Regulations of 2001.

14 Some matters on the agenda may be for action by the  
15 Planning and Zoning Commission. These matters do not involve  
16 public hearing. Other matters on the agenda require public  
17 hearings under Missouri law. If a matter involves a public  
18 hearing, all individuals who desire to testify will be given an  
19 opportunity to do so.

20 At this time, I would like to place into the record  
21 these Regulations as Exhibit A, the official Zoning Map as  
22 Exhibit B, the official Master Plan as Exhibit C, and the case  
23 file for each case as Exhibit D for all the cases to be heard at  
24 this hearing.

25 (Thereupon, evidence was marked

1 for identification and presented for the record  
2 as Planning and Zoning Exhibits A, B, C,  
3 and D.)

4 All Old Business items on the agenda will be dealt  
5 with first.

6 Once the Old Business issues have been taken care  
7 of, each item of New Business will be opened.

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

10 Then if anyone in the audience would like to speak  
11 or comment on a file that is part of a public hearing, they must  
12 first print their name on the sign-in sheet provided, and then be  
13 sworn in by the Chairman.

14 When it is your turn to speak, you will come to the  
15 front of the room to address the Commission and only the  
16 Commission, not anyone in the audience, with your comments.

17 It is possible for the Commission to decide to move  
18 a New Business issue to Old Business and vote on it the same  
19 night.

20 At the conclusion of all questions, comments, and  
21 discussion concerning each case, the Planning Commission will  
22 proceed. Any final decision by the Planning Commission  
23 concerning conditional use permits may be appealed to the Board  
24 of Zoning Adjustment any time within 90 days.

25 Applications for such an appeal may be acquired from

1 the Department offices during normal business hours.

2 CHAIRMAN EVANS: Thank you.

3 All the Commissioners should have received a copy of  
4 December 15th meeting in their packets. If there are no changes  
5 or additions in the minutes, the Chair would entertain a motion  
6 to approve the minutes.

7 COMMISSIONER McCREARY: Go ahead.

8 COMMISSIONER SCHULTEHENRICH: I have a  
9 correction. Page 4, it lists Board of Adjustment members that  
10 should be Board of Planning and Zoning members.

11 CHAIRMAN EVANS: Any omitted?

12 COMMISSIONER McCREARY: Page 30, line 23.  
13 Although I was not here last month, "me" should be "we". Last  
14 word on line 23 page 30, "...Conditional Use he had applied for,  
15 and that "me" would consider..." I'm pretty sure that's "we".

16 CHAIRMAN EVANS: I would assume so. Jay,  
17 do you remember? You said it.

18 COMMISSIONER SCHULTEHENRICH: I think it  
19 was "we".

20 CHAIRMAN EVANS: Any other changes or  
21 corrections? If not, the Chair would entertain a motion to  
22 approve the minutes with the changes mentioned.

23 COMMISSIONER SCHULTEHENRICH: I'll make the  
24 motion to approve the minutes with the corrections.

25 COMMISSIONER McCREARY: I'll second it.

1 CHAIRMAN EVANS: I have a motion and a  
2 second to approve the minutes with the changes. All those in  
3 favor signify by saying aye.

4 COMMISSIONER VOSS: Aye.

5 COMMISSIONER McLAREN: Aye.

6 COMMISSIONER CUNIO: Aye.

7 COMMISSIONER WILLIAMS: Aye.

8 CHAIRMAN EVANS: Aye.

9 COMMISSIONER BOLAND: Aye.

10 COMMISSIONER HAIRE: Aye.

11 COMMISSIONER TOBBEN: Aye.

12 COMMISSIONER SCHULTEHENRICH: Aye.

13 COMMISSIONER McCREARY: Aye.

14 CHAIRMAN EVANS: Opposed? [None]

15 The minutes are approved.

16 Communications and Visitor Comments. Anyone present  
17 wish to address the Commission? [None]

18 Moving on to Old Business. We have none.

19 File 150195, Thriftee Grocery Distributors, Inc. No  
20 public comments accepted.

21 Scottie, will you please give us the facts.

22 MS. EAGAN: This is File 150195, Thriftee  
23 Grocery Distribution, Inc.

24 The Applicant requests to rezone two parcels from  
25 Non-Urban and Agricultural to Commercial Activity Highway

1 Service.

2 The property is located at 2894 Jeffriesburg Road,  
3 approximately 40 feet east of Highway 50 in Union Township.

4 The Facts: The total area for the rezoning is  
5 approximately 2.5 acres, and consists of two parcels.

6 The zoning of this property is Non-Urban and  
7 Agricultural. The Applicant would like to rezone to Commercial  
8 Activity Highway Service.

9 Commercial Activity Highway Service zoning  
10 accommodates commercial uses that draw business primarily along  
11 the major highways within the county.

12 The properties around the proposed site are  
13 primarily zoned Non-Urban and Agricultural.

14 This property is surrounded by low-density  
15 residential land with a few undeveloped parcels nearby.

16 The Applicant is currently in violation for running  
17 an ATV sales business at this location, as well as having public  
18 nuisances on the property. Changing the zoning to Commercial  
19 Activity Highway Service would remedy the violation of running  
20 the ATV sales business.

21 Staff Comments: This request is for two parcels.  
22 The Applicant is the owner of one of the parcels, while it  
23 appears the A and S Railway is the owner of the other parcel.  
24 After extensive research, it is unclear who actually owns the  
25 second parcel, the A and S Railway parcel.

1                   Rezoning are allowed in our regulations due to the  
2 every-changing conditions that exist in the county and elsewhere.  
3 According to Article 14, Section 321, any such change must  
4 promote the health, safety, morals, comfort, and general welfare  
5 of Franklin County by conserving and protecting property and  
6 building values, by securing the most economical use of land and  
7 facilitating the adequate provision of public improvements in  
8 accordance with the Master Plan adopted by Franklin County.

9                   CHAIRMAN EVANS: Thank you.

10                   Again, since this is a rezoning, we do make a  
11 recommendation to the County Commission who holds a public  
12 hearing and has final approval.

13                   Scottie, two things. You said they have material  
14 public nuisances?

15                   MS. EAGAN: I don't believe Tori has been  
16 out to the property since this application has been filed.

17                   CHAIRMAN EVANS: And the second on the  
18 extensive research. Can we -- maybe I should be asking Mark.  
19 Are we responsible if we're not sure of the ownership?

20                   MS. EAGAN: But after our last meeting,  
21 Mark and I have met. We decided to leave it up to the County  
22 Commissioners. They can make that decision of whether or not  
23 they want to rezone that parcel.

24                   CHAIRMAN EVANS: Okay.

25                   COMMISSIONER HAIRE: Which parcel is that,

1 Scottie?

2 MS. EAGAN: It's 26.1 on the map. So the  
3 one to the right of the center.

4 CHAIRMAN EVANS: Jay?

5 COMMISSIONER SCHULTEHENRICH: I'm sorry  
6 I'm not following. Did you say that's the -- the parcel in  
7 question, or is that the parcel that we know who is the owner?

8 MS. EAGAN: He's the one east, or right,  
9 and the one that's in question.

10 COMMISSIONER SCHULTEHENRICH: When we're  
11 looking at this here, this looks different.

12 MS. EAGAN: Nichole has a circle on the  
13 map where the parcel is.

14 COMMISSIONER McCREARY: That's  
15 Jeffriesburg?

16 COUNTY ATTORNEY VINCENT: Public.

17 COMMISSIONER SCHULTEHENRICH: These two up  
18 here, don't these up here, don't -- they are not mentioned?

19 MS. EAGAN: It's just showing what the  
20 zoning is nearby.

21 COMMISSIONER SCHULTEHENRICH: Where are  
22 the --

23 COUNTY ATTORNEY VINCENT: Could you --  
24 when the applicant came in and Nikki and Scottie and myself and  
25 another lawyer, we are all confused as to who owns what piece of

1 the properties. One court says the 26.1 is owned in part by the  
2 applicant, and other ones say they don't. So we took the  
3 position that whatever he owned is what he has the right to ask  
4 to be rezoned. We're not positive. I don't know.

5 I don't know exactly what it is he owns. We're  
6 going to apply procedurally his request and rezone what he owns.  
7 There's a question of leases, questions of right-of-way, all  
8 kinds of stuff. The only way to actually get a handle on it --  
9 it probably happened at some point in time. I'm doing my best to  
10 find out, and that's not our responsibility to do.

11 MS. EAGAN: The problem is his building  
12 stands in the middle of that property. So that's the issue.

13 COUNTY ATTORNEY VINCENT: Also there's an  
14 adverse position. So the title is a mess. But we have been  
15 wrestling this for several months. Then he came to do the  
16 rezoning without doing all those legal things. There's no way  
17 that we can tell you ultimately what the outfit owns. Whatever  
18 he owns is what he wants to have rezoned.

19 When he come to present his case before the County  
20 Commission, he'll have to show what he owns. That's where the  
21 hearing takes place.

22 COMMISSIONER HAIRE: Scottie, what about  
23 the nuisance material that's around the building? That'd still  
24 be in violation?

25 MS. EAGAN: He will still have to take

1 care of that whether he rezones or not.

2 COUNTY ATTORNEY VINCENT: Right.

3 COMMISSIONER HAIRE: Most of the stuff was  
4 moved back when I drove by there.

5 MS. EAGAN: Right.

6 COUNTY ATTORNEY VINCENT: Mike has been  
7 informed that he will have to bear the burden of proof at the  
8 hearing, too.

9 CHAIRMAN EVANS: Bill?

10 COMMISSIONER McLAREN: There's a lot of  
11 confusion. They were working off changing the Railway property  
12 to the Treloar; is that not correct?

13 COUNTY ATTORNEY VINCENT: I don't know.

14 COMMISSIONER McCREARY: I can speak on  
15 that. A few months ago Ameren, in our company paper, said that  
16 they were going to donate that land all the way out to the Katy  
17 Trail. I wish I had it tonight, but they had the map where it's  
18 linking up outside of Marthasville loop that they claimed was  
19 Highway 47 all the way up to the Katy Trail and north of the  
20 river.

21 COUNTY ATTORNEY VINCENT: This is Highway  
22 50.

23 COMMISSIONER McCREARY: Highway 47 all  
24 the way up, but I could produce that I'm sure if I need to.

25 COMMISSIONER McLAREN: It's down south of

1 the Sedalia Trail off 65 where the loop is, it's going to come  
2 back in.

3 COMMISSIONER McCREARY: Right.

4 COMMISSIONER McLAREN: My understanding  
5 there's a lot of legal description, and my question is -- I  
6 understand that part of it the Railway actually owns, the part  
7 across from the Railway part. It's all screwed up.

8 COUNTY ATTORNEY VINCENT: That's a good  
9 word for it.

10 COMMISSIONER McLAREN: Pardon me. Real  
11 bad really that different parcels are owned by or used by the  
12 Railway, owned by the Railway in different ways. Some of it's  
13 going to go back; some of it's not. It's just something that we  
14 want to even weigh in on right now?

15 CHAIRMAN EVANS: Our recommendation would  
16 be on the part that we know he owns?

17 COUNTY ATTORNEY VINCENT: Whatever he  
18 owns.

19 CHAIRMAN EVANS: The Commission, when they  
20 themselves hear it, it's basically their problem.

21 COUNTY ATTORNEY VINCENT: The public  
22 hearing is where the evidence comes in as to whether or not what  
23 he in fact owns or does not own, he is going to have the burden  
24 of proof whether Tori --

25 COMMISSIONER WILLIAMS: Come forth and

1 show.

2 MR. MICHAEL PARMENTIER: I want to rezone  
3 this.

4 [Conferring]

5 COUNTY ATTORNEY VINCENT: In the event you  
6 all turn it down or Mike felt like he didn't want to follow  
7 through with spending the money to have a survey, go through all  
8 this, we thought it better to bring it to you guys before making  
9 a commitment to the property or commitment with regard to  
10 whatever he owned, and then at the public hearing he can present  
11 evidence himself. He doesn't have the authority to rezone the  
12 part as to what he owns or does not own. That's why -- exactly  
13 what you said, Bill.

14 CHAIRMAN EVANS: Our recommendation,  
15 should we show we recommend that approval of rezoning of those  
16 parcels that he owns?

17 COUNTY ATTORNEY VINCENT: Yes, sir.

18 CHAIRMAN EVANS: Then those parcels could  
19 be determined later at the public hearing?

20 COUNTY ATTORNEY VINCENT: And he has the  
21 burden of proof to show what he owns.

22 COMMISSIONER TOBBEN: Is he getting a tax  
23 bill --

24 COUNTY ATTORNEY VINCENT: On some of it.

25 COMMISSIONER TOBBEN: -- on that parcel in

1 question?

2 COUNTY ATTORNEY VINCENT: Can you overlay  
3 against the Railway. That's so all kinds of stuff out there.

4 COMMISSIONER SCHULTEHENRICH: Do you know  
5 exactly how much he potentially owns --

6 COUNTY ATTORNEY VINCENT: Ut-uh.

7 COMMISSIONER SCHULTEHENRICH: -- when you  
8 say he owns some of it? I'm just curious.

9 COUNTY ATTORNEY VINCENT: By Diamond Title  
10 Company.

11 COMMISSIONER SCHULTEHENRICH: Okay.

12 COUNTY ATTORNEY VINCENT: That's what I  
13 know.

14 COMMISSIONER SCHULTEHENRICH: That's where  
15 this comes from?

16 COUNTY ATTORNEY VINCENT: Yes.

17 CHAIRMAN EVANS: So we know for a fact  
18 that he owns some of it?

19 COUNTY ATTORNEY VINCENT: At least.

20 COMMISSIONER SCHULTEHENRICH: Yeah, the  
21 building.

22 COUNTY ATTORNEY VINCENT: At least part of  
23 the building, maybe all of the building.

24 COMMISSIONER SCHULTEHENRICH: Doesn't he  
25 have part or some ownership of the building?

1 COUNTY ATTORNEY VINCENT: We know he owns  
2 some of the building. He may own all of the building.

3 CHAIRMAN EVANS: I hope he owns the  
4 entrance.

5 COUNTY ATTORNEY VINCENT: We know he owns  
6 part of the building absolutely.

7 COMMISSIONER SCHULTEHENRICH: On both  
8 parcels?

9 MS. EAGAN: Yes.

10 COUNTY ATTORNEY VINCENT: For a long, long  
11 time.

12 COMMISSIONER McCREARY: You found the line  
13 right there?

14 COMMISSIONER SCHULTEHENRICH: But we don't  
15 know how much it is, whether it's --

16 COUNTY ATTORNEY VINCENT: We know he owns  
17 at least half.

18 COMMISSIONER SCHULTEHENRICH: -- whether a  
19 fourth or an eighth or --

20 COUNTY ATTORNEY VINCENT: Half of the  
21 building is on land that we know he owns. The part on the  
22 left -- the half on the left, that's a lease. We don't know how  
23 much is covered by lease, whether he has rights on that lease or  
24 whether or not he owns it.

25 MS. EAGAN: We have a legal description

1 that says just the -- that says that whole rectangle.

2 COUNTY ATTORNEY VINCENT: Yeah.

3 MS. EAGAN: It really is the most  
4 confusing thing.

5 COUNTY ATTORNEY VINCENT: We went back to  
6 the handwritten deed of 1908 on the --

7 COMMISSIONER McCREARY: I do believe that  
8 the building address is at 2498 not 2894 because I tried to look  
9 it up.

10 COUNTY ATTORNEY VINCENT: I don't know how  
11 that happened.

12 COMMISSIONER McCREARY: Never perfect.

13 Dan, did you see, was it 2498?

14 COMMISSIONER HAIRE: I thought it said  
15 it's following the numbers down. When they first put it in, it  
16 didn't show whether --

17 COMMISSIONER McCREARY: So you did, too.

18 COMMISSIONER HAIRE: I just had it was in  
19 the 2800 area.

20 CHAIRMAN EVANS: My Garmin took me to  
21 2894.

22 COMMISSIONER HAIRE: The numbers do  
23 increase.

24 COUNTY ATTORNEY VINCENT: Truly confused  
25 the Garmin.

1 COMMISSIONER McCREARY: But which parcel  
2 is which, the 010 or 000?

3 MS. EAGAN: 000 and 010 are the same  
4 point, and 26.1 is the one in question.

5 COMMISSIONER McCREARY: The one that's  
6 leased, close to Highway 50?

7 MS. EAGAN: No, that's -- the one on the  
8 left is his. The one on the right is in question. 26.1 is in  
9 question. The 26.01 is not in question.

10 COUNTY ATTORNEY VINCENT: Nikki, you want  
11 to --

12 MS. ZIELKE: I highlighted it.

13 COUNTY ATTORNEY VINCENT: -- highlight it  
14 again. That below Jeffriesburg Road, there is no doubt but that  
15 he owns that. The issue is does he own the building on the right  
16 half in the 26.1, and there's also a lease. That's supposed to  
17 be there. There's all kinds of -- I don't know.

18 COMMISSIONER McLAREN: The lease, how does  
19 the lease relate here?

20 COUNTY ATTORNEY VINCENT: Back in 1908,  
21 there was a lease that conveyed certain rights to some people.  
22 Then as you go through the changes of the deed, --

23 MS. EAGAN: It gets messed up.

24 COUNTY ATTORNEY VINCENT: -- that lease  
25 falls away. And the right-of-way granted by -- I'm not a title

1 guy.

2 COMMISSIONER McLAREN: So the lease is in  
3 question also?

4 COUNTY ATTORNEY VINCENT: Well, I'm not  
5 sure about the lease on the part he owns.

6 COMMISSIONER McLAREN: You keep saying where  
7 the lease is.

8 COUNTY ATTORNEY VINCENT: Uh-huh.

9 COMMISSIONER McLAREN: That part is --

10 MS. EAGAN: That's him leasing it.

11 COUNTY ATTORNEY VINCENT: He leases to  
12 somebody else, I think.

13 COMMISSIONER McLAREN: So that part is not  
14 in question?

15 COUNTY ATTORNEY VINCENT: That's not yet.  
16 It's the other side that ownership lease rights there's all kinds  
17 of stuff involved. Ownership by the Railway, ownership by him,  
18 how he determines the old lease in the 1908 deed. I don't know.  
19 Guess I'm not going to. I don't know.

20 CHAIRMAN EVANS: For purposes of the  
21 Commission, we know that he owns a piece of it?

22 COUNTY ATTORNEY VINCENT: Yep.

23 CHAIRMAN EVANS: And so what he owns or  
24 doesn't own will be determined at the public hearing. We just  
25 need to decide on the part he doesn't and that whatever piece he

1 does own, and whether Commercial Activity Highway Service any  
2 activity there that he could perform, if any.

3 COUNTY ATTORNEY VINCENT: The part on the  
4 right, and then she can't prosecute him.

5 CHAIRMAN EVANS: Thank you, Mark.

6 And it is just a recommendation. There is other  
7 Commercial Activity Highway Service zoning close by; is that  
8 correct, Scottie?

9 MS. EAGAN: Bill, we'll need the Applicant  
10 to come up and amend his application to include that 26.1 parcel.

11 CHAIRMAN EVANS: Okay. We need him to  
12 come up now. Is the Applicant here?

13 State your name and address

14 MR. PARMENTIER: Michael Parmentier, 1050  
15 Union.

16 [Thereupon, the witness was sworn.]

17 CHAIRMAN EVANS: Would you like --  
18 Scottie, would you tell him what he needs to amend.

19 MS. EAGAN: You want to make sure you ask  
20 to -- to include the parcel in question in the application.

21 MR. PARMENTIER: Yes, we do. Can I add  
22 anything?

23 CHAIRMAN EVANS: Not really, --

24 MR. PARMENTIER: Okay.

25 CHAIRMAN EVANS: -- unless there is a

1 specific question from the owner of the property. We could hear  
2 that.

3 COMMISSIONER McCREARY: Just what is the  
4 address on the building?

5 MR. PARMENTIER: Whatever I gave her I  
6 think is what it is.

7 COMMISSIONER McCREARY: Okay.

8 MS. EAGAN: Mr. --

9 MS. ZIELKE: Has he a legal right to  
10 address the Commission?

11 COUNTY ATTORNEY VINCENT: If they ask him,  
12 right. They have the right to ask questions of the Applicant.

13 MS. ZIELKE: I understand.

14 CHAIRMAN EVANS: Do you have any questions  
15 of the Applicant? Jay?

16 COMMISSIONER SCHULTEHENRICH: Well, I  
17 guess I do. I'm not -- is this the individual who has been cited  
18 for the brush or rubbish on the property?

19 MS. EAGAN: No, he's the owner of the  
20 property, not the one in violation.

21 COMMISSIONER SCHULTEHENRICH: Owner.  
22 Though he owns the property, he is not in violation?

23 MS. EAGAN: The lessee is in violation.

24 COMMISSIONER SCHULTEHENRICH: You're  
25 leasing that right now?

1 MS. EAGAN: We actually sent the violation  
2 to Thriftee Grocery.

3 MR. PARMENTIER: That's mine.

4 COMMISSIONER SCHULTEHENRICH: Right, and  
5 you're the owner of the Thriftee Grocery?

6 MR. PARMENTIER: Yes.

7 COMMISSIONER SCHULTEHENRICH: You own the  
8 company?

9 MR. PARMENTIER: Me and my brothers and  
10 sister.

11 COMMISSIONER SCHULTEHENRICH: Okay. Are  
12 you leasing this building to somebody else then?

13 MR. PARMENTIER: Yes.

14 COMMISSIONER SCHULTEHENRICH: Can you tell  
15 me who that lease is --

16 MR. PARMENTIER: Brad Young.

17 COMMISSIONER SCHULTEHENRICH: -- what it  
18 is being used for? But he is the one that has that?

19 MR. PARMENTIER: Yes.

20 COMMISSIONER SCHULTEHENRICH: It's his  
21 material, and that's what's being questioned by the County; do  
22 you know?

23 MR. PARMENTIER: Yes.

24 COMMISSIONER SCHULTEHENRICH: Okay. And  
25 that has not been cleaned up, to the best of our knowledge, yet?

1 MS. EAGAN: I don't have anything in here  
2 saying it's closed.

3 COMMISSIONER SCHULTEHENRICH: When was it  
4 noted?

5 MS. EAGAN: We've been working with him  
6 since July --

7 COMMISSIONER SCHULTEHENRICH: July?

8 MS. EAGAN: -- involving the ownership of  
9 the property.

10 COMMISSIONER SCHULTEHENRICH: I don't know  
11 if we -- I know this is not a Conditional Use Permit. This is a  
12 zoning request, and we only recommend, but it just seems to me to  
13 be a little bit hard, for me especially, to approve it. Okay.  
14 We can't put conditions on it before we approve it. He has to  
15 clean up the property?

16 MS. EAGAN: He has to clean up the  
17 property regardless.

18 COUNTY ATTORNEY VINCENT: If it's still a  
19 mess, we will send it over to Municipal Court for charges whether  
20 you make a recommendation tonight or not.

21 CHAIRMAN EVANS: That's really a separate  
22 issue.

23 MS. EAGAN: Right.

24 CHAIRMAN EVANS: So it'll proceed on its  
25 own path.

1 COMMISSIONER SCHULTEHENRICH: It's a  
2 separate issue, but it's certainly in front of us. I think it  
3 puts us in a position of basically giving a nod of  
4 recommendation when there's violations and a site of probably  
5 that others in the area do not appreciate it. It puts us in that  
6 position to basically give a favorable recommendation when that's  
7 still before us.

8 COMMISSIONER HAIRE: Did you respond to  
9 this letter you got in July? What was your response to Tori?

10 MR. PARMENTIER: When I came down and  
11 talked about rezoning, the party who rents the building, he has  
12 cleaned up some and put the stuff more in an orderly manner, but  
13 he keeps that place out there better than anybody has that's  
14 rented that building for 20 or 30 years.

15 COMMISSIONER SCHULTEHENRICH: I haven't  
16 seen what's being expressed to us here.

17 MR. PARMENTIER: Yes.

18 COMMISSIONER HAIRE: Most is in the back.

19 CHAIRMAN EVANS: I didn't see anything in  
20 front at all. It was not just behind the building, but far  
21 behind the building.

22 COUNTY ATTORNEY VINCENT: Without a charge  
23 being filed against somebody, we've got to be careful here. We  
24 have the burden of proof to prove the violation. There's been no  
25 charge filed. There's been a letter asking him to clean it up,

1 but that's as far as it's gone.

2 If he's cleaned up the area, if we -- the way it  
3 works. Just like the prosecutor -- Tori acts as the sheriff. He  
4 has facts which he believed are in violation of our Code. He  
5 presented that to the prosecuting attorney. The prosecuting  
6 attorney looks at it to see whether or not there is sufficient  
7 evidence to believe that a crime has been committed.

8 We haven't got to that place yet.

9 COMMISSIONER McCREARY: Right.

10 CHAIRMAN EVANS: That's a separate track.

11 Even though it's good information to know, we can't put a  
12 contingent on the rezoning because --

13 COUNTY ATTORNEY VINCENT: You can never on  
14 rezoning --

15 CHAIRMAN EVANS: Right.

16 COMMISSIONER SCHULTEHENRICH: Right.

17 COUNTY ATTORNEY VINCENT: -- regardless of  
18 how it's zoned.

19 CHAIRMAN EVANS: It's a separate track in  
20 the rezoning. It really has nothing to do with it.

21 COUNTY ATTORNEY VINCENT: Right. I had --  
22 another attorney is going to work on this thing. If it even  
23 rises to the level of violation of our Code, I don't know that.

24 COMMISSIONER SCHULTEHENRICH: Well, I  
25 presume that, but I thought that's what was reported here.

1 COUNTY ATTORNEY VINCENT: It was in July,  
2 but --

3 MS. EAGAN: When he was in violation for  
4 two things.

5 COUNTY ATTORNEY VINCENT: -- there's  
6 nothing before you tonight to show one that still exists and  
7 whether she had enough evidence violating -- that there is a  
8 violation. I don't know how much was there to start with, which  
9 Tori took action on and what's happened between then and now.

10 COMMISSIONER SCHULTEHENRICH: If we are  
11 not sure --

12 COUNTY ATTORNEY VINCENT: That -- that's  
13 nothing, no.

14 COMMISSIONER SCHULTEHENRICH: That -- I'm  
15 not sure why this was brought up that there was a violation.

16 COUNTY ATTORNEY VINCENT: I don't know.

17 COMMISSIONER SCHULTEHENRICH: It should  
18 not have been presented tonight.

19 COUNTY ATTORNEY VINCENT: I agree with you  
20 a hundred percent.

21 COMMISSIONER SCHULTEHENRICH: If then  
22 there is no discussion of it --

23 COUNTY ATTORNEY VINCENT: That is correct.

24 COMMISSIONER SCHULTEHENRICH: Okay.

25 COUNTY ATTORNEY VINCENT: We're in

1 agreement.

2 CHAIRMAN EVANS: That would be a separate  
3 track, and it's not our track.

4 COMMISSIONER HAIRE: What we need in the  
5 Commercial Zoning Districts is what we can potentially allow with  
6 the reasoning, that's anything in that category that we would be  
7 -- we feel would be conducive.

8 CHAIRMAN EVANS: ATV sales is one  
9 non-residential permitted use, but once we rezone, then he can  
10 use it for anything. In kind of looking through the 30 some odd  
11 uses, I didn't see any issues myself. I don't think he's going  
12 to put a golf course there, but...

13 COMMISSIONER McCREARY: Mr. Chairman, I do  
14 have a question. We have to approve this application as is for  
15 recommendation to the Commission. Can we recommend that the  
16 parcel that is not in question be okayed and zoned?

17 CHAIRMAN EVANS: And that's what we would  
18 do basically. Whatever property the individual owns would be  
19 rezoned, and the Commission will determine, as Mark says, what --  
20 what it is, what piece that is, if it's all of it. So we can  
21 just say any --

22 COMMISSIONER McCREARY: A parcel --

23 MS. EAGAN: Amend his application to  
24 include that other parcel and --

25 COMMISSIONER McCREARY: After he proves

1 the ownership.

2 MR. PARMENTIER: 26.1 is okay for the  
3 rezoning if the Railway owned -- you know, owns it?

4 CHAIRMAN EVANS: So we would in fact  
5 recommend that both parcels be rezoned. Then it goes to the  
6 County Commission; at which time, the public hearing evidence has  
7 to be presented that he does in fact own both parcels?

8 COUNTY ATTORNEY VINCENT: Right.

9 Mike, I'm not trying to speak for you. He owns all  
10 of it. The Railway -- we think the Railway may own part of it.  
11 I don't know who's right. Mike is going to -- is asking that the  
12 entire parcels be rezoned because -- to include what he thinks he  
13 owns, and I recommend that your recommendation be based upon  
14 whatever he does in fact own. That may turn out that we don't  
15 know, how you do it.

16 COMMISSIONER McCREARY: What difference  
17 does it make if he doesn't own it?

18 COUNTY ATTORNEY VINCENT: It's just like a  
19 quit claim on Bill's house, he issues to you a quit claim deed.

20 COMMISSIONER McCREARY: Right.

21 CHAIRMAN EVANS: Not if he's going to  
22 amend his application to include that parcel, then our  
23 recommendation would have been for -- for both parcels?

24 COUNTY ATTORNEY VINCENT: Yes, sir, it  
25 would.

1 CHAIRMAN EVANS: Any other questions?

2 [None]

3 Thank you.

4 MR. PARMENTIER: Thank you.

5 CHAIRMAN EVANS: So basically what we're  
6 looking at is, without everything else included, there is a  
7 recommendation for those two parcels to be rezoned to Commercial  
8 Activity Highway Service, then that whatever is not, the  
9 ownership at this point is a non-issue, just whether this  
10 rezoning to this zoning category would be appropriate, and again,  
11 pass it on to the Commission; let them have all the fun they want  
12 with it?

13 COUNTY ATTORNEY VINCENT: Yes, sir.

14 CHAIRMAN EVANS: If there is no further  
15 discussion, then -- Ron?

16 COMMISSIONER WILLIAMS: Perhaps with all  
17 the discussion on the ownerships and the potential violations,  
18 we're missing something here, and that is when we rezone  
19 property, we should be looking at all the uses in determining if  
20 that is proper for this property. Looking at the list of  
21 property or uses, I'm not so sure that applies to this property.

22 CHAIRMAN EVANS: Do you have any  
23 specifics, because that's what I just mentioned. As I look  
24 through, I didn't see too many that would be appropriate.

25 COMMISSIONER WILLIAMS: Just looking at

1 all of them, I'm going to say all are properties that that  
2 particular location is holding is going to be changed and  
3 improper conditional uses if they come and apply for additional  
4 ones.

5 CHAIRMAN EVANS: Well, and that's why in  
6 looking through all of them, I didn't see any that I thought  
7 would be terribly inappropriate for that site. So I mean, do you  
8 see any that -- that's why I mentioned golf course.

9 COMMISSIONER WILLIAMS: Yeah, there are  
10 some uses that will not fit on the property, no doubt there. I'm  
11 not so sure that that area, even though there might be a CA  
12 District that flows by, in my determination, that's a proper  
13 zone, is all I'm saying.

14 CHAIRMAN EVANS: Any other discussion?

15 If not, the Chair would entertain a motion to move  
16 this to Old Business.

17 COMMISSIONER SCHULTEHENRICH: I'll make  
18 the motion, Mr. Chairman, based on the rezoning request, okay,  
19 that we move it over to Old Business -- or to Old Business for  
20 this evening.

21 CHAIRMAN EVANS: We have a motion. Do we  
22 have a second?

23 COMMISSIONER BOLAND: I'll second that.

24 CHAIRMAN EVANS: We have a motion and a  
25 second to move File 150195 to Old Business. All in favor signify

1 by saying aye.

2 COMMISSIONER VOSS: Aye.

3 COMMISSIONER McLAREN: Aye.

4 COMMISSIONER CUNIO: Aye.

5 COMMISSIONER WILLIAMS: Aye.

6 CHAIRMAN EVANS: Aye.

7 COMMISSIONER BOLAND: Aye.

8 COMMISSIONER HAIRE: Aye.

9 COMMISSIONER TOBBEN: Aye.

10 COMMISSIONER SCHULTEHENRICH: Aye.

11 COMMISSIONER McCREARY: Aye.

12 CHAIRMAN EVANS: Opposed? [None]

13 The motion carried.

14 Moving on to File 150277, Planning and Zoning.

15 Scottie?

16 MS. EAGAN: This is File 150277.

17 The Applicant requests the revocation of Conditional  
18 Use Permit No. 100114 for Carl Zerna, Jr.

19 The property is located at the southwest corner of  
20 Old Highway 100 and Northridge Drive in Boles Township.

21 The Facts: Mr. Zerna received a Conditional Use  
22 Permit on July 20, 2010 with 13 conditions listed.

23 Planning and Zoning inspected the property for  
24 yearly compliance on December 9, 2015.

25 Upon site visit, it was determined Mr. Zerna has not

1 completed or was not complying with the following conditions:

2 a. Applicant must have all the necessary  
3 licenses, permits, and certificates required  
4 to do business in the County and State; and

5 b. Any cars not for sale will need to be  
6 behind a site-proof fence prior to the  
7 issuance of the CUP.

8 When Mr. Karim visited the property, there were  
9 multiple vehicles on the lot that did not have any paperwork as  
10 being for sale.

11 Mr. Karim also noticed a large collection of  
12 vehicles toward the back of the property behind some trees but  
13 still visible from Highway 100.

14 The Planning Department did research to find if Mr.  
15 Zerna has a dealer's license for this address and could not find  
16 any record of one.

17 Staff Comments: As of January 8, 2016, Mr. Zerna  
18 has not provided the Planning and Zoning Department with any  
19 dealer's license for this location.

20 CHAIRMAN EVANS: Thank you.

21 Is Mr. Zerna present? Would you like to make any  
22 comment before we begin our discussion? Are you a representative  
23 of Carl Zerna, Jr.? State your name and address.

24 MR. ZERNA: Carl Zerna, Jr. Number 5  
25 Brinley Lane, Villa Ridge, Missouri 63089.

1 [Thereupon, the witness was sworn.]

2 MS. EAGAN: Sign in.

3 CHAIRMAN EVANS: Are there any comments  
4 you'd like to make before we begin our discussions?

5 MR. ZERNA: Well, I was trying to listen  
6 to everything she said. I've been a dealer since 1987 at the  
7 other location. The State of Missouri does not require me to  
8 have another license in here unless I sell cars off that lot.

9 When I originally went for this in 2010, they said  
10 you had two years from the time you started your business there.  
11 That's where I have a great big problem, because I haven't  
12 started. I leave that for my overflow lot. All the cars are  
13 handled by the company, and it's only about three blocks from  
14 there. That's one question.

15 There was a -- Tori had mentioned something to me  
16 about a year ago -- and I have all the paperwork back there --  
17 that he wanted me to have a privacy fence ran down the property  
18 to one side of -- if you're looking at the red place, it's the  
19 piece to the left about six, seven acres. Because of that bad  
20 weather, it did not come.

21 The cars that are -- you're talking about up back in  
22 the back, that's well within all the wooded area that he was  
23 talking about. I did tear down some. I had probably put up a --  
24 just a short little area. Once you show me pictures, I'll show  
25 you what I had took down a bunch of mulberry roses that blocked a

1 little bit of the view from in where I keep a lot of  
2 repossessions.

3 What was your other complaint, ma'am?

4 MS. EAGAN: If you're not doing business  
5 on this location, you don't have a license --

6 MR. ZERNA: [Interposing] There is no law  
7 keeping --

8 MS. EAGAN: -- for the business to sell  
9 cars at that location. If you're -- if the business has not  
10 started, then your Conditional Use Permit would have expired.

11 The conditional use is for the business, not for you  
12 to store overflow vehicles on that property.

13 MR. ZERNA: So what do I have to get to  
14 store cars there?

15 MS. EAGAN: We don't have any sort of  
16 permit for you to store over three cars.

17 MR. ZERNA: I was going to buy it. I put  
18 over \$8,000 of gravel on it this summer at length trying to build  
19 up a base because you required me to. There are several others  
20 that have opened up in the Franklin County -- not in the Township  
21 -- but you said then that you did not require them to have  
22 asphalt. I wanted to --

23 CHAIRMAN EVANS: Conditional uses, each  
24 one is decided individually. So you will not have the same  
25 conditions on every conditional use. So you can't reference any

1 other. We are talking about yours.

2 MR. ZERNA: What do I need to do to not  
3 have to close?

4 CHAIRMAN EVANS: That's not what we're  
5 talking about tonight.

6 MR. ZERNA: Okay.

7 CHAIRMAN EVANS: We're talking about the  
8 violations and the fact that they haven't been remedied. We are  
9 just asking for your comments before we discuss whether or not  
10 we'll do that.

11 Commissioners have any other questions right now  
12 before we begin discussions?

13 COMMISSIONER WILLIAMS: I do have one.

14 CHAIRMAN EVANS: Ron.

15 COMMISSIONER WILLIAMS: I assumed you paid  
16 for the gravel?

17 MR. ZERNA: That was just the purchase of  
18 the gravel, not the hauling or nothing.

19 COMMISSIONER WILLIAMS: Did you speak to  
20 anyone prior to putting that down to make sure you were okay with  
21 the zoning and business there?

22 MR. ZERNA: I was going -- trying to get  
23 it finished. If you pave without having a great big base, then  
24 the asphalt is just going to crack.

25 COMMISSIONER WILLIAMS: That's not what

1 I'm asking. The way you understand your conditional use for the  
2 business, okay.

3 MR. ZERNA: To sell cars.

4 COMMISSIONER WILLIAMS: You're not  
5 operating a business of those cars now.

6 MR. ZERNA: I'm trying to -- to have them  
7 in stock there. According to you, I have to have asphalt, and I  
8 have to have a base and the base had to be compacted.

9 COMMISSIONER WILLIAMS: My point, I think  
10 you got the cart before the horse and went and spent \$8,000.  
11 Maybe before you invested, you should have found out whether or  
12 not you were -- had the right zoning conditional use permit,  
13 permit, whatever, to do that.

14 MR. ZERNA: Then maybe I should ask this  
15 then.

16 MS. EAGAN: Can I stipulate one of his  
17 conditions was that the lot had to be gravel before we even  
18 issued the permit. Once we issued the permit, then yeah, he had  
19 two years to asphalt it.

20 COMMISSIONER WILLIAMS: Okay.

21 MS. EAGAN: So he was in compliance with  
22 the asphalt, but the problem is the business isn't there now.

23 COMMISSIONER WILLIAMS: Got it. Okay.

24 Sorry.

25 MR. ZERNA: No, trust me, I'm still

1 learning.

2 Then one question -- statement I have. Can I have a  
3 little bit more time to get the new building to move the business  
4 there, because I have a legal license now. I am grandfathered in  
5 right up the street.

6 CHAIRMAN EVANS: Well, I think the  
7 Commission will be discussing that. So...

8 COMMISSIONER SCHULTEHENRICH: I have a  
9 question on the moving the other vehicles that's in your current  
10 lot that you had on the conditional use.

11 Is it your plans to move those cars down to this  
12 other lot?

13 MR. ZERNA: Yes, sir.

14 COMMISSIONER SCHULTEHENRICH: So you will  
15 not sell cars in the one that's in front of the meat company?

16 MR. ZERNA: Yes, sir, that is correct,  
17 once I get it legally moved, because I have to do it with the  
18 State also.

19 COMMISSIONER SCHULTEHENRICH: What is your  
20 time, in your mind at least, for accomplishing what you're trying  
21 to achieve?

22 MR. ZERNA: Get a building up to be able  
23 to start, about 30 days. That's weather permitting. It's a  
24 great big building. I'll have one end for an office, then  
25 someplace to work inside to clean on cars.

1 COMMISSIONER SCHULTEHENRICH: If you get a  
2 building, what's the time for moving all the cars down to this  
3 other lot?

4 MR. ZERNA: That wouldn't be long at all,  
5 sir.

6 COMMISSIONER SCHULTEHENRICH: It's not  
7 your intention to sell from both places?

8 MR. ZERNA: No, sir.

9 COMMISSIONER SCHULTEHENRICH: You being  
10 here with the Conditional Use Permit -- didn't we put a fence  
11 requirement on that, Scottie, so the cars will need to be behind  
12 a site-proof fence?

13 MR. ZERNA: Would you want me to put -- go  
14 ahead.

15 COMMISSIONER SCHULTEHENRICH: Is it your  
16 intention to put a fence up having to go with the property to the  
17 left side from Highway 100, and is it your intention to follow  
18 through with putting a fence around it?

19 MR. ZERNA: If you look at the note, the  
20 fence was anything that wasn't asphalted. The asphalted area --

21 COMMISSIONER SCHULTEHENRICH: I don't --  
22 we don't have that in front of us.

23 MR. ZERNA: It kind of goes along with the  
24 asphalt, except that could be up in the front and have cars for  
25 sale and have a fence that anything that was not asphalted, they

1 had wanted to fence. If I have to do that, then that's what I'm  
2 going to have to do. Yes, I guess I'll put up a fence.

3 COMMISSIONER SCHULTEHENRICH: Wouldn't we  
4 need for him to asphalt the whole --

5 MS. EAGAN: Just whatever he is going to  
6 use for auto sales. It allows him to have up to a hundred  
7 vehicles on that, total hundred, and it has to be asphalted.  
8 Anything not for sale needs to be behind a site-proof fence.

9 COMMISSIONER SCHULTEHENRICH: If he's  
10 planning on selling a hundred, he's going to asphalt most of that  
11 rock, I believe. Okay. My observations on it.

12 MR. ZERNA: That's true.

13 COMMISSIONER HAIRE: How many vehicles do  
14 you have on that lot now?

15 MR. ZERNA: Answers one of your questions.

16 If you look at the application, it allows up to 100  
17 cars and the repossessions in the back. That's in the notes.

18 And what was the question?

19 COMMISSIONER HAIRE: How many lots [sic]  
20 do you have currently?

21 MR. ZERNA: How many cars?

22 COMMISSIONER HAIRE: Cars.

23 MR. ZERNA: Right around 50 to 60, and  
24 room for probably about 35, 40 repossessions in the back.

25 COMMISSIONER HAIRE: How many cars do you

1 have on your other lot?

2 MR. ZERNA: Probably somewhere around 50.

3 COMMISSIONER HAIRE: Do I have -- do you  
4 have that number? We would be over the CUP as written  
5 previously, Scottie?

6 MS. EAGAN: What he's remembering from the  
7 CUP is different. So Nichole is going to go get it.

8 COMMISSIONER HAIRE: Okay.

9 MR. ZERNA: I'll end up with consolidated,  
10 right, have both once I move down there. I know I'll only have a  
11 hundred in front -- or a hundred for sale, I should say.

12 CHAIRMAN EVANS: All the cars on this lot  
13 will be for sale?

14 MR. ZERNA: Yes, and the repossessed to --

15 CHAIRMAN EVANS: So all in front of --

16 MR. ZERNA: -- get money to buy -- for the  
17 asphalt.

18 COMMISSIONER McCREARY: Don't they -- the  
19 ones not for sale, you have -- didn't you previously state the  
20 owner didn't want a fence up.

21 MS. EAGAN: No, he's talking about the  
22 neighbor to the side. He's the owner of the property.

23 COMMISSIONER McCREARY: Okay, thank you.

24 CHAIRMAN EVANS: Bill?

25 COMMISSIONER McLAREN: Don't you really

1 want a fence so somebody doesn't come back and repossess their  
2 repossessions?

3 MR. ZERNA: Got to be honest. I look at  
4 it, anybody isn't going to go back up there and really tear up  
5 stuff, so far. I'm up in the woods. But I mean, I hate to...

6 COMMISSIONER McLAREN: If you repossess  
7 somebody's cars, wouldn't you, being honest, want it inside a  
8 fence to where they couldn't come back and get it? I'm a -- I'm  
9 just curious.

10 MR. ZERNA: They know they have done wrong  
11 and went way too far. Just trying to give somebody the benefit  
12 of doubt. After we repossess them, probably more than half, but  
13 that's just because we are trying to work with people. Maybe  
14 they went through bad times.

15 COMMISSIONER SCHULTEHENRICH: This guy, I  
16 -- if he has an issue about the Conditional Use Permit, basically  
17 he can go to the Board of Adjustment and request for a variance  
18 on one of those conditions.

19 MS. EAGAN: He can't anymore for the  
20 appeals on his Conditional Use Permit, if you'd like to keep it.

21 COMMISSIONER SCHULTEHENRICH: Going to the  
22 Board of Adjustment is not an option anymore?

23 MS. EAGAN: No, because he would have to  
24 have appealed your decision. It's 90 days to appeal your  
25 decision.

1 COMMISSIONER SCHULTEHENRICH: One of our  
2 decisions is -- trying to get here in the file -- was that he  
3 would have, one, started the business. He had two years in which  
4 to do it?

5 MS. EAGAN: Once we issued the permit. We  
6 didn't issue the permit until about a year ago.

7 COMMISSIONER SCHULTEHENRICH: Okay, sorry.  
8 So then you still have a year at least to do the  
9 asphalt.

10 MR. ZERNA: I feel better already.

11 COMMISSIONER SCHULTEHENRICH: But the  
12 fences may still be an issue.

13 MR. ZERNA: I can get a fence up.

14 CHAIRMAN EVANS: Scottie, once he has that  
15 one clear, to asphalt, he will have completed all the conditions;  
16 would that be correct?

17 MS. EAGAN: All conditions should have  
18 been met except the issue that the business is not at that  
19 location. It's the storing of vehicles on that location. So  
20 that's what the violation is about.

21 CHAIRMAN EVANS: Ron?

22 COMMISSIONER WILLIAMS: So the direct  
23 question is when do you think you're going to move your operation  
24 to that location?

25 MR. ZERNA: I'm really not left with any

1 option, and so I need to move on it regardless. I have to -- I'm  
2 hoping, weather-permitting, to have a building down there in 90  
3 days.

4 COMMISSIONER WILLIAMS: Once you get the  
5 building up, then the cars come down to this location?

6 MR. ZERNA: Then I have to go through the  
7 process of elimination as far as what do I want to keep, what do  
8 I want, to stay at the hundred.

9 COMMISSIONER WILLIAMS: Okay. From now  
10 until what? How many months is it going to take you to get that  
11 done? That's what I'm asking.

12 MR. ZERNA: As far as moving all the cars,  
13 sir?

14 COMMISSIONER WILLIAMS: [Nodding]

15 MR. ZERNA: Presumably two weeks, which is  
16 normally not a -- come out and look. I could probably have the  
17 cars moved within two weeks after that, but that doesn't mean I  
18 have to move them there.

19 CHAIRMAN EVANS: What kind of time, two  
20 weeks after for...

21 MR. ZERNA: Oh.

22 COMMISSIONER BOLAND: Doesn't he have to  
23 asphalt the lot?

24 COMMISSIONER WILLIAMS: No, he's still got  
25 a year.

1 COMMISSIONER McLAREN: I wasn't part of  
2 this. Wouldn't sound to me like he still has a year to asphalt.  
3 The problem is he -- there's two -- I hope I understand -- two  
4 more.

5 One, there's not a fence, and two, he's really not  
6 selling cars from there.

7 MS. EAGAN: Right.

8 COMMISSIONER McLAREN: He still has a  
9 fine.

10 MS. EAGAN: Doing the asphalt, right.

11 COMMISSIONER WILLIAMS: What I'm getting  
12 at --

13 COMMISSIONER McLAREN: Can I ask one more  
14 question real quick on the paving?

15 And from this conversation, if he only wants to have  
16 50 cars there, he can asphalt for 50 cars, but he could add on  
17 with the other 50 parked at some other property?

18 MS. EAGAN: The applicant shall pave that  
19 portion which will be used for the sale of cars within two years  
20 of issuance of the CUP.

21 COMMISSIONER McLAREN: So if he put 50  
22 cars there instead of a hundred, does he only have to pave enough  
23 for 50 cars?

24 MS. EAGAN: Whatever land is used for the  
25 sale of cars has to be paved whether he does 20, 70, or a

1 hundred.

2 MR. ZERNA: If I --

3 COMMISSIONER McLAREN: Would he be  
4 prevented from only doing five cars if that's what he has the  
5 money to do, and then he comes back and does 25 cars and adds 25  
6 cars later, as long as he doesn't have more than that and still  
7 have his CUP for a hundred cars? Is that --

8 CHAIRMAN EVANS: We normally don't put a  
9 minimum on the CUP, just a maximum.

10 COMMISSIONER HAIRE: Am I missing  
11 something? We are discussing about a CUP on a business at the  
12 location?

13 MS. EAGAN: Correct.

14 CHAIRMAN EVANS: Scottie, give us a little  
15 bit of a timeline. He -- he had two years from the issuance of  
16 the CUP to asphalt?

17 MS. EAGAN: The CUP was approved July 20,  
18 2010. Per regulations, you have a year to get everything done;  
19 otherwise, it expires. He did start doing some of the  
20 conditions. So it didn't begin at the start.

21 The CUP was issued on May 2 of 2015. Now he has two  
22 years from that to do the asphalt. But then we went to do the  
23 inspection in December. It's like there is no way to tell what  
24 cars are for sale here, you know.

25 COMMISSIONER HAIRE: So it's was the CUP

1 in existence if there's no business there? That's my point.

2 MS. EAGAN: It was issued -- prior to  
3 being issued it was done. He has gravel. It needed some cars  
4 there. He was working toward it. Then everything just stopped.  
5 More cars kept coming, but --

6 COMMISSIONER HAIRE: Now tell us what is  
7 the status of the CUP if we are not actually doing business at  
8 that location.

9 MS. EAGAN: It's up to you guys. Do you  
10 want -- the CUP goes with the land until you revoke, correct.

11 COMMISSIONER HAIRE: Or expired.

12 COMMISSIONER CUNIO: Correct. He doesn't  
13 have a business there.

14 MS. EAGAN: That's within the advice that  
15 we didn't -- we can't find a different license from the State for  
16 him to do business at that location.

17 MR. ZERNA: And there's not one.

18 COMMISSIONER BOLAND: So basically it's a  
19 junkyard now. I'm just saying it --

20 MS. EAGAN: That's how it looks.

21 COMMISSIONER BOLAND: That's what the  
22 County is referring to it as since he doesn't have a license to  
23 do business there?

24 MR. ZERNA: At that location.

25 MS. EAGAN: Right.

1 COMMISSIONER McCREARY: And no cars that  
2 end up, you said, junk storage lot, whatever?

3 COMMISSIONER BOLAND: Right.

4 COMMISSIONER McCREARY: To sell cars if  
5 there was a business, the cars would have to be on asphalt, any  
6 car that's not would be behind a site-proof fence, correct?

7 MS. EAGAN: Correct.

8 MR. ZERNA: If it's site-proof, does  
9 that --

10 MS. EAGAN: You still need to have a  
11 license to do business at that location through the State.

12 MR. ZERNA: I've to get a building first.

13 MS. EAGAN: That's the issue we are  
14 running into. There is no business at that location.

15 COMMISSIONER McCREARY: Right.

16 MS. EAGAN: It's just cars.

17 CHAIRMAN EVANS: Ron?

18 COMMISSIONER WILLIAMS: I'm going to ask  
19 it again.

20 COMMISSIONER McCREARY: Okay.

21 COMMISSIONER WILLIAMS: From this point,  
22 how long will it take to establish a business on that?

23 I don't --

24 MR. ZERNA: If I can get it done by the  
25 end of May --

1 CHAIRMAN EVANS: No, we need a date. We  
2 are talking you're in violation. Okay. So we're trying to work  
3 with you here, but we are trying to get a specific timeline that  
4 we could learn whether or not we extend it or revoke that CUP  
5 tonight. If so and if maybe by isn't going to do.

6 MR. ZERNA: So then I would say May 30th.

7 COMMISSIONER WILLIAMS: Thank you.

8 CHAIRMAN EVANS: Thank you.

9 COMMISSIONER McCREARY: Perfect.

10 CHAIRMAN EVANS: Any other questions?

11 [None]

12 Thank you.

13 Okay. Scottie, going back --

14 You can sit down. Thank you.

15 MR. ZERNA: Thank you.

16 CHAIRMAN EVANS: Scottie, going again on  
17 this timeline. So he met certain conditions?

18 MS. EAGAN: Then he met enough conditions  
19 for the CUP to be issued.

20 CHAIRMAN EVANS: Okay.

21 MS. EAGAN: The CUP was issued and nothing  
22 else done.

23 CHAIRMAN EVANS: That was issued in?

24 MS. EAGAN: May of 2015.

25 CHAIRMAN EVANS: 2015. That way he would

1 have a year to 12 months to meet all conditions and do business?

2 MS. EAGAN: Usually when you approve a  
3 CUP, you have a year from the date of approval to meet all  
4 issues, and you had certain conditions he had to meet before the  
5 issuance and certain conditions he had to meet after the  
6 Conditional Use Permit was issued.

7 So he met the conditions before the issuance. So we  
8 issued it, but now he's not meeting the conditions.

9 CHAIRMAN EVANS: I guess my question is:  
10 Does he have -- since he started, does he have that year or 12  
11 months before --

12 MS. EAGAN: I mean, not --

13 CHAIRMAN EVANS: -- it would --

14 MS. EAGAN: A year only from the approval.  
15 It's inspected on a yearly basis. So if he's met the conditions,  
16 okay. If not, he's not meeting X, Y, Z, what do you want to do?

17 COMMISSIONER HAIRE: So we -- if we extend  
18 it to say May 30, he's in violation for the next four months,  
19 correct, --

20 MS. EAGAN: Yes.

21 COMMISSIONER HAIRE: -- if he does nothing?

22 MS. EAGAN: Right.

23 CHAIRMAN EVANS: And by May 30, he would  
24 have to be doing business from there, and again the cars not for  
25 sale, the site-proof fence would have to be up, and he -- but he

1 would still have some additional time then to do the paving?

2 MS. EAGAN: Yes, he would have more time  
3 to do the building, any building he needs has to go to the  
4 Building Department. Except he still has conditions that he has  
5 to meet once his actual business is there.

6 COMMISSIONER McCREARY: So all 13  
7 conditions must be met by May 30, except for the paving. He'll  
8 have one year from when?

9 MS. EAGAN: What -- yeah.

10 COMMISSIONER McCREARY: All 13 conditions  
11 will have to be met by May 30, except for the paving. Is that  
12 what you're saying?

13 MS. EAGAN: That's what we're having  
14 issues with.

15 COMMISSIONER McCREARY: I don't know of  
16 any other conditions.

17 MS. EAGAN: Only one would be the Building  
18 Department approval, but we haven't had to do that yet because he  
19 hasn't had a building.

20 COMMISSIONER McCREARY: Right, I  
21 understand. Thank you.

22 CHAIRMAN EVANS: So basically the options  
23 are we could revoke the CUP or we could do an extension.

24 COUNTY ATTORNEY VINCENT: One other  
25 option, you could postpone the hearing until June. That way

1 you're granting an extension. Just postpone the hearing itself.

2 CHAIRMAN EVANS: That would be option  
3 number three. Obviously if the Commission -- you know it does  
4 not look like a car lot. It looks like the lot -- some of those  
5 cars are pretty rough looking.

6 Any other discuss, questions?

7 COMMISSIONER HAIRE: Is another option for  
8 us if we go ahead and let it lapse, okay, and when he gets all  
9 his ducks in a row, then come back and ask for a new CUP?

10 MS. EAGAN: If you revoke his Conditional  
11 Use Permit, then he would have to rezone the property in order to  
12 do his business there. Commercial Activity Highway Service  
13 doesn't allow for motor vehicle sales anymore.

14 COMMISSIONER HAIRE: That's right. Okay.

15 CHAIRMAN EVANS: We don't have public  
16 comments on this.

17 MS. EAGAN: You do. It's a public  
18 hearing.

19 CHAIRMAN EVANS: Is it a public hearing?  
20 I guess, is there anyone wishing to speak to the Commission in  
21 favor of the Conditional Use Permit?

22 State your name and address, please.

23 [Thereupon, the witness was sworn.]

24 MR. RUSSELL MAUNE: Russell Maune, 510  
25 Highway AT, Villa Ridge.

1 I own the property to the right there. I'm also  
2 here to speak for the Public Water District No. 3. Bob was  
3 supposed to be here, but from the way it sounds the way he's  
4 progressing here is he's wanting to have an unlimited storage of  
5 junk cars back in the woods, you know. He's right at the hundred  
6 mark right now, and he's proposing to move a bunch more over  
7 there. And then he thinks he can store whatever he wants to back  
8 behind there.

9 The other issue's that I just mentioned, water.  
10 There's a public well immediately across the street there where  
11 the gas and oil from all these cars leaking and going into the  
12 public water source, which is right across the street, and water  
13 flow for that entire area. And a hundred cars sitting in the  
14 dirt rusting is not good for the public well.

15 If you could move the screen up just a little bit,  
16 you could probably see the water tower right across the street.  
17 It's hard to see. Just a little bit to the left of the blue area  
18 there's three or four lots, real small lots. That's where the  
19 public well is.

20 CHAIRMAN EVANS: Ron?

21 COMMISSIONER WILLIAMS: How deep is that  
22 well?

23 MR. MAUNE: Deep. I think 800 feet, but I  
24 don't know.

25 COMMISSIONER WILLIAMS: Through -- through

1 bedrock probably.

2 MR. MAUNE: It draws groundwater from  
3 that.

4 COMMISSIONER WILLIAMS: I think it draws  
5 it from the aquifer --

6 MR. MAUNE: Where?

7 COMMISSIONER WILLIAMS: -- way up to North  
8 Dakota. I would be very shocked if that got into that well, all  
9 I'm saying.

10 MR. MAUNE: Well...

11 COMMISSIONER WILLIAMS: Might have an  
12 impact on the soil.

13 MR. MAUNE: Are you familiar with the zone  
14 of influence?

15 COMMISSIONER WILLIAMS: I am. That deals  
16 with size and it deals with shoals and how far down contaminants  
17 go into the soil. That's why if the property were developed as a  
18 car lot there may be some remediation down to a certain level,  
19 but it's not going to be 8100 feet that they may have to do  
20 before it's environmentally cleared for the next person to buy.

21 MR. MAUNE: Well, obviously on any of that  
22 soil, but I can provide written information on the zone of  
23 influence and how the water systems are in that area, and that is  
24 one thing specific I had experienced. That water needs to watch  
25 for junk with regard to going in their wells. That is

1 specifically stated in the Department of Natural Resources  
2 regulations, and that's very easy to obtain.

3 COMMISSIONER WILLIAMS: I've been working  
4 in the water system for 30 years. I know what you're talking  
5 about. What that zone of impact mainly occurs is for private  
6 wells on private property that might be only anywhere from 200 to  
7 400 feet deep and not encased except that's a little deep. So  
8 I'm very familiar with that.

9 I know where it's coming from, but if you're talking  
10 about a public well that goes 1800 feet and is encased in  
11 limestone a couple inches deep, which I'm sure it is, to meet  
12 DNR, EPA standards, it's not going to affect that water system.  
13 If there's private wells around there, I would agree with that.

14 CHAIRMAN EVANS: Any other questions?

15 MR. MAUNE: Thank you.

16 CHAIRMAN EVANS: Thank you. Any other  
17 discussion?

18 COUNTY ATTORNEY VINCENT: Okay. I would  
19 like to point out something to Mike. Regardless of what he does,  
20 he does not have a CUP or permit to do a junkyard. Cars for sale  
21 are ones that are still in total repair. They can't be junked.  
22 So if he -- these vehicles --

23 MR. ZERNA: I understand.

24 COUNTY ATTORNEY VINCENT: -- cannot be  
25 damaged or rusted. This is not a salvage yard or junkyard.

1 That can't be done.

2 So the ones -- good ones are what you said before,  
3 the ones that are fully operational, fully built, not damaged and  
4 you can't have junk behind that fence. Understanding that, make  
5 sure of that because --

6 COMMISSIONER McCREARY: Do they still need  
7 to be licensed by the State of Missouri?

8 MS. EAGAN: Per his testimony, he said  
9 they would be licensed.

10 COMMISSIONER McCREARY: Okay.

11 COUNTY ATTORNEY VINCENT: -- you got that  
12 in the Conditional Use Permit. I wanted to make sure this  
13 conditional use can't be a junkyard. I'm not sure he has  
14 permission to do the repairs.

15 MS. EAGAN: In the CUP, no.

16 COUNTY ATTORNEY VINCENT: No repair. You  
17 understand that?

18 MR. ZERNA: Yeah.

19 CHAIRMAN EVANS: All vehicles would have  
20 to be functioning?

21 COUNTY ATTORNEY VINCENT: Yes, sir.

22 CHAIRMAN EVANS: Again, we are faced with  
23 the three options then, revocation, extension, or just table it,  
24 moving the hearing to a later date.

25 COMMISSIONER SCHULTEHENRICH: Can we ask

1 the Applicant or Mr. Zerna are any of these cars operational, or  
2 how many of those cars -- how many of these cars he currently has  
3 there are not operational, I mean, they are not ready to be sold?

4 Can we ask him that question?

5 CHAIRMAN EVANS: Thank you, Jay.

6 Please come up.

7 MR. ZERNA: In answer to your question, I  
8 would say probably right around 20.

9 COMMISSIONER SCHULTEHENRICH: Operational?

10 MR. ZERNA: I repossessed a car and maybe  
11 it's got the transmission went bad.

12 COMMISSIONER SCHULTEHENRICH: How many of  
13 them?

14 MR. ZERNA: You're talking about all of  
15 them, not on your --

16 COMMISSIONER SCHULTEHENRICH: No.

17 [crosstalk]

18 CHAIRMAN EVANS: Under any --

19 COMMISSIONER SCHULTEHENRICH: On this one  
20 here.

21 MR. ZERNA: I answered your question.

22 CHAIRMAN EVANS: If we took keys out --

23 MR. ZERNA: They don't pave in the winter,  
24 in this whether. It's cold.

25 CHAIRMAN EVANS: Okay.

1 MR. ZERNA: If I had --

2 CHAIRMAN EVANS: Some have been sitting  
3 there for a long time. Most of them may not start, whether it's  
4 the battery or whatever, right? If I took 50 sets of keys out to  
5 your 50 cars, how many would start?

6 MR. ZERNA: With a jump box probably, 30  
7 actually, because some of them just wasn't moved because of the  
8 bad transmissions. I have three or four with bad transmissions.  
9 If it'll make everybody happy, I'll move them out.

10 CHAIRMAN EVANS: Ray?

11 COMMISSIONER CUNIO: Are you going to do  
12 repairs? You can't do repair there.

13 MR. ZERNA: No, I'm going to clean them.

14 COMMISSIONER CUNIO: Just cleaning them?

15 MR. ZERNA: Just clean them.

16 COMMISSIONER CUNIO: If you have -- you've  
17 got cars with no transmissions or other issues there. How are  
18 you going to sell those without transmissions?

19 MR. ZERNA: Wait till I find a car with a  
20 transmission and put the two together, put the transmission in  
21 them.

22 COMMISSIONER CUNIO: You take them off the  
23 lot and have somebody put the transmission in?

24 MR. ZERNA: Yes, sir, that's correct.

25 COUNTY ATTORNEY VINCENT: You can't store

1 those vehicles on this lot. That's what I'm talking about, sir.  
2 Those are inoperable vehicles. That's junk. You can't do that.  
3 You can't do repairs there. You take transmissions out of the  
4 cars, that's a repair.

5 CHAIRMAN EVANS: Ron?

6 MR. ZERNA: I'm not doing service on the  
7 property.

8 COUNTY ATTORNEY VINCENT: You can't repair  
9 them. They have to be operable.

10 CHAIRMAN EVANS: Well, from what you just  
11 said, I'd imagine storage is not allowed.

12 MR. ZERNA: Cars that don't run that --  
13 that doesn't happen. I mean, people trade them in because --

14 COUNTY ATTORNEY VINCENT: Usually they  
15 ship them out some place.

16 CHAIRMAN EVANS: Most car dealers have a  
17 building.

18 Ron, you have a comment?

19 COMMISSIONER WILLIAMS: I guess what we're  
20 getting at is trying to eliminate those inoperable vehicles.

21 What's it going to take to get those off the  
22 property?

23 MR. ZERNA: Sounds to me like I'm going to  
24 have to move. Not many options.

25 COMMISSIONER WILLIAMS: I don't mean to

1 belabor it, but that's what you're left with.

2 MS. EAGAN: I don't know what's going --

3 COMMISSIONER WILLIAMS: You're not allowed  
4 to do repairs and not allowed to store, for lack of a better  
5 word, junk cars that are inoperable. So you got to clean that  
6 up.

7 MR. ZERNA: All right.

8 COMMISSIONER WILLIAMS: Okay. I think  
9 that's where everybody's getting. You got to take care of that.  
10 That's not allowed. You're allowed to sell -- that's with --  
11 that's taking a while for you to get to that point, but those  
12 other vehicles have got to go. I don't know how -- any other way  
13 to say it.

14 MR. ZERNA: You said that's simplest.

15 COMMISSIONER BOLAND: But he's been  
16 operating in the other location since --

17 MR. ZERNA: 1987. I'm the oldest sole  
18 proprietor in Franklin County in the same location.

19 COUNTY ATTORNEY VINCENT: No one is saying  
20 anything about that place, sir.

21 COMMISSIONER WILLIAMS: I don't understand  
22 what that has to do with where you're going to move.

23 MR. ZERNA: Then I can't say that anymore.  
24 I want to move because I'll have a bigger lot.

25 COMMISSIONER WILLIAMS: Right, I get that.

1 MR. ZERNA: Mom and Dad want to sell where  
2 my original lot is now and still is. They want to sell that  
3 parcel of property and get out from underneath the property.

4 COMMISSIONER WILLIAMS: You're going to  
5 move down to this lot your vehicles there. That's the issue.

6 MR. ZERNA: Like I said, I want to move  
7 down there --

8 COMMISSIONER WILLIAMS: I understand the  
9 reason why. It's just that you can't move in and then meet all  
10 the conditions, you know. I understand it takes a while to get  
11 going, but we're looking at trying to get you down there.

12 MR. ZERNA: Yes, sir.

13 COMMISSIONER WILLIAMS: Then you got to be  
14 in compliance with the zoning regulations or it becomes a big  
15 issue pulling those transmissions out of it, but you still got a  
16 car there without a transmission. So you haven't subtracted  
17 anything.

18 COMMISSIONER McLAREN: I want to ask a  
19 question.

20 CHAIRMAN EVANS: Bill?

21 COMMISSIONER McLAREN: If you have a  
22 repossessed car, how long do you have to keep it before you're  
23 able to resale or dispose of it or whatever you do with  
24 repossessed cars? How long is that car going to set back behind  
25 the fence?

1 MR. ZERNA: By law you have to let it set  
2 at least 30 days after repossession. You have to give them the  
3 opportunity to settle unless they come and sign their rights  
4 away.

5 COMMISSIONER McLAREN: By practice, by  
6 what you do, if that's the law, how long do you wait before you  
7 do something, at what point in time?

8 MR. ZERNA: Normally 60 to 90 days until  
9 they express they don't want the car back. You clean up the  
10 cars. When we clean the cars out of any food or anything to keep  
11 them myself, then at that point, when they give an indication  
12 they have no interest in the car, we either take them to the  
13 auction or we get them State inspected and sell them.

14 COMMISSIONER HAIRE: I have one more  
15 question also.

16 When you originally came back in July of 2010, why  
17 has that taken so long to move your location?

18 MR. ZERNA: It's a lot of money because we  
19 redid the land and moved the building, and ran into solid rock.  
20 I had a neighbor that really wanted the car lot building back  
21 more, another 40 feet, but then we hit solid rock. So we had to  
22 bring in a lot of more dirt, then had to wait. He is been around  
23 for years. If I don't leave it set, I will have problems with my  
24 new foundation cracking. So -- but it took a little bit of time  
25 for me to clear the ground. Then he came in with an excavator.

1 I wouldn't have had to move it. We weren't going to  
2 level that section, but we then kind of planned to keep the  
3 building. Just trying to make somebody happy is all I was trying  
4 to do.

5 CHAIRMAN EVANS: Any other questions?

6 [None]

7 Thank you.

8 Any other discussion? Again, we are faced with the  
9 three options, revocation of the CUP, extending or moving the  
10 hearing off for a given period of time.

11 COMMISSIONER McCREARY: Mr. Chairman, I'd  
12 like to make a motion to put the hearing off until June, June's  
13 monthly meeting.

14 CHAIRMAN EVANS: Well, we would have June,  
15 or we also have a meeting in May 17th. I could check the  
16 schedule.

17 COMMISSIONER McCREARY: I believe he did  
18 state that as of May 30th he could get all the conditions in  
19 compliance.

20 MS. EAGAN: Fine. Is that too long? Do  
21 you want to do it quicker? And you don't have to -- it's up to  
22 you guys.

23 CHAIRMAN EVANS: We have a meeting on  
24 May 17th and June is one --

25 COMMISSIONER McLAREN: I'd like to second

1 the motion.

2 COMMISSIONER BOLAND: If he's had six  
3 years --

4 COMMISSIONER McCREARY: Since the issuance  
5 of the permit, right.

6 MS. EAGAN: Six years from the day of the  
7 approval.

8 COMMISSIONER McCREARY: Right, but it  
9 wasn't issued until a year ago, 2015. So I mean, that was the  
10 issuance of the permit. I wasn't here in 2010, but he had to  
11 meet certain conditions to get the permit before he could have it  
12 issued. Once it was issued, that's when the time line started on  
13 the paving.

14 MS. EAGAN: Just the paving.

15 COMMISSIONER McCREARY: Well, that was --  
16 that was -- that was one of the conditions he didn't meet, along  
17 with the fence and everything else. I don't have the 13  
18 conditions on the Conditional Use Permit, but I'm saying if he's  
19 saying if he thinks he can get it done by May 30th, I think  
20 that's reasonable.

21 CHAIRMAN EVANS: We have a motion and a  
22 second. So discussion is done. We have a motion and a second to  
23 move the hearing extension until June 20th, I believe is the date  
24 you picked.

25 COMMISSIONER McCREARY: Yeah.

1 CHAIRMAN EVANS: So we have a motion and a  
2 second.

3 COMMISSIONER SCHULTEHENRICH:  
4 Clarification, Mr. Chairman?

5 CHAIRMAN EVANS: Yes.

6 COMMISSIONER SCHULTEHENRICH: With the  
7 motion, are we there allowing him to continue to have the storage  
8 of vehicle there? Because if we are, then are we allowing that  
9 to go on. Is that what we are saying? I mean, I'm --

10 COMMISSIONER BOLAND: That's how I see it.

11 COMMISSIONER HAIRE: Exactly.

12 CHAIRMAN EVANS: I think we are getting  
13 into that second track. Would Tori go out there because of the  
14 nonworking vehicles, or are we talking two different things?

15 MS. EAGAN: I think.

16 COMMISSIONER HAIRE: That's nonconforming,  
17 and the motion is -- discussion of the motion is that we're  
18 allowing nonconformity for another four months.

19 COMMISSIONER BOLAND: Yeah.

20 COMMISSIONER HAIRE: That question is  
21 what's happening May 17th is noted.

22 CHAIRMAN EVANS: Then we are here again  
23 with the --

24 COMMISSIONER HAIRE: Unless the guy spends  
25 \$30,000 to start the project, but didn't complete, then we are

1 going to revoke it at that time?

2 CHAIRMAN EVANS: We had some three options  
3 that we have tonight.

4 COUNTY ATTORNEY VINCENT: Just  
5 clarification again.

6 It's concluded tonight, but you're saying on the  
7 inoperable vehicles, if Tori finds that there are vehicles out  
8 there that he thinks it looks like a junkyard, he's in violation  
9 of Code subject to different -- I don't -- whatever, you do not  
10 want him thinking and leaving here thinking that he doesn't have  
11 to move them, because he does.

12 CHAIRMAN EVANS: That's what I was saying.  
13 That's a separate track from what we're talking about. Those  
14 vehicles will have to be moved period.

15 COUNTY ATTORNEY VINCENT: Regardless.

16 CHAIRMAN EVANS: No matter what happens  
17 tonight.

18 MS. EAGAN: Maybe check on it before the  
19 June meeting and see if he's making any progress. At least you  
20 know by this day. We come back, talk to us, and if you're making  
21 progress, yeah, we'll extend it to the June meeting. But if  
22 you're not -- June 21st seems a long time. But you guys have a  
23 second -- a motion and a second so...

24 CHAIRMAN EVANS: Unless someone wanted to  
25 amend that, then the motion is before the Commission. Okay. We

1 have a motion and a second to move this hearing to the June 21st  
2 meeting. All in favor signify by saying aye.

3 COMMISSIONER HAIRE: Nay.

4 CHAIRMAN EVANS: No.

5 COMMISSIONER SCHULTEHENRICH: No.

6 COMMISSIONER BOLAND: No.

7 COMMISSIONER CUNIO: Yes.

8 COMMISSIONER TOBBEN: Yes.

9 COMMISSIONER McLAREN: Yes.

10 COMMISSIONER VOSS: Yes.

11 COMMISSIONER McCREARY: Yes.

12 COMMISSIONER WILLIAMS: Yes.

13 CHAIRMAN EVANS: That would be six to five  
14 in favor.

15 MS. EAGAN: Six to four.

16 CHAIRMAN EVANS: Six to four. All right,  
17 so the motion is approved.

18 Then moving back to Old Business the File 150195,  
19 Thriftee Grocery. Hopefully there is no further discussion.

20 Chair would entertain a motion. Chair would  
21 entertain a motion.

22 COMMISSIONER SCHULTEHENRICH: Sorry, what  
23 are you looking for in a motion here? Sorry.

24 CHAIRMAN EVANS: I hate to go into  
25 Thriftee again, but looking probably to approve the rezoning of

1 whatever property that he owns.

2 COMMISSIONER SCHULTEHENRICH: I'll say  
3 this. I'll say with reluctance I'm going to make a motion  
4 because of the unclear matter at hand, but I'll make a motion to  
5 go ahead and give the approval to recommend the change to the  
6 County Commission of it to be a CA, if I remember right? --

7 COMMISSIONER McCREARY: Uh-huh, CA.

8 COMMISSIONER SCHULTEHENRICH: -- be changed  
9 to CA on both parcels.

10 CHAIRMAN EVANS: Thank you. Do we have a  
11 second?

12 COMMISSIONER BOLAND: Second.

13 CHAIRMAN EVANS: We have a motion and a  
14 second to approve File 150195. All in favor signify by saying  
15 aye.

16 COMMISSIONER VOSS: Aye.

17 COMMISSIONER McLAREN: Aye.

18 COMMISSIONER CUNIO: Aye.

19 CHAIRMAN EVANS: Aye.

20 COMMISSIONER BOLAND: Aye.

21 COMMISSIONER HAIRE: Aye.

22 COMMISSIONER TOBBEN: Aye.

23 COMMISSIONER SCHULTEHENRICH: Aye.

24 COMMISSIONER McCREARY: Aye.

25 COMMISSIONER WILLIAMS: Nay.

1 CHAIRMAN EVANS: Motion is carried.

2 Preliminary Plats. We have none.

3 Planning and Zoning Commission Forum. Discussion  
4 regarding the Planning and Zoning Commission by-laws. Scottie?

5 MS. EAGAN: This is just a discussion  
6 between you guys on what you wanted to do with the agenda.

7 Do you want to keep the Communications and Visitor  
8 Comments at the beginning in your by-laws or keep it at the end  
9 where it usually was?

10 CHAIRMAN EVANS: I think personally  
11 probably good to have them up at the beginning. We haven't had  
12 any yet, but we have had some before where if we are not in  
13 public hearing where people who wanted to make comments about  
14 something we are discussing tonight, we don't have the opinion  
15 until after the facts.

16 COMMISSIONER McCREARY: Bill, didn't you  
17 talk about it last Monday about putting a time limit on each  
18 person?

19 CHAIRMAN EVANS: Right, because we have  
20 for hearings but not for comments. So that would be the second  
21 thing. If you have public, you do have the possibility that  
22 people think it's a hearing and no one is sworn in. What we say  
23 is that we'll accept public comment just as if anyone else  
24 talking on the street not sworn.

25 COMMISSIONER McCREARY: Right.

1 CHAIRMAN EVANS: It's just their opinion  
2 or anything they would like to share. So I guess there is  
3 benefit up front or later. Whatever the Commission thinks.  
4 Again, we have --

5 MS. EAGAN: Five-minute time limit.

6 CHAIRMAN EVANS: We already have five  
7 minutes. So for consistency, probably five minutes for public  
8 comment would be consistent.

9 COMMISSIONER SCHULTEHENRICH: Do we have  
10 that in --

11 CHAIRMAN EVANS: For public hearing.

12 MS. EAGAN: To add it.

13 COMMISSIONER SCHULTEHENRICH: Talking  
14 about adding that?

15 CHAIRMAN EVANS: Yes.

16 COMMISSIONER SCHULTEHENRICH: This is one  
17 I reviewed -- I have reviewed them, and this is one of the  
18 topics, but there are a couple of others I'd like to bring up  
19 also for consideration.

20 CHAIRMAN EVANS: Let's just finish these  
21 two first.

22 Does anyone have five minutes? I think everybody  
23 pretty much agrees, unless you want to think about sitting here  
24 with long-winded persons talking for hours.

25 MS. EAGAN: The County Commission only

1 does three, but five is good too.

2 CHAIRMAN EVANS: Any comments on having  
3 Public Comments and Communication in the front early on, or  
4 toward the end where they are in the by-laws now?

5 Again, the Chair has the option of changing the  
6 agenda. So if we left them at the -- toward the end of the  
7 meeting, we could do it occasionally if we wanted to move up  
8 farther in the agenda, we could. So we do have that option.

9 Jay, you had a couple of things.

10 COMMISSIONER SCHULTEHENRICH: I did have a  
11 couple of things just clerical. While you got it up, let's go  
12 ahead and make some corrections on some of the -- on the Rule of  
13 Procedure, second paragraph, the word -- second line of second  
14 paragraph, the word "of" should be the word "or". Again, a  
15 clerical change there.

16 When we talk in here also in case of conditional use  
17 permit and subdivision any applicant (or their designated  
18 representative) shall fail to appear to present their  
19 application, the Commission shall evaluate the application as  
20 submitted, I would like the word, instead of shall, may, that it  
21 gives us the right if we don't want to review it. So "may  
22 review" -- "may evaluate." Otherwise, that's saying that we have  
23 to evaluate.

24 Again, it's by -- I think anybody who comes in to  
25 present in front of us and should be here to present and not just

1 have paperwork for us to look at. We ought to be given the  
2 opportunity to ask questions. In this case, it requires us to  
3 address the application that's been presented to us. So I would  
4 like the word to be changed from shall to may. I don't know if  
5 you want to take each one of these or so on in order,  
6 Mr. Chairman.

7 CHAIRMAN EVANS: Where was that at, Jay,  
8 under --

9 MS. EAGAN: Rule of Procedure, just above  
10 Article 3, Officers.

11 CHAIRMAN EVANS: Okay.

12 COMMISSIONER SCHULTEHENRICH: Clerical.  
13 I'm not sure the word -- the first "shall" in that even needs to  
14 be there. It says, "If, in the case of conditional use permit or  
15 subdivision application, if the applicant shall" -- should be  
16 "fails to appear to present their application to the Commission,"  
17 instead of "shall" there, my suggestion is "may evaluate the  
18 application as submitted."

19 CHAIRMAN EVANS: Any discussion? Any  
20 discussion with that?

21 COMMISSIONER HAIRE: No.

22 COMMISSIONER McCREARY: No.

23 COMMISSIONER SCHULTEHENRICH: Then on the  
24 other thing you talk about on there the Review Committee  
25 consisting of 3 Commission members, I think right now we have

1 already designated for this term at least who -- those who are  
2 the Commissioners on the Review Committee and who basically are  
3 the alternates. So I'm going to preface that to maybe when we  
4 come in for the next annual meeting for consideration, that we  
5 would give the consideration -- and I would ask that we would  
6 maybe change the by-laws to read only coming in to play at the  
7 next annual elections.

8 I feel very strongly that the chairman that we elect  
9 here is -- should be in fact chairing the Review Committee. The  
10 individual who chairs here needs to know what goes on and how  
11 things have been discussed at the Review Committee. We don't --  
12 in our by-laws we don't require that that chairman be on there.  
13 Okay. And certainly I think that should be, I think, part of the  
14 by-laws that the chairman assume that position. Okay.

15 Now, in the past before this last annual meeting, it  
16 was in fact the chairman was the vice-chair, and it was the  
17 County Highway Administrator is what that was some years ago, for  
18 those who are relatively newer on the Commission.

19 I mean, that's another option to consider, but at  
20 least I feel strongly that the chairman at least should be on  
21 there, and we failed to do that. It was my fault at the annual  
22 meeting because I was the one making some motions to approve some  
23 commissioners to be on there when I had a second, at least in my  
24 minutes, that the chairman would be on there as one of the Review  
25 Committee members. But he currently serves as the alternate and

1 basically -- and I think that was -- that was basically an  
2 oversight, and I think very strongly what we ought to give that  
3 consideration, at least in that regards. So ...

4 CHAIRMAN EVANS: Any comments on that?

5 COMMISSIONER HAIRE: I agree.

6 COMMISSIONER WILLIAMS: I agree with Jay.

7 CHAIRMAN EVANS: It's not an open meeting  
8 so even though we could all go to the Review Committee meetings,  
9 only the three commissioners on the Review Committee can  
10 participate. The rest can be there, but they're the audience.

11 COMMISSIONER SCHULTEHENRICH: I also think  
12 the County Highway Administrator should be on there because in  
13 the past that's the way it was established in that regard. I  
14 throw that out for consideration.

15 I know there's -- prior to Ron, there was times in  
16 which there was discussion that was very helpful, and the Review  
17 Committee having the County Road or Highway Administrator there  
18 that sometimes comes into be an advantage to make a decision to  
19 present back to the entire Board here -- or the Commission.

20 So I would like at least that maybe to be considered  
21 as well.

22 And then the other one just to have that as a  
23 whomever, okay, but I'd say that the Chairman and the County  
24 Highway Administrator should be two on there would be -- to be on  
25 there as part of the Review Committee among all and two

1 alternates. That's what I want the by-laws to reflect.

2 [crosstalk]

3 COMMISSIONER CUNIO: By statute doesn't it  
4 need --

5 MS. EAGAN: Not for the Commission. I  
6 had --

7 COMMISSIONER WILLIAMS: No.

8 COMMISSIONER SCHULTEHENRICH: No.

9 COMMISSIONER HAIRE: I think, as you said,  
10 Jay, it was. Then we went through a couple of pretty big changes  
11 that it wasn't put on there, figuring they had enough to do.

12 COMMISSIONER SCHULTEHENRICH: Right.

13 CHAIRMAN EVANS: But Ron's been trained.

14 COMMISSIONER SCHULTEHENRICH: So again,  
15 are we somewhat in agreement in that regard?

16 CHAIRMAN EVANS: Again, to vote on these  
17 since it is anything we vote on has to be on the agenda --

18 MS. EAGAN: It is but if you wanted to  
19 draft something for next month...

20 CHAIRMAN EVANS: Draft and so we would see  
21 it.

22 COMMISSIONER SCHULTEHENRICH: I think  
23 draft the change, right, and submitted it to us.

24 MS. EAGAN: Right.

25 CHAIRMAN EVANS: Five days before. If so

1 we'd probably have to do that anyway.

2 COMMISSIONER SCHULTEHENRICH: Those are  
3 the changes that I have on there. Yeah.

4 CHAIRMAN EVANS: Under page 4, Commission  
5 Options, that first sentence, "In the case of rezoning, the  
6 Commission may require the application of a proposed rezoning to  
7 attend..."

8 COMMISSIONER McCREARY: Oh, yeah, it sure  
9 does.

10 MS. EAGAN: Should be applicant.

11 CHAIRMAN EVANS: Should be. So just a  
12 clerical error. I have read these things seven times. I don't  
13 know how you missioned that.

14 COMMISSIONER SCHULTEHENRICH: I'm with  
15 you.

16 MS. EAGAN: I still catch things in my  
17 regulations.

18 CHAIRMAN EVANS: Any other changes or  
19 anything you want to discuss there? Okay.

20 Scottie, if you just draft that up, and we can look  
21 at it next month.

22 MS. EAGAN: Okay.

23 CHAIRMAN EVANS: Anything else the  
24 Commissioners would have? If not, Planning Director's report.

25 MS. EAGAN: I have some regulations for

1 you guys in regard to Article 4, Article 7 and Article 8. So --  
2 and I know, Bill, you had some concerns with definitions in  
3 Article 2 about some agriculture thing. So if you want to look  
4 at those also, present those as part of the changes and if you  
5 could get it to us so we can get it to everybody.

6 CHAIRMAN EVANS: Is that five minutes or  
7 more than --

8 MS. EAGAN: It will be marked. We are  
9 still trying to fix some things we realized we left out, the kind  
10 of things we talked about changing, if you guys are on board. So  
11 that will all be next month.

12 CHAIRMAN EVANS: Okay. If there is  
13 nothing else, Chair would entertain a motion to adjourn.

14 COMMISSIONER BOLAND: So moved.

15 COMMISSIONER McLAREN: Second.

16 CHAIRMAN EVANS: All in favor signify by  
17 saying aye.

18 COMMISSIONER VOSS: Aye.

19 COMMISSIONER McLAREN: Aye.

20 COMMISSIONER CUNIO: Aye.

21 COMMISSIONER WILLIAMS: Aye.

22 CHAIRMAN EVANS: Aye.

23 COMMISSIONER BOLAND: Aye.

24 COMMISSIONER HAIRE: Aye.

25 COMMISSIONER TOBBEN: Aye.

1 COMMISSIONER SCHULTEHENRICH: Aye.

2 COMMISSIONER McCREARY: Aye.

3 CHAIRMAN EVANS: Opposed? [None]

4 Meeting is adjourned.

5 [Thereupon, the proceedings concluded at

6 8:48 p.m.]

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CERTIFICATE OF REPORTER

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

IN WITNESS WHEREOF, I have hereunto set my hand.

\_\_\_\_\_

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

My Commission Expires:  
August 26, 2018

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