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

TRANSCRIPT OF PROCEEDINGS  
PUBLIC MEETING  
DECEMBER 15, 2015  
(Commencing at 7:00 p.m.)

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

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E X H I B I T S

IDENTIFICATION	DESCRIPTION	PAGE
COUNTY:		
EXHIBIT A	Franklin County Unified Land Use Regulations of 2001	6
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(All exhibits, if any, were retained by the Commission, and will not be attached hereto.)



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

2 [DECEMBER 15, 2015]

3 CHAIRMAN EVANS: I'd like to call to order  
4 the Franklin County Planning and Zoning Commission.

5 Scottie, will you please take role.

6 MS. EAGAN. Bill Evans?

7 CHAIRMAN EVANS: Here.

8 MS. EAGAN: Jay Schulteheinrich?

9 COMMISSIONER SCHULTEHENRICH: Here.

10 MS. EAGAN: Todd Boland?

11 COMMISSIONER BOLAND: Here.

12 MS. EAGAN: Tim Reinhold?

13 COMMISSIONER REINHOLD: Here.

14 MS. EAGAN: Ray Cunio?

15 COMMISSIONER CUNIO: Here.

16 MS. EAGAN: Tom Tobben?

17 COMMISSIONER TOBBEN: Here.

18 MS. EAGAN: Bill McLaren?

19 COMMISSIONER McLAREN: Here.

20 MS. EAGAN: Don Voss?

21 COMMISSIONER VOSS: Here.

22 MS. EAGAN: Dan Haire?

23 COMMISSIONER HAIRE: Here.

24 MS. EAGAN: Russell McCreary?

25 COMMISSIONER McCREARY: [Not present.]

1 MS. EAGAN: And, Ron Williams?

2 COMMISSIONER WILLIAMS: Here.

3 MS. EAGAN: Okay. We have a quorum.

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

9 No declarations, so, Scottie, if you will, please  
10 give us the presentation of the meeting minutes and procedures.

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 up for action by  
15 the 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  
24 during the meeting.

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 Planning Commission to decide  
18 to move a New Business issue to Old Business and vote on it the  
19 same 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 and Zoning  
23 Commission concerning conditional use permits may be appealed to  
24 the Board 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 the minutes from the November 17th meeting. If there is no  
5 additions, corrections or changes, the Chair would entertain a  
6 motion to approve.

7 COMMISSIONER HAIRE: I move to approve the  
8 minute as written.

9 COMMISSIONER SCHULTEHENRICH:  
10 Mr. Chairman, I'll second that motion.

11 CHAIRMAN EVANS: We have a motion and  
12 second to approve the minutes. All in favor signify by saying  
13 aye.

14 COMMISSIONER REINHOLD: Aye.

15 COMMISSIONER VOSS: Aye.

16 COMMISSIONER McLAREN: Aye.

17 COMMISSIONER CUNIO: Aye.

18 COMMISSIONER WILLIAMS: Aye.

19 CHAIRMAN EVANS: Aye.

20 COMMISSIONER BOLAND: Aye.

21 COMMISSIONER HAIRE: Aye.

22 COMMISSIONER TOBBEN: Aye.

23 COMMISSIONER SCHULTEHENRICH: Aye.

24 CHAIRMAN EVANS: Opposed? [None]

25 The minutes are approved.

1                   Communications and Visitor Comments. Is there  
2 anyone present wishing to address the Commission? [None]

3                   Okay. Moving on to Old Business. File one 150235,  
4 Planning and Zoning Department. No public comments accepted.

5                   Scottie, give us the details.

6                   MS. EAGAN: Nothing in Article 4 changed  
7 except for we added on page 4.1, letter D now reads:

8                                 "All permits shall be issued  
9                                 in the same name -- or the name of  
10                                the applicant, shall identify the  
11                               property involved, and the proposed use.  
12                               The permit shall by incorporate by  
13                               reference all information included in  
14                               the application and the plans  
15                               submitted in" --

16                   And there should be an 'I' there.

17                                 " -- in support of the application.

18                                 "If applicable, a permit shall also  
19                               incorporate any special conditions or  
20                               requiring lawfully imposed by the permit  
21                               issuing authority, the appropriate agency  
22                               or office or governing body.

23                                 "The application forms subject to this  
24                               section include the attached application  
25                               1 through 7."

1                   And Mark suggested we put the applications as part  
2 of our regulations.

3                   CHAIRMAN EVANS: That's really the only  
4 change we had then, right?

5                   MS. EAGAN: [Nods.]

6                   CHAIRMAN EVANS: So it will be as you saw  
7 it last meeting?

8                   MS. EAGAN: Right.

9                   CHAIRMAN EVANS: Any comments or  
10 discussion?

11                  MS. EAGAN: This would be at any time we  
12 amend their application it would come before you guys for the  
13 whole public hearing process to amend their application. Just  
14 putting that out there for you.

15                  CHAIRMAN EVANS: Any discussion or  
16 questions?

17                  COMMISSIONER HAIRE: Scottie, so if  
18 there's a change in the cost in the application, then it would  
19 still -- you still have come to the Commission for change then?

20                  MS. EAGAN: Uh-huh.

21                  CHAIRMAN EVANS: Anything else?

22                  COMMISSIONER WILLIAMS: Yeah, I got a  
23 quick question.

24                         Wasn't -- didn't we discuss at the last meeting or  
25 it was stated that in lieu of your Social Security number, you

1 could use your driver's license number?

2 MS. EAGAN: Oh, yeah. I put the wrong  
3 form in there, but it does -- our new form does say Social  
4 Security or the driver's license:

5 COMMISSIONER WILLIAMS: I was actually  
6 listening at the last meeting.

7 MS. EAGAN: I stole the permits from  
8 Nichole's computer when she was gone, and I got the wrong one.

9 COUNTY ATTORNEY VINCENT: It's Nichole's  
10 fault.

11 MS. EAGAN: It is. It was her fault for  
12 being gone for two weeks.

13 COMMISSIONER WILLIAMS: That would be the  
14 only change though in the application.

15 MS. EAGAN: And while this is presented to  
16 you guys at this moment, yes, that would be the only change.

17 CHAIRMAN EVANS: Any other questions or  
18 comments? If not, the Chair would entertain a motion to approve  
19 recognizing that the correct form with the addition of the  
20 driver's license requirement would be added.

21 COMMISSIONER SCHULTEHENRICH:  
22 Mr. Chairman, I'll make that motion to approve.

23 COMMISSIONER McLAREN: Second.

24 CHAIRMAN EVANS: We have a motion and a  
25 second to approve File 150235 with the one change.

1 All in favor signify by saying aye.

2 COMMISSIONER REINHOLD: Aye.

3 COMMISSIONER VOSS: Aye.

4 COMMISSIONER McLAREN: Aye.

5 COMMISSIONER CUNIO: Aye.

6 COMMISSIONER WILLIAMS: Aye.

7 CHAIRMAN EVANS: Aye.

8 COMMISSIONER BOLAND: Aye.

9 COMMISSIONER HAIRE: Aye.

10 COMMISSIONER TOBBEN: Aye.

11 COMMISSIONER SCHULTEHENRICH: Aye.

12 CHAIRMAN EVANS: Opposed? [None]

13 The motion is carried.

14 New Business File 150251, E & M Development Company.

15 No public comments accepted.

16 Scottie, if you'll give us the details.

17 MS. EAGAN: This is File 150251, E & M

18 Development.

19 The Applicant wishes to rezone one parcel  
20 approximately 1.68 acres from Non-Urban and Agricultural to  
21 Commercial Activity Highway Service.

22 The property is located at 1096 North Service Road  
23 at the southwest corner of Old Highway 66 and I-44 in Union  
24 Township.

25 The Facts: The total area for the property is

1 approximately 1 -- it should be 1.68 acres in size.

2 The current zoning of this property is Non-Urban and  
3 Agricultural. The Applicant would like to rezone a parcel to  
4 Commercial Activity Highway Service.

5 Commercial Activity Highway Service is a district  
6 that accommodates commercial uses that draw business primarily  
7 along major highways within the county.

8 The surrounding properties are zoned Agricultural  
9 Non-Urban.

10 This property is surrounded by undeveloped land, one  
11 residential house, and the interstate.

12 There appears to be an existing building on the  
13 property that the Applicant plans to use for his business.

14 This property did have a CUP for automobile sales  
15 that was approved for Tork, LTD in 2014. This business failed to  
16 meet their conditions within a year; therefore, the permit  
17 expired.

18 Because the CUP expired, the business is now in  
19 violation for running a business without a permit and also for  
20 having material public nuisances.

21 In order to comply with County Regulations, this  
22 property would have to be rezoned and the material public  
23 nuisances would need to be removed.

24 Staff Comments: Rezoning are allowed in our  
25 regulations due to the ever-changing conditions that exist in the

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

8 CHAIRMAN EVANS: Thank you.

9 Any discussion on this?

10 COMMISSIONER HAIRE: Scottie, what  
11 conditions weren't met in the original CUP?

12 MS. EAGAN: I believe it was the paving of  
13 the lot, as well as -- I'm trying to think what file this is --  
14 anything stored outside shall be behind a sight-proof fence.

15 CHAIRMAN EVANS: I believe right now there  
16 is no fence at all. And again, when we look at rezoning, we're  
17 making a recommendation to the Commission, but we also have to  
18 consider all permitted uses under CA. And on this request, he  
19 doesn't say what he's going to do, just that he wants it rezoned  
20 as CA. So even if he said he wanted to have auto sales or auto  
21 repair, we're required to look at all permitted uses.

22 MS. EAGAN: Yeah, and this is the actual  
23 owner of the property. This isn't the owner of the business  
24 that's applying for it.

25 CHAIRMAN EVANS: I believe under the

1 Future Land Use Map this is still Ag, isn't it?

2 MS. EAGAN: Yeah, I think Nichole and I  
3 looked at it, and on the Future Land Map, it does show as N-UA.  
4 But if you look closely, our proposed Commercial stops at the  
5 property, to the west of it and then starts again one or two  
6 properties east of it.

7 So I'm not sure why we did it like that on our  
8 Future Land Use Map, but this property and then two other ones  
9 that are Non-Urban and Agriculture for Future Land Use Map and  
10 the rest of them are Commercial.

11 CHAIRMAN EVANS: So he's taking that  
12 entire area in the red?

13 MS. EAGAN: No.

14 CHAIRMAN EVANS: Just the part to the  
15 left?

16 MS. EAGAN: Yeah. It's in your packet.  
17 It's listed as tract two, I believe. So tract one, which has a  
18 house will remain Non-Urban and Agricultural, and tract two,  
19 where the business was, would be Commercial Activity Highway  
20 Service.

21 COMMISSIONER McLAREN: Is there a business  
22 still operating there that's --

23 MS. EAGAN: It is.

24 COMMISSIONER McLAREN: -- not in  
25 compliance?

1 MS. EAGAN: Yes.

2 CHAIRMAN EVANS: It's in violation.  
3 That's part of it its problem. And with the he failed to meet  
4 the conditions, and I don't know if this looking at trying to  
5 rezone it, is the means to circumvent what we've already given  
6 him.

7 MS. EAGAN: Well, he can't get a CUP in  
8 Non-Urban and Agricultural anymore. We removed that  
9 classification out of that zoning district.

10 CHAIRMAN EVANS: So his 12 months are up,  
11 he hasn't met that, and so he would have to rezone it?

12 MS. EAGAN: Correct. So if you look  
13 behind you, Bill, that's the Future Land Use Map, and you can see  
14 the road that goes up and kind of meets that bubble. That's  
15 where his property is.

16 CHAIRMAN EVANS: All right. I think when  
17 you look at CA purpose, the Commercial Zoning District is to  
18 accommodate commercial use of the business primarily along the  
19 major highways within the county.

20 COMMISSIONER REINHOLD: That's actually  
21 between to the two highway tracts.

22 CHAIRMAN EVANS: It actually -- the back  
23 of the property actually butts up to 44. He is probably a half  
24 mile, mile off of the top of the exit there.

25 So I mean, there's no access. You have to get off

1 there and come back around. It's pretty much everything around  
2 there is farmland residences.

3 If he would send this rezoned with our  
4 recommendation -- if it was rezoned, then he would have no  
5 conditions.

6 MS. EAGAN: Right.

7 CHAIRMAN EVANS: So since he has the  
8 public nuisances, what would he have to do?

9 MS. EAGAN: Well, that's not going to go  
10 away if it gets rezoned. He'd still have to clean up the  
11 property before that would go away, and that's all being taken  
12 carry of in municipal court.

13 CHAIRMAN EVANS: But he would not be  
14 required to have a fence at all or pave anything, any number of  
15 cars. It's pretty much once it's rezoned, there are no  
16 conditions?

17 MS. EAGAN: I mean, he would still have to  
18 follow our Code. So it if became a place where if he's required  
19 at more than ten spaces used regularly by at least five days a  
20 week, then he'd have to according to the Code. So it all depends  
21 on whether it's amended and what's going on. It would depend on  
22 what he'd have to do with the lot. But as far as number of cars,  
23 we couldn't put a limit on it because it's automobile sales.

24 CHAIRMAN EVANS: So was he -- was the CUP,  
25 was it auto sales and repair or just sales?

1 MS. EAGAN: It was just sales.

2 COMMISSIONER REINHOLD: If I remember the  
3 place, it looks almost like a junk yard.

4 CHAIRMAN EVANS: It does. I was out there  
5 a few days ago.

6 COMMISSIONER REINHOLD: Uh-huh.

7 CHAIRMAN EVANS: Then you have to go down  
8 the long driveway to even get to it. You can see it very clearly  
9 from 44, but you can't see it from the outer road.

10 Any other comments or discussion?

11 Scottie, do we know why he didn't meet the  
12 conditions?

13 MS. EAGAN: I mean, what he said is he  
14 didn't want to, and he felt like he shouldn't have to pay for it.

15 The owner wouldn't pay for it. So they didn't --  
16 they didn't do anything. He didn't agree with the conditions  
17 that were placed on the permit. So...

18 CHAIRMAN EVANS: But he didn't agree.  
19 He's an honest man. We'll give him that.

20 Any other discussion, comments?

21 COMMISSIONER McLAREN: Didn't we say  
22 something about three months ago that we expect somebody to be  
23 here to represent themselves?

24 COMMISSIONER REINHOLD: That's exactly  
25 what I was going to say.

1 [crosstalk]

2 CHAIRMAN EVANS: Yeah. I will say  
3 especially on a rezoning, if he'd have been here, I wouldn't have  
4 called him up unless we had questions. But I wish they'd been  
5 here because I think we probably had a few questions.

6 COMMISSIONER BOLAND: Well, I really don't  
7 think we have any questions. I think Scottie answered it.

8 COMMISSIONER BOLAND: Ready for a motion?

9 CHAIRMAN EVANS: Yeah, if there's no more  
10 discussion. Again, this is a recommendation to the Commission  
11 who will have a public hearing and which he will have to appear  
12 at.

13 COMMISSIONER SCHULTEHENRICH: You want to  
14 make a motion to deny the request? I make a motion that we --  
15 we deny the request or we recommend to the County Commissioners  
16 that they deny the request for rezoning in this case.

17 COMMISSIONER HAIRE: I'll second it.

18 CHAIRMAN EVANS: All right.

19 We have a motion and a second to recommend denial of  
20 File 150251 for E & M Development. All in favor signify by  
21 saying aye.

22 COMMISSIONER REINHOLD: Aye.

23 COMMISSIONER VOSS: Aye.

24 COMMISSIONER McLAREN: Aye.

25 COMMISSIONER CUNIO: Aye.

1 COMMISSIONER WILLIAMS: Aye.

2 CHAIRMAN EVANS: Aye.

3 COMMISSIONER BOLAND: Aye.

4 COMMISSIONER HAIRE: Aye.

5 COMMISSIONER TOBBEN: Aye.

6 COMMISSIONER SCHULTEHENRICH: Aye.

7 CHAIRMAN EVANS: Opposed? [None]

8 The motion is carried.

9 Preliminary Plats. We have none.

10 Planning and Zoning Commission Forum. I think  
11 everyone should have got -- received a revised copy of the agenda  
12 that includes discussion of a CUP for David Allen.

13 Scottie, you want to give us the details.

14 MS. EAGAN: I'll try to give you guys the  
15 short version.

16 So Mr. Allen is again not meeting his conditions  
17 with the third Conditional Use Permit that you all have given  
18 him. We went out and inspected the property. Tori inspected the  
19 property back in May. We sent him a reminder letter saying that  
20 these are your conditions, these are the ones you're not meeting.  
21 If you fail to meet them within 30 days, your permit is expired.

22 We got busy so we haven't been able to get out  
23 there. Tori went out there again at the end of October. So we  
24 sent him two different letters. One Tori sent him for material  
25 public nuisances and for being in violation of this variance.

1 And I send him one for his Conditional Use Permit saying that he  
2 wasn't meeting his conditions, mainly the one that says anything  
3 stored outside shall be behind a sight-proof fence and not  
4 visible from the road.

5 So we sent these letters out. He got an attorney  
6 involved, and was appealing our decision. So we got Mark  
7 involved, and Mark said it's probably best to bring this issue up  
8 to you all since you're the ones that approved the permit and put  
9 the conditions on the permit, and whether or not you think the  
10 permit should expire or let him keep going.

11 So there should be pictures going around and the  
12 Conditional Use Permit that shows everything that we have so far.

13 CHAIRMAN EVANS: If I remember right, his  
14 variance is when he went to BOZA, and that was on a number of  
15 vehicles.

16 MS. EAGAN: Uh-huh. Yeah, BOZA allowed  
17 him to have 24 vehicles. When Tori went out there, Tori said he  
18 was conservative because of the diesel shop next door, and he  
19 counted 39.

20 CHAIRMAN EVANS: And that was the only  
21 change to the conditions that we originally approved?

22 MS. EAGAN: Well, I mean, it's completely  
23 different than our first CUP, but with the CUP that's going,  
24 that's the latest one.

25 CHAIRMAN EVANS: Right.

1 COUNTY ATTORNEY VINCENT: But he hasn't --  
2 the key is the expiration instead of it being revoked.

3 MS. EAGAN: Right, because the permit was  
4 never issued because --

5 COUNTY ATTORNEY VINCENT: Right.

6 MS. EAGAN: -- it said he had six months  
7 to meet all conditions, and then it would expire. Sorry, I --

8 [crosstalk]

9 COUNTY ATTORNEY VINCENT: That's the big  
10 deal right there.

11 MS. EAGAN: Yeah.

12 COMMISSIONER HAIRE: Any other issues we  
13 need to know?

14 COUNTY ATTORNEY VINCENT: No, that's the  
15 big one.

16 COMMISSIONER HAIRE: Okay.

17 COUNTY ATTORNEY VINCENT: You all put the  
18 time limit on it saying that okay, when you get these things  
19 done, you have six months to get them done. If you don't get  
20 them done, it's going to expire. And we're not trying to revoke  
21 it because he never got it in place. So but since you guys are  
22 the ones that did that, I didn't think it was right for Scottie  
23 to do it, but what I would expect from you guys is a motion one  
24 way or the other saying yeah, we want to let it continue, or no,  
25 we found it expired.

1 CHAIRMAN EVANS: And that was included  
2 that he had six months or it would expire?

3 MS. EAGAN: It was -- that was one of his  
4 conditions.

5 CHAIRMAN EVANS: Well, it didn't seem like  
6 that's a failure to meet a condition.

7 [crosstalk]

8 COMMISSIONER VOSS: It's an entire --

9 COUNTY ATTORNEY VINCENT: The conditions  
10 come in play once he has the permit issued. He doesn't have --  
11 you said he's got to do all this stuff before the issue comes -- the  
12 permit is issued.

13 CHAIRMAN EVANS: Uh-huh.

14 MS. EAGAN: You said he has six months to  
15 meet all the conditions. Failure to meet all conditions...

16 COUNTY ATTORNEY VINCENT: But it's not a  
17 failure to meet the conditions. It's not compliant with your  
18 directive that it be done within six months.

19 MS. EAGAN: Right.

20 CHAIRMAN EVANS: Right. I guess my  
21 question is then how did we tell him about the six months?

22 MS. EAGAN: It's on his permanent, and he  
23 gets a copy of his permit.

24 CHAIRMAN EVANS: Okay.

25 MS. EAGAN: Yeah, once you sign it, we

1 give them a copy of it saying here's everything that needs to be  
2 met before your permit's issued.

3 CHAIRMAN EVANS: Okay. So that's how he  
4 was informed. That answers my question. So...

5 COUNTY ATTORNEY VINCENT: You got to be  
6 really careful. I know it sounds like we're splitting hairs, but  
7 what will most likely happened from this is that writ of  
8 certiorari will be filed by the lawyer, and I want to ensure that  
9 we have the record right. We're not revoking his permit because  
10 he never really got -- it never got issued.

11 COMMISSIONER HAIRE: Okay.

12 MS. EAGAN: All right. The way our Code  
13 is written is that it is approved the night you vote on it. It's  
14 issued when all conditions are met.

15 COMMISSIONER REINHOLD: Has he done any of  
16 them?

17 MS. EAGAN: I forget what the latest  
18 permit says in terms of conditions. I knew I think he had an  
19 entrance permit, but as far as I know, that's all he's done.

20 There is no fence. Every time Tori goes out there  
21 and he doesn't see anything about hours of operation or anything  
22 like that.

23 CHAIRMAN EVANS: So he was officially  
24 informed that his application would expire if the conditions  
25 weren't met in the six months?

1 MS. EAGAN: He was at the meeting and he  
2 was sent a copy of the decision.

3 CHAIRMAN EVANS: Okay. So in six months,  
4 he was informed that the six months are up?

5 MS. EAGAN: Well, it's been way longer  
6 than six months.

7 CHAIRMAN EVANS: Yeah.

8 COMMISSIONER WILLIAMS: Have you had any  
9 communication with him and response back?

10 MS. EAGAN: Just through his attorney.

11 COMMISSIONER WILLIAMS: Okay. And his  
12 attorney says?

13 MS. EAGAN: He didn't agree with us. He  
14 didn't agree with our decision.

15 [crosstalk]

16 COUNTY ATTORNEY VINCENT: What he was  
17 saying that's why we're here tonight, is that he was saying that  
18 Scottie did not have the authority to revoke or to say that his  
19 permit was expired because she was not the issuing authority.

20 You guys are the issuing authority. That's why I  
21 said, okay, fine. Send the guy's money back to him, tell him  
22 we're going to do it over. And so now we brought it back to you  
23 guys since you were issuing authority. So your decision is did  
24 he comply -- I probably spoke a little bit wrong a while ago,  
25 Bill. The conditions you placed and had to be met within six

1 months, you -- if he does not do that, you have the options of  
2 giving him more time or finding that his application has expired.  
3 And boom, he's done. So it's up to you guys.

4 CHAIRMAN EVANS: I guess one question is a  
5 point of order that any item that we would vote on is required to  
6 be on the agenda. So --

7 MS. EAGAN: It's on the agenda.

8 COMMISSIONER SCHULTEHENRICH: It's on the  
9 agenda.

10 COMMISSIONER HAIRE: It's on the agenda.

11 CHAIRMAN EVANS: So it was --

12 MS. EAGAN: Yeah, Nichole posted it.

13 MS. ZIELKE: December 8.

14 CHAIRMAN EVANS: The four days, okay.

15 MS. EAGAN: You posted on December 8th?

16 MS. ZIELKE: On December 8th, it went on  
17 the property and in the building.

18 CHAIRMAN EVANS: Okay. That answered my  
19 question.

20 COUNTY ATTORNEY VINCENT: As long as it's  
21 on the agenda, that's all you have to do.

22 COMMISSIONER REINHOLD: So, Mark, did he  
23 get notified that was going to be on the agenda today?

24 MS. EAGAN: Well, I mean, he -- no, I  
25 didn't. All I did was send him his money back with a letter

1 saying that we're going to bring it before you guys for your  
2 decision.

3 COMMISSIONER McLAREN: Bill, so, you know,  
4 being the new kid on the block here --

5 COUNTY ATTORNEY VINCENT: You're not the  
6 new kid. Tom is. You can't use that excuse anymore.

7 COMMISSIONER McLAREN: Did I hear you say  
8 he's had three different CUPs issued?

9 COUNTY ATTORNEY VINCENT: I didn't.

10 MS. EAGAN: Yeah.

11 COUNTY ATTORNEY VINCENT: She said that.

12 MS. EAGAN: Yes.

13 COMMISSIONER McLAREN: Okay. So he -- and  
14 he failed to comply with all is the reason it was --

15 MS. EAGAN: Correct.

16 COMMISSIONER McLAREN: Because I was going  
17 ask is why you only -- I thought a CUP got a year and not six  
18 months.

19 COUNTY ATTORNEY VINCENT: A year to comply  
20 with the conditions, what you guys said on your -- when Scottie  
21 says right. The night that you do it it's approved, but it's not  
22 issued. The issuance gives you authority to actually go into  
23 business, if you will, on that use.

24 COMMISSIONER McLAREN: Okay, but --

25 MS. EAGAN: You guys can put different

1 time limits on a Conditional Use Permit. If you don't, our Code  
2 does cover if within a year you don't you A, B, or C, it could  
3 expire. But if you put it on your permit, then that's -- as far  
4 as I know, that supercedes what's in here.

5 COMMISSIONER McLAREN: Correct. That was  
6 my question.

7 COUNTY ATTORNEY VINCENT: Good question,  
8 Bill.

9 COMMISSIONER HAIRE: Is there a specific  
10 way we need to word this?

11 COUNTY ATTORNEY VINCENT: I think you have  
12 a motion that because he failed to meet the conditions of the  
13 approval, that the permit has expired or the application has  
14 expired.

15 COMMISSIONER REINHOLD: Has there been  
16 [inaudible]?

17 MS. EAGAN: We've had a couple throughout  
18 the years.

19 COMMISSIONER SCHULTEHENRICH: I think the  
20 question is relatively simple, and that is are we agreeable to  
21 extend the six months to a longer period of time. And if we're  
22 not agreeable to do so, the CUP will expire at that point in  
23 time. Therefore, if he wants to reapply, of course, the CUP has  
24 to meet the conditions of reapplying for CUP.

25 COUNTY ATTORNEY VINCENT: That's right.

1                   COMMISSIONER SCHULTEHENRICH: So that's the  
2 question I think we have to answer. Are we agreeable to give him  
3 additional time to comply. If we are not in agreement to it,  
4 then we -- I think our consideration is that we consider the CUP  
5 application to expire at that point in time.

6                   COUNTY ATTORNEY VINCENT: Uh-huh. Right.

7                   COMMISSIONER SCHULTEHENRICH: Yeah. So I  
8 think that's what we...

9                   CHAIRMAN EVANS: Okay. I think what we're  
10 really discussing also is the history that we have here. Do we  
11 believe that he's going to do it. I mean, we've given him every  
12 chance and extended him every courtesy, and does it come to some  
13 point in time that we can't say yes forever. So we have the two  
14 options.

15                   COMMISSIONER SCHULTEHENRICH: And we've  
16 looked upon that before, noncompliance, a few years ago in which  
17 the individual was in fact trying to meet the year to make the  
18 improvements during that one-year period of time. So we saw that  
19 as a means in which he was making an effort to try to do so.

20                   In this case here, I don't hear of the individual  
21 trying to meet the conditions that we had requested him to come  
22 into address before the -- receiving the permit. Okay.

23                   So therefore, I don't know how we can extend it  
24 without him giving any sign that he has any indication to comply.  
25 So that's my opinion.

1                   CHAIRMAN EVANS: But we have given him  
2 every opportunity and every courtesy. And this has gone on for  
3 some period of time, and I think we've bend over backwards, and  
4 we've certainly given him the benefit of the doubt.

5                   COUNTY ATTORNEY VINCENT: Jay -- the way  
6 Jay phrased that was very good. I think maybe if you wan to look  
7 at a motion, it's almost like a negative thing that you guys  
8 decline to extend it anymore, and therefore, the application has  
9 expired, if that's what you desire to do.

10                  COMMISSIONER BOLAND: Can you repeat that,  
11 Jay?

12                  COMMISSIONER SCHULTEHENRICH: You think --  
13 [crosstalk and laughter]

14                  COUNTY ATTORNEY VINCENT: We're going to  
15 have to have a record.

16                  COMMISSIONER SCHULTEHENRICH: Okay.

17                  COUNTY ATTORNEY VINCENT: If we get a  
18 lawsuit filed, we'll have to have a record.

19                  COMMISSIONER SCHULTEHENRICH: That's fine.

20                  COUNTY ATTORNEY VINCENT: Right, Joe?

21                  COMMISSIONER SCHULTEHENRICH: I think the  
22 motion is that we would deny any extension of the time period on  
23 the Conditional Use Permit that he had applied for, and that me  
24 would consider, because of noncompliance being met, that we would  
25 consider, therefore, the Conditional Use Permit to have now

1 expired. Okay?

2 MS. EAGAN: The application.

3 COUNTY ATTORNEY VINCENT: The application.

4 CHAIRMAN EVANS: The application.

5 COMMISSIONER SCHULTEHENRICH: The  
6 application, I'm sorry. The application, thank you, to have  
7 expired.

8 COMMISSIONER BOLAND: I'd second that.

9 COMMISSIONER HAIRE: You got to repeat it,  
10 though.

11 CHAIRMAN EVANS: We have a motion and a  
12 second on CUP 130230, which I will not repeat.

13 All in favor signify by saying aye.

14 COMMISSIONER REINHOLD: Aye.

15 COMMISSIONER VOSS: Aye.

16 COMMISSIONER McLAREN: Aye.

17 COMMISSIONER CUNIO: Aye.

18 COMMISSIONER WILLIAMS: Aye.

19 CHAIRMAN EVANS: Aye.

20 COMMISSIONER BOLAND: Aye.

21 COMMISSIONER HAIRE: Aye.

22 COMMISSIONER SCHULTEHENRICH: Aye.

23 CHAIRMAN EVANS: Opposed?

24 COMMISSIONER TOBBEN: Can I abstain due to  
25 a relationship there?

1 CHAIRMAN EVANS: Yes. The record will  
2 show that Commissioner Tobben is abstaining from the vote.

3 COUNTY ATTORNEY VINCENT: Is he your  
4 brother?

5 COMMISSIONER TOBBEN: No.

6 CHAIRMAN EVANS: All opposed? [None]

7 The motion is carried.

8 MS. EAGAN: And, Bill, I'll have you sign  
9 the letter. Correct, Mark?

10 COUNTY ATTORNEY VINCENT: Yes, ma'am. I  
11 almost called you sir.

12 CHAIRMAN EVANS: Anything else with the  
13 Planning and Zoning Commission Forum, anything the Commissioners  
14 wish to discuss?

15 Planning Director's report.

16 MS. EAGAN: I think as of now, we may have  
17 one potential file on the agenda for January. If by chance this  
18 person cleans up their property, he might not be on the agenda.

19 And if he's not, then Nichole and I might do a small  
20 training session with you. Nothing too big or elaborate, but  
21 we'll see what's on the agenda for next month.

22 CHAIRMAN EVANS: Okay. I think then our  
23 trial of having Communications and Visitor Comments up front was  
24 also something that was --

25 MS. EAGAN: Yeah, the last month. You

1 guys will have to decide what to do with that next.

2 CHAIRMAN EVANS: -- at the end of the year  
3 say if we wanted any changes as far as Visitor's and  
4 Communications. There's no limit right now, I believe.

5 COUNTY ATTORNEY VINCENT: You guys have  
6 had a heck of a lot of Visitors and Communication over the last  
7 few months.

8 CHAIRMAN EVANS: Yeah, there is something  
9 we probably want to stay in front of.

10 COUNTY ATTORNEY VINCENT: Like you want to  
11 stay in front of a bus.

12 CHAIRMAN EVANS: Yeah, and I think because  
13 I had another thinking on there in length of comments also.  
14 Correct?

15 MS. EAGAN: In the by-laws you mean?

16 CHAIRMAN EVANS: In the by-laws. We did  
17 for public hearings is five minutes, but we have nothing under  
18 visitor comments.

19 MS. EAGAN: No --

20 [telephone interference]

21 CHAIRMAN EVANS: There are -- we may want  
22 to look at that.

23 MS. EAGAN: Do you want to put it on the  
24 agenda to discuss the by-laws next month under the same, the  
25 Commission Forum?

1 CHAIRMAN EVANS: I'm sorry. This  
2 background music --

3 COMMISSIONER HAIRE: I'll put a buck in  
4 the jar.

5 COMMISSIONER WILLIAMS: You would think  
6 he'd be concerned not to have a Christmas song.

7 [crosstalk]

8 CHAIRMAN EVANS: That's something else to  
9 think about, is the Visitor's Comments and Communications,  
10 leaving them up. And again, we didn't have the time limit on the  
11 comments that visitors could make. So they could get up there  
12 for any length of time. We do have it in the public hearing but  
13 not there.

14 MS. EAGAN: Did you mean next month under  
15 Commission Forum have discussion regarding by-laws and you can  
16 all discussion it? How do you want to do it?

17 CHAIRMAN EVANS: I would -- with to change  
18 those we take up -- we'd have to have it as an agenda item, you  
19 know. We can vote it there.

20 MS. EAGAN: All right.

21 CHAIRMAN EVANS: So I would have it on  
22 there as that, any other changes actually that someone would come  
23 up with that revised the by-laws. Now would be the good time to  
24 look at them.

25 All right. Planning Director's Report?

1 MS. EAGAN: I just gave it to you.

2 CHAIRMAN EVANS: If there's nothing else,  
3 Chair would entertain a motion to adjourn.

4 COMMISSIONER BOLAND: So moved.

5 COMMISSIONER McLAREN: Second.

6 CHAIRMAN EVANS: Motion and second to  
7 adjourn. All in favor?

8 COMMISSIONER REINHOLD: Aye.

9 COMMISSIONER VOSS: Aye.

10 COMMISSIONER McLAREN: Aye.

11 COMMISSIONER CUNIO: Aye.

12 COMMISSIONER WILLIAMS: Aye.

13 CHAIRMAN EVANS: Aye.

14 COMMISSIONER BOLAND: Aye.

15 COMMISSIONER HAIRE: Aye.

16 COMMISSIONER TOBBEN: Aye.

17 COMMISSIONER SCHULTEHENRICH: Aye.

18 CHAIRMAN EVANS: Opposed? [None]

19 We are adjourned.

20 [Thereupon, the proceedings concluded at  
21 7:35 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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**MIDWEST LITIGATION SERVICES**

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