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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
MAY 17, 2016
(Commencing at 7:00 p.m.)

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

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(All exhibits, if any, were retained by the Commission, and will not be attached hereto.)

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A P P E A R A N C E S

BOARD OF PLANNING AND ZONING COMMISSION MEMBERS:

William Evans, Jr., Chairman

Jay Schulteheinrich, Co-Chairman

Donald Voss, Commissioner

Bill McLaren, Commissioner

Ray Cunio, Commissioner

Ron Williams, Commissioner

Todd Boland, Commissioner

Dan Haire, Commissioner

Tom Tobben, Commissioner

Russell McCreary, Commissioner

PLANNING AND ZONING STAFF:

Ms. Scottie Eagan, Planning Director

LEGAL COUNSEL:

Mark Vincent, County Attorney

MIDWEST LITIGATION SERVICES:

By: Patsy A. Hertweck, C. R.

711 North Eleventh Street

St. Louis, Missouri 63101

(314) 644-2191

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

2 [MAY 17, 2016]

3 CHAIRMAN EVANS: At this time, I'd
4 like to call to order the Franklin County Planning and
5 Zoning Commission meeting.

6 MS. EAGAN: Bill Evans?

7 CHAIRMAN EVANS: Here.

8 MS. EAGAN: Jay SchulteHenrich?

9 COMMISSIONER SCHULTEHENRICH: Here.

10 MS. EAGAN: Todd Boland?

11 COMMISSIONER BOLAND: Here.

12 MS. EAGAN: Tim Reinhold?

13 COMMISSIONER REINHOLD: [Not present]

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: Here.

1 MS. EAGAN: And, Ron Williams?

2 COMMISSIONER WILLIAMS: Here.

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

4 CHAIRMAN EVANS: Thank you.

5 At this time, I want to give the Planning and
6 Zoning Commissioners the opportunity to declare any
7 conflict, communication, or relationship they may have had
8 that might influence their ability to consider any issues
9 impartially.

10 COMMISSIONER TOBBEN: Last month I
11 recused myself from File 160064. I'm going to do that once
12 again. I'm also going to recuse myself from the File 160100
13 Summer Hill Estate Subdivision Property, L. L. C. rezoning.

14 COMMISSIONER BOLAND: Mr. Chairman,
15 I'd like to excuse myself from File 160100 also.

16 CHAIRMAN EVANS: All right. The
17 record will indicate Commissioners who recuse from those
18 files.

19 Scottie, will you please give us the
20 presentation of the meeting procedures and exhibits.

21 MS. EAGAN: Tonight's Planning
22 Commission meeting is governed by the Franklin County
23 Unified Land Use Regulations.

24 Some matters on the agenda may be for action by
25 the Planning and Zoning Commission. These matters do not

1 involve public hearing. Other matters on the agenda require
2 public hearings under Missouri law. If a matter involves a
3 public hearing, all individuals who desire to testify will
4 be given an opportunity to do so.

5 At this time, I would like to place into the
6 record these Regulations as Exhibit A, the official Zoning
7 Map as Exhibit B, the official Master Plan as Exhibit C, and
8 the case file for each case as Exhibit D for all the cases
9 to be heard during the meeting.

10 [Thereupon, evidence was marked
11 for identification and presented for the
12 record as Planning and Zoning Exhibits A,
13 B, C, and D.]

14 All Old Business items on the agenda will be
15 dealt with first.

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

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

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

25 When it is your turn to speak, you will come to

1 the front of the room to address the Commission and only the
2 Commission, not anyone in the audience, with your comments.

3 It is possible for the Commission to decide to
4 move a New Business issue to Old Business and vote on it the
5 same night.

6 At the conclusion of all questions, comments,
7 and discussion concerning each case, the Planning Commission
8 will proceed. Any final decision by the Planning and Zoning
9 Commission concerning conditional use permits may be
10 appealed to the Board of Zoning Adjustment any time within
11 90 days.

12 Applications for such an appeal may be acquired
13 from the Department offices during normal business hours.

14 CHAIRMAN EVANS: Thank you.

15 All the Commissioners should have received a
16 copy of the April 19th minutes of the Planning and Zoning
17 Commission. If there are no corrections or changes, the
18 Chair would entertain a motion to approve.

19 COMMISSIONER SCHULTEHENRICH: Mr.
20 Chairman, I'll make a motion that we approve the minutes of
21 last meeting.

22 COMMISSIONER HAIRE: I'll second it.

23 CHAIRMAN EVANS: We have a motion and
24 a second to approve the minutes. All in favor signify by
25 saying aye.

1 COMMISSIONER VOSS: Aye.
2 COMMISSIONER McLAREN: Aye.
3 COMMISSIONER CUNIO: Aye.
4 COMMISSIONER WILLIAMS: Aye.
5 CHAIRMAN EVANS: Aye.
6 COMMISSIONER BOLAND: Aye.
7 COMMISSIONER HAIRE: Aye.
8 COMMISSIONER TOBBEN: Aye.
9 COMMISSIONER SCHULTEHENRICH: Aye.
10 COMMISSIONER McCREARY: Aye.
11 CHAIRMAN EVANS: Opposed? [None]

12 Minutes are approved.

13 Before we start the rest of the agenda, there
14 are two changes that have been made. One is reflected in
15 the agenda that you all should have that Scottie handed out
16 tonight, which is File 160101, Summer Hill Estate
17 Subdivision is postponed until June 21st.

18 And the second which is not reflected on the
19 agenda is File 160098, Meramec Aggregates, Incorporated.
20 Today the Planning and Zoning office received a letter from
21 Meramec Aggregates, and they have withdrawn their
22 conditional use permit application. So that file will not
23 appear on the agenda tonight.

24 Communications and Visitor Comments. Is there
25 anyone present wishing to address the Commission?

1 If you would, state your name and address and
2 sign in, please.

3 MR. NICK NORMAN: Hello, my name is
4 Nick Norman, 783 Lost Hill Lake Road.

5 [Thereupon, the witness was sworn.]

6 CHAIRMAN EVANS: I would point out
7 that everybody here wishing to speak can, but we are limited
8 to three minutes per person.

9 MR. NORMAN: I am representing a group
10 tonight of citizens that are against the Meramec Aggregates,
11 Incorporated surface mines. We are here specifically to
12 speak about File Number 160098. I know that today it was
13 withdrawn. Due to Mr. Vincent's interpretation of the law,
14 I do have a very brief PowerPoint if you would allow me to
15 play it or not. I've been working on this for the past
16 month. We feel as though that we have very real safety and
17 health concerns. I wondering if you would allow me to play
18 the PowerPoint?

19 CHAIRMAN EVANS: Whatever you can do
20 in the next two minutes and fifteen seconds, and I will say
21 that file is not on the agenda.

22 MR. NORMAN: Okay. I understand.

23 In reference to the County Counselor Mark
24 Vincent's written letter to Ms. Scottie Eagan stating,
25 "Nothing in Section 64.800 to 64.905 RSMo shall affect the

1 recovery of natural resources by strip or open-cut mining,"
2 we have found a statute exactly like 64.890, under our legal
3 counsel, that was struck down as unconstitutional by the
4 Missouri Supreme Court in Rider versus St. Charles County,
5 meaning that Franklin County Planning and Zoning does have
6 the authority and the duty to require Meramec Aggregates,
7 Incorporated to seek a conditional use permit just as
8 Franklin County has done in the past on March 16th approving
9 the other surface mine.

10 I object to Mark Vincent's interpretation of
11 the law. So does our legal counsel. I object to the fact
12 that Franklin County Planning and Zoning does not have
13 jurisdiction over these mines. I believe that you do.

14 I urge the Planning and Zoning Commission to
15 fight this injustice.

16 And I also have 12 binders with everything
17 that we gathered in the past month. I'd like to place that
18 into evidence.

19 CHAIRMAN EVANS: I will say the
20 Commissioners will take that, but since we are not taking
21 written testimony, I can't refer to these as evidence.

22 MR. NORMAN: I understand. Thank
23 you, Commissioners.

24 CHAIRMAN EVANS: Thank you,
25 Mr. Norman.

1 Anyone else present wishing to address the
2 Commission? Will you please state your name and address and
3 sign in.

4 MR. PAUL PRINCE: My name is Paul
5 Prince. I live at 2457 Mill Hill Road. And I'm just going
6 to read this real quick because he's already read it, but
7 legal counsel has advised to go ahead and read it anyway.

8 In reference to County Counselor Mark Vincent's
9 written letter to Scottie Eagan, "Nothing in the Section
10 64.800, 64.905 which is RSMo" -- Revised State Statutes of
11 Missouri, that's what that means -- "shall affect the
12 recovery of natural resources by strip mining and open
13 mining." [sic]

14 The statute exactly like 64.890 was struck down
15 unconstitutional by the Missouri Supreme Court, Rider versus
16 St. Charles County, meaning Franklin County does have the
17 existing authority and duty to require Meramec Aggregates,
18 Incorporated to seek a conditional use permit just as
19 Franklin County has done in the past.

20 I object to Mark Vincent's interpretation of
21 law. I object to the fact that Franklin County Planning and
22 Zoning does not have jurisdiction over these mines.

23 Last sentence. This is for you guys.

24 I urge the Planning and Zoning Commission
25 please to take this into consideration.

1 Now my statement. I was a police officer for
2 33 years. I retired in '07. I worked a lot of traffic
3 accidents involving trucks, cars, buses, you name it. The
4 road that this potential travel for these gravel trucks to
5 come down is not wide enough and it has no shoulder in many
6 places, just a sheer dropoff. I don't see how a bus and a
7 gravel truck can pass safely. I just don't. I don't see
8 it.

9 The other thing is we had a motorcycle crash
10 just about five or six weeks ago. A boy was hurt, and that
11 was just a car and motorcycle. So you have this nice
12 asphalted road now. With a new road that's nice and
13 asphalt, you get the speed.

14 The last point. I used to get my fuel at Tri
15 County on the way to work to my police headquarters.
16 Anyway, I'd stop in Tri County. You'd see these big trucks
17 parked there and all this cloud of diesel residue coming out
18 of there. You get out of your car, gas your car up. By the
19 time you got back in, you felt like you had oil residue on
20 your hands. It's a safety issue.

21 So -- and the last thing is that the road right
22 directly in front of my home is almost a 25- to 30-degree
23 angle. It's quite a slope going up. You'll have to put
24 those gravel trucks in first gear and grind to get them to
25 go up that hill. I've seen trash trucks, I've seen other

1 trucks have to stop and back down the road to get another
2 run at it. So it's really a safety issue. I told my wife
3 the other day if this goes through, we're trying to sell our
4 home. I don't think I'll get too many buyers with 50 trucks
5 or plus going down in front of my home everyday.

6 I'm retired and I would like to live my last
7 years in a little bit of peace.

8 Thank you for your consideration.

9 CHAIRMAN EVANS: Thank you,
10 Mr. Prince.

11 Is there anyone else wishing to address the
12 Commission? Please state your name and address.

13 MS. SAMANTHA NORMAN-WILLIFORD: Hi,
14 my name is Samantha Norman-Williford, and I live at 783 Lost
15 Hill Lake Road, St. Clair, Missouri 63077.

16 In reference --

17 CHAIRMAN EVANS: You need to sign in
18 also.

19 MS. NORMAN-WILLIFORD: Sure.

20 In reference to County Counselor Mark Vincent's
21 written letter to Ms. Scottie Eagan stating, "Nothing in
22 Section 64.800 to 64.905 RSMo shall affect the recovery of
23 natural resources by strip or open-cut mining," we have
24 found a statute exactly like 64.890 that was struck down as
25 unconstitutional by the Missouri Supreme Court in Rider

1 versus St. Charles County, meaning Franklin County does have
2 the authority and the duty to require Meramec Aggregates,
3 Incorporated to seek a conditional use permit just as
4 Franklin County has done in the past.

5 I object to Mark Vincent's interpretation of
6 the law. I object to the fact that Franklin County Planning
7 and Zoning does not have jurisdiction over these mines.

8 I urge, I pray, I beg the Planning and Zoning
9 Commission to fight this injustice.

10 Thank you.

11 CHAIRMAN EVANS: Thank you.

12 Anyone else wishing to address the Commission?

13 Please state your name and address and sign in.

14 MS. SAMANTHA HYNDRICH-FRIDLAY:

15 Samantha Hyndrich-Fridlay, and I live at 1863 Opechee Breach
16 Road, Pacific, Missouri 63069.

17 In reference to County Counselor Mark Vincent's
18 written letter to Ms. Scottie Eagan stating, "Nothing in
19 Section 64.800 to 64.905 RSMo shall affect the recovery of
20 natural resources by strip or open-cut mining," we have
21 found a statute exactly like 64.890 that was struck down as
22 unconstitutional by the Missouri Supreme Court in Rider
23 versus St. Charles County, meaning Franklin County does have
24 the authority and duty to require Meramec Aggregates,
25 Incorporated to seek a constitutional [sic] use permit just

1 as Franklin County has done in the past.

2 I object to Mark Vincent's interpretation of
3 the law. I object to the fact that Franklin County Planning
4 and Zoning does not have jurisdiction over these mines.

5 I urge the Planning and Zoning Commission to
6 fight this injustice.

7 Just a little bit about who I am. My name is
8 Samantha Hyndrich-Fridlay. I'm an employee of Lost Hill
9 Lake Events. My relationship with everyone there started
10 whenever I was one of their brides. I went and I searched
11 for months to find a venue that was just everything that I'd
12 dreamt of, and I found that in Lost Hill Lake Events. And
13 if -- looking back two years ago, if this mine or these two
14 mines were there at the time, I wouldn't have. I wouldn't
15 have had my wedding there if everything about my wedding day
16 would have been affected.

17 And since then, since August of last year, I
18 have had a part-time job there, and they are just great
19 people. And I feel like this is -- this is going to take a
20 huge, a huge financial place. A lot of brides aren't going
21 to want to go there, and that's going to definitely impact
22 the whole town. There are plenty of businesses and caterers
23 around that area that are greatly affected by the business
24 that Lost Hill Lake Events brings in. And if there's two
25 mines across from there, no one is going to want to get

1 married there.

2 That's all I really have to say. Thank you.

3 CHAIRMAN EVANS: Thank you.

4 Is there anyone else wishing to address the
5 Commission? Please state your name and address.

6 MS. JUDI PATTON: Yes, my name is
7 Judi Patton. I live at 2866 River Bend Road, and we have
8 Patton Auto Salvage there.

9 In reference to County Counselor Mark Vincent's
10 written letter and Ms. Scottie Eagan stating, "Nothing in
11 Section 64.800 to 64.905 RSMo shall affect the recovery of
12 natural resources by strip or open-cut mining," we have
13 found a statute exactly like 64.890 that was struck down as
14 unconstitutional by the Missouri Supreme Court in
15 Rider versus St. Charles County, meaning that Franklin
16 County does have the authority and duty to require Meramec
17 Aggregates, Incorporated to seek a conditional use permit
18 just as Franklin County has done in the past.

19 I object to Mark Vincent's interpretation of
20 the law. I object to the fact that Franklin County Planning
21 and Zoning does not have jurisdiction over these mines.

22 I urge the Planning and Zoning Commission to
23 fight this injustice.

24 I know that we are on the first curve after the
25 straightaway coming off of River Bend Road. And as it is,

1 we watch out for our customers as they pull in and out of
2 our driveway. I can't imagine it with trucks. We'll have to
3 walk around the corner and make absolutely sure nothing is
4 coming. They're picking up speed coming down that
5 straightaway, and then they slow down just enough to make it
6 around that corner, and it's going to be a very dangerous
7 proposition there.

8 I know there's lots of people who have children
9 that are reaching driving age, and they're going to be
10 driving on the roads in the next few years. These big
11 trucks, there aren't -- there is no shoulder, no shoulder
12 whatsoever.

13 And just during the paving of River Bend Road,
14 they paved the first part, and by the time they finished at
15 the end, they had to come back and repave the first part
16 again because they had broken through the shoulders and it
17 was full of potholes. So it's just not built for that kind
18 of traffic.

19 I can't imagine setting my alarm clock by it's
20 7:30. There goes the first truck, and there it's a nonstop
21 stream of trucks back and forth until 3:30 in the afternoon.
22 School buses, I -- it just frightens me to death to see that
23 kind of traffic on that road.

24 Fifty years ago, there was another access from
25 Haven's through. I believe there's a house there now. So I

1 don't know of any other way to come in to do their mining,
2 but I don't believe that River Bend is the way to do it.
3 There's so much more population than there was back then,
4 and so many more people will be affected.

5 I thank you all for hearing me.

6 CHAIRMAN EVANS: Thank you, Ms.
7 Patton.

8 Is there anyone else wishing address the
9 Commission? [None]

10 If not, we'll move on to Old Business. File
11 150277 is still tabled to the June 21st meeting.

12 Moving on to New Business. We have File
13 160064, CFMV Venture, Limited tabled from the last meeting.

14 Scottie, you want to give us the details on it.

15 MS. EAGAN: This is File 160064, CFMV
16 Venture, L. L. C.

17 The Applicant requests to rezone one parcel
18 from Suburban Development to Commercial Activity Highway
19 Service.

20 The property is located at 3883 Highway NN at
21 the south of the intersection of Highway NN and Old Highway
22 O in Calvey Township.

23 The Facts: The total area for the rezoning is
24 approximately 0.3 acres.

25 The zoning of this property is Suburban

1 Development. The Applicant would like to rezone to
2 Commercial Activity Highway Service.

3 Commercial Activity Highway Service zoning
4 accommodates commercial uses that draw businesses primarily
5 along the major highways of Franklin County.

6 The properties around the proposed site are
7 zoned Suburban Development.

8 The properties directly south of the proposed
9 rezoning appears to be a commercial shopping center.

10 The properties to the northwest across Old
11 Highway O are part of a 39-lot, medium-density residential
12 subdivision that was platted in 1956.

13 The properties to the east across Highway N
14 appear to be large-lot residential land or undeveloped land.

15 There is currently an auto repair business on
16 this property. The Applicant states this business has been
17 at this location for 16 years.

18 Staff Comments: Rezoning are allowed in our
19 regulations due to the ever-changing conditions that exist
20 in the county and elsewhere. According to Article 14,
21 Section 321, any such change must promote the health,
22 safety, morals, comfort, and general welfare of Franklin
23 County by conserving and protecting property and building
24 values, by securing the most economical use of land and
25 facilitating the adequate provision of public improvements

1 in accordance with the Master Plan adopted by Franklin
2 County.

3 CHAIRMAN EVANS: Thank you.

4 Is the Applicant present? [Not present]

5 Any discussion by the Commissioners?

6 I think we had this file, and the reason it was
7 tabled to this month is that the Applicant, although not
8 required to be present, since we take the time and effort to
9 be here, we thought he would be able to answer some
10 questions, so in last month's meeting, the Applicant was not
11 here.

12 Scottie, was he informed that it would be on
13 the agenda tonight?

14 MS. EAGAN: Yes.

15 CHAIRMAN EVANS: So any discussion,
16 any questions? Jay?

17 COMMISSIONER SCHULTEHENRICH:

18 Mr. Chairman, I guess the question I would ask is this: our
19 vote is a recommendation, but I'm not inclined to give a
20 recommendation without the party showing up for us to at
21 least have the opportunity to question him.

22 So I guess the question that I ask is: Can
23 this, without any recommendation from us, be sent on to the
24 County Commissioners for their consideration without any
25 official consideration from us?

1 Or let me ask another question. Can we give an
2 official recommendation that would be no recommendation?

3 Those are questions that I would raise.

4 CHAIRMAN EVANS: As I understood it,
5 we had to give a recommend or not recommend, but, Scottie?

6 MS. EAGAN: I would look to Mark for
7 this one. We've never had this issue to come up.

8 COMMISSIONER McCREARY: I believe
9 I've asked that question before, and your response was
10 you're here to give a recommendation one way or the other.
11 Not punt, basically.

12 Scottie, maybe you can clear up basically
13 from -- the only testimony we have is this handwritten note
14 saying he wants to sell eight to ten cars. There's only
15 room for eight to ten cars on this lot. That's well within
16 the confines of that use, isn't it? I mean, don't we have a
17 certain number of cars that are allowed?

18 MS. EAGAN: If it's permitted, we
19 don't have numbers associated with it.

20 COMMISSIONER McCREARY: Oh, okay.
21 This is a CUP. Okay.

22 COUNTY ATTORNEY VINCENT: It comes
23 down back to you. This is very simple. You have to
24 consider all the possible uses in that zoning
25 classification. In your opinions just from what you know of

1 the file, that's all you have before you, do you feel to
2 make a recommendation to the County Commission that anything
3 permissible in this district should be done on that land?

4 Now, mathematically, you give a negative
5 recommendation, it takes -- to overturn your vote, it takes
6 a super majority. A super majority of three is two. If you
7 give a favorable recommendation, it takes a majority to
8 pass. A majority of three is two.

9 You need to give some sort of recommendation.
10 It's what you all feel is appropriate. But regardless of
11 what, it does -- to overturn or support your decision, your
12 recommendation, it takes two votes.

13 I think that he's not here. You asked him to
14 be here. Anybody would have a right to -- as an applicant
15 that does not like your action, they have a right to
16 challenge that. In this situation, challenging it, I'm not
17 sure what that means, because it's not -- you're not
18 required to have a public hearing at this level. You go --
19 but if you don't make a recommendation, there is a chance
20 that it could pass automatically with a 60-day set-on
21 period.

22 MS. EAGAN: We don't have anything in
23 our Code.

24 COUNTY ATTORNEY VINCENT: But it's
25 State law.

1 MS. EAGAN: It's the State statute.

2 COUNTY ATTORNEY VINCENT: Yeah. But
3 I would recommend that you make some sort of recommendation,
4 whatever you feel comfortable doing.

5 CHAIRMAN EVANS: And again, I think
6 we talked last meeting. For a rezoning, this is a
7 relatively simple request since you're talking a third of an
8 acre, not looking at the other possible uses in the new
9 zoning and what he is doing now.

10 Again, it was one of the relatively simpler
11 ones, and I really don't understand why the Applicant is not
12 here.

13 MS. EAGAN: Well, I will say we just
14 sent him a postcard again. We didn't call him personally
15 and invite him to the meeting. I mean, we just notified him
16 that the file was on the agenda. So...

17 CHAIRMAN EVANS: So, as Mark said,
18 this is a recommendation, and there will be a public hearing
19 and without getting into the regulations, I think it just
20 states that we were supposed to make a recommendation either
21 for or against. And as Mark explained, with the majority of
22 the Commission, that either recommendation...

23 So given that, I would suggest that we do have
24 a motion one way or the other.

25 COMMISSIONER SCHULTEHENRICH: All

1 right.

2 Mr. Chairman, I hear you, and I certainly don't
3 differ with you in saying what I said last meeting and that
4 was it looks relatively simple.

5 But I'm also concerned, I guess, that I don't
6 want us to be to all of sudden setting a precedent that
7 anybody who wanted to come in front of here for a zoning
8 change can ignore this commission when it falls upon us on a
9 responsible basis to act and recommend one way or the other
10 to the County Commissioners. Seems to me as though, if we
11 allow that to happen, what are we going to basically be
12 using in our decision?

13 As Mark said, we have the means of looking and
14 seeing what's all on here, but if by chance there's a fair
15 question to be asked, why wouldn't the Commissioners have
16 the means of asking and obtaining the answers before making
17 that decision. So that -- that's the concern that I would
18 express, that I find it difficult if we recommend.

19 I guess by recommendation, even though it seems
20 as though it's relatively simple, would basically be to deny
21 this request.

22 CHAIRMAN EVANS: I guess the other
23 options we would have -- I understand what you're saying,
24 Jay, and I wholeheartedly agree with you -- is we could also
25 table it again for another month.

1 And, Scottie, if it's possible -- I know we
2 send a postcard, but to make sure he is informed, would that
3 be extraordinary?

4 MS. EAGAN: We don't do it for
5 anybody else, but it's your all's decision.

6 CHAIRMAN EVANS: Okay. Again, that
7 would be the option, to recommend to approve or deny or
8 again table it for one more month, because, Jay, I agree
9 with you.

10 COMMISSIONER CUNIO: Mr. Chairman,
11 would that then put us in what Mark referred to as the
12 60-day window?

13 COUNTY ATTORNEY VINCENT: I'm looking
14 for the statute now. Maybe it's city. I'm making sure
15 about that one.

16 COMMISSIONER McLAREN: While he's
17 looking, I think that we -- I think we take these rezonings
18 too lightly. I think that I agree with Jay. I think if
19 somebody wants their property rezoned, they should be able
20 to come here and take their time and answer questions if
21 it's presented.

22 You know, as I look at this, I think it can
23 make sense. But I also don't see where it promotes my
24 safety, health or welfare of a citizen of Franklin County.
25 I think it promotes his business. So I would need somebody

1 to convince me that it promotes the safety, health and
2 welfare of Franklin County. Otherwise, I would make a
3 motion to deny this without him being here if we cannot
4 extend him another month. So I'm willing to extend another
5 month. Otherwise, we're going to have -- tonight my motion
6 will be to deny, not recommend.

7 COMMISSIONER HAIRE: Scottie, we can
8 -- I'm sorry. If we deny it and make a recommendation, I
9 mean, then it goes to the Commissioners. I mean, he can
10 bring it up there?

11 MS. EAGAN: Yeah, I don't -- I don't
12 believe there's anything in Article 14 to prohibit him from
13 filing as many times as he wants. We do have conditional
14 use permits that if they're denied, they can't reapply.

15 COUNTY ATTORNEY VINCENT: Look, guys,
16 with your negative recommendation, he still has to go to the
17 Planning and Zoning Commission for a hearing.

18 MS. EAGAN: Right.

19 COMMISSIONER HAIRE: Yeah, that's
20 what I'm saying. It still goes to a hearing. That's what
21 I'm saying.

22 MS. EAGAN: Right. I'm saying if
23 they deny it, he can still --

24 COMMISSIONER HAIRE: But if they deny
25 it, he can come back again?

1 COUNTY ATTORNEY VINCENT: If the
2 Commission denies it?

3 COMMISSIONER HAIRE: Right, yeah.

4 COUNTY ATTORNEY VINCENT: Okay. But
5 if the County Commission denies it...

6 CHAIRMAN EVANS: Yeah, he could
7 reapply. It would just cost him another permit.

8 COMMISSIONER BOLAND: Bill, did you
9 make a motion then to deny this?

10 COMMISSIONER McLAREN: Mr. Chairman,
11 I wish to make a motion to send this on not with -- without
12 approval, that we would deny the motion. We would deny the
13 request to change the zoning.

14 COMMISSIONER HAIRE: I'll second
15 that.

16 CHAIRMAN EVANS: Okay. We have a
17 motion and a second to recommend denial of the rezoning.
18 All in favor signify by saying aye.

19 COMMISSIONER VOSS: Aye.

20 COMMISSIONER McLAREN: Aye.

21 COMMISSIONER CUNIO: Aye.

22 COMMISSIONER WILLIAMS: Aye.

23 CHAIRMAN EVANS: Aye.

24 COMMISSIONER BOLAND: Aye.

25 COMMISSIONER HAIRE: Aye.

1 COMMISSIONER TOBBEN: [Recused]

2 COMMISSIONER SCHULTEHENRICH: Aye.

3 COMMISSIONER McCREARY: Aye.

4 CHAIRMAN EVANS: Opposed? [None]

5 Motion is carried.

6 Moving on to File 160095, Peggy Hope. Public
7 comment not accepted.

8 Scottie, will you please give us the details.

9 MS. EAGAN: This is File 160095 for
10 Peggy Hope.

11 The Applicant requests to rezone one parcel
12 from Suburban Development to Community Development.

13 The property is located at 2603 Wild Plum
14 Valley, approximately 150 feet west of the intersection of
15 Highway O and Wild Plum Valley in Calvey Township.

16 The Facts: The total area for the rezoning is
17 approximately 21 acres.

18 The zoning of this property is Suburban
19 Development. The Applicant would like to rezone to
20 Community Development.

21 Community Development zoning brings shopping,
22 the workplace, and home closer together by allowing a mixed
23 use of all types of residential density and most forms of
24 commercial development.

25 The properties around the proposed site are

1 zoned Suburban Development.

2 This property is surrounded primarily by
3 low-density residential land.

4 This property has access to Wild Plum Valley,
5 which is a county-maintained road.

6 The Applicant is not the current owner of the
7 property, but they do have a contract with the owner to
8 purchase the property.

9 Staff Comments: The Future Land Use Map shows
10 this property as being non-urban. The property directly
11 west is shown as medium-density residential, and the
12 property to the east, across Wild Plum Valley, is shown as
13 commercial.

14 Rezoning are allowed in our regulations due to
15 the ever-changing conditions that exist in the county and
16 elsewhere. According to Article 14, Section 321, any such
17 change must promote the health, safety, morals, comfort, and
18 general welfare of Franklin County by conserving and
19 protecting property and building values, by securing the
20 most economical use of land, and facilitating the adequate
21 provisions of public improvements in accordance with the
22 Master Plan adopted by Franklin County.

23 CHAIRMAN EVANS: Thank you.

24 Is the Applicant present? Will you please come
25 forward.

1 MS. PEGGY HOPE: Can I hand out
2 something. Hi, I'm Peggy Hope.

3 CHAIRMAN EVANS: State your name and
4 address and sign in, please.

5 MS. HOPE: 1201 Kortwright, St. Louis
6 or Webster Groves area or Rock Hill in Missouri.

7 [Thereupon, the witness was sworn.]

8 I just did some of those pictures so you can
9 see. It doesn't tell a total plan. It's just giving you an
10 idea. The first one is the property that I'm trying to --
11 or I have a contract to purchase I'm waiting on, and then
12 the barn that's on there that you see, the second page I
13 think, that's the one that's going to be turned into the
14 third page that we'll sell. It's just going to be a small
15 wedding venue. And then the last one, that's the boathouse
16 that's on there that I'd like to make that like the bridal
17 honeymoon suite.

18 I don't pass any other homes. Like right when
19 you get off of Wild Plum Valley, you just go up and over in
20 to the land right off of the...

21 CHAIRMAN EVANS: Now, when looking at
22 the -- at the aerial view, when you go up the driveway, the
23 house is pretty much right in front of you. Where is the
24 closest house? Is there one directly to the left there?

25 MS. HOPE: Yes. Yes.

1 CHAIRMAN EVANS: They would look to
2 be maybe a couple hundred feet away from...

3 MS. HOPE: I would say like where you
4 see that little barn, probably they took the picture right
5 at the line of their property, and then it's another, you
6 know, feet in that way. Which I'm hoping to do berms and
7 big trees there. And the parking will be behind, way
8 behind, that other barn, not on their side.

9 CHAIRMAN EVANS: Okay. So the venue
10 really looking at that barn is where you would have --

11 MS. HOPE: Receptions.

12 CHAIRMAN EVANS: -- receptions? And
13 the house would be used for?

14 MS. HOPE: Me.

15 CHAIRMAN EVANS: For you, okay.

16 MS. HOPE: I mean, I'd like to do,
17 you know, like bridal lunches or something like that too.

18 CHAIRMAN EVANS: Okay. And that was
19 my question, because as I say, looking at the aerial, you
20 have that other house that is very close to the property
21 there.

22 MS. HOPE: Yeah.

23 CHAIRMAN EVANS: Okay.

24 I don't think any of the Commissioners are
25 going to be using the venue, but again you have to consider

1 all permitted uses in CD, going from SD, which is basically
2 residential, to CD.

3 Do you have any questions for the Applicant?

4 COMMISSIONER TOBBEN: Where would you
5 your parking be?

6 MS. HOPE: You see the barn on the
7 second page?

8 COMMISSIONER TOBBEN: Yes.

9 MS. HOPE: Behind that there's
10 another 30-by-50-foot barn. So it would be back behind to
11 the right of that barn, --

12 COMMISSIONER TOBBEN: Okay.

13 MS. HOPE: -- so as hopefully not to
14 be, you know, riding right along side the other property.

15 COMMISSIONER BOLAND: Will it all be
16 paved?

17 MS. HOPE: No. I think it will be
18 gravel for right now at the beginning.

19 COMMISSIONER BOLAND: Is there a
20 reason you're doing all 21 acres?

21 MS. HOPE: Just because it came with
22 the land. I mean, my house came with the 21 acres.

23 COMMISSIONER BOLAND: As opposed to
24 zoning ten acres different?

25 MS. HOPE: I don't understand. Like

1 you would -- you would let me have my house, like my house
2 and then only do 10 acres of my 21?

3 COMMISSIONER BOLAND: Yeah, I'm just
4 curious.

5 MS. HOPE: I mean, I don't know.
6 Tell me how that works.

7 CHAIRMAN EVANS: Well, I think again,
8 not to jump in here, but we consider all possible uses when
9 you move to a CD, which would include billboards, auction
10 houses, golf courses, kennels, farming equipment and
11 machinery sales and service.

12 COMMISSIONER BOLAND: So my --

13 MS. HOPE: I understand what you're
14 saying.

15 COMMISSIONER BOLAND: My question,
16 you know, you may sell off five acres now.

17 MS. HOPE: Well, I mean, we might,
18 but --

19 COMMISSIONER BOLAND: I mean, you
20 could.

21 MS. HOPE: But no, I really --

22 COMMISSIONER BOLAND: It's not your
23 intention.

24 MS. HOPE: Right.

25 COMMISSIONER BOLAND: But you could.

1 MS. HOPE: I want it to be --

2 COMMISSIONER BOLAND: And then that
3 changes, you know.

4 MS. HOPE: Right, which it could
5 change, yeah. That's an 1850s home. So I'm hoping
6 everything just stays preserved like it is because it's real
7 important to me.

8 But you're right. Does the next person -- it's
9 for them also. So if in 15 years I sold it -- okay.

10 CHAIRMAN EVANS: Yeah, and that would
11 be our issue and as opposed to a conditional use permit,
12 rezoning is rezoning no matter who owns the property and
13 whatever use they may use that's permitted.

14 Would this be your primary residence?

15 MS. HOPE: Uh-huh, yes. Yeah. Can
16 I have a question? So would it be better that I do a CUP
17 because when I was asking in the beginning, you know, just
18 trying to get information, said the simplest way or the best
19 way is to do the commercial. But then I thought
20 agricultural for CUP, but then -- so what's the difference?

21 COMMISSIONER HAIRE: It's events
22 occasional is not in SD though, correct?

23 MS. EAGAN: Right. She would either
24 have to -- the conversation was to either rezone to CD or
25 NUA.

1 COMMISSIONER HAIRE: Yeah

2 MS. EAGAN: It was discussed that an
3 NUA would require a conditional use permit. CD it would be
4 permitted. So that's what that discussion was.

5 COMMISSIONER HAIRE: How close is the
6 non-urban around the area where she's at?

7 MS. EAGAN: I mean, if you look at
8 the page in your packet with all the different colors on it,
9 you can see this is --

10 [crosstalk]

11 COMMISSIONER HAIRE: I can see that.
12 Yeah, okay.

13 COMMISSIONER TOBBEN: This is right
14 here.

15 COMMISSIONER McLAREN: You know, I'm
16 pretty familiar with this property. I've known about it for
17 a long time. It is a very cool house. It's Steamboat Ann's
18 house. So it's a neat place.

19 MS. HOPE: I really love it.

20 COMMISSIONER McLAREN: But I would --
21 you know, I would be more comfortable saying personally that
22 the future use was NUA -- is that what was in our packet?

23 MS. EAGAN: I think.

24 COMMISSIONER McLAREN: And if it was
25 NUA, we could do a conditional use permit and get her what

1 she wants.

2 MS. HOPE: Awesome.

3 COMMISSIONER McLAREN: And we haven't
4 opened this up for some stuff that we may not really want to
5 have.

6 MS. HOPE: Because then you're saying
7 people could put gas stations and anything, right?

8 COMMISSIONER McLAREN: Some things
9 it's going to take the charm of what you're wanting to do --

10 MS. HOPE: Right.

11 COMMISSIONER McLAREN: -- quickly
12 away.

13 MS. HOPE: So is that like when
14 you're saying the A-whatever -- is that like the
15 agricultural then becoming CUP?

16 MS. EAGAN: Yeah, the NUA is the
17 agricultural zoning.

18 MS. HOPE: Okay.

19 MS. EAGAN: And then when we say the
20 Future Land Use Map is shown as non-urban, that's just what
21 our Future Land Use Map shows, which I can tell you what we
22 mean in there. It says --

23 MS. HOPE: I read all those over and
24 over.

25 MS. EAGAN: -- agricultural and lots

1 over three acres in size.

2 MS. HOPE: Okay. So what would I do
3 from now?

4 MS. EAGAN: It's up to you.

5 MS. HOPE: Redo?

6 MS. EAGAN: It's your choice. You
7 can continue with CD, or if you want to amend it, you can
8 always amend it.

9 MS. HOPE: And does that mean I wait
10 another 30 days?

11 COUNTY ATTORNEY VINCENT: Yeah.

12 MS. HOPE: Oh, snap.

13 COMMISSIONER HAIRE: Scottie, could
14 we make a recommendation here to change it to non-urban?

15 MS. EAGAN: It can't be your
16 decision.

17 COMMISSIONER HAIRE: It can't be our
18 decision?

19 CHAIRMAN EVANS: No.

20 COMMISSIONER HAIRE: Okay.

21 CHAIRMAN EVANS: She would have to
22 file the paperwork, correct?

23 MS. HOPE: So another...

24 MS. EAGAN: She would have to amend
25 her application, correct.

1 CHAIRMAN EVANS: Right.

2 MS. EAGAN: Yes.

3 CHAIRMAN EVANS: Correct.

4 MS. HOPE: So another 750 and another
5 650, right?

6 CHAIRMAN EVANS: To amend, I don't --

7 MS. EAGAN: I wouldn't charge you
8 another 750.

9 MS. HOPE: Okay. I'm sorry I'm taking
10 up so much time, but so just to get this straight, I then
11 would have to wait another month, and then I'd have to wait
12 another month for a CUP, correct?

13 CHAIRMAN EVANS: Correct. Yes.

14 MS. EAGAN: How the process works,
15 even if you keep with CD and if they make a recommendation
16 or not, you're still going to have to wait until the County
17 Commission hears it. Then once the County Commission hears
18 it, there is no definite of when they are going to make
19 their decision on it.

20 MS. HOPE: So what if I decide to
21 stay with what I'm doing?

22 MS. EAGAN: It will just keep the
23 process going.

24 MS. HOPE: And if it doesn't work,
25 then can I come back and redo again?

1 MS. EAGAN: You can.

2 CHAIRMAN EVANS: Yes. You know,
3 again --

4 MS. HOPE: When are you going to tell
5 me. I mean, just give me -- I mean, I have no clue. I just
6 want to do it.

7 CHAIRMAN EVANS: Again, it's -- of
8 course, we cannot tell you what to do, and I think you've
9 seen the concerns.

10 MS. HOPE: Okay.

11 COMMISSIONER McCREARY: Yeah.

12 MS. HOPE: I'll do what your all --
13 your eyes are saying to do.

14 COMMISSIONER SCHULTEHENRICH: Well,
15 let's give her the time periods. I think, Scottie, you
16 tried to do that, and I appreciate that.

17 MS. HOPE: Yeah.

18 COMMISSIONER SCHULTEHENRICH: But if
19 we take action here to recommend approval to change to agree
20 with your request, it's going to go in front of the County
21 Commissioners. That's another 30 days, okay.

22 MS. EAGAN: At least.

23 COMMISSIONER SCHULTEHENRICH: At
24 least, that's a minimum. Okay. Then it's going to --
25 basically it's up to them as to when they make that

1 decision. It could be another 15 days, whatever. Okay.

2 MS. EAGAN: Or months.

3 COMMISSIONER SCHULTEHENRICH: What's
4 that?

5 MS. HOPE: Months?

6 MS. EAGAN: It could be months. We
7 have one that we had a public hearing on I think a month or
8 two ago that they haven't made their decision on yet.

9 COMMISSIONER SCHULTEHENRICH: If you
10 come back to us with an amended CUP, --

11 MS. EAGAN: That would be an amended
12 rezoning application.

13 [crosstalk]

14 COMMISSIONER SCHULTEHENRICH: Oh,
15 rezoning.

16 MS. HOPE: And then I got --

17 MS. EAGAN: She's got to rezone
18 either way.

19 COMMISSIONER SCHULTEHENRICH: First?

20 MS. EAGAN: Uh-huh.

21 COMMISSIONER SCHULTEHENRICH: I
22 thought she could change it over now to the conditional use
23 permit.

24 Okay, my comments to you are not going to be
25 helpful to you.

1 MS. HOPE: Okay.

2 MS. EAGAN: But either way you got,
3 let's say you stay with CD and it goes on and the County
4 Commission says no we don't like it. You can always come
5 back with a different one.

6 MS. HOPE: But how would I know -- I
7 mean, how long would -- it's the same thing, a no and then
8 you all get it and so it would be another 60 days till I
9 then come back for the 30, correct?

10 MS. EAGAN: You've lost me.

11 MS. HOPE: So if I find out that it's
12 no, then I -- and then decide to come back, then it's
13 another 30 and another 30?

14 MS. EAGAN: Correct.

15 MS. HOPE: Okay. Are they going to
16 vote right now?

17 CHAIRMAN EVANS: Yeah, we need to
18 make a recommendation. We could -- I guess we could table
19 it. Can she amend it while it's tabled?

20 MS. EAGAN: I don't know about a
21 rezoning, if they can amend it at the meeting.

22 COUNTY ATTORNEY VINCENT: This is not
23 a public hearing.

24 MS. EAGAN: Right.

25 COUNTY ATTORNEY VINCENT: Now, if

1 you're going to do anything like that, now is the time to do
2 it.

3 MS. EAGAN: Okay.

4 COUNTY ATTORNEY VINCENT: Once you
5 get in front of the County Commission, whatever is there is
6 there.

7 MS. EAGAN: Okay.

8 MS. HOPE: I don't get to say oops?

9 COUNTY ATTORNEY VINCENT: Well, no,
10 you're going to have a public hearing on is it going to
11 agricultural or is there going to be --

12 MS. HOPE: Right.

13 COUNTY ATTORNEY VINCENT: -- SD or
14 CD?

15 MS. EAGAN: So she could potentially
16 amend it tonight?

17 COUNTY ATTORNEY VINCENT: Yeah.

18 MS. EAGAN: Okay.

19 COMMISSIONER HAIRE: That's what I'm
20 saying.

21 MS. HOPE: Can I talk to her -- can
22 you wait -- can I wait -- can you wait on this till the end
23 to vote? Will you not vote yet? No, I mean, if you have to
24 right now, I know you have to, but if you don't, it would be
25 great if you'd wait a minute so I can talk to my person.

1 I'm so sorry you all.

2 COMMISSIONER McLAREN: You know, this
3 is a perfect example of why I don't think we take enough
4 time on rezonings. I think it's a very hard process to
5 understand. I live close to this property. So I understand
6 your pain. It's been some -- like this for a long time, and
7 some of the zoning is not right in the area.

8 MS. HOPE: Because there's a lot of
9 already commercial all along there.

10 COMMISSIONER McLAREN: But it's a
11 little ways away from you. It's not right -- it's not right
12 beside you right now. I think we need to be very careful,
13 more careful than we've been on rezonings. I understand
14 what you want to do, and I don't object to what you want to
15 do. But I kind of object to the other things that can
16 happen on that piece of property.

17 MS. HOPE: I understand. I truly do
18 understand what you're saying. I don't want someone putting
19 in a gas station or a liquor place --

20 COMMISSIONER McCREARY: An outdoor
21 shooting range.

22 MS. HOPE: -- near where my -- no, no.
23 I don't.

24 [crosstalk]

25 COMMISSIONER McCREARY: And it's just

1 what we're saying.

2 MS. HOPE: Oh, it would be allowed?

3 COMMISSIONER McCREARY: We're looking
4 at different things --

5 COMMISSIONER McLAREN: And once you
6 do that, --

7 MS. HOPE: I get it. I totally get
8 it now.

9 COMMISSIONER McLAREN: -- a piece of
10 property right next to you could say this is zoned like
11 this. Please zone me like this so that I can do this.

12 MS. HOPE: No. Yeah, I totally get
13 it because I wouldn't want -- I definitely would not want
14 that. So I want it to stay. So this is my lawyer.

15 MS. HANNAH VAUGHN: May I just ask
16 about the amending?

17 CHAIRMAN EVANS: You would have to
18 sign in and state your name because we can only have one
19 person at the podium.

20 MS. VAUGHN: My name's Hannah Vaughn.
21 I live at 9116 Woodbine Drive in St. Louis, Missouri.

22 [Thereupon, the witness was sworn.]

23 I just have a clarifying question about the
24 amending to the non-urban use and then the conditional
25 permit that would need to accompany that.

1 I thought I heard someone say that perhaps the
2 amend could occur this evening. How would that work?

3 MS. EAGAN: If she voices that she
4 wants to amend her application to now rezone to NUA, and
5 then we would just get a different application from her
6 that's amended. That -- that would be it.

7 MS. VAUGHN: Okay. And then this --
8 that would end the request for the CD permit. Okay. And
9 that would be the most expedited way to do this; is that
10 correct?

11 MS. EAGAN: It depends on how you
12 look at it because if the County Commission voted to approve
13 CD, she'd be done.

14 MS. VAUGHN: Correct.

15 MS. EAGAN: If they vote for NUA,
16 then she'll have to come back here for a CUP. So that would
17 be another 30 days. So...

18 MS. VAUGHN: So the County Commission
19 could just, instead of granting a CD, they could say we're
20 going to give you an NUA instead?

21 COUNTY ATTORNEY VINCENT: No.

22 CHAIRMAN EVANS: No. It would be
23 based on our recommendation.

24 MS. VAUGHN: Okay.

25 CHAIRMAN EVANS: So we --

1 MS. HOPE: It would still go to you
2 all?

3 CHAIRMAN EVANS: It would still go to
4 them for the public hearing.

5 MS. VAUGHN: Correct.

6 CHAIRMAN EVANS: You would have to
7 have us vote to approve CD -- or leave it CD, and we either
8 recommend for or against.

9 MS. VAUGHN: Okay.

10 CHAIRMAN EVANS: Or you can amend it
11 to NUA, and we would recommend for or against.

12 MS. VAUGHN: Okay.

13 MS. EAGAN: Sorry I wasn't clear with
14 that.

15 MS. VAUGHN: That's what I was trying
16 to -- so the outcomes of this evening are either proceed
17 with CD, and you recommend for or against, or we would say
18 never mind, we're going to amend. It would come back next
19 month with an amended application?

20 CHAIRMAN EVANS: No.

21 MS. EAGAN: You can do it tonight.

22 MS. VAUGHN: Oh, we can do that
23 tonight?

24 CHAIRMAN EVANS: You can do it
25 tonight.

1 MS. VAUGHN: And then you could vote
2 for or against the NUA?

3 CHAIRMAN EVANS: Right, but then --

4 MS. VAUGHN: Okay.

5 CHAIRMAN EVANS: -- you would need to
6 come back for a condition use permit.

7 MS. VAUGHN: Before we go to the
8 County?

9 MS. EAGAN: No.

10 CHAIRMAN EVANS: No.

11 MS. VAUGHN: No?

12 MS. EAGAN: After they make their
13 decision.

14 MS. VAUGHN: Excellent. Okay. I
15 think I understand now. Thank you.

16 MS. HOPE: That's what I wanted. I
17 just want to honor this because I really don't want -- I
18 don't want a shooting range next to me.

19 CHAIRMAN EVANS: Let the record show
20 that the Applicant is amending her rezoning application to
21 go from SD to NUA.

22 MS. HOPE: Thank you for all of your
23 time.

24 CHAIRMAN EVANS: Any other questions
25 or discussion?

1 [crosstalk]

2 If not, the Chair would -- I guess we have
3 to move this to Old Business, don't we. Chair would
4 entertain a motion.

5 COMMISSIONER HAIRE: I move that we
6 move File 160095 to Old Business.

7 COMMISSIONER CUNIO: Second.

8 CHAIRMAN EVANS: We have a motion and
9 a second to move File 160095 to Old Business. All in favor
10 signify by saying aye.

11 COMMISSIONER VOSS: Aye.

12 COMMISSIONER McLAREN: Aye.

13 COMMISSIONER CUNIO: Aye.

14 COMMISSIONER WILLIAMS: Aye.

15 CHAIRMAN EVANS: Aye.

16 COMMISSIONER BOLAND: Aye.

17 COMMISSIONER HAIRE: Aye.

18 COMMISSIONER TOBBEN: Aye.

19 COMMISSIONER SCHULTEHENRICH: Aye.

20 COMMISSIONER McCREARY: Aye.

21 CHAIRMAN EVANS: Opposed? [None]

22 Motion is carried.

23 That brings up File 160100 Summer Hill Estates
24 Subdivision. No public comment accepted.

25 Scottie, will you please give us the details.

1 MS. EAGAN: This is File 160100, the
2 Summer Hill Estates Subdivision Properties, L. L. C.

3 The Applicant requests to rezone one parcel
4 from Community Development to Residential Development 1.

5

6 The property is located off Watermill Drive,
7 approximately 135 feet north of the intersection of
8 Watermill Drive and Millstone Court in St. John's Township.

9 The Facts: The total area for the rezoning is
10 approximately 9 acres.

11 The zoning of this property is Community
12 Development. The Applicant would like to rezone to
13 Residential Development 1.

14 Residential Development 1 zoning allows
15 single-family residential developments in areas that are
16 primarily served by central utilities.

17 The minimum lot size in Residential Development
18 1 is 10,000 square feet with central water and sewer.

19 The properties to the south of the proposed
20 site are zoned Residential Development 1.

21 The properties directly north, east, west,
22 southwest and southeast are zoned Community Development.

23 This property is surrounded by medium-density
24 residential land and low-density residential land.

25 This property has access to Watermill Drive,

1 which is a private road with a 50-foot right-of-way width.

2 Staff Comments: The Future Land Use Map shows
3 this property as being medium-density residential.

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

13 CHAIRMAN EVANS: Thank you.

14 Is the Applicant present?

15 MR. CAMERON LUEKEN: Yes.

16 CHAIRMAN EVANS: State your name and
17 address and sign in, please.

18 [Thereupon, the witness was sworn.]

19 MR. LUEKEN: My name is Cameron
20 Lueken, representing the Applicant here tonight. I'm with
21 the Wonderlick Survey and Engineering.

22 CHAIRMAN EVANS: Go ahead, Cameron.

23 MR. LUEKEN: Thank you. Okay.

24 So tonight we're here to talk about rezoning
25 Walnut Ridge Place Plat 2 area to the north of -- let me get

1 to another slide here for you to look at. As scottie
2 stated, we're going to rezone -- we're going to try to
3 rezone this from CD to RD1.

4 Some of you were here, some of you weren't. We
5 worked with the County to create this RD1 District back
6 about 2012-2013, and it was primarily to have an exclusive
7 district just for single-family structures. There was other
8 districts that had multiple uses, but the RD1 District is
9 just for single-family structures, no duplexes, no
10 triplexes, no fourplexes, no trailers, nothing like that.

11 So I guess the success story of it would be
12 this was -- this was -- or this is part of some real estates
13 to make -- to be ideal. This is Highway A up here is the
14 north side of Highway A. This is the main drag coming in.
15 This is another East/West drive here. There was a section
16 back in here that we actually rezoned from CD to RD1. This
17 was the first section we did back in 2013, and so the reason
18 why we're coming here tonight is that we've sold -- or the
19 developer sold 22 of the 32 lots, and we need to have
20 another area for the future product to go.

21 So what that RD1 District did is it allowed us
22 to hit a price point with those lot sales to have a
23 successful development.

24 So the area that we're talking about doing the
25 RD1 is directly to the north right here. That area was

1 originally platted for about 17 lots. On the CD preliminary
2 plat of Summer Hill, we are gong to try to get 22 lots there
3 in the future. The important thing to remember here is that
4 as a CD, those could have been fourplexes, duplexes,
5 whatever. So actually by requesting RD1, we're actually
6 decreasing the potential density of that area; meaning that
7 it could have been much denser, but we're actually
8 decreasing by -- even though we're having five more lots
9 created, we're actually having less potential density than
10 CD. And as you just pointed out in last hearing, you're
11 familiar with the uses of CD. So that RD1 District is just
12 for specific need for that residential houses.

13 So this is kind of what that area would look
14 like. This is the preliminary plat that we kind of talked
15 about with the County the other day, but obviously this is
16 not on the agenda tonight. But I just wanted to show you
17 what it looks like generally in that area.

18 I guess just let's go back to the need of that
19 RD1. Shawn Mayall, he's built several of those houses out
20 there. I just wanted to talk -- I just want to have him
21 come to the podium and talk to you guys about the success of
22 that development.

23 [Thereupon, the witness was sworn.]

24 MR. SHAWN MAYALL: My name is Shawn
25 Mayall. I represent SK Contractors and the Bank of

1 Washington representative for the subdivision, manager of
2 the subdivision.

3 For several years, we've talked about in the
4 county and in the cities the need for workforce housing, and
5 obviously one of our main problems was the price of land.
6 So when we -- when we did this RD1, we could decrease the
7 lot side by a little bit, and obviously we gained a few more
8 lots by not getting crazy with the amount. So that there
9 let's us be able to sell the home, the work -- what we call
10 workforce housing, and it's really been a success out there.
11 We got 32 lots. We have 22 of them under contract, and by
12 this fall, I look to be fairly sold out. We may have three
13 or four lots left.

14 So it is working, and as we all know, the nice
15 big expensive homes, we don't build a lot of those anymore.
16 So just trying to get very nice workforce housing. I don't
17 know if anybody has ever driven out in the subdivision, but
18 they are very nice. They got brick on the front. They got
19 nice roof pitches. So they're not just a square box with
20 vinyl siding. They -- we tried to do a really nice
21 aesthetic looking home, average about 1450 to 1500 square
22 feet and two-car garage. So very nice homes. So been very
23 successful with it, and we'd just like to -- you know, we'd
24 like to keep that going.

25 It's the subdivisions that have been in

1 distress, we're getting them going again, getting -- getting
2 building going again in Franklin County. And we just kind
3 of -- we got a good thing going, and again, the idea of
4 rezoning to RD1 does decrease that density. And we don't
5 need duplexes and things when we can sell single-family
6 homes. So the workforce housing, it is working.

7 So unless somebody has any more questions for
8 me?

9 CHAIRMAN EVANS: Any questions from
10 the Commissioners? [None.]

11 Now, Cameron, going from CD to RD1, and I think
12 the other reason was when you're in CD, it's what, like
13 22,000 square feet?

14 MR. LUEKEN: Correct.

15 CHAIRMAN EVANS: And you're going
16 down to 10,000 square feet?

17 MR. LUEKEN: Correct.

18 CHAIRMAN EVANS: So --

19 MR. LUEKEN: Correct. Yeah, the
20 minimum lot size, as you mentioned, Bill, is 10,000 square
21 feet. But as evidenced, you can't see it because the
22 numbers are over the top of them, but there is very few
23 10,000 square foot lots here. I think -- if I remember --
24 if I remember right, 53 and 54 maybe are 10,000 square feet.
25 Maybe 52, but the rest of them are bigger than, you know,

1 10,000 square feet. They're not at the minimum just because
2 of the way the topography lays.

3 CHAIRMAN EVANS: Yeah, and I drove
4 out and looked at it, and it's a nice subdivision.

5 MR. LUEKEN: So...

6 CHAIRMAN EVANS: Go ahead, Cameron.

7 MR. LUEKEN: So yeah. So basically
8 the conclusion. We've identified that there is a need based
9 on the past what we've seen there, and in the future we're
10 still seeing the need for those RD1 lots. We'd like to have
11 this opportunity to create that area for the county.

12 And basically that's it. So does anyone have
13 any questions for me or Shawn?

14 CHAIRMAN EVANS: Any questions?

15 [None]

16 Thank you.

17 MR. LUEKEN: Thank you.

18 CHAIRMAN EVANS: Any further
19 discussion by the Commissioners?

20 I think, as Cameron said, we created RD1 a few
21 years ago and used it here. And this would just be, I
22 guess, an extension of what we have created before.

23 If there is no further discussion, the Chair
24 would entertain a motion to move this to Old Business.

25 COMMISSIONER SCHULTEHENRICH:

1 Mr. Chairman, I'll make a motion to move File 160100 to Old
2 Business.

3 COMMISSION McCREARY: Second.

4 COMMISSIONER CUNIO: Second.

5 CHAIRMAN EVANS: We have a motion and
6 a second to move File 16000 to Old Business. All in favor
7 signify by saying aye.

8 COMMISSIONER VOSS: Aye.

9 COMMISSIONER McLAREN: Aye.

10 COMMISSIONER CUNIO: Aye.

11 COMMISSIONER WILLIAMS: Aye.

12 CHAIRMAN EVANS: Aye.

13 COMMISSIONER BOLAND: [Recused]

14 COMMISSIONER HAIRE: Aye.

15 COMMISSIONER TOBBEN: [Recused]

16 COMMISSIONER SCHULTEHENRICH: Aye.

17 COMMISSIONER McCREARY: Aye.

18 CHAIRMAN EVANS: Opposed? [None]

19 Motion is carried.

20 File 160104, Planning and Zoning Department.

21 No public comments accepted.

22 Scottie, would you please give us the details.

23 MS. EAGAN: This one is pretty quick

24 and simple. We realized in the Industrial Development

25 Zoning District we forgot to include outdoor commercial

1 storage when we made the switch back in 2014. It's on our
2 zoning chart as permitted, but it never made it to the
3 actual zoning district. So we wanted to make sure we
4 included that in the regulation.

5 CHAIRMAN EVANS: Any questions,
6 comments on that? If not, the Chair would entertain a
7 motion to move this to Old Business.

8 COMMISSIONER SCHULTEHENRICH: Mr.
9 Chairman, I'll make that motion.

10 COMMISSIONER McLAREN: Second.

11 CHAIRMAN EVANS: We have a motion and
12 second to move File 160104 to Old Business. All in favor
13 signify by saying aye.

14 COMMISSIONER VOSS: Aye.

15 COMMISSIONER McLAREN: Aye.

16 COMMISSIONER CUNIO: Aye.

17 COMMISSIONER WILLIAMS: Aye.

18 CHAIRMAN EVANS: Aye.

19 COMMISSIONER BOLAND: Aye.

20 COMMISSIONER HAIRE: Aye.

21 COMMISSIONER TOBBEN: Aye.

22 COMMISSIONER SCHULTEHENRICH: Aye.

23 COMMISSIONER McCREARY: Aye.

24 CHAIRMAN EVANS: Opposed? [None]

25 The motion is carried.

1 Preliminary Plats. File 160044, Gray Summit
2 Square Club. Only written comments from the public may be
3 submitted. No oral testimony will be accepted.

4 Scottie?

5 MS. EAGAN: This is File 160044 for
6 the Gray Summit Square Club.

7 The Applicant wishes to create a 3-lot major
8 subdivision in the Community Development Zoning District.

9 The property is located at 2732 Highway 100 at
10 the north corner of the intersection of Jefferson Street and
11 Pettus Avenue in Boles Township.

12 The Facts: The property is approximately 1.3
13 acres in size.

14 The Applicant is wishing to subdivide this
15 property into three lots, each being approximately one acre
16 in size.

17 This property is located in the Community
18 Development Zoning District. The minimum lot size is 22,000
19 square feet in this zoning district, with a maximum density
20 of one dwelling unit per 5,000 square feet.

21 The density of this development is
22 approximately one dwelling unit for 45,000 square feet.

23 This property is in the Public Water Supply
24 District No. 3 and Brush Creek Sewer District. Public Water
25 Supply District No. 3 has indicated they have water on this

1 site, and we received a letter from the City of Pacific
2 indicating they will allow this development to connect to
3 the Brush Creek Sewer District.

4 Planning and Zoning has not received any
5 stormwater plan for this development.

6 The preliminary plat shows all roads and
7 right-of-ways meeting the standards set forth in the
8 Franklin County Regulations.

9 The preliminary plat shows all utility
10 easements meeting the standards set forth in the Franklin
11 County Regulations.

12 All utilities shall be located underground.

13 A land disturbance permit from DNR is required
14 to disturb more than one acre of land as well as erosion
15 control during development.

16 The Applicant shall provide fire protection in
17 accordance with Article 8, Section 175. Because this
18 development is located within the Boles Fire Protection
19 District, they will be required to meet the standards of
20 that district.

21 This development has access to Pettus Avenue
22 and Jefferson Street. Pettus Avenue maintained by the
23 County, while Jefferson Street is a private road.

24 Staff Comments: Improvement plans to be
25 reviewed by Franklin County should be submitted before final

1 approval showing the requirements as set forth in Article 8,
2 Section 175, Subsection D.

3 Prior to recording the final plat, Planning and
4 Zoning shall receive proof of an approved access for any
5 access onto Pettus Avenue. All lots must have final
6 approval from the Franklin County Highway Department before
7 the final plat can be recorded.

8 Although we did not receive any official
9 stormwater plan, the Applicant stated they talked with the
10 Highway Administrator who indicated stormwater measures will
11 be taken when development happens.

12 CHAIRMAN EVANS: Thank you.

13 I guess the first question I would ask, Ron, is
14 what discussions you've had?

15 COMMISSIONER WILLIAMS: Looking at
16 the topography of the property, there is a -- it's going to
17 be very difficult to create any sort of detention facility
18 on the property and get it to drain. I mean, it's just a
19 bad site. So we talked about putting measures in to the two
20 lots that are being developed like rain barrows or small
21 detention areas off of the hard surfaces like roofs and
22 stuff like that rather than trying to develop any type of
23 detention. So it's just going to be really difficult on
24 that site.

25 So I think with the minimum amount of runoff

1 from, you know, smaller buildings that they're probably
2 looking at on those lots, I would think we'd be able to get
3 something where they could do with something simple rather
4 than trying to get everything down to one point and trying
5 to -- one spot and then trying to reduce it. It's just
6 going to be difficult.

7 CHAIRMAN EVANS: Any other questions
8 or comments? Yeah, that was -- was the only thing lacking
9 in the preliminary plat information. Basically -- and
10 remind me, Scottie -- in the preliminary plat, do we approve
11 it, or you just have the information?

12 MS. EAGAN: You would recommend
13 either approval or denial.

14 COMMISSIONER McCREARY: Uh-huh.

15 CHAIRMAN EVANS: Okay. If there's no
16 further discussion, the Chair would entertain a motion.

17 COMMISSIONER SCHULTEHENRICH: Mr.
18 Chairman, I do have a question. Where are these roads --
19 which road are these lots going to come in from? Is one of
20 them coming in from Pettus or two of them coming in from
21 Pettus and one from Jefferson; is that the way I understand
22 it, or am I missing something?

23 MS. EAGAN: I know Lot 1 has access
24 from Jefferson. Lot 2, we don't know if they're going to
25 access off Pettus or go and access through Bradford, and

1 then Lot 3 will probably be Jefferson.

2 COMMISSIONER SCHULTEHENRICH: So none
3 of these lots will come in onto a county road?

4 MS. EAGAN: Potentially Lot 2 could.

5 COMMISSIONER SCHULTEHENRICH: Are we
6 comfortable on the road? If they utilize that, are we
7 comfortable on that, Ron?

8 COMMISSIONER WILLIAMS: All they need
9 is an entrance permit, and there's no problem with getting
10 one.

11 COMMISSIONER SCHULTEHENRICH: Okay.
12 Thank you.

13 CHAIRMAN EVANS: Any other
14 discussion? If not, the Chair would entertain a motion.

15 COMMISSIONER McCREARY: Mr. Chairman,
16 I would make a motion to approve this, or move it -- yeah,
17 we approve it now and then move it to Old Business, right?

18 MS. EAGAN: Right.

19 COMMISSIONER HAIRE: I'll second it.

20 CHAIRMAN EVANS: So your motion is to
21 recommend approval and move it -- we have to move this to
22 Old Business.

23 COMMISSIONER McCREARY: Could we have
24 to --

25 [crosstalk]

1 CHAIRMAN EVANS: Yeah, just recommend
2 -- your motion is recommend approval?

3 COMMISSIONER McCREARY: Yeah. I
4 don't think we need to move this to Old Business.

5 CHAIRMAN EVANS: Right.

6 COMMISSIONER McCREARY: It's a
7 preliminary plat.

8 CHAIRMAN EVANS: So we have a motion
9 to recommend approval.

10 COMMISSIONER BOLAND: We had a
11 second?

12 COMMISSIONER HAIRE: Yeah, I
13 seconded.

14 CHAIRMAN EVANS: Oh, I'm sorry. We
15 have a motion and a second to recommend approval of
16 Preliminary Plat Number 160044. 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 The motion carried.

5 Let's go ahead and move back to Old Business.

6 First we'll look at File 160095, Peggy Hope,
7 and the Applicant had amended her application, so -- on the
8 rezoning. Ron?

9 COMMISSIONER WILLIAMS: I'd like to
10 muddy the waters. What are we gaining by going to NUA
11 besides lopping off some of the uses? Because I'm looking
12 at NUA and some of the permitted uses, and you can still
13 have a bed and breakfast, a convenience store, and that sort
14 of stuff in that particular district, and plus I'm looking
15 at where the lot is located, which is on Highway O and Wild
16 Plum Valley Road. And if they can -- but I can't think of a
17 more conducive site for a commercially zoned piece of
18 property that's along there that fits better than some of
19 the others that are way in that area. And as I recall, in
20 the Future Land Use Map, the property across the -- just
21 across there is future commercial.

22 MS. EAGAN: Across from Plum Valley?

23 COMMISSIONER WILLIAMS: Right. I
24 mean, it's not like it would be out of place.

25 COMMISSIONER McLAREN: Across Wild

1 Plum Valley from there it is floodplain, and what I mean, a
2 subdivision as it exists now.

3 MS. EAGAN: It's directly west, like
4 actually touching this property is residential, and then
5 like southwest-ish, across Wild Plum Valley, is commercial.

6 CHAIRMAN EVANS: And that's future
7 land use?

8 MS. EAGAN: Right.

9 COMMISSIONER McLAREN: Right.

10 CHAIRMAN EVANS: Because right now
11 it's all floodplains and fields and --

12 COMMISSIONER McLAREN: Well,
13 actually, no. It's a subdivision that's across there.
14 Across Wild Plum Valley is developed as a subdivision now.

15 CHAIRMAN EVANS: No, I was looking on
16 the -- across there.

17 COMMISSIONER McLAREN: Okay.

18 MS. EAGAN: Like this area?

19 COMMISSIONER McLAREN: Yeah, that
20 area what you're describing there is where the old treatment
21 plant was that's in floodplain. That was the original
22 treatment plant, or it wasn't a treatment plant. It was a
23 lagoon for the subdivision. I mean, I hate -- I can muddy
24 the waters more than you can I'm afraid.

25 I was waiting -- I was hoping to do this before

1 we had -- I was hoping for you to ask Commissioners'
2 comments to start out with. I guess I'm going to ask Mark
3 to stop me just as soon as I'm inappropriate here. Will
4 you?

5 COUNTY ATTORNEY VINCENT; You were
6 inappropriate 20 years ago.

7 COMMISSIONER McLAREN: Yeah, I know.
8 You all humor me very well, but this is the second -- third
9 -- this is probably the fourth request we've had for a venue
10 this year. Most of them are either in Boles County -- or
11 Boles Township or Calvey Township, which is where I live. I
12 think that I sat out the last time we had a rezoning because
13 my property actually touched the last. So I was notified
14 and I excused myself from that, but I would have enjoyed
15 commenting on it.

16 I think that, you know, about two years ago or
17 a year and a half ago you had to have a CUP to have a venue
18 for a special event periodic or a special event occasional
19 in CD. And I think it would be appropriate -- I don't know
20 why that was taken out. I think it would be appropriate. I
21 actually think the most appropriate thing is that, you know,
22 we're in a large area out here of SD. I don't know that
23 it's the right zoning by any stretch of the imagination.

24 If they wanted to have a wedding venue or a bed
25 and breakfast there, I think it should be available in that

1 district with a CUP. I think it should be available
2 virtually in any district with a CUP. With a CUP, we have
3 the ability to say what hours are going to operate and what
4 hours are not going to operate. When it just starts, we
5 lose that ability.

6 Am I still okay?

7 COUNTY ATTORNEY VINCENT: Sounds fine
8 to me.

9 COMMISSIONER McLAREN: Okay. This is
10 what -- and I feel sorry -- and so that you all know, I own
11 a wedding venue too. So just for your clarification. So I
12 have some experience in this.

13 It's very hard to have a CUP and understand the
14 difference between occasional and periodic. I think we're
15 in a really gray area here that's very difficult to
16 understand whether we're correct in doing a periodic or
17 occasional. Even once you have a CUP, it's difficult to
18 understand. In my own situation and my CUP, I'm supposed to
19 do weddings and that kind of a business.

20 Well, we did a blue grass festival for a
21 charity. Were we outside of our CUP; should that have been
22 the other? Should we have had done a periodic instead of an
23 occasional or an occasional instead of a periodic? Because
24 it's -- what's on our books is very confusing. I really
25 think the easiest way to fix this instead of rezoning stuff

1 is to do it the subdivision district and have that with a
2 CUP. But I think the CD also needs to have a CUP because I
3 think hours of operation are very important.

4 I think that somebody, you know, there is --
5 there is a subdivision close to you, and too it's relatively
6 close. I think that, you know, you get your permit, and you
7 don't necessarily understand what you can do.

8 Here I want to read an article. This is my
9 last thing I will do. This was in the "Current News
10 Magazine." It was on the piece that we just came through
11 rezoning two months ago, and they had a soft opening two
12 weeks ago, and this was what was said:

13 "A business, Courtland
14 Ovarious, narrated the writing informing
15 people about all the special features
16 of the house, land, as well as future
17 plans for the grounds.

18 "Ovarious shared the three-story,
19 6,600-square-foot was built in 1972
20 and is currently being renovating with
21 the hope of a bed and breakfast will
22 open in Spring of 2017.

23 "In addition, the Nathaniel and
24 Jacqueline are re-purposing the barn to
25 be a barbecue bistro open to the public.

1 The pair also plans to offer lake,
2 gazebo, surrounding land for weddings,
3 anniversaries, family reunions, company
4 picnics, and more. For user convenience,
5 the lake is stocked. There is a large
6 swan paddle boat people can ride for only
7 \$2.

8 "Other plans for the property
9 include holding a rodeo, fireworks
10 show, haunted hayrides, blues and
11 jazz festivals, camping and much more."

12 COUNTY ATTORNEY VINCENT: Bill?

13 We've had a public hearing since then.

14 COMMISSIONER McLAREN: Okay.

15 COUNTY ATTORNEY VINCENT: And that
16 was refuted.

17 COMMISSIONER McLAREN: Okay.

18 COUNTY ATTORNEY VINCENT: People
19 testified.

20 COMMISSIONER McLAREN: I understand.

21 I'm just reading what was in the paper.

22 COUNTY ATTORNEY VINCENT: Newspapers

23 -- sorry.

24 [crosstalk]

25 COMMISSIONER McLAREN: I -- I

1 understand that. My point is I don't think everybody
2 automatically understands when you get a special -- when you
3 do special events, what your -- what special events, which
4 are which.

5 COUNTY ATTORNEY VINCENT: Well, what
6 I'm saying --

7 COMMISSIONER McLAREN: And I think
8 the CUP is the most appropriate for --

9 [crosstalk]

10 COUNTY ATTORNEY VINCENT: Well, you
11 need to be careful when you say letters.

12 COMMISSIONER McLAREN: And that's
13 fine. I appreciate you telling me when to shut up.

14 COUNTY ATTORNEY VINCENT: No, no. I
15 didn't say -- you know, reading a newspaper as being the
16 gospel, that's risky business.

17 COMMISSIONER McLAREN: And I don't
18 want to go to risky business. I think that they wanted to
19 do it right. I think this young lady wants to do it right.
20 I think that you all want to do it right, and I think my
21 family wants to do it right.

22 I think it's very difficult to do because it's
23 not very defined what's special events occasional or what's
24 special events periodic. And I really think the best thing
25 that could happen is her not have to rezone her property.

1 A CUP would be able to do it in SD, but you
2 would still have to have a CUP in CD, and I think that
3 clarifies everything for everybody in the county because I
4 think there's a potential for a lot of confusion.

5 COUNTY ATTORNEY VINCENT: What are
6 you going to do for her now, because that -- that change
7 requires a public hearing and rezoning?

8 COMMISSIONER McLAREN: I'm going to
9 vote for her the way it is right now because I have no
10 choice. But I think that's the way things really --
11 really -- I mean, this is -- if it was just once, but this
12 is the fourth time this year.

13 COUNTY ATTORNEY VINCENT: You guys
14 can direct Scottie to look at those regulations and with the
15 suggestions to change what you'd like to see. Whether or
16 not the Commission adopts those -- the County Commission
17 adopts those, I can't say.

18 COMMISSIONER McLAREN: I fully
19 understand.

20 COUNTY ATTORNEY VINCENT: Yeah.

21 COMMISSIONER McLAREN: And I think
22 there's a lot of confusion. I feel sorry for somebody that
23 comes here and is confused on how to do what they want to
24 do. And I think there is enough confusion here that
25 somebody is going to inadvertently do something thinking

1 they are okay and they're not. And I think a CUP is the
2 very best way to handle it.

3 I will shut. Thank you.

4 COUNTY ATTORNEY VINCENT: I'm not
5 saying that.

6 CHAIRMAN EVANS: Yeah, I know, Bill,
7 it's part of our responsibility to make recommendations to
8 the Commission if we want something changed. This is, you
9 know, Planning and Zoning staff or the Commissioners are the
10 ones who can initiate it, as can any citizen.

11 COMMISSIONER McLAREN: I think a
12 rezoning is a lot more serious than a CUP.

13 COUNTY ATTORNEY VINCENT: It is.

14 COMMISSIONER McLAREN: I think a CUP
15 is more appropriate. I think it gives us more latitude to
16 say what hours that you should be able to operate and what
17 you can legitimately do with your venue or your event or
18 your -- you know. I mean, if I want to have -- our farm's
19 big enough I can probably have a circus. I could do
20 something like River Port. I don't know how to do that with
21 the zoning -- or not the zoning -- with special events
22 periodic or special events occasional.

23 MS. EAGAN: You can't do concerts
24 with special events periodic. Special events periodic
25 specifically says for events that are to be such as

1 birthdays, weddings, celebrations, holidays, graduation.

2 Special events occasional says circuses, fairs,
3 carnivals, festivals or other types of special events that
4 are intended to or likely to attract substantial crowds and
5 are --

6 COMMISSIONER McLAREN: What is a
7 substantial crowd? Is 300 people a substantial crowd?

8 COUNTY ATTORNEY VINCENT: Yes.

9 COMMISSIONER McLAREN: Pardon me?

10 COUNTY ATTORNEY VINCENT: Yes, sir.

11 MS. EAGAN: Yeah, I would think so.

12 COMMISSIONER McLAREN: Well, there's
13 an awful lot of weddings happening that have 300 people at
14 them.

15 MS. EAGAN: But they fall specifically
16 under a different category, special and periodic. But can I
17 say one more thing.

18 The reason why we did special events periodic
19 that's permitted in CD is because when we were discussing it
20 in our department, it didn't make sense to us to have
21 restaurants and bars and retail stores and all that stuff
22 permitted in CD but not a wedding venue when it's pretty
23 much the same thing as having a restaurant or bar that's
24 open until 1:00 in the morning with music and people and
25 dancing and food and...

1 COMMISSIONER McLAREN: I think it's
2 significantly different because with a CUP, you can say what
3 you want to do and you put those standards on other people,
4 and you changed that two years ago. And I think -- I think
5 also think it would be just as appropriate to have in
6 Suburban Development and in these large tracts even though
7 they're suburban development, that she should be able to
8 have a CUP and do what we are willing to change the zoning
9 to let her do, but we're not willing to do by having a CUP
10 in that district. I think that's a ridiculous way to look
11 at this, and I don't have any other way to say it.

12 If you're willing to come here and say we're
13 going to change the zoning because this lady wants to have
14 -- a bed and breakfast is allowed -- she wants to have a
15 wedding venue, yes, we will change the zoning for that, but
16 we're not willing to say okay we're willing to allow it with
17 a CUP to have a venue in this subdistrict. I don't -- I
18 can't rationalize that.

19 CHAIRMAN EVANS: Okay. Let's --
20 yeah, that's something it's our responsibility to address.

21 COMMISSIONER McLAREN: And I think
22 there's enough confusion here that anybody that's got a CUP
23 right now can do more or less than they think they can,
24 depending on who is going to interpret it. I think it's a
25 very uncomfortable situation.

1 COUNTY ATTORNEY VINCENT: But one of
2 the biggest problems we have is enforcement. We have one
3 guy to enforce all of these, but what you're -- we would
4 request that, if you're going to recommend more CUPs, that
5 you also recommend to the County where we're going to get
6 the money to hire another zoning enforcement officer.

7 COMMISSIONER McLAREN: You know, I
8 can't answer that question.

9 COUNTY ATTORNEY VINCENT: That's part
10 of the problem.

11 COMMISSIONER McLAREN: But you know,
12 if -- if I get a CUP and you're my neighbor, and I'm a bad
13 actor and I do whatever, your immediate thing is well, the
14 County approved it. I guess there's nothing I can do about
15 it because they approved this CUP. Even though I'm outside
16 of what my CUP is, the general population doesn't know what
17 was attached to that CUP. So they're going to just grumble
18 and grouse and say, well, I'm a citizen and my property
19 values have been decimated by something that's been done.

20 And we didn't do that, but there's a bad actor
21 that's doing what they're supposed to be doing, and
22 they're...

23 COUNTY ATTORNEY VINCENT: I'm not
24 sure this is the appropriate time to get into the philosophy
25 of it all, but there are other sides to the story for

1 reasons too. And I would request that we perhaps at a time
2 look at that zoning classification and see what you guys --
3 what your guidance would be.

4 COMMISSIONER McLAREN: I think we
5 need to look at special events periodic and occasional. I
6 -- that's what's coming before us more times --

7 COUNTY ATTORNEY VINCENT: Right.

8 COMMISSIONER McLAREN: -- than
9 anything else. So obviously there's a problem there, and
10 obviously I don't think we're doing it right. I'm only one
11 person of this, but I think we're not serving either the
12 business that wants to come here or the citizens of the
13 county the way it's being done.

14 COUNTY ATTORNEY VINCENT: I'm just
15 asking for a motion directing Scottie to look at that if
16 that's what you guys want.

17 COMMISSIONER HAIRE: Mr. Chairman,
18 why don't we just maybe schedule that for the next meeting.
19 Then have the discussion on that. Go ahead with the -- call
20 a vote on this one.

21 COMMISSIONER BOLAND: Well, I
22 think -- I'd just like -- the reason I brought up what I
23 brought up is because we're talking about 21 acres, and all
24 of a sudden we rezone 21 acres, and of course, the neighbors
25 next door here, she's going to do a wedding venue. Next

1 thing you know we've rezoned 21 acres, and she sells 5
2 acres, and now there's a gas station there. But that was
3 never said. I think that's part of the confusion too, you
4 know.

5 And I agree with you, Bill, you know, but you
6 know, just all of a sudden somebody walks up and we just
7 rezoned 21 acres, you know, for one little venue. And
8 that's why I was asking, well, maybe she could just do five
9 acres or whatever it was. That was my point in the
10 beginning. I agree with you there. So...

11 CHAIRMAN EVANS: Okay. Any further
12 discussion on this particular file? If not, the Chair would
13 entertain a motion.

14 COMMISSIONER BOLAND: Entertain a
15 motion for what? Where are we at at this point in time?

16 CHAIRMAN EVANS: File 160095 Peggy
17 Hope rezoning 21 acres --

18 COMMISSIONER HAIRE: To NAU

19 CHAIRMAN EVANS: -- to NAU.

20 MS. EAGAN: NUA.

21 CHAIRMAN EVANS: NUA.

22 COMMISSIONER HAIRE: One of those.

23 COMMISSIONER SCHULTEHENRICH: Mr.

24 Chairman, I would make that motion that we recommend to the
25 County Commissioners to change the zoning to NUA.

1 COMMISSIONER HAIRE: I'll second it.

2 CHAIRMAN EVANS: We have a motion and
3 second. All in favor signify --

4 COMMISSIONER WILLIAMS: Go ahead.

5 CHAIRMAN EVANS: All in favor signify
6 by saying aye.

7 COMMISSIONER VOSS: Aye.

8 COMMISSIONER McLAREN: Aye.

9 COMMISSIONER CUNIO: Aye.

10 CHAIRMAN EVANS: Aye.

11 COMMISSIONER BOLAND: Aye.

12 COMMISSIONER HAIRE: Aye.

13 COMMISSIONER TOBBEN: Aye.

14 COMMISSIONER SCHULTEHENRICH: Aye.

15 COMMISSIONER McCREARY: Aye.

16 CHAIRMAN EVANS: Opposed?

17 COMMISSIONER WILLIAMS: Nay.

18 CHAIRMAN EVANS: Opposed? [None]

19 File 160095 is approved.

20 Moving on to File 160100, Summer Hill Estates
21 Subdivision. Any further discussion? If not, the Chair
22 would entertain a motion to recommend approval -- recommend
23 approval to the Commission.

24 COMMISSIONER McCREARY: Make the
25 motion to approve File 160100.

1 COMMISSIONER McLAREN: Second.

2 CHAIRMAN EVANS: We have a motion and
3 a second to recommend approval of File 160100. All in favor
4 signify by saying aye.

5 COMMISSIONER VOSS: Aye.

6 COMMISSIONER McLAREN: Aye.

7 COMMISSIONER CUNIO: Aye.

8 CHAIRMAN EVANS: Aye.

9 COMMISSIONER BOLAND: [Recused]

10 COMMISSIONER HAIRE: Aye.

11 COMMISSIONER TOBBEN: [Recused]

12 COMMISSIONER SCHULTEHENRICH: Aye.

13 COMMISSIONER McCREARY: Aye.

14 COMMISSIONER WILLIAMS: Aye.

15 CHAIRMAN EVANS: Opposed? [None]

16 The motion is carried.

17 File 160104, Planning and Zoning Department.

18 Any further discussion on this file? If not, the Chair
19 would entertain a motion to approve.

20 COMMISSIONER CUNIO: Mr. Chairman,

21 I'll make a motion that we approve File 160104.

22 COMMISSIONER HAIRE: Second.

23 CHAIRMAN EVANS: We have a motion and
24 a second. All in favor signify by saying aye.

25 COMMISSIONER VOSS: Aye.

1 COMMISSIONER McLAREN: Aye.

2 COMMISSIONER CUNIO: Aye.

3 CHAIRMAN EVANS: Aye.

4 COMMISSIONER BOLAND: Aye.

5 COMMISSIONER HAIRE: Aye.

6 COMMISSIONER TOBBEN: Aye.

7 COMMISSIONER SCHULTEHENRICH: Aye.

8 COMMISSIONER McCREARY: Aye.

9 COMMISSIONER WILLIAMS: Aye.

10 CHAIRMAN EVANS: Opposed? [None]

11 File 160104 is approved.

12 That moves us on to Planning and Zoning
13 Commission Forum discussion regarding expiration of two
14 CUPs.

15 Scottie.

16 MS. EAGAN: The first CUP is for
17 Mr. Strubberg, File 140016. As you can see from our notices
18 and what we use as our database, Nichole called the
19 applicant and asked if the business was still at that
20 location because when Tori did his inspection, he said
21 everything was gone and there was no sign and Mr. Strubberg
22 said that him and his business partner had went different
23 ways and there is no business at that location, and he
24 doubts that he would do anything in the future.

25 So we have that one. And then the next one is

1 from for Hanneken, which is 130054. With this file, the
2 only condition that he had to meet still was getting a
3 commercial building permit. He applied for one, and all the
4 Building Department was waiting on were his as-built, and
5 they never received it. They called him, let him know. He
6 renewed his building permit for another year.

7 We called again this year to see if he finally
8 got it, and they said that his renewal was good until
9 March 2015, but nothing was turned in. So his building
10 permit has expired.

11 Therefore, he still has not met his commercial
12 building permit condition.

13 CHAIRMAN EVANS: So that particular
14 one will just expire because he's made no efforts in the
15 last 12 months, right?

16 MS. EAGAN: Well, that would be your
17 determination, this board.

18 COMMISSIONER HAIRE: Have there been
19 any additional conversations with him? Has he contacted you
20 or anything after that last?

21 MS. EAGAN: No. Mr. Hanneken has
22 never contacted us.

23 COUNTY ATTORNEY VINCENT: Bill, do
24 you have a problem with setting both of those matters for
25 revocation hearings on a conditional use permit so we can

1 avoid -- we already have two federal lawsuits going on
2 because of that. I'd just like to avoid that. Do a
3 revocation hearing and be done with it.

4 MS. EAGAN: Or can I make a different
5 suggestion?

6 COUNTY ATTORNEY VINCENT: Sure.

7 MS. EAGAN: Can we amend the Code
8 with some wording that I proposed to you a couple of months
9 ago about permits expiring?

10 If they were never issued, how can we revoke
11 them?

12 COUNTY ATTORNEY VINCENT: I'm not
13 sure that -- you and I have a little difference of opinion
14 there.

15 MS. EAGAN: So can we table this till
16 next month?

17 COUNTY ATTORNEY VINCENT: Sure. I
18 don't have a problem with that.

19 COMMISSIONER HAIRE: On the
20 revocation hearing, exactly -- tell me what the timelines
21 are on that.

22 COUNTY ATTORNEY VINCENT: Anytime
23 anybody has an interest in a conditional use permit, there
24 are due process rights to come into play. I'm just tired of
25 lawyers from St. Louis claiming that we violated people's

1 due process when we could have a hearing that they never --
2 usually they won't show up for -- if we can do it without
3 them saying that we revoked it because there was no evidence
4 of support that they were still in business or whatever.

5 But I have no problem trying to figure out
6 another way to work it out. I just want to keep lawsuits
7 from happening if we can.

8 COMMISSIONER HAIRE: So we schedule
9 that, and then they have the opportunity to come and present
10 it?

11 COUNTY ATTORNEY VINCENT: Yeah.

12 COMMISSIONER HAIRE: If they don't
13 show up, then...

14 COUNTY ATTORNEY VINCENT: Yeah. Then
15 we just do it.

16 COMMISSIONER HAIRE: Okay. I have no
17 problem with that.

18 COUNTY ATTORNEY VINCENT: But yeah, I
19 have no problem with you all tabling it for a month if
20 that's what you want to do.

21 MS. EAGAN: I personally would like
22 to talk to Mark and see if there's a way to avoid a public
23 hearing. If you don't think there is, then there is no use
24 in tabling it.

25 COUNTY ATTORNEY VINCENT: I want to

1 hear your ideas more.

2 COMMISSIONER HAIRE: Then let's do
3 it, both of these.

4 CHAIRMAN EVANS: Yeah, I would table
5 it. Just even in going through these, it's difficult to say
6 that they meet the conditions. If they didn't, should they
7 just expire rather than be revoked.

8 COMMISSIONER HAIRE: So table till
9 the next month?

10 CHAIRMAN EVANS: We need a motion to
11 do that.

12 COMMISSIONER HAIRE: I move that we
13 table File 140016 -- what's the other one here?

14 CHAIRMAN EVANS: It's a CUP.

15 COMMISSIONER BOLAND: 130054.

16 COMMISSIONER HAIRE: -- yeah, 130054
17 till next month.

18 CHAIRMAN EVANS: Okay. We have a
19 motion.

20 COMMISSIONER BOLAND: I second that.

21 CHAIRMAN EVANS: Motion and a second
22 to table discussion of those two CUPs until the June
23 meeting. All in favor signify by saying aye.

24 COMMISSIONER VOSS: Aye.

25 COMMISSIONER McLAREN: Aye.

1 COMMISSIONER CUNIO: Aye.

2 CHAIRMAN EVANS: Aye.

3 COMMISSIONER BOLAND: Aye.

4 COMMISSIONER HAIRE: Aye.

5 COMMISSIONER TOBBEN: Aye.

6 COMMISSIONER SCHULTEHENRICH: Aye.

7 COMMISSIONER McCREARY: Aye.

8 COMMISSIONER WILLIAMS: Aye.

9 CHAIRMAN EVANS: Opposed? [None]

10 The motion is carried.

11 Planning Director's Report.

12 MS. EAGAN: Well, before we move on,
13 did you guys want to discuss anything about special events
14 occasional or periodic, and did you want me to look at
15 anything or...

16 COMMISSIONER SCHULTEHENRICH: Yeah, I
17 think we should -- Mr. Chairman, I think we should. I'm
18 with Bill. I'm -- what Bill said, I think there's some
19 valid comments there we ought to question. I think we need
20 to have a more thorough discussion. I think it is time with
21 the requests that we've had here in the last couple of
22 years, and I would certainly suggest that we would put that
23 on the agenda for discussion.

24 MS. EAGAN: When do you want it on
25 the agenda? I won't be here next month, and you won't be

1 here next month.

2 COMMISSIONER SCHULTEHENRICH: I was
3 going to say, I'm getting hip surgery so -- for some of you
4 who don't know. So I will not be here in June, but I think
5 it needs to be on the -- can be discussed next month. My
6 presence isn't necessarily needed, but I think it should be
7 on the agenda either next month or the following month from
8 one of you.

9 COMMISSIONER HAIRE: I think,
10 Scottie, you should be here. So why don't we put next --
11 and that gives us a couple of months to maybe look at all
12 the other zoning districts and see if there is any other
13 amendments like that also that should be dealing -- let's
14 just do it at one time. If we're going to make some
15 recommendations, let's do it all at one time, and it gives
16 us a couple of months to look at that.

17 MS. EAGAN: So we'll put it on July's
18 P and Z Commission forum.

19 But the only other thing I had as the Planning
20 Director's Report was that I won't be here next month. So
21 Nichole's going to be at the meeting, but I do have the
22 staff report pretty much done for the Summer Hill, which
23 you'll have next month.

24 And then obviously you guys will send Tori out
25 back to Mr. Zerna's property before that meeting so you guys

1 have all the details of what's going on on that property.

2 CHAIRMAN EVANS: Okay. I would
3 suggest with the issues on the CUP and rezoning that
4 everybody go through those and look at that and also write
5 your comments down.

6 COMMISSIONER McLAREN: Mr. Chairman,
7 I want to say thank you. I do know that I rattled on, and I
8 appreciate your all's ability and willingness to listen to
9 me. But I do think this is extremely important. I think --
10 you know, I feel like I have firsthand knowledge of it, and
11 I see much room for confusion here and much room for
12 problems that we're creating for, like I said, the citizens
13 and the businesses that are trying to do this. And I think
14 there is a lot -- I think we can improve from what we've
15 got, and I'd much rather do something as a CUP as opposed to
16 do something as a rezoning.

17 But I think what will happen if we don't do it
18 as a CUP for most districts, we're still going to be looking
19 at rezonings because there is less rules for it, and I think
20 it's important to have some rules for these kinds of events
21 and for people that have these events that really understand
22 the rules.

23 So thank you very much for listening.

24 COUNTY ATTORNEY VINCENT: Could I
25 have a few minutes, Bill?

1 CHAIRMAN EVANS: Sure. Thank you.

2 COUNTY ATTORNEY VINCENT: I lost my
3 audience, but I need to at least to inform you all why my
4 letter was written as it was.

5 It's hard at times to be the one who is the bad
6 guy. Lot of you guys know that I went to a military
7 academy, and part of the West Point Cadet Prayer was that
8 you do the hard or right instead of the easy or wrong.

9 To me we may disagree. You all have the right
10 to disagree, but in my opinion is that what I put forth in
11 that letter is correct. I am very familiar with the Rider
12 case. That's a different type of county. The Missouri
13 State Legislature considered repealing the statute that I'm
14 referencing on two different occasions that I am aware of.
15 The Legislature could have fixed the unconstitutionality
16 problem. They chose not to after the case went -- the Rider
17 case was decided. That does not govern or control what we
18 do. The Court could at some point in time rule on that.

19 More importantly tonight, I did not speak with
20 the staff or attorney consultants for Haven or Meramec
21 Aggregates or whatever their name is. They withdrew that on
22 their own. Once they withdraw, there is nothing before this
23 body. I have told Ray -- when do you think I first told you
24 about this statute, Ray?

25 COMMISSIONER CUNIO: What, years ago?

1 COUNTY ATTORNEY VINCENT: Yeah. When
2 we were still in the old courthouse.

3 COMMISSIONER CUNIO: I don't know.
4 We talked about a lot of stuff.

5 COUNTY ATTORNEY VINCENT: Yeah, we
6 did, and then I gave you all a copy of the same statue back
7 when we did that.

8 COMMISSIONER CUNIO: You said -- I
9 mean, there is nothing we can do except put conditions on.

10 COUNTY ATTORNEY VINCENT: No, I
11 didn't say that. You can't put conditions on when it says
12 you can't interfere with.

13 COMMISSIONER CUNIO: No, you couldn't
14 stop it.

15 COUNTY ATTORNEY VINCENT: You can't
16 interfere with. There's a difference. Interfere with means
17 you can't do anything to it.

18 COMMISSIONER CUNIO: Okay.

19 COUNTY ATTORNEY VINCENT: It's that
20 simple. But anyway, be that as it may, we don't have to
21 address that because it's not before you all. You can't do
22 action on something that's not in front of you. I didn't
23 tell them to withdraw it. I didn't tell them they couldn't
24 withdraw it or they could withdraw it. I didn't talk to
25 them about it. I have -- my obligation to you is give my

1 best opinion. I've had three or four other lawyers look at
2 that. I can't remember if I talked to the fourth guy or
3 not, but I know three. And if I told -- if I said something
4 like that, Ray, to you, then I was mistaken, whenever that
5 was. But I know that I gave this same statute copy to you
6 guys earlier. I researched what open-pit mining means.
7 I've researched what strip mining is. I am very comfortable
8 with my opinion. I -- that's what I get paid to do.

9 Sometimes what I tell people is not very
10 popular, but -- that's why I have people chasing me I guess.

11 COMMISSIONER CUNIO: We have made
12 decisions in the past regarding these type things,
13 specifically quarries.

14 COUNTY ATTORNEY VINCENT: Well, not
15 with me here.

16 COMMISSIONER CUNIO: No, no. I
17 agree, but I mean, we have looked at these things, and --

18 COUNTY ATTORNEY VINCENT: I
19 understand that, Ray.

20 COMMISSIONER CUNIO: -- turned down.
21 From what you're telling us here, is that--

22 COUNTY ATTORNEY VINCENT: Expect them
23 back.

24 COMMISSIONER CUNIO: I'm sorry?

25 COUNTY ATTORNEY VINCENT: Expect them

1 to come back because I think the people that were turned
2 down there was -- I know of one or maybe two that were
3 turned down when I was not handling Planning and Zoning. I
4 would expect those guys to refile or actually probably just
5 go out and start quarrying operations. We don't have
6 jurisdiction over those. What's the difference between that
7 and digging out of the river?

8 I've talked today with Cameron or after the
9 fact the application was withdrawn, was going to be
10 withdrawn, about my understanding of what the different
11 types of mining are. I'm not an engineer or a mining
12 expert. I'm lawyer.

13 But I have done this for 30 years, and I've
14 done -- been practicing municipal law, government law for
15 almost 30 years. The type of stuff that I've been involved
16 in with here that you've approved deal with dredging of rock
17 and sand and gravel out of rivers and natural waterways.

18 Now, there was one that I was mistaken on, I
19 have been told, that I thought was within the boundaries of
20 the waterway that may not have been. If that's the case,
21 then we did a conditional use for whatever reason. My point
22 of all this is this: people have the right to disagree.
23 They can disagree with me. They can disrespect me. They
24 can do whatever they'd like to do. My job is to represent
25 the County the best way I possibly can. I gave the County

1 Commission, I gave you guys, my opinion and if my opinion
2 proves to be wrong, it'll happen. I'm confident that if the
3 people who are opposed to this tonight that were here
4 espousing their position, which they have every right to do,
5 that's why we have the freedoms that we have. If they have
6 a counsel, if they have their own lawyer, I'm confident that
7 that lawyer told them that they have the right to file a
8 Constitutional lawsuit challenge against the County, even if
9 this is not addressed. They just have to do it on their
10 own.

11 Rider was individual citizen who sued the
12 County. That's why it's Rider versus St. Charles County.

13 So anyway, just wanted to make sure everybody
14 understands that.

15 COMMISSIONER CUNIO: One
16 clarification here, Mark. You mentioned mining of sand and
17 gravel, like in a floodplain or floodway.

18 COUNTY ATTORNEY VINCENT: I don't
19 think that's strip mining.

20 COMMISSIONER CUNIO: I'm sorry?

21 COUNTY ATTORNEY VINCENT: I don't
22 think that's open-pit or strip mining.

23 COMMISSIONER CUNIO: Can you
24 differentiate that?

25 COUNTY ATTORNEY VINCENT: I don't.

1 The statute does.

2 COMMISSIONER CUNIO: Okay. You're
3 saying --

4 COUNTY ATTORNEY VINCENT: You cannot
5 interfere with, and that's the words used. Interfering with
6 or affect open-pit or strip mining.

7 COMMISSIONER CUNIO: But what I'm
8 saying, whether it's in a floodplain or whether it's a rock
9 quarry, is there's no difference?

10 COUNTY ATTORNEY VINCENT: Well, I'm
11 not sure about that. I would beg to differ. I think that
12 if you're talking about an open -- if you're taking it out
13 of a natural waterway, that's not open pit. That's not
14 strip mining. There are definitions of those.

15 Now, we may disagree on that. So if you guys
16 want to, if you want to go the other way with it and say
17 that I am being too conservative, and you want to -- one
18 thing we can't do is we can do nothing that interferes with
19 or affects the ability to recover natural resources from
20 open-pit or strip mining. If you want to interpret
21 waterways to be open-pits and strip mining, then you just
22 gave up any ability to regulate sand and gravel in the river
23 until this statute is challenged. In my letter, I say there
24 is a fine line.

25 COMMISSIONER CUNIO: Yeah.

1 COUNTY ATTORNEY VINCENT: And the
2 fine line, that I have to distinguish. That's what I got to
3 do. I'm the one who gets to stick my neck out. I'm the one
4 that puts my malpractice insurance on the line. But when I
5 look at this, I look at it from what is or is not strip
6 mining or open-pit mining, and that's what I do. And I have
7 to make that call.

8 There is no case that interprets this section.
9 There is case that interprets a different section for a
10 different class of county that has different rules.

11 COMMISSIONER HAIRE: So that's
12 because it's a charter county is what made --

13 COUNTY ATTORNEY VINCENT: No. There
14 is -- there is a section for first class counties. They got
15 a traditional way. We did not adopt those regulations.

16 COMMISSIONER HAIRE: Okay.

17 COUNTY ATTORNEY VINCENT: We had --
18 we began zoning, in fact when we were a second class county.
19 When we became a first class county, we had the right to
20 keep that designation and go with the alternative form,
21 which is what we did. That case -- those have not been
22 challenged in that way.

23 COMMISSIONER HAIRE: Okay.

24 COUNTY ATTORNEY VINCENT: So that's
25 my opinion, and I just wanted to clarify that. Just like

1 everything else, guys, you know, when I sat up here for
2 hours and hours and hours on the Ameren utility waste
3 landfill, a lot of people got mad at me. But I did what I
4 felt was right, and I'm doing -- with regard to this, I'm
5 doing what I feel is right. And when I told the Commission,
6 the County Commission, that I was ready to do this, that I
7 was going to say this, I talked to them about my opinion,
8 but I let them read the statute. We all read it the same
9 way. There is no other way to read it.

10 So that's it. I wanted to say those tonight
11 and get it out. Okay.

12 CHAIRMAN EVANS: Thank you, Mark.

13 If there is nothing else, the Chair would
14 entertain a motion to adjourn.

15 COMMISSIONER BOLAND: So moved.

16 COMMISSIONER WILLIAMS: Second.

17 CHAIRMAN EVANS: Motion and second to
18 adjourn. All in favor signify by saying aye.

19 COMMISSIONER VOSS: Aye.

20 COMMISSIONER McLAREN: Aye.

21 COMMISSIONER CUNIO: 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 COMMISSIONER WILLIAMS: Aye.

4 CHAIRMAN EVANS: Opposed? [None]

5 The meeting is adjourned.

6 [Thereupon, the proceedings concluded
7 at 8:47 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