

**ST. CHARLES COUNTY  
PLANNING & ZONING COMMISSION  
REGULAR MEETING  
FEBRUARY 16, 2022  
7:00 PM**

COUNTY EXECUTIVE BUILDING  
THIRD FLOOR COUNCIL CHAMBERS  
100 NORTH THIRD STREET  
SAINT CHARLES, MO 63301

This meeting is open to the public.

The meeting will also be available live online via YouTube at [youtube.com/SCCMOTV](https://www.youtube.com/SCCMOTV).

Please note: This agenda may be modified and additional items or documents may be added through 5:00 p.m. on Tuesday, February 15, 2022

**Tentative  
Agenda**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ELECTION OF OFFICERS**

**PUBLIC HEARINGS**

**I. CONDITIONAL USE PERMIT REQUEST - 2440 SOUTH HIGHWAY 94**

Application No: CUP21-20

Property Owners: Joseph A. Koester and Craig A. Daily

Current Zoning: A, Agricultural District

2030 Master Plan: Recommends agricultural and agricultural tourism uses

Conditional Use Request: Buildings, structures, or open spaces for conducting weddings and/or wedding receptions or other private parties

Parcel Size: 6.19 acres

Location: On the southeast corner of Highway 94 South and Highway DD

County Council District: 2

Account No.: A923000655

## II. REZONING REQUEST - DYER ROAD

Application No: RZ21-19

Property Owner: Thomas J. McMenemy and Julie A. McMenemy

Applicant: T.R. Hughes, LLC, Shawn Luesse

Current Zoning: A, Agricultural District, with Floodway Fringe Overlay District

Requested Zoning: R1E, Single Family Residential District, with Floodway Fringe Overlay District (7,000 square foot minimum lot size)

2030 Master Plan: Whites Branch Planning District (agricultural and residential, one dwelling unit per gross acre)

Parcel Size: 59.90 acres

Location: On the on the west side of Dyer Road, approximately 750 feet north of Riverdale Park Drive, adjacent to the City of St. Paul

County Council District: 1

Account No.: 284760A000

## III. CONDITIONAL USE PERMIT REQUEST - 4180 BENNE ROAD

Application No: CUP21-21

Property Owners: Lynn P. Melson and Tamara T. Melson Revocable Qualified Spousal Trust

Current Zoning: A, Agricultural District

Conditional Use Request: Private school

Parcel Size: 5.0 acres

Location: On the south side of Benne Road, a half mile east of Highway D

County Council District: 2

Account No.: T222000523

**PLATS**

NONE

**TABLED / CONTINUED ITEMS**

NONE

**APPROVAL OF THE 2022 TEMPORARY FIREWORKS STAND REGULATIONS**

**Documents:**

[FW REGULATIONS 2022.PDF](#)

**APPROVAL OF THE MINUTES FROM THE NOVEMBER 17, 2021 AND JANUARY 19, 2022 REGULAR MEETINGS**

**Documents:**

[11-17-2021 PZ MTG MINUTES - DRAFT.PDF](#)

[01-19-2022 PZ MTG MINUTES - DRAFT.PDF](#)

**OTHER BUSINESS**

I. PLANNING AND ZONING DIVISION UPDATES

**ADJOURNMENT**

# 2022 FIREWORKS STAND REGULATIONS

## St. Charles County, Missouri

In order to operate a temporary fireworks stand in unincorporated St. Charles County (June 25 to July 6), the business must first obtain:

- Approval from the County's Planning and Zoning Commission for a fireworks stand conditional use permit; and
- Approval from the County's Building and Code Enforcement Division; and
- Any necessary approvals from the fire protection district where the stand is to operate.

Applications should be submitted online through the "CitizenServe Citizen Access Portal" which can be accessed at <https://www.citizenserve.com/Portal/PortalController>.

### CONDITIONAL USE PERMIT SUBMITTAL REQUIREMENTS

1. Applications for conditional use permits for fireworks stands must be accompanied by the following:
  - a. A digital copy of a concept plan, drawn to scale, showing the location of all structures and trailers on the property, both permanent and temporary, parking areas, storage facilities, etc. The concept plan must indicate the dimensions of the property and the exact location of all structures, including distances from property lines and between structures. Indicate where the power pole is located. Indicate what type of temporary structure (wood frame or fabric tent). Fabric tents must be fire retardant treated or classified as noncombustible.
  - b. A digital copy of a letter from the owner of the property on which the stand is located authorizing the operation of a fireworks stand on the property, dated and notarized not earlier than 60 days prior to the date of the application.
  - c. Information on the size and location of on-premise signs and/or banners.
2. The following land use permit fees shall apply: Stands up to 1,000 sq. ft.: \$2,000.00 and stands 1,000 sq. ft. and above: \$4,000. (Section 405.515 OSCCMo) All fees, including those for building and electrical permits, may be paid together once permits are ready to issue.
3. Fees must be paid in full by cash, check, or credit card prior to the inspection/opening of the stand.

### STANDARD CONDITIONS OF APPROVAL

1. **Site Design and Setback Requirements.**
  - a. All setbacks of the zoning district in which a stand is located must be observed. All tractor-trailers, trucks, vans, or other temporary vehicles used for storage purposes shall be located a minimum of 50 feet from the tent or stand unless, due to the size of the parcel or lot, this is not possible. In that event the storage facilities must be located as far as possible from the tent or stand. Stands must be located a minimum of 100 feet from underground gasoline storage tank intake valves and vents, gasoline pumps, or any structures or areas that contain flammable materials.
  - b. Tents shall be located no less than 20 feet from lot lines, buildings or other tents. (NFPA 1124 Table 7.4.7.2)
  - c. No motor vehicles shall not be permitted within 10 feet of the tent. (NFPA 1124 Table 7.4.7.2)
  - d. The area within 30 feet of the tent shall kept free of accumulated dry grass, dry brush, and combustible debris. (NFPA 1124 Section 7.4.6.1)
  - e. Tents shall be located no less than 50 feet from the following: retail propane-dispensing devices; above ground storage tanks of flammable or combustible liquid, flammable gas or flammable liquefied gas; compressed natural gas-dispensing devices; motor vehicle fuel dispensing devices. (NFPA 1124 Sections 7.3.11.1 and 7.3.11.2)
2. **Interior Tent Space Requirements.**
  - a. An approved fire and safety and evacuation plan shall be prepared in writing and maintained current. The plan shall be posted in a conspicuous location that is accessible to the public as well as to persons employed or otherwise working in the CFRS facility. (NFPA 1124 Sections 7.3.13 and 7.4.8.2)
  - b. The finished ground level enclosed by the structure and the surrounding finished ground level not less than 10 feet outside of the structure, shall be cleared of all flammable or combustible material and vegetation. (NFPA 102 Section 8.5.2.1)

- c. Not less than 50 percent of the available floor area within the retail sales area shall be open space that is unoccupied by retail displays and used only for aisles and cross-aisles. (NFPA 1124 Section 7.4.10.2)
- d. Where the continuous display of consumer fireworks are located on shelving, cases, counters, and similar display fixtures, a flame break shall be provided so that the maximum distance between flame breaks does not exceed 16 feet were measured along the length of the display. (NFPA 1124 Section 7.3.15.2.1)
  - (1) Flame breaks shall have a flame break rating not less than 5 minutes as determined in accordance with NFPA 1128. Combustible flame breaks shall have a flame spread not greater than 75 as determined in accordance with ASTM E 84. (NFPA 1124 Sections 7.3.15.2.2 and 7.3.15.2.1)
  - (2) The flame break shall extend as follows:
    - i. From the display surface to not less than 6 inches above the full height of the displayed merchandise or to the underside of the display surface directly above.
    - ii. For the full depth of the displayed merchandise. (NFPA 1124 7.3.15.2.3)
  - (3) Where packaged fireworks merchandise is displayed on the same level as individual unpackaged fireworks devices, the flame break required in 7.3.15.2.1 shall not be required where both of the following criteria are met:
    - i. The length of the display level contains individual unpackaged firework devices in interrupted by packaged fireworks merchandise, or open space, or any combination thereof, having a continuous length of not less than 8 feet.
    - ii. The distance between flame breaks does not exceed 32 feet.
- e. Where a merchandise display level contains packaged fireworks merchandise such merchandise shall be permitted to be displayed in a continuous length on the same level where the display does not exceed 32 feet without a flame break required in 7.3.15.2.1. (NFPA 1124 Section 7.3.15.2.5)
- f. An aisle having a minimum width of 48 inches shall be permitted to substitute for the flame break required in 7.3.15.2.1. (NFPA 1124 Section 7.3.15.2.6)
- g. All tent fabric shall meet the flame propagation performance criteria of Test Method 2 as required by NFPA 701. One of the following shall be provided as evidence that the fabric materials have the required flame propagation performance:
  - (1) Certificate of evidence of acceptance by an organization acceptable to the BCE Director.
  - (2) Report of test made by other inspection authorities or organizations acceptable to the BCE Director. (NFPA 102 Section 8.3.1 – 8.3.2)

### 3. **Access and Parking Requirements.**

- a. A minimum of five (5) off street parking spaces, one of which designated as accessible, must be provided. These parking areas shall be on a gravel surface at a minimum. There shall be no parking on vegetated areas that could present a fire hazard; i.e. dried grasses, weeds, etc.
- b. All new or temporary access drives shall be at least 100 feet from an intersection and have approval from the appropriate authority. Such approval shall be submitted in conjunction with the application for the Conditional Use Permit.
- c. No person will be allowed within any street right-of-way flagging or directing traffic. No interference with the flow of traffic near the site of the fireworks stand will be permitted. Fireworks stand employees may direct customers to parking spaces only within the boundaries of the stand's parking lot and driveways on private property.
- d. The CFRS facility shall be provided with no less than 3 exits. (NFPA 1124 Section 7.3.14.1.1)
- e. The minimum width of the exits shall not be less than 72 inches. The minimum width of the exit shall not be obstructed. (2015 International Fire Code Table 3103.12.3)
- f. Those aisles serving as a portion of the exit access shall not be less than 48 inches in width. (NFPA 1124 Section 7.3.14.4.1.1)
- g. The maximum travel distance from the most remote point to an exit along the natural and unobstructed path of egress travel shall not exceed 75 feet. (NFPA 1124 Section 7.3.14.3)
- h. Not less than one aisle shall be provided and arranged so that travel along the aisle leads directly to an exit. (1124 Section 7.3.14.4.1)

- i. Other required exits shall be located at or within 10 feet of the end of an aisle or a cross-aisle. (NFPA 1124 Section 7.3.14.4.2.2)
- j. Aisles shall terminate at an exit, another aisle or a cross-aisle. Dead-end aisles shall be prohibited. (NFPA 1124 Section 7.3.14.4.2.3 and 7.3.14.4.2.4)
- k. Where more than one aisle is provided not less than one cross-aisle shall have an unobstructed connection with every aisle other than cross-aisles. (NFPA 1124 Section 7.3.14.4.2.5)
- l. Cross-aisle connections shall be provided for each aisle at intervals not greater than 50 feet as measured along the aisle. (NFPA 1124 Section 7.3.14.4.2.6)
- m. Where cross-aisles are required, not less than one cross-aisle shall have at least one end terminate at or within 10 feet of an exit. (NFPA1124 Section 7.3.14.4.2.7)
- n. Lighting shall be provided that illuminates the means of egress including the exit discharge whenever the facility is occupied. This shall include providing emergency lighting. (NFPA 1124 Section 7.3.14.7 and 7.3.14.8)
  - (1) Emergency lighting is not required for tents not open for business after dark. (NFPA 1124 Section 7.4.8.4)

4. **Fire Extinguisher Requirements.**

- a. No fewer than two portable fire extinguishers with a minimum 2A rating shall be provided, at least one of which shall be of the pressurized water-type. (NFPA 1124 Section 7.3.8.2)
- b. Where more than one portable fire extinguisher is required, at least one fire extinguisher shall be of the multipurpose dry chemical type if the facility is provided with electrical power. (NFPA 1124 Section 7.3.8.3)
- c. Portable fire extinguishers for temporary CFRS facilities shall be installed and located so the maximum distance of travel required to reach an extinguisher from any point does not exceed 35 feet. (NFPA 1124 Section 7.4.5.2)
- d. Fire extinguishers shall not be obstructed from view. (IFC Section 906.6)
- e. Fire extinguishers less than 40 pounds shall be mounted no more than 60 inches above the floor. Fire extinguishers greater than 40 pounds shall be mounted no more than 41 inches above the floor. (IFC Sections 906.9.1 and 906.0.2)
- f. *Refuse.* Each fireworks stand must be kept in a clean and orderly manner and have trash removal service with a hauler licensed by the St. Charles County Public Health Department. Also, each stand must have on site a metal refuse bin of not less than one and one-half cubic yards capacity that conforms to Federal Consumer Product Safety Commission, Part 1301 - Ban of unstable refuse bins. All solid waste generated by the fireworks stand must be placed in the metal refuse bin with the frequency of pickups being dictated by the size of said bin and the time it takes to reach capacity.
- g. *Restroom.* Each fireworks stand must provide a portable restroom if there are not restrooms available on the site.
- h. Wholesalers may only sell to someone with a sales tax identification number. Buyers with a sales tax identification number must purchase a minimum of \$100.00 of fireworks in bulk quantity.

5. **Signs, Banner, and Posted Notice Requirements.**

- a. There shall be not more than one (1) sign or banner located on or attached to the fireworks stand or tent. In addition, one (1) ground sign shall be permitted for each stand, located on the same property as the stand. In addition, one (1) sign or advertisement shall be permitted attached to or painted on a tractor-trailer or similar large vehicle parked at the stand location. The total area of these signs shall not exceed 400 square feet each. On-premise signs that contain traffic and parking directions and do not exceed 32 square feet in size each are also permitted. All off-premise signs advertising fireworks stands shall comply with all rules and regulations governing signs of the jurisdiction in which the signs are located.
- b. Flashing lights of any type are prohibited. All lighting shall be non-intermittent.
- c. All fireworks stands that are within 1½ miles of municipalities which prohibit the discharge of fireworks shall have signs posted at all points of ingress and egress to and from the fireworks stand stating, "It is illegal to discharge fireworks within the limits of the city(ies) of \_\_\_\_\_." This same statement shall also be stamped on or printed on a flyer placed in all shopping bags.

- d. Exits shall be marked by an approved exit sign in accordance with NFPA 101 Life Safety Code (NFPA 1124 Section 7.3.14.6.1)
- e. Exit signs shall be self-luminous or internally or externally illuminated. (NFPA 1124 Section 7.3.14.6.2)
- f. Smoking shall not be permitted within 50 feet of CFRS Tent or inside the CFRS Tent. A sign conspicuously posted at each entrance of the CFRS Tent with 2 inch high letters on contrasting background stating "FIREWORKS – NO SMOKING" shall be provided. (NFPA1124 Section 7.3.10.1 and 7.3.10.2)
- g. At least one sign that reads "NO FIREWORKS DISCHARGED WITHIN 300 FEET" in letters at least 4 inches high on a contrasting background shall be conspicuously posted on the exterior of **each side** of the CFRS facility. (NFPA 1124 Section 7.4.6.3)
- h. Signs shall be posted at all points of ingress and egress to and from the fireworks stand stating no sales will be made to anyone under the age of 16.

**6. Storage Requirements.**

- a. Trailers, semitrailers, and metal shipping containers used for the storage of consumer fireworks shall comply with the following:
  - i. Where an interior aisle is provided, the aisle shall be not less than 28 inches in width. (NFPA 1124 Section 6.14.3)
  - ii. At least one pressurized water type fire extinguisher having a minimum rating 2A shall be located within 75 feet of the closet point on the exterior of any such trailer, semitrailer, and metal shipping container. (NFPA 1124 Section 6.14.4)
  - iii. Trailers, semitrailers, and metal shipping containers shall be separated from adjacent permanent buildings and structures by no less than 10 feet. (NFPA 1124 Section 6.14.7)
- b. Mobile storage units used for the temporary storage of consumer fireworks shall meet the criteria of 5.3.4 for a Type 4 outdoor magazine and shall be located not less than 10 feet from CFRS facilities and stores. (NFPA 1124 Section 7.3.12)

**SPECIAL CONDITIONS FOR APPROVAL**

- 1. The applicant, owner, and/or operator of the firework stand authorized under the CUP (Owner/Operator) is responsible for ensuring that their staff and customers are abiding by the Public Health Orders of the County and State that are currently in place, and as they may be in the future amended, revised, or supplemented for the duration of the CUP. Any violations of those orders are unlawful and could result in prosecution through the County Municipal Court. The most up-to-date and latest County policies are available on the St. Charles County website at [sccmo.org/COVID](http://sccmo.org/COVID). The County website ([www.sccmo.org/](http://www.sccmo.org/)) has detailed information, including recommended strategies on how to protect the Owner/Operator staff and customers from the spread of the disease and further guidance on what burdens are placed upon the Owner/Operator during the COVID-19 pandemic.

**BUILDING PERMIT APPLICATION SUBMITTAL REQUIREMENTS**

- 1. Applications for building permits for fireworks stands must be accompanied by the following:
  - a. A plot plan, drawn to scale, showing all structures and trailers on the property, both permanent and temporary, vehicle access and parking areas, storage facilities, dumpster locations, etc. The plot plan must indicate the dimensions of the property and the exact location of all structures, including distances from property lines and between structures. Indicate where the power pole is located. Indicate what type of temporary structure (wood frame or fabric tent. Fabric tents must be fire retardant treated or classified noncombustible.)
  - b. A floor plan, drawn to scale, of the tent or temporary structure showing the location of fire extinguishers and the location and dimensions of all shelving or fixture.
  - c. If applicable, a licensed electrical contractor.
- 2. The following fees have been established:
  - a. Temporary Structure building permit - \$60.00
  - b. Commercial electrical permit - \$80.00

3. The following are some of the more common building and electrical code regulations regarding fireworks stands that must be complied with:
  - a. All overhead electrical wires less than 12 gauge must be supported by a steel cable and fastened to the cable every 54". Wires spanning over 40 feet must have support cables.
  - b. The overhead wire shall be a minimum of 15 feet from ground level.
  - c. All electrical panels, receptacle boxes or any other type of exterior devices must be weatherproof and in acceptable condition to meet Electrical Codes.
  - d. The only approved extension cords must have "built-in" fuse breakers.
  - e. All electrical work must comply with the 2015 National Electrical Code, and it is the applicant's responsibility to obtain all appropriate electric permits.
  - f. Fabric tents must be fire retardant treated or classified noncombustible.
4. As in previous years, St. Charles County Building and Code Enforcement Division personnel will inspect permitted firework stands and tents for compliance to the above regulations. **This inspection must be made prior to opening the stand. It is the responsibility of the stand owner to call the County Building and Code Enforcement Division at (636) 949-7345 and notify us that the stand is up and ready for inspection.** It is also the responsibility of the stand owner to contact the fire district for any permits and/or inspections required from the fire district.

#### **SECTION 210.105 OSCCMo: SALE OF FIREWORKS - RESTRICTIONS ON COMMERCIAL OPERATIONS**

1. *Days of Operation.* No sales of fireworks shall be permitted except from June twenty-fifth (25th) through July sixth (6th) of each year.
2. *Hours of Operation.* No sales of fireworks shall be permitted prior to 8:00 A.M. or after 10:00 P.M. on any day on which such sales are authorized, except that on July first (1st), second (2nd) and fourth (4th), sales may continue until 11:00 P.M. and on July third (3rd), sales may continue until Midnight.
3. *Employment of Persons Under the Age Of Sixteen (16).* Persons under the age of sixteen (16) shall not be employed at any location selling fireworks unless supervised at all times by at least one (1) person over the age of twenty-one (21).
4. *Required Sign.* A sign bearing the message "Discharge of Consumer Fireworks is Prohibited at All Times within Unincorporated St. Charles County Except Between the Hours of 10:00 A.M. and 11:00 P.M. July 2nd through July 5th and to Between the Hours of 11:30 P.M. on December 31st and 12:30 A.M. on the immediately following January 1st" in letters at least three (3) inches tall shall be conspicuously displayed at each sales location. Such sign shall not count towards the limits of allowable signage provided for by this Section or by the Unified Development Ordinance of St. Charles County, Chapters 405—412, OSCCMo. Additionally, a seller of fireworks shall distribute to each purchaser of fireworks a flyer of at least twenty-four (24) square inches containing the statement: "Discharge of Consumer Fireworks within St. Charles County is Prohibited by Ordinance Except Between the Hours of 10:00 A.M. and 11:00 P.M. July 2nd through July 5th and to Between the Hours of 11:30 P.M. on December 31st and 12:30 A.M. on the immediately following January 1st. Violators may be punished by a fine up to five hundred dollars (\$500.00)."
5. *Prohibition of Sales.* It shall be unlawful for any person to willfully sell any firecrackers, fireworks, torpedoes, bombs, pin wheels, fire balloons, Roman candles, toy cannons, toy pistols, missile or aerial fireworks containing a stick or fin, or other fireworks containing a stick or fin, or other fireworks of a like kind within unincorporated St. Charles County.



## MINUTES OF REGULAR MEETING

### ST. CHARLES COUNTY PLANNING AND ZONING COMMISSION

**DATE:** NOVEMBER 17, 2021

**TIME:** 7:00 PM

**PLACE:** COUNTY EXECUTIVE BUILDING  
300 N. THIRD ST.  
THIRD FLOOR COUNCIL CHAMBERS  
ST CHARLES, MO 63301

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**MEMBERS PRESENT:** Jennifer Bahr, Tracy Boehmer (via WebEx), Kevin Cleary, Chad Cornwell, Roger Ellis and Jamaal Jackson

**MEMBERS ABSENT:** Craig Frahm, Terry Hollander, and Diane Saale

**STAFF PRESENT:** Robert Myers, Director of Planning & Zoning; Ellie Marr, Senior Planner; Bryan Wise, Associate County Counselor

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#### CALL TO ORDER

Chairman Ellis called the meeting to order at 7:00 PM. Following the Pledge of Allegiance, Chairman Ellis welcomed the audience; explained the procedures for speakers; and explained the functions of the Planning and Zoning Division, the Planning and Zoning Commission and the County Council.

Chairman Ellis introduced the following documents into the record: The Unified Development Ordinance of St. Charles County (UDO), including zoning maps; and the 2030 Master Plan for St. Charles County, which includes the 2030 Future Land Use Plan Map.

Chairman Ellis noted that a quorum was present and entertained a motion to open the meeting. Commissioner Cleary made such a motion and Commissioner Cornwell seconded the motion. The motion passed by unanimous voice vote.

Chairman Ellis provided instructions for those wishing to speak at the meeting.

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#### CHANGES TO THE AGENDA

There were no changes to the Agenda.

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## PUBLIC HEARINGS

### I. CONDITIONAL USE PERMIT REQUEST - 3678 HIGHWAY D

Application No:	CUP21-17
Property Owner:	Gerald L. Wolf and Sharon Wolf
Applicant:	Russell Been for Collective Solutions, LLC
Current Zoning:	C1, Neighborhood Commercial District
2030 Master Plan:	Recommends low density residential land uses
Conditional Use Request:	Construct a 115-foot-tall monopole telecommunication Tower with adjustments to exceed height, setback, and spacing standards
Parcel size:	3.93-acres
Location:	On the south side of Highway D, approximately 1,000 feet east of Highway DD
County Council District:	2
Account No.:	598080A000

Robert Myers, Director of Planning and Zoning, provided a verbal report for Application No. CUP21-17. This is known as Wolf's Highway D Storage and is on the southside of Highway D. The parcel is 4 acres in area, it is narrow and deep. The post tower is not on the front of this parcel but toward the back. Robert Myers read the County's Telecommunications Ordinance and identified what is allowed as a telecommunications tower as a permissive use in the C1, Neighborhood Commercial District and noted any deviations from those standards could still work but would have to be approved by a Condition Use Permit, Planning and Zoning Commission and County Council. Robert Myers described the conditional use permit (CUP) request the Applicant is seeking. He noted under Section 405.505 of the County Code requires that the minimum distance between telecommunication towers shall be one (1) mile, this application would not meet that one-mile spacing distance. Robert Myers stated the Ordinance allows the County Council to adjust the spacing requirements only for good cause. Three criteria which Conditional Use permits are based on were read with County staff's recommendations. The Planning and Zoning Division recommends that the Planning and Zoning Commission recommend denial because it does not comply with the CUP criteria of Section 405.510.B of the County Code. In addition, County Staff does not view the submittal as providing good cause as to why County Council should reduce spacing from one mile to 500 feet in this instance. He reviewed the three Board Options the Planning & Zoning Commission could take regarding how they vote, and the four conditions staff suggests if the Commission chooses to recommend an approval.

Chairman Ellis asked the Commission if they had any questions for staff. Vice Chairman Cleary asked what the one-mile requirement is based on. Robert Myers said the one-mile requirement is based on to reduce the proliferation of towers in unincorporated St. Charles County and is not based on interference.

With no questions for County staff, Chairman Ellis asked the applicant to come forward.

Eric Martin, Attorney, representative for the Applicant, 211 N. Broadway, St. Louis, MO 63102, was sworn in. Mr. Martin pointed out that it is on the southern portion of the property and there is

a 20-foot drop in grade from the beginning of the property and helps reduce visual impact of the tower. He provided a description of where the tower would be located and addressed the recommendation of denial, which is the other tower. He stated reasons why the tower is needed including sworn testimony from AT&T which would be the carrier that wants to be on the tower. AT&T does not feel it is economically feasible to remain on this tower given the lease structure with SBA to stay on with higher cost towers and is impeding the ability to bring the latest in technology and to provide First Net public safety service for first responders. Mr. Martin also addressed the one-mile separation requirement and explained why it's needed and what it is for. Mr. Martin stated Missouri Law prohibits the consideration of the other tower in terms of a one-mile radius for being a reason to deny this. He stated the Communications Deployment Act says you can't evaluate towers based upon the location of another tower. Regarding the aesthetics, Mr. Been did a balloon test which showed representations of what the tower would look like up against that line.

Russell Been, Applicant, 340 Marshall Road, Valley Park, MO, was sworn in. Mr. Been asked to have his electronic Collective Solutions, LLC packet entered into the record. Chairman Ellis agreed to it. He stated he has been doing this since 1999 and his first case was in St. Charles County. Mr. Been said he is working for Parallel Infrastructure who was engaged by AT&T to help them with a flood program and described it to the Commission. They have been working with the owner of this tower (SBA) for several years and has been trying to renegotiate a deal to bring rates to a more affordable level. They have not made any progress. The goal behind this program was to build a site that was more affordable that could provide all the current technologies. Mr. Been said the map that staff showed at the beginning was two parcels and each of them is about 50 feet wide. He said he had applied for a variance earlier but was informed by staff that the Planning & Zoning Commission and the County Council could provide relief with those setback concerns and therefore withdrew that application. He provided an elevation view showing the required monopole and aerial photographs with its search ring. Mr. Been provided visual images taken by a drone of different areas facing to where the tower would be located. Mr. Been also displayed propagation maps which show coverage, but he said this is not about coverage but about capacity and 5G and making that tower accessible to more users. He noted the Director of Development for AT&T has stated that they need this tower in order to make their operations economically feasible.

Chairman Ellis asked the Commission if they had questions for the applicant.

Commissioner Jackson asked what AT&T would do if they are denied this conditional use. Mr. Been said they would stay at their existing site and operate at a diminished 3G and 4G capacity.

Commissioner Jackson asked if other carriers are going to join this tower and what is the future use plan. Mr. Been said this is being built for multiple carriers such as Dish Network and is open to other carriers.

Chairman Ellis asked if St. Charles County covered by First Net. Mr. Been said he cannot answer that question. He said the First Net representative has been in contact with St. Charles County.

Commissioner Cornwell asked if this type of tower is permitted by the zoning at 85 feet, does it just not work for coverage and that's why you are going to 115. Mr. Been answered in the affirmative and said they are at 115 on the current tower.

Commissioner Cornwell asked if 85 feet would work. Mr. Been said AT& T wanted 130 feet after they had applied for 115 for the height of the tower. Commissioner Cornwell said if you go for 115

feet for the tower, then the setback would have to be 115 then asked if he has looked at other properties that would meet that setback requirement. Mr. Been answered in the negative and added the most important factor in this is willing landowners.

Commissioner Bahr summarized that Mr. Been needs this tower for the purpose of economic competition and the current tower owner has a monopoly and because of rules nothing can be built within a one-mile radius and therefore can be blackmailed into paying any rates that they want. Mr. Been answered in the affirmative. Commissioner Bahr said Mr. Been is wanting to build another tower to be able to have economically feasible price to benefit customers. Mr. Been they are trying to build a free-market economy and be more competitive. He stated they are paying four times more than should be on any other tower in the Midwest.

With no further questions by Commissioners, Chairman Ellis opened the public hearing and asked if anyone from the audience wished to comment on Application No. CUP 21-17.

Zachary Buchheit, Stinson, LLP, 7700 Forsyth Blvd., St. Louis, MO, was sworn in. He stated he is representing SBA Tower Group which is the tower right next door to the proposed tower which was built in 2002. He said AT& T is currently on that tower. He stated reasons for opposing CUP21-2-17 and why the County should recommend denial of this tower. He said this tower is at 3666 Highway D and is the exact same type of tower that Parallel Infrastructure is proposing to build.; a 115-foot monopole tower. He said there is no reason why AT&T cannot provide 5G on that tower even though in their packet as sworn testimony it states that it can't. Mr. Buchheit said he is not aware of any negotiations and no complaints regarding technology, coverage or capacity issues have been made. He said Collective Solutions is going into communities and building towers close to SBA towers all over because AT& T has hired them to. He also represented his interpretation of State Statute, specifically Subsection 2. He stated that the County Ordinance does not state to look at other surrounding locations, but to look at their proximity. This tower is less than 500 feet away from the proposed tower and not the one-mile requirement. The applicant is asking to vary from the County Code requirement by 90% and by 50% from the setback. Mr. Buchheit stated if the Commission approves the conditional use permit, to consider the precedent it would set and ignore the one-mile radius and the setback requirements would send a message to other tower builders and carriers to do the same thing.

Commissioner Cleary he has heard two opposing views and asked who is correct.

Mr. Buchheit said his interpretation of the law is different from Mr. Martin but can confirm that no court has decided that issue and the County Ordinance does not ask to consider availability of other potential locations, but does state towers should be a mile apart.

Commissioner Cleary said Mr. Been said he couldn't put a 5G on the tower, but you are saying you can.

Commissioner Bahr said she understood it differently. She believes Mr. Been said it would not be economically feasible to put 5G on that tower, because the rates are too expensive to make it make sense and not that it's not possible that it doesn't make sense financially.

Commissioner Cleary asked if the lease changes every time there is a change. Mr. Buchheit said that he could not answer that.

Chairman Ellis asked if anyone from the audience wished to comment on this application.

Arnie C. Dienoff, PO Box 1535, O'Fallon, MO 63366, was sworn in. Mr. Dienoff expressed his opposition to CUP21-17 to maintain the beauty of southwest St. Charles with less obstructions. He stated that the Planning and Zoning Commission should abide by Section 405.505.C.7 of the County Code and abide by the minimum tower setback and spacing requirements. He would like to see additional conditions be added to protect the natural beauty of the County and consider its residents first before profits.

With no one else from the audience wishing to comment on this application, Chairman Ellis asked the applicant to come back to the podium.

Commissioner Bahr asked what the typical range of one of these towers is. Mr. Been responded that by today's standards it's not how far the range is, but how many persons that it serves and the capacity of each site. Mr. Been stated that everything that is being proposed for the new tower could go on the current tower including 5G.

Commissioner Bahr asked if there any reason a tower couldn't be placed a mile away and Mr. Been responded that it could not, because this is the site they are looking at. He added, when a change is made, an increase is incurred. Commissioner Bahr said if this tower was built that all of the current tenants on SBA's tower would move to this tower leaving a tower empty.

Mr. Been said Team Mobile just renewed so it will be on this tower for the duration of their renewal.

Mr. Martin stated that he disagrees with Mr. Buchheit's interpretation of the State Statute.

Commissioner Bahr asked Mr. Martin's if Mr. Dienoff's suggested condition making the tower look like a pine tree pose would fall under Section 16. Mr. Buchheit responded that it would fall under Section 16, which would prohibit that. With the way the tower is designed now it accommodates with type of equipment that is necessary currently. He added regarding setbacks, towers are built to stand up and are not a safety concern as there is ample room from where the tower is, and a one-to-one type of fall zone is not warranted.

There being no further questions for the applicant, Chairman Ellis brought back the application to the Commission for consideration.

Commissioner Bahr asked County staff if other conditional use permits have been passed in the past for cell phone towers. Robert Myers responded that the County Council has periodically approved conditional use permits for cell towers with deviations from required setbacks and/or height requirements.

Commissioner Bahr asked if the Commission has ever approved a CUP for a tower withing a one-mile radius of another. Robert Myers answered in the affirmative, but he stated that they have not approved any this close together. Robert Myers added that in terms of the State Statute, the operative word he reads is "availability" of potential locations. Staff has never looked at co-location or what is or not available. Staff has in the past looked at how close together the towers are, and the spacing requirements for St. Charles County.

Commissioner Cornwell asked what the height requirement for towers within the C2 Zoning District is. Robert Myers responded that County Ordinance requires 100 feet for one user and 125 feet for two or more users, and this would be allowed by right as long as it would meet the one-mile spacing requirement and the setback requirements.

There being no further discussion or questions for County staff, Chairman Ellis asked for a motion of approval for Application No. CUP21-17. Commissioner Boehmer made such motion, and Commissioner Cleary seconded the motion.

The vote on the motion was as follows:

Roger Ellis	No	Tracy Boehmer	No	Jennifer Bahr	No
Kevin Cleary	No	Jamaal Jackson	No	Chad Cornwell	No

Application No. CUP21-17 was recommended for **Denial**.

## **II. CONDITIONAL USE PERMIT REQUEST - 2818 SOUTH POINT PRAIRIE ROAD**

Application No: CUP21-18  
 Property Owner: Chickadee Acres, LLC  
 Applicant: Lisa Mallon  
 Current Zoning: A, Agricultural District  
 2030 Master Plan: Recommends low density residential uses  
 Conditional Use Request: A bed and breakfast residence (up to 10 guests per night)  
 Parcel Size: 11.20 acres  
 Location: On the east side of South Point Prairie Road, approximately 2,000 feet north of Dyer Road  
 County Council District: 2  
 Account No.: T072100013

Mark Price, County Planner, provided a verbal report for Application No. CUP21-18. Mark Price made a correction regarding the number of guests per night. It will be up to 8 guest snot 10 per night. The applicant is also seeking the ability to put a sign up which is permitted in our sign code and would be 32 square feet in size. The Planning and Zoning Commission is required by Ordinance to consider 5 questions when considering a conditional use analysis. Those five questions and staff responses are in the staff report in its Planning and Zoning packet and were read by Mark Price. County staff recommends County staff recommends that the Planning and Zoning Commission recommend that the County Council approve the conditional use permit with six following conditions, in conformance with Section 405.510.B of the County Code, and intended to address anticipated land use impacts. The six conditions were read to the Commission. No correspondence has been received for this conditional use permit application.

Chairman Ellis asked if the Commission had any questions for staff. There being none, Chairman Ellis asked the applicant to come forward.

Lisa Mallon, 2818 South Point Prairie Rd, Wentzville, MO 63385 was sworn in. Ms. Mallon said she bought her home in May which is suited for a bed and breakfast residence. She stated she does not think it will harm her neighbors or their properties. Her house is actually setback two-tenths of a mile from South Point Prairie Rd. and is surrounded by woods. She said is not into wild parties but will be a quaint and quiet place.

Chairman Ellis asked the Commission if they had questions for the applicant.

There being none, Chairman Ellis opened the public hearing and asked if anyone from the audience wished to comment on Application No. CUP21-18.

Dr. Kenton Hoernig, 2824 S. Point Prairie Rd., Wentzville, MO 63385 was sworn in. Dr. Hoernig stated she is Ms. Mallon's neighbor and opposes the conditional use permit because it would affect the quality of his family living there. He is concerned for three main principles: safety, privacy and maintenance of the easement. He stated he is concerned about strangers using his shared easement, and how many people would be using his driveway to find her residence. He bought the house in July and is vacant as he and his wife will be remodeling it. Dr. Hoernig said it looks like a gravel roadway is being planned on the backside of this property which means traffic will be circling his entire property. He did not plan to have this at the time of purchase. He stated there needs to be some agreement about having some type of fencing for privacy. He is not aware of an existing easement agreement with Ms. Mallon but has a pre-existing one from the previous owner but is not signed by Ms. Mallon or himself. That agreement states he and Ms. Mallon share 50% of the cost of the maintenance. He doesn't think that it's fair to ask him to be responsible for maintaining the cost of the easement when multiple people are using it because of her business decision. He asked the Commission to recommend denial of this application to give more time to iron things out with Ms. Mallon.

Commissioner Cleary asked if that easement is recorded. Dr. Hoernig answered he believes so because it's stamped by St. Charles County Recorder's office. Commissioner Cleary said it would go with the property and not with the individual.

William Zollman, 3485 South Pointe Prairie Rd, Wentzville, MO 63385 was sworn in. Mr. Zollman owns 160 acres due east of this property. He stated that he believes that the bed and breakfast inn is closer to his property line than what is indicated on the concept plan. Mr. Zollman stated that he has no problem with the bed and breakfast residence but would like for her guests to stay on her property and not bother anyone else.

Arnie C. Dienoff, PO Box 1535, O'Fallon, MO 63366 was sworn in. Mr. Dienoff stated that he is in favor of this application because it will provide additional rural tourism, visitor stay opportunities to the County. He stated that it will have little impact to the area and hopes the neighbor issues can be resolved. He has asked the Planning & Zoning Commission to entertain a few conditions to be added to approval of this CUP in order to benefit the surrounding community.

With no one else from the audience wishing to comment on this application, Chairman Ellis asked the applicant to come back to the podium.

Vice Chairman Cleary asked Ms. Mallon how she will reassure Dr. Hoernig of his privacy, safety concerns and maintenance issues.

Ms. Mallon responded that she has to go through his property in order to get to hers. She stated that there was an easement agreement that was entered into when she went into escrow that runs with the land. Ms. Mallon stated that she would entertain a 65/35 split on the care and maintenance of the road.

Commissioner Cleary asked what she would do to protect his privacy. Ms. Mallon said that her neighbor said that he would erect a fence about 3 to 4 weeks ago. She asked at that time if he wanted her to pay for half of the cost of that fence, and he said no because he was going to do it

anyway. She was going to put the parking area next to the fence and have the road setback a little ways from that.

Commissioner Cleary asked Ms. Mallon if she plans to circumvent that easement completely and enter her property from South Pointe Prairie Road. Ms. Mallon responded that is not possible. She had a civil engineer come out to her property and they and told her that the lake would be compromised if she created an entrance next to it.

Commissioner Bahr asked Ms. Mallon if she would be open to postponing this application in order to give her some time to work out some of these issues with her neighbor.

Ms. Mallon responded that she would be open to postponing this request and added that she wants to be a good neighbor. She stated that she feels that she has a good relationship with her neighbor as they talk to one another. She lets him know if there are ever any strangers on his property.

Commissioner Bahr said that it seems that he did not realize the extent of what was happening, and he might like to sit down with you and discuss it further. Ms. Mallon stated that she would like to do that, and this is the first time she's ever requested a conditional use permit and she did not know what to expect.

Commissioner Bahr asked if a motion could be made to postpone this conditional use permit request until the next regular meeting.

Chairman Ellis responded that could be done at the request of three Commissioners.

Commissioner Bahr asked the Commission if that is something that they would be interested in doing.

Ms. Mallon asked if postponing the application is really necessary, as she is willing to talk to her neighbor.

Commissioner Cleary stated that it does not have to be postponed and he feels that Ms. Mallon and her neighbor should work out the issues between themselves.

Chairman Ellis asked Counselor Bryan Wise if they could mandate a division on the easement. Counselor Bryan Wise answered in the negative.

Commissioner Bahr said that some of the conditional use suggestions are to require a fence. She thought perhaps if that was already worked out prior to voting on the request, the Commission would know what conditions everybody agreed to and could put those on the conditional use permit.

Chairman Ellis explained that when the Commission is typically requiring fences is when there is commercial property abutting residential property. This property is a quasi-commercial, but in his opinion it doesn't have the volume of traffic that a use such as a storage lot would. In higher traffic volume types of uses, the Commission may require putting up certain types of trees and certain types of fencing other than barbed wire property fence.

Chairman Ellis asked County staff if someone is putting in a road on their own private property and adding a path that can be traveled by car back to their own private lake, would there be any requirement in the County Ordinance stating what type of road that would have to be?



Robert Myers responded that if there is a private lane from one portion of a property to another, there would not be any County standards for that roadway. Private roadways are not required to be handled under a conditional use permit and can be added to properties by right. He asked for clarification from Ms. Mallon because originally the original application was for three different conditional use permits and one of them was for a small wedding venue for up to 40 guests at a time. The revised concept plan that was submitted was very similar to the original concept plan, and he asked for clarification on if the roadway that going down to the pond was meant for the wedding venue that was shown on the original concept plan.

Ms. Mallon responded that the roadway shown on the revised concept plan is only intended for the purpose of older people being able to drive to the lake in order to fish because without a road, people would have to walk through the woods in order to get to the lake and it would be very cumbersome.

Chairman Ellis asked if County Ordinances for bed and breakfast residences identify standards for individuals referred to as transients versus renters. How also asked what the maximum time is that someone would be allowed to stay at the bed and breakfast, otherwise it could turn into an apartment building.

Commissioner Bahr suggested that Ms. Mallon's letter states that persons would stay no longer than one week at a time, but she is not sure if that would be legally binding.

Chairman Ellis said that the application just says no more than eight persons at a time, and he does not see anything regarding the length of stay.

Robert Myers stated that what he commonly sees is that there is a limitation of no more than 30 days per stay.

Chairman Ellis stated that he could not find where the County Ordinance had a definition for a bed and breakfast.

Robert Myers responded County Ordinance contains two definitions. One is for a bed and breakfast residence where someone lives there and interacts with guests. The other definition is for a bed and breakfast inn within a commercial area, and there would be no one living on the site. He added that those definitions are very old and don't necessarily reflect the current trends for people renting homes such as through Airbnb.

Commissioner Jackson asked is the residence will be ADA compliant. Ms. Mallon responded that she was thinking about that herself. She stated that there would only be two steps to get from the parking to the inside, and then there are three the guest bedrooms are upstairs and one in the basement. There is also a sunroom, and she plans to dress it up so that if somebody cannot make it up the stairs whether they have a wheelchair, crutches or a walker, they would be able to use the futon that pulls out into a very comfortable bed.

Commissioner Bahr asked Ms. Mallon if she knows if this particular type of venture falls under ADA requirements.

Robert Myers stated that a bed and breakfast is classified under the building code, so that it would be required to have fire sprinklers, but he is not sure about handicapped access.

Commissioner Bahr stated that it seems like it would be arduous to try to retrofit the home to meet those requirements.

There being no further questions for the applicant, Chairman Ellis closed the public hearing and brought the application to the Commission for discussion.

Commissioner Cleary stated that he thinks this looks like it's a good plan, and he would recommend it with the conditions stated and just work on the assumption that the neighbors will work out their differences and go forward.

There being no further discussion, Chairman Ellis asked for a motion of approval for Application No. CUP21-18. Commissioner Cornwell made such motion, and Commissioner Jackson seconded the motion.

The vote on the motion was as follows:

Roger Ellis	Yes	Tracy Boehmer	Yes	Jennifer Bahr	Yes
Kevin Cleary	Yes	Jamaal Jackson	Yes	Chad Cornwell	Yes

Application No. CUP21-18 was recommended for **Approval**.

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#### **IV. REZONING REQUEST - HUNN ROAD**

Application No: RZ21-17  
Property Owner: Elmer V. Hargis  
Developer: CMS Homes, LLC  
Engineer: Pickett, Ray, & Silver, Inc.  
Current Zoning: A, Agricultural District  
Requested Zoning: RR, Single Family Residential District (3-acre minimum lot size)  
2030 Master Plan: Recommends low density residential uses  
Parcel Size: 63.20 acres  
Location: On the northwest corner of Hunn Road and English Road, near Indian Camp Creek Park; and bordering Lincoln County  
County Council District: 1  
Account Nos.: 671040A000

Mark Price, County Planner, provided a verbal report for this application. He stated it is a large undeveloped parcel located next to Lincoln County. The infrastructure to support that density currently does not exist in this area. Each lot will provide its own sewer and water services. This rezoning will permit 4 additional homes to be built on this property over agricultural zoning. In return for that they are going to be developing County approved roads. Paved roads will be in this subdivision. Staff recommends that the Planning and Zoning Commission recommend approval of this application to the County Council.

Chairman Ellis asked if the Commission had any questions for staff.

Commissioner Cleary asked how they are going to provide water service and if it is going to be through community wells.

Mark Price responded that water service would be provided by individual wells, and sewage disposal service would be provided by individual septic systems.

There being no further questions for staff, Chairman Ellis opened the public hearing and asked the applicant to come forward.

Doug Tiemann, Engineer with Pickett Ray & Silver, 22 Richmond Center Ct., St. Peters, MO 63376, was sworn in. Mr. Tiemann stated that he is representing the applicant, DJ Land and as stated by staff, they are requesting rezoning on this property from Agricultural District to RR, Single Family Residential District. Mr. Tiemann made a presentation for the Planning & Zoning Commission regarding Application No. RZ-21-17. He said that the development will have a three-acre minimum lot size, but when it comes down to the actual lot size it works out to 3.73 acres and borders the very western part of St. Charles County. He showed pictures to the Commission of roads surrounding the development and noted that they are constructing 20-foot-wide paved roads in a 42-foot-wide right-of-way, which is the County standard. Because the 2030 future land use plan recommends low density land uses, this development is proposing something less than that because utility service is not available.

There being no questions for the applicant, Chairman Ellis opened the public hearing and asked if anyone from the audience wished to comment on Application No. RZ21-17.

John Hunn, 2378 Hunn Rd, Foristell, MO 63348, was sworn in. Mr. Hunn stated that his property is located at the very north end of Hunn Rd which is about half a mile from where this subdivision will be located. He stated that there are already a lot of houses in the area and many traffic concerns, especially on Dietrich, English, and Hunn Roads. He also expressed concerns about the water table and asked how many more wells could be drilled in this small area and still maintain water pressure. Mr. Hunn provided the Commission with stats from a traffic study summary his brother conducted. He asked what type of homes they will be building, and stated that there is also a cemetery on that property that may date back to the 1800's.

Don Morrell, 2158 Hunn Rd, Foristell, MO 63348, was sworn in. Mr. Morrell stated that this project is directly across the street from his home. He stated that Hunn Rd. is a dead-end road, and the roads cannot handle any more traffic. He asked where they going to put the streets that are being proposed and stated that he is most concerned about the traffic and Phase Two of the Lincoln County Park.

Steve Wittman, 2220 Hunn Rd, Foristell, MO 63348, was sworn in. Mr. Wittman stated that he lives adjacent to the subject property and has been there for about five years. He wanted to move to the country to look at deer and now he will be looking at neighbors. He stated that the Lincoln County side of this development is also going to come out on Hunn Road along with this new proposed subdivision. He lives right on that corner and he stated that he has pulled many people out of the ditch when they come around that corner driving too fast. Mr. Wittman said that he feels that dead end road is basically his driveway. He recommends building homes where there's places that people want to live in subdivisions.

John Johansen, 2002 Hunn Rd, Foristell, MO 63348, was sworn in. Mr. Johansen stated that he lives on the corner where Hunn, Dietrich, and English Roads meet. It is hard for traffic to make a

90-degree turn there and he is worried about the safety of the turn, and the safety of children with a bus stop that stops right in front of his property.

Katy Wortmann, 2334 Hunn Rd, Foristell, MO 63348, was sworn in. Ms. Wortmann lives past the proposed site and shares everyone's traffic concerns. She is also concerned about the water table because everyone has their own well and she hopes there would be a study to confirm that the water sources are satisfactory to feed the proposed development in both St. Charles County and Lincoln County.

Marney Cullen, 1616 Dietrich Rd, Foristell, MO 63348, was sworn in. Ms. Cullen stated that she has lived in her home since 2007 and has several concerns aside from the additional traffic. She stated that an accident just occurred today in front of her home. She lives on a curve that is not only a curve but a bend, and Dietrich Road has two 90-degree bends and a 45-degree incline. Her other concern is what will happen to the water table and septic systems due to the clay in the area. Ms. Cullen stated that internet and Wi-Fi capability in the area is deficient and its almost non-existent as they have only one carrier.

Kevin Wortmann, 1639 Dietrich Rd, Foristell, MO 63348, was sworn in. Mr. Wortmann stated that he resides east of the proposed development. He is concerned about the crossing at Highway 61 because that is where people get killed. People get impatient at the crossing and take chances, and that's when wrecks occur. He suggested that road safety should be a consideration.

Arnie C. Dienoff, PO Box 1535, O'Fallon, MO 63366 was sworn in. Mr. Dienoff stated that he can sympathize with all of the audience speakers, but he is pleased with the 16 homes proposed for this development. Mr. Dienoff stated that he recognizes that the Wentzville region is growing and going north towards Lincoln County. Mr. Dienoff stated that he recommends that the Commission recommend approval of this application.

Chairman Ellis asked if anyone else from the audience wished to comment on Application No. RZ21-17. There being none, he asked the applicant's representative to come back to the podium.

Chairman Ellis asked the applicant's representative to address the concerns that were voiced by the speaker such as traffic, the water table, septic tanks, the potential cemetery, and the potential second phase of this subdivision on the adjacent Lincoln County property.

Doug Tiemann stated that the plat is showing 16 proposed lots on the subject property. Regarding the water and sewer concerns, they are required to get studies from Missouri Department of Natural Resources, and they will come out to the site and look at the soils. The person developing the homes will have soil studies performed to find out where the septic systems can be located on the lots in order to provide adequate absorption. Each lot will have an individual well, and if 16 homes are constructed there may be a case where more than one lot may be purchased by an individual. He is not aware of any water concerns with area wells and that density is not a problem for septic systems. He is not aware of any cemetery on the property either. If there is a cemetery, an easement would be put over it and it would not get disturbed. He stated that traffic concerns are from either existing developments or developments to the west and with 16 homes he is confident that those roads are capable of handling traffic from these lots. He does not have an answer for the concerns regarding the crossing at Highway 61, as a lot of that traffic is coming that way from Lincoln County. Mr. Tiemann noted that layouts have not been done or any investigation of the land that's located to the west in Lincoln County, so he cannot provide any information on that at this time.

Commissioner Cleary asked Mr. Tiemann if there will only be one developer and builder for this subdivision, and what will the square footage of the homes will be.

Mr. Tiemann responded that CMS builds their own homes and that is who is proposing this development. They may also sell to some individual builders. CMS has already developed a number of lots in Lincoln County, and they do have minimum square footage requirements for their homes.

There being no further questions for the applicant, Chairman Ellis closed the public hearing and asked the Commission if they had any further discussion.

Commissioner Cornwell asked if staff looked at the density. He stated that it appears that if the land were to remain zoned Agricultural they could still build 12 homes, as opposed to 16 homes if the land is rezoned to RR, Single-Family Residential.

Mark Price answered in the affirmative.

Vice Chairman Cleary stated this development makes sense to him and the rezoning makes sense to him as well.

There being no further discussion, Chairman Ellis entertained a motion to recommend approval of Application No. RZ21-17. Commissioner Cornwell made such motion, and Commissioner Cleary seconded the motion.

The vote on the motion was as follows:

Roger Ellis	Yes	Tracy Boehmer	No	Jennifer Bahr	Yes
Kevin Cleary	Yes	Jamaal Jackson	Yes	Chad Cornwell	Yes

Application No. RZ21-17 was recommended for **Approval**.

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## 5. PLATS

### I. PRELIMINARY PLAT FOR THE VILLAGE AT INDIAN CREEK - HUNN ROAD

Application No: PRE21-26  
Property Owner: Elmer V. Hargis  
Developer: CMS Homes, LLC  
Engineer: Pickett, Ray, & Silver, Inc.  
Current Zoning: A, Agricultural District  
Requested Zoning: RR, Single Family Residential District (3-acre minimum lot size)  
2030 Master Plan: Recommends low density residential uses  
Proposed Lots: 16  
Parcel Size: 63.20 acres  
Location: On the northwest corner of Hunn Road and English Road,

County near Indian Camp Creek Park; and bordering Lincoln  
County Council District: 1  
Account Nos.: 671040A000

Mark Price, County Planner, provided a verbal report for this application. Mark Price stated staff would note that there will be two separate internal streets on this subdivision. They will both take entrance off of Hunn Rd. There will also be an electric utility easement that will separate the two portions of the plat. The developer is proposing to clear only the area required for the road so they will have a tree preservation of 92.8%.

Commissioner Cleary asked if the Commissioners had any questions for County staff.

With no questions for County staff, Chairman Ellis asked the applicant to come forward.

Doug Tiemann, Engineer for Pickett, Ray & Silver, 22 Richmond Center Court, St. Peters, MO 63376 was sworn in. Mr. Tiemann provided details regarding the Preliminary Plat for the Village at Indian Creek. They are proposing 20-foot-wide pavement in a 42-foot right-of-way and will meet County standards. The layout they are proposing will have 10 lots that would be south of the power line and the remaining six will be on the north, so no one will be close to the powerline. Trees will only be cleared for the roadway at a minimal amount.

Chairman Ellis asked if the Commission had questions for the applicant.

Commissioner Cleary asked if he knew what size lots will be on the Lincoln County side. Mr. Tiemann said he does not know as a preliminary layout for the developer has not even been done.

Commissioner Cleary asked if it has been sold and Mr. Tiemann said he has a contract on this tract of land and the other tracts on Lincoln County.

Commissioner Cleary asked if anything is going to be done about retention concerns on sites with impervious surfaces. Mr. Tiemann stated all of the property on the south side of the power line where the 10 lots will be are all of that drainage will go to the western side. The developer is not proposing any detention basins and will look at each lot individually.

Commissioner Cleary asked if basically the water is going to the west and where is it going? Mr. Tiemann said he did not know if it gets to a tributary before but on Page three of five, the contours that we are showing indicates that almost all of it heads to the very western area, drains towards the center and moves toward the power line.

Chairman Ellis asked when this will be reviewed to meet the County's new water control standards. Robert Myers said it has to meet those standards now. This is currently in the subdivision improvement stage which is between the preliminary plat and the final plat.

Chairman Ellis asked if there will be a Homeowners Association. Mr. Tiemann said he believes there will be as the developer does that at other subdivisions.

Chairman Ellis asked if the streets would be public, and Mr. Tiemann answered in the affirmative.

With no further questions for the applicant, Chairman Ellis opened the public hearing and asked if anyone from the audience wished to comment on Application No. PRE21-26.

Kyle Wortmann, 1259 Grothe Rd, Wentzville, MO 63385, was sworn in. Mr. Wortmann is concerned about this development being adjacent to the parcel in Lincoln County and the amount of traffic it will create from the road with the temporary cul-de-sac Lincoln County owns.

John Hunn, 2378 Hunn Rd, Foristell, MO 63348, was sworn in. Mr. Hunn voiced his concern about the drainage that comes from the property to his home in Big Creek which had its biggest flood just this summer. He had four foot of water on his fields and still floods even with all of the forest that drinks up the moisture. Retention is a major concern.

Steve Wittman, 2220 Hunn Rd, Foristell, MO 63348 was sworn in. Mr. Wittman asked to point out to Mr. Tiemann where the cemetery is located, and he did.

Arnie C. Dienoff, PO Box 1535, O'Fallon, MO 63366, was sworn in. Mr. Dienoff asked to go on the record to approve PRE21-26. He would also like to see additional conditions be added to protect the residents of the County.

Chairman Ellis asked if anyone else from the audience wished to comment on Application No. PRE21-26. There being none, he asked the applicant to come back to the podium.

Mr. Tiemann stated that regarding the extension of that road, if it is stopped, they can still connect to the property from the north and is probably a better condition to control that access and put it in one point to collect traffic instead of putting it on a road other than Hunn Rd. A layout has not been done yet. Regarding the flood problem, Mr. Tiemann said they will go through the process with the County and the Development Review Division to meet stormwater requirements. Tree preservation is at 92.8%.

Commissioner Cleary asked what would be done with this private cemetery. Mr. Tiemann said they would go to the area that the gentleman pointed out and survey the area and preserve it with a fence around it.

Commissioner Cleary asked if there is anything legislatively that would have to be done. Mr. Tiemann said he would look into it. Chairman Ellis stated that would have to be done only if relocation was required. Mr. Tiemann said we would definitely not do that.

Commissioner Cleary asked staff what the County would propose regarding flooding issues at Big Creek with its new standards. Robert Myers stated those are addressing water quality more than flooding but there is some relationship between the two. The development is proposing to preserve more than 90% of the tree cover on the site which is helpful.

Commissioner Cleary said some of those trees will be removed when homes are put up and there will be a lot of impervious surface. Robert Myers agreed that some would be removed for the house sites and home pads. The County does not have a requirement for water retention for flooding for developments of three acres or larger.

Commissioner Jackson asked staff if significant changes between preliminary and final plats are made, would that come back to the Commission for approval. Robert Myers said if any lots are added or if a street would come out from a different location would have to come back for review again.

Commissioner Cleary asked if a road impact fee for road improvements has ever been done? Robert Myers said the County has not been involved with that and is rare that the County requires off-site improvements.

Chairman Ellis entertained a motion to recommend approval of Application No. PRE21-26. Commissioner Cornwell made a motion to recommend approval and Commissioner Boehmer seconded the motion.

The vote on the motion was as follows:

Roger Ellis	Yes	Tracy Boehmer	Yes	Jennifer Bahr	Yes
Kevin Cleary	Yes	Jamaal Jackson	Yes	Chad Cornwell	Yes

Application No. PRE21-26 was recommended for Approval.

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## **6. TABLED AND/OR CONTINUED ITEMS**

**NONE**

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## **7. APPROVAL OF THE MINUTES FROM THE OCTOBER 20, 2021 REGULAR MEETING**

Chairman Ellis asked for a motion to approve the minutes from the October 20, 2021 regular meeting.

Commissioner Cornwell made such motion, and Commissioner Boehmer seconded the motion.

The minutes were approved by unanimous voice acclamation.

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## **8. OTHER BUSINESS**

### **I. PLANNING & ZONING DIVISION UPDATES**

There were no updates.

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## **9. ADJOURNMENT OF MEETING**

Commissioner Cleary made a motion to adjourn the meeting. The motion was seconded by Commissioner Cornwell and was approved by unanimous acclamation. The meeting adjourned at 9:50 P.M.

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Respectfully submitted by:



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Roger Ellis, Chairman

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Tracy Boehmer, Secretary

DRAFT

## MINUTES OF REGULAR MEETING

### ST. CHARLES COUNTY PLANNING AND ZONING COMMISSION

**DATE:** JANUARY 19, 2022  
**TIME:** 7:00 PM  
**PLACE:** COUNTY EXECUTIVE BUILDING  
300 N. THIRD ST.  
THIRD FLOOR COUNCIL CHAMBERS  
ST CHARLES, MO 63301

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**MEMBERS PRESENT:** Jennifer Bahr (Via WebEx), Kevin Cleary, Chad Cornwell, Roger Ellis (via WebEx), Craig Frahm, Terry Hollander, Jamaal Jackson and Kyle Shell

**MEMBERS ABSENT:** Tracy Boehmer

**STAFF PRESENT:** Robert Myers, Director of Planning & Zoning, Ellie Marr, Senior Planner, Mark Price, County Planner, and Bryan Wise, Associate County Counselor

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#### CALL TO ORDER

Vice Chairman Kevin Cleary called the meeting to order at 7:00 PM. Following the Pledge of Allegiance, Chairman Ellis welcomed the audience; explained the procedures for speakers; and explained the functions of the Planning and Zoning Division, the Planning and Zoning Commission and the County Council.

Vice Chairman Cleary introduced the following documents into the record: The Unified Development Ordinance of St. Charles County (UDO), including zoning maps; and the 2030 Master Plan for St. Charles County, which includes the 2030 Future Land Use Plan Map.

Vice Chairman Cleary noted that a quorum was present and entertained a motion to open the meeting. Commissioner Frahm made such a motion and Commissioner Hollander seconded the motion. Vice Chairman Cleary stated that Chairman Roger Ellis and Commissioner Jennifer Bahr are virtually attending the meeting. The motion passed by unanimous voice vote.

Vice Chairman Cleary provided instructions for those wishing to speak at the meeting.

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#### ELECTION OF OFFICERS

Chairman Ellis called for a motion to nominate a Chairman for 2022. Commissioner Frahm made a motion to retain the current officers for 2022. Vice Chairman called for a motion to approve the

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current officers, Commissioner Frahm so moved the motion, and the motion was seconded by Commissioner Hollander. The motion was approved by unanimous acclamation, and Roger Ellis was re-elected as Chairman of the Planning & Zoning Commission, Kevin Cleary as Vice-Chairman, and Tracy Boehmer as Secretary for the current year of 2022.

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## CHANGES TO THE AGENDA

There were no changes to the Agenda.

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## PUBLIC HEARINGS

### I. REZONING REQUEST – HIGHWAY B

Application No:	RZ21-20
Property Owner:	Robert Pendergrass
Current Zoning:	A, Agricultural District, with Density Floodway and Floodway Fringe Overlay Districts
Requested Zoning:	RF, Riverfront District, with Density Floodway and Floodway Fringe Overlay Districts
2030 Master Plan:	Recommends agricultural uses
Parcel Size:	5.0 acres
Location:	At the terminus of a private drive on the north side of Highway B, approximately 2,200 feet east of Highway C
County Council District:	6
Account No.:	T220400021

Ellie Marr, Senior Planner, provided a verbal report for Application No. RZ21-20. Ellie Marr stated that a correction needed to be made. The property is not density floodway but is actual floodway of the Mississippi River and is located right on the Mississippi shore. It was re-zoned in 1999 with the adoption of the Unified Development Ordinance. Properties around the area such as campgrounds were zoned recreational use. The Agricultural uses allow the development of a residence any of the permissive uses in the agricultural zoning. The applicant intends to continue the use of the campground with the rezoning to river front this. Ellie Marr stated any changes, developments or upgrades can be reviewed via a Site Plan update with the Planning and Zoning staff. The Applicant has submitted a Site Plan Update pending approval of this rezoning request. The County's Planning and Zoning Division recommends that the Planning and Zoning Commission recommend approval of this application to the County Council.

Vice Chairman Cleary asked staff with this rezoning, would it permit any commercial use such as marina. Ellie Marr stated a marina is currently allowed in agricultural zoning. When staff gets a commercial development of a marina, concerns such as fueling would have to be looked at to determine if that is conditional in the riverfront district. Ellie Marr noted some of that is conditional in Agricultural.

Vice Chairman Cleary asked the Commission if they had any questions for staff.

With no questions for County staff, Vice Chairman Cleary asked the applicant to come forward.

Vice Chairman Cleary stated the Applicant is not in attendance. Vice Chairman Cleary asked the Commission if they had any comments about Application RZ21-20. He made a correction, opened the public hearing, and asked if anyone from the audience wished to comment on Application No. RZ21-20.

Arnie C. Dienoff, PO Box 1535, O'Fallon, MO 63366, was sworn in. Mr. Dienoff stated the applicant is planning to make Site Plan changes without going through the Planning & Zoning and County Council processes. He presented a list of concerns to the Commissioners regarding propane tanks, porta-potties, trash dumpsters and other environmental concerns that could pose problems when it floods. He proposed a condition to secure these items in the event of flooding. Mr. Dienoff requested that this application be tabled until next month since the Applicant is not present.

Vice Chairman Cleary asked if anyone else from the audience wished to comment on Application No. RZ21-20.

With no one else from the audience wishing to comment on this application, Vice Chairman Cleary closed the public hearing and brought the application back to the Commission for consideration.

Commissioner Frahm asked staff is there a reason why the Applicant is not here or did he think it would just go through. Ellie Marr stated she has not heard from the Applicant.

Vice Chairman Cleary stated a recommendation was made to table this application to next month.

Commissioner Frahm asked staff if Planning & Zoning Commission has changed some of the rezoning for applications such as this before. Ellie Marr answered in the affirmative as the number of homes are being reduced voluntarily along the Mississippi, is conducive to recreational use and this type of zoning encourages that.

Vice Chairman Cleary asked staff if there is any type of Ordinance that would require porta-potties or tanks to be tethered or anchored to something. Ellie Marr stated there would be a strict review on that during the Site Plan review. She confirmed there are no propane tanks on this property. Porta-potties would be noted on the Site Plan and the Building Division would also be involved in this review. They will make sure there is potable water and dumping facilities available.

Vice Chairman Cleary asked the Commission if they had any comments to make regarding Application No. RZ21-20.

Commissioner Frahm asked staff if Planning and Zoning received any letters regarding this application. Ellie Marr answered in the negative.

Commissioner Hollander noted that this has become quite common in the past two or three years. People in the area have decided this is the best way to do it with this type of zoning and the Commission has not been presented with any problems since then.

There being no further discussion or questions for County staff, Vice Chairman Cleary asked for a motion of approval for Application No. RZ21-20. Commissioner Frahm made such motion, and Commissioner Cornwell seconded the motion.

The vote on the motion was as follows:

Roger Ellis	Yes	Craig Frahm	Yes	Chad Cornwell	Yes
Kevin Cleary	Yes	Jamaal Jackson	Yes	Terry Hollander	Yes
Jennifer Bahr	Yes	Kyle Shell	Yes		

Application No. RZ21-20 was recommended for **Approval**.

**PLATS**

**I. PRELIMINARY PLAT FOR AUTUMN HOLLOW - 910 EAST HIGHWAY N**

Application No: PRE21-18  
Property Owner: R. Stephen and Catherine M. Barnett, and Donald C. and Marianne Mollison  
Applicant / Developer: Lombardo Homes of St. Louis, LLC  
Engineer: The Sterling Company  
Current Zoning: R3B, Multi-Family Residential District (29.55 acres) and R1E, Single-Family Residential District (47.11 acres)  
Proposed Lots: 110 lots (418 dwellings)  
Parcel Size: Approximately 76.67 acres  
Location: On the south side of Highway N, approximately 900 feet east of Gallop Lane; near the cities of Wentzville, O'Fallon, and Lake St. Louis  
County Council District: 2  
Account Nos.: 759870E000 and A860003141

Robert Myers, Director of Planning and Zoning, provided a verbal report for Application No. PRE21-28. He provided a visual presentation of the overall Landscaping Plan with an overview of the application which will include 416 dwellings consisting of 106 single-family residential lots, 130 attached single-family villas and 180 apartments. He noted that the Master Plan foresees that the primary growth quarter for unincorporated St. Charles County for the next 20 years is going to be Highway N. Robert Myers stated that is being made possible by transportation improvements e.g., Highway N. Duckett Creek Sanitary District recently announced they are building a new sewage treatment plant on Dardenne Creek near Hopewell Road and south of this property. This will allow this growth to come to fruition. This would not only impact Autumn Hollow plat, but an additional plat called Harvest at Hopewell plat in O'Fallon. The two projects are projected to create approximately 1,300 homes. There has been a delay in this presentation because coordination with the City of O'Fallon, MODOT, St. Charles County has been a priority to assure that these projects are integrated in transportation and other improvements. Robert Myers stated since this was first scheduled a revised traffic study has been done for this development and for Harvest to Hopewell. The packet included reflects both developments. The zoning allows this development by right as long as it meets all of the development requirements of the subdivision regulations. The discussion tonight will include the subdivision of land and the improvements. In terms of natural conditions, the property is bisected east or west with a natural watercourse. Much of the property had been farmed but that natural watercourse is where there

were some existing trees stand left. The developers have been working over the last few months to reduce removal of trees to meet the County's tree preservation requirements. Robert Myers summarized that the most recent plans have received approval from the Community Development Director in terms of the tree preservation plan and the mitigation plan. If tree preservation requirements cannot be met, the developer can ask the Community Development Director to mitigate trees that would be removed. They are showing 593 mitigation trees that are planted within common ground and are plenty for this subdivision. That is how they will make up for about an acre of tree removal that would otherwise be required. Under the County's Highway Department standards, trees are not allowed in rights of way in County rights of way therefore they are proposing that the 593 mitigation trees be planted in common ground and on private lots. In terms of transportation, Highway N is currently undergoing study with MODOT in terms of its future will look like and improvements they are being planned for in that corridor. The environmental study for Highway N is being looked to widen it from two lanes to four lanes with a turn lane as well with MODOT officials, City of O'Fallon, St. Charles County, St. Charles County Road Board and County Highway Department to ensure that the development can accommodate this widening. Robert Myers described the PODS: L4- apartments, L3 – villas, L2 and L1 – Single-family areas each would have two points of access. Highway N would be the point of connection with the outside development. Robert Myers stated that the development is well integrated with the expected development around it. The tree preservation requirement issue that was in the written staff report has been resolved as it has been received and approved by the Community Development Director. The street connection to Highway N was also discussed. Robert reviewed the preliminary plat, final plat and the subdivision improvement plan stages which will be designed and built according to County's technical requirements. Robert Myers also pointed out there are two streets in this plan that would normally terminate in a cul-de-sac, but they are showing it as hammerhead turnarounds to avoid encroaching on that tree preservation area, the natural watercourse, and the vegetative buffer. This plat in order for it to be approved would need a variance from the County Council. If the Planning and Zoning Commission recommends approval on the application, it would then go to the County Council for them to vote on it and approve the variances. Robert Myers read the Variance Criteria of the County's Ordinance.

Commissioner Frahm asked how they are getting out of here if this is built before the other subdivisions are built. And are they just coming out on Highway N, and can they?

Robert Myers stated this development will have to be built in concert with the other development next door.

Commissioner Frahm asked staff if the other development in O'Fallon has been approved.

Robert Myers stated he understands they have received preliminary approval from the County Council, and they have a plan unit development they are doing it under. It is also contingent upon the sanitary sewer availability from Duckett Creek and that will not happen for a couple of years. All of this is taking place in anticipation of sanitary sewer service being made available.

Vice Chairman Cleary asked if the County is concerned about dumping 2,600 cars right on Highway N. Robert Myers stated that is why the traffic study was done and was a reason for the delay. He read some of the recommendations/improvements from the traffic study that would be made off the site including the Highway N Corridor.

Vice Chairman Cleary stated it sounds like they are anticipating putting a couple of stop lights along Highway N and right through that area.

Vice Chairman Cleary stated residents turning left out of the subdivision onto Highway N with traffic going 55-60 mph is a concern.

Robert Myers stated that intersection has been looked at by MODOT and they will decide whether or not they can have full access, three-quarters access or what it will be.

Vice Chairman Cleary stated that the traffic study is not really conclusive at this point as to what they are going to do there.

Robert Myers stated it is conclusive and thinks it's three-quarter access at that intersection, but the applicant can speak to that.

Vice Chairman Cleary asked if it is going to be a public road to the property where STL Storage is located.

Robert Myers stated he understands it will be a public street and will have to be dedicated.

Vice Chairman Cleary asked if it would have to be dedicated by the adjoining property owner.

Robert Myers stated it would be dedicated by whomever owns the property or owns a permanent easement of access that would be written to allow vehicular access or for roadway purposes.

Vice Chairman Cleary stated that the developers have submitted the plan to the fire district for hammerhead turnarounds. He asked if the school district is comfortable with backing buses around through there.

Robert Myers answered in the affirmative.

Commissioner Frahm asked if staff has received any comments from them.

Robert Myers said he could not remember the communication specifically but knows they were notified and often they will inform staff about certain streets with cul-de-sacs and if the cul-de-sac is not large enough. Mr. Myers said it is possible that the school buses may not go down those short cul-de-sacs with the hammerhead turnarounds.

Vice Chairman Cleary asked if both were made cul-de-sacs, how many sites would the developer lose.

Robert Myers said the applicant can tell you that, but he thinks the encroachment on that vegetative buffer and the loss of trees. When they first started it looked like they would be losing a lot more trees than now but recently have found ways to keep reducing the tree removal and are now at this point.

Vice Chairman Cleary stated that the developers are going to be putting a lot of additional water into that natural watercourse. He asked what means they are taking to slow the water down because that will cause a lot of erosion downstream.

Robert Myers stated the applicants can provide those details but that is one of the reasons for the vegetative buffer they are providing. They are also providing stormwater detention along that natural watercourse and common ground in the same area. The project will not only need the requirements for storm water but also meet water quality standards as well. The subdivision to the east will have an amenity along that natural watercourse and are doing some different things with that.

Vice Chairman Cleary asked the Commission if they had any questions for staff.

Chairman Ellis asked at the intersection of Hopewell and Highway N is part of the County's upcoming road improvement plans.

Robert Myers that the area to the east of this is part of the County's upcoming road improvement plans. He stated that there is going to be some straightening going on at that location.

With no further questions for staff, Vice Chairman Cleary asked the applicant to come forward.

Doug Nance, representative for Lombardo Homes, Research Park, St. Charles, MO 63304 was sworn in. Mr. Nance made a presentation for the Planning and Zoning Commission regarding Application No. PRE21-18. He provided a provided a description of the Autumn Hollow subdivision including the number of apartments, villas and single-family homes Lombardo Homes is proposing. Mr. Nance confirmed regarding traffic, a three-quarter entrance will be at Highway N.

Vice Chairman Cleary asked if he could explain that further.

Mr. Nance responded that this means there will be no left out so there will not be a left hand turn in, it will be right in. He stated the goal of the traffic study with the different municipalities, MODOT, and County Road Board was to push traffic to the new Hopewell intersection which is almost done. At the moment, there is not light there, but in the future, there is a plan for it. He stated all the traffic from Autumn Hollow that needs to come out to make a left onto Highway N will be pushed through Harvest on the new parkway that will be installed and out to Hopewell Road. That will connect down the whole Highway N to make a left-hand turn or a right at the light. Deer Road will extend down, and the County has a plan for that, and this will be our second entrance to the south that will push out to Harvest. He explained this will be done in conjunction with the Harvest plan which has to be built by Duckett Creek, then sewers would have to be extended to Autumn Hollow. Once Harvest starts putting their infrastructure in for the road, then Autumn Hollow would start which would be two years from now. He believes Duckett Creek has planned to actually start some of their construction in the fourth quarter which is an 18-month build time to build that plant. Pending approval from Planning & Zoning Commission and the County Council, Lombardo Homes would start moving into the improvement plans to be ready when Duckett Creek is. Mr. Nance stated regarding the tree preservation requirements, the property is constrained by property lines to the east and west. He noted that Lombardo Homes is offering the tree preservation of planting 593 mitigation trees per the County Ordinance. Based off the 1.1 acres that we are over, actually 480 mitigation trees would be needed, and Lombardo is well over the



mitigation requirements. He pointed out visually where the mitigation trees would be planted in the development, locations of buffer sites and areas of detention. Mr. Nance stated Lombardo Homes has been in contact with STL Storage regarding the entrance off Highway N and have partnered with them. He has email communication stating that Lombardo Homes will install that entrance when development starts, and they are going to dedicate that right of way to the County. If the Planning & Zoning Commission and the County Council need a formal development agreement to state that Lombardo Homes will install that for them, it will be done. Displays of the apartments, villas, the Lombardo Homes were presented to the Commission.

Vice Chairman Cleary asked in those retention areas, would the water be treated like a dam or will it be released at a certain rate.

Mr. Nance said Lombardo Homes will follow the St. Charles County water quality standards and retain what is required but it has to retain so much water per the area that's collecting and does have to be released at a certain time. County water quality standards will also be met and have discussed this with Rich Gnecco, Director of Development Review.

Vice Chairman Cleary asked how many lots Lombardo Homes would lose because of the hammerhead turnarounds.

Mr. Nance answered approximately nine to twelve lots would be lost if they had to put those hammerheads in. He presented a picture of a road where hammerhead was originally connected on both sides but got rid of one because of the high-water mark and the issues that came with that.

Vice Chairman Cleary asked if the Fire District has contacted Lombardo Homes with any feedback regarding the hammerheads.

Mr. Nance stated they have heard from the Fire District and are in support of them and have sent Lombardo Homes their standards on how they need to be built.

Vice Chairman Cleary asked if the school district has been contacted and would that be the Wentzville School District.

Mr. Nance said that would be the Wentzville School District, but he has not received any correspondence from them and usually they don't go in the cul-de-sacs anyway. He added they pull off the main roads and will have collection points depending on where it is.

Vice Chairman Cleary asked the Commission if they had questions for the applicant.

Commissioner Jackson asked if a hammerhead is just a strip that has defined end points and could he help with a visual aid.

Mr. Nance provided a visual aid and stated it would be built to allow for delivery trucks, fire trucks and even a school bus to be able to go in there and turn around and make a radius turn.

Commission Frahm stated that there is no parking there and Mr. Nance stated there are no parking signs in.

Mr. Nance said there will be parking but will not be part of the hammerhead and it would be before the CVU location for the mailboxes.

Vice Chairman Cleary asked where the apartment entrances to the street are coming in.

Mr. Nance showed him where the entrance from Highway N would come in, then another entrance right to their parking lot that goes all the way around.

Vice Chairman Cleary asked if they are making a right turn on Highway N, they can just cut across and go there and Mr. Nance said people would have to go right and back down to Harvest Parkway and go to the local road. Mr. Nance added this also has its own detention.

With no further questions by Commissioners, Vice Chairman Cleary opened the public hearing and asked if anyone from the audience wished to comment on Application No. PRE21-18.

Arnie Dienoff, PO Box 1535, O'Fallon, MO 63366 was sworn in. Mr. Dienoff stated he is pro-development but would like to see responsible and growth opportunity. He stated with this being Missouri's fastest growing corridor, he would like to see infrastructure and traffic safety issues invested here. He asked where the commercial component is to offset the taxes to pay for services to protect this neighborhood and its residents. He suggested to the Planning and Zoning Commission to look at mandatory submittals by future applicants as many times partner agencies are not informed about current projects. He added that Autumn Hollow needs to have two entrances for the size that it is and for public safety.

With no one else from the audience wishing to comment on this application, Vice Chairman Cleary asked the applicant to come back to the podium.

Vice Chairman Cleary asked if there would be three access points to this on Hopewell Road and two into the subdivision, is that correct?

Mr. Nance answered in the affirmative and there will be four with the Deer Road extension. The southern point would have two entrances once Deer Road extension gets extended. Then the single-family villas and apartments would have two entrances as well.

Vice Chairman Cleary asked if those roads would be public streets and Mr. Nance answered in the affirmative.

Vice Chairman Cleary in terms of that being dedicated or not, would that be something the County would review with the developer.

Mr. Nance said that is correct for the entrance off Highway N. The Improvement plan submitted by the developer as he has been told shows that it will be dedicated to the County.

Vice Chairman Cleary asked the Commission if they had any other questions for the applicant.

Commissioner Hollander asked if he anticipated any building prior to Duckett Creek sewer extension.

Mr. Nance said Lombardo Homes does not. If Lombardo Homes started building, there would be no occupancy until it came online. If there was a delay in construction, there might be a request to get started but would not occupy it until we had an actual sewer plant done and the lift station would be installed by the other developer on Harvest.

Vice Chairman Cleary asked if they are above them in terms of where the flow is, and Mr. Nance answered in the affirmative and will gravity down to that lift station which Duckett Creek is currently sizing and paying for a portion of it to service the whole watershed up to Highway Z.

Vice Chairman Cleary asked if Lombardo Homes is paying a portion of it and Mr. Nance answered in the negative and clarified that Duckett Creek is paying a portion of it and passing it down with tap fees.

Chairman Ellis asked if there would be a Homeowners Association and Mr. Nance answered in the affirmative. He said there would be an HOA that would cover the single-family and an overall arching for the common areas and there might be some HOA's for apartments. There will be some shared HOA stuff that the whole development will have to share and will be part of one HOA.

Commissioner Frahm asked Commissioner Ellis what Whitmoor does for their villas compared to its housing and is it one HOA.

Commissioner Ellis answered in the negative and explained there is one large for the entire development and the villas have a separate HOA.

Vice Chairman Cleary asked on a development like this with an HOA is it done assessed according to square footage of improvements.

Mr. Nance said the overarching whole HOA, the Master Plan will be one fee but that has not been structured yet. There will likely be a different fee for apartments and villas compared to single-family based off what they have.

Vice Chairman Cleary asked how many parking spaces Lombardo Homes will have there.

Mr. Nance said there is a meeting scheduled with the County to discuss this but is not sure of that number. It's two parking spaces per unit.

Commissioner Cornwell asked for the three-quarter entrance at Highway N did MODOT require any right-of-way dedication along those apartments at all or did they stay there.

Mr. Nance said there is a hundred there, and MODOT wants 150 foot of right-of-way so Lombardo Homes will be dedicating 75 foot on our side along the apartments.

Commissioner Frahm asked if the developer reaches out to school and fire districts.

Mr. Nance answered in the affirmative but do not have any correspondence from them.

Commissioner Frahm stated he is concerned that the Wentzville School District did not respond via email or letter.

Vice Chairman Cleary asked if Lombardo schedules preliminary meetings with school superintendents regarding new developments.

Mr. Nance said plans are sent to superintendents for them to review.

Vice Chairman Cleary asked about how many years you anticipate this project will go on.

Mr. Nance estimates it will likely be a three – four-year development.

Vice Chairman Cleary said with two years from Duckett Creek, closing this out could be six years from now and Mr. Nance answered in the affirmative.

Vice Chairman Cleary asked the Commission if they had questions for staff.

Commissioner Frahm asked if letters are sent fire and school districts as this keeps coming up every time.

Robert Myers said the Planning & Zoning staff always notifies all the relevant districts we create a matrix on who needs to get notified for every preliminary plat and do have letters on file. In regard to school districts, sometimes they respond and sometimes they don't. In 25 years, I have never had a school district once say we do not have the capacity and we don't want you to do the development. They will usually comment on that a cul-de-sac is not large enough so they will not drive down that street. Within a plat, both the County and fire districts have to review and approve the plat. No matter what happens here, it will go to the fire district approval and if it is not approved then it's not going to work.

Vice Chairman Cleary asked what happens if the Planning & Zoning Commission approves a preliminary plan and the fire district does not.

Robert Myers said they would need to submit revised plans to the fire district or apply for any relevant variances they might need. If the changes are substantial enough, they might have to come back to the Planning & Zoning Commission. Since the developer is showing two different entrances, actually four in total to the outside connections. Each Pod (L1,L2, L3 and L4) has two different ways in and out and that is very helpful. This is well connected subdivision with public streets. There will be no gates in any of the entrances.

Vice Chairman Cleary asked if it has been noticed that on Highway N there has been a significant number of requests for commercial uses and is he concerned with the tax basis and the relegation of taxes that would be put on that number of new residents in a small area.

Robert Myers said that is why the Master Plan envisions around the major intersections of arterial roadways are around intersections. Usually, retail, and commercial developments are visible from the main roadway, but not in this development as they go way back and are long and narrow tracked and in the Hopewell Road Corridor.

Vice Chairman Cleary said the only area that would make sense would be the apartments for commercial development.

Robert Myers said generally you want the development that generates the highest level of trips close to the major roadways, so they are not having to drive through the lower density areas. Access to arterial roadways then would be quick.

Commissioner Frahm stated he feels there will be plenty of property tax generated in this development to pay for the four school districts.

Robert Myers said the Planning & Zoning staff has not done a tax analysis and don't normally do that.

Commissioner Cornwell asked how soon in advance do school districts have to look at plans.

Robert Myers said he thinks the notice for this development went out in July. Ellie Marr interjected it went out in August. He added in order to get this project right, coordination with different jurisdictions was made in regard to the integration of streets within the City of O'Fallon. Right across (Harvest Parkway) in O'Fallon to the south is not in this development but it's in an adjoining Harvest development in the City of O'Fallon. Coordination of that extension had to be coordinated with those developers, City of O'Fallon, and St. Charles County Road Board.

Vice Chairman Cleary asked if this property that is right next to Harvest was annexed to O'Fallon.

Robert Myers said it was a part of the County but was annexed about two months ago. As part of the annexation process, they went through the City of O'Fallon, and County Council and presented a planned unit development plan and was approved at some level. He is not sure if they got a zoning approval letter or preliminary plat approval.

Vice Chairman Cleary asked if Lombardo Homes could annex this property into City of O'Fallon because it's adjacent to it.

Robert Myers said it meets the adjacency requirements for annexation.

Commissioner Cornwell summarized that the traffic study that was done was integrated with all the jurisdictions and considered the developments together to cover both.

Robert Myers answered in the affirmative and added that it does have a series of recommendations for off sites improvements. Those improvements will have to be made if they want to connect to Highway N and get MODOT access.

Vice Chairman Cleary asked if the Commission had any further questions for staff. There being none, brought the application back to the Commission for discussion.

Commissioner Hollander stated that Lombardo Homes has gone through extensive planning and obviously have not approached lightly. He said it is a real indication of the growth of that area that the Commission is talking about two years from now before construction even begins. He added this would not have even been envisioned, had it not been for the Duckett Creek plans.

Vice Chairman Cleary asked if a condition to permit occupation until it is actually online be added to this application.

Commissioner Cornwell said Duckett Creek is not going to let you have tap fees until they are ready to go.

Robert Myers said in our subdivision regulations, it addresses that. He clarified once you have a preliminary plat approval then you can apply for permits to start construction. An occupancy permit would not be permitted until it has sanitary super services and is already stated in the Ordinance.

Vice Chairman Cleary asked if the Planning & Zoning Commission would be voting on two issues.

Robert Myers said the Planning & Zoning Commission would be either be approving or denying the preliminary plat with variances (hammerhead turnarounds).

Vice Chairman Cleary asked if the variance is a part of the preliminary plat.

Robert Myers answered in the affirmative.

Vice Chairman Cleary asked the Commission if they had any further questions regarding this application.

There being no further discussion, Vice Chairman Cleary asked for a motion of approval for Application No. PRE21-18. Commissioner Hollander made such motion, and Commissioner Cornwell seconded the motion.

The vote on the motion was as follows:

Roger Ellis	Yes	Craig Frahm	Yes	Chad Cornwell	Yes
Kevin Cleary	Yes	Jamaal Jackson	Yes	Terry Hollander	Yes
Jennifer Bahr	Yes	Kyle Shell	Yes		

Application No. PRE21-18 was recommended for **Approval** with the requested variances.

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## 6. TABLED AND/OR CONTINUED ITEMS

**NONE**

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## 7. APPROVAL OF THE MINUTES FROM THE NOVEMBER 17, 2021 REGULAR MEETING

Vice Chairman Cleary stated that the minutes from the November 17, 2021 regular meeting will be approved at the next regular P&Z Commission meeting, as the link to those minutes

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was not available online.

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## 8. OTHER BUSINESS

### I. PLANNING & ZONING DIVISION UPDATES

- Robert Myers welcomed Kyle Shell as the newest Planning & Zoning Commissioner. Mr. Shell provided a brief presentation about himself and his experience in risk management in public entity insurance. He is happy to serve on this Commission.
- Robert Myers announced that this will be Ellie Marr's last Planning & Zoning Commission meeting as she will be retiring at the beginning of February. He stated that St. Charles County is one of the most effective floodplain management programs in the country thanks to Ellie Marr's strong leadership.

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## 9. ADJOURNMENT OF MEETING

Commissioner Frahm made a motion to adjourn the meeting. The motion was seconded by Chairman Ellis and was approved by unanimous acclamation. The meeting adjourned at 8:31 PM.

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Respectfully submitted by:

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Roger Ellis, Chairman

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Tracy Boehmer, Secretary