

EXCERPTS

PLANNING AND ZONING COMMISSION MEETING

AUGUST 18, 2016

IV) SUBDIVISIONS

MR. STRODTMAN: Moving on to our first subdivision case.

Case 16-137

A request by Crockett Engineering Consultants (agent) on behalf of Manor Homes, LLC (owner) for approval of an 8-lot preliminary plat to be known as "Kitty Hawk Manor, Plat No. 6". The 3.80-acre subject site is generally located at the southwest corner of Northland Drive and Parker Street. (This item was tabled at the July 21, 2016 Planning and Zoning Meeting.)

MR. STRODTMAN: May we have a staff report, please?

Staff report was given by Mr. Clint Smith of the Planning and Development Department. Staff recommends approval of the preliminary plat for "Kitty Hawk Manor, Plat No. 6".

MR. STRODTMAN: Do we have any questions for staff?

MS. RUSSELL: I have one.

MR. STRODTMAN: Yes, Ms. Russell.

MS. RUSSELL: Just to confirm that there are no more -- no restrictions on that, any -- any -- or covenants or anything, did legal, did you agree with that?

MR. SMITH: I would say that we -- we received documentation and, consulting with legal, they have looked at that. But the bottom line is the City is not in a position to either confirm or -- or not confirm that that is legally still in place. They are suggesting -- the applicant are suggesting that it has been removed, so legally they are responsible to make sure that that actually has taken place. But since the City wasn't a party to that agreement, we're not going to be a party to legally making a determination whether or not that covenant still exists. Is that a fair summation?

MR. MOEHLMAN: Yeah. That's a fair summation. Sorry.

MR. STRODTMAN: No exceptions.

MR. MOEHLMAN: Ryan Moehlman, City Counselor's office, 701 East Broadway. That's a fair summation of what Mr. -- what Mr. Smith offered, the -- their explanation of why it doesn't exist made sense, but we didn't really delve further into the existence of whether or not the exist -- sorry -- the covenant still exists or not. It's a private agreement, but within the realm of possibility that we didn't feel that we needed to involve ourselves any further.

MS. RUSSELL: Okay. Thank you.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: Mr. Moehlman -- Ryan?

MR. MOEHLMAN: Yeah.

MR. MACMANN: A question on these covenants. Are we exposed in any way here?

MR. MOEHLMAN: No.

MR. MACMANN: By approving or not approving?

MR. MOEHLMAN: No, we're not exposed. We're not a party to it, nor are we a guarantor of other private covenants.

MR. MACMANN: Okay. Well, the staff report we saw previously dealt with this extensively and that's just all gone. Right? That's not our -- there was a lot of concern about the covenants earlier and thus the tabling. I'm just --

MR. MOEHLMAN: It's -- it's -- you know, we don't see how the problem -- the way we could exposed, if we did insert ourself -- insert ourself into the issue. That would -- that would leave us with greater exposure than the approach we're taking now.

MR. MACMANN: Okay. That's -- that's my concern. I just wanted to follow up on that. Thank you very much.

MR. STRODTMAN: Mr. Smith, can you -- where did you say the access was going to be -- the road access?

MR. SMITH: Road access for all the visible lots on Gypsy Moth is -- will be from Gypsy Moth. It has been constructed. Northland is existing street and that is one lot, and they'll have access to Northland Drive.

MR. STRODTMAN: But just the one?

MR. SMITH: The one lot to Northland, yes. Yeah.

MR. STRODTMAN: Thank you. Any additional questions? As is our customary practice, even though this is a subdivision matter, if there is anyone in the audience that would like to come forward and give us any relevant information, we would welcome that at this time. Just please give us your name and address and come on up.

MR. CROCKETT: Mr. Vice Chairman, members of the Commission, my name is Tim Crockett with Crockett Engineering Consultants, 2608 North Stadium Boulevard. I'm here to give just a real brief presentation. Clint, if you don't mind? Thank you, sir. All right. With me tonight is Ryan Burnam, who is -- represents Manor Homes, LLC, who is also the applicant for this project. Currently, the piece of property is zoned R-1 and A-1. Now, the single-family residential units that would front onto Gypsy Moth would be the R-1 portion. The existing single-family home to the north is currently zoned A-1. We propose to leave it as is. The plat goes down the -- goes down the zoning line. The piece to the north would stay intact as A-1 and the single-family house that currently is at that location would remain in place. The total tract area is about 3.8 acres. Again, as Mr. Smith has indicated, it's about five R-1 lots and an A-1 lot with the existing house and accessory units. Now, the piece of property was originally platted back in 19-- I believe 1982. This is the original preliminary plat -- excuse me -- the original final plat that was done for that property. What we're asking for here is this portion right here outlined in red. That's the piece that -- that contains basically the bulk of this preliminary plat except for maybe a little small stem portion that was -- that was shown earlier. Given that this was previously final platted, the

intent on this preliminary plat is to clean up a lot of issues, and I think Mr. Smith kind of alluded to that fact. That was one of the original purposes of the original preliminary plat and then this one coincides with that. A lot of property has been platted or replatted, transferred ownership, moved around. These preliminary plats are simply to clean up the situation so we can final plat it and make it more of a clean situation. We talked to the Planning Department when this first got started and we believe that this is the proper way. I think there could be some other alternative ways, but it's going to be extremely confusing for the long haul. This is going to clean everything up and make it much easier to follow along. Here is the preliminary plat that we have discussed. Again, the single-family lots to the south, the common lot for the storm-water purposes, and then, of course, the A-1 tract, the bulk of the property is the A-1 property and it has an existing home that's going to remain in place. This project is going to utilize existing infrastructure, you know. We have to do one small little storm-water -- or excuse me -- sanitary sewer extension that's really to serve the house. The existing house has a failing storm-water -- excuse me -- failing sanitary sewer system on that piece of property. What we propose to do is extend sanitary sewer so that it can be alleviated from the on-site system that it currently has. Again, create a few lots, preserve the existing house on A-1, and then, of course, the project comes with you -- comes to you with support from City staff. With that, I would be happy to answer any questions the Commission may have. And, if not,

Mr. Burnam can talk about the covenant a little bit.

MR. STRODTMAN: Any questions for this speaker? Ms. Loe?

MS. LOE: Mr. Crockett, just a point of clarification. On your third slide, I think, I --

MR. CROCKETT: Yes, ma'am.

MS. LOE: Did it say one common lot?

MR. CROCKETT: It did, and I apologize for that. I caught that later. There are two common lots.

MS. LOE: All right.

MR. CROCKETT: Yes. Staff is correct. I was thinking of the one for the storm water and I forgot about the other lot. I apologize. That's incorrect.

MS. LOE: Thank you.

MR. STRODTMAN: Any other questions? Thank you, Mr. Crockett.

MR. CROCKETT: Thank you.

MR. BURNAM: Good evening. I'm Ryan Burnam with Manor Homes, 215 North Stadium Boulevard, Columbia, Missouri. I represent the developer, obviously. And the intent of this is, of course, to pick up additional lots on the road that we built. Right now, we built a single-loaded street, which, of course, is very inefficient and we got the opportunity to purchase this property and, as a result, these five lots came with it. From a business case, it allowed us to pay more money to the homeowner, which they were very happy about. From our perspective, we get five additional lots to potentially build on. And what we're building in the area are single-family residential homes -- rental homes -- excuse me. So we built Manor Ridge across the street and this is an upgrade to that. These homes are in the \$150,000

price range, much nicer than anything else in the area, and our goal is that this is an entry to -- you saw the preliminary plat for the remaining. We have another 60-some-odd lots back there. This is the gateway into all that. So our goal is -- is -- if anything, to make this bigger and better and brighter than anything else in the neighborhood. And so the potential to utilize these lots to enhance our coverage, which allows for a better return, obviously, from the business case, but also put more product in a close proximity to where people will be going in is -- was very appealing, so that's kind of why we did this. And I would be more than happy to answer any questions.

MR. STRODTMAN: Are there any questions for this speaker? I see none. Thank you, Mr. Burnam.

MR. BURNAM: Thank you.

MR. STRODTMAN: Are there any other parties in the audience that would like to come forward? Yes, sir. Come on up.

MR. ROUSE: My name is Mac Rouse; I live at 2726 Northland Drive. And my parents' house is on the same property; there are two houses on the same property. They're -- they're no longer living, but their address is 2734. If -- can you show me -- go back a little ways where you've got the aerial. All right. Right there. Yeah. I'm -- I'm between -- I'm kind of stuck in the middle there. And the -- the subject site, that small little cutout there -- rectangular cutout is -- I think there's some contention with that, but Annette, my neighbor on the west of me, I think will address that. And I don't know -- I guess the first thing I should ask if -- have all of you physically seen these properties out here? So as you're going north on Parker, you know, there's a -- quite a buffer of green space which, you know, came about, oh, 1990, with Chris Burnam, who the neighborhood association dealt with. And there was some disagreement -- well, he originally wanted a lot more -- bigger density -- greater density than what is there now. And there was an agreement between Chris and the Northland Drive Neighborhood Association that he would lower the density, actually lower the acreage involved, and we would, in turn, receive -- four owners, actually, that abutted his property, would receive a 100-foot green space, which we all got as deeded to us, you know. I've been paying taxes on it ever since. And, you know, legally -- I mean, you know, it says in my warranty deed that this land is to remain green space forever, never to be developed. Legally, I don't know how much water that holds. You know, the lawyers will have to determine that. Evidently, it doesn't hold much water since it's -- I think, didn't they say that by private agreement that that restriction is no longer there. I still have the restriction on my property right next to it. I don't know what it's worth really, you know. It says forever. And I think my objection really is that, you know, we kind of made a deal with Chris that he would do what he wanted on his south side and we would get this 100 foot of green space. And, you know, now the -- you know, it seems like the goal posts have shifted a little bit and -- and that continuous green space, you know, is not going to last, at least on that subject property. And could you go to the picture -- it's kind of a -- I think it's a little bit misleading on this one. But you can see in there right in the middle of the picture that strip of trees. And he mentioned a catch basin or whatever he called it right behind there. It's a pretty significant ravine and I think, you know, maybe one of those lots is going

to be in that area. I don't know. But I guess I'm kind of confused where I stand and, you know, if they develop that, my property is certainly going to lose value. He said it was better and brighter and I can't remember the other adjective, but that -- I -- I -- that won't -- I don't think that's going to help me out at all, you know. I've got a beautiful spot there that -- been -- my father and I have been growing trees over there for, you know, since the '60s, and I'm going to lose value there. Anyone have any questions kind of where I'm coming from?

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: Mr. Rouse? Rouse, is it?

MR. ROUSE: Rouse, yes.

MR. MACMANN: Your property is this inset between the previous slide -- Mr. Smith, if you could --

MR. SMITH: I think it's right here.

MR. ROUSE: Yeah. Right here. That's me, with houses on it.

MR. MACMANN: That's your property right there. The property due east of you was formerly family -- like, your parents' property or something like that?

MR. ROUSE: I'm sorry?

MR. MACMANN: The property due east of you --

MR. ROUSE: The property in question that -- right -- right there? Yeah. Yeah.

MR. MACMANN: Correct. And that's been sold. And what you're trying to say, and I'm not going to delve into this seriously -- or try not to -- how about that? You have a -- you had an agreement which still holds on your property; right?

MR. ROUSE: Far as I know.

MR. MACMANN: Far as I know.

MR. ROUSE: It says on the deed -- I mean --

MR. MACMANN: This subject property to your east, that's owned and sold by someone else; is that correct?

MR. ROUSE: When we -- like I say, there were four landowners that got the 100-foot buffer. And at the time, the family there was by the name of Hargas, and their deed says the same thing mine does. It can never be developed and be in its natural state forever.

MR. MACMANN: And --

MR. ROUSE: Does that answer your question?

MR. MACMANN: It does. I'm just trying to understand. Without boring you, I did read the preliminaries on this and since it's theoretically off the table now, I'm just trying to be sure that we're not legally -- getting legally exposed. And your property travels all the way south to this, like, 20-foot, 30-foot, whatever it is?

MR. ROUSE: Right. Right there, yeah.

MR. MACMANN: Right down there. Your property terminates south right there?

MR. ROUSE: Right.

MR. MACMANN: And, honestly, I don't know what we can do for you. You know what I'm saying?

MR. ROUSE: Well, maybe nothing, you know. But I know originally Chris Burnam indicated that it would make a -- put a covenant in the platting stage, but I think Mr. Zenner and Mr. Smith both indicated -- you know, it was in the minutes of the Planning and Zoning meeting, but it never got any farther than that. I think, didn't you -- am I correct in --

MR. SMITH: Yeah. We -- I did review the minutes on that and -- and going from memory, if I recall, there was conversation during the minutes, and I think this -- the property owners there did offer, I think, support for the project with the understanding that they would be deeded 100 feet that were -- that was south of their existing properties and there would be a covenant attached to that. But it did seem to be a separate agreement outside of the City's approval, something that would facilitate the agreement of the neighboring property owners to the platting action. So I think that's -- that's from my recollection. Did you look at that at all, as well? But that's what I generally recall from that -- from those minutes. That's, I think, is generally what we've represented tonight.

MR. ZENNER: And there is clearly from the research of the previous plats associated with the property no developer-imposed restriction on the plat, so there is a difference here. If there were a developer-imposed restriction on the plat, the release of that restriction would be required by Council. The fact that there is a covenant that's private, and we do not get into private matters as part of the City's execution of its public power, that's why we are not engaged in this private contractual issue. If it was a platting-related matter at the original platting, we would be having a slightly different discussion.

MR. MACMANN: Mr. Chairman, could I ask Mr. Zenner a question? Mr. Zenner, to the best of your knowledge, will our approving this plat injure these parties' ability to pursue this in another venue?

MR. ZENNER: To my knowledge, no. This is a civil matter and it would need to be resolved through the civil system.

MR. MACMANN: Thank you, Mr. Zenner.

MR. STRODTMAN: Mr. Stanton?

MR. STANTON: Because platting this has nothing to do with the usage at this time. Right? We're just basically reshaping the map. The uses or covenants that are in place for the use of that is a separate matter itself.

MR. SMITH: Yeah. I'll give you just maybe a brief overview of what you could expect, I guess, in that -- in that situation. If a preliminary is approved, which would be another month or so before it goes to Council. At that time, I think we would accept construction plans for the site, which could include grading plans, mass grading plans, tree removal, prior to a final plat necessarily being approved. So construction plans could be approved, at least preliminary grading plans definitely could be approved prior to the final plat. So that gives you kind of maybe the time line if that's something the -- the resident is interested in making sure that they are moving along if they want to investigate this further. And construction plans do

take weeks if not months to also approve, so —

MR. ZENNER: Construction plans may take weeks to approve. However, land disturbance, which is separate from the full construction plan authorization, since this is a single parcel of property, the ability of the property owner to be able to do grading on this tract of land is possible to be issued upon compliance, and that may not take nearly as long as completing the engineering and it may occur well in advance possibly of the construction or the final plat being presented. There is nothing that indicates in our code that you have to have a final plat in place before you can obtain construction plan approval. It is actually the reverse. You cannot record a final plat without construction plans being approved. So if you wanted to, as in Boone County, go out and install all of your infrastructure before you sought to have the plat approved, that is legal. And what that then means is you have to do your grading and get your grading permit and you have to get your construction plan approvals first that follow our regular standard procedures, and all of that can occur potentially, depending on the complexity of the design plans, within the intervening time between our action this evening and that to Council's final approval of the preliminary plat. We can't guarantee that these trees may not be removed in that interim period of time.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: They could cut the trees right now if they own the property. Right?

MR. ZENNER: I believe that would be correct.

MR. MACMANN: I'm just trying to brass tacks this —

MR. ZENNER: Yeah. If we bring it down to its basic core, if it's under an acre of land disturbance, we may or may not have tree preservation requirements. I mean, that would be an issue to - - we'd have to discuss with our arborist as it relates to climax forest and anything else that may exist on the tract of land. But Mr. Crockett may be more knowledgeable to speak to what may exist and how that regulation may impact them. You could have a timbering plan, yes, probably, and you could probably timber the site right now. I don't know if you could probably clear-cut the site. That may be a different story, but, I mean, the unfortunate aspect here is is you had a -- you have a -- apparently a private-party agreement that may have run to the benefit of the property owner that has now sold the land back. And as a result of that, the property owner's sale to a subsequent owner, and if the only reason for the buffer was to satisfy the owner, I don't know how the agreement was written. The current owner has possibly a right to be able to eliminate that restriction because it was to himself or the prior owner.

MR. MACMANN: I'm seeing -- I'm seeing the conundrum here. Mr. Rouse, I'm trying to address some of your issues here, but I don't really know if there is —

MR. ROUSE: I appreciate it, yeah.

MR. MACMANN: -- is much that we can do to address your issues. As Mr. Zenner says, you may want to pursue the civil system on this.

MR. ROUSE: I understand that, yeah.

MR. MACMANN: I mean --

MR. ROUSE: I think there is a certain amount of frustration in that we dealt with Chris Burnam

initially and, as far as I can tell, he was fine with everything being the way it currently is now or before the sale. And now -- now, we're dealing with Mr. Ryan Burnam and, like I say, you know, the goal post has shifted. Maybe there is nothing that can be done about that. I don't know. And it's going to be clear-cut, because they pretty much they clear-cut before they built these current houses on there. They took down all the trees, so --

MR. STRODTMAN: Ms. Loe, do you have a question?

MS. LOE: Mr. Rouse, I had a question. I believe you executed a quit claim or an easement. Somehow you attached that 100 feet to your property as part of the agreement. I thought I remembered seeing something of that --

MR. ROUSE: It's not --

MS. LOE: -- in the previous file that came through.

MR. ROUSE: It's on a warranty deed.

MS. LOE: It's on a warranty deed. But do you have control or own that property?

MR. ROUSE: Yes, I do.

MS. LOE: You do. And how did you gain ownership of that 100 feet?

MR. ROUSE: It originally belonged to my mother and dad, and it was deeded to them, and I have a beneficiary deed that is now deeded to me.

MS. LOE: But the 100 feet buffer --

MR. ROUSE: The 100 feet, yes. That's included. I mean --

MS. LOE: And how did they -- how did they acquire that from Chris Burnam?

MR. ROUSE: That's a good question. You know, we were all -- all the four property owners on that northern boundary were given a deed to that 100 foot.

MS. LOE: That's what I understood. And there was some paperwork that they executed to gain that ownership.

MR. ROUSE: Right. I --

MS. LOE: So you have control over that 100 feet?

MR. ROUSE: Yes, ma'am, I do.

MS. LOE: So you are -- you have that buffer and you do have that protected.

MR. ROUSE: Yes, I do. And I -- you know, like I say, I mean, I've been paying taxes on it. I'm assuming that it's mine.

MS. LOE: That's usually a good indication.

MR. ROUSE: So I think --

MS. LOE: All right.

MR. STRODTMAN: Mr. Rouse, on this drawing that's shown on the big screen, that red line completely goes around your property. Correct? So your 100-foot buffer --

MR. ROUSE: Yeah. That's correct.

MR. STRODTMAN: So they're not taking any -- there's no land being taken from you in this

subject site?

MR. ROUSE: No. No. No. I'm not losing any land.

MR. STRODTMAN: Right. So you're still maintaining --

MR. ROUSE: It's my contention that I'm losing value, but, you know, what -- what it's worth, I don't know.

MR. STRODTMAN: Right. Right. Okay. But the 100 foot is still there and they've worked --

MR. ROUSE: It's still there.

MR. STRODTMAN: -- that's the little box that we see --

MR. ROUSE: Right.

MR. STRODTMAN: -- that they've gone around your 100 feet, so --

MR. ROUSE: Right.

MR. STRODTMAN: I just wanted to make sure that I understood that and there wasn't some land assumptions being taken.

MR. ROUSE: And it's -- you know, it's undeveloped.

MR. STRODTMAN: I understand. Any additional questions? I see none. Mr. Rouse, we do appreciate you coming in and speaking with this. And as -- as you heard today, you should probably look at what is in your best interest and do what you think you need to do.

MR. ROUSE: All right. Thank you.

MR. STRODTMAN: Thank you. Is there any additional speakers on this matter?

MS. KOLLING-BUCKLEY: My name is Annette Kolling-Buckley, and I live at 2738 Northland Drive.

MR. STRODTMAN: They are going to get you a quick glass of water.

MS. KOLLING-BUCKLEY: I have like a frog. Because I can further muddy the waters here for you, unfortunately. I live on the -- my property is the little skinny property above the little hat there. And in 1990, when Chris Burnam was enacting all of the buffer zones for the existing property owners, mine fell through the cracks because it was in between. The paperwork they had was for the Shaws who owned the property before I did. They did not actually issue the warranty deeds till 1994. I have been sort of half-heartedly, off and on, with Chris Burnam saying, oh, I need my warranty deed for my property, but Chris has always been a very good steward to our neighborhood, and he's always said I'll never develop that land, don't worry about it. Well, then when Ryan came in in 2015 with his proposal to do that on the -- on Gypsy Moth, I said, by the way, I need my warranty deed for my piece of property. And he said -- oh, thanks.

MR. STRODTMAN: Thank you, Mr. Teddy.

MS. KOLLING-BUCKLEY: Thank you. And he said he was very busy, but to get back with him in six months. So I waited and then he came in to show me this proposal, and I said, by the way, I still don't have my warranty deed for my piece of property, and I was supposed to get it, and now I'm supposed to get it maybe next week. But with you saying that he can go in tomorrow and cut my trees down, that's not

going to do much good pursuing it as a civil matter if the trees are gone. And I have a specimen oak on my piece of property, on my -- what should be my buffer zone that can't be replaced. And the question that I've had on all of this, throughout all of this, because I'm president of the neighborhood association, is these warranty deeds state very clearly the restrictions to this piece of property. However, as it's a civil matter, from what you're saying, does this mean that when the original owners no longer own the property, the warranty deed is no longer valid? That's my question, because Mac and his parents were the original owners, and the Keys on the other side are still the original owners of the warranty deed and, in theory, I am, too. So does this -- is this situation -- do these warranty deeds have no validity anymore as far as the City is concerned?

MR. STRODTMAN: You know, I don't think we're the expert on that. That's probably a legal matter and none of us are acting in a legal capacity, so I would highly suggest that you would look for counsel for yourself to answer that question to -- to your -- to your satisfaction, just because I don't want us to represent something that we're not able to do. City staff might have a comment, but my assumption would be that they'll probably say the same, is that since it is a matter outside of the City's involvement, it is between two parties and that party is not the City, then they probably will not advise, you know, as to a recommendation that that's probably something that they would ask for you to look outside to counsel to advise. So to clarify, you're unlike Mr. Rouse in that you're not paying taxes. You have no deed, you have --

MS. KOLLING-BUCKLEY: I have never been given it. I have tried and tried. In fact, tonight is the first time I realized that it's now being platted as a common lot. I would think that if I have to try and stop them from cutting my trees, the City would get involved.

MR. STRODTMAN: You know, there are certain rights that landowner has and -- and since it is a smaller acreage, there are different rules that apply.

MS. KOLLING-BUCKLEY: So even though it was written in the minutes of the City Council --

MR. STRODTMAN: You know, the agreement was between two parties and, you know, the -- the reference to the Council notes is a reference that you could use for --

MS. KOLLING-BUCKLEY: I have. I gave it to you.

MR. STRODTMAN: -- for your benefit when you speak with counsel for representation --

MS. KOLLING-BUCKLEY: But by that time, my trees could be cut down.

MR. STRODTMAN: That I can't speak on, but, you know, I think what we're suggesting is that until you have representation and counsel for your behalf, it's a -- it's a civil matter between two parties. The City has no stake in it since it is a civil matter between two parties, you know. And unlike Mr. Rouse, who has been paying taxes on it, has that warranty deed, it's a little different with his and that's why they've -- this plat is shown as such. So unless the -- unless staff has any other additional comments, you know, my personal recommendation, ma'am, would be for you to reach out and get counsel as quick as you can so that they can look into the matter of why you didn't have a warranty deed and see if there's anything that they -- or can advise you to on that matter. We're, unfortunately, not going to be able to

give you much satisfaction from a legal standpoint since we do not act in that capacity.

MS. KOLLING-BUCKLEY: So basically these warranty deeds are pretty much worthless --

MR. STRODTMAN: I'm not going to say either way.

MS. KOLLING-BUCKLEY: -- unfortunately?

MR. STRODTMAN: Just -- I'm not an attorney, so I don't know that, ma'am.

MS. BUCKLEY: Neither am I.

MR. STRODTMAN: Is there any questions? Ms. Russell?

MS. RUSSELL: Not of this speaker, but I do have one of either Mr. Crockett or Burnam. Tim, do you want to --

MR. CROCKETT: Sure.

MR. STRODTMAN: If you could tell us name.

MR. CROCKETT: Tim Crockett, Crockett Engineer.

MR. STRODTMAN: Thank you.

MS. RUSSELL: Just a real quick question. Who owns the subject site?

MR. CROCKETT: The subject site is owned by the Burnams under Manor Homes, LLC.

MS. RUSSELL: Okay. Thank you.

MR. CROCKETT: And if I -- if I may clarify the couple points of contention. The -- the top-hat piece that Mr. Smith so eloquently called it, we have no intention of clearing those trees. We have no desire, no intention to clear those trees as shown by this preliminary plat. The reason why it's included as a common lot is because there is a regulation by the City of Columbia that we have to plat everything that we own up to 80 acres. So that since we own the property, we have to show it some form or fashion as a preliminary plat or as a lot on a preliminary plat. And so that's the reason why we're showing it for really no other -- other reason than that idea.

MR. STRODTMAN: So the intent is is the common area would be left pretty much intact as is?

MR. CROCKETT: That's right. That's right. And if I can set back just a little bit, let's talk just a little bit -- and I don't know if I want to cloud this even more. But, Mr. Smith, if you don't mind, if you'd roll back to my presentation here real quick -- if you don't mind?

MR. SMITH: Sure.

MR. CROCKETT: I'm going to go back to the original -- the original final plat in 1982. The thought there was -- the reason for that was is the neighbors wanted a buffer, and the idea was the Burnams would grant 100-foot buffer strip. But the concern with that is is if we grant them a buffer strip, it's already platted. They didn't want to give the neighbors a buffer strip only to have the neighbors the right to turn around and plat -- take the already previously platted lots and build homes on them. That wasn't the intent of it. So the intent was is if we give it to you, you can't use it as such, but now that we're buying them back, buying one of the tracts back, the purpose was the buffer between the property owner and any sub--

MS. LOE: Subsequent.

MR. STRODTMAN: Subsequent.

MR. CROCKETT: Yes -- property owner and the Burnams. So it was there to -- to be a buffer long term. However, when the Burnams purchased that property back, the idea there is that the buffer is no longer needed because what are you buffering? You own both sides of the property, and so that's the reason for that. And so that's kind of the reason why it -- why was there a buffer? Why would it ever come up with buffer was because the idea was if it's truly going to be a buffer, it needs to be that while you own your property over there, but we don't want you to build homes and we don't give you platted lots in which you can turn around and build off of our street, and so that was the concern. If it -- if it gets transferred at no cost, there was substantial cost there, and we didn't want -- or the owners did not want that to transpire that way.

MR. STRODTMAN: And I assume you don't want to speak on the -- or do not know the information about the warranty deed for the speaker for you and to -- her situation?

MR. CROCKETT: I'm -- I'm pretty sure Mr. Burnam -- Ryan can speak on that behalf. I don't have understanding on that.

MR. STRODTMAN: I understand. I understand. Any speakers for Mr. Crockett? Any questions -- I'm sorry. Thank you.

MR. CROCKETT: Right.

MR. BURNAM: I would be happy to answer.

MR. STRODTMAN: If you would just state your name and address again, sir.

MR. BURNAM: Sure. Ryan Burnam, 215 North Stadium Boulevard, Columbia, Missouri.

MR. STRODTMAN: I just want to know if there was any comment regarding the warranty deed that the previous landowner had spoken about, and not being able to get that, if there is anything that you want to --

MR. BURNAM: Sure.

MR. STRODTMAN: Not that you have to. I'm just asking.

MR. BURNAM: No. That's fine. We're actually hoping to turn around something early next week. I spoke with Tom Harrison this afternoon in fact. He has a copy of Mr. Rouse's warranty deed. He's going to -- Dan Rogers did the original work. Tom is now going to copy that for Annette, so my intention is that early next week we'll get that to her and she can record it and she'll have her buffer zone in place at that time.

MR. STRODTMAN: So in that case, when you come back, then that little top hat will be gone since it'll be her buffer?

MR. BURNAM: Effectively, that's correct. So then you just have a long, skinny piece. You wouldn't have the top hat in there. That's correct.

MR. STRODTMAN: Okay. Thank you. Any additional questions? I see none. Thanks for clarifying that for us.

MR. BURNAM: Sure.

MR. STRODTMAN: Hopefully, she feels a little more comfortable about that. We'll go ahead and close that one. And, Commissioners, comments, questions?

MS. RUSSELL: I had one question. If we're approving this with the top hat, the term of the day, but then it's going to go away —

MS. RUSHING: Aren't they going to have to come back?

MS. RUSSELL: Yeah. Won't they have to come back?

MR. STRODTMAN: As a final —

MR. ZENNER: That's what we're actually having a discussion over here, as well.

MR. SMITH: Yeah. That would be the -- the best case there is if it's the intent is to -- to deed that property away is to then to remove it potentially from the preliminary, yeah.

MR. CROCKETT: I believe the solution to this would be approve the preliminary plat since we own the property. I believe -- now correct me if I'm wrong, Mr. Moehlman. If the transfer actually transpires and takes place, we could amend the preliminary plat before it goes to Council, just simply show that going straight across. Would that be sufficient?

MR. ZENNER: That would be -- that would be far easier to do, I think, as well. And in the interim, if I may. The Commission has generally in any planning action or any action that you take, you have four general options: table, approve, approve with conditions, or deny. If there is concern that this property could be cleared, the common lot that's the top-hat lot, you could make a recommendation of approval subject to the top-hat lot being undeveloped, remaining as undeveloped common space unless the property is transferred, at which time a revised plat would be submitted prior to forwarding to Council. And if Mr. Harrison with the VanMatre Law Firm is working on that, our turnaround time is at least one Council cycle which would allow us to be able to have an updated plat in house before submitting a report to Council. We would much rather prefer, because of revisions being made after the Council reports are introduced, along with the platting, that we not introduce a revised plat at Council. So this is either going to be delayed until the issue of the transaction has been completed or the condition would exist that it's going to remain an undeveloped natural parcel which at that point then the concern of the trees being cleared on this -- the top-hat portion is eliminated or at least reduced, and that would be within your purview. It's a condition that I believe would potentially solve the unforeseen delay at least in getting the deed transaction completed.

MR. CROCKETT: To address that, Pat, a little bit, if -- if the transaction does indeed take place in the near future -- in the near term, what you're saying, we may have a delay going to Council by one cycle. I think we're okay with that. I mean, it's a short delay. I mean, we tabled this a month because of this issue. We want to clarify it a little bit, have a little more information before we came to this Commission. So I would -- I think it would make it cleaner if we had a more accurate preliminary plat that goes to Council. I mean, I think we're okay with that if -- if the Commission would be so inclined.

MR. STRODTMAN: Thank you. Mr. Stanton?

MR. STANTON: This is real murky, sticky, and I'm looking for a win-win, and the win-win to me

is -- I'm throwing this out to my colleagues, make a condition that the warranty deeds are clear before we approve with warrant deeds taken care of before it goes to Council if that's possible. I don't want to just -- I don't want to approve it as is because I don't think that there's any ground for the citizens --

MR. STRODTMAN: I think your options would be a condition that this top-hat lot would remain as is intact with our approval and then they would have time to do their transaction, or we would table it.

MS. BURNS: And I think Mr. Crockett was agreeable to that, that we would table it. To me, that's cleaner than. We come back with something.

(Multiple people talking simultaneously.)

MS. BURNS: Delay. Delay, I guess, is --

MR. CROCKETT: Ms. Burns, I was -- I was proposing to approve --

MR. STRODTMAN: Mr. Crockett --

MR. CROCKETT: -- it before this Commission tonight.

MS. BURNS: Yes. Yeah.

MR. CROCKETT: And then we would -- and then we would revise -- if the -- if the transaction took place, we would revise the preliminary plat before it got to Council, so they acted on something that was more accurate --

MS. BURNS: Okay.

MR. CROCKETT: -- you know, pertaining to how the -- how the actual plat would work out.

MS. BURNS: We would approve something potentially that was inaccurate?

MR. CROCKETT: No. Because you're -- what you're approving tonight is -- is accurate.

MR. STRODTMAN: They own it currently.

MR. CROCKETT: We own that property.

MS. BURNS: Okay.

MR. CROCKETT: So what you're approving tonight is -- is entirely accurate. Between P and Z and Council, a small piece of property gets transferred to the neighbor, then it would be our responsibility to revise that preliminary plat accordingly so that Council acted on the corrected version.

MS. BURNS: Thank you.

MS. LOE: If I can summarize what Mr. Zenner proposed as a motion, with the condition that the top hat would remain undeveloped, or the top hat be transferred and the plan amended prior to be going to Council, that would be our motion to approve. Yeah. Either remain undeveloped or transferred and plan amended prior to going to Council.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: Annette, could you come back before the dais, please.

MR. STRODTMAN: Sorry. But can we get your name and address again, also?

MS. KOLLING-BUCKLEY: Annette Kolling-Buckley, 2738 Northland Drive.

MR. MACMANN: Sorry to bother you, ma'am.

MS. KOLLING-BUCKLEY: I just don't want my trees all cut down.

MR. MACMANN: Have you followed -- have you followed what's gone on here?

MS. KOLLING-BUCKLEY: Yeah.

MR. MACMANN: Okay. According to what Mr. Crockett and Mr. Burnam said, they're going to take care of you.

MS. KOLLING-BUCKLEY: Okay.

MR. MACMANN: Are you comfortable with how this is going?

MS. KOLLING-BUCKLEY: If what you proposed is what you do, because, I mean, I've been told a lot of things and they haven't happened. So I just -- whatever transaction --

MR. MACMANN: Well, I would tell you this that we have a recommendation that we make to Council. It's Council's final decision.

MS. KOLLING-BUCKLEY: Right.

MR. MACMANN: You appreciate that?

MS. KOLLING-BUCKLEY: But I like what you said.

MR. MACMANN: And in the interim --

MS. KOLLING-BUCKLEY: That way, we can work it out.

MR. MACMANN: -- the Burnams still do own the property.

MS. KOLLING-BUCKLEY: Right.

MR. MACMANN: They have made a public -- thank you -- commitment here to not do anything with that property.

MS. KOLLING-BUCKLEY: So then we can get it all taken care of.

MR. MACMANN: Okay. I -- I think --

MS. KOLLING-BUCKLEY: I think that's a good -- good proposal.

MR. MACMANN: You're comfortable with how this is going? You are a neighboring property owner and we would hope to address some of your issues.

MS. KOLLING-BUCKLEY: Okay. Yeah.

MR. MACMANN: And we're trying very hard to do that.

MS. KOLLING-BUCKLEY: Right. I understand. This is a civil matter that you've just gotten thrown at you, so --

MR. MACMANN: All right. Thank you, ma'am, very much.

MS. KOLLING-BUCKLEY: Okay.

MR. STRODTMAN: Any additional questions? None. Do we have a motion? Yes, Mr. Smith?

MR. SMITH: I would just recommend, as much as I like, the top-hat lot, we may -- we may refer to Lot C-2 if that's --

MR. STRODTMAN: C-2 is the proper name. So top hat goes to C-2.

MR. SMITH: That's the whole 20 feet on both sides, so --

MR. CROCKETT: (Inaudible.)

MR. ZENNER: No. No. To have it undeveloped, it's to remain --

MR. SMITH: Yeah. C-2 would be undeveloped unless the portion --

MR. CROCKETT: Unless the --

MR. SMITH: -- that you've agreed to deed is then transferred and revised.

(Multiple people talking simultaneously.)

MR. SMITH: The north 100 feet of Lot C-2.

MS. LOE: It's the top --

THE COURT REPORTER: This is not being placed on the record.

MR. STRODTMAN: I understand.

MR. SMITH: I would recommend referring to the north 100 feet of Lot C-2.

MR. STRODTMAN: Thank you, Mr. Smith.

MR. SMITH: You're welcome.

MR. STRODTMAN: Commissioners, would -- is there any other additional questions or comments? Would someone like to frame a motion?

MS. LOE: I'll make a motion. To --

MR. STRODTMAN: Sorry. We've got a quick question.

MR. STANTON: I like the latter -- the latter recommendation.

MR. STRODTMAN: Thank you, Mr. Stanton.

MR. STANTON: I didn't know which way you was going with it, so I'll make a quick --

MS. LOE: You can -- you can comment on it if I get it wrong. But in Case 16-137, a request by -- so I move to approve the request by Crockett Engineering Consultants on behalf of Manor Homes, LLC, for approval of the eight-lot preliminary plat, Kitty Hawk Manor Plat No. 6, with the condition that C-2 remain undeveloped or until -- or until the north 100 feet are transferred and the plan amended prior to going to Council.

MS. BURNS: Can I amend that to say undisturbed? Would that be appropriate because --

MR. ZENNER: That would be probably more consistent with your intentions.

MR. CROCKETT: If I may. I apologize.

MR. STRODTMAN: Say your --

MR. CROCKETT: Tim Crockett, Crockett Engineering. If we can talk about -- we've got to separate the --

MS. LOE: Yeah.

MR. CROCKETT: -- north 100 feet from the rest of the common lot because we have sidewalks and everything else in that area. We're -- the sidewalks is -- the sidewalks are one foot off of the edge of that -- off of that common lot.

MS. LOE: I agree.

MR. CROCKETT: So the 20-foot strip has never been intended to be completely undisturbed. While we -- while we're proposed minimal disturbance -- very minimal disturbance, we still have utilities and sidewalks and those things in that area, so we've got to make sure that we don't limit ourselves so we

can't do those -- those activities. So if we can refer to no disturbance or transfer of the north 100 feet of Lot C-2, I think that would be acceptable.

MR. STRODTMAN: So are you comfortable with your motion or do you want to re--

MS. LOE: Let's -- let's try this again. Move to approve in the Case 16-137, approval of preliminary plat for Kitty Hawk Manor Plat No. 6 -- so we're moving to approve with the top -- the north 100 feet of C-2 to remain undisturbed until such case that it may be transferred and the plan amended prior to going to Council.

MR. ZENNER: That'll work.

MS. LOE: That will work?

MR. ZENNER: I understand that.

MS. LOE: Okay.

MR. STANTON: Second.

MR. STRODTMAN: Mr. Stanton -- Ms. Loe made the motion, Mr. Stanton seconds. The motion has been put on the table -- has been put forth to us. Are there any questions or comments on that motion? I see none. May we have a roll call, please?

MS. LOE: Yes. Case 16-137.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann, Mr. Stanton, Mr. Strodtman, Ms. Rushing, Ms. Russell. Motion carries 9-0

MS. LOE: We have nine votes for. The motion passes. Recommendation for approval with the conditions will be forwarded to City Council.

MR. STRODTMAN: Mr. Zenner?

MR. ZENNER: I think we have only one interpreter this evening. Five-minute recess, please, if we can do that?

MR. STRODTMAN: Any additional? We'll take a quick five-minute recess and then we'll get on the next subdivision Case 16-146. Five minutes, please.

(Off the record.)

MR. STRODTMAN: I'll call the August 18 Planning and Zoning Commission meeting back to order. We left off -- we have a second subdivision case.