

**EXCERPTS**  
**PLANNING AND ZONING COMMISSION MEETING**  
**COLUMBIA CITY HALL COUNCIL CHAMBER**  
**701 EAST BROADWAY, COLUMBIA, MO**  
**February 24, 2022**

**Case 80-2022.**

**A request by Crockett Engineering (agent) on behalf of MFL Golf, LLC (owners), for approval of a two-lot preliminary plat to be known as ML -- "MFL Golf, LLC, Plat." The 121.22-acre parcel is located at the eastern terminus of Van Horn Tavern Road. The purpose of the plat is to relocate and establish right-of-way for the Van Horn Tavern Road and confer legal lot status to the proposed two lots upon recording of a subsequent final plat.**

MS. LOE: May we have a staff report, please?

MR. PALMER: Yes, you may. Thank you, Madam Chair. As you said, it's a two-lot preliminary plat. Advanced public info postcards were sent on the 2nd, and they were sent to seven adjacent property owners.

So real quick, we want to just put this out there, one of the technical corrections came about because our law department reviewed this case since the publication of the agenda, and raised concerns about a note on the plat regarding responsibilities for construction of Van Horn Tavern once it's re-established through the lot. And we have removed that note from the plat. And it's no longer a concern, but you -- we will talk about it a little bit. And you may have seen it on the plat if you look through there. I think that pretty much covers it. Don't you?

MR. ZENNER: It does. We will raise -- answer any questions that are associated --

MR. PALMER: Right.

MR. ZENNER: -- with that if they should arise. The roadway will be constructed at a future date; however, the way that the note was originally structured was, as Mr. Palmer just stated, troubling with the law department. We conferred with the applicant, we have a solution that we will be discussing internally with our staff that would be executed at the time of final platting. So it is not a matter that we wanted to have on the preliminary plat at this point, but we do have a strategy for how we will handle it moving forward. Any further questions, we can answer them at the appropriate time.

MR. PALMER: So this is the aerial view. You see I-70 pretty clearly cutting through there. Midway is in the upper left-hand corner. And then you come back down Van Horn Tavern, past Midway, USA, and then the golf course, and outdoor recreation facilities there at the end of the road. The road you see cutting through the site is the old Van Horn Tavern, it was actually vacated by MoDOT back in 1999.

So part of this plat obviously was to include the future right-of-way to reestablish Van Horn Tavern, because of that right-of-way you'll see in a moment, it actually results in the two lots instead of one.

You may remember this property came through seven/eight months ago to be annexed for the purposes of gaining sewer access. And at that time it was permanently zoned generally O, except for a six-acre piece in the middle where their business is located, which is zoned M-N to meet that standard. Again, Van Horn Tavern vacated in '99; however, the main reason we want it back is because it remains on our CATSO Major Roadway Plan as a major collector. And they are showing appropriate right-of-way width for a major collector on the prelim plat here. A connection across Perche Creek to I-70 Drive Southwest is eventually intended; however, it does likely require construction -- well, it will require construction of two different bridges, and so the timing and final build-out of that is very tentative, and very theoretical at this point, so -- Here is the plat.

You can see the greyed area is the Van Horn Tavern, plus all of their kind of facilities are shown in grey as well, outside of the building's footprint. The kind of dash line in the middle, that's the zoning boundary, so this area is zoned M-N. Everything else is zoned for open space, which is appropriate. The new Van Horn Tavern right-of-way makes this kind of S curve up to the northern boundary, and then there is this gap here which is actually a MoDOT right-of-way that was originally gained as -- there may actually be some drainage easement there as well, and that was due to the bridge abutment taking up more space than the rest of the highway does. So in that location, the highway widened out a little bit to support the bridge that then crosses over Perche Creek. So they have shown that the right-of-way will kind of jump over that and share a space in the MoDOT right-of-way, that's actually been indicated as maybe an issue, so some of the roadway right-of-way may be widened in locations. It may be relocated just outside of that MoDOT right-of-way at some point, but generally it will remain kind of the same route, it will traverse the northern property line as closely as possible, and we'll go from there. And again that's something that will be ironed out before the final platting of the property.

Again we've got two lots, the resulting lot up here on the northwest corner, and then everything else is on a separate lot on the other side of the roadway. Again this plat is going to require some minor technical corrections, one being an inadequate stream buffer. It looks like a drawing error in the CAD, basically it should be 100 feet, and it should be continuously 100 feet, and a couple of spots it dropped below that, so they'll be fixing that. Again the right-of-way does require some modifications potentially for topo in conflicts with the MoDOT right-of-way, so that will also be addressed. So with that, our recommendation would be for approval of the MFL Golf preliminary plat pursuant to those minor technical corrections. I'm happy to answer any questions for you.

MS. LOE: Thank you, Mr. Palmer. Before we move on to questions for staff on this case, I would like to ask any commissioners who have been -- had any ex parte, to please share that with the

Commission so all commissioners have the benefit of the same information on the case in front of us. None. Are there any questions of staff? Commissioner Geuea Jones?

MS. GEUEA JONES: This question is for legal. Would us taking an action on this tonight in any way affects the quiet title dispute that's going on right now with regard to the easement?

MS. THOMPSON: Not to my knowledge, no.

MS. GEUEA JONES: Okay. So we aren't accidentally picking winners and losers in a related matter?

MS. THOMPSON: No, I don't think that should be a consideration in your all's determination this evening.

MS. GEUEA JONES: Correct. I'm just making sure we don't accidentally do something out of our purview. Thank you.

MS. LOE: Any additional questions for staff? Following on Commissioner Geuea Jones' question, Mr. Palmer, with the moving of the right-of-way for Van Horn Tavern Road, is there a reason that the 30-foot right-of-way access easement wasn't extended?

MR. PALMER: So the property owner to the south does still have access --

MS. LOE: We discussed this at the last --

MR. PALMER: Yeah. Via UU. And then also the applicant has indicated that they intend to, you know, maintain that current access across their property, so it's another issue that will be ironed out before we move forward with the final plat, I think, but their -- this plat is not doing anything to really impact that access. If that makes any sense.

MS. LOE: Any additional questions of staff? Seeing none at this time. We will open up the floor to public comment.

## **PUBLIC HEARING OPENED**

MS. LOE: If you have public comment, please state your name and address for the record.

MR. CROCKETT: Madam Chair, members of the Commission, Tim Crockett, Crockett Engineering, 1000 West Nifong. You know, I believe the staff did a pretty good job illustrating this project here before you tonight. This is a preliminary plat. This project came before you several months ago with regards to the zoning of the property. The City Council did annex it and did zone the property. Again, it's Midway Golf & Games, and what they want to do, the intent and purpose of this, is so they can expand their existing facility. That's what their purpose and intent of the plat is. We'd work with the previous city manager, as well as the public works director, with regards to the extension of Van Horn Tavern through this property for future construction. The biggest idea, the biggest issue there, is that the City doesn't know if that's going to take place or not, but what they don't want to do is have to require the right-of-way through this existing business in the future, they want to secure the ability to obtain this right-of-way at no cost in the way doing it, and we don't know exactly where that right-of-way is going to be. And we think we can handle it. And I've talked with Ms. Thompson with regards to how we can address this on the final

plat moving forward, and I think my client would be in agreement to that, and don't think it's going to be an issue, so it's -- that can be resolved. The biggest issue is, is making sure that the City maintain that right-of-way at no cost and -- if and when they need it in the future. With that, I'm happy to answer any questions.

MS. LOE: Thank you, Mr. Crockett. Are there any questions for the speaker? I see none.

MR. CROCKETT: Thank you.

MS. LOE: Thank you. Any additional speakers on this case?

MR. FRITZ: Hello. I'm Scott Fritz, representing the Fritz Family Gift Trust. I try and bring up the right-of-way --

MR. STANTON: Address, sir?

MR. FRITZ: Sorry?

MR. STANTON: Address. Address.

MR. FRITZ: Oh, sorry. 216 North Strawn Road. My apologies.

MS. LOE: Thank you.

MR. FRITZ: I'm not a regular. The -- so we have the right-of-way up to the old Van Horn Tavern Road, and we're trying to ensure that we continue to have access through that because there is times when the creek that intersects between Highway UU, and that piece of property, makes it impassable. And it seems like we keep moving forward with a lot of things, but nothing ever gets addressed in regards to our right-of-way. I want to make sure that I get that in front of you. And I appreciate your concerns.

MS. LOE: Thank you. Are there any questions for this speaker? Commissioner Placier?

MS. PLACIER: Well then what would you request that we do about your concern?

MR. FRITZ: Well, we've been assured by MFL that they will get something in writing to us repeatedly over the last seven months, and nothing seems to be forthcoming, so that's why I keep appearing at these meetings. I'd rather not be here if I could avoid it. But I would like to see something formal and official so that we have a way that we can assure that we get -- are able to get in and out through the way that we have been using for the past 30 years.

MS. LOE: Any additional questions for this speaker? Commissioner Geuea Jones?

MS. GEUEA JONES: If I remember correctly from the previous hearing, I think your right-of-way is at least denoted on this plat, do you not feel that's sufficient?

MR. FRITZ: It is denoted to what is going to become a piece of private property, a bridge to nowhere if you want to think of it that way, if that -- if we don't have access to that road. The 30-foot right-of-way is on a raised strip of land, this land is in a floodway, not just a flood plain, so the strip that goes from our property to Van Horn Tavern Road is on a raised -- not really a levy, but it's sort of like a levy that gets out to there. If the road is extended up to the north, and we have to go through golf course ponds and things like that to get there, it's not going to be an effective right-of-way for us. So that's my concern is the right-of-way currently goes to a raised

concrete road that we can get out to the world, and I don't see anything that's going to assure me of that in the future. And there is no guarantee from MFL that that roadbed that stays -- that is there currently, stays in place. I really don't know the plans, so that's my concern.

MS. GEUEA JONES: I think what we're hearing is there really aren't plans at least not to move that road in the future.

MR. FRITZ: Right. And I -- but I have no assurances.

MS. GEUEA JONES: I see.

MR. FRITZ: And so that's my concern.

MS. GEUEA JONES: Thank you for coming again.

MS. LOE: Any additional questions for this speaker? I see none. Thank you. Any additional speakers on this case? If there are none, we will close public hearing.

COMMISSIONER BURNS: Could we keep it open?

MS. LOE: We will keep public comments open.

COMMISSIONER BURNS: Could I ask

Mr. Crockett to step back up to the microphone just to ask a question? Thank you.

MR. CROCKETT: Yes, ma'am.

MS. LOE: And we'll need your name and address again.

MR. CROCKETT: Tim Crockett, Crockett Engineering, 1000 West Nifong.

COMMISSIONER BURNS: I appreciate you coming back up. I know that we did talk about this when we were looking at the annexation, are you comfortable or could you give any assurances, Mr. Crockett, that what Mr. Fritz is concerned about is being addressed and he will have satisfaction that the right-of-way will remain?

MR. CROCKETT: Sure. Let me start first of all by making a clarification, MFL Golf is the landowner, so the operator of Midway Golf & Games is a tenant. So just so we're clear on who we're working with here. Midway Golf & Games is a tenant of the property, and then MFL Golf is a separate owner that has no ownership in the operation side of things. Just so there is clarification there. With regards to Mr. Fritz's concern, yes, there is an easement there. There is an easement that grants -- that granted -- that grants his property access through my client's property to the old right-of-way. When MoDOT vacated that right-of-way, his easement stays in effect, it's still there, it goes to that old right-of-way, but it goes to nowhere as he has indicated. It doesn't go anywhere. I have -- had talked to my client's attorney who has said that we will obli- -- we will honor and obligate -- or honor those easements as stated. We're not going to let them go away. We're not going to -- you know, to vacate them, or get rid of them, or not honor them. We're going to honor those easements at all times. That's what they've committed to doing, that's what they've done since -- you know, since that right-of-way is vacated, so they fully intend to keep on doing that.

COMMISSIONER BURNS: And that's the owner. So then the tenant, as they develop the property, and put in golf course, or games, or whatever, I remember seeing the site plan --

MR. CROCKETT: Yeah, they have to honor --

COMMISSIONER BURNS: -- they wouldn't be able to impede that right-of-way?

MR. CROCKETT: No, they cannot impede upon that. No, it's a restriction that goes with the ground, with the property, and so if the tenant were to impede on that, Mr. Fritz has a -- he has a legitimate complaint to the owner because his tenant is impeding access through that right-of-way -- or, excuse me, through that easement.

COMMISSIONER BURNS: Thank you, Mr. Crockett.

MR. CROCKETT: Thank you.

MS. LOE: Okay. Just for the record the previous questions were being asked by Commissioner Burns. We will close public comment.

### **CLOSE PUBLIC HEARING**

MS. LOE: Commissioner comment? Commissioner Stanton?

MR. STANTON: If there is not any questions from my colleagues, I would like to entertain a motion. As it relates to Case 80-2022, MFL Golf Preliminary Plat, I move to approve the preliminary plat pursuant to minor technical corrections.

MS. GEUEA JONES: Second.

MS. RUSHING: Second.

MS. LOE: I'm going to say Commissioner Geuea Jones got in there first, so seconded by Commissioner Geuea Jones. We have a motion on the floor, any discussion on this motion? Seeing none. Commissioner Carroll, may we have roll call, please?

MS. CARROLL: Commissioner Placier?

MS. PLACIER: Yes.

MS. CARROLL: Commissioner Kimbell?

MS. KIMBELL: Yes.

MS. CARROLL: My vote is "yes". Commissioner Loe?

MS. LOE: Yes.

MS. CARROLL: Commissioner Stanton?

MR. STANTON: Yes.

MS. CARROLL: Commissioner Burns?

MS. BURNS: Yes.

MS. CARROLL: Commissioner Rushing?

MS. RUSHING: Yes.

MS. CARROLL: Commissioner Geuea Jones?

MS. GEUEA JONES: Yes.

MS. CARROLL: I have eight votes to approve, the motion carries.

MS. LOE: Thank you. Recommendation for approval will be forwarded to City Council.