

**CLAY COUNTY PLANNING AND ZONING COMMISSION MINUTES**  
**September 6, 2011**

Regular meeting of the Clay County Planning and Zoning Commission, Commission Hearing Room, 3<sup>rd</sup> Floor, County Administration Building, One Courthouse Square, Liberty, MO.

Call to Order at 6:30 pm.

Roll Call

Members Present:       Gene Knisley, Jim Edwards, Barbara Ball  
                                  Mark Beggs, Jeff Richerson, and Karl Walters

Members Absent:

Staff Present:           Matt Tapp, Director  
                                  Debbie Viviano, Planner  
                                  Greg Canuteson, Assistant County Counselor  
                                  Judi Ewing, Secretary

**Mr. Knisley:** Good evening ladies and gentlemen. Welcome to our meeting of Tuesday, September 6, 2011, regular meeting of Clay County Planning and Zoning Commission will now come to order.

**Mr. Knisley:** May we have the roll call, please?

**Mr. Tapp:** Mr. Walters?

**Mr. Walters:** Present.

**Mr. Tapp:** Mr. Edwards?

**Mr. Edwards:** Present.

**Mr. Tapp:** Mr. Richerson?

**Mr. Richerson:** Present.

**Mr. Tapp:** Mrs. Ball?

**Mrs. Ball:** Present.

**Mr. Tapp:** Mr. Beggs?

**Mr. Beggs:** Present.

**Mr. Tapp:** Mr. Knisley?

**Mr. Knisley:** Present.

**Mr. Knisley:** Thank you. We need to approve the August 2, 2011, Planning and Zoning Commission Minutes. Do I have a motion?

**Mr. Richerson:** Mr. Chairman, I make a motion that we approve the August 2, 2011, minutes.

**Mr. Edwards:** Seconded.

**Mr. Knisley:** There has been a motion and a second. Vote please.

**Mr. Tapp:** Mr. Walters?

**Mr. Walters:** Approve.

**Mr. Tapp:** Mr. Edwards?

**Mr. Edwards:** Approve.

**Mr. Tapp:** Mr. Richerson?

**Mr. Richerson:** Approve.

**Mr. Tapp:** Mrs. Ball?

**Mrs. Ball:** Abstain.

**Mr. Tapp:** Mr. Beggs?

**Mr. Beggs:** Approve.

**Mr. Tapp:** Mr. Knisley?

**Mr. Knisley:** Approve.

**Final Vote:                   5/0/1   Approve                   August 2, 2011 Planning & Zoning Minutes**

**Mr. Knisley:** We have three cases this evening and the staff reports will be included as part of the minutes. We are recording it for our minutes. It is important to let you know that the cases on this agenda whether they are approved or disapproved will be forwarded to the County Commission on September 19<sup>th</sup> at 1:30 pm. Our first case is **Case No.: Sept. 11-107F- Final Plat** – A request for final plat approval of Brookview Estates 3<sup>rd</sup> Plat a proposed subdivision located just north of the Brookview Estates, 2<sup>nd</sup> Plat (*NE corner of N. Agnes Street & NE 132<sup>nd</sup> Street*). The applicant is Jason Roudebush, Lutjen, Inc., representing Shane Danner, RPLTD, LLC. Staff report, please.

**Mr. Tapp:** Summarized the staff report. Staff report Sept. 11-107F dated August 31, 2011, and part of the case file is hereby made as an attachment to the minutes.

**Mr. Knisley:** Thank you. Are there any comments from the applicant’s representative? Being none, are there any comments or questions from the Commission? Being none, do I have a motion to approve the Final Plat for Brookview Estates, 3<sup>rd</sup> Plat with four (4) conditions?

**Mr. Richerson:** Mr. Chairman, I move that we approve the Final Plat for Brookview Estates, 3<sup>rd</sup> Plat with four (4) conditions.

**Mr. Edwards:** Seconded.

**Mr. Knisley:** There has been a motion and a second to approve. Vote, please.

**Mr. Tapp:** Mr. Walters?

**Mr. Walters:** Approve with 4 conditions.

**Mr. Tapp:** Mr. Edwards?

**Mr. Edwards:** Approve with 4 conditions.

**Mr. Tapp:** Mr. Richerson?

**Mr. Richerson:** Approve with 4 conditions.

**Mr. Tapp:** Mrs. Ball?

**Mrs. Ball:** Approve with 4 conditions.

**Mr. Tapp:** Mr. Beggs?

**Mr. Beggs:** Approve with 4 conditions.

**Mr. Tapp:** Mr. Knisley?

**Mr. Knisley:** Approve with 4 conditions.

**Final Vote:                    6/0/0   Approve                    September 11-107 F  
Final Plat Brookview Estates 3<sup>rd</sup> Plat  
With four (4) conditions**

**Mr. Knisley:** Our next case is **Case No.: Sept. 11-108V - Vacation** – A request to vacate utility easements within Wharton Estates at approximately the northwest corner of NE 174<sup>th</sup> Street and Salem Road. The applicant’s are Benton and Michelle Killingsworth. Staff report, please.

**Mrs. Viviano:** Summarized the staff report. Staff report Sept. 11-108V dated August 31, 2011, and part of the case file is hereby made as an attachment to the minutes. Benton Killingsworth is here if you have any questions.

**Mr. Knisley:** Thank you. Are there any comments from the applicant?

**Benton Killingsworth:** No.

**Mr. Knisley:** Being none, are there any comments or questions from the Commission? Being none, do I have a motion to approve the utility vacation for Wharton Estates with one (1) condition?

**Mr. Richerson:** Mr. Chairman, I move that we approve the utility vacation on Wharton Estates with one (1) condition.

**Mr. Edwards:** Seconded.

**Mr. Knisley:** There has been a motion and a second to approve. Vote, please.

**Mr. Tapp:** Mr. Walters?

**Mr. Walters:** Approve with 1 condition.

**Mr. Tapp:** Mr. Edwards?

**Mr. Edwards:** Approve with 1 condition.

**Mr. Tapp:** Mr. Richerson?

**Mr. Richerson:** Approve with 1 condition.

**Mr. Tapp:** Mrs. Ball?

**Mrs. Ball:** Approve with 1 condition.

**Mr. Tapp:** Mr. Beggs?

**Mr. Beggs:** Approve with 1 condition.

**Mr. Tapp:** Mr. Knisley?

**Mr. Knisley:** Approve with 1 condition.

**Final Vote:**                    **6/0/0    Approve                    September 11-108 V**  
**Utility Vacation Wharton Estates**  
**With one (1) condition**

**Mr. Knisley:** The last case is **Case No.: Sept. 11-109F - Final Plat** - A request for Final Plat approval of the Killingsworth Hideaway, Replat of Wharton Estates a proposed re-plat of a subdivision located at approximately the northwest corner of NE 174<sup>th</sup> Street and Salem Road. The applicant's are Benton and Michelle Killingsworth. Staff report please.

**Mrs. Viviano:** Summarized the staff report. Staff report Sept. 11-109F dated August 31, 2011, and part of the case file is hereby made as an attachment to the minutes. Benton Killingsworth is here if you have any questions.

**Mr. Knisley:** Thank you. Debbie those changes that Killingsworth requested; is that number two?

**Mrs. Viviano:** The changes?

**Mr. Knisley:** The name.

**Mrs. Viviano:** Oh, yes. Mr. Killingsworth asked for that.

**Mr. Knisley:** All right. Are there any questions from the applicant?

**Benton Killingsworth:** No.

**Mr. Knisley:** Are there any questions or comments from the Commission? Being none.....oh I'm sorry I didn't see you come in.

**Mr. Tapp:** If you wouldn't mind stepping up to the microphone.

**Susan Woods:** I am Susan Woods we live at 174<sup>th</sup> and Roberts Court, which his new property is directly behind us.

**Mr. Knisley:** Adjoining?

**Susan Woods:** Yes, we were wondering what this meant with the utilities on the property where we live and the two other houses. We were wondering what the impact is to our property.

**Mr. Knisley:** I believe our Director can address this issue.

**Mr. Tapp:** If you notice on the map projected on the wall, only the utility easements located in orange are the old interior lot lines are being vacated. None of the exterior lines will change. Just the internal ones and then there are new lot lines, which you can probably see better over here (*looking at hard copy of map on the easel*). The blue are the old UE's that are going to be vacated and we are keeping a ring around the whole entire exterior of the property. So there will still be dedicated utility easements.

**Susan Woods:** There was a new marker that was put on a tree.

**Mrs. Viviano:** It is probably the property line.

**Mr. Tapp:** Thank you. We appreciate you coming.

**Mr. Knisley:** Thanks for your interest. Are there any comments, being none do I have a motion to approve the Final Plat of Killingsworth Hideaway, Replat of Wharton Estates.

**Mrs. Ball:** I move that we approve the Final Plat of Killingsworth Hideaway, Replat of Wharton Estates with two (2) conditions.

**Mr. Richerson:** Seconded.

**Mr. Knisley:** There has been a motion and a second. Vote, please.

**Mr. Tapp:** Mr. Walters?

**Mr. Walters:** Approve with 2 conditions.

**Mr. Tapp:** Mr. Edwards?

**Mr. Edwards:** Approve with 2 conditions.

**Mr. Tapp:** Mr. Richerson?

**Mr. Richerson:** Approve with 2 conditions.

**Mr. Tapp:** Mrs. Ball?

**Mrs. Ball:** Approve with 2 conditions.

**Mr. Tapp:** Mr. Beggs?

**Mr. Beggs:** Approve with 2 conditions.

**Mr. Tapp:** Mr. Knisley?

**Mr. Knisley:** Approve with 2 conditions.

**Final Vote:**                    **6/0/0    Approve**                    **September 11-109 F**  
**Final Plat Killingsworth Hideaway,**  
**replat of Wharton Estates**  
**With two (2) conditions**

**Mr. Knisley:** Thank you. That concludes are cases for this evening. I will proceed with other business. Are there any comments from our Director?

**Mr. Tapp:** Nothing under Director’s comments but if the Commission desires I can go on to the discussion item that is on there.

**Mr. Knisley:** Sure.

**Mr. Tapp:** It was brought before us at a pre-application meeting on a 38-acre piece of land near Smithville Lake. They are talking about the options for subdividing their land. The Commission may recall that I believe all of you were on the Commission, except for Mark, when the 2008 Comprehensive Plan was approved by this Board. In the plan, was a 20-acre minimum lot size across the board with exceptions for each development tier. They are in the Natural Resources Tier, which is generally our more restrictive land development tier. There are only a couple of exceptions to the 20-acre minimum lot size. Debbie and I have talked it over with a couple of folks, both the people that currently own it and someone that is looking at acquiring it. What is the true intent of those exceptions of that 20-acre minimum lot size? Debbie was there before me, and she can discuss what happen up to when I got there. How I interrupt the Comprehensive Plan is that we want to try to avoid subdivisions with internal streets with a lot of impervious surface where the water sheds off from dotting the landscape around Smithville Lake. We have had environmental issues there with erosion and on site sewage system. My interpretation is that it is not necessarily that you need to subdivide exactly 20 acres and nothing else will do. Although, if that is the preference of this Commission, we will honor that and let people know that. If we have 20 acre minimum lot size, then that is it and you can’t go anything under that. They want one 20-acre plus and hoping to get more towards 12 acres on the other piece versus 18 acres. We said the closer you can get to the 20 acres the better, but they were talking about doing 12 acres. It is a trust and as often the case with the trust someone sits down and says that the land should go into a 70/15/15 split with the siblings. Well, that looks great on paper but does not fit our Comprehensive Plan. We wanted to hit the ball into the P&Z Commission’s court and see if based on your experiences or what you remember from the Comprehensive Process; what was the spirit and jest of the 20 acre minimum lot size and the exceptions, which for the Natural Resources Tier is either the shadow plat or at least the conservation where you have to preserve at least 50 percent of the original parcel area. I believe the shadow plat too. We just want to get a feel from all of you regarding this; do you want to see 20 acres and that is it or is there kind of a give and take there. They are talking about only adding one new lot and that is already out there. There is really no stormwater run-off implications with one house unless it is the White House times ten. There is no stormwater pollution issue here. It is more or less kind of interrupting what the Comprehensive Plan is saying.

**Mr. Knisley:** That was always our original intent to control that water run-off.

**Mr. Tapp:** Right. Would you rather prefer it in the Natural Resources Tier, which is the watershed around Smithville Lake.....would it be okay if someone said I have 38 acres, and I have 20 plus and then a 12 acre lot. Is that still okay or what level do we say no that is not meeting the guidance of the Comprehensive Plan?

**Mr. Knisley:** Well, we have to look at all of it. If we are looking at one house then you have see if you can sway and lean that way and let them.....I don't know. We will just have to think about it. Maybe, we can address it at the next meeting.

**Mr. Tapp:** Debbie was able to pull up the Comprehensive Plan here. The exceptions from the 20-acre minimum lot size in the Natural Resources Tier, which is around the Smithville Lake is the subdivision of 5 plus acres lots provided at least 50 percent of the original parcel is preserved such in a Conservation easement or a Agricultural Deed Restriction. Basically, a Conservation area that is designated on the plat. You go down to the 5 plus acre lots or the farmstead, which is the original farm house there and you can subdivide 5 acres around that. I was always under the impression that the 20-acre minimum lot size was trying to get away from the piano key development pattern, where you go along the road and have all of these little 3, 5, and 10 acre little slivers and people put there house in the middle, accessory structure on the side and there is no way to further develop the back part. The cities want nothing to do with that type of development pattern.....or these 3-acre farms ranchettes type of pattern. I think that is the intent of the Smithville Lake area and get away from the 3-acre subdivisions, where cities don't want to touch that. There are a lot of impervious areas that are serving fewer houses. Debbie pulled it up the map. It is 38 acres right now off of 174<sup>th</sup> Street. They were originally going to try to follow the Trust and go 70/15/15 split, which would have meant like 5 acres on those two 15's and then a very large track of 20 plus. We said the closer you get to 20 acres on all of it the better. They said they really don't want to try to borrow on 18 acres but would rather do 12 or 13 acres. The land kind of lays out where if you split it right in halve it is a awkward split because there is a pond in the back. Anyway that is getting to specific. We are trying to get more of a guidance from the P&Z Commission as to.....because the Natural Resources Tier is a very protected area. We get so many folks that come in, and they want to subdivide off 3 and 5 acres and we try to steer them away from that as best as possible. How close are we willing to get to 20 acres to say yes you meet the spirit and intent of the Comprehensive Plan. Unfortunately, I was not there at the very beginning stages of when this was forming. I do know that it was trying to avoid the piano key development and the 3-acre lots. So, what does the P&Z Commission have to say? (*Viewing the map*) There is some old R-1 and R-1A around the property, which prevents a monkey wrench because if you say to this person that they can't do it but what about the folks all around me that have done it. Well, that was done in the past and you are comparing apples to oranges. That is under the old Comp. Plan and this is under the new Comp. Plan.

**Mr. Richerson:** If everything was all cut and dry, we would just use the Comp. Plan, and we wouldn't have to have these meetings. Every case has its own individual.....I would want to try to stay as close as we can to the 20 acres but like you said; I don't want to bend over backwards to help out a Trust. We have to look at what is best for the County and the neighbors. I am flexible a little bit but it would be case by case.

**Mr. Tapp:** So would you say, Jeff, that the closer to 20 acres the more comfortable you are with.....

**Mr. Richerson:** I would be; myself.

**Mr. Knisley:** I think so. How does the land lay?

**Mr. Tapp:** I will show you on the aerial; you can see that there is a pond right here so if you do a straight half you are going to hit the pond. We always tell folks to stay at least 50 feet from the waters edge because it presents problems later on for maintenance of the dam and what not. They are talking about coming over here like this and then cutting over (*showing them on the map*).

**Mrs. Viviano:** They want the bigger lot to have the pond on it.

**Mr. Tapp:** It is not a perfect 50/50 split, but the 20 plus will be over on the west side and the east side will be as small as they can go.

**Mrs. Viviano:** I think that one person on the Trust said that he would like to divide it, and then we had somebody that came in and talked to us about buying the whole piece, and they would like to subdivide it and put a house on it and.....

**Mr. Tapp:** and have another lot in case they want to sell later on to have the flexibility in case they needed money later on.

**Mrs. Viviano:** They are thinking about the bigger lot being on the east side. They are saying that the view of the lake is on the east side more than the west side.

**Mr. Tapp:** It is not very often that a 38 acre lot comes up on the market adjacent to Corp. land. This is definitely a desirable piece. It kind of sounds to me.....I know Jeff is really the only one that talked but I saw Barbara kind of nod her head and Jim.....they closer you get to 20 acres on all subdivided lots the better, which is easier said than done when you are talking about 20 acres to begin with. Folks come in and want to know why they can't subdivide their property. This is a guiding document and you can still request whatever you want to request.

**Mrs. Viviano:** Most of your quarter sections are 40 acres but the Assessor has this at 38 acres, and I think that might be because they have taken the road right-of-way out.

**Mr. Tapp:** The deed probably says 40 acres.

**Mrs. Viviano:** Most of your 40 acre pieces can be subdivided into two 20 acres, but when you take the right-of-way off of that 40 acre piece you lost it.

**Mr. Tapp:** It is close to 20 acres; you are talking 18.75.

**Mr. Knisley:** (in audible)

**Mr. Tapp:** Okay.

**Mrs. Viviano:** Would say closer to the 20 acres before the right-of-way; not the net acreage but the gross acreage. So you are talking gross acreage.

**Mr. Knisley:** Right

**Mrs. Viviano:** So you are talking gross acreage as the 20 without the right-of-way.

**Mr. Tapp:** We want to try to get the feel especially this Natural Resources Tier we are really trying to say go big and that is about it. How far is too small; I mean is 10 acres too small or 5? You try to put a line in the sand but there is always.....like Jeff was saying every property is unique and that is what makes our job so fun is that you get to mess around with other people's property. What is too small? What is the spirit and jest? Why are we saying 20-acre minimum lot size? Why is the Natural Resources Tier such the hard and steadfast one? The Rural Low Density Tier is just as the name implies it is rural low density and is a 20-acre minimum lot size but.....what is too small?

**Mr. Knisley:** Is this something that they want to do right away?

**Mr. Tapp:** Kind of. They are not in a rush.

**Mr. Knisley:** Maybe, next month give us a little diagram on how you see it on low side.

**Mr. Tapp:** I can probably draw it right now. The low side is by the wooded area around the pond. It will follow the wooded area south and cut over and go straight through. (*Drawing on the map*) You can see there is an original fence line inside the property in the middle part of the property. One sibling wants to keep the pond.

**Mr. Knisley:** They want to keep the pond on the big side.

**Mr. Tapp:** Right.

**Mr. Knisley:** So they just want to split it into two.

**Mr. Tapp:** Right. He wants to keep the pond on his side.

**Mr. Knisley:** Well, we have always tried to accommodate the applicant and their land. Because of the pond and if it is going to do away with the view and some of the things that they really want.....does it make any difference if we went ahead and approved this and give them that the way you first drew it out?

**Mrs. Ball:** Well, you almost have a piano key lot there. That looks exactly like my lot which mine looks like a piano key.

**Mr. Knisley:** It is one and a half of a piano key.

**Mrs. Ball:** Yea; right. It still looks like a piano key to me. That is what you are saying is you don't want to tie up the property that is in the back. Like my property is tied up.

**Mr. Tapp:** My interpretation is that the piano key is what we are trying to avoid in the Urban Service Tier that might be likely to be annexed so you want to try to set up a County development pattern that is friendlier to annexation for the cities. Here you are talking about Natural Preservation and to make sure there is not serious water pollution issues. On the Natural Resources Tier we want to avoid any high density subdivisions of any kind and basically say to get as close to 20 acres and that is it.

**Mr. Richerson:** There will not be in development in the back anyway because that is Corp. property.

**Mr. Tapp:** Right. There is no future development interest.

**Mrs. Viviano:** From what we understand is that they do some hunting on the Corp. land in the back so people are not going to want to build back in that area.

**Mrs. Ball:** I don't think 12 acres is a good number. That is close to half of what we are asking for. They need to get closer to 20 acres; 18 acres is a better number. Not going below 15 acres sounds good to me.

**Mr. Tapp:** They use to have an original farm house right here and unfortunately it got to a point where they could not keep it. There you could have, by our Comp. Plan, done 5 acres around that and the rest of it they could have tried to split in half. Again, you would not meet the minimum 20 acres lot size.

Unless, you want to preserve 50 percent of your land in a Conservation Easement, which is not out of the question here because you back up to the Corp. land. Like Debbie said, not likely to further develop. People are really apprehensive to Conservation Easements or anything that is completely imputative and I completely understand. Actually, the amendments that we are going to submit to you, hopefully next month, we will cover these exceptions of the Ag Deed Restriction and the Shadow Platting. They will be considered zoning overlay districts rather than anything set in stone, so if the over lay did not work, the folks could pursue a rezoning to remove that overlay. It is not imputative. It is just an overlay. Kind of like the Conservation District or a PUD only it is a shadow plat overlay in an Agricultural Land Preservation Overlay. Nothing by deed. It is not really restrictive. I think it jives well with this.

Basically, what I hear then especially in the Natural Resources Tier is to get as close to 20 acres as possible.

**Mr. Knisley:** That is fine.

**All:** yes.

**Mr. Tapp:** So if someone proposes a 5 acre and a 20 acres, that might not float as well as an 18 acre and a 20 acre?

**Mr. Knisley:** Right.

**Mr. Tapp:** Okay. Unless, it is the farmstead then they meet that exception or the Conservation.

**Mr. Knisley:** One real quick question; where you drew down and over and then down again.....

**Mr. Tapp:** The 12 acre lot?

**Mr. Knisley:** Is that 12 acres there?

**Mr. Tapp:** Around there. I think so. As soon as you bump the line over and over.....

**Mr. Beggs:** Go past the pond and cut back to the west.

**Mr. Tapp:** Right but then you have even more awkward shaped lots. We always want to try to make them square and compact as possible. Like that thick red line is the best option but that is not doable with the pond. It cuts right through the wooded area. He really likes to have his kids and grandkids go back and fish in the pond, and we want to keep it in one parcel.

**Mr. Knisley:** Is the family going to keep that together?

**Mr. Tapp:** I don't know. We had another party that was unrelated that was interested.

**Mr. Knisley:** Maybe, they ought to come in and buy it.

**Mr. Tapp:** They still want to subdivide it too like Debbie said. They want to do a two lot deal.

**Mrs. Viviano:** They wanted to the large lot on the east side. Just flipped flopped.

**Mr. Tapp:** Thank you. I appreciate it. Every now and then we just need a little bit of a clarification so that we don't say one thing and get blind sided.

**Mr. Knisley:** Is there anything else.

**Mr. Tapp:** No just waiting for adjournment.

**Mr. Knisley:** Okay.

**Mrs. Viviano:** Just FYI; we do have quite a few cases on the agenda for October. We will have probably about six or seven.

**Mr. Knisley:** Are any of them controversial?

**Mr. Tapp:** I don't believe so. You just never know. We have not sent the letters out yet. A lot of times when you think there is not much then.....

**Mrs. Viviano:** You just never know.

**Mr. Knisley:** All right. Is there any other business or any comments from the Commission? Being none, is there a motion to adjourn?

**Mr. Richerson:** Chairman, I move that we adjourn.

**Mr. Edwards:** Second.

**Mr. Knisley:** All in favor say “aye”

**All:** aye.

**Meeting Adjourned**

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*Chairman, Planning & Zoning Commission*

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*Secretary, Planning & Zoning Commission*

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*Recording Secretary*