

**CLAY COUNTY PLANNING AND ZONING COMMISSION MINUTES**  
**December 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, and Karl Walters

Members Absent: Mark Beggs and Jeff Richerson

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, December 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:** No answer.

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

**Mrs. Ball:** Present.

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

**Mr. Beggs:** No answer.

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

**Mr. Knisley:** Present.

**Mr. Knisley:** Thank you. We need to approve the November 1, 2011, Planning and Zoning Commission Minutes. Do I have a motion?

**Mrs. Ball:** Mr. Chairman, I make a motion that we approve the November 1, 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:** Mrs. Ball?

**Mrs. Ball:** Approve.

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

**Mr. Knisley:** Approve.

**Final Vote: 4/0/0 Approve November 1, 2011, Planning & Zoning Minutes**

**Mr. Knisley:** Thank you. Before you is the report for the November activity. Please look it over, and if you have any questions or comments please do so at this time. Being none, I will proceed. This is a meeting of our regular agenda with full discussion; therefore, the reports will be included as part of the minutes of this meeting. We will be recording the meeting, so if you are called to the podium please state and spell your name and speak loud and clear. The cases approved or disapproved will be forwarded to the County Commission on December 19th at 1:30 pm in this room. This evening we have seven cases so we will try to proceed as quickly as possible. The first case for this evening is **Case No.: Dec. 11-119RZ/P-** A request for rezoning from Agricultural (AG) to Residential Urban District (R-1B) and preliminary plat approval of The McKee Place a proposed subdivision located at 26817 NE 124<sup>th</sup> Street. The applicant is Lori Cazzell, representing Jane O'Dell.

**Mrs. Viviano:** Summarized the staff report. Staff report Dec. 11-119 RZ/P dated Nov. 28, 2011, and part of the case file is hereby made as an attachment to the minutes. The applicant is here if you have any questions.

**Mr. Knisley:** Thank you. Can the applicant come up to the podium, please?

**Lori Cazzell:** Lori Cazzell, 15511 Cameron Road, Excelsior Springs, MO.

**Mr. Knisley:** Ms. Cazzell do you have any comments or questions about the staff report?

**Lori Cazzell:** I do not. I had someone out today to look at the septic, and he has okayed it. He sent information to Paul, and he will pass that along. I talked to the surveyor today, and he is changing the address to 124<sup>th</sup> Street.

**Mr. Knisley:** Okay. Are there any comments or question for the applicant? Are there any comments from the public? Being none, can we have a motion on the rezoning from AG to R-1B?

**Mrs. Ball:** Mr. Chairman, I make a motion that we approve the rezoning from AG to R-1B be approved for Case No. 11-119 RZ/P.

**Mr. Knisley:** Thank you. Do I have a second?

**Mr. Edwards:** Seconded.

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

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

**Mr. Walters:** Approve.

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

**Mr. Edwards:** Approve.

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

**Mrs. Ball:** Approve.

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

**Mr. Knisley:** Approve.

**Final Vote:**                      4/0/0    Approve                      **Dec. 11-119 Rezoning  
AG to R-1B  
The McKee Place**

**Mr. Knisley:** We will proceed with the Preliminary Plat approval for The McKee Place. Are there any comments from the public? Are there any comments from the Commission? Being none, can we have a motion to approve the Preliminary Plat for The McKee Place?

**Mrs. Ball:** Mr. Chairman, I make a motion that we approve the Preliminary Plat of The McKee Place with two (2) conditions.

**Mr. Edwards:** Seconded.

**Mr. Knisley:** Thank you. 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:** Mrs. Ball?

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

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

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

**Final Vote:**                    **4/0/0    Approve**                    **Dec. 11-119 Preliminary Plat**  
**The McKee Place**  
**With five (5) conditions**

**Mr. Knisley:** Our next case, **Case No.: Dec. 11-120RZ/P-** A request for rezoning from Agricultural (AG) to Residential Rural Density District (R-1) for only proposed Lot 1 and preliminary plat approval of Western Way and Co. a proposed subdivision located at 13606 Henson Road. The applicants are William and Connie Green. Staff report, please.

**Mrs. Viviano:** Summarized the staff report. Staff report Dec. 11-120 RZ/P dated Nov. 28, 2011, and part of the case file is hereby made as an attachment to the minutes. The applicant is here if you have any questions.

**Mr. Knisley:** Can the applicants come up to the podium please?

**Bill and Connie Green:** Bill and Connie Green, 13606 Henson Road, Holt, MO.

**Mr. Knisley:** Do you have any comments or questions regarding the staff report?

**Connie Green:** Everything seems okay. We have worked closely with Planning and Zoning and tried to meet all the requirements. As far as we are concerned, everything is good.

**Mr. Knisley:** Good. I hope it all works out. Are there any comments from the Commission? Are there any comments from the public? Being none, can I have a motion to approve the rezoning from AG to R-1 for LOT 1 only?

**Mrs. Ball:** Mr. Chairman, I move that we approve the rezoning from Agricultural (AG) to Residential Rural Density District (R-1) for only proposed Lot 1 of Western Way and Co.

**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:** Mrs. Ball?

**Mrs. Ball:** Approve.

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

**Mr. Knisley:** Approve.

**Final Vote:**                    **4/0/0    Approve**                    **Dec. 11-120 Rezoning**  
**AG to R-1 (LOT 1 only)**  
**Western Way and Co.**

**Mr. Knisley:** Now we will proceed with the Preliminary Plat approval. Are there any comments from the Commission? Are there any comments from the public? Being none, do I have a motion to approve the Preliminary Plat of Western Way and Co.?

**Mrs. Ball:** Mr. Chairman, I make a motion that we approve the Preliminary Plat of Western Way and Co. with five (5) conditions.

**Mr. Edwards:** Seconded.

**Mr. Knisley:** Thank you. There has been a motion and a second to approve the Preliminary Plat of Western Way and Co. with five (5) conditions. Vote, please.

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

**Mr. Walters:** Approve with 5 conditions.

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

**Mr. Edwards:** Approve with 5 conditions.

**Mr. Tapp:** Mrs. Ball?  
**Mrs. Ball:** Approve with 5 conditions.  
**Mr. Tapp:** Mr. Knisley?  
**Mr. Knisley:** Approve with 5 conditions.

**Final Vote:**                    **4/0/0    Approve**                    **Dec. 11-120 Preliminary Plat**  
**Western Way and Co.**  
**With five (5) conditions**

**Mr. Knisley:** The next case is **Case No.: Dec. 11-121F** - A request for Final Plat approval of Western Way and Co. a proposed subdivision located at 13606 Henson Road. The applicants are William and Connie Green. Staff report, please.  
**Mrs. Viviano:** Summarized the staff report. Staff report Dec. 11-121 F dated Nov. 28, 2011, and part of the case file is hereby made as an attachment to the minutes. The applicant is here if you have any questions.  
**Mr. Knisley:** Are there any comments from the Commission? Are there any comments from the public? Being none, can I have a motion to approve the Final Plat for Western Way and Co.?  
**Mrs. Ball:** Mr. Chairman, I make a motion that we approve the Final Plat of Western Way and Co. with five (5) conditions.  
**Mr. Edwards:** Seconded.  
**Mr. Knisley:** Thank you. There has been a motion and a second to approve the Final Plat of Western Way and Co. with five (5) conditions. Vote, please.  
**Mr. Tapp:** Mr. Walters?  
**Mr. Walters:** Approve with 5 conditions.  
**Mr. Tapp:** Mr. Edwards?  
**Mr. Edwards:** Approve with 5 conditions.  
**Mr. Tapp:** Mrs. Ball?  
**Mrs. Ball:** Approve with 5 conditions.  
**Mr. Tapp:** Mr. Knisley?  
**Mr. Knisley:** Approve with 5 conditions.

**Final Vote:**                    **4/0/0    Approve**                    **Dec. 11-121 Final Plat**  
**Western Way and Co.**  
**With five (5) conditions**

**Mr. Knisley:** The next case is **Case No.: Dec. 11-122RZ**- A request for rezoning approval from Residential Rural Density District (R-1) to Agricultural (AG) for property located at approximately 12822 NE 144<sup>th</sup> Street. The applicants are Jeremy and Angela Walters. Staff report, please.  
**Mrs. Viviano:** Summarized the staff report. Staff report Dec. 11-122 RZ dated Nov. 28, 2011, and part of the case file is hereby made as an attachment to the minutes. The applicant is here if you have any questions.  
**Mr. Knisley:** Thank you. Can you come up to the podium please?  
**Jeremy Walters:** Jeremy Walters, 12822 NE 144<sup>th</sup> Street.  
**Mr. Knisley:** Thank you. Mr. Walters do you have any comments or questions regarding the staff report?  
**Jeremy Walters:** No. Everything looks good.  
**Mr. Knisley:** Okay. Are there any comments from the Commission? Are there any comments from the public? Being none, can we have a motion for the rezoning from R-1 to AG?  
**Mrs. Ball:** Mr. Chairman, I make a motion that we approve the rezoning from Residential Rural Density District (R-1) to Agricultural (AG) for case No. Dec. 11-122 RZ.  
**Mr. Edwards:** Seconded.  
**Mr. Knisley:** Thank you. There has been a motion to approve the rezoning and a second. Vote, please.  
**Mr. Tapp:** Mr. Walters?

**Mr. Walters:** Approve.  
**Mr. Tapp:** Mr. Edwards?  
**Mr. Edwards:** Approve.  
**Mr. Tapp:** Mrs. Ball?  
**Mrs. Ball:** Approve.  
**Mr. Tapp:** Mr. Knisley?  
**Mr. Knisley:** Approve.

**Final Vote:**                    **4/0/0    Approve            Dec. 11-122 Rezoning**  
**R-1 to AG**  
**12822 NE 144<sup>th</sup> St.**

**Mr. Knisley:** Now we will proceed to **Case No.: Dec. 11-123 CUP**– A request for a conditional use permit to erect a commercial communication tower, specifically being a high speed wireless service antenna, on currently zoned Residential Rural District (R-1), proposed to be zoned Agricultural (AG), the property is located at 12822 NE 144<sup>th</sup> Street. The applicants are Jeremy and Angela Walters.

**Mrs. Viviano:** Summarized the staff report. Staff report Dec. 11-123 CUP dated Nov. 28, 2011, and part of the case file is hereby made as an attachment to the minutes. The applicant is here if you have any questions.

**Mr. Knisley:** Thank you. Can you come up to the podium please?

**Tony Holland:** Tony Holland, Isotech, Inc., 501 Hwy. 169, Trimble, MO. I represent construction and operation of the tower for Jeremy Walters.

**Mr. Knisley:** Do you have any comments or questions regarding the staff report?

**Tony Holland:** The staff report is just fine.

**Mr. Knisley:** Are there any comments from the Commission?

**Mrs. Ball:** I don't know what an anti-climbing device is.

**Mr. Tapp:** Basically, what an anti-climbing device is some type of structure at the lower portion of the tower that prevents people from climbing up on it. In this case, they are solid plates so people cannot grab the lattice of the tower so it cannot be climbed.

**Mrs. Ball:** It is 6 feet tall?

**Tony Holland:** Ours will be about 10 feet tall.

**Mrs. Ball:** Oh, good.

**Tony Holland:** It is a restrictive device to deter someone from climbing.

**Mr. Knisley:** The tower is standing out by itself? It is not close to a building?

**Tony Holland:** No, the tower will be close to a building.

**Mr. Knisley:** Is it close enough that someone could climb on the building and then climb the tower? That is our main concern. I think we need to address that.

**Mr. Tapp:** We had the same situation in a previous request, and the anti-climbing device was adequate for that one.

**Mr. Knisley:** Even if you can get on a 6-8 foot roof.....you can get up above the climbing device.

**Mrs. Ball:** How far away is it from the building?

**Tony Holland:** About 2 feet away from the building.

**Mr. Tapp:** It is just like the Morton tower on CC Hwy. It is a similar situation where it is bracketed to the building.

**Tony Holland:** The property is gated and is not really accessible by the public. Only people invited in really have access to it.

**Mr. Knisley:** That will not keep someone from getting on it if they want to. This was one of my concerns last time. I don't remember what we did. I thought we made it go up a little higher. Can you make it higher?

**Tony Holland:** We can.

**Mr. Tapp:** Mr. Chairman, if you want to add a condition that the anti-climbing device be.....how tall should it be Tony to go above or equal to the peak?

**Tony Holland:** It should be at least 6 feet taller.

**Mr. Tapp:** Taller than the building?

**Tony Holland:** Yes.

**Mr. Knisley:** Taller than the peak of the building. If you can put that in there then we will leave it up to them to tell us how tall the peak of the building is.

**Mr. Tapp:** Conditions number seven (7) addresses the anti-climbing device. Right now it states, “installation of an anti-climbing device must go at least 6 feet up the entire antenna assembly from ground elevation”. I would strike the language after 6 feet and say “6 feet above the roof peak of the accessory building. So it would read, “installation of an anti-climbing device go to at least 6 feet above the peak roof elevation”.

**Mrs. Ball:** How tall is the structure?

**Tony Holland:** 20 feet.

**Mrs. Ball:** So it will be 26 feet. Okay.

**Mr. Knisley:** How many other additional users can you put on this tower?

**Tony Holland:** Because of the real lack of density of rural communities; on the average we usually have 40-60 customers who can actually get service from that tower. Because we are not like a cell phone company, and we don't have big reach; therefore, it is a very small amount.

**Mr. Knisley:** They don't have any problem.

**Tony Holland:** We have 31 towers up in four counties, and we manage our signal strengths and our networks to have good coverage but not interfere with each other.

**Mrs. Ball:** They only go out 2 miles?

**Tony Holland:** Actually, the signal will go out further than 2 miles, but our primary sweet zone is about 2 miles. Because we are limited by terrain.....if we had a person that was on a hill about 20 miles away then that signal might be useful for them but primarily it is about 2 miles.

**Mr. Knisley:** Well, there is a need for them. I remember when you first came in here.

**Tony Holland:** We didn't have hardly anything then. It has been a good project for us.

**Mr. Tapp:** Mr. Chairman, I would like to note that following the writing of this staff report we did receive a phone call from one of the neighbors to the west indicating concern about the appearance of the tower. My response is that there are a number of studies and reports that have come out debunking that myth that monopoles or slender towers such as this lattice tower.....typically over time blend into the background. Just like light poles, power poles, etc. There is some tree vegetation between subjected property and the neighbor that called. We would be more than happy to speak to him again. He was hoping to be here to represent their behave. That would be my response. I have not pulled specific studies or reports, but if the P&Z Commission does not feel comfortable approving this CUP, I can look into those studies. Through our professional organization, APA, there have been numerous studies that come to the same summarization that these towers blend in.

**Mr. Knisley:** They do. We have dealt with those questions in the past. We have had the towers out there for 7 years now, and we have not had any complaints.

**Mr. Tapp:** There is a clear distinction between 70' tall wifi tower and the equipment that is used for that versus a 300' tall cell tower. It is a different scale and look.

**Mr. Knisley:** I have no problem with that. Are there any other comments? Are there any questions or comments from the public?

**Diane Gardner:** Diane Gardner, 13018 NE 144<sup>th</sup> St., Kearney, MO. I had a couple of questions. We live directly behind the property. We have an easement down the side and live behind them. Is there a picture of this tower?

**Mr. Tapp:** Yes, we have some materials that the applicant has submitted.

**Diane Gardner:** My other question is that I am very familiar with the property, and I have been on it previously.....what side of the barn is it going to be on?

**Mr. Tapp:** On the west side.

**Diane Gardner:** Okay. I didn't understand something about a bonding requirement and you recommended no bonding requirement. What was the bonding requirement for, and why was it recommended not to be there?



**Mr. Knisley:** Are there any comments or questions to the representative? Being none, is there a motion for the rezoning?

**Mrs. Ball:** Mr. Chairman, I would like to make a motion that we approve Dec. 11-124RZ request for rezoning approval from Agricultural (AG) and Residential Urban District (R-1B) to Community Services District (C-3).

**Mr. Edwards:** Seconded.

**Mr. Knisley:** Thank you. 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:** Mrs. Ball?

**Mrs. Ball:** Approve.

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

**Mr. Knisley:** Approve.

<b>Final Vote:</b>	<b>4/0/0</b>	<b>Approve</b>	<b>Dec. 11-124 Rezoning AG/R-1B to C-3 10816 A Hwy.</b>
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**Mr. Knisley:** Now we will go to our last case **Case No.: Oct. 11-115A**–Public Hearing for approval of revisions to the 2003 Clay County Land Development Code (LDC) as revised, an ordinance encompassing the zoning and subdivision of land in unincorporated Clay County. The applicant is Clay County.

**Mr. Tapp:** Mr. Chairman, following the last November regularly scheduled P&Z Commission meeting we had a work session on November 29<sup>th</sup> and had a chance to go through in fine detail every amendment or close to it. The P&Z Commissioners had a few questions, and we clarified them, and we also have a few updates from the November meeting that we would like to include as part as your recommendation for approval if that is your choice. The two additions are highlighted in a memo dated December 6<sup>th</sup> that was handed out tonight. The first update is in Chapter 3 inside the packet of the minutes it is on page 3-35. In the opening statement of our Conditional Use Permits in the review procedures it talks about how CUP’s are non-transferable so if someone has a B&B and sells the property then it is not automatically transferred to the new property owner. However, that does not apply to commercial and non-commercial towers. The second update in discussing the item with our Highway Administrator, Karl Walters, it is dealing with roadway access and PUD overlays request. It is talking about vehicular roadway access and a trigger that would require them to have two access points on to public roadways. In the old code it was 30,000 sq. feet for any non-residential requests but Karl and I feel that might be bit low in today standards for commercial buildings so we decided to stick with the 5 or 50 increment and go 50,000 sq. feet as the trigger where it was 30,000 sq. feet. Those are the two updates, and I will be happy to answer any further questions that the Board may have on the proposed wide spread amendments to the LDC.

**Mr. Knisley:** I don’t have any questions. Are these the only changes?

**Mr. Tapp:** The only changes since our last meeting.

**Mr. Knisley:** I think it is pretty well fine. I went through it before and then again to get updated. I was wondering how many changes you had at the work session.

**Mr. Tapp:** Not too many.

**Mr. Knisley:** Is everyone comfortable with the changes and everything. You guys worked hard on this.

**Mr. Tapp:** I would just like to say thank you and my staff. Without them this would not have happen. I am not going to take credit for this. Debbie and Judi deserve all the credit in the world. We worked as a team. It is amazing what can be accomplished when you work as a team.....Karl’s and Greg’s input as well. We have had numerous people helping out. I would like to thank the P&Z Commission for their forth right thinking.

**Mr. Knisley:** This is a lot a work and the nice thing about it is you have a lot of material you can get from other counties that you can draw from.

**Mr. Tapp:** This is not the end mind you. We still need to update our sign code and other things. There will be a second wave, but not nearly as big as this one. The LDC is always evolving. Debbie just made a note.....Commissioners recall that we are recommending renaming the LDC to the year that it is passed that is how many amendments that we have. Do keep that in mind. You want your Land Development Code to be a later year than your Comprehensive Plan. That is the general guidance.

**Mr. Knisley:** All right. I think we will recommend the passage of the amendments.

**Mr. Tapp:** I do need a formal motion.

**Mr. Knisley:** Do I have a motion to approve the updated LDC amendments dated November 29, 2011?

**Mrs. Ball:** Mr. Chairman, I move that we approve the 2003 LDC revised amendments.

**Mr. Edwards:** Seconded.

**Mr. Knisley:** Thank you. 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:** Mrs. Ball?

**Mrs. Ball:** Approve.

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

**Mr. Knisley:** Approve.

**Final Vote:                    4/0/0    Approve                    Oct. 11-115A – 2003 LDC amendments**

**Mr. Knisley:** Now we will go on to the Director's comments.

**Mr. Tapp:** Well, I would just like to remind the P&Z Commissioners that we will have our holiday party on December 13<sup>th</sup>. I encourage you all to come because it is free food and fun with staff. Also note that we have had a great year; 2009 was probably the low and then 2010 was better and 2011 was better then 2010.....let's just keep on going and get out of this recession.

**Mr. Knisley:** Hopefully, we will have another better year.

**Mr. Tapp:** We probably will. Thank you.

**Mr. Knisley:** Are there any other comments?

**Mrs. Ball:** I really liked the work session that we had. I not only learned things but it felt nice to be with the rest of the group out of here.

**Mr. Knisley:** Being no other further business, do I have a motion to adjourn?

**All:** So moved and second.

**All:** Aye.

**Adjourned**

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*Chairman, Planning & Zoning Commission*

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*Secretary, Planning & Zoning Commission*

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*Recording Secretary*