

# City of Independence

## Planning Commission Agenda

January 29, 2019

6:00 PM, Council Chambers, Independence City Hall

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*City Code Chapter 14 and the staff reports are entered into the record.*

### I. CALL TO ORDER

### II. ROLL CALL

### III. CONTINUED PUBLIC HEARING

#### A. Case #18-100-15 – Rezoning – 19301 E. Salisbury Road

Stuart and Nita Sue Dietz request to rezone the property at 19301 E. Salisbury Road from R-6 (Single Family Residential) to R-A (Residential-Agricultural).

### IV. PUBLIC HEARING

#### A. Case #19-100-02 – Rezoning – 2116 S. Sterling Avenue

Chao Vang requests to rezone the property at 2116 S. Sterling Avenue from O-1 (Office- Residential), to R-6 (Single-Family Residential).

*The applicant has requested the above application be continued to the February 12 meeting.*

### V. APPROVAL OF MINUTES

January 8, 2019

### VI. ROUNDTABLE

### VII. ADJOURNMENT

# *City of Independence*

## AGENDA ITEM COVER SHEET

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### **Agenda Title:**

#### **Case #18-100-15 – Rezoning – 19301 E. Salisbury Road**

Stuart and Nita Sue Dietz request to rezone the property at 19301 E. Salisbury Road from R-6 (Single Family Residential) to R-A (Residential-Agricultural).

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**Department:**

**Contact Person:**

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### **REVIEWERS:**

Planning Commission

Approved

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**Council Action:**

**Council Action:**

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### **ATTACHMENTS:**

- ▣ Staff Report
- ▣ Application
- ▣ Letter from Applicant

# City of Independence

## Community Development Department

January 29, 2019

**TO:** Planning Commission  
**PREPARED BY:** Community Development  
**RE:** Case #18-100-15 – Rezoning – 19301 E. Salisbury Road

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### **PROJECT DESCRIPTION**

Stuart & Nita Dietz requests to rezone the property at 19301 E. Salisbury Road from R-6 (Single-Family Residential) to R-A (Residential-Agricultural).

### **RECOMMENDATION**

Staff recommends that this rezoning case ***NOT BE APPROVED***.

### **PROPERTY INFORMATION**

**Owner and Applicant:** Stuart and Nita Dietz

#### **Comprehensive**

**Plan Classification:** Residential Neighborhood

**Current Zoning:** R-6 (Single-Family Residential)

**Proposed Zoning:** R-A (Residential – Agricultural)

**Site Acreage:** 4.049-acres

**Current Use:** large lot residence

**Proposed Use:** large lot residence and bee keeping operation

#### **Surrounding Zoning and Land Use**

**North:** R-6...Farview Heights addition

**South:** R-6...large lot residence

**East:** R-6...large lot residences

**West:** R-6...large lot residences

**Thoroughfare Plan:** E. Salisbury Road = minor arterial

### **BACKGROUND**

The applicants, Stuart and Nita Dietz, own 19301 E. Salisbury Road, a 4.049-acre tract with a residence where they had engaged in a bee keeping and product sales operation without the proper zoning. At the August 28, 2018 Planning Commission meeting, after hearing testimony from both

the supporters and the opposition to the rezoning, the Commission had staff research how other cities address bee keeping in residential districts and propose an ordinance. The proposed ordinance was considered by the Planning Commission on October 23, 2018 with the City Council approving on November 19, 2018. At the October 23<sup>rd</sup> Planning Commission meeting, the applicant had requested a continuance of their rezoning to January 29, 2019 to allow the UDO amendment to be considered.

In December 2018, the applicants' decided to proceed with the rezoning application so they can pasture five small animals (with electric or barbed wired fencing) and provide uncut wildflower fields for their animals and bee keeping operation. Further, the applicants' feel that an R-A zoning classification would be a benefit for the natural environment and local wildlife.

Staff believes the recently created ordinance (for which this case was the catalyst) addressed the applicant's desire to continue a bee keeping operation that had not had the proper zoning in place. According to comments made to staff by the applicant, the desire to move ahead with the rezoning request, rather than withdrawing the case, stems from a desire to avoid code enforcement actions concerning weeds generated from neighbors' complaints. Rezoning the property to R-A would permit the "pasture/wildflower" area to grow to a height greater than 12 inches when more than 25 feet in from the property line and would allow the applicant to have electric and barbed wire fences and operate a produce stand in close proximity to single family residences.

Staff believes, given the proximity to other single family residences, farm activities like barbed wire fencing, tall grass pastures, livestock and produce stands do not belong in residential neighborhoods, and particularly across from an existing single family subdivision.

## **ANALYSIS**

**Current/Proposed Zoning:** The R-6 zoning classification allows for single-family dwellings and various other uses (cemeteries, schools, government facilities and some agricultural activities). While R-A zoning permits single-family uses and other civic and governmental uses as with the R-6 classification, it also permits the full array of agriculture activities.

**Comprehensive Plan:** The City's new Comprehensive Plan, Image Independence, designates this site for *Residential Neighborhoods*.

**Historic and Archeological Sites:** There are no apparent historic issues with this property.

**Review Criteria:** Recommendations and decisions on rezoning applications must be based on consideration of all of the following criteria:

1. Conformance of the requested zoning with the Comprehensive Plan – *The new Imagine Independence plan envisions Residential Neighborhoods for this site.*
2. Conformance of the requested zoning with any adopted neighborhood or sub-area plans in which the property is located or abuts – *There are no sub-area plans for this site.*
3. The compatibility of the proposed zoning with the zoning and use of nearby property, including any overlay zoning. – *This would be the only R-A zoning along Salisbury Road. The property*

*south of Salisbury is developed as large lot residences that are zoned R-6 while the area north of Salisbury is developed as traditional single family residential.*

4. The compatibility of the proposed zoning and allowed uses with the character of the neighborhood – *The property has been used under the current R-6 zoning since the house was built. Rezoning only this lot would change the character of the area.*
5. The suitability of the subject property for the uses to which it has been restricted under the existing zoning regulations – *This property is suitable for a residential use similar to other adjacent and nearby large lot residences.*
6. The length of time the subject property has remained vacant as zoned – *The property has had a single-family residence for many years.*
7. The extent to which approving the rezoning will detrimentally affect nearby properties – *If zoned to R-A, the proposed zoning not would be compatible with adjacent single-family residences.*
8. The gain, if any, to the public health, safety and welfare due to denial of the application, as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application – *If the rezoning is denied, the raising on livestock on the property would be limited and interior of grassy fields would need to be mowed.*

#### **EXHIBITS**

1. Zoning Plat
2. Applicant letter
3. List of surrounding property owners

#### **PUBLIC NOTICE**

Letters mailed to adjoining property owners – July 19, 2018  
Public notice published in Independence Examiner – August 9, 2018  
Sign was posted on property

Vicinity Map



# Rezoning

18-100-15

## City of Independence, Missouri

Property Location/Address: 19301 E. Salisbury Rd, Independence, MO 64056

From District To District \_\_\_\_\_ Site Acreage \_\_\_\_\_

From :R-6 RES 6 UNITS PER ACRE To: R-A (Agricultural)

Legal Description (Provide electronic copy if description is metes and bounds):

S SEC-32 TWP-50 RNG-31,PT OF NE 1/4 DAF: BEG C LI SAL,ISBURY RD & INTERSEC E LI NE,1/4 SEC-32 TH N 89 DEG W ALG S,D C LI 707.04' TH S 40' TO PT,ON S ROW LI SALISBURY RD TRU P,OB TH S 647.97' TH N 89 DEG W, See also EXHIBIT A attached

### APPLICANT (DEVELOPER):

Name Stuart A. and Nita Sue Dietz

Address 19301 E. Salisbury Rd

City Independence State MO Zip 64056

Phone \_\_\_\_\_ Cell (785) 969-6110 E-Mail stuartadietz@netscape.net

Fax \_\_\_\_\_

### PROPERTY OWNER:

Name Stuart A. and Nita Sue Dietz

Address 19301 E. Salisbury Rd

City Independence State MO Zip 64056

Phone \_\_\_\_\_ Cell (785) 969-6110 E-Mail stuartadietz@netscape.net

Fax \_\_\_\_\_

### SURVEYOR/ENGINEER:

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Cell \_\_\_\_\_

E-Mail \_\_\_\_\_ Fax \_\_\_\_\_

### AUTHORIZED OWNERS REPRESENTATIVE:

Name Michael A. LeVota attorney at law

Address 400 NE Brocton Drive City Lee's Summit State MO Zip 64064

Phone 816-304-3282 Cell 816-304-3282 E-Mail mlevota@comcast.net Fax 816-373-0935

Stuart A. and Nita Sue Dietz  
Applicant's Signature

Stuart A. and Nita Sue Dietz  
Owner

Stuart and Nita Dietz would like to have the property at 19301 East Salisbury Road, Independence, MO 64056 zoned Residential Agricultural so that we can potentially use it for or have the following:

- electric or barbed wired fencing
- produce stand
- breed small animals
- provide wildflower fields or hay fields on part of the property

According to the Independence Comprehensive Plan it states that they want to “Create vibrant, safe neighborhoods that are walkable and offer diverse uses, services and housing options for all”. We feel that if the property is zoned agriculture it will be a benefit to the community by preserving the land for wildlife, beneficial insects and plants. The plan also states that it wants to “protect existing neighborhoods with a strong sense of community and connectivity that welcome residents of all ages, incomes and cultures, Independence values and encourages the preservation of safe, secure, quiet neighborhoods in every part of the City with well-tended yards, and gardens and nearby parks. Walkable, mixed-use neighborhoods are favored.” Again by granting us agriculture zoning we help maintain a sense of “country” in the city. The plan also states that it wants to “Preserve the integrity of existing neighborhoods” by rezoning the property, the property will be preserved in its natural state for many to enjoy. Property on all three sides are being used as agricultural land with horses, cows and donkeys, within a few blocks land is being used for row crops and hay fields. The plan states that it wants to “conserve land”. Our desire is to conserve the land in its most natural state.

Finally, the plan states that “The Agricultural land use category aims to retain agricultural character and support farmers who wish to maintain and expand agricultural activities as the primary use.” Our desire when we purchased the property was to maintain the land in its most natural state while being able to enjoy a very small piece of the country right in the city. Thank you for considering our request.



# City of Independence

## AGENDA ITEM COVER SHEET

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**Agenda Title:**

**Case #19-100-02 – Rezoning – 2116 S. Sterling Avenue**

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**Department:**

**Contact Person:**

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**REVIEWERS:**

Planning Commission

Approved

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**Council Action:**

**Council Action:**

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# *City of Independence*

## AGENDA ITEM COVER SHEET

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**Agenda Title:**

January 8, 2019

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**Department:**

**Contact Person:**

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**REVIEWERS:**

Planning Commission

Approved

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**Council Action:**

**Council Action:**

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**ATTACHMENTS:**

- ▣ Draft PC Minutes

MINUTES  
INDEPENDENCE CITY PLANNING COMMISSION  
January 8, 2019

MEMBERS PRESENT

Eric Ashbaugh, Chair  
Tina Read  
Virginia Ferguson  
John Goldesberry  
Bill Preston  
Heather Wiley

STAFF PRESENT

Tom Scannell – Com Dev Director  
Brian Harker – Planner  
Mitch Langford – City Prosecutor  
Kati Horner – City Engineer  
Stuart Borders – Senior Planner

A meeting of the Independence City Planning Commission was held at 6:00 p.m. on January 8, 2019, in the Independence City Hall Council Chambers (lower level, north entrance), 111 E. Maple Avenue in Independence, Missouri. The meeting was called to order.

*Commissioner Preston made a motion for Case 19-810-01 to be moved to the end of the Public Hearings part of the agenda. Commissioner Wiley seconded the motion. The motion was approved by a unanimous voice vote.*

*Commissioner Preston made a motion to allow speakers three minutes to speak, due to the number of people at the meeting. Commissioner Read seconded the motion. The motion was approved by a unanimous voice vote.*

PUBLIC HEARINGS

**1. Case 19-200-01 – Special Use Permit – 3701 S. Noland Road**

**Staff Presentation**

Stuart Borders presented the case. Mr. Borders presented the Commission with a vicinity map, noting the surrounding area and surrounding zoning. Mr. Borders presented the Commission with an aerial map showing the area and explaining the surrounding uses. Mr. Borders stated staff recommends several conditions including the addition of an ADA parking spot, landscaping and façade improvements.

**Applicant Comments**

Tom Clemons, representing Avis Rent-A-Car, would like to use this property for car rentals. Mr. Clemons stated the applicant is okay with the conditions presented by the City.

Commissioner Preston asked where the vehicles would be parked. Mr. Clemons stated there would only be six to eight vehicles on the property at a time. He stated there is adequate parking for those vehicles. Chairman Ashbaugh asked Mr. Borders how many parking spots could fit in the lot. Mr. Borders stated he believes there would be room for 12 parking spots, which would include the two garage bays.

Brad Dobesh, Avis Rent-A-Car District Manager, 723 London Drive, stated there will be one operator and one or two employees. He stated Avis monitors the fleet and can move the fleet if parking becomes an issue.

**Public Comments**

No public comments.

**Motion**

Commissioner Read made a motion to approve Case 18-200-01 – Special Use Permit – 3701 S. Noland Road, as presented with conditions. Commissioner Ferguson seconded the motion. The motion passed with six affirmative votes.

**2. *Case 19-100-01 – Rezoning – 16200 E. US 24 Highway***

**Staff Presentation**

Brian Harker presented the case. Mr. Harker presented the Commission with a vicinity map, noting the surrounding area and surrounding zoning. Mr. Harker presented the Commission with an aerial map showing the area and explaining the surrounding uses. Mr. Harker stated staff recommends approval of the rezoning.

**Applicant Comments**

Kyle Carver, 3000 S. Jackson Drive, stated Ronson Machine and Manufacturing was founded in the late 1970s. He stated the business has continued to grow since 1989 and the Jackson Drive location is no longer large enough for their operation. He said they have an additional location in the caves, but they would like to see Ronson Machine and Manufacturing under one roof. He stated lasers are used for cutting the sheet metal and it does not create a lot of noise. Welding and grinding are the primary sources of noise, but not enough that it requires ear protection. Mr. Carver said they do not create fumes or chemicals of any kind. He stated there will be some truck traffic created, but that trucks will be instructed to use the outer road. Mr. Carver stated Ronson supports the local community and would like to stay in Independence.

Howard Levy, 200 S Brad St, Philadelphia, PA, the owner of the property, stated they knew K-Mart was going to go under. Mr. Levy stated they contacted numerous businesses in several industries and were unable to find tenants that were interested in this site.

Doug Goodwin, 1909 SW Rock Creek Ct, Blue Springs, stated he has worked for Ronson for eleven years. He stated Ronson is involved in the community and they want to be good neighbors for the citizens of Independence.

Commissioner Ferguson asked how many employees they have. Mr. Carver stated they will move all 80 employees to this location and have already added two new employees this year.

Chairman Ashbaugh asked if they would be making landscaping improvements. Mr. Carver stated they have agreed to the City's requirements.

### **Public Comments**

Chris McCreary, President of United Consumers Credit Union, 16300 E. US 24 Highway, stated he is concerned that the rezoning may decrease their property value. He also expressed concern about an increase of traffic in the area.

David Vogel, 403 W Colonel Drive, asked what the utility improvements are planned for that property.

Watha Hartsock, 18519 E Blackhawk Trail, stated she is concerned about the traffic at the intersection.

Rita Dodd, 510 W 39<sup>th</sup> St N, stated she is also concerned about the noise and traffic.

### **Applicant Comments**

Mr. Carver stated the Fire Department will require an additional fire hydrant, which Ronson will add. Electric improvements are necessary and they're still not sure if sewer improvements will be needed. Mr. Carver stated they plan to add fire sprinklers to the rest of the building, which will reduce the number of hydrants needed.

Mr. Carver stated the loudest of the operations will be in the northwest corner of the building, which will include the loading and unloading. There should not be a lot of noise produced. Mr. Goodwin stated they are currently located much closer to residential than what they would be at this new location and they have not had any noise complaints.

Kati Horner, City Engineer, stated Ronson has 80 to 90 employees which will not make an impact to the traffic at that intersection, especially compared to the traffic that a retailer would generate.

### **Motion**

Commissioner Read made a motion to approve Case 19-100-01 – Rezoning – 16200 E. US 24 Highway. Commissioner Ferguson seconded the motion. The motion passed with six affirmative votes.

### **3. Case 19-810-01 – PUD Preliminary Development Plan – 3206 N. Spring St** **Staff Presentation**

Brian Harker presented the case. Mr. Harker presented the Commission with a vicinity map, noting the surrounding area and surrounding zoning. He presented the Commission with an aerial map showing the area and explaining the surrounding uses. Mr. Harker stated staff recommends denial of this application for the following reasons:

- 1) The residential infill development standards of Section 14-505-06, intended to encourage infill development that is compatible with the physical character of the neighborhood in which the property is located, would not be met;
- 2) Section 14-501-10-B requires that no more than 40 percent of the front yard area in an R district may be paved or used for vehicle use;
- 3) The design and orientation of the project will create a traffic flow and parking problem along N. Pleasant Street and N. Spring Street;
- 4) The old storm and sanitary sewer systems in place in the area are operating near their limits;
- 5) The plat needs a detention tract separate from the individually owned lots planned for each residential structure;
- 6) The plan should include a high-intensity landscape buffer and screen at the northern edge of the project and more landscaping in the interior of the property;
- 7) The applicant has not provided covenants or indication of other provisions for the maintenance of the individual lots or a common tract.

#### **Applicant Comments**

Ryan Rader, 3206 N. Spring St, represents Isosceles Properties who owns the property. Isosceles Properties tried to find a church that would purchase the property but were unsuccessful. Mr. Rader stated he believes the design does match the neighborhood. He stated the design was picked because it was popular in Raymore and Lee's Summit. Mr. Rader said they will rent for \$1,000 a month, or sell for \$110,000. Isosceles was concerned building single story units, would bring in lower income residents. Mr. Rader stated they have created an alternate plan which would have at least 40 percent of front yard area. He stated the old storm and sanitary sewer systems were not a concern when they first met with the City. Mr. Rader said the detention requirement was not mentioned until recently, so they have an alternate plan that can provide the detention.

Commissioner Preston asked if the area and neighborhood was surveyed to see if they would be in favor of a project like this. Mr. Rader said they did not do a feasibility study.

Shawn Caton, 6320 Marion Ave, stated they met with City staff and looked at how many units could be built on this property. He stated they then made plans for half as many units.

Mr. Rader added the property is already zoned R-30 and is a Federal Opportunity Zone in Kentucky Hills based on the census. Commissioner Read briefly stated what a Federal Opportunity Zone is, according to the IRS website.

### **Public Comments**

Seth Walker, 3502 N. Pleasant St, stated if he would have known about this development, he would not have bought his house. He stated he was told this development would be Section 8 Housing, which concerns him. Mr. Walker stated there are also sewage and parking issues in the neighborhood.

Chairman Ashbaugh asked if this development would be Section 8 Housing. Mr. Borders stated Section 8 is a voucher program, and the plans didn't specify rental or owner-occupied.

Robin Bruckner, 309 W. 28<sup>th</sup> Street, stated Mill Creek Elementary School is already at capacity. She stated the houses in that area are worth between \$60,000 and \$90,000 and questioned the compatibility of the proposed project.

Candace Curry, 402 W. Marcia, stated she has lived in the neighborhood for three years. She stated it is a great neighborhood and does not want to see this development.

Deputy Superintendent Lance Stout, 201 N. Forest, stated the Independence School District is opposed to their development. He stated Mill Creek Elementary School is over capacity and they currently have to bus children to another school.

Director of Facilities Salum Stutzer, 201 N. Forest, stated there are no good pathways for traffic. The Independence School District is concerned about children walking in the area and the bus traffic in the area.

Kenny Jeffers, 303 W. Colonel Drive, stated he has lived in the area for nine years. Mr. Jeffers stated the property in question was supposed to be a community center. He would not like to see this development out his bay window. Mr. Jeffers would like to see single family houses built.

Clyde Clark, 3306 N. Delaware St, stated he purchased his house in 2017 and the rental next door has been a continuous issue. Mr. Clark doesn't feel this is going to be a good development and is concerned about an increase of rental properties in the neighborhood.

Vercenna Brown-Coody, 3609 N. Pleasant, stated she is new to this area. She stated the children play in the street and there are cars parked on both sides of the street. Ms. Brown-Coody stated she would like to see a park in that location instead. She stated she would like to see it stay a friendly neighborhood.

Paul Graham, 2912 McComas Lane, stated his family has lived in their house for 40 years and they love the neighborhood. Mr. Graham expressed concern that the applicant did not come to the neighbors before bringing this development forward.

Tracy Wheaton, 2421 N. Yocum Rd, stated the schools and sewers don't support multi-family housing in this neighborhood. She is concerned with traffic and parking.

Jana Evans, 3403 N. Delaware, stated she grew up in the neighborhood. Ms. Evans provided the Planning Commission petitions stating the neighbors do not want this development in their neighborhood. Ms. Evans stated in the original covenants from 1957, the lots should all be a club area and all other lots should be single family homes. She stated there should be a vote when changes are made, and the neighborhood would like a paper trail on when this changed. Ms. Evans stated this property was re-plated at one point and she would like to know how this happened. Ms. Evans stated she also has pictures of the flooding that happens at Pleasant and Colonel Drive.

Paula Frazee, 3201 N. Union St, stated she used to be a PTA member and she moved in the area in 1979. She stated the neighborhood is like a small village and this development would change the character of the neighborhood.

Evelyn Bray, 500 Colonel Dr, stated she agrees with others that have spoken in opposition of this development. She stated Isosceles Properties has been a bad neighbor so far and one of the trees grew into the street last year. Ms. Bray stated she lives right across the street and is worried because the development would be able to look into her house and would block the sunlight from her residence. Ms. Bray also expressed traffic, parking, sidewalk and sewer concerns.

Brant Whitebread, 507 Marcia, thanked the Planning Commission for listening to everyone tonight. Mr. Whitebread stated there is not enough space for parking and expressed traffic concerns.

Chairman Ashbaugh asked staff for clarification on what type of housing the application requested. Mr. Harker stated there would be 38 total units, include duplexes, up to an 8-plex.

David Vogel, 403 W. Colonel Dr, stated he is opposed to this project and works for Water Pollution Control. He stated he is very familiar with this area and the sanitary sewer is already overflowing when it rains. Mr. Vogel said he has seen the lower part of the property completely flooded. He stated there is a spring on this property and asked if there was a plan, because that water would flood the area. Mr. Vogel clarified there are raised ranches, but there are no two-story houses in this neighborhood.



Lori Wilson, 3608 N. Osage, stated the Opportunity Zone is just a tax incentive for the applicant. She stated the neighborhood would love to purchase the land.

Mary Kay Soetaert, 305 Colonel Dr, stated she agrees with the other speakers in opposition. She stated the way she understands it, this could be sold to seven different people, which would create a nightmare for the neighborhood. Ms. Soetaert stated it can already be difficult locating landlords, let alone seven of them.

Bob McDermott, 3006 N. Union, stated he has owned a moving company in Independence for many years. Mr. McDermott stated he is in opposition of this project. He stated the area has many sewer issues and this development would only compound those issues.

Raynette Hannah, 602 W 37<sup>th</sup> St, stated she is also opposed to this project. She stated she bought one of their condos in Lee's Summit and had a bad experience.

#### **Applicant Comments**

Mr. Rader stated there is a plan that has some green space. Mr. Rader expressed concerns that the petitions may have been signed under false pretenses that this is a Section 8 Housing development. He stated the retention pond would help with the flooding issue.

#### **Motion**

Commissioner Read made a motion to approve Case 18-100-18 – Rezoning – 2800 S. Little Blue Parkway and 20226 E. R. D. Mize Road, as presented. Commissioner Preston seconded the motion. The motion failed with zero affirmative votes.

#### **APPROVAL OF MINUTES**

The minutes of the December 11, 2018 Planning Commission meeting were approved.

#### **ADJOURNMENT**

*The meeting was adjourned at 8:03 p.m.*