JOHNSON COUNTY PLANNING COMMISSION
Johnson County Administration Building
Board of County Commissioners Hearing Room, Third Floor
111 South Cherry Street
Olathe, Kansas

MINUTES OF REGULAR MEETING
March 26, 2019
5:45 p.m.

A. CALL TO ORDER
A meeting of the Planning Commission of Johnson County, Kansas, was convened at 5:45 p.m. on Tuesday, March 26, 2019, and was called to order by Randy Hutchins, Chairman, with the following members present and participating; to-wit: Jim Neese, Dennis Bollin, Pete Oppermann, Mark Huggins, George Lund, Teri Atwell and Roxanne Morse. Chris Illif, Hank Deters, Roger Mason and Jason Meier were absent. Also present were Jay Leipzig, Paul Greeley and Karen Miller, Johnson County Planning Department. Leslie Davis served as secretary to the Planning Commission.

Chairman Hutchins: I'll call the meeting of the Johnson County Planning Commission for Tuesday, March 26, 2019, to order.

B. APPROVAL OF AGENDA
Chairman Hutchins: Any objections to the agenda as it has been presented to us? [None.]. Hearing no objection, it will be approved.

C. CONSIDER MINUTES OF PREVIOUS PLANNING COMMISSION MEETING
Chairman Hutchins: Are there any recommendations for changes or amendments to the minutes of the September 25, 2018, meeting?

Motion by Comm. Neese, second by Comm. Deter, to approve the minutes from the November 27, 2018, Planning Commission meeting. Motion passed unanimously.

D. PUBLIC COMMENTS
This is an opportunity for members of the public to address the Planning Commission on an item which does not appear on the agenda. Comments are limited to five (5) minutes.

[None]

E. DISCUSSION OF NONCONFORMING PARCELS
Mr. Leipzig: I want to introduce John Bartolac, who has been the Director of Records and Tax Administration Department since 2005, so he has quite a bit of experience in this position. Just a quick summary. At our September 2018 meeting, Cass Brinkman approached the Planning Commission about an issue he was having with an illegal parcel of his property at 17250 Edgerton Road. We had a little bit of discussion at that meeting, and then, our October meeting was cancelled. In November, we had additional discussion of illegal lots. That's when we talked about having Mr. Bartolac appear before the Planning Commission as an introduction to this topic. Our December meeting was cancelled, and our January meeting was cancelled. In February, we had
training. So, just to refresh your memory, we're getting back into it, and our goal this evening is for John to provide an overview in terms of what happens in our recording process, things they look at, things that they evaluate when they receive documents to be recorded. That's a general introduction of the topic, and we'll have further discussion, and hopefully recommendations coming out of this. I will turn it over to John.

Mr. Bartolac: Thank you, Jay. Good evening. Thank you for inviting me to this meeting. I'm the Director of Records and Tax Administration. In Johnson County, we are unique in that we have this position. In 2000, the Board of County Commissioners adopted a charter amendment, and in that charter amendment, there were changes in the structure of County government. I was the elected County Clerk. There was an elected County Clerk, elected Register of Deeds, and an elected County Treasurer. The charter changes those from elected to appointed positions. Then, the decision was made to combine the offices of County Clerk and Register of Deeds into one office. So, at the end of my term as County Clerk, I was appointed the director of this department, and that's when we combined the County Clerk and Register of Deeds offices into one.

Since that time, we have grown to be more than just those offices. We also manage the county call center. I'm responsible for archives and records managements. We are responsible for the Board of County Commissioners' agenda management process, and then, the tax roll itself.

What I wanted to discuss with you - and feel free to ask questions as we go along. The process of both the County Clerk and the ROD are under, the process for each of those departments is managed by state statute. So, the policies and procedures that we have to follow as we do our business are all mandated by statute. We don't get to determine how we do things. And if you have any familiarity with state statutes, there's not always a lot of consistency between one department and another department. Sometimes there are gaps, and sometimes there are times where we have to figure a way out so we can help each other and make things work more efficiently for county government and for the taxpayers.

The Register of Deeds office is actually a recording office. Documents are submitted to us for recording. We put them in an index, and then we track them according to the information on the document. We record deeds, mortgages, liens, assignments, releases - just about any document pertaining to land records. We also record other documents that the general public feels they want to have on record somewhere - death certificates, divorce decrees, wills, a lot of things that come in, which we record, as well. There is a fee charged for that that is also set by statute. The revenue from that goes to the county general fund.

When it comes to deeds, the statute requires that we look for four things on deeds. We have to have a grantee and a grantor, a legal description, original signatures, and a notary. If those four items are on a deed, we have to record that deed. Now, we do some due diligence in that we look, especially because we're a combined office with the County Clerk, we take that and look at the previous deed that was recorded to make sure that the person that said they are selling that property is the owner of that property. We also verify that against the real estate tax roll because that's the last billing record for that property. In situations where the name might not be the same, we will reject that document back to the submitter and tell them that that's not the correct name, or whatever. At that time, the submitter can make those changes and re-submit it, or they may tell us, "Go ahead and record it the way it is." And by statute, we have to do that. So, we sometimes have documents that are essentially worthless in the big scheme of things because they're not going to do anything. But the statute says if a person wants a document recorded, we have to record it. But we do all our due diligence to make sure that it's accurate and complete and does what it's intended to do.
After looking at the owner's situation, we will look at the legal description information and also verify it against the last deed of record, and against the tax roll. There are some differentiations that they come out with, legal description, and on the tax roll, the legal description also appears on your real estate tax bill, and due to constraints on that tax bill, sometimes that legal description is truncated or shortened. So, it might not match exactly, but we verify that it is the correct legal description. And then, as I said, we verify original signatures and the notary. If we find when we look at a legal description that the legal description doesn't match it exactly, then we map out the legal description to see exactly what it is that's being transferred. A majority of those cases result in a split of that parcel. For example, it might be all of Lot 1 less the south 25 feet, so we know Lot 1 is going to remain, but there's also going to be a new parcel that is just the south 25 feet of Lot 1. So, now we have two parcels on the tax roll. Does that make sense? Okay.

The other thing that we have to ensure when we look at these legal descriptions is that they completely go around and describe property. If there is a break or a route that's missing in the description, we can't accept that because it's not a complete legal description. Again, if we find an error on those, we notify the submitter and they are given the option to say to go ahead and record it. Not many do. I don't want you to think that we have all these documents that people say to record. In a majority of cases they want to know about it so they can make the correction and we can get the property information on there. But again, the statute says we have to record those.

Once the deed has been recorded and indexed and the entire process is complete, then it goes to the tax roll side of the office so we can make the necessary changes to the tax roll. If it's just a straight transfer where the legal is the same, we change ownership, add the new information, and verify everything else. We also verify against our mapping system. If there is a split, it goes into a queue. All this process is automated. So, it goes into a software application that has a queue, and it will show the original parcel, and it will show the legal description on the new deed, and we work through that and actually make the adjustment to the original parcel legal description and to the new description. Fortunately for Johnson County, the automated mapping process for land records is also in our office. So, the entire process that we go through is in Records and Tax Administration, so we don't have to worry about moving it from one department to another. This provides a checks and balance between our recorded index and our tax roll information. That way we know everything is the same. I've provided a handout for you to give you a visual. All properties in Johnson County are giving a unique property identification number. That property ID is a unique property identification number for every single property in Johnson County. All 240,000 parcels have their own unique parcel number. And there is information about that parcel in that parcel number. The "F" tells us that it is not within a city limit, it's in a township. The next six characters provide section, township and range information. Then there's a dash, and 0110 tells us which quarter-section of that section, and which split this is out that quarter section. So, (inaudible, coughing) part of the legal description just by that number. Again, that's unique to every property.

If you look down below, this is a current parcel, which means it's active on the tax roll. And then, it's going to be a split, there was a split on August 31, 2012. So, this is not the first split out of this quarter section. If you turn the page over, the fortunate thing, again, with the automated mapping, we have various images you can see. You can see the actual land and the parcel boundaries on the land. So, in the middle, on the lower part, there's 12356122. That shows that our original parcel was 1001, and that part of that will remain. But the new parcel is going to be 1044. So, in this transaction, there was a split. And you can see that on the left side there. The original was without the line through it, and the one with the line through it shows the split based on the deed that was submitted to us. This database of information, when we met in September with the Planning office, we made this available to the Planning office so that they would have access to every split that comes through our office as soon as it's entered into this system. So, Karen and
the other planners all have immediate access to whenever a new split is coming through RTA. Also, when we can, we also notify them by phone that we have a split coming into this township, look at the report. For us, that's probably the cleanest way for me to communicate to them. By statute, we can't refuse to do a split, so this way we are providing them as much information as quickly as possible so that they are aware when a split occurs in the unincorporated area, so that they can be ready for what might come along about those properties.

Comm. Neese: I have a question. So, I have a piece of property, I want to split it. I can bring it to you, it can be recorded, and it is recorded. And then, Planning finds out about. Is that right?

Mr. Bartolac: They're finding out as soon as we put it into the system.

Comm. Neese: When it's in the system, it's recorded.

Mr. Bartolac: Yes, sir.

Comm. Neese: I see.

Mr. Bartolac: Again, this is the process that's on the tax roll side. We create the new parcel in the database, and the next steps related to that are, whenever there is a change to a property boundary, that property has to be re-valued. So, this information is also available to the County Appraiser, and they will go in and re-value both of the properties, the parent property and the child property, because there was an adjustment to both. So, it's a pretty streamlined process in terms of everything flowing together in one system, and then, the key is making sure that we have access given to whoever needs to have it for their business purposes. This is separate from any of the permitting process that Planning would do. We don't do permits. That's not a statutory function of the Register of Deeds or the County Clerk. But again, we try to provide that information as quickly and efficiently as possible.

The process is a little different when it comes to new subdivision plats because those typically do go through Planning before that plat comes to us. The platting process is a much more detailed process than simply filing a deed. It requires a lot more work, a lot more paperwork, a lot more signatures. That process also goes through RTA, as well. We do that both for the unincorporated areas and the cities, as well.

Comm. Huggins: Mr. Bartolac, does the public have access to this information, to know...? Can they check any property to see if it's a split?

Mr. Bartolac: They don't have access to this application. They have access to the mapping after the split has gone through. While it's in process, no, it's an internal application. But once the mapping has been completed and the split is in the database, they have access to the County's website.

Comm. Huggins: And does that website define property that is split?

Mr. Bartolac: I don't believe it shows a before and after that it does here, so I don't believe it would indicate that that is a split.

Comm. Huggins: I look at the site on a daily basis. I'm with an engineering survey company. And I don't know that I've ever noticed a property where the information that was provided indicated that that property had been split.

Mr. Bartolac: I don't believe there's terminology that would make that distinction, that I'm aware of.

Comm. Huggins: So, say you split a piece of property and put it up for sale. How would that buyer or his bank find out if it's a split?
Mr. Bartolac: If the property is already there and they know the property, I don't know why they would need to know that it was split. It's already split. It's already zoned property.

Comm. Huggins: But it might not be...

Comm. Atwell: A legal split. It might not be a legal split.

Comm. Huggins: Well, either way. I mean, somebody puts a piece of ground up for sale and I want to go buy it, I mean, if I wanted to build something on it, I would want it to be a legal split. But the general public probably wouldn't. So, is there any way for the general public to understand that from the information available?

Mr. Bartolac: I think by the time it would be public, the split would be complete. When it's in that process, there's no way that I would know of that we could inform someone that a split is pending, or that is a split of the property is being considered.

Comm. Huggins: No, I'm saying, somebody files a deed to split their property, say, in 1990, that split, and those deeds are filed. And then in 2019, decides to sell one of those tracts. It's been split for 20 years. How would the purchaser find that out?

Comm. Allen: Check with the Planning Department?

Mr. Neese: Well, my question is, if it's legally split, would it make a difference?

[crosstalk]

Comm. Huggins: If it's legally split, it's probably not a big deal. But if it were an illegal split, how would a person who was trying to buy that find that out?

Mr. Bartolac: Let's define what you're calling an illegal split, maybe.

Comm. Huggins: Okay. I've got 20 acres, and I file a deed on 10 of it. Now I've got two 10-acre tracts there. Not a legal split. So, at some point, I decide to put a For Sale sign on it say 10 acres are for sale. Somebody comes along and buys that 10 acres. They're going to file a new deed on that. But at what point would it become obvious, or how would they know that that was an illegal split?

Ms. Miller: If I could jump in here. That type of question isn't anything that the RTA Department ever looks at. And when you say, "illegal split," I think you mean in conformance with the zoning and subdivision regulations, and eligible for a building permit.

Comm. Huggins: Well, honestly, I didn't even want to go that far yet. I mean, I'm just saying, if these records are available, if Planning is notified, I think it would be very beneficial if that were part of the AIMS system, also. There's information on that property when somebody looked it up, indicating to them that this property was split. And then, beyond that, what would we consider a legal split, an approved split, or a non-conforming property that couldn't be built on?

Mr. Bartolac: I think it's probably what Karen was saying. When we get a split, we never use the term "legal" or "illegal." It is a valid split as long as there is a valid legal description that separates those two. So, the legality really comes in when there are things you want to happen on that property that pertain to permitting or ordinances like that, which is out of our control.

Now, on the AIMS map, there is other pertinent information. I'm just not sure right now what all... I mean, there is a lot of information. Plus, they can always contact our office. We look up information for people all the time, asking about different properties. And then, if they say, "I'm thinking about building a structure here, I want to put a business here," we immediately refer them.
to either County Planning, or if it's in a city, to City Planning, because that's their purview, and they need to explain what the requirements are for that to even happen.


Ms. Miller: On the handout, it indicates total splits. Is that total splits from 2003? Is that when that started counting?

Mr. Bartolac: Whatever the date was that Planning told us.

Ms. Miller: Yes, it was 2003. So, the total split, it doesn't go back until, like, 1982, when our zoning and subdivision regulations started. So, these total splits only go back to 2003. Which is a little bit of an issue.

Comm. Neese: So, if I had 10 acres, and I came into you and I split them into 10 one-acre splits, you record that. If I did those four things with the 10 acres, you would record them...

Mr. Bartolac: In that case, we would require you to do a plat. If you have a 20-acre tract and you want to sell 10 acres, you would bring in a deed, and we would separate that into a 30-acre tract and a 10-acre tract. And they would be on two separate tax records.

Comm. Neese: Okay. But you're saying here that this guy split off this, and this person split this small... I'm trying to think is, is when somebody could split something up. And you allow it to be split if it met those four criteria. Not having to be platted. You see where I'm coming from on that? I know what I'm thinking but I'm not saying...

Mr. Leipzig: If you're splitting the property more than once it has to be platted. Is that correct?

Comm. Neese: Okay, so that....

Mr. Leipzig: After the first split...

Comm. Neese: Okay, okay. That's...

Comm. Atwell: Will that only be the first time, or, once that was split, five years down the road, somebody could come in with that 10-acre tract and split it again. And you would split it again.

Mr. Bartolac: I believe that's the way it's working now, yes.

Ms. Miller: I think the RTA Department does not screen for number of splits.

Mr. Bartolac: No.

Ms. Miller: If a deed is presented and it meets those four, then they simply accept it and file it.

Comm. Atwell: I see where the problem is coming from.

Comm. Huggins: One more. I assume there is a long-standing philosophy associated with the RTA's need to accept any document for filing that the request (inaudible). I'm not sure what that is. If you ever file that, or if people in the office talked about it, or... It just seems interesting to me. I've always heard this, ever since I started working, that you can go to what used to be the Register of Deeds and file a document that says, "I love the Kansas City Chiefs." There's no purpose in that.

Mr. Bartolac: That's correct.

Comm. Huggins: Okay. So, obviously we're putting manpower to work to maintain records for this. I've always wondered if there's some good reason or legal precedent that made it that way.
Mr. Bartolac: What I have tried to understand myself in that, when the Kansas Constitution was written, and the piece about counties, they set out certain departments to do county business. One was the Register of Deeds office, but it was strictly to be the recorder of deeds so that that person doesn't get bogged down with providing legal advice or interpreting what that document is supposed to do. They were simply to record it and put in a book, and then push it on so that the clerk could take that information to tax it. But that was, the statute followed with that as well. And you're right. If you took a piece of paper and put "I love you" on it, I would reject it and send it back and say, "This isn't going to do anything for you." And if you said, "Please do it," I would record it.

Comm. Huggins: So, in my mind, I think that's a key beginning point, is understanding, for whatever we do here, is that there's a strong precedent for our RTA for file anything. And whatever we do has to take that into account.

Mr. Bartolac: But that's changing the scope of the role of the recorder in that process and now requiring them to make a judgment about that document. The statute is also very clear in that the recorder does not, at any time, try to or attempt to provide any kind of legal advice because of the consequences that could come back on the County. You say, "Oh, no, you should file it this way instead of this way," and it didn't turn out to be the way the individual wanted it, that could create liability then for the County. So, the intention was, if there was any questions about how people want to record a document, we refer them to an attorney, to a title company, or to a land record professional. But we don't have any role in that. And if you're now suggesting that we change that, that's going to really change the role of the Register of Deeds throughout Kansas.

Comm. Huggins: I wasn't very clear there. I'm not suggesting we change that. What I'm saying is we have to understand that before we try and put any rules, you know, before we recommend any rules.

Mr. Bartolac: That's the purpose of this discussion, yeah. Thank you.

Chairman Hutchins: John, if there was another criteria that they could bring to you - again, you're not making a judgment, you're just verifying whether or not they have documentation. In other words, if they brought documentation from the Planning Department, as an example, that they said this is a legal lot, all right? Would your team be able to, at that point in time, say put it in the "planning certified" category or "planning uncertified" category?

Mr. Bartolac: That's hard to say since we don't have the categories now. For our purposes, there's no need for that. That comes after the fact. Are you asking about somehow tracking those that are already approved by the Planning Department? Is that what you're saying?

Chairman Hutchins: No, I think the problem we're trying to solve here is, people are just, as you mentioned, they bring it to you, you have to file it. And you do your function. And you have your criteria, it meets the criteria, you file it, right?

Mr. Bartolac: Yes.

Chairman Hutchins: So, my question is, they can still file it. However, if they are missing a piece of paper, they're coming from the Planning Department, that says it's certified, then it goes into the "uncertified" category, or notated as "uncertified," where if they got the piece of paper from the Planning Department, it would be classified as "certified."

Mr. Bartolac: Can you help me understand what that "certified" document does?

Chairman Hutchins: What that certified document does, when a potential buyer... So, Jim does an illegal lot split, and I come along later and I'm, "I like that lot," put a hold on it, and I go do my
research, and everything looks good. And I buy it, and I go to get a permit, and I can't get a permit because Jim did an illegal. Then, I'm potentially out money, right? But if I can go on there and say he's certified with planning and development, then I know, okay, I'm getting a legal lot of which I know that I can then go to Planning, get a building permit without any trouble, and begin building my house.

**Mr. Bartolac**: I'm still not following. When you say "certified," what does that mean? What is it being certified for? I'm just trying to understand.

**Chairman Hutchins**: And we can use another term. In my mind, all I'm looking for is an indicator that that is an illegal lot, or a legal lot of which you can build on.

**Ms. Miller**: I think you're trying to say it conforms with the zoning and subdivision regulations. Which is the only thing that Planning could determine.

**Mr. Bartolac**: I'm trying to think if there was a way that we could code the parcels to say whether they conform or not, but I don't know if there are different parameters for different types of property. I assume there would be, if it's going to be ag property, or a warehouse, etc. Can you help me with that?

**Ms. Miller**: I can think of several things with that. One is the coding in the system. Is there some kind of tag that we could put with the record, like a field with a record? Just like we have Lot 5 and zoning. Some other things that I can think of associated with the idea is, sometimes Planning can determine if a lot is in conformance fairly quickly. Sometimes the more difficult ones, and usually it's an illegal split, takes days, weeks. It's taken me a couple months sometimes. So, that kind of timeframe maybe doesn't mesh with your requirement that you have to allow people to file their deed if they want to. So, it's probably something that we wouldn't require them to go through. People would have to be willing to add that time lag to their filing process if they want Planning to certify something. That's something to keep in mind, is we can't force people to wait on Planning.

The other thing is just the idea of how much additional work and time this would add to the planning workload, and would it be doable or not? I'm not sure about that. Just a manpower thing.

**Mr. Bartolac**: The information that's on the website, it includes the land use and zoning. If there's some way we could code it, I'm sure we could build that in. It depends on what those parameters are that you would look for, which may vary from parcel to parcel based on its use or desired use.

**Mr. Leipzig**: It would probably have to be something that, so, it would be in conformance with the current, the current land use and the current zoning I think is what we would have to use as a basis for it. But just thinking through these cases that would require additional research. I think most of them would be a very quick response, or hopefully a quick response, but there are a few that would require additional research. If there's a way to denote those somehow with a code or some type, I don't know if that's possible. Legally, I'm wondering if there are issues with that, too.

**Comm. Neese**: The question I have is, what can we do here that would not conflict with state statutes? And if we do something here with you, does that require a change statewide? I mean, I'm not sure we know... I mean, maybe we can add a code, for example. Maybe that's not a problem. But I think we need to get some guidance on what we can even do here. Hearing what he's saying is, it can't just be germane to us. It's the state, and that would affect other places in the state.

**Mr. Leipzig**: Commissioner, part of it is, I think the first approach would be education. And I'm kind of paraphrasing things that John said previously, but perhaps 10 years ago, we had signs on the counter in the RTA Department, saying that if you're going to be recording a lot, check with the
Planning Department. It was a reminder for the public to do that. But now, a lot of recordings are done electronically, so that's kind of obsolete. My idea is, the first approach would be an organized education plan, working with lenders, for example, realtors. You know, they have their weekly sales meetings. Speaking at those, or developing some material that we can pass out. It may not catch all of them, I mean, still have this code idea. I think it's something we should talk about. I think we could make some good strides just on the education piece. We haven't done that in, I think the last time was those cards we had on the counters in the RTA Department.

**Mr. Bartolac:** We do have a statement on our webpage, right on the first screen, that says, "Land in unincorporated Johnson County that is divided, split or bought may not be eligible for a building permit, and may not be compliant with the County's zoning and subdivision regulations, even though a deed is recorded. Please call the County Planning Department at..." and there's a phone number... "before recording those deeds." And we also add, "For land divided, split or bought in the city, please call their planning departments." So, we have that notification piece, at least from our web page standpoint.

**Comm. Atwell:** I've never seen that. So, when you get on to record one, can you have that screen pop up and they have to click, "Yes, I understand," so you're sure that they read that.

**Mr. Bartolac:** When they said electronic recording, those are just the documents... It's not that they're recording them themselves electronically. So, they're not going to have a screen that pops up. They have to send it through a third-party provider to get it to us to protect the integrity of the document. If they go to our webpage, though, this is on the first screen, yes. But it's not in a place that would pop up as part of that. I understand your point.

**Chairman Hutchins:** What you're saying, they basically go online, fill out an application to give to a third party...?

**Mr. Bartolac:** No. No. However they do their deed, whether it's with a title company or attorney, or whatever, and they send it to a third-party provider that we have a contract with. that we allow to submit documents electronically. This is based on the Kansas state electronic recording commission requirements. Because those documents can come in electronically, we have to protect the integrity of the document, so it's only allowed to come through that portal. It's a secure process. They don't do anything like that. They go to their title company, who then sends it to us.

**Chairman Hutchins:** Okay. Now, at that point in time, is it automatically loaded into the system, or is there a verification process?

**Mr. Bartolac:** No. That's when my staff, whatever comes next in the queue, they start the recording process based on that document.

**Chairman Hutchins:** Okay, so, basically you are looking at everything that comes across electronically.

**Mr. Bartolac:** Yes. But there's not a prompt for them to say, you know, what you were asking.

**Comm. Huggins:** I know this isn't your department, and I'm not asking you a question here. I'm making a statement. When there is a plat filed, or when there is a split, those go through the County surveyor here for review. And then, I assume at some point, he sends it to you, and your staff recognizes his review and approval of that and do your own review.

**Mr. Bartolac:** Splits do not go through Public Works. We work those ourselves. As for the statute regarding subdivision plats, there's a portion of those that has to be reviewed by Public Works because that's where the County surveyor is located. So, he or she does a portion of that. The
original comes to us, we do our initial review, we send it on to them to do some technical review, it comes back to us, and we notify the party when it's ready to record.

Comm. Huggins: Okay. And at some point before you record it, you're looking that his authorization is technically correct.

Mr. Bartolac: Yes, sir.

Comm. Huggins: So, you will have that on every piece of property that, except for any deed that is filed on an existing tract. But any new tracts that are being generated...

Mr. Bartolac: No, any new subdivision plats. The splits don't go through them. We just do the splits in our office.

Comm. Huggins: Really? Because we take our splits to...

Mr. Bartolac: Some folks do.

Comm. Huggins: Yeah, and when they...

[crosstalk]

Comm. Huggins: Well, if we've got a piece of property (inaudible, coughing) on two tracts, we'll prepare the legal, take it to them for review of the split.

Mr. Bartolac: Right, and that's not required.

Comm. Huggins: But when we do that, then we establish it's a legal split, which each resulting tract could get a building permit. I guess... This may not be workable at all, but when a deed is filed that creates a new tract, if there could be a checkmark that says, "Reviewed by the County Engineer," or the County surveyor. By the look on your face, it sounds like a bad idea.

[crosstalk]

Mr. Bartolac: It's a very different idea.

Chairman Hutchins: John, to recap, the situation that we had, this gentleman paid $1.7 million, approximately, for this property. There was a split that was done illegally. He paid that amount of money, then went to get a permit to put in a hot tub. And after putting in $1.7 million, found out it was an illegal lot. So, that's the problem we're trying to avoid, is situations like that. And what we're finding is that there are several illegal lots that keep coming up. Jim just had situation where, I mean, it was how many months, trying to...?

Comm. Neese: Too many.

Chairman Hutchins: Too many months.

Mr. Bartolac: Because of the County's codes, he couldn't put in a hot tub? Is that what...?

Chairman Hutchins: He couldn't get a building permit.

Comm. Neese: He couldn't get a new permit to put in a new window, or whatever.

Chairman Hutchins: So, that's what we're trying to avoid. If there was some way that the realtors could easily look at it and say this is an illegal lot, so we're going to stay away from it. That would have a direct impact on the financial value of that lot, and I bet it would fix our problem pretty quick if the incentive was to sell that lot for profit, right?

Mr. Bartolac: That would be, if there was some mechanism to code those properties like we do other information about them.
Chairman Hutchins: Yeah. So, with that information, you obviously have more knowledge about the system, and perhaps you have an idea of what may be convenient for you but serve the purpose.

Mr. Bartolac: I'm still a little fuzzy on what the requirements would be to make an illegal split. Because the way I understand it, different properties would have different requirements. Is that a fair statement?

Chairman Hutchins: Exactly.

Mr. Bartolac: So, there would have to be some process where we identified all of those, then loaded them into a system, and somehow tried to track those at some point going forward.

Ms. Miller: You know, it's such a complicated review process to determine if something conforms. It really could only be done by the planner. It really can't be automated. I mean, it could be screened.

Chairman Hutchins: And that's what I'm trying to say. I'm trying to take you out of the legal (inaudible). The bottom line is, if you have a piece of paper that says "certified," boom, it goes in the certified. If you don't have a piece of paper, boom, it's non-certified. That way, you're not trying to make a decision, other than that it's just another criteria - Do I have it? Yes or no. Yes, goes in this box; no goes in that box. As simple as that. That's all we're looking for.

Mr. Bartolac: And I would automatically, as we load it into the system, when that parcel came up, it would say certified or not certified. But the thing (inaudible), rather than this piece of paper. I'm just putting it into our system as opposed to us dealing with papers that say that.

Chairman Hutchins: Right.

Comm. Morse: Could you tell me where in the regulations this is spelled out about lots? I'd like to read them.

Ms. Miller: It's Article 25. You can tell me if this is what you're looking for. Article 25 is our general subdivision provision. In Section 3, it lays out when we apply the subdivision regulations. So, "A" says subdivision of any lot or tract of land into three or more parcels. So, when you divide a 40-acre parcel into four 10's, that triggers the subdivision regulations because you're making three or more. "B" says re-subdivision of any lot or tract of land that has previously been subdivided or split into two or more parts since March 1, 1982. If a parcel existed prior to 1982, we call that a legal lot of record. And then, anything after 1982... Let's say you have a parcel, a 60-acre parcel that was created in 1979. Going forward, let's say in 2002, somebody wants to divide it. That's a re-subdivision of that land. If they want to take that parcel that was created in 1979 and they want to divide it now, that's a re-subdivision, and then, our subdivision regulations fall into place. Those are the actions that call up the subdivision regulations. Is that what you're thinking of?

Comm. Morse: Yeah, I was kind of wondering if there was some way we could approach this from regulations.

Ms. Miller: Another interesting part is in the same section, talking about when we can and can't sign off on building permits. That would be another opportunity. No building permit shall hereafter be issued for construction on any land that has not been subdivided in compliance with these regulations, and all other applicable laws, but not limited to applicable Johnson County regulations. So, there's two areas of opportunity to work with. One is, we mentioned in November when we met to maybe change that date from 1982 to 2003, so we can use our County system to review lots to see if they are legal. The other idea is to allow limited building permits for the mortgage parcel situation. If you have two parcels under the same ownership, we could look at
the outer boundary and see if the outer boundary is a legal parcel. Make that eligible for building permit. There wasn't total agreement among the Planning Commission about whether or not that was a good idea. Or maybe limited building permit for minor repairs and alterations, so that people can put a roof on their property, even if it is illegal.

There is a definite downside to some of these ideas. One is that it could remove the impetus to fix non-conforming situations if you get your building permit. Maybe there's no reason to do anything. I mean, that's the big stick that we have, and a big motivator. The other is maybe this rewards bad behavior on the part of past developers. So, there are pros and cons to those two ideas.

Comm. Morse: Thank you.

Mr. Leipzig: Just another comment on this. I'm still thinking on this idea of having a certified copy of something that (inaudible, coughing), in terms of putting a partial entry, some type of a code. I'd like to think about that more. I don't know, there might be legal issues there that we'd have to explore. And I have no idea on the percentage of lots that could easily be certified and have no issues with and those that were problematic. Even if it's 200,000 parcels, even if it's a couple thousand codes, we could at least isolate them and have some way to differentiate those. I just don't know.

Chairman Hutchins: John, how many splits do you handle in a day or in a week?

Mr. Bartolac: I have that information. I didn't bring that with me tonight. I know we process over 112,000 documents a year, so I would say a pretty high percentage of those would be deeds. Probably a quarter of those would be splits. Johnson County is still growing and there are a lot of transactions still going on.

Comm. Atwell: We would just be concerned about what's in the unincorporated area. Because what happens within city limits...

Mr. Bartolac: That's correct.

Chairman Hutchins: John, I assume you have the ability to differentiate between unincorporated and incorporated?

Mr. Bartolac: Yes, sir.

Comm. Huggins: I was thinking about that certificate thing. I know it's undefined at this point. But I was thinking, if there were a check mark or a place where the filed deed could say if it was certified, or checked, or however you want to put it, so that it would be a legal property for, what would allow a building permit. Everything else just wouldn't show that. And I don't think that would be too cumbersome. The responsibility would fall on the person filing the deed. It would just be a matter of, you know, do you have it signed by county surveyors, saying that this is a legal split? If you don't have it, we don't put that on there.

Mr. Bartolac: But at this point in time, I can't even ask that question.

Comm. Huggins: I understand. But can you not ask that question by state law, or just by county policy?

Mr. Bartolac: Well, I would interpret the statute to say that I can't ask that... I mean, that's more or less... And this is something I'd have to check with our Legal Department on, but it seems like that's a little beyond what I should be able to do as the recorder. Again (inaudible)....

[crosstalk]
Comm. Neese: You can't ask me how much I really love the Chiefs. If I want to record something that says I love the Chiefs, you can't ask me how much I really love them.

Mr. Bartolac: I cannot do that. But I can record that.

Chairman Hutchins: But to that point, if they have a document that's from Planning, you have to record that if they bring it in and say they want it recorded.

Mr. Bartolac: There are different ways we could look at that. If the Planning Department is providing that, there may be a mechanism where we could automatically put that into the system before some things even happen. My concern is, if they bring another document in, we're going to have to record that document and charge them more money to do that. Because any document that they bring in with their deed, sometimes they bring a cover sheet, etc., we have to charge for that document, too. I don't want to add more to their expense if we don't have to. Conceptually, yes, it would all be the same thing, but it's how we would go about getting that information and get it into the system without really bringing in other documents when they record their deed. Do you understand that part?

Chairman Hutchins: If I was doing a lot split with the thought of selling it, that's an investment I'm willing to make to make sure everyone can see that it's legal. That way, I'm going to get more traffic and more attention, and I should get a higher price for that property, right? So, Jay, point well taken. We've got good ideas. We don't know what we can't and can do. If I could ask your team to go back and provide an assessment or come up with an alternative idea, something more acceptable, that would be great.

Mr. Leipzig: Okay. Thank you. Be happy to look into this and talk more about some of these ideas, get Legal's opinion in terms of what we can do and not do. Also, we might want to have a further discussion about when (inaudible) conditions, and we may want to (inaudible) building permit. It could be (inaudible, coughing), code violations where the property, for example, the electrical system is not repaired, it may burn down - those type of parameters. I'd be happy to look into those.

Comm. Atwell: I want to give everybody this example. And luckily, because I'm on the zoning board, I have more knowledge. A friend of mine came to me, and they were looking at property, and I knew how it was split up. And he said they were offering him a five-acre tract. I told him not to do it because he would not get a building permit. They sold their house and were going to build. I told him he would not get a building permit. I know exactly how those tracts were split. So, this person took one of the lots, split it up, divided out five-acre tracts, and was (inaudible). If my friend wouldn't have come to me because I knew about where this property was, they would have bought that, and they would have lost out because the person that is selling it has it all drawn out, and they thought they were buying a legal five-acre tract. That's the problem. An unsuspecting person would not have known to go to the courthouse and ask if this was a legal split because the person they were buying it from was a, you know, out in the community. They trusted him. So, that's just from my own perspective and experience, what we have to fix. So that somebody is not gaming the system to an unsuspecting future property owner.

Chairman Hutchins: John, thank you for coming. It was very educational. I learned a lot, and hopefully the rest of us did as well. We reserve the right to invite you back.

Mr. Bartolac: It was my pleasure to be here. We have a great working relationship with Planning and would love to do what we can to help within the legal parameters that are set by statute. And the legal department, I guess. We'll work with Jay and his staff and see what happens. Thank you.
F. YEAR IN REVIEW AND FUTURE PLANNING COMMISSION DISCUSSION TOPICS

Mr. Leipzig: My discussion on year in review will be very short. We passed this out at our joint meeting in February. I just wanted to make sure if there were any additional comments from the Planning Commission in terms of our work plan that we went over that evening. I've got six or seven projects with some approximate dates. Those may change and our workflow may vary as we get more applications. I just wanted to throw that out there as a work plan for 2019 because things are going to be concentrated. One of those items is the (inaudible) parcel. I think as our population increases in the county, we're going to have more of these issues with lot splits, so I'd like to get in front of that. I just wanted to bring this before you one more time to make sure everyone is in agreement moving forward.

The other part that is not on this list is we are also in the process of implementing our new permitting software with a certified permitting software for zoning and planning. And I think that will play a key role in this as well in terms of looking at Planning is doing, in terms of what Building is doing, and having those in the same system. So, we'll be able to cross-verify information. It's not perfect by any means, but it's the illegal parcel. more efficient and make quicker decisions in terms of knowing when there's a planning application on a parcel, as well as (inaudible) application.

Chairman Hutchins: Thank you. Jay, looking at the future discussion topics, have we prioritized...? I'm very appreciative of what we heard tonight because I think it's one of our top priorities. That might be great, but if not, I commend you all for bringing that gentleman in. But do we need to prioritize issues that we identify?

Mr. Leipzig: In the order that we have, I think the most pressing one is, several of these could be done concurrently. Obviously, the mortgage parcel ideas on legal lot splits, we're going to work on that immediately. Working on changes associated with the planning and subcommittee group that we had. We also have the administrative review of lots and lot splits. That's all part of the same process that we're looking at. I've tried to lay them out in a rough calendar plan for the year, not really priority, but just in terms of... And what I was really thinking about there was staffing needs, in terms of who was working on what project moving forward and the time it would take. We're already behind a little bit, but I use that as a general timeframe.

Chairman Hutchins: Okay. Karen, you brought up a good point. We talked about grandfathering the lots from 1982 to 2003. Is that something that we should formalize at next month's meeting? Is that something that we need a subcommittee? What would be your recommended approach on resolving that and bringing it to closer.

Ms. Miller: I look at it as one part of the illegal lot discussion. The way to enact that would be a change to the zoning regulations. So, if the Planning Commission has discussion and decided that they would like to move forward with making that change. Also, the thing to do would be to decide, do you want to move forward with some sort of limited building permit? That's in the same article to do those concurrently. So, at a point the Planning Commission feels like that's a direction they want to take, I could start looking at rewriting the zoning regulations.

Chairman Hutchins: So, making sure, you know, we've missed a couple months here, so we are behind. So, the important question is, is that a discussion we need to have tonight to help you?

Mr. Leipzig: I would promote coming back to you with some recommendations. That gives us time to do additional research.

Chairman Hutchins: Great. If you could put that on next month's agenda. Perfect.
Mr. Leipzig: The other thing I wanted to mention, on the first item, the text changes in our Comprehensive Plan, we have a fairly complete draft of that. Legal has been through it once, and we want to bring it to them again. We'd like to pass that out to you at your next meeting in April, and possibly set a public hearing for that item in May.

Chairman Hutchins: Very good. Any more discussion? [None]

G. DIRECTOR'S REPORT

Mr. Leipzig: Just a couple things. On your dais is the application received by the BOCC on January 1, 2019, through 3-26-19. Just to point that out. And then, as part of that overall process, is to assemble these on an annual basis when we have our joint meeting. We'll include it as part of our items completed for that year, and the strategic plan for next year.

Also, I wanted to point out, we have additional copies of the materials that Rick Lind prepared for the work session on ex parte communications. There was a PowerPoint that he developed, as well as a reference guide. There's some great information here. If you'd like additional copies of that, let me know. I thought he did an outstanding job in terms of what he presented. I think we already have ideas for next year, as well.

The other item for you, we'd like to have those draft amendments before you (inaudible) in April, and for public hearing in May. That concludes my report.

G. UPDATES/OTHER BUSINESS [None.]

ADJOURNMENT

The next regularly scheduled Planning Commission meeting will be Tuesday, April 23, 2019, at 5:45 p.m. This meeting adjourned at 6:59 p.m.

Randy Hutchins, Chairman

ATTEST:

Secretary to the Board