

TERM OF COMMISSION: November Session of the November Adjourned Term

PLACE OF MEETING: Boone County Government Center Commission Chambers

PRESENT WERE: Presiding Commissioner Don Stamper
District I Commissioner Karen M. Miller
District II Commissioner Linda Vogt
County Counsel John Patton
Deputy County Clerk Melanie Stapleton

The meeting was called to order by the Presiding Commissioner at 7:05pm.

Commissioner Stamper stated that the primary purpose of this meeting was to discuss planning and zoning issues. He stated that the format for the meeting would be as follows: staff report, comments from applicant or agent of applicant, public hearing, rebuttal by applicant or agent of applicant, discussion of the commission. He also asked that all those giving comments sign in, state their name and address for the public record and state if they represent in support or opposition the issue. He also asked that testimony be succinct and focused.

Subject: Request by James and Mary Westerfield to rezone from A-R (Agriculture Residential) to M-L (Light Industrial) of 7.14 acres, more or less, located at 17800 N Old Hwy 63 North, Sturgeon

Stan Shawver presented the staff report as follows:

This property is located approximately 14 miles north of Columbia and six (6) miles southwest of Sturgeon. The site is located on the west side of Hwy 63 and access to the site is from Old Hwy 63 N. The property is zoned A-R (Agriculture Residential) as is the property to the north and to the west. The property to the south and east is A-2. This site is located within the Sturgeon R-5 School District and Public Water District No. 19 service area. There is an existing 300 sq. ft building on the site. The existing building appears to be a commercial nonconforming use. However, Boone County Zoning Regulations require that a nonconforming use have a certificate of occupancy, issued within six months of the adoption of zoning, or one issued after the fact by the Zoning Board of Adjustment. County records do not indicate that either condition has been satisfied. This request is to rezone 7.14 acres to M-L zoning. The master plan designates this area as being suitable for agriculture and rural land uses. The requested zoning is not consistent with the master plan. Staff cannot support this request for the requested zoning district. Were evidence presented to the Board of Adjustment legitimizing the commercial nonconforming use, such approval would not allow any expansion of the facility, nor would it result in any specific improvement of the property. Approval of M-L zoning would allow this site to be developed with no restrictions except the minimal zoning requirements for parking and applicable building code standards. Staff recommends that this request be denied.

Stan Shawver stated that there was a motion to deny the request. The motion received 5 yes votes and one no vote. He stated that the request was denied and is before the County Commission on appeal.

Commissioner Stamper asked the applicant to come forward to testify.

Present on behalf of the applicant were Bruce Beckett and James Westerfield.

James Westerfield, 101 S Glenwood stated that he purchased this property in 1969 to use for stockpiling. He stated that in 1969, he constructed a 3000 sq ft, concrete building for operation of his father's used furniture business. He stated that his father has operated that business since 1969. He stated that his father's use of the building became a legal non-conforming use in 1973. He also noted that this tract of land is actually only a little over six acres.

James Westerfield stated that he requested the rezoning in order to clean the site up and install

water to make it a better place for his father to conduct business. He noted that he would also allow his son-in-law to use part of the building for an art studio.

Bruce Beckett, attorney for the applicant stated that the M-L zoning accurately describes the kind of activity present on this site for the last 30 years. He stated that the applicant was not aware of the necessity of a certificate of occupancy, which is why the applicant did not apply for it in 1973. He stated that this property is not suitable for agricultural or industrial use. He noted that there is also a ravine on site that could not be used for any purpose.

Bruce Beckett stated that the applicant did not intend to develop the property in any other way. He stated that there are only three places in Boone County that have M-LP zoning (Planned Industrial). He noted that the zoning was in place in those areas for environmental safety purposes. He stated that environmental safety factors did not warrant that type of zoning in this situation. He stated that since the southern, two acres of the property are not usable, then it would not make sense for the applicant to spend \$2,000 on a M-LP plan. He stated that he believed that the applicant's request was denied at the Planning and Zoning Commission hearing because one of the Commissioners stated that he had never allowed M-L zoning and never would.

Bruce Beckett showed pictures of the site to the County Commission.

Commissioner Stamper convened a public hearing on the request.

Commissioner Stamper called for comment on the request three times. There was no one present that wished to make comments.

Commissioner Stamper closed the public hearing.

Commissioner Stamper asked Stan Shawver if M-L zoning was the correct zoning for this site/request.

Stan Shawver stated that the activity that is presently occurring on this site could occur under general commercial zoning as well.

Commissioner Stamper asked Stan Shawver to elaborate on the discrepancy concerning the acreage of this site (a little over six vs. 7.14).

Stan Shawver stated that the discrepancy had to do with the fact that this site is not level and flat, but contains hills, which account for the 7.14 acre determination.

Commissioner Vogt stated that she received two calls regarding this request. She stated that some of the applicant's neighbors are concerned about the property being sold, once the rezoning is in place. She stated that they are concerned that if the M-L zoning is granted, any of those commercial uses could take place on this property.

Bruce Beckett stated that practically speaking, a situation such as that would probably not occur. He stated that most sites zoned M-L that have commercial uses are close to densely populated areas.

Commissioner Stamper stated that the comment by the Planning and Zoning Commissioner was relevant in that the County Commission has approved very little unplanned M-L zoning. He stated that when M-L zoning is approved, the request site is usually small or relative to other properties that already have that zoning in place.

Commissioner Stamper stated that he would be hesitant to support an unplanned district.

Commissioner Miller stated that she was concerned about the precedent that it would set in the area. She stated that planned developments are in the best interest of the County.

Commissioner Vogt asked, if the applicant has the right to remodel under the present zoning, the

why it was necessary to obtain the rezoning.

Commissioner Stamper stated that the applicant would like to have a conforming use.

James Westerfield stated that he would like to have the highest and best use for his property.

Bruce Beckett asked the County Commission why the M-L zoning was in the regulations if it was never allowed.

Commissioner Vogt reiterated that M-L zoning is normally in a setting with other commercial or industrial uses.

Commissioner Vogt moved to deny the request by James and Mary Westerfield to rezone from A-R (Agriculture Residential) to M-L (Light Industrial) of 7.14 acres, more or less, located at 17800 N Old Hwy 63 N, Sturgeon.

Commissioner Miller seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 465-99**

Subject: Request by James and Donna McManama to rezone from A-1 (Agriculture) to A-2 of 20.13 acres, more or less, located at 22901 N March Rd., Centralia

Stan Shawver gave the staff report as follows:

This property is located approximately 1 mile west of Centralia at the intersection of State Hwy 22 and March Rd. The property is zoned A-1 (Agriculture) as is property to the north, west, and south. Land to the east across March Rd is zoned A-2. There is a house on the land and the open area has been used as a pasture. This site is within the Centralia R-6 school district. Water is provided by Public Water District No. 10. There have been no previous requests submitted on behalf of this property. This request is to rezone 20.13 acres to A-2 zoning. The master plan designates this area as being suitable for agriculture and rural residential land uses. The proposed rezoning is consistent with the master plan. Staff recommends approval of this request.

Commissioner Stamper asked the applicant to come forward to give testimony.

The applicant was not present. Buddy Wolfolk, real estate appraiser was present on behalf of the applicant. He declined to give comments.

Commissioner Stamper convened a public hearing on the request.

There was no one present that wished to testify on the matter.

Commissioner Stamper closed the public hearing.

Commissioner Vogt moved to approve the request by James and Donna McManama to rezone from A-1 (Agriculture) to A-2 (Agriculture) of 20.13 acres, more or less, located at 22901 N March Rd., Centralia.

Commissioner Miller seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 466-99**

Subject: Request by Copper Creek Development, L. L. C. to approve a Final Development plan for part of Copper Creek Planned Residential Development located at 7901 E St Charles Rd, Columbia

Stan Shawver gave staff report as follows:

This property is located 2 miles east of Columbia on St Charles Rd. The current proposal includes a Final plat for one lot and a Final Development Plan for one lot and is the third phase of Copper Creek PRD. The lot is a corner lot and will have frontage on and direct access to either Whitewater Dr or Payette Dr. Water service will be provided by Water District No. 9. Wastewater will be treated in a plant being built in Stanton Subdivision which is west of Copper Creek on the south side of St Charles. The proposal scored 58 points on the rating system. Staff recommends approval of the final plat and final plan.

Stan Shawver stated that this request received a unanimous vote for approval by the Planning and Zoning Commission.

Commissioner Vogt moved to approve the request by Copper Creek Development, L. L. C. for a Final Development Plan for part of Copper Creek Planned Residential Development located at 7901 E St Charles Rd, Columbia.

Commissioner Miller seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 467-99**

Subject: Southern Elegance, Plat 2. S13-T47N-R13W. A-2. Sandra K. Nichols and the Shirley Jean Traxler Revocable Trust, owners. James R. Jeffries, surveyor

Commissioner Miller moved to receive and accept and authorize the Presiding Commissioner to sign plat 2 of Southern Elegance.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 468-99**

Commissioner Reports

Commissioner Vogt

Commissioner Vogt report that she would be attending a meeting with Purchasing Director Beckie Jackson and Peckham & Wright Architects, Inc. concerning the Space Needs Study.

Commissioner Stamper and Commissioner Miller did not give reports.

There was no public comment.

The meeting adjourned at 7:40pm.

Attest:

Don Stamper
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Linda Vogt
District II Commissioner