

TERM OF COMMISSION: August Session of the July Adjourned Term

PLACE OF MEETING: Roger B. Wilson Boone County Government Center
Commission Chambers

PRESENT WERE: Presiding Commissioner Keith Schnarre
District I Commissioner Karen M. Miller
District II Commissioner Skip Elkin
Planning and Zoning Director Stan Shawver
County Counselor John Patton
Deputy County Clerk Shawna Victor

The meeting was called to order at 7:00 p.m.

Subject: Planning and Zoning

Commissioner Schnarre noted that during Planning and Zoning sessions, the Commission will receive a report from staff and then the Commission will have the opportunity to ask staff any questions. The Commission will then move to a presentation from the applicant or agent of the applicant on behalf of their request. After that, the Commission will convene a public hearing where any testimony in favor of or in opposition to will be welcome. Following the public hearing, the Commission will discuss the issue and then vote on the issue.

Stan Shawver, Director of the Planning and Building Inspection Department, stated that the Boone County Zoning Regulations and the Subdivision Regulations are entered into the record. (note - the file copy is retained in the Planning and Building Inspection Department)

A. Request by Betty J. Overton for a permit for an existing duplex on 0.28 acres located at 5005 Creasy Springs Road, Columbia

B. Request by Betty J. Overton to rezone from R-S (Single Family Residential) to R-MP (Moderate Density Residential) and to approve a Review Plan on 1.27 acres, more or less, located at 5001 Creasy Springs Road, Columbia

Mr. Shawver stated this property is located on the west side of Creasy Springs Road to the west of an existing 4-plex unit which is also on this month's agenda for rezoning. The property is approximately 1,000 feet north of the intersection of Roemer Road and Creasy Springs Road. The property is situated approximately 1 mile north of the closest municipal limits of Columbia.

The property is zoned R-S (residential single family) as is all the surrounding property and these are all original 1973 zonings. The subject property is 0.29-acres and is the site of an

existing duplex estimated to have been built in 1972.

This structure is connected to the central wastewater system that serves the neighborhood. This site lies within the Columbia Public School District. The site is in Consolidated Public Water District #1. The site is in the Boone County Fire Protection District and fire requirements will be up to the fire district. Electric service will be provided by Boone Electric Cooperative.

The master plan designates this area as being suitable for residential land uses. Staff notified 41 property owners about this request.

As a CUP the proposal must meet the following criteria from the zoning ordinance to be eligible for approval.

(a) The establishment, maintenance or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare.

Staff has no reason to believe that the proposed uses will be detrimental to the public health, safety, comfort or general welfare if operated in conformance with existing county regulations.

(b) The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations.

The structure has been a part of the neighborhood since zoning was first established in Boone County and should not be injurious to the use and enjoyment of other property. Staff is not aware that the proposed conditional use will impact other property owners in the area.

(c) The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.

There is no indication that the proposed use will have a negative effect on property values.

(d) All necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage.

The site has existing utilities and while some improvements could be undertaken the only remaining issue is fire protection.

(e) The establishment of a conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.

The proposed use will not impede the development of the surrounding area. The request is to

legitimize the existing use.

(f) The establishment of a conditional use permit will not hinder the flow of traffic or result in traffic congestion on the public streets. This will include the provision of points of access to the subject property.

The proposed use already exists and therefore will not change the existing traffic conditions.

(g) The conditional use permit shall in all other respects conform to the applicable regulations of the zoning district in which it is located. The County Commission shall find that there is a public necessity for the conditional use permit.

The proposal should be able to conform to other applicable regulations of the R-S zoning district.

Staff supports this request and recommends approval subject to the following condition:

- That it is recognized that the conditional use permit is limited to what a single duplex structure on the lot and that fire requirements will have to be acceptable to the Fire District & Director of Planning.

The Planning and Zoning Commission conducted a Public Hearing on this request on July 21, 2005. A motion was made to approve the conditional use permit request with staff condition. This motion received unanimous support.

The request for property at 5001 Creasy Springs Road is located on the west side of Creasy Springs Road to the east of an existing duplex unit which is also on this month's agenda as a Conditional Use Permit. The property is approximately 1,000 feet north of the intersection of Roemer Road and Creasy Springs Road. The property is situated approximately 1 mile north of the closest municipal limits of Columbia.

The property is zoned R-S (residential single-family) as is all the surrounding property and these are all original 1973 zonings. The subject property is 1.27-acres and is the site of an existing 4-plex estimated to have been built in 1972.

This structure is connected to the central wastewater system that serves the neighborhood. The allowed use under the requested R-MP zoning is limited to a single 4-plex structure on the lot. This site lies within the Columbia Public School District. The site is in Consolidated Public Water District #1. The site is in the Boone County Fire Protection District and fire requirements will be up to the fire district. Electric service will be provided by Boone Electric Cooperative.

The master plan designates this area as being suitable for residential land uses. In general the sufficiency of resources tests are used to determine suitability of a rezoning, in this

case the use exists and has been served by the area resources for a number of years. Staff notified 41 property owners about this request.

Staff recommends approval of the rezoning request and review plan subject to the following condition:

- That it is recognized that the allowed use is limited to a single 4-plex structure on the lot and that fire requirements will have to be acceptable to the Fire District & Director of Planning.

The Planning and Zoning Commission conducted a Public Hearing on this request on July 21, 2005. A motion was made to approve the rezoning request. This motion received unanimous support.

A motion was made to approve the Review Plan with the staff condition. This motion received unanimous support.

Arlene Bolerjack was present on behalf of Betty J. Overton.

Arlene Bolerjack stated there are two reasons for this request. The first reason is bring the property into compliance with County law. Ms. Overton wants to sell the property and if it is rezoned then this will help the resell value.

Another reason is if this property does burn in a fire, then a building permit would not be issued to rebuild a 4-plex.

These were built in 1972 and should have been grandfathered in.

Mr. Shawver stated both are non-conforming uses. These have never gone to the Board of Adjustment for a certificate of occupancy but this has never been questioned.

Under the zoning regulations, if a non-conforming use is eligible for a conditional use then it will not receive a non-conforming use. The applicant would have to try to receive a conditional use permit. The reason for the CUP request for the duplex is because having a duplex in R-S zoning is a conditional use. The 4-plex is not eligible for a conditional use in the R-S zoning.

If either structure was destroyed by 75% of the pre-disaster value then it cannot be built back except for in compliance with the regulations. By requesting planned moderate density residential, if the structure was to be destroyed then the 4-plex could be rebuilt. Any additional structures on the lot would have to go back through the Review Plan process.

Commissioner Schnarre asked if there is enough square footage on the lot to have more

than one 4-plex. Mr. Shawver stated there is enough. This request will protect the owners in case they need to rebuild and make the zoning consistent with what is on the lot.

Commissioner Schnarre opened the floor for a public hearing on this request.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.

Commissioner Miller moved to approve the request by Betty J. Overton for a permit for an existing duplex on .28 acres located at 5005 Creasy Spring Road, Columbia, with the following condition:

- That it is recognized that the conditional use permit is limited to one single duplex structure on the lot and that fire requirements will have to be acceptable to the Fire District and Director of Planning.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 307-2005**

Commissioner Elkin moved to approve the request by Betty J. Overton to rezone from R-S (Single Family Residential) to R-MP (Planned Moderate Density Residential) on 1.27 acres, more or less, located at 5001 Creasy Springs Road, Columbia.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 308-2005**

Commissioner Miller moved to approve the request by Betty J. Overton to approve a Review Plan on 1.27 acres, more or less, located at 5001 Creasy Springs Road, Columbia, with the following condition:

- That it is recognized that the allowed use is limited to a single 4-plex structure on the lot and that fire requirements will have to be acceptable to the Fire District and Director of Planning.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 309-2005**

C. Request by Robert and Joan Marshall on behalf of Prairie Farms Dairy to rezone from A-R (Agriculture Residential) to M-LP (Planned Industrial) and approve a Review Plan on 3.0 acres, more or less, located at 6675 Farrar Road, Columbia

Mr. Shawver stated this property is located in the west side of Farrar Road about 2/3 of a mile north of the intersection with Route VV. The current zoning of the property is A-2. The applicant is requesting plat approval for a 3.00 acre tract to be rezoned to ML-P. The review plan that accompanies the rezoning application shows 1-permanent structure that will be used as an office. Spaces for 3 trailers and 6 trucks are also identified. The only proposed allowed use is Office and Distribution Facility for a Wholesale Distributorship.

The Master Plan designates this property as suitable for residential land use. The Master Plan identifies the use of planned districts to establish new commercial and industrial areas. The Master Plan also identifies a “sufficiency of resources” test for analyzing rezoning requests. The Test asks whether there are sufficient resources available for the needs of the proposed development or whether the services can be provided in a cost effective manner.

The resources typically used for this analysis can generally be broken down into three categories, Utilities, Transportation and Public Safety Services.

Utilities:

- Water: The property is in the service area of Consolidated Public Water District Number 1. The district has stated that they are unable to provide adequate water service to the property and has recommended that the applicant request water service from the City of Columbia. If the Fire Marshall requires installation of a fire hydrant, it will be the applicant’s responsibility to do so.
- Sewer: There is no central sewer service available to the property. The applicant proposes to use an on-site system permitted either by the County Health Department or MoDNR but no specific design has been proposed nor has a location for one been shown on the review plan.
- Electric: 3-Phase electric service is available to the property.

Transportation:

- The lot will access on to Farrar Road, which is a state maintained roadway. At the concept review meeting MoDOT indicated that they did not see any significant issue with this proposal.
- According to a letter from Prairie Farms Dairy, Inc. six delivery trucks will operate from the site on a daily basis. The trucks will leave between 3:00 and 4:00 A.M. and return between 1:00 and 4:00 P.M. In addition approximately 10 semi trailers

will arrive each week. The semi trailer arrival times will be between 10:00 A.M. and noon more or less evenly distributed throughout the week.

Public Safety Services:

- The site is within 3-miles of a fire station and is easily accessed by emergency services.

Most of the site is currently wooded. The developer should take advantage of the existing vegetation to soften the visual impact of the proposed development. This would require limiting clearing to that which is necessary.

Staff notified 27 property owners about this request. The property scored 65 points on the rating system.

Staff recommends approval of the rezoning.

Staff recommends approval of the review plan with the following conditions:

- Fire protection shall be provided to the satisfaction of the Boone County Fire Protection District and the Director of Planning and Building Inspection.
- Prior to final plan approval, a wastewater system design shall be submitted to and approved by the Columbia/Boone County Health Department. As an alternative, a design shall be submitted to and approved by the Missouri Department of Natural Resources for the wastewater system.
- Existing vegetation shall be retained to the maximum extent possible. This shall include areas as shown on the plan and all vegetation within the 50-foot building line except that which is necessary to remove in order to install the entrance. The limits of clearing shall be distinctly marked prior to the beginning of any land disturbance at the site.

The Planning and Zoning Commission conducted a Public Hearing on this request on July 21, 2005. A motion was made to approve the rezoning request. This motion passed 5-4.

A motion was made to approve the Review Plan. This motion received unanimous support.

Ken Obert, Prairie Farms Dairy representative, and Dan Haid, Brush and Associates, were present on behalf of this request.

Ken Obert stated there is an electric substation at the end for Farrar Road. Prairie Farms wants to purchase three acres from the Marshalls. This will be used as a driver depot. Trailer loads of milk will be brought in by semi-truck approximately 10 times per week for six days and will arrive between 10:00 a.m. and noon. The drivers who drive local

delivery trucks off load the milk from the semis onto their trucks. There would be a parking area for the trailer to sit at. The local drivers would load their truck either in first thing in the morning or at the end of their day and then plug in their trailer overnight.

The drivers would be leaving between 4:00 and 5:00 a.m. and returning between 1:00 and 4:00 p.m. Delivery routes in the Columbia, Moberly, Jefferson City area.

The building will be for a small office with a check in area for the drivers with phone and fax machine.

Dan Haid stated staff expressed concerns about the on-site wastewater treatment facility. They have met with a soil scientist. Preliminary results show this site is suitable for a drip field with either a sand filter or pre-packaged treatment plant. They are awaiting the final report to finish the design.

Another concern was the vegetation between the site and Farrar Road. They do not have any issue with the vegetation. They did have a concern because there was not a substantial amount of coverage in the front of the property and they may need to plant additional vegetation.

Mr. Haid stated at the July 21, 2005 meeting, concerns were expressed about this being spot zoning. This site sits next to an electric substation so it is not a huge jump into this agricultural area. They believe this will provide a lower impact buffer between the electric substation and development to the east.

Commissioner Miller stated the trucks shown on the Review Plan do not look like they are on a parking lot. It was previously stated there would only be four parking spaces. She asked if there would be a dust free parking area. Mr. Haid stated that is indicated on the plan.

Mr. Shawver stated the required four spaces were figured because of the square footage of the office building. Any place there will be vehicles parked or driving are required to have a dust free surface. There will be electric outlets on the property for the trucks to plug in to overnight and that will be a hard dust free surface.

Commissioner Schnarre opened the floor for a public hearing on this request.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.

Commissioner Elkin stated the neighbors had expressed concerns about this request but this is a planned development and if there would be any future changes then those requests would have to go back through the process.

Mr. Shawver stated he believes the neighbors appeared to allow the Planning and Zoning Commission know that if there were any changes then they would be interested in knowing about those. The neighbors were concerned this would create a domino effect and set a precedent for possible future planned industrial requests. He noted each request is taken into consideration on a case by case basis.

Commissioner Elkin asked if Farrar Road was adequate to handle the semi-truck traffic. Mr. Shawver stated MoDOT felt the limited loads to this site would be handled by the road.

Commissioner Elkin asked if truck traffic might change. Mr. Obert stated he can almost guarantee the amount of traffic will not change. If there are any changes then there will be a decrease because of the increase in use of food services similar to Sysco.

Mr. Obert stated the neighbors that spoke at the Planning and Zoning Commission meeting were neutral on this issue. He did speak with some of the neighbors after the meeting and they expressed to him concerns about noise. The noise from Highway 63 will be more than the noise from the ThermoKings running at night.

Commissioner Miller stated if there was no electric substation next to this site then she would be opposed to this request.

Commissioner Elkin moved to approve the request by Robert and Joan Marshall on behalf of Prairie Farms Dairy to rezone from A-R (Agriculture Residential) to M-LP (Planned Industrial) on 3.0 acres, more or less, located at 6675 Farrar Road, Columbia.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 310-2005**

Commissioner Miller moved to approve the request by Robert and Joan Marshall on behalf of Prairie Farms Dairy to approve a Review Plan on 3.0 acres, more or less, located 6675 Farrar Road, Columbia, with the following conditions:

- Fire protection shall be provided to the satisfaction of the Boone County Fire Protection District and the Director of Planning and Building Inspection.
- Prior to final plan approval, a wastewater system design shall be submitted to and approved by the Columbia/Boone County Health Department. As an alternative, a design shall be submitted to and approved by the Missouri Department of Natural Resources for the wastewater system.
- Existing vegetation shall be retained to the maximum extent possible. This shall

include areas as shown on the plan and all vegetation within the 50-foot building line except that which is necessary to remove in order to install the entrance. The limits of clearing shall be distinctly marked prior to the beginning of any land disturbance at the site.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 311-2005**

D. Petition submitted by Charles R. and Delta Murphy to vacate and re-plat Lots 7 and 8 of Walnut Hills Subdivision

Mr. Shawver stated a petition was submitted requesting to vacate and re-plat Lots 7 and 8 of Walnut Hills Subdivision. Walnut Hills Subdivision is located on Highway UU in the Midway area. This subdivision was platted prior to Planning and Zoning.

The Murphys have a house on Lot 8. They would like to rebuild a smaller house. They would like Lots 7 and 8 to be reconfigured to be similar in size and shape.

Section 1.8.1.3 of the subdivision regulations require the County Commission to hold a public hearing in order to consider any petition to vacate and/or re-plat, taking into consideration character of the neighborhood; traffic conditions; circulation; the proper location and improvement of streets and roads within and adjacent to the subdivision; property values in the subdivision; public utilities; facilities and services and the re-plat will not generally adversely affect the health, welfare, or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate.

Commissioner Schnarre opened the floor for a public hearing on this request.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.

Commissioner Elkin moved to approve the petition submitted by Charles R and Delta Murphy to vacate and re-plat Lots 7 and 8 of Walnut Hills Subdivision. Said vacation is not to take place until the re-plat is approved.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 312-2005**

E. Petition submitted by James and Virginia Baskett to vacate and re-plat Lot 1 of Brittany Acres Subdivision

Mr. Shawver stated a petition was submitted requesting to vacate Lot 1 of Brittany Acres Subdivision. Brittany Acres Subdivision is located on Route OO approximately 3.5 acres southwest of Hallsville. This is zoned A-2.

The applicant would like to re-plat with a different lot line.

Section 1.8.1.3 of the subdivision regulations require the County Commission to hold a public hearing in order to consider any petition to vacate and/or re-plat, taking into consideration character of the neighborhood; traffic conditions; circulation; the proper location and improvement of streets and roads within and adjacent to the subdivision; property values in the subdivision; public utilities; facilities and services and the re-plat will not generally adversely affect the health, welfare, or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate.

The Basketts own more land than this property. The contracted buyers would like to add to lot 1. Mr. Shawver noted a variance request was brought forward to the Board of Adjustment for a variance from the 3:1 ratio and this variance was denied. There are other configurations that can be done.

The Commission can move forward with this request and if the applicant is not able to come up with an alternate solution then the request is no longer valid.

Noah Earle, 10284 Highway OO, Hallsville, was present on behalf of this item.

Noah Earle stated he has the contract on this property. He submitted the application to the Board of Adjustment for a variance request from the 3:1 ratio because they wanted to move the westerly boundary of this lot all the way to the western boundary of the property. He submitted a petition to the Board of Adjustment.

In consideration of the Board to deny their request, they would still like to move forward with this request.

Commissioner Schnarre opened the floor for a public hearing on this request.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.

Commissioner Miller moved to approve the petition submitted by James and Virginia Baskett to vacate and re-plat Lot 1 of Brittany Acres Subdivision. Said vacation is not to take place until the re-plat is approved.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 313-2005**

F. Receive and Accept the following plats:

- **BLR.**
- **Yanis Estates.**
- **Tara North.**
- **Cedar Hill Estates.**
- **Countryside Acres Plat 2.**
- **Owensdale.**

Commissioner Miller moved receive and accept the following plats and authorize the Presiding Commissioner to sign said plats:

- BLR.
- Yanis Estates.
- Tara North.
- Cedar Hill Estates.
- Countryside Acres Plat 2.
- Owensdale.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 314-2005**

Public Comment

There was no public comment.

The meeting adjourned at 7:35 p.m.

Attest:

Keith Schnarre
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Skip Elkin
District II Commissioner