

TERM OF COMMISSION: December 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 7:00pm.

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 should state their name and address for the public record and state if they were present in support of or opposition to the issue.

Subject: Request by Payne Enterprises, Inc. to permit single wide mobile homes on lots 1, 2, and 3 of Thunderbird Valley Subdivision, located at 10300 W Eaton Rd, Harrisburg (appeal)

Stan Shawver gave a staff report as follows:

This property is located on Eaton Rd, a gravel, county maintained road approximately one mile west of Harrisburg. The 3 lots included in this request are zoned A-2 (Agriculture) as are all of the surrounding tracts. This request, if approved would allow a single wide mobile home to be placed on each lot in accordance with Section 4 (9) of the zoning regulations. It should be noted that mobile home subdivisions are not a conditional use in the A-2 district. While Section 4 (9) allows a mobile home to be placed in a subdivision, staff believes that such use is intended for an individual mobile home. By granting a blanket permit that will allow a single wide mobile home to be placed on each lot, this will in effect create a mobile home subdivision, which is not permitted in the A-2 district. The original zoning for these lots is A-2. The lots were platted as Thunderbird Valley Subdivision in August 1999. These lots are within Consolidated Public Water District No. 1 service area. These lots are within the Harrisburg R-8 school district. Electric service is provided by Boone Electric Co-operative. The master plan designates this area as being suitable for agriculture and rural residential land uses. The proposed use is consistent with the master plan. Staff notified 4 property owners concerning this request. As a CUP the proposal must meet the following criteria from the zoning ordinance to be eligible for approval:

1. 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.
2. 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.
3. The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.
4. All necessary facilities will be available, including, but not limited to, utilities, roads access and drainage.
5. 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.
6. 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.

7. 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.

Several of these criteria can be evaluated by the staff, for example, road access and utility demands. Other criteria must be evaluated by the commission following the required public hearing.

Staff notes the rural character of the surrounding area the proximity of the Howard County line in recommending approval of this request. However, staff recommends that, if approved, any mobile home placed on these lots:

- Must be located at least 100 feet from Eaton Road
- Must be placed upon concrete piers or runners

The Planning and Zoning Commission conducted a public hearing on December 16th. There were seven members present. Following the public hearing, there was extensive testimony as to the nature of this request. The Planning and Zoning Commission made a motion to recommend denial of the request. The motion received six yes votes and one no votes. The recommendation is for denial. The denial was appealed to the County Commission.

Stan Shawver stated that the County Commission did receive a copy of the appeal.

John Payne, 10951 I-70 Dr NE, President of Payne Enterprises, Inc stated that his company originally purchased a total of 34 acres and split them into three lots. He stated that when they began to market the lots, they received contact from two interested individuals. He stated that the individuals planned to place mobile homes on the lots. He stated that his company realized that they needed a conditional use permit to place mobile homes on the lots. He stated that they decided to request a conditional use permit for all three lots.

John Payne stated that he has a problem with the word "subdivision." He stated that he does not feel that three lots would create a mobile home subdivision.

John Payne stated that the property is approximately 1-2 miles from an 8-inch water line.

Commissioner Stamper convened a public hearing on the request.

Jerome Niemeier, 10175 W Eaton Rd stated that he currently lives across from the request property. He stated that property in this area is zoned agricultural. He stated that he purchased property in this area because he wanted to farm in Boone County under the Boone County regulations. He stated that he lived in a mobile home for many years. He noted that his mobile home was placed on 80 acres. He stated that he did not have a problem with mobile homes, however a mobile home subdivision should not be placed in this area.

Jerome Niemeier stated that Mr. Payne stated (during the public hearing of the Planning and Zoning Commission) that there was a real need for mobile homes. Mr. Niemeier presented a set of statistics to show that there is not a real need for mobile homes/parks in Harrisburg. He stated that he is also concerned about road and water, however he stated that these issues have been addressed by the Planning and Building Inspection staff. He stated that he is also concerned about the impact that a mobile home subdivision would have on property values in the area. He stated that he is completely against the conditional use permit for this property.

Mark Snyder, 1000 Royal Birkdale stated that he is against the issuance of this conditional use permit. He stated that he and his wife purchased 75 acres to the west of the request property. He stated that they purchased this property because of the rural setting. He stated that they purposely chose not to live near mobile home subdivisions. He stated that he and his wife feel that a mobile home subdivision in this area would devalue his property. He stated that they also feel that a mobile home subdivision would not be conducive to the setting.

Jeff Arp, 991 S D. C. Lane stated that he is against this request for a conditional use permit. He stated that he lives in a subdivision in the city limits of Harrisburg. He stated that his subdivision has a lot of regulations. He stated that he would rather see decent homes built on the request site. He stated that mobile homes in this area could take away from the area and would only breed more mobile homes.

Linda Beutenmiller, 14151 N Patton Rd stated that her family owns the property to the south. She stated that they own 160 acres that contain a horse training operation. She stated that the thought of a mobile home subdivision is very upsetting. She stated that a mobile home subdivision would hurt all of the property values in the area.

Arlene Douglas, 9501 W Eaton Rd stated that she currently lives in a trailer. She stated that she does not want a trailer court next door to her. She stated that they purchased property in the area to be away from people. She stated that there is too much traffic in the area as it is and people do not obey the speed limits on the roads. She stated that she is against the request.

Troy Douglas, 9601 W Eaton Rd stated that a mobile home subdivision would have no respect or understanding for the agricultural concerns of the area. He stated that he feels that the property values would be decreased. He stated that he is very much against the request.

Commissioner Stamper closed the public hearing.

Commissioner Stamper called the applicant for rebuttal testimony.

John Payne stated that the people have a misconception of the phrase "mobile home." He stated that the trailers today are a lot different than they were 10-15 years ago. He stated that only the larger mobile homes sell and they are all built to HUD and Boone County standards. He stated that what they hoped to do is establish entry level housing for young couples.

John Payne stated that having been a real estate broker for twenty years, he would challenge any of the property owners who testified to show an example of where a new single-wide trailer would have any effect on their property values. He stated that he would not call the three lots a mobile home subdivision. He stated that if they knew that requesting the conditional use permit for all three lots at once would constitute a mobile home subdivision, then they would have requested one lot. He stated that after speaking with the Planning and Building Inspection staff, however, they felt that this was the fair and up front way to make the request.

Commissioner Stamper asked John Payne to respond to Stan Shawver's statement that approval of this request in the A-2 district would be a non-conforming use.

John Payne stated that this pertains to the issue of the definition of a mobile home subdivision. He stated that he did not feel that three lots constituted a mobile home park or subdivision. He stated that if he wanted to develop the whole 34 acres into 2-acre tracts with mobile homes on each tract, he would consider that to be a mobile home subdivision.

Commissioner Stamper stated that if the County Commission approved the request however, they would be setting a very large precedent.

John Payne stated that he was not requesting the County Commission to set a precedent. He stated that he was not appearing before the Commission as a "Windy Point." He stated that he was appearing with a request for three lots. He stated that he could have placed hogs, coon dogs, or junk cars on this property, but he is not doing that. He stated that he was coming to the Commission straight with a request for a conditional use permit.

Commissioner Miller stated that she agreed with Commissioner Stamper statement that approving this request would set a precedent. She stated that she also concurred with some of those who testified earlier that three mobile homes on a frontage road (if water and sewer were to ever become available) would turn this into a mobile home subdivision. She stated that if this request was approved, then the County Commission would have to approve future requests to place mobile homes on this property. She stated that then it would be hard to find individuals who

would want to invest in conventional housing behind this site. She stated that she believed that the regulations did not allow for approval of this request in the A-2 zoning district. She stated her opposition to the request.

Commissioner Vogt asked Stan Shawver, if John Payne were to sell those properties (the three lots) if people could then come in individually and ask permission to place manufactured housing on those lots.

Stan Shawver stated that individuals could make that request. He stated that under the regulations a mobile home could be placed on a 5-acre lot. He stated that if a request were made for under 5 acres, then the individual would have to come in and make a request.

Commissioner Vogt stated that she also was not willing to set a precedent on this matter. She stated however that she was confused by testimony against mobile homes by individuals that live in mobile homes themselves. She stated that one of the things that she has tried to hold to as a Commissioner was “not expecting all people to choose the same type of housing and allowing people to live in whatever housing that they deem fit.” She stated that if it were not for the water problems and short acreage, she would vote in favor of the request.

Commissioner Vogt stated that an improvement to the road (near the request site) should be coming with the school being built in this area.

Commissioner Stamper stated that he could not vote for this request because “five years ago the County Commission worked hard to ensure that, if you went out and carved up a bean field, there was adequate infrastructure there to support it.” He stated that he was proud of the Planning and Zoning Commission vote because it showed that the County Commission’s changes to the subdivision regulations have required that adequate infrastructure be present or working. He stated that this was a backdoor way to getting a subdivision. He stated that if that was what was really wanted, then one should have come to the table in an honest way and spent the money that was needed to ensure that there was adequate water, roads, and sewer present.

John Payne stated that he took offense to some of Commissioner Stamper’s comments. He stated that the Planning and Zoning Commission turned his request down because of mobile homes, not because of the plat. He stated that the plat had no opposition.

Commissioner Stamper moved to deny the request to permit single-wide mobile homes on lots 1, 2, and 3 of Thunderbird Valley Subdivision, located at 10300 W Eaton Rd, Harrisburg.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 504-99**

Subject: Request by James Heuer to rezone from R-S (Single Family Residential) to C-GP (Planned Commercial) of 1.07 acres, more or less, located at 15471 Old Hwy 63 North, Sturgeon

Stan Shawver gave a staff report as follows:

This property is located on Old Highway 63 North approximately 11 miles north of Columbia and 7 miles south of Sturgeon. It is the site of the old Pinnacles Hill Store, an acknowledged nonconforming use. This property is zoned R-S (Single Family Residential) as is all of the surrounding property. This request to rezone to C-GP (Planned Commercial). However, both a Review Plan and a Final Development Plan will be required before the zoning actually will change. This site is within Public Water District No. 10 service area and within the Harrisburg R-8 School District. Electric Service is provided by Boone Electric Power Co-operative. The original zoning for this tract is R-S. However, testimony before the Boone County Zoning Board of Adjustment in May 1999 established that this property is a legitimate nonconforming use for a store and café, with a zoning equivalence of C-N (Neighborhood Commercial). The zoning

regulations prohibit the expansion of a nonconforming use. This request is a result of the current owner's desire to add fuel pumps and storage tanks to the property. The master plan designates this area as being suitable for agriculture and rural residential land uses. However, the master plan indicates that use of the planned commercial and industrial zoning districts is an appropriate method for providing commercial services along the main highways. Staff recommends approval of this request.

The Planning and Zoning Commission conducted a hearing for the request on December 16th. That recommendation comes forward with a unanimous recommendation for approval.

There were no questions of staff.

Commissioner Stamper called the applicant to come forward.

James Heuer, 8303 W Southeast Ct, stated that he recently purchased the store and the house right next to it. He stated that in the past there were gas pumps in this location, however he noted that those were removed in 1994. He stated that he was present to request rezoning on the property.

Commissioner Vogt asked the applicant if he was currently operating this store as a café.

James Heuer stated that the store started out as a grocery store, however now it also includes a café.

Commissioner Miller asked if the building next to the (proposed site) gas tanks is currently being used.

James Heuer stated that this building is rental property.

Commissioner Stamper convened a public hearing on the request.

There was no one present to comment on the request.

Commissioner Stamper closed the public hearing.

Commissioner Vogt stated that the fact that no one was present to testify against probably attested to the fact that the neighborhood (in which the café sits) loves this store.

Commissioner Vogt moved to approve a request by James Heuer to rezone from R-S (Single Family Residential) to C-GP (Planned Commercial) of .35 acres, more or less, located at 15471 Old Hwy 63 North, Sturgeon.

Commissioner Miller seconded the motion.

Discussion: Commissioner Miller stated that this will be great for the community.

The motion passed 3-0. **Order 505-99**

Subject: Request by Don and Mary Jeffers to vacate and replat lot 40 of Willow Brook Subdivision, Plat 2

Stan Shawver stated that this property has been platted. He stated that the property is zoned R-S. He stated that this property needs to be vacated and replatted to meet the 25 foot setback requirement for the house that the owner would like to build.

The applicant was not present.

Commissioner Stamper convened a public hearing on the request.

Glenn Goryl, 2011A Sunflower St stated that he was present to speak on behalf of the developer. He stated that they held a neighborhood meeting last night and there was no opposition from the neighborhood at the end of that meeting.

There was no one else that wished to speak.

Commissioner Stamper closed the public hearing.

Commissioner Vogt moved to authorize the vacation of Lot 40 of Willowbrook, Plat 2 and allow it to be replatted with the 25 foot setback with the vacation not to take effect until the replat is approved.

Commissioner Miller seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 506-99**

Subject: Final Plan B for Newtown Planned Residential Development, located at 1900 W Rte K, Columbia

Stan Shawver stated that this is the final plan for 2 (commercial) areas of Newtown Development. He stated that the Planning and Zoning Commission approved this plan.

Commissioner Miller moved to receive and accept Final Plan B for Newtown Planned Residential Development, located at 1900 W Rte K, Columbia and authorize the Presiding Commissioner to sign the related documents.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 507-99**

Subject: McManama Subdivision. S8-T51N-R11W. A-2. James and Donna McManama, owners. Donald Bormann, surveyor.

Stan Shawver stated that this property is located in the Centralia area. He stated that the property was going to be subdivided. He stated that lot 3 would be sold and lots 1 and 2 would be used for development.

Commissioner Vogt moved to receive and accept McManama Subdivision, a minor plat, and authorize the Presiding Commissioner to sign the document.

Commissioner Miller seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 508-99**

Subject: Capital View Estates. S13-T45N-R12W. A-2. Kenneth and Beverly Adams, owners. Keith M. Brickey, surveyor

Stan Shawver stated that this is a 3-lot subdivision located on Hartman Rd. He stated that the Planning and Zoning Commission approved the plat.

Commissioner Miller moved to receive and accept Capital View Estates and authorize the Presiding Commissioner to sign all related documents.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 509-99**

Subject: Lake of the Woods Center. S10-T48N-R12W. C-GP/C-GP. Gary and Virginia Evans, owners. Nathan D. Lacy , surveyor.

Stan Shawver stated that the Planning and Zoning Commission approved this in October. He stated that the infrastructure is nearly complete. He stated that the County received surety in the form of CDs pledging the remainder of the improvements. He stated that they also received a number of letters accepting estimates for the remaining work. He stated that they are waiting on a letter from the Boone County Regional Sewer District. He stated that this plat could be approved pending the signature of Tom Ratermann. He also noted that the Public Works Department has not prepared the documents for the acceptance of roads in this area. He stated that generally the Public Works Department prefers that those documents immediately follow the acceptance of the plat.

Commissioner Stamper stated that this particular plat involved a much more complicated process.

Commissioner Stamper moved to receive and accept and authorize the Presiding Commissioner to sign the Lake of the Woods Center final plat and the bonds and other sureties as submitted recognizing that the County Commission will receive Tom Ratermann's final opinion.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 510-99**

Subject: Approve Range Reclassifications and Salary Increases (Merit and COLA) in 2000 Budget

Commissioner Miller stated this action needed to be taken in order to prepare the documentation for the first payroll in 2000.

Commissioner Miller moved to approve the range reclassifications and salary increases (merit and COLA) in the 2000 Budget. And further authorize the preparation and distribution of the forms to enact said range reclassifications and salary increases.

Commissioner Stamper seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 503-99**

Subject: Water Supply at the Fairgrounds

Commissioner Stamper stated that he needed to request authorization to sign documents for Water District #4 relevant to the water supply at the Fairgrounds. He stated that these documents have to be signed by the County Commission and submitted along with a deposit for 5 water meters.

Commissioner Stamper moved to authorize the Presiding Commissioner to sign certain documents relevant to the Water District #4 requirement for the water supply at the Boone County Fairgrounds.

Commissioner Vogt seconded the motion.

Discussion: Commissioner Stamper stated that he would give the documents to John Patton for review before signing them.

Commissioner Vogt asked what the cost of this would be.

Commissioner Stamper stated that this would cost \$50 per meter. He stated that they were going to make an appeal to have the fee waived.

The motion passed 3-0. **Order 511-99**

Subject: AC/Grindstone Easement

John Patton stated that the attorney appointed to handle the easement that is being granted to the citizens of Boone County on the above named property does not want to interview the citizens of Boone County to find out if there is interest. He stated that this attorney would like the County Commission to establish an order declining the interest in the easement.

The County Commission agreed to grant the attorney's request.

John Patton stated that he would obtain the language from the attorney and return to the County Commission for the formal order for the Thursday meeting.

Commissioner Stamper instructed the Deputy County Clerk to schedule a public hearing to precede the final action on this matter.

Commissioner Reports

Commissioner Vogt

Commissioner Vogt reported that she has attempted to reach Mike Mobely, Peak Project about giving a report to the County Commission. She stated that he would not be able to attend until after the holidays. She stated that she would let the County Commission know when he was scheduled on the agenda.

Commissioner Stamper

Commissioner Stamper stated that he and Beckie Jackson, Purchasing Director are working on the RFP for the Fairgrounds. He stated that another draft should be available soon. He stated that the County Commission should have a work session after the beginning of the year.

Commissioner Miller

Commissioner Miller did not give a report.

There was no public comment.

The meeting adjourned at 8:25pm.

Attest:

Don Stamper
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Linda Vogt
District II Commissioner