

TERM OF COMMISSION: December Session of the October Adjourned Term

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

PRESENT WERE: Presiding Commission Daniel Atwill
District I Commissioner Karen Miller
District II Commissioner Janet Thompson
Director Resource Management Stan Shawver
Planner Uriah Mach
Deputy County Clerk Mike Yaquinto

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

Resource Management

1. Request by David G. Allen on behalf of St. Charles Tower, Inc., for a transmission facility including a 110' tower on 2.33 acres located at 5170 S Scott Blvd., Columbia.

Stan Shawver read the following staff report:

This request was considered by the Planning & Zoning Commission during their November 20, 2014 meeting.

The minutes for the Planning and Zoning Commission meeting of November 20, 2014 along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

The subject property is located on Scott Boulevard, adjacent to the City of Columbia to the west, and approximately 800 feet to the north of Thornbrook Ridge's intersection

with Scott. The property is 2.33 acres in size and is zoned A-2(Agriculture). The property has A-2 zoning to the north and east, A-1(Agriculture) zoning to the south, and the City of Columbia to the west. There is a previously approved 199' tower to the south that was approved in 1996 and another tower to the southwest that is 84' tall approved in 1993. The County zoning is all original 1973 zoning. The property is currently undeveloped. The Master Plan describes this area as being suitable for residential land use. Staff notified 49 property owners about this request.

A description of the lease area site has been submitted by the applicant in the application materials. The lease area for the tower is approximately 10,000 square feet out of the 2.33 acre parent tract. The siting of the tower may cause difficulties in the future if subdivision is desired. The proposal for a transmission facility is for a 110' monopole tower and support facilities. The applicants have met the submission requirements identified for a conditional use permit for a transmission facility

Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners. As a conditional use permit, 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.

If operated in conformance with existing county regulations, the use should comply with this criterion.

(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.

If operated in conformance with existing regulations, this use should not be injurious to the use & enjoyment of other property in the immediate vicinity for purposes already permitted by the regulations. Public testimony may be indicative as to whether this criterion can be met.

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

The application meets this criterion as per the zoning ordinance Section 15B section 4, subsection (e). However, this is a purely technical analysis as constructed by the regulations. Public testimony may better reflect any impacts on property values.

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

The use has limited needs with respect to utility infrastructure and so the site has adequate facilities to support the proposal.

(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.

This area is zoned A-2, with residential uses limited to 2.5 acre tracts or larger. The property to the north and east has developed in a manner consistent with the A-2 zoning district. Property to the south is undeveloped, but unencumbered by the presence of the proposed transmission facility. Property to the west and southwest, being in the city limits of Columbia, has developed under the city's development regulations. Surrounding property has developed prior to the establishment of this conditional use permit or will be unencumbered by its approval.

(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 is a minimal traffic generator and should not hinder traffic or cause congestion on public streets.

(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 conforms to other applicable regulations of the A-2 zoning district, particularly since no land division is proposed. Public necessity has been discussed by the Federal Telecommunications Act of 1997 to allow for widest dissemination of wireless communication services.

Staff recommended approval of this conditional use permit.

The Planning & Zoning Commission conducted a public hearing on this request during their November 20, 2014 regular meeting. There were seven members of the commission present during the meeting.

Following the public hearing, a motion was made to recommend approval of the conditional use permit request. The motion passed unanimously, so it comes forward with a recommendation for approval.

Commissioner Thompson said she would like some clarification concerning the staff report which says "The siting of the tower may cause difficulties in the future if subdivision is desired." asking if this subdivision is in reference to this particular piece of land.

Stan Shawver said it is. To meet the setback requirement, it will require 110 feet of clearance and the property is 2.33 acres and legally, is a non-conforming lot. If it were to be subdivided, it would need to be re-zoned. It would be quite difficult to place anything on that lot but the tower.

Commissioner Thompson said that the impact in terms of a subdivision is to the property owner of that piece of land.

Mr. Shawver said that is correct.

There were no further comments or questions from the Commission at this time.

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on behalf of this request.

Eric Martin said he is representing St. Charles Tower, the applicant for the cell tower. He appreciates the Commission's consideration for this tower. The first question always asked is why the tower is needed. It is an issue of both coverage and capacity that drives the decision to build a new tower. St. Charles Tower is in the business of building towers and then allowing carriers to use them and in some instances, having multiple carriers using one tower. There has been an explosion in the use of cell phones, tablets, iPads along with other various types of services offered such as streaming videos. Small businesses rely on this type of service. There is a statistic that says up to 70% of emergency calls nationally are made by cell phones.

The issue is if these carriers have the coverage and whether they can provide the type of service desired by the customer in that specific area. It is more cost effective for carriers to locate on existing structures so the market forces push carriers to existing structures and St. Charles Tower's business model is based on that. It is getting the maximum number of carriers on this tower reducing the need for them.

Recently, the Missouri Legislature passed Senate Bill 650 which Governor Nixon signed. The bill prevents governmental bodies from considering co-location as a reason to deny or

approve a permit. We have provided more than what is required in this bill. We have provided propagation maps showing where service is needed and a statement that the carrier in question cannot use existing facilities. We have gone above and beyond the requirements and we will try to drive other carriers to this tower for their use.

This particular site is very well suited for a tower. It has natural vegetation and is a fairly large parcel. The type of design for this tower is a monopole, a very clean design which reduces any visual impact. Due to the height of the tower, no lights are required, it will be very unobtrusive. There are some existing structures in the area, so the additional visual impact will be very minimal for this structure.

Looking at the various criteria which were mentioned for a Conditional Use Permit: First, whether it is a detriment and an endangerment to public health and safety. These types of structures are very common, like utility and power poles. As mentioned earlier, the majority of 911 calls are made from these types of towers so there is no detriment or endangerment to public health. The FCC regulates all the frequencies that are transmitted from a tower so that is not a concern.

Second, that it not be injurious to the use and enjoyment of other property in the immediate vicinity; the tower is designed to be visually unobtrusive with the sleek monopole design, blending into the area. There are existing towers there and as pointed out in the P&Z meeting, some of the houses there have been built after these two towers were already erected.

Third, that it will not substantially diminish or impair property values of existing properties in the neighborhood; studies have shown there are no causal links between cell towers and property values. In fact, good cell service would help provide a premium for property values because of the demand by customers and those that work out of their homes. There is no diminishing of property values.

Concerning all necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage; all those will be addressed and we will conform to all the

county regulations.

The subdivision issue noted earlier will only impact this parcel of land so this will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.

In terms of traffic flow, this is not a site that requires a great deal of traffic. There will be the occasional maintenance of the tower. One will not see a creation of traffic congestion.

Finally, as to the necessity of this CUP, it was noted in the Telecommunications Act of 1996 that there is an emphasis of building out the cellular infrastructure for our country which was also reflected in Missouri Senate Bill 650.

So, for these reasons, we are pleased to come before the Commission tonight to seek approval of this Conditional Use Permit for this facility.

Commissioner Miller said that St. Charles Tower has identified two other towers in the area and during the propagation studies, why those towers could not be used since it is the business model to co-locate if possible.

Mr. Martin said the engineers looked at this and the carriers determined that they were not satisfactory for structural reasons.

Commissioner Atwill asked if there is anyone else present that would like to speak on this issue. There were no additional speakers.

There were no further comments or questions from the Commission and the Public Hearing was closed by Commissioner Atwill.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby **approve** the request by David G. Allen on behalf of St. Charles Tower for a transmission facility, including a 110' tower, on 2.33 acres, located at 5170 S Scott Blvd., Columbia.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #545-2014**

2. Receive and accept the following plats:

- **Docsville. S28-T50N-R13W. A-2. Donald and Joyce Karr, owners. Kevin M. Schweikert, surveyor.**
- **Piest. S35-T49N-R14W. A-2. R-S/A-2. Alta Vista Properties, LLC, owner. David T. Butcher, surveyor.**

Uriah Mach said these were conventional plat requests.

There were no questions or comments.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby receive and accept the following subdivision plats and authorize the Presiding Commissioner to sign them:

- **Docsville. S28-T50N-R13W. A-2. Donald and Joyce Karr, owners. Kevin M. Schweikert, surveyor.**
- **Piest. S35-T49N-R14W. A-2. R-S/A-2. Alta Vista Properties, LLC, owner. David T. Butcher, surveyor.**

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #546-2014**

Auditor

**3. Public Hearing and second reading; Budget Amendment to increase appropriations to purchase a replacement logging and recording system (1st read 11-13-14)
Community Children’s Services**

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on this issue. There were no speakers and Commissioner Atwill closed the Public Hearing.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby acknowledge the following budget amendment to increase appropriations to purchase a replacement logging and recording system for Public Safety Joint Communications.

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
2020	92300	E-911 Emergency Telephone	Replacement Machinery & Equipment		170,365

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #547-2014**

4. Public Hearing and second reading; Budget Amendment for funding to enter into 23 contracts to serve children and families in Boone County (1st read 11-13-14)

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on this issue. There were no speakers and Commissioner Atwill closed the Public Hearing.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby acknowledge the following budget amendment for the amount of funding approved by the Boone County Children’s Services Board to enter into 23 contracts to serve children and families in Boone County.

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
2161	71106	Funding Opportunities	Contracted Services		5,223,233

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #548-2014**

Sheriff’s Department

5. Public Hearing and second reading; Budget Amendment for awarded MOICAC funds (1st reading 11-18-14)

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on this issue. There were no speakers and Commissioner Atwill closed the Public Hearing.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby acknowledge the following budget amendment for the Sheriff’s Department to budget awarded MOICAC funds.

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
1253	3411	Cyber Crimes Task Force	Federal Grant Reimbursement		10,000
1253	37210	Cyber Crimes Task Force	Training/Schools		500
1253	37230	Cyber Crimes Task Force	Meals/Lodging		500
1253	37220	Cyber Crimes Task Force	Travel		316
1253	92300	Cyber Crimes Task Force	Replacement Equipment		8,684
					20,000

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #549-2014**

Commission

6. 1st & 2nd reading; Organizational Use of the Government Center Conference Room 301 by the Missouri Department of Mental Health for January 14, 2015

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the Organizational Use of the Government Center Conference Room 301 by the Missouri Department of Mental Health for January 14, 2015 from 9:00 a.m. to 2:00 p.m.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #550-2014**

7. 1st & 2nd reading; Rescind Commission Order 544-2014 per non-conformance to County Policy

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby rescind Commission Order 544-2014 per non-conformance to County Policy that states government facilities may only be reserved up to three months prior to the event date.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #551-2014**

8. 1st & 2nd reading; Organizational Use of the Government Center Chambers by CoMo Green for December 22, 2014, January 26, 2015 and February 23, 2015 from 6:30 p.m. to 9:00 p.m.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the Organizational Use of the Government Center Chambers by CoMo Green, Columbia Chapter of the U.S. Green Chamber of Commerce for December 22, 2014, January 26, 2015 and February 23, 2015 from 6:30 p.m. to 9:00 p.m.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #552-2014**

9. Public Comment

Gene Basinger said he is a surveyor and is here to speak about a two lot minor plat that he thought would be in front of the Commission at tonight's meeting. In reviewing the plat process, plat submittal day each month is the Monday before the last Thursday of the month. At that point in time, required are 14 copies of the plat, two copies of the sanitary sewer plan and one copy of the street plan. Once that is done, you have to wait for the comment sheet from the Planning Office and there is no timetable on getting the comment sheet so it is

constantly looking at e-mails to see if it has been received because there is only so much time to get the comment sheet submitted along with re-submitting the plat with 12 more copies of the plat. The plat then goes before the P & Z Commission on the 3rd Thursday of the month. After that, it will go to the County Commission about ten days after the P & Z meeting. That's the schedule of a plat.

On September 22, 2014, a two lot minor plat was submitted and received comments on October 6th, which was a Monday. 12 copies and revisions were submitted by 3 p.m. on October 9th, a Thursday. All were submitted by the deadline. The plat was to go before the P & Z Commission on October 16th. On October 16th, Uriah Mach was asked to take the plat off the agenda for that night because the weather prevented the survey getting staked. He acted like he didn't know how to do this, but tried to do something. It seemed simple enough, when the plat item comes up, tell the P & Z that the surveyor asked that it not be considered until next month.

On October 27th, an e-mail was received from Uriah stating that to get on the next P & Z agenda, a full re-submittal would be required with 12 copies of the plat. At that point, I did not understand why the item was not moved to the next meeting and why 12 more copies of the plat must be submitted when I told the P & Z to hold the previous copies until the next meeting. 12 more copies of the plat were submitted. At this point, 38 copies of the plat, at a cost of \$95, just for the copying, not including the time to do this, has been spent. The plat should now be on the November 20th agenda. On November 5th, an e-mail was received from Uriah stating that until the following issues are resolved, the plat cannot be recommended for approval (*a copy of the e-mail was given to each Commissioner*). I have no problem with them not recommending approval. I could just attend the P & Z and County Commission meetings and defend my position.

On November 19th, the day before the meeting, I called Uriah to make sure the plat was on the agenda for the meeting the next day. He said it was not. I don't know if there is anything in

the e-mail that would lead anyone to believe it would not be on the agenda. It says staff will recommend it not be approved. I can understand not being approved, but why was it removed from the agenda. The reason was that it did not meet County regulations although I believe it does. The item was not pulled off the 1st agenda until I asked that it be removed the day of the meeting. What is different from then to now that it gets pulled off the agenda. I asked why I was not informed that it was going to be removed. At some time before that, I went to the Planning Office to discuss this with Uriah. He was not in and I talked to Bill Florea about the situation.

This will now be on the December meeting, providing Uriah lets me on the agenda. If there are any problems that need to be resolved, it won't be until February before anything gets done because there is no meeting in January. I don't believe planning staff has or should have the power to remove plats from the agenda without consent of the surveyor. At the very least, I should have been notified of their intent so I could ask that the plat continue through the process. When it comes to a disagreement to the interpretation of the regulations, the County Commission should make the final decision, not the planning staff. I feel that I have met the letter of the law by submitting the plat and the P & Z has 30 days to act on that plat which did not happen. My opinion is that the plat should go before the Commission tonight for consideration of approval or not. I have had many problems with the planning staff, have for many years and it continues on. With that, I would be happy to answer any questions.

Commissioner Atwill said he would like to get the order of events straight. The first time this was scheduled and when you asked it to be withdrawn, were the issues that exist now brought up at that time.

Mr. Basinger said yes.

Commissioner Atwill confirmed that the issues were the same.

Mr. Basinger said yes.

Commissioner Atwill asked if the only thing that changed was Mr. Mach's opinion.

Mr. Basinger said he has no idea. He only knows that when he called to ask about the agenda, something he does not normally do, he was told it was pulled from the agenda. So, I don't know why, that is a question for Uriah. Only explanation was that it did not meet the regulations. I felt that it did meet the regulations and was prepared to go to the P & Z and County Commission meetings to defend my position.

Commissioner Atwill asked if anything had change about the plat from the 1st time to the 2nd time it was considered.

Mr. Basinger said no. The plat was revised except for certain things on the plat that he felt did not meet regulations, but I felt did. When the plat was re-submitted, it was the same plat that had already been submitted and going through the P & Z Commission. When I originally asked to have it removed, I wasn't told it was not on the agenda.

Commissioner Thompson confirmed that the comments were received on October 6th and the revised plat was submitted on the 9th by the deadline.

Mr. Basinger said he made all the revision on the plat that were requested and submitted by the deadline on the 9th and never received any further comments except for the ones that were eventually listed in the e-mail received from Uriah.

Commissioner Atwill asked if there is anyone else present that would like to comment on this issue. There were no additional speakers.

Stan Shawver said that Mr. Mach does not have the authority to put things on or take things

off the agenda. That is my authority. When comments are sent out, we provide the surveyor to respond graphically or in writing as to why they may disagree. When they don't comment or make changes, we have to make the assumption they aren't going to make changes. They don't comment or meet with us, kind of puts us in a pickle.

Mr. Basinger did call and requested the plat be removed from the agenda. Mr. Mach did bring that request to me. Agendas are posted 24hrs before the meeting and the web site is posted as current as possible. The direction was to remove the item from the agenda and Mr. Mach was directed to send a letter to Mr. Basinger telling him he did not say he would be ready for the next meeting or the following meeting in December or any idea when the property would be staked. He was advised to re-submit following the published deadlines for consideration at the next meeting.

Commissioner Atwill verified that the first time it was to go before P & Z; that was going to happen.

Mr. Shawver said he believes that is correct. As Mr. Basinger said, he made several changes after that which I am not familiar with and then other issues came up.

Commissioner Atwill said he understands that a new issue arose before the 2nd P & Z meeting that Mr. Basinger could have attended. Could that new issue be explained.

Mr. Shawver said he did not know at this time, but can prepare a complete report.

Commissioner Thompson said she would like a complete report because without it, it sounds as if it was on the agenda then removed. Whatever the other thing is, we need to know that.

Mr. Shawver said Mr. Basinger did not re-submit or acknowledge the comments with the note to be on the November agenda. When a surveyor does not re-submit or acknowledge the

comments, we assume he does not want to proceed at that time.

Commissioner Thompson said she was referring to the October 16th issue. If it was originally on the agenda and was removed, what was the other intervening issue.

Mr. Shawver said he would go back and look at the file and see what the original submission was. He is sorry that he can't address this tonight as he was unaware that this would be discussed tonight.

Commissioner Miller said that when Mr. Shawver does the report and based on the e-mail sent to Mr. Basinger, were the setbacks there on the original plat and then removed. That is a question because we require the setbacks of anybody. It seems strange that it would not be on there because it would then not meet our regulations. This needs to be addressed. Were those setbacks and the 150 foot lot width part of the original plat that was on the agenda and then removed and then changed. If they were changed, that is understandable, but if they were the same, then we have a flaw somewhere.

Commissioner Atwill asked when they can expect the report.

Mr. Shawver said it can be completed by the end of the week.

Mr. Basinger said he did re-submit the plat for beyond the November agenda and asked if he will be on the December agenda.

Mr. Shawver said it will be on the December agenda.

There were no further public comments.

10. Commissioner Reports

None

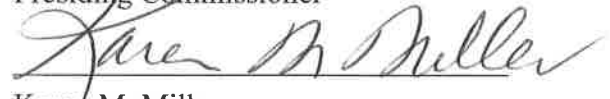
The meeting adjourned at 7:40 p.m.

Attest:


Wendy S. Noren
Clerk of the County Commission



Daniel K. Atwill
Presiding Commissioner



Karen M. Miller
District I Commissioner



Janet M. Thompson
District II Commissioner