

BOONE COUNTY PLANNING & ZONING COMMISSION WORK SESSION
BOONE COUNTY GOVERNMENT CENTER, CONFERENCE ROOM 301
801 E. WALNUT, COLUMBIA, MISSOURI
(573) 886-4330

Minutes

6:00 P.M.

Wednesday, January 17, 2018

Present: Erik Kurzejeski, Carl Freiling, Jeff McCann

Also Present: David Butcher and Mike Tompkins, Stakeholder Committee

Staff: Bill Florea, Thad Yonke, Uriah Mach, Paula Evans

Staff Note: For those not attending the work session please reference the comment matrix emailed to you as a guide to the minutes. Only responses to questions proposed for change, questions with lengthy discussion, and responses with further clarification are addressed in these minutes.

Mr. Florea informed the Commissioners that staff would like the process to keep moving forward and doesn't want to repeat discussions of comments already addressed, however, if any Commissioners have an issue that was not discussed at a previous meeting they are welcome to bring up the topic again. Please keep in mind that there are still several unresolved issues that were held over for further discussion. Discussion on those items will take place after going through all of the comments.

Mr. Florea stated that staff looked in to the lot / tract issue from the previous discussion and "lot" appears 250 plus times while *tract* and *parcel* appear about 30 times each. The words tract and parcel could be included in the definition of lot. Then, in the text of the Regulations, we can replace tract and, in many cases, parcel with lot. After a brief discussion it was agreed to make those changes.

We will begin where we left off with the public comments beginning with section 1.6.2.2

1.6.2.2 "These are really subdivisions and not surveys."

Clarification: If Family Transfer Divisions (FTD) were recategorized as Subdivisions they would have to be approved by the Planning and Zoning Commission. If that was done, FTDs would be taken out of the Administrative approval category with a 10 day review period and moved into a category with a 5-6 week approval period.

1.6.2.2 "Why is this called a division survey?"

Staff Note: Second sentence changed to "Family Transfer Division Surveys are grouped" (remainder of answer remains as written)

1.6.2.4 "This should be called a Boundary Line Adjustment Survey"

Staff Note: As discussed during the last work session we are going to change the word "tract" to "lot"

1.6.2.4 "The 40-acre limitation should be dropped or revised down"

NOTE: Relates to the 20 to 40-acre change. Question was skipped for further discussion at a later work session.

1.6.3 "This is linguistically problematic"

Commissioner Kurzejeski asked that the last sentence be deleted. Staff indicated that they wanted to show that this term is in common use. Sentence was deleted.

1.6.3.1 "Is only one driveway allowed?"

Staff Note: Staff was unable to determine what commenter was referring to in this question.

1.6.4.3 “requires any plat with lots of less than 5 acres”

Deleted answer and replaced with “This is a misreading of the regulation”

1.7.2.4.2 “Define usable”

The section number for this comment was entered incorrectly. Should be 1.7.2.2.4.2

1.7.3 “Surveys, plans and documents only accepted for review”

Uriah Mach stated that surveys currently go out four or five days a week. Bill Florea stated it takes as much time to send five surveys as it does to send one; this proposed process will free up staff time.

Second paragraph of answer, change second sentence to: “But they will only be logged as accepted on Monday and Thursday.” (*Or similar language*)

1.7.3.1 “5 copies unless additional are required”

Staff comment: Staff did not address the question “will this hold up the review?”. Staff indicated that yes, it will hold up the review, surveys can not be distributed until the required number of copies are received.

1.7.3.1.3 “Why would disapproving an administrative survey require..”

Discussion: Bill Florea stated the commenter misread the proposed regulation. This establishes a sunset on approved administrative surveys that have not been finalized. Staff currently have hundreds of files that are still open that we can’t close because there is no sunset on those approvals. This regulation will allow staff to close it out and cull the file. Mike Tompkins felt this time frame to be too short. Mr. Tompkins stated the regulation allows for a one-time extension of an additional 90 days, but it would be nice if you could get additional extensions, why only one extension? Thad Yonke stated the surveyor can turn in a new one with a new date. Commissioner Kurzejeski stated he has no problem with infinite extensions. Mr. Yonke stated this regulation came about because there are people who don’t maintain contact with staff. Mr. Butcher stated that there is no regulation in place for it now so it seems reasonable that staff is getting the regulation that they need in order to cull the file they should allow people to get as many extensions as they need. Mr. Florea asked how many surveys take more than half a year to complete; it seems we are addressing an issue that isn’t really a problem. Mr. Yonke stated if regulations change in between then it might be a problem to grant multiple extensions. Mr. Florea asked for input from the Commissioners. Commissioner Kurzejeski stated the 90 days seems to be a problem, should we increase that time limit? Mr. Yonke stated the purpose of this is not to void the copy that is already signed; the surveyor has gotten a statement from staff saying “this is what it will take to get approved” and we don’t hear anything and those corrections are never made, this still has to be corrected. If you are waiting and have a closing and you still haven’t made those corrections it needs to come back in. This is more for the forgotten stuff than it is for things that are actively in the works. Commissioner Freiling asked if most get done before the 90-day period is up. Uriah Mach stated for the most part, yes. Mr. Tompkins asked what the average time is. Mr. Yonke stated less than 10 days if the surveyor makes the corrections. Commissioner McCann stated he wouldn’t be opposed to 90 days plus a 180-day extension for a total of 270 days because it seems like a low percentage would need an extension.

Commissioner Freiling agreed.

Conclusion: Will be changed to 90 days plus 180-day extension.

1.7.3.2.4.1 “Any parcel including remaining parent parcel cannot be divided...”

Discussion: Mr. Florea gave the following example: A family transfer to child 1 comes out of the original parcel and they have 30 acres left, a year later they want to family transfer to child 2. Mr. Florea stated we want to add language that they can do that as a family transfer but it resets the three-year clock on the newly created family transfer tract and what is left of the parent parcel; it does not reset the clock on the first family transfer for child 1. Commissioner Freiling stated one of the things we had discussed was the ability to appeal the three-year clock due to a special circumstance. Is there an appeal process? Mr. Yonke said you could plat to undo the three-year hold. Commissioner Freiling asked the advantage for a family to do a family transfer. Mr. Yonke stated very few. Mr. Florea stated it is really in the A-2 zoning so you can do a family transfer rather than a plat to create lots smaller

than ten acres. Commissioner Freiling stated you are saving on plat costs. Mr. Florea stated yes and the procedure for a family transfer is administratively approved rather than a plat that has to go through Planning and Zoning Commission and County Commission. Mr. Butcher stated if you had a 30-acre parcel and you wanted to create a lot in the back, you have that ability under a family transfer but through the platting process you can't do that. Commissioner Freiling asked what if someone did that and had circumstance where they needed to get rid of the three-year hold. Mr. Yonke stated they would be out of luck, they would have to wait the three years. Mr. Butcher stated they could go to the Board of Adjustment and ask for a variance.

(Staff Comment after the meeting as further clarification: Current Zoning Regulations do not allow for a variance of this type, the Zoning Regulations would have to be amended. Zoning Regs only allow powers to the Board to grant variances in cases where it is alleged there is error in a decision made by an administrative official, and; where by reason of shape or topography or other extraordinary or exceptional situation or condition of a specific ordinance would result in a peculiar and exceptional difficulties to or exceptional and demonstrable undue hardship upon the owner of the property as a deprivation of use as relating to the property. – financial hardship is not an allowable hardship under this regulation, only hardship upon the owner of the property as a deprivation of use as it relates to the property may be considered. Please see Zoning Regulations 15.C.4 for a full listing of the powers of the Board).

Mr. Tompkins stated if there is a death or foreclosure you can almost deal with that in one year but three years starts to be quite a while to where maybe there should be an appeal process. Mr. Yonke stated five years was the proposal, three years is the compromise. Commissioner Freiling stated there should be a way in special circumstances. Mr. Tompkins asked if there was an appeal process written in. Mr. Florea stated it was alluded to but one was not written. Commissioner Kurzejeski asked if it would be better if we just didn't allow family transfers. Mr. Yonke stated that was his argument from the beginning. Commissioner Kurzejeski stated we are trying to encumber them to the point where it is difficult. I see value in them. Commissioner Freiling stated the three-year requirement is going to turn out to be a box for some people and it is going to be very unfortunate, maybe we are sucking them in to something by making it easy and laying a trap at the end. Mr. Butcher stated that he believed family transfers to be a valuable tool and it will affect quite a few people, I fought very extensively to keep them. We compromised at three years but I am still a proponent of one year for the very reasons brought up. Commissioner Freiling stated he doesn't want people to use family transfers as a by pass for subdividing. Mr. Yonke stated in 80 % of the time that is what is happening, and they are very rarely being used for what they were actually intended for. Commissioner Freiling stated he believes family transfers have a place we accept the fact that we need to write the regulations in such a way that it discourages this as an alternative to proper subdividing. How do we provide some relief in the event that something significant happens to this family and something needs to be done with the property prior to the three-year deadline? Mr. Florea stated there is a variance through the Board of Adjustment where you can get a second dwelling on the property for a limited period of time; that is a similar process for what Commissioner Freiling is asking. We could use a similar process as a relief valve for these circumstances. Mr. Butcher stated some language could be added to this regulation that in the event something tragic happens and the three-year window cannot be achieved then they could appeal to the Board of Adjustment. Mr. Yonke stated the Board of Adjustment can only grant a variance under very specific criteria. Commissioner Kurzejeski stated he doesn't think it makes sense that we are encumbering the parent parcel, if I transfer a piece of property they can't sell it for a certain number of years but why are we going after the parent tract? Mr. Yonke stated it is because we have had reverse family transfers. Someone will give a family member a large portion of the lot for the purpose of selling the remainder. We have also had someone carve a lot out of the middle leaving two on the sides, that is why we included a provision of only one remainder is allowed. Commissioner Kurzejeski stated we have talked about the shared belief that this is important to the public we serve. Now, because there are people who abuse it with some frequency we are saying that because of these people we add more regulation. We shouldn't penalize people because someone else can find a way around a regulation; even when these are done there are going to be ways around them, there is always some kind of loophole and we are penalizing the public. Mr. Yonke stated is staff's job to plug those loopholes. Commissioner Freiling stated if you have a 20-acre tract and transfer 2.5 acres you can't sell the remaining 17.5 acres for three years? Mr. Yonke stated that is correct, they would have to plat it. Commissioner Freiling stated they would have to go back and divide it according to the

regulations like you would have had to have done in the first place had there not been a family transfer. Mr. Yonke stated that is correct. Commissioner Kurzejeski stated if the parents transfer a lot to the child and then the father dies and the mother has Alzheimer's and the child can't sell the parent's property to help pay for the mother's medical bills unless they ask for relief through the Board of Adjustment, that sounds like a ridiculous burden.

No solution was made; this item will be held for further discussion. All remaining comments and discussion regarding Family Transfer Division will be held for a future work session when more Commission members are present.

1.7.3.2.4.3 Relates to Family Transfers and will be held for a future work session

1.7.2.2.4.3 Both comments are out of numerical order on this list.

1.7.2.2.4.3 "What about a lot served by a private access easement..."
Add "The owner/subdivider defines who is responsible for maintenance."

1.7.3.2.4.4 Relates to Family Transfers and will be held for a future work session

1.7.3.2.4.5 Relates to PAE. Question was skipped for further discussion at a later work session.

The work session ended having reviewed comments for section 2.4.

The next work session is scheduled for Wednesday, January 24, 2018 at 5:30 pm where we will continue with Appendix A.

The work session adjourned at 7:36 pm

Minutes taken by Paula Evans, Administrative Coordinator, Boone County Resource Management