

BOONE COUNTY PLANNING & ZONING COMMISSION
BOONE COUNTY GOVERNMENT CENTER, COMMISSION CHAMBERS
801 E. WALNUT, COLUMBIA, MISSOURI
(573) 886-4330

Minutes

7:00 P.M.

Thursday, October 20, 2011

I. Chairperson Harris called the meeting to order at 7:00 p.m., with a quorum present.

II. Roll Call:

a. Members Present:

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|---------------------------------|-----------------------|
| Carl Freiling, Vice-Chairperson | Cedar Township |
| Mike Morrison, Secretary | Columbia Township |
| Larry Oetting | Three Creeks Township |
| Eric Kurzejeski | Missouri Township |
| Gregory Martin | Katy Township |
| Kevin Murphy | Perche Township |
| Michael Poehlman | Rock Bridge Township |
| Paul Prevo | Rocky Fork Township |
| Derin Campbell | County Engineer |

b. Members Absent:

| | |
|--------------------------|--------------------|
| Boyd Harris, Chairperson | Centralia Township |
| Brian Dollar | Bourbon Township |

c. Staff Present:

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|-----------------------------|---------------------|
| Stan Shawver, Director | Uriah Mach, Planner |
| Thad Yonke, Senior Planner | Paula Evans, Staff |
| Bill Florea, Senior Planner | |

III. Approval of Minutes:

Minutes from the September 15, 2011 meeting were approved by acclamation.

IV. Chairperson Statement

Vice Chairperson Freiling read the following procedural statement:

The Boone County Planning and Zoning Commission is an advisory commission to the County Commission. The commission is made up of individuals representing each township of the county and the county engineer.

The Planning and Zoning Commission makes recommendations to the County Commission on matters dealing with land use. Tonight's agenda includes one rezoning request, a final development plan, and two subdivision plats.

In general, the Planning and Zoning Commission tries to follow Robert's Rules of Order, however, it is authorized by the Missouri state statutes to follow its own by-laws. The by-laws provide that all members

of the commission, including the chairperson, enjoy full privileges of the floor. The chairperson may debate, vote upon or even make any motion.

The following procedure will be followed:

The agenda item will be announced, followed by a report from the planning department staff. At that time, the applicant or the applicant's representative may make a presentation to the commission. The commission may request additional information at that time, or later following the public hearing. After the applicant's presentation, the floor will be opened for a public hearing to allow anyone wishing to speak in support of the request. We ask that any presentation made to the commission be to the point.

Next, the floor will be given over to those who may be opposed to the request. Direct all comments or questions to the commission and please restrict your comments to the matter under discussion. Please be considerate of everyone here. We ask that you please not be repetitious with your remarks. We also recognize that some issues can be quite emotional. In that regard we ask that you refrain from applause, cheers, or other signs of support or displeasure. Please afford those with a different point of view than yours the same respect and consideration you would like yourself.

There may be individuals that neither support nor oppose a particular request. Those individuals are welcome to address the commission at any time during the public hearing portion of the request.

Please give your name and mailing address when you address the commission. We also request that you sign the sheet on the table after you testify. Also, we ask that you please turn off your cell phones.

Any materials that are presented to the commission, such as photographs, written statements or other materials will become a part of the record for these proceedings. In that regard, if you would like to recover original material, please see the staff during regular business hours after they have had an opportunity to make a copy of your submission.

After those opposed to the request have had a chance to speak, the applicant will have an opportunity to respond to the concerns of those opposed to the request. Next the staff will be given an opportunity for any additional comments, as appropriate. The public hearing will then be closed and no further comments will be permitted from the audience or the applicant unless requested by the commission. The commission will then discuss the matter and may ask questions of anyone present during the discussion. Finally, a motion will be made to either recommend the approval or denial of the request to the County Commission. Please note that the Boone County zoning regulations and subdivision regulations are considered to be a part of the record of these proceedings.

All recommendations for approval are forwarded to the County Commission. They will conduct another public hearing on Tuesday, November 1st. Interested parties will again have the opportunity to comment on the requests at that time. The County Commission generally follows the recommendations of the Planning and Zoning Commission; however, they are not obligated to uphold any recommendation. Requests that are denied will not proceed to the County Commission unless the applicant files an appeal form within 3 working days. Please contact the planning office to see if a request that has been denied has filed an appeal, as there will be no further public notification due to the short time between the hearing tonight and the County Commission hearing. The County Commission hearing scheduled for Tuesday, November 1st, will begin at 7:00 p.m. and will convene in this same room.

V. Conditional Use Permits

None

VI. Rezoning

1. Request by Liberty Baptist Church to rezone from A-2 (Agriculture) to A-R (Agriculture Residential) on 6.5 acres, more or less, located at 7461 N North Browns Station Rd., Columbia.

Planner, Uriah Mach gave the following staff report:

The subject property is located near the intersection of State Highway HH and North Brown Station Road, approximately ½ mile to the north of the city limits of Columbia. The property is 6.5 acres in size and currently zoned A-2 (Agriculture), and is surrounded by A-2 zoning. This is all original 1973 zoning. The property currently has a church and two accessory structures located on it. The applicant is requesting a rezoning to A-R(Agriculture-Residential) for purposes of applying on the next agenda for a conditional use permit to operate a daycare facility.

The Boone County Master Plan identifies this area as suitable for residential land uses. The Master Plan also identifies a “sufficiency of resources test” to be used in determining whether there are sufficient resources available to support the proposed uses.

The sufficiency of resources test can be broken up into three categories: utilities, transportation, and public safety.

Utilities: This property is located in an area served by Public Water Service District #4 for water, Boone Electric Cooperative for electrical service, and the City of Columbia for centralized waste-water treatment. The property is currently served by a MoDNR-permitted lagoon system. Water District #4 has indicated that sufficient pressures exist for development of this property at A-R density. Central sewer service for that level of development is comparatively close, as the City of Columbia sewer main is located on the Heller property to the west. An easement would be necessary to reach the main and a pre-annexation agreement is typically required in order to gain service.

Transportation: The property has direct access on to North Brown Station Road, a publicly-maintained asphalt road. North Brown Station Road is shown on the CATSO major roadway plan as a major collector.

Public Safety: The property is located in the Boone County Fire Protection District, with the nearest station approximately 4 miles away.

Zoning Analysis: This proposal has one significant barrier to its meeting the sufficiency of resources test, that being the current lack of access to a centralized sewer system. The existing church is served by an older MoDNR-permitted lagoon system. Development at the desired zoning density would not be able to be served by the existing system. Until such time that a pre-annexation agreement & service agreement are reached by the property owner and the City of Columbia, and an easement acquired to access those services across the Heller property, this rezoning is premature.

The property scored 74 points on the rating system.

Staff recommends denial of this request.

Present, representing the request:

LeRoy Welch, Secretary/Treasurer, Liberty Baptist Church, 2949 E. Buffalo Dr., Columbia
Eric Blumer, Board Member, Liberty Baptist Church, 105 Brown Ave., Hallsville

LeRoy Welch: Our pastor is away right now due to a death in the family so I am standing in for him. I'm not totally aware of all the things in the staff report. Liberty Baptist Church is a non-profit organization - the daycare facility that is proposed is also non-profit, it is directly associated with the church as a ministry out of the church. I am unfamiliar with getting an easement from the Heller's or getting any annexation agreement signed.

Eric Blumer: Assuming we get the rezoning I will be the general contractor in charge of any changes or modifications to the building. In speaking with Planning and Zoning a few weeks ago, I learned about possibly having an annexation agreement with the city to get permission to join with the sewer main. I spoke with Lindsey Schafer with the city of Columbia and she spoke with Uriah Mach yesterday and contacted me today about those discussions. At this time the church has not spoken with the Heller's about having an easement on their property that would join with the church. We are under the impression that there is a possibility that as long as the structure stays as is, we don't necessarily have a requirement of connecting to the city sewer. Mr. Heller indicated that he is leery of granting an easement from his property in the event that we don't have to connect to the city sewer. If we have to connect, I think at that time he would be more willing to sign over an easement agreement. But if the lagoon system on site is sufficient to service the building and daycare then that is the direction we want to go. It is also my personal opinion that as the property stands now you couldn't develop 13 tracts without demolishing the buildings and changing the structure at which point the development would change and have to come before the Commission again.

Vice-Chairperson Freiling: What you have applied for is a blanket rezoning, or open zoning. Once that zoning is on that property someone has the right to use that zoning as long as they fall within the development regulations.

Eric Blumer: We understand that. At this point until we can know more definitively if we have to connect to the city sewer; if it becomes a requirement to get that permission in order to get to the next step, that might change things as well. He is not concerned about the destruction of his property in putting in the sewer line, it is more once that property is deeded over as an easement there isn't any undoing that even if the city sewer is never connected.

Vice-Chairperson Freiling: (to staff) What are the alternative applications that would accommodate their intended use?

Uriah Mach: All we have heard is that the applicants want to operate a daycare. The only such use available in the A-2 district is a home occupation. There is not a house on this site. A day care in a residence is limited to ten children. Based on our conversations their enrollment is much higher than that. We did have a brief discussion about a planned district; but they weren't interested in going through that process for their proposed use, so we didn't strongly emphasize it. The issue comes down to wastewater. Tabling it until they can get that agreement is a possibility. I spoke with city staff, if they jumped on this

as quickly as possible they could have a pre-annexation agreement possibly ironed out by the beginning of the year. If they were to reach an agreement with the city and get an easement from the Heller's for sewer service we would have no hesitancy in recommending an approval for this rezoning request. According to DNR the on-site lagoon is capable of serving two residences. Based on the density available and the intensity of use of the daycare I would have my doubts in its ability to serve the increase.

Thad Yonke: If the applicants applied for AR-P specifically listing the daycare as the use that would lock it in to where they couldn't do the other things unless they were specified. They would still have to have a conditional use permit.

Vice-Chairperson Freiling: One of the patterns that have evolved over the years in considering rezoning requests is a desire to know what you are approving. There are two kinds of zoning requests; one is open zoning and you can do anything on this piece of property that is possible in that zoning, in this case, 13 houses. The alternative is to have a planned rezoning request, which is more involved. You would have engineering and survey work and develop a plan that specifies the intended use so once we are asked to consider a rezoning we know exactly what is being approved. As do the neighbors. We all know that churches sell property and things change. From a Commissioner's standpoint, speaking personally, it is much easier for me to support a planned rezoning because I can accurately assess its impact. Another leg of this request is proper wastewater control; a daycare center has a lot of flushes and a residential sized lagoon is not adequate. One of the alternatives for the applicant is to ask to table the application and see if they can work out the details. The other alternative is to proceed and have a vote tonight from this Commission and if it is denied they can appeal to the County Commission.

Open to public hearing.

Present, speaking in support of the request:

Debra Purvis, 302 Ripley St., Columbia

I am the proposed director and lead teacher of the facility; I have been in childcare for over 40 years. We are not talking about that large of a group because the building is relatively small; we are looking at approximately 20 to 30 kids; this is nowhere close to the amount of people that are there on Sunday's and Wednesday nights when the whole congregation is there. From that standpoint the flushing isn't that much different. Our building is small but we are trying to be an outreach to the community because we are going to be charging less than most facilities. We aren't required to license by the state because we are church sponsored, but we want to aim for accreditation to be a facility that is good for the community.

Commissioner Murphy (to staff): When you talk about the potential for 13 units will they still have to be single family units?

Uriah Mach: Yes, an A-R zoned property has half acre density, one house per lot.

Commissioner Murphy: By the county sewer regulations how would these lots take care of wastewater?

Uriah Mach: With half acre lots we would require a connection to some sort of centralized waste water. In this case with the city's sewer main that close they would have to connect to it. At this point we want to be assured that the capacity exists to allow that to happen. In order to meet the sufficiency of resources test we need an agreement. Otherwise it is better off staying A-2 where the most you would get is two lots and you would use onsite systems assuming the health department would permit them.

Commissioner Murphy: So we would prefer to have an approved annexation agreement saying the city will annex and connect the sewer.

Uriah Mach: Correct, if there was a pre annexation agreement and a recorded easement from the Heller's to get a sewer line in then we would have no problem recommending this site for approval.

Commissioner Murphy: If it came down the road and the city said no, they don't want to annex the property or serve the sewer then they wouldn't be able to do the 13 units.

Thad Yonke: They also wouldn't be able to do the daycare.

Commissioner Murphy: So it is not just the future use but the current use that is an issue.

Vice-Chairperson Freiling: If the church came through with a planned development without a pre-annexation agreement and easement.

Uriah Mach: According to DNR that lagoon is rated for two residences. By the notations after talking with Tom Ratermann with BCRSD they are probably going to be looking for a higher level of compliance for that lagoon in 2014 when it comes up for re-permitting by DNR.

Commissioner Murphy: Could they enlarge the lagoon now?

Thad Yonke: Boone County Regional Sewer District is the continuing authority and their basic premise is to eliminate privately operated DNR permitted lagoons. With a central sewer that close they are going to require that connection.

Commissioner Murphy: But they do have guidelines; you have to be so close to it.

Uriah Mach: It is an adjacent property. I find it hard to believe that they would continue to permit that lagoon if there was an increase in use.

Commissioner Murphy: I believe that until this gets resolved this request is premature.

Eric Blumer: I would hope that the city grants permission and that would negate them from backing out of it. If we deed the property to them I would assume that means they have to let us connect to their main.

Commissioner Murphy: Keep in mind that it is a cost the applicants might have to bear.

Eric Blumer: A question I have as a board member of the church, the DNR permitted lagoons have to be renewed in 2014?

Vice-Chairperson Freiling: Yes.

Eric Blumer: At that time if the lagoon system is denied and we are required to connect to the city is that something we will have to incur the costs or will there be a shared burden?

Thad Yonke: The applicant would have to incur all the cost.

Eric Blumer: So it is something we either do now or wait until 2014. At that point if they deny the request how can the city force Mr. Heller to grant an easement across his property?

Thad Yonke: The city or sewer district condemns it.

Vice-Chairperson Freiling: The applicants have the option to request that their application be tabled.

Closed to public hearing.

Vice-Chairperson Freiling (to staff): If this request is tabled, when could it be taken up again?

Stan Shawver: November 17th is the next Planning and Zoning Commission meeting, then December 15th. The next meeting after that is February 16th.

Commissioner Campbell: The applicants could withdraw the request and reapply or table it?

Stan Shawver: Either one.

Thad Yonke: They could table the request and if the tabling falls apart halfway through before it comes back they can still apply for the other anytime.

Commissioner Poehlman: They could apply for planned zoning.

Vice-Chairperson Freiling: The planned zoning would not resolve the sewer issue. The sewer issue has to be resolved.

Thad Yonke: That is one of the things that staff has the most concern with. What we've seen with some pre-annexation agreements is that a lot of other stuff gets tacked on that has nothing to do with sewer. We want everyone to know what happens because if another \$10,000 worth of improvements is mandated by the fact that it's in the agreement then the church needs to know that not only will they be paying for the sewer line but whatever other conditions are in the pre-annexation agreement and we can't count on that being just as simple as a sewer line.

Vice-Chairperson Freiling: I think it would serve the applicants in a practical sense to dig into and figure out the issue of the sewer because if the applicants can come back to the Commission with the sewer issue problem solved that is a big help. It looks like one way or another the applicants are going to have to deal with this anyway. In going to the neighbor to the west with the reality that we have to do it now or we have to do it later and we are either going to cooperate on this or they will condemn it at a certain point. It might make obtaining that agreement easier.

Eric Blumer: With regard to a planned rezoning; time is something we have a lot of, money is where we fall short.

Vice-Chairperson Freiling: There is more cost in the plan preparation with a planned development. The major issue is what to do with wastewater now and as proposed as well as any possible change in use. If the applicants can address that it will go a sufficient distance. The applicants have the option of requesting to table or withdraw the application.

Eric Blumer: I think we would like to table the request.

Commissioner Prevo made and Commissioner Campbell seconded a motion to **table indefinitely** the request by Liberty Baptist Church to rezone from A-2 (Agriculture) to A-R (Agriculture Residential) on 6.5 acres, more or less, located at 7461 N North Browns Station Rd., Columbia.

Carl Freiling – Yes
Gregory Martin – Yes
Paul Prevo – Yes
Eric Kurzejeski – Yes
Derin Campbell – Yes

Larry Oetting – Yes
Michael Morrison – Yes
Michael Poehlman – Yes
Kevin Murphy – Yes

Motion to table request passes unanimously

Stan Shawver informed the applicants if they wished to be on a future agenda it would need to be requested by the appropriate submission deadline.

VII. Planned Developments

1. Request by Corey and Julia Nettles to approve a Final Development Plan on 1.82 acres, more or less, being lots 125 and 126 of the Replat of Sunrise Estates Subdivision, located adjacent to 7400 E I-70 Drive SE, Columbia.

The final development plan was signed.

VIII. Plats

The following items were placed on consent agenda:

1. Golden Pond Plat.
2. Haught Plat.

Commissioner Campbell made and Commissioner Kurzejeski seconded a motion to approve the items on consent agenda and place the staff reports in to the record.

All members voted in favor, none opposed.

Golden Pond. S5-T49N-R12W. A-2. Michael and Ashley Berendzen, owners. Brian David Dollar, surveyor.

The subject property is located near the northern end of Boatman Hill Road, near Calvert Hill Road, approximately 2 and ½ miles to the north of the city limits of Columbia. The subject property is described by the Family Transfer Survey recorded in Book 3513, Page 20, as a 3.85 acre family transfer lot. The property is zoned A-2(Agriculture) and is surrounded by A-2 zoning, all of which is original 1972 zoning. This plat is to legitimize the lot for transfer outside of the family transfer process.

The property has direct access on to Boatman Hill Road, a county-maintained public right-of-way. The applicant has submitted a request to waive the traffic study requirement.

Public Water Service District #4 provides water service to the property. Boone Electric provides electrical service to the property.

The property is served by an on-site wastewater system approved by the Columbia/Boone County Health Department. The applicant has requested a waiver to the wastewater cost-benefit analysis requirement.

The property scored 31 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

Haught. S8-T47N-R13W. A-2. Marie Haught, owner. J. Daniel Brush, surveyor.

The subject property has Mount Celestial Road to the southwest and State Route K to the northeast, approximately ½ mile to the south of the city limits of Columbia. The property is described by the survey recorded in book 460 page 113. The property is zoned A-2(Agriculture), with A-1 zoning to the north, east, and west, with A-2(Agriculture) zoning to the north and east. The A-2 to the south was rezoned from A-1 in 1994, all of the other zonings are original 1973 zonings. This property was rezoned to A-2 in August of 2011 to permit this proposed land division.

The property has existing access on to State Route K for Lot 1. Lot 2 will have access off of Mount Celestial Road. The applicant has submitted a request to waive the traffic study requirement.

Lot 1 has existing water service from Consolidated Public Water Service District #1. Lot 2 will need to have service established from State Route K when development is begun.

An existing on-site system serves Lot 1. Lot 2 will have an on-site system permitted by the Columbia/Boone County. The applicant has submitted a request to waive the wastewater cost-benefit analysis.

The existing dwelling on Lot 1 received a variance from the Boone County Board of Adjustment in September of 2011 as case number 2011-005.

The property scored 31 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

IX. Old Business

1. Update on County Commission Action.

The Oberhaus plat was approved as recommended.

2. Revise Article III, Section 2 of By-Laws.

Proposed change in bold:

Article III, Section 2. Each Commission member present is entitled to one vote for each officer to be elected. The elections shall be **by voice vote, and if all members present agree**, may be by acclamation.

Commissioner Murphy made and Commissioner Prevo seconded a motion to accept the change as written.

All members voted in favor, none opposed.

X. New Business

None.

XI. Adjourn

Being no further business the meeting was adjourned at 7:45 p.m.

Respectfully submitted,

Secretary
Michael Morrison

Minutes approved on this 17th day of November, 2011