

BOONE COUNTY PLANNING & ZONING COMMISSION WORKSESSION

Minutes

5:00 P.M.

Thursday, September 27, 2012

Chairperson Harris called the work session to order at 5:00 p.m. In attendance were Planning and Zoning Commissioners Boyd Harris, Carl Freiling, Greg Martin, Kevin Murphy, Michael Poehlman, Brian Dollar, Derin Campbell, and Eric Kurzejeski by phone. Also present were County Commissioners Karen Miller, Skip Elkin, and Dan Atwill. Staff members present were Thad Yonke, Bill Florea, Uriah Mach, Paula Evans, and Director Stan Shawver. Audience members present: Don & Linda Bormann, Dan Brush, David Butcher, and Gene Basinger (left early). Also in attendance were two news reporters.

Chairperson Harris explained that this special work session was scheduled to discuss the proposed changes to the Boone County Subdivision Regulations. The Chairperson asked that each Planning and Zoning Commissioner voice their concerns or comments. The County Commissioners were asked if the proposed regulations were set in stone or if they are subject to changes at this point. Commissioner Miller stated that they are not set in stone.

Commissioner Miller stated that the process of updating the regulations started in 2009 in order to address ongoing problems. There have been 26 work sessions with the County Commission and staff which were open to the public and proper notice was given.

Commissioner Poehlman voiced concerns regarding private roads and new requirements on maximum length and specifications and believes there should be a balance. Commissioner Miller stated the Commission has to look at it as people who want county services but live on a private road and the barriers they have in trying to get it up to county standards; we are trying to find a solution so we don't have more of these problems in the future. Commissioner Poehlman stated instead of trying to limit private roads another way would be to put some regulations on the private roads.

Commissioner Freiling stated this change in regulation will make a change of millions of dollars in property values. There will be so many properties that will become ineligible for development other than 40 acre tracts; the cure is worse than the problem. Commissioner Freiling understands the administrative problems. A private road is the only choice on some of these big-ridged properties. It is an undue burden for some of these property owners. Disclosure and awareness by the realtor should alleviate the administrative problem. Private roads have a place; if people don't have the ability to have private roads in some of these rough areas in the county development is almost impossible; zoning wasn't meant to do that.

Commissioner Oetting stated that outlawing private roads is not the answer.

Commissioner Martin stated that the developer should create a maintenance agreement and create the funding mechanism for it.

Commissioner Murphy stated another issue he has is the 40 acre tracts, jumping up from 20 acres. Commissioner Miller stated this change will make it consistent with state statute. Thad Yonke stated that anything under 40 acres has to be surveyed according to state statute. Stan Shawver stated that prior to the current regulations, there was no requirement to survey anything larger than five acres or any land zoned commercial or industrial. When we were drafting the 1995 regulations we discussed making that threshold 40 acres but it was decided that going from 5 to 40 acres was too significant a step at that point.

Commissioner Oetting asked what kind of document does the title company have to provide to prove proof of ownership other than a recorded warranty deed. Bill Florea stated in other jurisdictions we used to get a plat certificate; that would verify that the ownership was in the name of the person who signs the plat. Commissioner Oetting stated you can get that information from the Assessor's website. Bill Florea stated we are trying to prevent

a change in ownership that we aren't aware of in the time between when the plat is presented to us for review to the time we take it to the County Commission for acceptance. The burden should not fall on the staff to prove ownership.

Commissioner Murphy stated family transfers have gone from a one year transfer to five years and not only the parcel that is transferred but the parent tract as well. Commissioner Freiling asked the reason for tying up the parent tract for five years. Thad Yonke stated we have people cutting one tract out of the middle and leaving multiple remainder tracts that they were not family transferring but would turn around and sell and it would end up a subdivision; that abuse has happened multiple times. They can still plat the property and sell it before the five years. Chairperson Harris asked what would happen if we just get rid of family transfers. Commissioner Murphy stated it is a nice option for families who can't afford to spend a lot of money. Commissioner Dollar stated he believes we should keep the family transfers for the people who really do need them and trust the Director to tell difference between a bonafide one and one that is an abuse; family transfers help poor people,. Commissioner Dollar stated he has done family transfer descriptions for many people who cannot afford a survey. Thad Yonke stated according to state law, those are supposed to be surveyed because they are less than 40 acre pieces. Commissioner Miller stated we've had people who family transfer half of their house because the description was incorrect.

Commissioner Murphy asked about preliminary plats being valid for three years after approval stating that could have invalidated several plats. Thad Yonke stated it is currently five years. Commissioner Murphy asked the reason for the change. Bill Florea stated the standards change; we have stormwater regulations and road standards that may change periodically. The purpose of an expiration date on a preliminary plat is to ensure that new development is required to meet the most current standards and regulations.

Commissioner Murphy asked why you have to show all easements of record at the concept review. Thad Yonke stated you have to show them on a lot of the stuff you submit anyway. Commissioner Murphy stated this is conceptual and gives the developer an idea of whether he wants to go forward or not; why does he have to spend the money up front to decide whether he can afford to go forward with the plan? Bill Florea stated you can do an informal concept review before you get to that stage.

Commissioner Murphy asked about minimum easement requirements. Commissioner Miller stated easements have gotten out of hand where everyone wanted their own private easement and are taking land away from the property owner, the Commission feels that is abusive.

Dan Brush stated he will put together a list and send it to staff. One of his issues that hasn't been mentioned is naming a survey an exception survey; Mr. Brush stated he doesn't like the name because it has different meanings. Thad Yonke stated if someone could come up with a better name the Commission can consider it.

Don Bormann stated he didn't like the tracts of larger than 40 acres having a two day review to determine whether it meets the subdivision regulations? Mr. Yonke stated there have been instances where staff was told that it was one kind of survey but it ended up being something else and falling under the subdivision regulations. Mr. Bormann stated he shouldn't be punished for things other surveyors are doing. David Butcher stated surveyors are governed by a board that protects the county from those instances. Mr. Butcher asked that staff turn those surveyors in to the board rather than punishing all surveyors. Thad Yonke stated staff wants time to review them so they feel comfortable signing off on them. Mr. Bormann suggested having the surveyor sign an affidavit stating the survey doesn't violate the regulations.

David Butcher stated there should be a standard for private roads; there are many properties that need access. A maintenance agreement is the way to go.

Commissioner Elkin asked that the Planning and Zoning Commission write down any comments or concerns and forward them to staff.

Commissioner Miller stated she would like to work with these issues prior to the County Commission's public hearing.

Chairperson Harris stated comments should be submitted to staff by October 15, 2012.

Comments will be posted on the Resource Management website.

The work session adjourned at 7:15 pm