

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, September 18, 2014

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

II. Roll Call:

a. Members Present:

Paul Prevo, Vice-Chairperson

Eric Kurzejeski, Secretary

Carl Freiling

Kevin Murphy

Michael Poehlman

Loyd Wilson

Derin Campbell

Rocky Fork Township

Missouri Township

Cedar Township

Perche Township

Rock Bridge Township

Columbia Township

County Engineer

b. Members Absent:

Boyd Harris, Chairperson

Gregory Martin

Larry Oetting

Vacant Seat

Centralia Township

Katy Township

Three Creeks Township

Bourbon Township

c. Staff Present:

Stan Shawver, Director

Thad Yonke, Senior Planner

Paula Evans, Staff

Uriah Mach, Planner

Bill Florea, Senior Planner

III. Approval of Minutes:

Minutes from the August 21, 2014 meeting were approved; all voted in favor.

IV. Chairperson Statement

Vice Chairperson Prevo 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 conditional use permit, three rezoning requests and one subdivision plat. The applicant for one of the rezoning requests has made a request that their application be tabled.

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. Please sign the sheet on the table after you testify. Also, we ask that you 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. 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, September 30th. 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, September 30th will begin at 7:00 p.m. and will convene in this same room.

V. Conditional Use Permits

1. Request by Jeremiah and Carmen Wade on behalf of Verizon Wireless for a transmission facility, including a 180' tower, on 11.68 acres, located at 6969 W Bruce Ln., Harrisburg.

The subject property is located on Bruce Lane, approximately 1 mile to the southeast of the City of Harrisburg, south off Highway 124. The property is 11.68 acres in size and is zoned A-2(Agriculture) and is surrounded by A-2 zoning. This is all original 1973 zoning. The property is currently undeveloped. The Master Plan describes this area as being suitable for agriculture and rural residential land use. Staff notified 18 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 11.68 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 180' 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. Future development of the area will be accomplished through the existing zoning, or will require rezoning to achieve a higher density of development. The nature of the site and its location with respect to road infrastructure will likely have a greater negative impact on the area development than the proposal. However, public testimony may be indicative as to whether this criterion is met.

(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 recommends approval of this conditional use permit.

Present representing the request:

Mike Douchant , Dolan Realty Advisors, Webster Groves, MO

Mr. Douchant stated Dolan Realty Advisors is a site acquisition firm for Verizon Wireless. Dolan has been involved in over 600 cell sites for Verizon and AT & T. In this case this is what we call a cookie cutter in terms of needs and abiding by the regulations and also in terms of location. We try to take those things in to account when we look for a site in making it as remote as possible but also with a decent proximity to utilities, public right of way and overall minimal impact to the community at large while helping us reach the point of connecting the dots as the networks continue to mature.

As a brief description as to “why here”, we are a line of sight enterprise, when you make a call your signal has to hit some antennas. If you can envision a honeycomb of triangles in each corner of a triangle is a cell site. The next time you need to have another site it is as close as reasonably possible to the middle of the triangle. There are other variables involved including terrain; this site has a pretty rugged terrain but once again it is a line of sight issue; it doesn't do us any good when you make a call if you can't hit an antenna so we try to get in to the middle of the triangle depending on topography and usage. Population density is also a consideration so that is why that location is preferable. As you are probably aware a couple of years ago the wireless industry bypassed land lines in the terms of usage, more individuals use wireless now; that is going to continue to escalate. That is why we need new sites because in that triangle at each existing cell site each compound can only hold so many calls. As the customer base increases and the usage patterns dictate that people are on their cell phones longer than they used to be and that is why you need new antennas to keep the customers happy or they will leave our company and go to a different one.

The site will be typical with a fenced in area with a monopole rather than a guyed tower, the access road is designed in such a way that it is maintenance free and there will be very little traffic. After construction operations personnel will only show up every other month or quarterly to check equipment. The site will

also abut a natural buffer of an existing tree line which will mostly obscure the equipment although you will have to go out of your way to see the equipment anyway.

Commissioner Poehlman asked who maintains the grounds.

Mr. Douchant stated that the sites are designed now in such a way that they are virtually maintenance free. If some weeds do crop up the operations technicians can spray them while they are at the site.

Commissioner Kurzejeski asked if part of the applicant's analysis was to see if they could use other existing towers to meet their need.

Mr. Douchant stated yes; that is one of the first things we do because if we can co-locate on an existing tower and connect the dots we would want to do that because it is less costly. In this instance the closest tower was in the town of Harrisburg and it is too far away to fill the gap in coverage.

Mr. Douchant submitted a map showing the existing tower and search area.

Mr. Douchant stated when the industry first started we could float this a little bit, but now we are locked in to existing sites and to get in to the middle of the triangle reduces our opportunities to move it too far.

Commissioner Prevo asked where the site will be located on the property.

Mr. Douchant stated the location is on the map that was presented; it abuts a natural tree line.

Commissioner Kurzejeski stated the design did not have guy wires; is there a reason that it is better to go with a 180' tower?

Mr. Douchant stated that is one of the things that has evolved over the years. If you were in the 300 to 400' height range twenty years ago you had to have guy wires but technology has improved and the designs of the towers are such now that you can go self-supporting even in that height range.

Open to public hearing.

No one spoke in support of the request.

Present speaking in opposition:

Ryan Lidholm, 2406 Nottoway Dr., Columbia

Mr. Lidholm stated that his family purchased a farm in May of this year just to the southeast of the proposed site. He bought the farm and was very excited about it and about 30 days ago he got a notice in the mail about a proposed cell tower. Mr. Lidholm understands technology and that we have to expand but he has concerns about the location of the tower. Mr. Lidholm requests that alternate sites be researched for different locations on the highway. Mr. Lidholm likes the land down the dead end road; no one buys land off a dead end road hoping to get an unsightly thing right next to their farm. Is there going to be a light on the tower?

Uriah Mach stated it is not tall enough to require a light.

Mr. Lidholm asked if there was any chance that a light could be required in the future.

Stan Shawver stated the Federal Aviation Administration regulates heights that require lights and anything below 200 feet does not require a light. That doesn't mean the FAA won't require it in the future but we cannot address that now.

Mr. Lidholm asked if the tower would have a setback the same height of the tower so if it were to fall over it wouldn't damage anyone's property.

Thad Yonke stated that is a requirement in the regulations.

Mr. Lidholm stated he looked at the topography of the property from the creek in the bottom on the north side of the land to the top it goes from 740' to 800'. There are many locations that are within 450 yards such as the commercial property on the corner of Route E and Highway 124 and it has an elevation of 831'; the elevation of the proposed site is 800' at the highest point and 740' at the lowest. Mr. Lidholm proposes that it be moved to a location that is just a few hundred yards away, they can build a shorter tower; it would be cheaper and not as many people would have to see it. Mr. Lidholm understands that it is a line of sight thing so why not build it in a higher location so it can hopefully reach further and you don't have to build as many towers.

Mr. Lidholm presented a map of existing Verizon towers.

Mr. Lidholm stated the map shows the piece of property that his family bought as well as the proposed location of the cell tower and elevation. It also shows another location 475 yards up the hill that wouldn't be down a dead end road and it wouldn't be constructed in the middle of the woods. It is not something people look for when buying property down a dead end road.

Commissioner Poehlman asked Mr. Lidholm what his actual issue is with the tower.

Mr. Lidholm stated it is unsightly and it will take away from the enjoyment of his property if he is out there. There is a field on the property which is the most beautiful part of the property and he is going to look out and see that tower. There are other locations that are closer to the main highway that won't disrupt as many landowners and it won't be as unsightly because it is already next to a paved road. That is where you normally see cell towers, not down a dead end gravel road.

Commissioner Murphy stated that Mr. Lidholm proposes an alternative location which is 40 to 45 feet higher than what the applicant is proposing; wouldn't that be more visible?

Mr. Lidholm stated they could build a shorter tower. The tower being off a main highway seems like a better idea.

Also speaking in opposition:

Elizabeth Alleman, 6780 W Bruce Ln, Harrisburg

Mrs. Alleman stated her property is directly south of the proposed site. The buffering tree line that the applicant spoke about is hers. Mrs. Alleman stated she is a family physician and has been in practice since 1986. Mrs. Alleman stated she knows the Telecommunications Act prevents local governments from considering health effects of cell towers when you approve it but the Act doesn't prevent the people from thinking about it. It doesn't prevent it from being true and it doesn't prevent future purchasers from considering that when they decide whether or not they want to buy property. If that cell tower had been

there when Mrs. Alleman bought her property it would have changed the value of the property. Mrs. Alleman stated she looked at this as a physician and the health effects are very confusing; the science is limited. We know that radio frequency has tissue effects if it is close enough and the tissue effects decrease as the distance increases. The data is out there; there have been case reports of women that carry cell phones in their bras and there have been cases of about 10 women who have had breast cancer in their 30's right under where they were carrying their cell phone. Mrs. Alleman stated that when she graduated from medical school in 1986 we were still debating whether cigarettes were harmful; if the tobacco companies had better lobbyists local governments wouldn't have been able to consider health effects of tobacco in making smoking ordinances either. We then discussed whether second hand smoke is harmful. Science is going to evolve about this. Cell phones can pick up the signals as far as 45 miles from the cell towers. The government limits of safe levels of exposure vary widely; the United States allows up to 1000 milliwatts per cubic centimeter but Australia limits it to 200; Switzerland allows only four and there are some municipalities considering 0.05. Mrs. Alleman is raising a teenage daughter and thought about selling a piece of their property but now there is going to be a cell tower in a remote location. Mrs. Alleman stated it is not remote for her. Mrs. Alleman stated her main concerns are health, and property values; it is going to affect how much she enjoys taking a walk on her property and it is going to be ugly.

Also speaking in opposition:

Jeff Beringer, 6801 Bruce Ln., Harrisburg

Mr. Beringer stated he is opposed for reasons already mentioned. The applicant mentioned they looked in their triangle and there is a cell tower about a mile away from the proposed site. We are looking at a part of northern Boone County and it is one of the bigger wooded areas in the area. There are gray bats and Indiana bats in this kind of habitat; both of them are endangered species and are protected as endangered species. We will see some mortality; it has been demonstrated and written in the scientific literature that you do have mortality associated with towers and bats running into them. This tower is going to be in the middle of a wooded acreage; if this were in an open area we wouldn't have concerns about bats but these bats spend their summer time in wooded areas along creeks and along drainages and sometimes they roost under the bark of trees. We are setting the table for destruction for these types of species. Mr. Beringer stated he considers Boone County to be progressive and green in looking at these kinds of things. Who would be responsible if we were to find a bunch of dead bats there?

Commissioner Murphy stated the Federal government addresses the issues of endangered species.

Commissioner Freiling stated one of our difficulties with these requests is that in terms of state and federal regulation the Commission's hands are pretty well tied in terms of denying the request when they meet the established criteria. It is the one thing that the Commission seems to have the least flexibility in.

Mr. Beringer stated if we are in opposition do we have the ability to get the federal government involved?

Mr. Shawver suggested Mr. Beringer contact the FCC who has regulatory authority over cellular towers.

Mr. Beringer stated he has been in contact with the Fish and Wildlife Service and they didn't tell him to contact the FCC.

Commissioner Freiling stated someone in their wisdom has considered cellular communications so important that local discretion is limited.

Mr. Shawver stated that every year the legislature tries to limit our ability to look at it further.

Mr. Beringer stated he uses a cell phone but there are other places they can put this tower.

Also speaking in opposition:

Eric Lidholm, 4501 S Old Mill Creek, Columbia

Mr. Lidholm stated he is opposed to the request. He spent two years looking for a farm and finally found one on this dead end gravel road, it was largely wooded and it has lakes and is a managed deer habitat. The main reason for Mr. Lidholm's opposition is aesthetics. The former MoDot site is right there at the intersection of Highway a124 and Route E. The neighbors don't want the tower here; they make noise and right now it is quiet out there. Had Mr. Lidholm known a tower was going to go there it would have affected whether he purchased the property; it is going to affect the value of the land. When you drive down the road there used to be a canopy of trees; it is going to be cleared out with power lines going through.

Also in opposition:

Steve Bradshaw, 7100 W Highway 124, Harrisburg

Mr. Bradshaw stated he owns the adjoining land. The land that the Wades are on was the back 12 acres of his family's land. When Mr. Wade purchased that property he indicated that he wanted to build a house back there. Mr. Bradshaw had to allow the electric and water to run through his land; he expects the cell tower will want more wiring. Mr. Bradshaw stated that is going to be running through his property that two years ago was supposed to be for a house. There used to be a canopy of trees down that road and Mr. Bradshaw took his whole side of the field out. If there is going to be more wire running through his land he is getting ready to run new fence. Mr. Bradshaw doesn't want more wires running through his land because it devalues his property. He has already given up part of his field due to running electric and water to the applicant's site that was supposed to be for a house and now it is for a conditional use.

Commissioner Murphy asked if Mr. Bradshaw granted easements to Mr. Wade.

Mr. Bradshaw stated no; he had to give up 34 feet from the center of Bruce Lane. Mr. Bradshaw stated he looked into giving Mr. Wade more of the field to run the power so it wouldn't affect the tree canopy.

Commissioner Murphy stated that Mr. Bradshaw didn't give that to Mr. Wade; it was dedicated to public use.

Mr. Bradshaw stated two years ago he got the water and electric to Mr. Wade's property for residential use and now he wants a conditional use permit to run more stuff through the easement but that affects the land value.

Commissioner Murphy asked if it was underground electric.

Mr. Bradshaw stated it is power poles. He cannot plant any more trees along that fence line and has to deal with them coming in and tearing his fence out; Mr. Bradshaw stated he has livestock.

Commissioner Murphy stated we can ask the applicants if they plan to run any more electric but more than likely they will use what is already there.

Mr. Bradshaw stated he is tired of devaluing his land for the applicants benefit. He is concerned about if they have to go from that high-wire fiber optics that they just put in to get the underground and is worried about that going through his land and later having to fix what they tear up. Mr. Bradshaw stated it doesn't cost the applicants anything, it costs him. Mr. Bradshaw stated he is tired of opening his land up to sacrifice for the applicant. With the poles you have to not only give up the 34 feet of right of way but you have to give an additional 20 feet from where they set the pole to keep the trees clear. Any trees that grow Mr. Bradshaw has to cut down because of the electric company. Mr. Bradshaw stated he likes his trees and agriculture and would like it to stay like that.

Also in opposition:

Kevin Alleman, 6780 W Bruce Ln, Harrisburg

Mr. Alleman stated that the applicants indicate this is a cookie cutter tower but this is also our home. It was picked because it was a remote location but that is also why some of us moved there, because it is remote. Mr. Alleman stated his property line borders the applicant's property to the south and west and he has concerns that the placement of a cell tower would diminish his property values. Mr. Alleman stated he has researched and found articles that say cell towers don't affect property value that much; he also found sites that say it does. Mr. Alleman stated he didn't find anything that said it enhanced property values. The applicant mentioned that the cell tower by the high school was considered but because of location it wasn't a good idea. Right now Verizon has a cell tower on Paris Road in Columbia, they also have a cell tower north of Fayette and Mr. Alleman assumes that is the gap they are trying to fill. Information from the website "as the crow flies" shows the location at the high school as 13 miles from the cell tower on Paris Road and 13 miles from the tower in Fayette. The proposed location is 12 miles from Paris Road and 14 miles from the existing tower in Fayette. It seems like that is a more central location if they can share the tower. Mr. Alleman would like the Commission to consider that there might be alternatives.

Also speaking in opposition:

Heidi Alleman, 6780 W Bruce Ln, Harrisburg

Ms. Alleman stated she attends the high school and if the radiation affecting a person is true then Ms. Alleman would be affected while she is at school and at home. Ms. Alleman rides her bike and would be riding by that tower every day she has lived there all her life and has seen all the development happening and the loss of trees; Ms. Alleman stated it makes her sad but the proposed tower makes her more sad.

Closed to public hearing.

Commissioner Kurzejeski stated that Mr. Lidholm's map showed potential sites that may have a topographical advantage; how does the applicant go about deciding where to place a cell tower and how do you compare with other alternatives? Is it more based on a willing property owner?

Mr. Douchant stated it is a balance of that; it also includes meeting the obligations, which the applicants have, at every checkpoint. We take these things into consideration; beauty is in the eye of the beholder. Mr. Douchant guessed that 90 percent of the people present for the hearing tonight uses a cell phone. It is a line of sight enterprise and you can't wish it to work. When you make a call and your signal hits the antennas the power generated is equivalent to a light bulb; about 100 watts. By the time it diffuses to the ground what can it be? If we are concerned about those emissions we need to dim the lights. In terms of the bats or any other endangered species we do a NEPA report which is part of the federal regulatory process we have to address whether it's the bats or some other animal. If that becomes an overriding

concern the Commission can make it a condition that we supply the report with your files. If it did affect the animals we would be stopped in our tracks due to federal regulations. In terms of noise; on a hot day we have two air conditioners just like a regular home because the equipment is very expensive and you want it functioning properly. It is very rare that they are both on; the temperature has to exceed 100 degrees. If your air conditioner makes more noise when it is hot, that is what is going to happen here. There is no perfect site; there may be other sites that work but it is a balancing act, you have to have a site that works and connects the dots to the network and you also have to have a willing landlord. If you deviate from the network area by a little amount instead of having one more tower in the area you will end up with two because you have to connect the dots. Do you want two or three towers instead of just one?

Mr. Douchant stated the things that have been brought up have been addressed and we do take this seriously. We follow legal easements; if there is some utility that they want to get there that crosses outside that someone will be approached by the proper entity. If they don't want to permit it, so be it. If the Commission would like to make it a condition to assure that there are no more electric poles then make it a condition that we have to have underground from the nearest pole. Mr. Douchant stated he doesn't know the Wade's plan for the future but believes that the Wades still intend for a residence at some point; whether they do or don't, it is their property. The Wade's are good landlords; the applicants have examined multiple candidates and this was by far the best one for all the reasons sited and for all the concerns generated. Most of the time we get complaints because we put it too close to the principal public right of way; now that we don't we still get complaints. The majority of people across the country use wireless versus land lines; we aren't going back to rotary phones and party lines. This is only going to continue to grow and that is why the state started addressing the issue in state legislation. That does allow for the applicants more flexibility but the applicants also take a great deal of pride in addressing these issues. The applicants have supplied exhaustive no impact property studies, copies weren't generated but they are available along with the settled law aspect taking a look at emissions.

Mr. Douchant stated he assumes that everyone has a cell phone but would appreciate knowing if you've gotten ill from it or had to be hospitalized or take medicine for it. Mr. Douchant stated he has been in the industry from its conception so if there is a name for some disease or malady he would like to know about it.

Commissioner Campbell asked if the applicants were going to have to run additional power to the site or will they utilize the existing pole.

Mr. Douchant stated the applicants are at the mercy of the utility company; they tell the applicants what to do. If the Commission wants the electric to be buried they can make it a condition. Mr. Douchant stated he believed it was going to be buried from that pole anyway.

Commissioner Murphy asked if these sites are high electricity users.

Mr. Douchant stated the highest point would be when both air conditioning units kick on.

Commissioner Murphy stated it wouldn't use any more than a house.

Mr. Douchant stated the equipment shelter is a half a trailer set on a slab. Sometimes with the environmental study they suggest not having the generator inside the equipment shelter but in all likelihood the generator will be inside the building so noise is a non-issue. We understand that there is always a better way, Mr. Douchant stated he can provide names of property owners that they took a look at as potential candidates along Highway 124 but the reason we didn't was because under normal circumstances citizens and Commissions usually want it in a more remote area.

Commissioner Kurzejeski stated that there were suitable sites and possibly some interested landlords along the highway.

Mr. Douchant stated there were a couple but the problem became meeting the setbacks. The tower is not going to fall; if you would like a fall-zone study the applicants will do that. A fall study will show that the tower will not fall over at the base but it will buckle and fold on itself. Your regulations say it has to be contained on-site.

Commissioner Kurzejeski asked if the applicants met with the affected neighboring landowners or provided information.

Mr. Douchant stated the applicants meet with the neighbors if it is on the checklist and it wasn't on the county's checklist. We have a neighborhood meeting if it is part of the requirements but in smaller communities word spreads. Mr. Douchant stated he knows there are at least three properties on the highway and the property on the corner; we approached them to see if that would work in conjunction with engineering analysis. I would be careful about asking the applicants to put it on a specific site if they haven't provided some engineering credentials and when people start talking about the effects of emissions I would ask them if they have a cell phone.

Commissioner Kurzejeski stated we are trying to better understand the process. I assume within that triangle the engineers examine and determine which sites would work and which ones wouldn't.

Mr. Douchant stated there is always an ideal spot; there is a center of a search area; we aren't the railroad and coming through, despite the legislation cellular companies are not utility companies, we can't just say we are coming through. It is a balancing act in meeting the requirements to have the network function properly versus having a good landlord and meeting the code and doing what it takes. Then providing all the information and trying to explain why things unfolded the way they did. In regard to elevation, when the industry first started, elevation was important, they got towers as tall as they could and that doesn't work; as the network matures it is about location.

Commissioner Murphy stated it looks like this is a standard monopole. What are the options for disguising or camouflaging those? There is a recent one on Providence Road in Columbia that looks like a douglas fir; it sticks out a little more in the winter time but no more than a galvanized pole.

Mr. Douchant stated that is doable; the applicants would prefer not to as they are more expensive. At 180-foot tall it would be more of an eyesore than what you think.

Commissioner Murphy asked how close you could have vegetation around these. Obviously you don't want them growing right next to and rubbing on the pole.

Mr. Douchant stated trees are frequently mandated to provide a buffer.

Mr. Mach stated our regulations don't mandate a landscape buffer; if one is desired it could be made a condition.

Mr. Douchant stated they could go right outside the fenced in area.

Commissioner Kurzejeski asked if the NEPA report had any research conducted here in Missouri or is it general.

Mr. Douchant stated the Commission could make its submittal a condition of issuing the building permit; it is one of the last things to come in. Environmental groups conduct that research.

Commissioner Kurzejeski asked if it was going to be site specific.

Mr. Douchant stated yes; there will be a NEPA report for this specific site. Under normal circumstances most municipalities want the FAA determination letter.

Commissioner Murphy asked staff the Commission's obligation in approving this request – can they tell them to look elsewhere?

Mr. Shawver stated the Commission has a specific request before them and that is what they have to act on. The Commission does not have the ability to tell them to research other sites. The testimony shows that they have researched other sites; Mr. Shawver stated the specifics of those are between the client and the applicant and most likely privileged information. The Commission doesn't really have the ability to ask that information. This specific request is what the Commission has to act on.

Commissioner Freiling asked if the Commission has the statutory capacity to say no when they have met statutory requirements of site selection.

Mr. Shawver stated when they have met statutory requirements for site selection as any other conditional use permit the Commission should recommend approval.

Commissioner Freiling stated he knows this is different than a normal conditional use permit in ways.

Mr. Shawver stated there is a section of the regulations that deal specifically with transmission facilities. There is a very high level of performance in meeting those regulations. An application that has not reached the point of consideration doesn't get on the agenda. Staff is satisfied that the applicant has met that threshold. Then an application and hearing takes into consideration the other tests of a conditional use permit. However, some of those tests are taken into consideration by the specific regulations related to a transmission facility. For example, Section 15.B.4 (e) states "Transmission towers shall have the least practicable adverse effect on the environment and property values in the surrounding area. A transmission tower complies with this standard if it complies with the following: 1. If the tower is 200 feet or less in height, more than 10,000 feet from an airport, and has a galvanized finish or is painted silver. 2. If the tower is over 200 feet in height, it shall comply with FAA painting and lighting standards. Lighting is restricted to red beacon style lights, except where FAA requirements specify a different type of lighting. 3. Towers shall not be artificially lighted unless required by the FAA. 4. Towers shall be the minimum height necessary to comply with the provisions of these regulations. 5. Towers shall be either mono-pole or guyed unless the County Commission approves other reasonable alternatives practicable for visual or technical reasons." So the question of property values and environmental concerns are answered by the application they have presented. It is a monopole, it is galvanized; you can require a change, for instance if you want it to be stealth that would have to be a requirement. That brings you to the other standard conditional use tests. Those tests are questions that each individual Commissioner must decide.

Commissioner Freiling stated the traditional decision we make with conditional use permits relative to impact to property values and diminishing enjoyment and use of property; does the Commission still have that discretion?

Mr. Shawver stated you really don't with property values. Short of a qualified, licensed real estate appraiser providing testimony and comp studies for the commission to review, it is just a matter of opinion. The Planning and Zoning Commission in the past have received a number of certified appraisals presented by licensed appraisers here in Columbia and those are in the record in our department that show they do not have an affect on property values.

Commissioner Freiling stated basically the Commission's hands are tied.

Mr. Shawver stated it is a matter of whether it meets the other conditional use criteria.

Commissioner Kurzejeski stated there were a number of things the applicants offered as a condition such as underground utilities, a stealth tower, and a NEPA report; are these conditions that the Commission has the ability to require?

Mr. Shawver stated yes.

Commissioner Murphy stated cell towers are a necessary evil. Commissioner Murphy stated he owns property in this area and you don't get good reception there. This gives the best chance to utilize this, the applicants are best trained to utilize by not building additional towers but by co-locating on existing towers. The old MoDot site would probably raise a lot of environmental issues if the tower were to be placed there as long as that site was used for storage for salts and petroleum products. We can try to make the proposed location work so as not to be so appalling to the neighbors by requiring some of the things we discussed such as a stealth type tower that matches the oaks and hickory trees that are out there.

Commissioner Poehlman stated the Commission could vote against it; that is what I intend tonight. Commissioner Poehlman stated what he heard tonight was the neighbors don't want it and there was a good representation of neighbors.

Commissioner Murphy stated nobody wants it in their back yard. It is a conditional use of property and if they have met the criteria for the conditional use then they have the right to use their property that way.

Commissioner Poehlman stated if it gets voted down the applicants will appeal it to the County Commission in which case they would have time to work with that gentleman to come up with some conditions. It is going to happen so I would like to give them time to work on some conditions.

Commissioner Murphy asked if the Commission could table the request because he would like to see it come back with some changes.

Mr. Shawver stated a motion to table is always in order; but you should table it to a time specific and give the applicant and staff direction on what additional information you would like.

Commissioner Murphy asked the applicants if a month is enough to come back with a landscape design, stealth tower type plan, and utility plan showing what utilities would be required.

Mr. Douchant stated suggested making those conditions now because it will have to be done anyway.

Commissioner Murphy stated he would like to see it himself.

Mr. Douchant stated he prefers not to do the stealth tower because the applicants have met the requirements of the regulations. If you modify the code, so be it.

Commissioner Murphy stated for conditional use permits the Commission does look that it is not injurious to the use and enjoyment of surrounding property owners.

Mr. Douchant suggested making the landscaping a condition to be approved by staff. Why do the applicants have to wait a month when they have to show it to staff anyway?

Commissioner Murphy stated that sounded reasonable.

Commissioner Murphy made and Commissioner Wilson seconded a motion to **approve the request by Jeremiah and Carmen Wade on behalf of Verizon Wireless for a transmission facility, including a 180' tower, on 11.68 acres, located at 6969 W Bruce Ln., Harrisburg with the following conditions:**

1. Prior to issuing the building permit, the applicant submit a landscaping plan showing medium to large shade trees around the perimeter fencing spaced appropriately for mature growth.
2. A depiction of a stealth monopole that matches the existing trees.
3. A utility plan indicating no power poles to the site.

Paul Prevo – Yes

Carl Freiling – NO

Eric Kurzejeski – NO

Michael Poehlman – NO

Kevin Murphy – Yes

Derin Campbell – Yes

Loyd Wilson - Yes

Motion to approve the request passes. 4 YES 3 NO

Vice Chairperson Prevo informed the applicant that this request would go before the County Commission on September 30, 2014 and the applicant needs to be present at the hearing.

VI. Rezoning

1. Request by SWC Properties 2, LLC to rezone from R-S (Single Family Residential) to R-M (Moderate Density Residential) on .67 acres, more or less, located at 7241 E Sunny Vale Dr.; and, .596 acres, more or less, located at 7261 E Sunny Vale Dr., Columbia.

Planner Uriah Mach gave the following staff report:

The subject property is located approximately 1000 feet from the city limits of Columbia, on Sunny Vale Drive, just south of I-70 Drive Southeast. The property is composed of two lots, 7241 Sunny Vale Drive and 7261 Sunny Vale Drive. The applicant is seeking a rezoning from R-S (Residential Single-Family) to R-M (Residential Moderate-Density). The property is currently zoned R-S, and each lot has a 6-plex multi-family structure. There is R-S zoning to the south & east, R-S & R-M to the west, and C-G (General Commercial) zoning to the north. The property was divided as part of Sunrise Estates in 1964, and the 6-plexes built prior to zoning.

After a fire in August, the owners decided that to continue the use of the 6-plexes, rezoning would be appropriate to confirm the current use and insure that they can be rebuilt even after a destructive fire.

The Boone County Master Plan has indicated that this property is suitable for residential land uses. The master plan also designates a sufficiency of resources test for the approval of zoning changes where each proposal is evaluated to see if sufficient utility, transportation, and public safety infrastructure is in place to support the change in zoning.

Utilities: The subject property is located in Public Water Service District #9, which provides domestic water service to the property. Boone Electric Cooperative provides electrical service and wastewater treatment is provided by the Boone County Regional Sewer District and the City of Columbia.

Transportation: The property is located at on Sunny Vale Drive, a publicly-dedicated/publicly-maintained right-of-way.

Public Safety: The property is located in the Boone County Fire Protection District, who maintains a station near Lake of the Woods.

Zoning Analysis: This request would make the property's zoning compatible with its current land use. Under the property's current zoning, events such as the fire that took place in August could render the remainder of the structure unusable, depending on the severity of the damage, and staff would be unable to issue a building permit to allow reconstruction. Action to resolve inconsistencies between zoning and current land use is appropriate when existing resources can support the proposed change of zoning per the sufficiency of resources test.

The property scored 62 points on the rating system.

Staff recommends approval.

Present representing the request:

Eric Schafer, P.O. Box 7011, Columbia

Mr. Schafer stated he is not looking to change anything but trying to rebuild it the way it was.

Commissioner Murphy stated that the existing building doesn't seem to meet setbacks; will this be built in compliance with current setback requirements?

Mr. Shawver stated if the building was more than 75% damaged then that would be correct. Since it is below that level it can be rebuilt where it is. If they were to tear it down and rebuild then it would have to meet current setback requirements.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Commissioner Wilson made and Commissioner Murphy seconded a motion to **approve** a request by SWC Properties 2, LLC to rezone from R-S (Single Family Residential) to R-M (Moderate Density Residential) on .67 acres, more or less, located at 7241 E Sunny Vale Dr.; and, .596 acres, more or less, located at 7261 E Sunny Vale Dr., Columbia.

Paul Prevo – Yes
Eric Kurzejeski – Yes
Kevin Murphy – Yes
Loyd Wilson - Yes

Carl Freiling – Yes
Michael Poehlman – Yes
Derin Campbell – Yes

Motion to approve the request passes unanimously

Vice Chairperson Prevo informed the applicant that this request would go before the County Commission on September 30, 2014 and the applicant needs to be present at the hearing.

2. Request by Phoenix Property Development, LLC to rezone from C-G (General Commercial) to M-L (Light Industrial) on 2.1 acres, more or less, located at 8650 E I-70 Dr SE, Columbia.

No one present to represent the request.

Commissioner Freiling made and Commissioner Martin seconded a motion to **table** the request by Phoenix Property Development, LLC to rezone from C-G (General Commercial) to M-L (Light Industrial) on 2.1 acres, more or less, located at 8650 E I-70 Dr SE, Columbia

Paul Prevo – Yes
Eric Kurzejeski – Yes
Kevin Murphy – Yes
Loyd Wilson - Yes

Carl Freiling – Yes
Michael Poehlman – Yes
Derin Campbell – Yes

Motion to table the request passes unanimously

This request will be placed on the October 16, 2014 Planning and Zoning Commission meeting.

3. **TABLE:** Request by Fred Overton Development, Inc. to rezone 65.51 acres currently zoned A-R (Agriculture Residential) and 21.5 acres currently zoned R-S (Single Family Residential) to R-SP (Planned Residential); and 4.07 acres currently zoned A-R (Agriculture Residential) to C-GP (Planned Commercial); all acreages being more or less; all located at 7200 W Hwy 40, Columbia

Prior to the meeting date the applicant requested the request be tabled.

VII. Planned Developments

None

VIII. Plats

1. Summers Place. S35-T50N-R13W. A-2. Rex and Ava Summers, owners. Ronald G. Lueck, surveyor.

The following staff report was entered into the record.

The subject property is located on State Highway VV/Dripping Springs Road, approximately 5 miles to the southwest of Harrisburg. The property is currently composed of two survey tracts of 2 and 2.5 acres apiece. The owners have found the optimal location for development property on the line dividing the two smaller tracts; therefore they have submitted this proposal. The proposed plat consolidates those 2 tracts into a single platted lot of 4.5 acres. The subject property is zoned A-2(Agriculture), and is surrounded by A-2 zoning. This is original 1973 zoning.

The subject property has direct access on to State Highway VV/Dripping Springs Road. The applicant has submitted a request to waive the traffic study requirement.

The subject property has a 4" waterline on the south side of Highway VV/Dripping Spring Road. The property is located in Consolidated Public Water Service District #1, Boone Electric Cooperative service area, and the Boone County Fire Protection District.

The applicant is proposing an on-site wastewater system for this property, as approved by the Columbia/Boone County Health Department. The applicant has submitted a request to waive the wastewater cost/benefit analysis.

The property scored 33 points on the rating system.

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

Commissioner Murphy made and Commissioner Wilson seconded a motion to approve Summers Place.

All members voted in favor, none opposed.

IX. Old Business

1. Update on County Commission Action.

Stan Shawver updated the Commission as follows:

The conditional use permit for Whitworth was approved as recommended.

The subdivision plats that were approved went forward to the County Commission and were approved as recommended.

Mr. Shawver stated that Commissioner Freiling was correct about the regulations with regard to the conditional use permit request. Our regulations have been de-emphasized and pre-empted by Federal and State regulations. Each year the State legislature goes a step further to de-emphasize our regulations further; it is unfortunate. You still look at the conditional use permit criteria and the Commission always looks at those closely. There are many things that are out of our hands. Towers are different from other conditional use permits. When we wrote the tower regulations in 1990 that was when cell phones started being sold and there weren't a lot of tower regulations in the country. Our regulations took in to account

some of the most prominent and successful ones. They recognize that a tower is a classic NIMBY because it changes the landscapes; that places planning commissions and local governments at a disadvantage because so often in these things they are looking at that and that is what everyone focuses on. You heard it here tonight; everyone here was opposed to it. The practical application is that these things are necessary; the federal government has essentially said that everyone is entitled to cellular service. The state has endeavored to make broadband available and that is generally provided through cell towers. Everything is designed to take off the pressure of saying “not in my backyard” and just saying they have to go somewhere and here are the regulations to make sure they are protected. Dr. Alleman testified that the medical information on it is all over the board. That is the same testimony we heard in 1990 when we first adopted the tower regulations.

X. New Business

None

XI. Adjourn

Being no further business the meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Secretary
Eric Kurzejeski

Minutes approved on this 16th day of October, 2014