

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

Minutes

5:00 P.M.

Thursday, July 23, 2019

Commissioners present: Boyd Harris, Rhonda Proctor, Jeff McCann, Steve Koirtyohann, Michael Poehlman, Eric Kurzejeski

Staff: Stan Shawver, Bill Florea, Uriah Mach, Paula Evans

The work session was called to order at 5:00 PM.

Chairperson Harris stated he believed that the Commissioners were on the same page with what was edited in the draft at the last work session and now we need to narrow down the setbacks.

Commissioner Proctor asked if schools were specifically denoted in the draft.

Stan Shawver stated no.

Commissioner Proctor asked if we were just talking about houses.

Stan Shawver stated the real focus has been on property lines rather than structures.

Commissioner Proctor stated she was concerned about the school because the land around it is under consideration for wind turbines. Should we add something about schools?

Stan Shawver stated we could. The piece of property in question is adjacent to the city limits of Harrisburg; I could see it being annexed into Harrisburg to get around county regulations.

Commissioner Proctor stated she thought that Harrisburg didn't conform to county regulations.

Stan Shawver stated they don't; if that land annexes into the City of Harrisburg whether a wind turbine is close to the school or not, it is not our jurisdiction.

Chairperson Harris stated he thought the draft mentioned substantial structures which would include churches, schools and houses; it could be edited.

Stan Shawver stated at this point everything could be edited.

Commissioner Proctor stated she would like to see something address the school situation with Harrisburg being so small and not under county regulations; we should at least protect that school.

SETBACK AND BUFFER MAP DISCUSSION

1000', 1500', 2000', and 2500' buffer maps were distributed to the Commission. The maps indicated with a blue dot, where a wind turbine could go in Boone County if those setbacks from property lines were implemented. The 1000' map only shows locations north of I-70.

The 2500' buffer map only showed one possible location for a turbine in Boone County.

Stan Shawver stated the buffers are from property lines in their present configuration. A single property owner that owns several tracts of land could join properties together to make a larger tract. Realistically the 1500 and 2000 foot buffer is where we anticipate the Commission would lean toward but nothing says the Commission can't choose the 2500 foot buffer. However, recognize that if it is too stringent and there is only one piece of property in Boone County where you can put a turbine it raises the likelihood of a legal challenge right out of the gate. Whatever the Commission recommends we can take it through the public hearing process and to the County Commission for final decision.

Commissioner Poehlman stated the setback protects from the environmental or aesthetic issues and also if a blade comes off there are liability issues. It serves a lot of purposes.

Chairperson Harris stated the 2500 foot setback with only one location legally meets the definition but we will lose if there is a challenge. The 1000 foot setback, even though it is our notification area, probably doesn't do our constituents justice because it is probably too lax. Chairperson Harris stated he believes we are either with 1500 or 2000 feet. Commissioner Kurzejeski stated he agrees.

Chairperson Harris stated he believes they could conceivably challenge the 2000 foot buffer.

Commissioner Poehlman asked what other states and counties were doing.

Stan Shawver stated they are all over the place.

Chairperson Harris stated that if we were to choose one particular blue dot you could put one tower that would meet the parameters of the setback from the property lines.

Commissioner Kurzejeski asked if one dot was one tower?

Bill Florea stated there is a little variability because these are tax parcels and don't necessarily match the deed; some properties are separated by section line and some by watershed line but they are still one legal lot. There was no way to account for that on the maps. The maps are a pretty good estimation but it is not perfect.

Chairperson Harris stated in general, however many blue dots are there that would be all of the wind turbines you could conceivably have in Boone County.

Bill Florea stated the blue dot says the parcel qualifies for a wind turbine, you may be able to get more than one on the property.

Commissioner Poehlman asked if we were going to address the separation between turbines.

Chairperson Harris stated that would likely be an industry standard; they wouldn't want them too close together either.

Stan Shawver stated we have talked about how close together they should be. The industry is going to know what is best as far as that goes but the Commission could limit and say they should be at least 200 feet apart or some other number.

Chairperson Harris stated 1000 feet from the property line is twice the fall distance so that would seem to be a reasonable safety standard.

Commissioner Koirtiyohann stated from what he's read the industry recommends 2000 feet in terms of safety.

Commissioner Kurzejeski stated the 1000 foot setback may be reasonable from a safety standpoint but I don't know if that is sufficient from a visual impact for surrounding property owners.

Stan Shawver asked the Commission if they agreed that the 2500 foot setback is out.

Commissioner Koirtyohann stated that is an automatic loss if it we are challenged. Chairperson Harris agreed.

Stan Shawver stated seeing it on paper is one thing, maybe it is something the Commission should think about. A decision doesn't have to be made right now; we've eliminated the 2500-foot setback.

Chairperson Harris stated he believed we could eliminate the 1000-foot setback as well. Commissioners Koirtyohann and Kurzejeski agreed.

Commissioner Kurzejeski stated he would be happy to take the maps home and look at the topography to see what might be feasible.

Chairperson Harris stated he is not sure that is going beyond the Commission's charge to the citizens. That is an operational argument as opposed to the Commission looking at it from a safety and propriety argument. Whether it works in that spot is not really our problem.

Chairperson Harris stated 1500 feet puts us to the middle or even a little more lax of the other counties we've looked at.

Stan Shawver asked the Commission if they wanted to think about this for a while.

Chairperson Harris stated he is leaning toward the 1500 feet; we are protecting the neighboring land owners and we haven't opened the door for a challenge.

Commissioner Koirtyohann stated he would like to make it a little more restrictive and proposed a 1750-foot setback.

Commissioner Kurzejeski asked if you are inviting challenge by making it non-feasible.

Chairperson Harris stated he is coming from a perspective of you don't want to write something that you know is going to get challenged as soon as you go out of the gate.

Commissioner Kurzejeski stated if we say 1500 feet and none of the sites are feasible we may get a challenge anyway.

The Commission asked staff for a map with a 1750-foot buffer.

Staff will prepare the map and mail it to the Commissioners.

PROPOSED WIND POWERED ENERGY GENERATION OVERLAY DISTRICT DISCUSSION

Bill Florea stated staff has been working on "the big picture" and how this can fit into the regulatory structure and we are talking about establishing an overlay district that would be necessary in order to apply for a conditional use permit for a wind turbine.

Bill Florea explained that an overlay district is a special set of regulations that overlays the existing zoning of a particular area. We have overlay districts in Boone County now; the character preservation district, a floodplain management district, and the airport approach and departure district. They are all set up for different reasons but they are set up for the specific uses. The floodplain management overlay is so we can properly manage development and construction in the floodplain and comply with FEMA regulations. A character preservation district was created at the request of a group of citizens that were interested in limiting the types of development in their area, that would have to be a district initiated by the public, this is not something the County initiates. The public can apply for it but the County is not proactively going out and placing them anywhere unless there is a request. The airport approach and departure district is a set of regulations that is intended to protect the operational integrity of the Columbia Regional Airport so there are height limitations and things like that. That was primarily in response to FAA regulations. The way the overlay district could work, for example, if someone were to apply for this overlay district we can show where the clusters of towers are going to be, this wouldn't enable a specific tower but it would enable where they could apply for a specific tower so you could require them to show the clusters of where they propose the towers to be; you could look at both the environmental regulations, the built environment such as roads, bridges and culverts, where the transmission lines will go, and fish and wildlife and how this district would impact that. The way we set up the character preservation overlay district was there was a group of property owners that came and asked staff to do this. We wanted to set up a system so that if a few people own a lot land they couldn't impose their will on everybody in their area by coming and getting this district approved. Just to apply there has to be a majority of landowners in the area that sign the application so before it even comes to the Planning and Zoning Commission the application has to have a certain amount of buy-in by a certain percentage of property owners along the road frontage and a certain percentage of the owners of property in that area. That is a good way to prevent imposition from people that aren't willing. It has to include 75% of the privately-owned public road frontage and 67% of all private property owners within the proposed district. Whoever wants to do with will have to get with their neighbors and get them to agree that this is something that they want.

Bill Florea stated staff came up with this to see what the Commission thought of the idea before they get into the specifics.

Commissioner Poehlman asked how large staff envisioned these districts being.

Bill Florea stated it is the applicant's job to define the area but staff was thinking it should probably be on a minimum quarter section basis. They wouldn't be able to choose just a little bit of property to try to gerrymander it; if any portion of a quarter section is within it, the whole quarter section is in it. It is up to the Commission but there is a minimum amount of land that has to go into each portion.

Chairperson Harris asked if character preservation is something that is already on the books.

Bill Florea stated yes.

Chairperson Harris asked if someone decided to get together all of the residents from Harrisburg to Rocheport and they did something like this and later someone comes along with land that is suitable for a subdivision that the Commission would normally approve, if this character preservation has been laid over this area does that mean someone all of a sudden cant develop their property.

Bill Florea stated that would be up to the Commission and how they address that question through the overlay district.

Commissioner Kurzejeski asked if residents could get together and say no windfarms in the district.

Bill Florea stated he didn't believe they would be able to limit use and say no windfarm but they might be able to establish character preservation standards that address structure height; for example if they limit structure height to

150-foot then someone could have a private wind turbine but it wouldn't be practical for a commercial scale. Under this scenario each tower would still have to have its individual conditional use permit. All of those site-specific things would still get looked at during that stage.

Commissioner Kurzejeski asked what the downside would be to an overlay district.

Chairperson Harris stated a downside would be that it not look like you used it to specifically exclude a particular use.

Bill Florea stated we would envision this as something the industry would propose. We would set up the enabling legislation but it would be a private initiative to actually establish one of those districts.

Commissioner Kurzejeski stated without the signatures of a certain percentage of people within that district a tower would possibly not proceed.

Bill Florea stated it would probably not make the application.

Commissioner Kurzejeski stated that would give surrounding property owners a say even if there is a 1500 foot setback.

Commissioner Poehlman stated he likes it because it is a template you can apply in each case.

Bill Florea stated it is and it's how we've dealt with some of these big picture things in the past.

Commissioner McCann asked who establishes the rules that go along with the overlay district.

Bill Florea stated the Planning and Zoning Commission and County Commission. That would be something that we would bring forward and develop what those standards are and that would be part of the application. If the commission requires a roadway or bridge plan to show how they are going to impact public roadways and bridges and will they be able to make the corners when transporting equipment without having to improve the corners or what improvements they will have to do in order to get their equipment to a certain area. Then, once they come in with their conditional use permit they are going to have to comply with that plan.

Commissioner McCann stated the rules would be set for an overlay district like this but an entity coming in who wants to do this would say this is the area they want the overlay to encompass.

Bill Florea stated yes, and they would have to meet application requirements.

Commissioner Koirtyohann asked if the character preservation district could potentially limit anything.

Bill Florea stated yes.

Commissioner Koirtyohann stated if someone has 160 acres and they want to put in a subdivision but it isn't in the overlay.

Bill Florea stated it has to be proactive because it modifies the underlying zoning. If you were to establish a character preservation district and didn't want people to be able to subdivide their property that would have to be positively stated.

Commissioner Koirtyohann asked if everyone in an area, except the person who owns the 160 acres wants an overlay district does that person lose the ability to subdivide his 160 acres.

Bill Florea stated that could happen. But just because they make the application doesn't mean the rezoning is going to occur; it still goes through the Planning and Zoning Commission and County Commission for approval. If it is everyone ganging up on one person with 160 acres then he still has a chance to say to P & Z and the County Commission that it's unfair because everyone else has already subdivided their property into five acre pieces. At that point it is the Commission's decision.

Commissioner Koirtyohann stated he has an issue with that and sees the potential for abuse.

Bill Florea stated there is the potential but you have the public hearing process. The property owners submit the application but the Commission can approve or deny it. Anything can get abused but you hope the public process works in a case like that.

Stan Shawver stated this process will help to make the request more transparent and get better community involvement.

Bill Florea stated through this process we would probably notify every property owner within the proposed district and everyone within a certain perimeter of the exterior boundary of the district. This is a good way to make sure everybody gets notice.

NEXT STEPS

Stan Shawver stated we will get the 1750-foot buffer map and mail them to the Commission. There are no other work sessions scheduled at this time; if the Commission wants to look at an overlay district then staff needs time to work on it. Stan Shawver suggested another work session this time next month and then go from there.

Chairperson Harris stated if the Commission goes with the 1750-foot buffer they are going to lose some locations from the 1500-foot and asked the Commission if that was a reasonable compromise. Commissioners Kurzejeski, Koirtyohann, and Poehlman stated it was reasonable.

Chairperson Harris asked staff if they could create a procedural flow chart including the proposed overlay district.

Bill Florea stated yes.

The work session adjourned at 5:58 pm

Meeting notes prepared by Paula Evans, Administrative Coordinator, Boone County Resource Management