

TERM OF COMMISSION: July Session of the May Adjourned Term

PLACE OF MEETING: Roger B. Wilson Boone County Government Center
Commission Chambers

PRESENT WERE: Presiding Commissioner Keith Schnarre
District I Commissioner Karen M. Miller
District II Commissioner Skip Elkin
Planning and Zoning Director Stan Shawver
County Counselor John Patton
Deputy County Clerk Shawna Victor

The meeting was called to order at 7:02 p.m.

Subject: Planning and Zoning

Commissioner Schnarre noted that during Planning and Zoning sessions, the Commission will receive a report from staff and then the Commission will have the opportunity to ask staff any questions. The Commission will then move to a presentation from the applicant or agent of the applicant on behalf of their request. After that, the Commission will convene a public hearing where any testimony in favor of or in opposition to will be welcome. Following the public hearing, the Commission will discuss the issue and then vote on the issue.

Stan Shawver, Director of the Planning and Building Inspection Department, stated that the Boone County Zoning Regulations and the Subdivision Regulations are entered into the record. (note - the file copy is retained in the Planning and Building Inspection Department).

A. Approve Request by Delores and Lewis Mead and Wanda and Sidney Powell to rezone from R-S (Single Family Residential) to M-LP (Planned Industrial) of 3.0 acres, more or less, located at 7125 W. Henderson Road, Columbia

Stan Shawver stated the property is located on the north side of Henderson Road just west of the intersection with Ivy Lane. The original and current zoning for the tract is Single Family Residential, R-S. The zoning of adjacent properties is C-GP to the west, M-LP to the north and R-S to the east. Zoning south of Henderson Road is General Commercial and Agriculture Residential. The proposal is to rezone the 3.0 acre tract to Planned Light Industrial, ML-P. The proposed use is a construction yard and office, including warehousing and storage. A review plan has not been submitted at this time. Both a review plan and a final plan must be approved before the zoning will actually change.

The Master Plan designates this area as suitable for residential land use, but also identifies a significant commercial node in the Midway area. The Master Plan promotes the use of

Planned Districts as a means to establish new commercial and industrial areas. The Master Plan identifies a sufficiency of resources test as a means to judge the suitability of land proposed for rezoning. The resources necessary to support the proposed rezoning can be broken down into three general categories, Utilities, Public Safety Services and Transportation.

Utilities currently available to the property include electricity, telephone and water.

- Boone Electric has adequate infrastructure in place for the needs for the development.
- Consolidated Public Water District Number 1 provides water service. There is a four-inch main along Henderson Road and a twelve-inch line near the property, which is capable of providing over 1000 gallons per minute.
- There is no public sewer service available to the property.

The property is located within ¼ mile of a Boone County Fire District Station. Law enforcement and emergency medical services can easily access the property due to its proximity to US 40 and I-70.

The property scored 78 points on the rating system.

Staff notified 45 property owners concerning this request.

Staff recommends approval of the rezoning, but has not developed any conditions pending submission of a review plan.

The Planning and Zoning Commission conducted a public hearing on this request on June 19, 2003. There were nine Planning and Zoning Commissioners present. This request comes forward with a recommendation for approval. This recommendation received a 9-0 vote.

Tom Schneider, 11 N. 7th Street, Columbia, was present on behalf of the contract purchasers, Tom and Judy Butcher. The Butchers are the principals of Mid-Am Construction Management, Inc., a local construction firm.

Tom Schneider stated the Butchers are the principals of Mid-Am Construction Management, Inc., a local construction firm. They have, for some time, been looking for an area to build a construction yard, office and warehouse/storage area. Mr. Schneider has circulated a sketch of the general type of facility which they plan to build. This is not a review plan but is close to what will be built and gives the Commissioners an idea of what the Butchers intend to do.

Mr. Schneider noted there is mini-storage to the west of the property, a relay station owned by a local communications to the north, and Tiger Ice Facility, currently under construction to the east.

Mr. Schneider noted this is being submitted as Planned Industrial.

Commissioner Elkin stated this is a straight forward request and is consistent with other uses in the immediate area.

Commissioner Schnarre opened the floor for a public hearing on this request.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.

Commissioner Miller stated she agrees with Commissioner Elkin and believes room needs to be made for contractor yards in Boone County.

Commissioner Miller moved to approve the request by Delores and Lewis Mead and Wanda and Sidney Powell to rezone from R-S (Single Family Residential) to M-LP (Planned Industrial) of 3.0 acres, more or less, located at 7125 W. Henderson Road, Columbia.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 315-2003**

B. Approve Petition submitted by Lou Ann Montague to vacate and re-plat Lot 1 of Garner Subdivision

Mr. Shawver stated the department received a petition to vacate and re-plat Lot 1 of Garner Subdivision submitted by the owner, Lou Ann Montague, and adjacent land owner, George Garner. The purpose of this request is to allow for additional land to be sold to Ms. Montague. Garner Subdivision is located at the corner of Gibbs Road and I-70 Drive Northwest. The property is zoned R-M. Garner Subdivision is a minor subdivision.

Section 1.8.1.3 of the Subdivision Regulations require the County Commission to hold a public hearing in order to consider any petition to vacate and/or re-plat, taking into consideration character of the neighborhood; traffic conditions; circulation; the proper location and improvement of streets and roads within and adjacent to the subdivision; property values in the subdivision; public utilities; facilities and services and the re-plat will not generally adversely affect the health, welfare, or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate.

George Garner, 4701 W. Gibbs Road, Columbia, and Lou Ann Montague, 4701 I-70 Drive

Northwest, Columbia, were present on behalf of this request.

George Garner stated Ms. Montague wanted to expand her land and he was willing to sell her some of his land.

Mr. Garner explained the sketch of how the land will be surveyed and then platted.

Commissioner Schnarre opened the floor for a public hearing on this request.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.

Commissioner Miller moved to approve the Petition submitted by Lou Ann Montague to vacate and re-plat Lot 1 of Garner Subdivision. The vacation is not to take place until the re-plat is approved.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 316-2003**

C. Approve Petition submitted by Betty and Nancy Bundy to vacate and re-plat Lot 2 of Pin Oak Subdivision Block IV

Mr. Shawver stated the department received a petition to vacate and re-plat Lot 2 of Pin Oak Subdivision Block IV submitted by Betty and Nancy Bundy. The purpose of this request is to split this lot into two individual lots. The zoning in this area is R-S (Single Family Residential) and is located in the St. Charles Road/Lake of the Woods Road area.

Section 1.8.1.3 of the Subdivision Regulations require the County Commission to hold a public hearing in order to consider any petition to vacate and/or re-plat, taking into consideration character of the neighborhood; traffic conditions; circulation; the proper location and improvement of streets and roads within and adjacent to the subdivision; property values in the subdivision; public utilities; facilities and services and the re-plat will not generally adversely affect the health, welfare, or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate.

Ron Tooley, 1409 N. Pin Oak Boulevard, Columbia, was present on behalf of this request.

Ron Tooley stated they had been approached to sell a portion of the property. Whether the portion was sold or not, they would have to come forward to the County Commission in order to divide the lot. The request to sell is the reason for the petition. They found out

there is opposition to this request and he is present this evening in support of his request. If a home is built on the divided lot, it will conform to the neighborhood.

Commissioner Schnarre asked what size the current lot is. Mr. Shawver stated this lot is approximately one acre or 40,000 square feet. Splitting the current one acre lot into two individual lots, depending upon how the lot was split, would have to result in a minimum lot size of 7,000 square feet in the current R-S zoning.

Commissioner Miller asked if some of the lots less than an acre now. Mr. Shawver stated no and the only lots that are close to the one-half acre size are close to St. Charles Road and Pin Oak Boulevard.

Mr. Shawver noted the majority of the Pin Oak development is surveyed lots and was surveyed before there was zoning regulations in Boone County. There is a mix of lot sizes in the area, between four acres to one acre throughout the development.

Little Oak Subdivision was platted in 1999, approximately the same time the Sewer Neighborhood Improvement District (NID) was being completed. This was a re-plat of Pin Oak Subdivision Lot 1 Block 2. This took approximately one and one-half acres and split that into four lots of which the smallest lot is 14,000 square feet.

Commissioner Schnarre stated in looking at a drawing of the subdivision lots, there is one large tract of land. Commissioner Miller asked if this tract is the Sorrels' property. Mr. Shawver stated that is correct. This is a vacant lot.

Commissioner Elkin stated there are other lots that have been split. Mr. Shawver stated there was a two acre lot split into two one acre lots by the County Commission about one and a half years ago.

Commissioner Schnarre opened the floor for a public hearing on this request.

Kurt Doolady, 1505 N. Pin Oak Boulevard, Columbia, stated he is in opposition to this request because he does not believe this request would fit the character of the neighborhood. His property is due north of the property in question.

He noted there was opposition when the Little Oak Subdivision was platted in 1999 but the request was approved by the Commission because they believed it was within the character of the neighborhood. Mr. Doolady stated his home is located behind these lots that were re-platted. There is construction for the homes on these two lots and the placement of these homes on the lots gives him no privacy. His house sits approximately 93' from the roadway and he bought this lot to have some privacy and seclusion. He does not have that anymore because of the location of the new homes being built.

In his research, the neighborhood was platted by the Shepard family.

He noted Mr. Sorrels is in opposition to this request. Mr. Sorrels attended the last meeting for the Little Oak Subdivision re-plat and was in opposition to that request.

Mr. Doolady stated this is his second house in the Pin Oak Subdivision. There are some restrictions from 1978 for this property saying there should be a minimum of one acre per house. This is how the neighborhood is designed.

Mr. Doolady believes if this petition is approved then his property values will be hurt even more. If the petition is approved, the new lots will not fit with the character of the neighborhood. There are no plans regarding possible placement of homes on those lots, if approved.

He has spoken with many neighbors that live within a reasonable distance of the property in question. Commissioner Elkin did tour the neighborhood with Mr. Doolady so he could get a feeling for what his concerns are about this request.

Bob O'Bannon, 1403 N. Pin Oak Boulevard, Columbia, stated his house is located south of the lot in question. When he bought his lot, it was to his understanding that there would be one house per lot.

Mr. O'Bannon submitted three pictures of the area from June 13, 2003. These pictures show the stormwater runoff from a heavy rain. The neighborhood does not have storm sewers. More buildings would cause more runoff.

Mr. O'Bannon moved into the neighborhood in 1987. He believes if the sewer improvements had not been done then there would be no discussion about this request. The people who live in the neighborhood paid for the sewer. He asked what would happen if this lot is divided and if the owners of the additional lot would have to pay their portion.

Mr. Shawver stated the NID numbers are set and they would defer their cost.

Mr. O'Bannon stated each lot owner paid \$6,200 and if this lot is subdivided then they should have to pay the same amount.

Mr. Shawver stated to his understanding when a NID is set up, it is set up for a specific number of shares. There is one share per lot. If someone is able to split their lot, they may be able to recover some of their costs or share in the sale. If a new house is built, they would have to pay a connection fee.

Commissioner Miller stated when the Commission made the decision what the cost would be they tried to find a way to hold people accountable if they did try to split their lot.

Mr. O'Bannon stated this issue was never brought up during the discussions before the NID was approved.

Hollie Spencer, 1404 N. Pin Oak Boulevard, Columbia, stated her father owns the property she lives on and he bought it in the early 1990s. There have been many improvements made to the neighborhood; the roads have been improved, they have gotten rid of the lagoons and put in the sewer system. The lots allow for country living. These lots are meant to be the size they are so neighbors are not at each others back door and have their own privacy.

If this petition is approved she is concerned with what will be built on the lots, will it be a single family residence, a duplex, a four-plex? What will happen with traffic? There are many children in the neighborhood that play outside.

Commissioner Schnarre asked if the zoning is R-S. Mr. Shawver stated that is correct.

Commissioner Schnarre stated the zoning restricts what can be built on the lot until someone comes forward with a rezoning request.

Ms. Spencer stated this would set a bad precedent for the neighborhood. She wants to keep the lots at one acre.

Mr. Doolady stated there are several lots in the neighborhood that are not developed. There are other lots where the house is specifically placed on one side of the lot

Mr. Tooley stated when this lot was bought in 1993 by Bill Bundy; the house was strategically built on one side of the lot with the intention that this lot would be split. This is a quiet neighborhood. He believes the Commission should give someone an opportunity to do what they wish with their property as long as it is within the guidelines of County regulations. He believes that since the Commission approved a lot split before he does not understand why they could not approve his request today. He noted anything that is built on the lot will be built to County codes.

There was discussion about some of the smaller lots, which are original lots, in the neighborhood.

Commissioner Elkin stated when the lot to the north of Mr. Doolady's was re-platted he had concerns about where the homes would be located. The developer told the neighbors he would work with them about the placement of the homes but the developer did not do this. He stated he knows the Commission had previously approved requests to split lots but he does not believe the Commission had envisioned that splitting the lots would have this kind of effect of the neighborhood. He believes splitting the lots does affect the character of the neighborhood.

He is very concerned with this request to split the lot because it would result in having two lots less than one acres in size. He is not sure that decisions the Commission has previously made have been the correct decisions for the neighborhood. He has concerns about what this will do to the character of the neighborhood and the precedent that would be set for continuing to approve lot splits.

Commissioner Schnarre asked if the roads are County maintained. Commissioner Miller stated that is correct.

Commissioner Schnarre asked if these roads were originally accepted for maintenance by the County when the neighborhood was platted. Commissioner Elkin stated that is correct.

A Neighborhood Improvement District (NID) was done to improve the sewer systems.

Commissioner Schnarre asked what percentage of the lots are built on. Mr. Shawver stated approximately 85%.

Commissioner Miller believes if this is approved then there will be more requests coming forward to split the lots to one-half acre lots. She believes this will change the character of the neighborhood.

Commissioner Elkin stated he is not comfortable with approving this request.

Commissioner Elkin moved to deny the petition to vacate and re-plat Lot 2 of Pin Oak Subdivision Plat IV, as submitted by Betty and Nancy Bundy, having found during public hearing that granting such petition would adversely affect the character of the neighborhood as provided in Section 1.8.1.3 of the Boone County Subdivision Regulations.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 317-2003**

D. Receive and Accept the following plats:

- Lost Lake Estates. S22-T45N-R12W
- McGill Pointe Estates. S32-T49N-R14W
- Country Farms Re-plat Lot 7. S33-T48N-R13W

Mr. Shawver stated two of the plats were submitted by Curtis Basinger. There was debate during the Planning and Zoning Commission meeting about terminology. The Lost Lake Estates and McGill Pointe Estates Plats were approved by the Planning and Zoning

Commission contingent on reaching language that would meet the department's approval. Mr. Basinger has submitted language, which is a combination of what he needed and what the department needed.

Mr. Shawver stated Country Farms Lot 7 Re-Plat is located on the north side of Old Field Road and approximately ¼ mile west of Sinclair Road. Country Farms Subdivision had ten acre lots and a number of these lots have come forward with a request to be vacated and re-platted. This was a restriction in the neighborhood covenants that allows for lots to be split into three after a 10 year period.

Commissioner Miller moved to receive and accept Country Farms Re-plat Lot 7.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 318-2003**

Mr. Shawver stated Lost Lake Estates is located on Mt. Pleasant Road. This is a one lot minor plat. The Planning and Zoning Commission approved the plat pending the correction of the language on the plat.

Commissioner Miller moved to receive and accept Lost Lake Estates Plat.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 319-2003**

Mr. Shawver stated McGill Pointe Estates is located on Highway 40. This is a three lot subdivision. The Planning and Zoning Commission approved the plat pending the correction of the language on the plat.

Commissioner Miller asked what is the language that does not comply with County regulations. Mr. Shawver stated the note on the plat is "This tract may be subject to easements not shown on this survey."

Mr. Shawver stated this statement does not comply with the subdivision regulations because its statement is contrary to the requirement to show all easements.

The new statement is "Per the required section of the Subdivision Regulations, name, width and location of all easements have been shown on this plat however this tract may be subject to easements unknown to me that are not shown on this survey."

Commissioner Elkin stated this is done for the surveyor's liability.

There was discussion about recording of easements.

Commissioner Miller moved to receive and accept McGill Pointe Estates Plat.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 320-2003**

Subject: Purchasing Department

A. Second Reading and Award of Bid 35-20MAY03 (Asphalt Paving and Overlay)

Commissioner Elkin moved to award bid 35-20MAY03 for Asphalt Paving and Overlay to APAC-Missouri, Inc.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 321-2003**

B. Second Reading and Award of Bid 36-29MAY03 (Chip and Seal Application)

Commissioner Schnarre moved to award bid 36-29MAY03 for Chip and Seal Application to Frech Paving Company.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 322-2003**

Subject: Public Works

A. Second Reading and Approval of Preliminary Engineering Services with Public Water Supply District #9

Commissioner Elkin moved to approve the Agreement for Preliminary Engineering Services with Public Water Supply District #9.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 323-2003**

B. Second Reading and Approval of Change Order #2 for Harold Cunningham Road Slope Failure Project

Commissioner Miller moved to approve Change Order #2 for the Harold Cunningham Road Slope Failure Project in the amount of \$14,944.30.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 324-2003**

C. Second Reading and Approval of Change Order #3 for Benson Road Project

Commissioner Elkin moved to approve Change Order #3 for the Benson Road Phase II Project in the amount of \$2,500.00.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 325-2003**

D. Second Reading and Approval of Bridge Ownership and Maintenance Agreement

Commissioner Miller moved to authorize the Presiding Commissioner to sign the following documents:

- Bridge Ownership and Maintenance Agreement – Durk Road Bridge,
- Durk Road Bridge Replacement Project Cooperative Agreement,
- Assignment of Durk Road Bridge, and
- Bridge Quitclaim Deed and Maintenance Easement Durk Road Bridge

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 326-2003**

E. Second Reading and Approval of Ludwick Boulevard Stormwater Control Improvement Project Contract

Commissioner Miller moved to approve the Ludwick Boulevard Stormwater Control Improvement Project Contract between the County of Boone and the City of Columbia.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 327-2003**

There was no public comment.

The meeting adjourned at 7:55 p.m.

Attest:

Keith Schnarre
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Skip Elkin
District II Commissioner