

TERM OF COMMISSION: February Session of the February Adjourned Term

PLACE OF MEETING: Hearing Room One, Boone County Courthouse

PRESENT WERE: Presiding Commissioner Don Stamper
District I Commissioner Karen M. Miller
District II Commissioner Linda Vogt
Deputy County Clerk Michelle Malaby
County Counselor John Patton
Director of Planning and Building Inspection Stan Shawver

The regular meeting of the County Commission was called to order at 7:05 p.m.

SUBJECT: County Commission Planning And Zoning Public Hearing

Director Shawver reported **Gary and Helen Fisher, for Jack and Evelyn Eads, request to rezone from REC (Recreation) to A-1 (Agriculture) 36 acres, more or less, located at 175 N. Roby Farm Road.** The property is located approximately one quarter mile from the intersection of I-70 and Highway VV. Land to the south, west and north is zoned A-1. Land to the east, across Roby Farm Road, is zoned R-M. If approved, the buyer plans to split the tract into residential home sites. Previous requests include rezoning a ten acre tract from REC to A-1 in 1984, and rezoning a sixty acre parcel from REC to A-1 in 1990. The comprehensive plan designates this area as suitable for rural residential land use. Staff notified 15 property owners concerning the request. The Planning and Zoning Commission voted to recommend approval at their meeting on February 16.

Bill Marshall of Marshall Engineering/Surveying, Columbia, representing the applicants, stated he is present to answer any questions.

Commissioner Stamper called for public comment. There was no response.

Commissioner Miller moved that the County Commission of the County of Boone approve a request by Gary and Helen Fisher, for Jack and Evelyn Eads, to rezone from REC (Recreation) to A-1 (Agriculture) 36 acres, more or less, located at 175 N Roby Farm Road.

Commissioner Vogt seconded the motion. Motion passed unanimously. Order 98-95.

Director Shawver reported **Gordon and Bonnie Burnam request to rezone from A-R (Agriculture Residential) to R-S/PRD (Single Family Residential/Planned Residential Development) and request approval of a review plan and preliminary plat for 83 acres, more or less, located on the north side of Alfalfa Drive and on the north and south side of Northwood Drive.** This property is located approximately one mile north of Columbia. The site has 60 points on the point rating scale. Staff notified 47 property owners concerning the request. The 1973 Comprehensive Plan designates the area as suitable for agricultural and rural residential land uses. Property to the south is zoned A-R (Agriculture Residential) and to the north, A-2 (Agriculture). Property to the east and northwest is zoned A-2. Access is from Alfalfa Drive and Northwood Drive. In November, 1994, the Planning and Zoning Commission approved the rezoning request, however, a motion made to deny the preliminary plat and review plan passed unanimously. Another public hearing was held at the meeting on February 16th, two new review plans having been submitted. A motion made to recommend denial of both review plans carried four to one. One member abstained from voting. Subsequently, the applicant appealed to bring the proposal to the County Commission.

Commissioner Stamper noted a petition in opposition was submitted to the County Clerk today.

Mark Stephens, Attorney with Craig Van Matre, presented written authorization to represent Gordon Burnam. Gordon Burnam was present. Mr. Stephens stated he would like to address, and ask the Commission to vote on, the issue of rezoning first. If rezoning is approved, they will proceed to discuss the review plans.

Following discussion and advise from legal counsel, Commissioner Stamper advised Mr. Stephens the issues would not be heard separately.

Mr. Stephens displayed and reviewed a map of the area. Mr. Stephens stated Mr. Burnam has owned the property since the early 1970's. A request to rezone the property R-S in April 1978 was denied. A request to rezone the property A-R was approved in June 78. Mr. Stephens displayed a map of the area at that time and another map with an area marked in yellow, which is the area he believes has developed since that time. There has been considerable growth. Since 1978, construction costs have risen dramatically. It is not cost effective to develop the land under the A-R zoning, which has a minimum lot size of 1.5 acres. Approximately 150 homes could be constructed. Approximately 450 homes could be constructed under R-S zoning.

In response to a question from Commissioner Stamper, Mr. Stephens replied 240 lots are proposed on the PRD review plans submitted. Continuing, Mr. Stephens stated because of the increased cost of construction, the applicant would like to increase the density. The density proposed amounts to 3.03 to 3.1 units per acre.

Commissioner Stamper stated the cost of construction is not of much concern to the Commission. The Commission is concerned with the appropriate use of land. If the applicant wants to spend time on construction costs, that is fine.

Mr. Stephens stated the Commission can impose reasonable regulations on a landowner for the purpose of benefiting the entire community. The issue is, does not rezoning the land R-S/PRD deprive Mr. Burnam of the reasonable use of his land. If he is unable to develop the land because of the increase in construction costs, it might be a factor in the reasonable use of his property. Mr. Stephens stated the population in Boone County has increased from 80,900 in 1970 to 112,000 in 1990. There were about 15,500 single family homes in 1970 and about 25,000 in 1990. The average value of owner occupied housing has jumped from \$19,000 to \$75,000 during that same period. The population has increased more outside the City of Columbia. Utilizing this property to provide relatively low cost housing in response to the change in conditions in the area is appropriate. Turning to the plan, Mr. Stephens stated the Planning and Zoning Commission was concerned that rezoning the property R-S would allow more than the 240 homes proposed. The applicant came back with the PRD, limiting development to 240 homes. Concerns with roads, traffic and the appearance of the subdivision were expressed. The applicant attempted to address the concerns in the plans before the Commission. The Planning and Zoning Commission agreed with the applicant's contention that the increased cost of development has led to the need to increase the density of the development. After the meeting, one of the Planning Commissioners said not to come back with anything less than 160 homes. At the February meeting, four of the Planning Commissioners thought the density was too high. This was the first indication that they felt 240 homes was too many. Mr. Stephens stated he went to the County Recorder of Deed's office and went through all plats approved since 1990. Both plans before the Commission tonight are five times larger than any plat approved by the Commission since 1990. Most developers submit plats of 20 to 25 lots at a time. The plans look more dense than they are. Mr. Stephens cited the lots per acre of subdivisions he looked at: Southridge Subdivision, 3.98; Parks Edge, 3.7; Southfield, 3.36; Parkade North, 3.24; Valley View West, 3.03.

Commissioner Stamper stated the subdivisions mentioned are in the City of Columbia.

Mr. Stephens agreed and added he believes the Planning and Zoning Commissioners misperceived the actual density. He selected plats with the greatest number of lots without regard to location. Continuing, Mr. Stephens stated the applicant has been before the Planning and Zoning Commission three times. Each time the applicant received a different message. Each time, there have been a great number of people from the area who are against development of any kind there. The applicant would like the Commission to approve a plat with conditions they believe are fair to address their concerns rather than continuing to return to the Planning and Zoning Commission in search of the magic number. The development is not out of character with the surrounding neighborhood. The houses they plan to build will cost not less than \$70,000. There will be testimony that this development will affect property values in the area. Not one property in the area has an appraised value of more than \$80,000--most are around \$60,000. There are legitimate reasons to deny a plat, such as adequate utilities. The water district is installing a ten inch water

line within one mile of the development. A district representative indicated they would extend the line to the development. With respect to sewage disposal, they plan to install a mechanical treatment plant which must be approved by the Department of Natural Resources, Clean Water Commission, and the County. There are a lot of controls on how, when, and in what manner the property will be developed. The five year plan calls for Alfalfa Drive to be paved and widened. Oakland Gravel Road is paved. Mr. Stephens requested Mr. Marshall discuss traffic.

Mr. Marshall stated he looked at traffic that might be created on the site. Roads and streets are developed as they are needed. The idea of paving Alfalfa Drive before the area is developed is not the way it is done. The Planning and Zoning Commission seemed to like plan three best. Using the projection of an average of two vehicles per household after the development is complete amounts to about 700 trips per day. There would be about 260 trips on Oakland Gravel Road. Most of the traffic will move from Northwoods Drive to the south. Mr. Burnam will develop hard surface roads in the subdivision. Mr. Marshall added the density of Gregory Heights Subdivision is 3.25 houses per acre.

Referring to the general standards for plan review from the subdivision regulations, Mr. Stephens stated they have tried to minimize traffic congestion. Utilities are close to the development and it should not present a burden to the County to serve the development. It will be ten to fifteen years before all 240 homes are built.

Commissioner Stamper called for public comment.

David Rogers, attorney with offices at 813 E. Walnut, stated the application is flawed and has been from the beginning. The only commendation Mr. Burnam deserves is one for consistency. He requested R-S zoning for 240 lots. The Planning and Zoning Commission told him 240 lots was too many. He simply wrote the word "planned" in front of his R-S application, then photocopied it and resubmitted it. There was no planning or effort to fulfill the purpose of planned zoning--to present something that is innovative or different. When the zoning aspect of this request was considered by the Planning and Zoning Commission, the Commissioner who changed his vote to allow the zoning said he would be comfortable with 160 lots. The applicant has made no effort to compromise. The area to the north is zoned A-2. Most lots there are 10 to 25 acres in size. One would expect to see an orderly progression from A-2 to A-R to R-S/PRD then to R-S as development nears the City. Mr. Burnam developed Haystack Acres with A-R zoning which requires half acre lots. He then leap frogged and wants to come back with "in filled" development with very small lots. It is untrue that the neighbors are opposed to any development. The neighbors would like to see the area develop in a manner similar to the surrounding area. The subdivision plats cited by Mr. Stephens are all in the City. Lots are not crammed in like that in the County. Mr. Rogers asked everyone who lives within one half mile of the site and who are opposed to this request, to stand.

Virtually everyone in the audience--about 50 people--stood.

Harold Stearley, 2070 E Northwood Drive, stated his property is immediately west of the proposed subdivision. Mr. Stearley stated the neighbors have attended every meeting on this matter to convey their concern with the development. They recognize Mr. Burnam's right to develop his land, but this type of subdivision will have a dramatic impact. The neighborhood would like to see a responsible development address the needs of the community and the concerns of the surrounding neighborhood. They understand the growth occurring in Columbia and that there is probably a need for low income housing. Josephine Ruether requested the City annex of 221 acres of land located less than three miles Haystack Acres. That land will accommodate 1,000 homes. Jeff Smith requested annexation of 170 acres within three or four miles of the proposed subdivision so he can develop multi-family homes. There is a lot of available space for development of homes to meet the needs of the community. Their concerns relate to the density. The prefabricated 1,300 square foot homes proposed are inconsistent with homes in the area. The smallest property in Northwood subdivision where his home is located is seven acres. His property consists of 18 acres. Mr. Stearley stated there are quite a number of homes in the area whose assessed value is in the six figure range. Looking at the proposed plan, if someone did not tell him homes would be constructed, he would assume he was looking at a trailer park. They are concerned with increased liability related to the concept of attractive nuisance. Many people in the

area have lakes, ponds, lagoons or even trees in their yards which might attract a child who could become injured. The Mr. Stearley stated he contacted the Boone County Sheriff's Department who assured him there would be problems with the current rural lifestyle. Mr. Stearley stated he contacted the Department of Natural Resources. The property north of I-70 is described as Missouri clay. Any type of runoff remains on the surface to migrate to streams, creeks, or ponds in the area. The County Health Department has strict guidelines for sewage disposal. It is his understanding package treatment plants are regulated by the Department of Natural Resources rather than the Health Department. The DNR assured him package treatment plants meet Environmental Protection Agency guidelines, but the person he spoke with advised him they are simply glorified lagoons. They indicated the biggest problem is nutrient runoff--that being nitrogen waste--which causes algae growth which depletes the oxygen supply and kills existing wildlife. The Soil Conservation Service said there would be significant problems with sedimentation runoff which would choke streams, clog watersheds and fill in ponds. They recommended silt fences be constructed around surrounding properties to protect them. The proposed roads will not accommodate the traffic flow created.

Debra Booker stated she has lived at 6395 N Oakland Gravel Road since 1966. She does not want Gregory Heights in front of and behind her home. Haystack Acres has been an acceptable and positive neighborhood. Ms. Booker said Commissioner Stamper lived there and knows what she is talking about. The roads do not have shoulders or ditches. Ms. Booker stated she is tense about traffic control because there is virtually none now except at Oakland Gravel Road and Highway 63 where the Sheriff's Deputies hang out.. The noise levels are impossible and this would make them awful. Dogs get killed on the roads and people wreck their cars because they drive so fast. Hallsville School District, where children living here would go to school, is strained now. This would make it worse.

Commissioner Stamper clarified his parents owned a house at the corner of Clover Court and Alfalfa Drive. They have not had an interest in the property for 15 years.

In rebuttal, Mr. Stephens stated Mr. Rogers did not say how this plan is flawed. There is no legal reason for it to have been flawed. At the first Planning and Zoning Commission meeting in August, the applicant was not told 240 homes was too many, but was told a PRD would prohibit the development of up to 450 homes. The proposed PRD provides a buffer from the City of Columbia. The Commission recently passed a lot of new requirements for sidewalks and--

Commissioner Stamper stated the Commission is currently revising the subdivision regulations, they have not been approved.

Mr. Stephens stated he stands corrected. He believes there are requirements in existence now that were not five to ten years ago. There is a utility easement across the property that cannot be built on. He does not know of any requirement that a subdivision be innovative or interesting. This development is not an effort to cram lots into a subdivision. Anytime a home is built, there is an impact on neighbors. That is no reason to prohibit someone from building. You cannot force a property owner to serve as a buffer for nearby residents if that is the only reason for doing so. Refusal to rezone the property based primarily on a desire to benefit, or conversely, to refrain from injury to others around the development does not constitute a matter of substantial public interest. The neighbors have done nothing to preserve this tract. They do not constitute the public which the Commission must protect. If the Commission want to approve the plan, with a condition that the number of lots be reduced, they would be receptive.

Commissioner Stamper asked is the Commission being asked to approve plan number 2 or 3?

Mr. Stephens replied both were denied by the Planning and Zoning Commission. He likes number 2. Others like plan number 3. Both are reasonable. They address different concerns. Plan 2 allows more access onto Oakland. Plan 3 eliminates some of the cul-de-sacs and cuts down the number of streets, but there are more houses fronting on Alfalfa Drive.

Commissioner Stamper asked Director Shawver to clarify the density achievable in the current zoning.

Director Shawver replied A-R zoning has a minimum lot size of one half acre, allowing 166 lots. He does not believe that density could be achieved due to the loss for streets and the strip through the property where there is a power line. No building is permitted in the power line easement.

In response to a question from Commissioner Stamper, Mr. Stephens replied they plan to place \$70,000 manufactured homes on the lots. The homes are similar to those at Shalimar Gardens. They are set on a foundation.

Mr. Burnam added they do not intend for the entire subdivision to consist of all manufactured homes. The minimum square foot home required would be 1,300 square feet.

Commissioner Stamper stated he received phone calls from individuals who feel somewhat betrayed. Haystack Acres was promulgated with no lots less than one half acre in size. The density of this development is substantially greater. They wondered why the lots are not larger on the side of the subdivision which is adjacent to them.

Mr. Stephens replied the power line easement prohibited more homes from being built. They tried to do that on plan 2.

Mr. Burnam stated Boone County is the only place where County staff does not give a recommendation on the development.

Commissioner Stamper stated this development does not seem to provide low to moderate income housing at \$70,000 a unit. Will the units be leased or owned?

Mr. Burnam replied everything will be for sale. The only reason they would keep one would be if they cannot sell it. They envision the homes being occupied by those working in the factories along route B.

Commissioner Stamper stated he does not see a note on the plan reflecting an intention of participating with the County in improving Alfalfa or Oakland Gravel Road as necessitated by this development.

Mr. Stephens stated it was their understanding the roads are in the five year improvement plan.

Mr. Marshall stated they provided additional right of way by moving the property line back.

Commissioner Stamper stated that is not what he had in mind.

In response to a question from Commissioner Stamper, Director Shawver replied the Planning and Zoning Commission did not discuss conditions which might be placed on the request.

Commissioner Stamper stated a comment was made about some people not being a part of the public and asked Mr. Stephens to elaborate.

Mr. Stephens stated he read that comment from a Missouri Supreme Court case, Huttig v. City of Richmond Heights. The power or authority of the Commission to regulate Mr. Burnam's use of his property is an exercise of police power. When the Commission exercises that power it has to be in the interest of the public at large and not just for the benefit people who live next to the proposed development.

Commissioner Vogt stated she has concerns with the development. One is that Northwood Drive be paved. When she voted to allow this piece of property to have a planned development it was because the property has a development problem--the utility corridor. She did not think she would be looking at a plan with this many units. It does not fit the neighborhood. She would allow no more than 170 units.

In response to a question from Commissioner Miller, Director Shawver replied water district representatives were present for the concept review. Since that time, land owned by Jeff Smith, to

which they were extending the line, has been annexed by the City of Columbia and the water district plans are in somewhat of a flux. They assume the City will extend water to the area.

Commissioner Miller asked if they do not put the line in, is the water in the area adequate to handle this property?

Director Shawver replied no.

Commissioner Miller stated the industry standard per household is nine trips per day. The development is too dense for the area--even if all the infrastructure was there. If the development was next to the City of Columbia and they could handle the utilities, it would be a different story.

Commissioner Stamper stated the applicant is asking the Commission to approve a development the density and size of Hallsville. He understands the owner's right to use the land. He would not have as much trouble with the density if there were more of a transition from the adjacent neighborhood. The Planning and Zoning Commission did not address conditions which might be placed on the development. He does not believe he could support the request even if they had. If the Commission decides a residential development is appropriate, it should be referred back to the Planning and Zoning Commission for a thorough debate and discussion of conditions.

Commissioner Vogt stated she does not object. There are positive aspects to the development such as park space and the provision of right-of-way for utilities and road construction.

In response to a question from Commissioner Stamper, Director Shawver replied the Commission's options are to approve or deny the request.

Mr. Patton commented the Commission can table the request.

Mr. Burnam stated he agrees there is a problem where Alfalfa enters Oakland Gravel Road. He will make the lots along Alfalfa one half acre lots; will pave Northwood; and will allow anybody on the south side to hook into the package treatment plant.

Commissioner Stamper stated he believes it would be better if Mr. Burnam took the input received tonight and come back with a revised plan. Commissioner Stamper moved that the County Commission of the County of Boone deny a request by Gordon and Bonnie Burnam to rezone from A-R (Agriculture Residential) to R-S/PRD (Single Family Residential/Planned Residential Development) and deny a request for approval of a review plan and preliminary plat for 83 acres, more or less, located on the north side of Alfalfa Drive and on the north and south side of Northwood Drive. The basis for denial is the lack of an acceptable plan for the configuration of the subdivision and the need for additional research and redesign to accommodate a development of this nature.

Commissioner Vogt seconded the motion, stating she hopes the Commission has been specific about its concerns.

Following discussion, Commissioner Stamper stated the concerns are in the public record.

Motion passed unanimously. Order 99-95.

SUBJECT: Discuss Sheriff Department's Request to Purchase Equipment

Commissioner Stamper stated the Sheriff requests to buy radios and light bars for the new police vehicles from the state contract. The amount of the request is less than \$10,000.

Commissioner Miller stated it is specialized equipment. They probably would not obtain a better price by bidding the items.

Commissioner Stamper stated he prefers to not automatically purchase from the State contract. He prefers the items be bid. If the State price is less, the contract can be used.

Commissioner Miller stated she believes that hurts the bid process.

Commissioner Stamper stated he does not recall many instances where the State contract has been used after the items have been bid by the County.

Commissioner Vogt stated the Commission has had other departments bid items rather than purchase them off State contract. Commissioner Vogt moved that the County Commission of the County of Boone direct the Sheriff's Department to use the formal bid process to obtain prices on radios and light bars for new patrol vehicles.

Commissioner Stamper seconded the motion.

Commissioner Miller stated it is a waste of time to bid items when there is a cooperative purchase opportunity.

Commissioner Vogt and Commissioner Stamper voted in favor of the motion. Commissioner Miller voted in opposition to the motion. Motion passed. Order 100-95.

SUBJECT: Approve and Sign Department of Natural Resources Levee License

Mr. Patton stated the license pertains to two points where the levee will intersect the MKT Trail. They want to provide a license instead of an easement. An easement is perpetual. A license is conditionally revocable. He prefers an easement, but there is a push to bid the project. They cannot obtain the Federal money without easements or licenses in place for the construction area.

Commissioner Stamper moved that the County Commission of the County of Boone approve the attached levee license agreement number BO9502 between the Missouri Department of Natural Resources and the County of Boone for the McBaine levee.

Commissioner Miller seconded the motion. Motion passed unanimously. Order 101-95.

SUBJECT: Reject Circuit Court Item 2 Bids, Bid No. 6-02FEB95, Computer Equipment

Commissioner Stamper moved that the County Commission of the County of Boone reject bids received on item number two of the Circuit Court portion of Bid No. 6-02FEB95, Computer Equipment.

Commissioner Vogt seconded the motion. Motion passed unanimously. Order 102-95.

The meeting adjourned at 9:10 p.m.

Attest:

Don Stamper
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Linda Vogt
District II Commissioner