

TERM OF COMMISSION: August Session of the July Adjourned Term

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

PRESENT WERE: Acting Presiding Commissioner Karen Miller
District II Commissioner Janet Thompson
Director, Resource Management Stan Shawver
County Counselor C. J. Dykhouse
Deputy County Clerk Mike Yaquinto

The meeting was called to order at 7:03 p.m.

Resource Management

1. Request by Cynthia Lynne Holloway Raven for a permit for a Day Care Facility on .31 acres, more or less, located at 4146 E Reynosa Dr., Columbia.

Stan Shawver read the following Staff Report:

The minutes for the Planning and Zoning Commission meeting of August 15, 2013, along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

The subject property is located approximately 200 feet from the city limits of Columbia, at the southwest corner of the intersection of Pecos Court and Reynosa Drive. It is approximately .31 acres in size and is zoned R-S(Residential Single-Family), and is surrounded by R-S zoning. This is all original 1973 zoning. The master plan designates this area as being suitable for residential land uses. There is currently a house on the property. The house has the upstairs area in use as a

residence with the downstairs being used as a Group Day Care Home.

The applicants are seeking a conditional use permit for the operation of day-care facility. The property has had a Group Day Care Home (limited to a maximum of 10 children) on site for 3 years and is seeking expansion to 20. In order to get that expansion, a conditional use permit is required. Staff notified 161 property owners about this request.

The following criteria are the standards for approval of a conditional use permit, followed by staff analysis of how this application may meet those standards. Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners.

(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.

The use is an expansion of a current permitted use. County staff are not aware of any complaints based on the current use. Public testimony may be indicative as to whether this criterion is met.

(c) The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.

If operated in conformance with existing county regulations, the use should comply with this criterion. Public testimony may be indicative as to whether this criterion is met.

(d) All necessary facilities will be available, including, but not limited to, utilities, roads, road access, and drainage.

The site has access to public water, electricity, and roads. Improvement of the structure will need to be done to meet the requirements of the building & fire codes.

(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 property has already developed in compliance with the present zoning of the area (R-S). 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.

This site has direct access to Reynosa Drive and Pecos Court. The applicant has provided a drawing showing the layout of the property. It indicates that drop-off/pick-up activity will be on Pecos Court. That said, the location of the property on a corner allows for two street frontages for such activity. An increase in traffic may occur, but it is insufficient to cross the threshold which the street is designed for.

(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 R-S zoning district.

Zoning Analysis: This request is a reasonable one. The operation of an existing day-care facility under the permitted uses on this property has triggered no complaints or issues with traffic. Expansion by this conditional use permit will bring building & fire code issues into play, but will also allow for doubling the maximum number of children and the ability to employ additional staff to serve this increased client load.

The property scored 78 points on the rating system.

Staff recommends approval of the conditional use permit with the following condition:

1. Applicant must comply with all building and fire code requirements of the Boone County Building Inspections division & the Boone County Fire Protection District.

The Planning & Zoning Commission conducted a public hearing on this request during their August 15, 2013 regular meeting. There were seven members of the commission present during this hearing.

Following the public hearing, a motion was made to recommend approval of the request with the following condition:

1. Applicant must comply with all building and fire code requirements of the Boone County Building Inspections division & the Boone County Fire Protection District.

That motion carried and so the application comes forward with a recommendation for approval.

There were no questions or comments concerning the Staff Report.

Commissioner Miller asked for a representative of the permit request to come forward and address the Commission on this topic.

Cynthia Lynne Holloway Raven said she is the owner of the business and resides at 4146 E. Reynosa Drive. She has brought a power point presentation to explain the business and the concerns of expanding the business.

Ms. Raven said she has been living at this address since 1999. Since then, she has completed a Bachelor's and Master's degree in Education and has taught for 10 years in the Public Schools. Following that, she began the business Luke's Treehouse in 2010 with a start up grant and has been operating for the last three years. It is the sole household income, and with her husband joining, this has allowed them to accept more children.

Ms. Raven reviewed the power point presentation highlighting the following:

- Safety issues
- Traffic flow
- Public enjoyment
- Property values
- About the business
- Materials & layout
- Play area
- Overview of business

- Outdoor play area
- Children's activities
- Mealtime
- Adjustments to floor plan
- Conditions of business

Commissioner Thompson asked Ms. Raven how many animals she has and what kind are they and do they have the run of the yard.

Ms. Raven said she has three dogs and yes they do have the whole yard to use.

Commissioner Thompson asked about the disposal of the feces.

Ms. Raven said it is pitched over the fence which is still her property.

Commissioner Thompson asked why she doesn't use a trash can for the disposal.

Ms. Raven said that this was discussed with the Health Department when they came to her house after a complaint. The Health Department said they saw no issue since it is being tossed over the fence on another part of her property out of the area where the children play.

Commissioner Thompson asked if there has been any consideration to finding a different mechanism to remove the feces from the property.

Ms. Raven said she has considered that and what she currently does is not a safety violation for the children, just an inconvenience for her if done some other way.

Commissioner Thompson said while picking up the feces, why not use a trash can with a

liner which would make it a safe place for the children to play and would not be as intrusive to the neighborhood.

Ms. Raven said she has thought of that.

Commissioner Thompson asked if it would not be unduly burdensome to put the feces in a trash can and have it picked up with the normal trash on pick-up day.

Ms. Raven said that would work.

Commissioner Thompson asked about the requirement of parents to be respectful of the neighbors and having this inserted into the contract.

Ms. Raven supplied a copy of the contract which has a provision that states:

During drop off and pick up times, pull up only at this residence, use only roadway and circle to exit, no private driveways for turn-arounds. Be expedient to minimize number of vehicles at a time.

Commissioner Thompson asked if all parents will be required to sign the contract.

Ms. Raven said yes. That will include present clients as well as future ones.

Commissioner Miller asked if there is currently a wait list because you can't provide the necessary services due to the pending Conditional Use Permit.

Ms. Raven said that the wait list is very fluid. By the time a position is open, the parents have found an alternative. There is not a true wait list. I received an e-mail today asking to be placed on a wait list. They're currently are no openings. There is no advertising,

only a web site. We could accommodate more children.

Commissioner Miller asked how many are on the staff.

Ms. Raven said that it is herself and her husband and one part timer to cover breaks. If we are allowed more children, one more would be hired for the afternoon and that person would park their car in the driveway and not the street.

Commissioner Miller noted that there is a creek that runs along the house and said that it was important to keep the feces out of the water system after encountering a similar problem in the community that she lives in. Everyone must be cognizant of the impact all of these things have on our lives. It is very important to dispose of the feces so it goes into a landfill and not the water system.

There were no further questions or comments and Commissioner Miller opened the meeting to the public and asked if there was anyone that would like to speak in support of the permit applicant.

Angelle Hall said she is a parent of a child that attends the day care as a part timer. Part time care is all that she needs and that money is tight and other places just don't fit her budget. She is also thankful that her son can attend a pre-school that is caring and a safe environment. Her son always shares what he has learned that day and is now writing his name. She understands that the day care can not take too many part timers like herself and she has talked to numerous people that also need the same part time care that she receives. She had been advised on the drop off and pick up policy when she signed up and has not had any problems during those times. She was also advised about the dogs on the premises as well. Lastly, she is just grateful that her son can attend a place that is well supervised.

The Commissioners thanked Ms. Hall for coming and speaking to this issue.

Commissioner Miller asked if there was anyone else to speak in support of the applicant.

Jeff and Kathy Conner said that they operate the Gymnastics Express, a mobile gymnastics program that has kids come into converted buses to do gymnastics and eight other sports. They have been doing this since 1989 and currently go to 55 different facilities. They have a lot of experience in seeing different day cares and how they operate. They have been serving Ms. Raven for the last three years.

While no child care experts, they see first hand the good and bad that day care facilities have to offer. Cynthia runs a great day care and she is very caring for the children and gives them a safe and fun environment to learn. She is very nurturing and loving to all the kids. Being there in the mornings, we see the balanced breakfast served to the kids. The day care is spotless, and we don't always see that with other centers. She has structured activities and has spent money on upgrading the day care. There are many books for the children and she is very active with them.

With the growing population there is a real need for good day care centers. We have been asked by parents where they should send their children and we do recommend Cynthia. There is a need for more day care centers and with Cynthia adding more spots, it will definitely help. We are in support of Cynthia. She is great with the kids and we hope that she is able to expand her business.

The Commissioners thanked Jeff and Kathy Conner for speaking on this issue.

Commissioner Miller asked if there was anyone else that would like to speak in support of the applicant. There were no further speakers in support of the applicant. Commissioner Miller asked if there was anyone present that would like to speak in opposition to the

application.

Leilani Logan said she lives across the street from the play area of the day care. She sees a lot of the activities in the yard. One of the issues is that there are children playing in the cul-de-sac and with increased traffic that will be a major safety concern. Parents may not be paying attention to the driving, being more interested in what their child learned that day.

Also, with the increase there will be more vehicles and increased door slamming. Being a retired RN, there are three other homes with retirees so this is a real concern. There is also a potential problem with parking, especially in the winter with the snow and streets not yet plowed. We moved here in 1997 because it was quiet and not a lot of traffic.

Concerning the feces and throwing it over the fence, I see it everyday where the children come running out the door to play and the adult gets a shovel and cleans up. There is still residue after the pick up and these kids are playing there. Many illnesses can occur just from the residue. Those are my concerns as a registered nurse and neighbor.

The Commissioners thanked Ms. Logan for coming in to speak to this issue.

Commissioner Miller asked if there was anyone else to speak in opposition.

Laurenelle Boone said she lives on Pecos Ct. and moved there in 2002. When she moved in, she received rules for the Subdivision. One of the rules is that no sign of any kind can be displayed within public view on any lot except for a professional sign not more than 1 ft. square. Also, no lot should be used for anything other than for residential purpose. A commercial business should be in a commercial area, not residential. If the permit is allowed it could set a precedent.

Commissioner Miller said there are other day care centers in the area.

Ms. Boone said there are three. One of them has large capacity but is located where it does not interfere with the surrounding neighbors. The others have the same capacity that Ms. Raven currently has. She is not against the business, but if it is to expand, it should be in a commercial area.

The Commissioners thanked Ms. Boone for her comments.

Commissioner Miller said that since there are no others present, the public hearing will be closed.

Commissioner Miller asked Mr. Shawver to speak to what is considered home based versus commercial.

Mr. Shawver said that Boone County regulations allow up to 10 for permitted use. More than 10 require a Conditional Use Permit until they hit commercialized zones or districts.

Commissioner Miller asked when it is in the RM zone, how many kids are allowed.

Mr. Shawver said it is then classified as a Private School and permitted use.

Commissioner Miller asked about signage.

Mr. Shawver said that within the Boone County regulations, it is considered home occupation and signs no larger than 1 ft. by 3 ft. are allowed.

Commissioner Miller also asked about neighborhood rules.

Mr. Shawver said that the County does not enforce neighborhood rules such as those in the El Chaparral subdivision.

Commissioner Miller said that the parents must be aware of where their children are playing. Understandably the cul-de-sac is a place for children to play, but it is a road and the roads are made for vehicles. Everyone must be diligent whether it is driving a vehicle or being aware of where your child is playing.

Commissioner Thompson said she was concerned about the dog feces and the effects on the neighbors and those downstream. It must be taken care of in a proper manner.

There were no further comments or questions.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby **approve** the request by Cynthia Lynne Holloway Raven for a permit for a day care facility on .31 acres at 4146 E. Reynosa Dr., Columbia with the following conditions:

- Applicant shall take steps to insure that clients do not utilize private property other than the applicant's when dropping off or picking up children.
- Applicant will handle all animal waste through an appropriate trash disposal.
- Applicant must comply with all building and fire code requirements of the Boone County Building Inspections division and the Boone County Fire Protection District.

Commissioner Miller seconded the motion.

The motion carried 2 to 0. **Order #389-2013**

Commissioner Miller reminded Ms. Raven that the neighbors will be watching and any failure to follow the conditions as stated in the Commission Order, will jeopardize the Conditional Use Permit.

2. Easley River Road. S3-T46N-R13W. A-2. James E. and Sylvia Crane, owners. Steven R. Proctor, surveyor.

Stan Shawver said that this is a one lot Subdivision. The re-zone request occurred last month. It was A-1 and now it is A-2. Resource Management is requesting the Acting Presiding Commission to sign the plat.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby receive and accept the following subdivision plat and authorize the Acting Presiding Commissioner to sign it:

- Easley River Road. S3-T46N-R13W. A-2. James E. and Sylvia Crane, owners. Steven R. Proctor, surveyor.

Commissioner Miller seconded the motion.

The motion carried 2 to 0. **Order #390-2013**

3. 1st & 2nd reading; Rescind Commission Order 370-2013 and approve closure of Batye Land and Haid Lane

Stan Shawver said that this will clarify the record to include Haid Lane.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby rescind Commission Order 370-2013 and approve the closure of a section of Batye Lane and Haid Lane, both located in Section 26, Township 46 North, Range 13 West. The section of road being closed by this action is partially located within the streambed of Glascock Branch creek. The closing of this section will not deny access to any property owner to a public road.

The Commission further directs that appropriate traffic control barriers are to be placed to impede traffic from access to the closed section of roadway.

A map showing the closed section of road and the location of the traffic control barriers is attached to this Order and incorporated herein.

Commissioner Miller seconded the motion.

The motion carried 2 to 0. **Order #391-2013**

**4. First reading; Approval request for additional easement for Scott Boulevard
Phase II**

Stan Shawver said that this is a request from the City of Columbia for an additional easement to improve the functionality of the proposed basin for the Scott Blvd. Phase II project.

There were no comments or questions.

Commissioner Miller stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available commission meeting with appropriate order for approval.

Purchasing

5. Second reading; Bid Award 32-30JUL13 – Pre-printed Envelopes for Boone County Collector (1st reading 8-22-13)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby award bid 32-30JUL13 – Pre-printed Envelopes for the Boone County Collector to Affordable Printing Solutions of Holts Summit, MO. The terms of the agreement are stipulated in the attached Purchase Agreement. It is further ordered the Acting Presiding Commissioner is hereby authorized to sign said Purchase Agreement.

Commissioner Miller seconded the motion.

The motion carried 2 to 0. **Order #392-2013**

6. Second reading; Bid Award 31-12JUL13 – 2013 Roadway Surface Seal Treatment Project (1st reading 8-22-13)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby award bid 31-12JUL13 – 2013 Roadway Surface Seal Treatment Project to the following:

- Wagon Trail Road – Donelson Construction, LLC in the amount of \$23,112.60
- Rollingwood Blvd. – Corrective Asphalt Materials, LLC in the amount of \$18,925.90
- Crump Lane – Missouri Petroleum Products Company in the amount of \$12,327.84

The terms of the agreement are stipulated in the attached Contract Agreement. It is further ordered the Acting Presiding Commissioner is hereby authorized to sign said Contract Agreement.

Commissioner Miller seconded the motion.

The motion carried 2 to 0. **Order #393-2013**

7. Second reading; Contract Number One – Electronic Payment Processing (1st reading 8-22-13)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve Contract Amendment Number One – 26-05JUL13 – Electronic Payment Processing which changes the name on the contract from ACH Direct, Inc to Forte Payment Systems, Inc.

The terms of the agreement are stipulated in the attached Contract Amendment Number One. It is further ordered the Acting Presiding Commissioner is hereby authorized to sign said Contract Amendment.

Commissioner Miller seconded the motion.

The motion carried 2 to 0. **Order #394-2013**

Auditor

8. Second reading; Amendment Number Three – 49-27OCT08 – Financial and Compliance Audition Services (1st reading 8-22-13)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve Contract Amendment Number Three with RubinBrown LLP for Financial and Compliance Auditing Services.

The terms of the agreement are stipulated in the attached Contract Amendment Number

Three. It is further ordered the Acting Presiding Commissioner is hereby authorized to sign said Contract Amendment.

Commissioner Miller seconded the motion.

The motion carried 2 to 0. **Order #395-2013**

Commission

9. 1st & 2nd reading; Organizational Use of the Government Center Conference Room 301 by the Department of Revenue

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the Organizational Use of the Government Center Conference Room 301 by the Department of Revenue on September 19, 2013 from 8:30 a.m. to 11:30 a.m.

Commissioner Miller seconded the motion.

The motion carried 2 to 0. **Order #396-2013**

10. Public Comment

None

11. Commissioner Reports

Commissioner Miller asked County Counselor Dykhouse to report out on the County Liquor License enforcement process.

Mr. Dykhouse said that there became a need to establish a County Liquor License enforcement process when the state withdrew its forces from the field about 3 years ago due to budget shortfalls. The County has established an escalating notification process starting with the County Clerks office sending an initial letter and billing statement followed by another letter indicating non-compliance and a referral to my office. At that time, if still not paid, I will send a letter indicating that the County will move forward with enforcement action including a request that the property be closed for a period of up to one year as a public nuisance as contemplated in the Liquor Control Law.

Mr. Dykhouse also said that in the three Liquor License cycles since the process began, there has not been an instance where we have had to do this last step. Most recently though, we have had to file litigation related to this. Service process happened today and earlier this morning, I received a call from the license holder saying they had intentions of coming in and pay the amount due by tomorrow. This will involve full payment as well as court costs. This being the first case in three years is an indication that the process is working.

Commissioner Miller requested a report on the status of this litigation for the next meeting.

Mr. Dykhouse said he will do that and said that this process involves many within County government; County Clerk, Collectors Office, Circuit Clerk, Sheriff's Department, Prosecutor and County Counselor. It is a testament to government entities working together to get things done.

The Commissioners thanked Mr. Dykhouse for the report.

There were no further Commissioner Reports.

The meeting adjourned at 8:13 p.m.

Attest:

Wendy S. Noren

Wendy S. Noren
Clerk of the County Commission

Daniel K. Atwill

Daniel K. Atwill
Presiding Commissioner

Karen M. Miller

Karen M. Miller
District I Commissioner

Janet M. Thompson

Janet M. Thompson
District II Commissioner

