

TERM OF COMMISSION: October Session of the July Adjourned Term

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

PRESENT WERE: Presiding Commission Daniel Atwill
District I Commissioner Karen Miller
District II Commissioner Janet Thompson
Director Resource Management Stan Shawver
Deputy County Clerk Mike Yaquinto

The meeting was called to order at 7:00 p.m.

Resource Management

1. Request by D & D Investments LLC to use an existing building for storage space on 3.86 acres located at 6215 W Cunningham Dr., Columbia.

Stan Shawver read the following Staff Report:

The minutes for the Planning and Zoning Commission meeting of September 19, 2013, along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

The subject property is located on Cunningham Drive, in between Schotte Lane and Taliesin Way, east of the I-70/Highway 40 interchange at Midway. The property is 3.86 acres in size and is zoned C-G (General Commercial). It has C-G zoning to the north & west, C-GP (Planned General Commercial) to the south, M-LP (Planned Light Industrial) to the southwest, M-LP to the southeast and A-2(Agriculture) zoning to the east. The C-G and A-2 zoning is original 1973 zoning. The southeast M-LP had its zoning revised most recently in May 2011. The southwest M-LP was rezoned in 2003. The C-GP was

rezoned 1993. There is an existing 31,100 square foot building on the property.

The applicant is requesting a conditional use permit to operate a storage facility. The existing building was previously used as a home furnishings store. Staff notified 15 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.

This use is comparatively non-intrusive. The surrounding properties will likely see few impacts from the presence of this facility.

(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 and re-surfacing of the parking/loading areas will need to be done to meet county code requirements.

(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(C-G). 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 Cunningham Drive, Schotte Lane, and Taliesin Way.

(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 C-G zoning district.

Zoning Analysis: The proposed use is consistent with the zoning at this site. The comparatively undeveloped surroundings would support the traffic generated by this use.

The open C-G zoning that is present could be developed into a more intense manner, but this conditional use permit would work well with the existing conditions on the surrounding properties.

Staff recommended 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.
2. All lighting must be focused inwards and downwards with no light leaving the site.

The Planning & Zoning Commission conducted a public hearing on this request during their September 19, 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 conditions:

1. Applicant must comply with all building and fire code requirements of the Boone County Building Inspections division & the Boone County Fire Protection District.
2. All lighting must be focused inwards and downwards with no light leaving the site.

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

There were no comments or questions from the Commission.

Commissioner Atwill opened the Public Hearing and asked if anyone was present to speak on behalf of this issue. There were no speakers.

Commissioner Atwill asked if there was anyone present that would like to speak in opposition of this issue. There were no speakers.

Commissioner Atwill closed the Public Hearing.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the request by D & D Investments LLC to use an existing building for storage space on 3.86 acres located at 6215 W Cunningham Dr., Columbia.

- Applicant must comply with all building and fire code requirements of the Boone County Building Inspections division & the Boone County Fire Protection District.
- All lighting must be focused inwards and downwards with no light leaving the site.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #436-2013**

2. Petition submitted by Payne Enterprises, Inc. for permission to vacate and replat Lot 2, of Tower Estates Plat 3, as shown in Plat Book 21, Page 47 of Boone County Records.

Stan Shawver read the following petition from John Payne of Payne Enterprises, Inc.:

With this letter, I, John R. Payne of Payne Enterprises, Inc., hereby petition the Boone County Commission to vacate Lot 2 of Tower Estates Plat No. 3, as shown in Plat Book 21, Page 47 of the Boone County records, in accordance with Section

1.8.1.3 of the Boone County Land Use Regulations, Chapter 1, Subdivision regulations. It is the intention to resurvey the above described Lot 2 and incorporate it into a larger lot with road frontage on South Cowan Loop.

Mr. Shawver said that Tower Estates was platted in 1987 and at that time, there were no provisions for re-platting other than what is in the re-zoning regulations. Mr. Shawver cited subdivision regulation 1.8.1.3 in conjunction with 1.8.1 and 1.8.2. The petition was submitted within regulations and property owners within 500 ft. of the plat in question were notified.

Commissioner Atwill asked if there were any written responses to the notification.

Mr. Shawver said there were no written responses but there were several phone inquiries.

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on behalf of the applicant.

John Payne, president of Payne Enterprises said that he has owned approximately 23 acres for about 10 years and is doing what Resource Management has requested him to do, which is to plat the property into two lots.

Ron Lueck of Lueck Surveying said the vacation of the lot needs to take place in order to re-plat the lot with the remaining vacant land behind it. There will be two lots, one 3.8 acres and the other about 20 acres – a one lot subdivision.

Commissioner Miller questioned why the additional parcels are not included.

Mr. Lueck said the others were done by survey and do not have the same requirements as the others.

Mr. Payne said that this is mostly a clean-up project. There is a one lot survey next week and there are no plans for the other parcels at present.

Commissioner Miller asked Mr. Shawver the reason for the Staff recommendation.

Mr. Shawver said it was to consolidate into one piece of ground. The plat that includes the nursing home is on for the October P & Z meeting.

Commissioner Atwill asked what will the property boundaries eventually be.

Mr. Lueck described the eventual boundaries and said it will have 10-12 sides to the property.

There were no further questions or comments.

Commissioner Atwill asked if there was anyone else that would like to speak on behalf of the applicant. There were no additional speakers.

Commissioner Atwill asked if there was anyone present that would like to speak in opposition of the applicant.

Teressa DeSmit said that she is a resident and has been caught off guard because the notice she received said it was for the vacation of the lot and the agenda says it is a vacate and re-plat. She is not opposed to development of the property and would like any development to be in the same character of the existing properties. It is difficult to make an informed decision when there are no plans to review. One can't say yes because we don't know what we are saying yes to.

Ms. DeSmit addressed the subdivision regulation 1.8.1.3 and how it relates to the neighborhood and what is required by Mr. Payne to go forward. The bullet points addressed in the regulations are a concern to us because we have no idea what Mr. Payne's plans are. The residents are heavily invested and property values can be affected. Once again, we are very uninformed and haven't seen a re-plat.

Commissioner Miller said the Commission has not seen one either so that will not be considered tonight.

Commissioner Atwill said that an option is to allow the vacation to take place contingent upon a Public Hearing for the re-plat.

Ms. DeSmit said once the vacation is allowed, it is a done deal and we will all be here again for the re-plat.

Commissioner Atwill asked if there has been a meeting with Mr. Payne.

Ms. DeSmit said that the property was offered for \$1 million and no one was going to write him a check. We just want to know what he is going to do with the property. Let us know up front so we can be informed.

Commissioner Atwill thanked Ms. DeSmit for her thoughts on the matter and asked if there was anyone else that would like to speak on the issue.

George Flenner asked Commissioner Miller for a clarification on the infrastructure needs for the property.

Commissioner Miller said she was referring to the property already zoned RS and it would need to go through the regular process for meeting subdivision regulations and requirements.

Mr. Flenner said that all residents are on septic and feels that there would be a significant cost to go to a sewer system and who would pay for that.

Commissioner Miller said they would not need sewers and the Nursing Home on the property does have sewer.

Mr. Flenner said it feels like the community is being invaded. If there were to be a house built on the property, that would be ok, but if it is used to get to the other property to develop that would be totally different. We feel for our safety and just want that to be considered.

Commissioner Atwill thanked Mr. Flenner for speaking on this issue.

Catherine Dunn said she purchased her house in 2009 because of the character on the neighborhood and the large lots and trees. The aerial view picture (given to each Commissioner) shows the wooded lots and the large spaces. There is no reason why the lot should be vacated, it is the same size as all the other lots.

Commissioner Miller noted that the vacation is necessary because the re-plat of the Nursing Home piece would cut off access to the road system and that is not acceptable. There needs to be access to a public road.

Commissioner Atwill thanked Ms. Dunn for her comments.

Randy Rippey said he lives next to the lot in question and the dirt road that gives access to the larger 11 acres. There are quite a few trucks on a daily basis using the dirt road to bring fill to the larger lot right behind his property. Does the re-plat give permission to build a real road.

Commissioner Atwill said that it does not allow any construction as it is a vacation and not a re-plat.

Commissioner Miller noted that this is a two step process; vacate then re-plat.

Mr. Rippey said he understands that the property is Mr. Payne's and just does not want to see the road expand as it is right behind his house and there are no barriers such as fences or trees to block a future road if constructed.

Commissioner Miller said that it could happen if the only access to the property is to have a road of that nature.

Mr. Rippey said this would definitely affect the character of the houses on both sides. There will be traffic flow on the street right in his backyard. This could be a detriment to the value of the property.

Commissioner Atwill thanked Mr. Rippey for speaking tonight.

Rebecca Ochoa-Jackson said she lives on the corner lot and the stem on the lot in question is the only access to her garage.

Commissioner Miller asked if she has an easement.

Ms. Ochoa-Jackson said she does.

Commissioner Miller said that gives her the right to continue to use the stem.

Ms. Ochoa-Jackson said that she heard in an earlier discussion that the stem would be closed and re-worked in another direction leading to the 11 acre property.

Commissioner Miller said the discussion concerned the stem as it relates to the 3.8 acres where the Nursing Home is located. Mr. Payne will clarify this once we are done hearing from everyone.

Ms. Ochoa-Jackson said the stem is vital to getting to her driveway and garage. Her property is on the corner and she sees the constant truck traffic and if the street is re-directed it would have a major impact on the value of her home. Also, Tower Estates has lot requirements on size and character.

Commissioner Miller asked if this is a neighborhood covenant.

Ms. Ochoa-Jackson said it is.

Commissioner Miller said the County does not enforce neighborhood covenants, only what the zoning is for the area. If there are issues concerning the neighborhood covenant, that would be a civil suit.

Commissioner Atwill thanked Ms. Ochoa-Jackson for speaking tonight.

Ann Roland said she walked around the loop today taking pictures and shared those with the Commission. The views will certainly change for some of the residents. It is a lovely neighborhood and we would like to maintain the character and welcome anyone with the same vested interests that are shared with all the other residents.

Commissioner Atwill thanked Ms. Roland for the pictures and for her comments.

Joan Smith said she would like a clarification on the road that loops around the Nursing Home for parking and the dirt road off the loop road that leads to the 11 acres. It would seem that the road going behind the Nursing Home would be better for accessing the 11 acres than

the dirt road off the loop.

Commissioner Miller said that we will have Mr. Payne explain this once everyone has spoken.

Commissioner Atwill thanked Ms. Smith for speaking tonight.

Michael Smith said there are 26 houses on the loop and 15 of those are represented here tonight. He went door to door to discuss what was going on, but could not because we don't know what is going on. A concern is that there could be duplexes or four-plexes built. Also, if this is approved and the land is sold to someone else, will this have to be done all over again.

Commissioner Atwill said that the zoning and platting go with the land.

Commissioner Miller said that the zoning of RS remains and it still will have to be platted. It is still the same process.

Commissioner Atwill thanked Mr. Smith for his thoughts on the issue.

Don Gibson said he wanted to make sure he understands that it is a two step process; vacate then re-plat. When the regulations were read, he understood that the Commission must find no adverse affect to the neighborhood in order to approve.

Mr. Shawver read the regulations again for Mr. Gibson.

Mr. Gibson thanked Mr. Shawver for the re-read and is clear on the procedure.

Commissioner Atwill thanked Mr. Gibson for speaking tonight.

There were no other speakers in opposition.

Commissioner Atwill asked Mr. Payne to come forward to address some of the issues by the opposition.

Mr. Payne said he was glad the residents came out tonight. He can always be reached by

phone. The only plan he has is to sell the property.

Mr. Lueck said that the only plan he has is to turn the 1.5 acres into 16 acres.

Mr. Payne said he has no development plans and the property does have sufficient sewer capacity. Boone County Regional Sewer District forced him off the lagoons thru the DNR to justify the treatment plant. He had to close the lagoons, fill them in and hook up to the Boone County sewer. Filling in the lagoons is what started all the truck traffic. There is a 12" water line running the full length of the east side of the property because I allowed Consolidated Water #1 an easement to put it in at no cost to them for service to the airport. There is plenty of sewer and water for any purpose. The plan is to sell the property and at present there is no contract to do so.

Mr. Payne said he is only doing what Resource Management has suggested. He said that no one is taking the easement from Ms. Ochoa-Jackson and no one can. He wants to do this the correct way and make sure that everything is up front. The requirements by Resource Management and the regulations in place require him to proceed in this manner. He understands the concerns of the residents, but whoever purchases the property and decides to develop it, must be aware that Columbia is growing and it is only a matter of fact that this will happen. The area just north of here is expanding and it is only normal that this will to.

Commissioner Atwill thanked Mr. Payne for his comments.

There were no further speakers on the issue.

Commissioner Miller said that selling off the lot with the Nursing Home is reasonable and then to come back with a one lot re-plat. There are safe guards in the regulations that will make sure everything is done properly.

Commissioner Thompson said she understands the concerns of the residents but the process requires us to have access to people's land. The parcel of land we are talking about must have access to a public road. When looking at the subdivision regulations for the vacation procedure and the impact on the neighborhood, it is not certain that the vacation of the lot

will adversely affect the character of the neighborhood.

Commissioner Thompson also said that as things develop or as plans are put forward, one can decide then if it has an adverse affect to the character and conformity of the neighborhood.

Commissioner Atwill asked Stan Shawver to outline the process if vacated then re-platted.

Mr. Shawver said there are two scenarios. First is an administrative survey which would encompass all but the 3.8 acres with the Nursing Home. Also there is the re-plat with multiple lots where there is a preliminary re-plat with the Planning & Zoning Commission and if approved, then scheduled through the County Commission for what is being proposed. If approved then the developer/owner will prepare designs for streets, infrastructure, storm drainage, land preservation, storm water and sewer plans which all can be done ahead of time or bonded for installation and then the plat follows.

Commissioner Atwill asked Mr. Shawver that if the plat is vacated can they build on a landlocked property without the steps mentioned.

Mr. Shawver said any tract of land is entitled to one dwelling. Tracts of 20 acres or more could have two dwellings. It all depends on the actual survey.

Commissioner Miller said that the two in question, the 1.53 acres and 11 acre lots would be combined and would be big enough for one dwelling.

Mr. Shawver said that if the stem were cut off, the vacation is the best way to guarantee access to the 11 acres.

There was no further discussion on the topic and Commissioner Atwill closed the public hearing.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby **approve** the petition submitted by Payne Enterprises, Inc. for permission to vacate Lot 2, of Tower Estates Plat 3, as shown in Plat Book 21, Page 47 of Boone County

Records.

Said vacation shall not to take place until the re-plat is approved following a public hearing conducted by the Boone County Commission in accordance with Section 1.8.2 of the Boone County Subdivision Regulations.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #437-2013**

3. Receive and Accept the following subdivision plats:

- **Gibbs. S35-T50N-R13W. A-2. Scott and Mary Gibbs, owners. Steven R. Proctor, surveyor.**
- **McNary. S30-T50N-R13W. A-2. Koy and Margie McNary, owners. Steven R. Proctor, surveyor.**

Stan Shawver said that the McNary request will not be considered tonight because there was a name change on the title. It will be considered in a future meeting. Mr. Shawver requested that the Presiding Commissioner sign the subdivision plat for Gibbs.

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 Presiding Commissioner to sign them:

- **Gibbs. S35-T50N-R13W. A-2. Scott and Mary Gibbs, owners. Steven R. Proctor, surveyor.**

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #438-2013**

4. Adopt Findings of Fact and Conclusions of Law issued for the Cynthia Raven day care facility approved during the 8/27/13 Commission meeting.

Stan Shawver said this is a result of the Commission approval of the Conditional Use Permit for the Cynthia Raven day care facility. The Findings of Fact and Conclusions of Law have been prepared to reflect the action taken by the County Commission.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby adopt the Findings of Fact and Conclusions of Law relative to a conditional use permit for Cynthia Raven for a permit for a day care facility on .31 acres located at 4146 E Reynosa Dr., Columbia.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #439-2013**

5. First reading; Engineering Surveys & Services Consultant Agreement for Angel Lane

Stan Shawver said this is a proposal for Engineering Consultant Services to do geotechnical engineering for repair work to Angel Lane.

Commissioner Miller asked about the length of the project.

Mr. Shawver said it would be close to 60 days. They will need to pull up a section and send it to the lab for evaluation to figure the right mix for the area. This is a joint project with the city of Ashland.

There were no further comments or questions.

Commissioner Atwill 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

6. Second reading; Computer and Peripheral Surplus Disposal (1st reading 9-26-13)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the request by the Purchasing Department to dispose of the attached list of surplus PC & Peripheral equipment through the MRC Recycling Center. It is further ordered the Presiding Commissioner is hereby authorized to sign the Request for Disposal forms.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #440-2013**

7. Second reading; Surplus Vehicle Disposal (1st reading 9-26-13)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request by the Sheriff's Department to dispose of the attached list of surplus vehicles through the Missouri Auto Auction, contract 10-23MAR10 – Auction Services for Surplus Vehicles. It is further ordered the Presiding Commissioner is hereby authorized to sign the Request for Disposal forms.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #441-2013**

8. Second reading; Amendment #1 – C113046003 – Ford Police Interceptor Utility AWD and vehicle disposal (1st reading 9-26-13)

Commissioner Atwill moved on this day the County Commission of the County of Boone does hereby approve the attached Amendment #1 – C113046003 – Ford Police Interceptor Utility AWD and disposition of a totaled 2009 Ford Crown Victoria, fixed asset tag 16925. The terms of the agreement are stipulated in the attached Contract Amendment Number One Purchase Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Purchase Agreement and Request for Disposal Form.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #442-2013**

Commission

9. 1st & 2nd reading; Designation of Delegates to MAC's Annual Conference

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the following to serve as delegates to the Missouri Association of Counties' Annual Conference on October 20-22, 2013:

- | | |
|------------------|--------------------------|
| • Karen Miller | District I Commissioner |
| • Janet Thompson | District II Commissioner |
| • Pat Lensmeyer | Collector |
| • Wendy Noren | County Clerk |
| • Daniel Atwill | Presiding Commissioner |

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #443-2013**

10. Public Comment


None

11. Commissioner Reports

None

The meeting adjourned at 8:34 p.m.

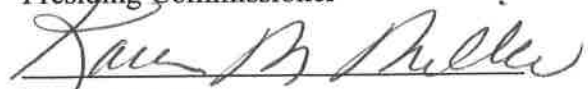
Attest:



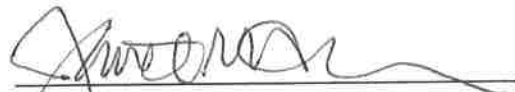
Wendy S. Noren
Clerk of the County Commission



Daniel K. Atwill
Presiding Commissioner



Karen M. Miller
District I Commissioner



Janet M. Thompson
District II Commissioner