

BOONE COUNTY PLANNING & ZONING COMMISSION
BOONE COUNTY GOVERNMENT CENTER, COMMISSION CHAMBERS
801 E. WALNUT ST., COLUMBIA, MO.
(573) 886-4330

Minutes

7:00 P.M.

Thursday, May 15, 2008

I. Chairperson Smith called the meeting to order at 7:00 p.m., with a quorum present.

II. Roll Call:

a. Members Present:

Pat Smith, Chairperson	Perche Township
Carl Freiling, Vice-Chairperson	Cedar Township
Boyd Harris, Secretary	Centralia Township
Mike Morgan	Bourbon Township
Larry Oetting	Three Creeks Township
John Schloot	Rocky Fork Township
Gregory Martin	Katy Township
Michael Morrison	Columbia Township
Paul Zullo	Rock Bridge Township
Patricia Fowler	Missouri Township

b. Members Absent:

David Mink	Public Works
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c. Staff Present:

Stan Shawver, Director	Uriah Mach, Planner
Thad Yonke, Senior Planner	Bill Florea, Senior Planner
Paula Evans, Staff	

III. Approval of Minutes:

Minutes from the April 17, 2008 meeting were approved with corrections by acclamation.

IV. Chairperson Statement:

Chairperson Smith read the following procedural statement:

The Boone County Planning and Zoning Commission is an advisory commission to the County Commission. The Commission is made up of individuals representing each township of the County and the county engineer. The Planning and Zoning Commission makes recommendations to the County Commission on matters dealing with land use. Tonight's agenda includes one conditional use permit and one subdivision plat.

In general, the Planning and Zoning Commission tries to follow Robert's Rules of Order, however, it is authorized by the Missouri State statutes to follow its own by-laws. The by-laws provide that all members of the Commission, including the Chairperson, enjoy full privileges of the floor. The Chairperson may debate, vote upon, or even make any motion.

The following procedure will be followed:

The agenda item will be announced, followed by a report from the Planning Department staff. At that time, the applicant or their representative may make a presentation to the Commission. The Commission may request additional information at that time or later following the hearing. After the applicant's presentation, the floor will be opened for anyone wishing to speak in support of the request. We ask that any presentation made to the Commission be to the point.

Please give your name and mailing address when you address the Commission. We also request that you sign the sheet on the table after you testify.

Next the floor will be given over to those who may be opposed to the request. Direct all comments or questions to the Commission and please restrict your comments to the matter under discussion. Please be considerate of everyone here. We ask that you please not be repetitious with your remarks. We also recognize that some issues can be quite emotional. In that regard we ask that you refrain from applause, cheers, or other signs of support or displeasure. Please afford those with a different point of view than yours the same respect and consideration you would like yourself.

After those opposed to the request have had a chance to speak the applicant will have an opportunity to respond to the concerns of those opposed to the request. Next the staff will be given an opportunity for any additional comments, as appropriate. The public hearing will then be closed and no further comments will be permitted from the audience or the applicant unless requested by the Commission. The Commission will then discuss the matter and may ask questions of anyone present during discussion. Finally, a motion will be made to either recommend the approval or denial of the request to the County Commission. Please note that the Boone County Zoning Regulations and Subdivision Regulations are considered to be a part of the record of these proceedings.

All recommendations for approval are forwarded to the County Commission. They will conduct another public hearing on Tuesday, May 27, 2008. Interested parties will again have the opportunity to comment on the request at that time. The County Commission generally follows the recommendations of the Planning and Zoning Commission; however, they are not obligated to uphold any recommendation. Requests that have been denied will not proceed to the County Commission unless the applicant files an appeal form within three working days. Please contact the Planning office to see if a request that has been denied has filed an appeal, as there will be no further public notification due to the short time between the hearing tonight and the County Commission hearing. The County Commission hearing scheduled for Tuesday, May 27, 2008 will begin at 7:00 p.m. and will convene in this same room.

V. Conditional Use Permits

1. Request by Shadd and Melinda Westhoelter for a permit for a dog kennel on 18.34 acres, located at 15253 N. Tucker School Rd., Hallsville.

Planner, Uriah Mach gave the following staff report:

The subject property is 18.34 acres located approximately 3 miles west of Hallsville, 1 ½ miles north of State Highway 124. The property is zoned A-2 (Agriculture), which is original 1973 zoning. This property is surrounded by original A-2 zoning.

The applicants are requesting a conditional use permit to operate a breeding kennel for dogs. They have operated under USDA and Missouri Department of Agriculture permits for several years, and are seeking this permit to be in compliance with county regulations. This is required in order to upgrade the existing kennel facilities. The applicants have identified the existing structures on their property in the documentation submitted with their conditional use permit. There are two whelping sheds with chain-link runs and six dog pens present on the property. The applicants currently have eight active breeding females, four females that are not mature enough to breed, and three males.

The property is located inside the Hallsville public school district and the Boone County Fire Protection District. The Master Plan describes this area as being suitable for agricultural and rural residential land use. Staff notified 14 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 requested use has the potential to be injurious to the use and enjoyment of other property in the immediate vicinity. However, the structures used in the kennel operation are roughly located in the center of this property, buffering it from nearby properties. Public testimony may be more 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.

The proposed use may have a negative impact on property values in the area. Typically, kennels can generate significant noise and odor impacts on the surrounding properties. 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 all necessary facilities. Waste materials are handled through use of an older lagoon on site and/or a manure spreader used for pasture fertilization.

(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 is zoned A-2 (Agriculture), with residential uses limited to 2.5 acre lots. Development of this area may be restricted due to the presence of the kennel. The surrounding tracts have the potential to be divided at a higher density than their present status. Given the potential negative impacts of a kennel, adjacent lots may need to be made larger in order to provide a buffer between home sites and the kennel property.

(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.

The site has direct access to Tucker School Road, a county-maintained public road. The proposed use should not hinder traffic or cause congestion on public streets.

(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 A-2 zoning district.

The level of activity on the property as described by the application and the applicant would appear consistent with the criteria for approval of this conditional use permit.

Staff recommends approval of this conditional use permit.

Present: Shadd Westhoelter, 15253 N. Tucker School Rd., Hallsville.
Melinda Westhoelter, 15253 N. Tucker School Rd., Hallsville.

Ms. Westhoelter presented four letters to the Commission, one from her veterinarian and the others from customers who have purchased dogs from the applicants.

Ms. Westhoelter stated she has been breeding dogs for the last 20 years and has lived on the subject property for the last 14 years. The applicants have had dogs the entire time. For the size of dogs, the applicants are not looking to expand the operation. There is an existing 20 year old building that needs to be torn down and a better building built. This was the reason for the applicants asking for a permit for the electric meter. In the next five to six years the applicants may start cutting down on the number of dogs.

Chairperson Smith asked how many dogs the applicants raise a year.

Ms. Westhoelter stated on average, 25 to 30 puppies a year. The females are rotated so not all of them are pregnant at the same time and constantly having puppies. Every time you breed you may end up with 2 or 3 puppies or 6 or 7 puppies, it just depends on the breed. Ms. Westhoelter stated she called the State, USDA, or the veterinarian if she has any questions; they come out and do yearly inspections. So far the applicants have not had any bad reports with them. The applicants maintain the kennels to State and USDA standards. The applicants are trying to be proactive.

Chairperson Smith asked if people came to the applicant's house to purchase dogs.

Ms. Westhoelter stated yes; and the applicants also fly the dogs to buyers.

Chairperson Smith asked if there was a lot of traffic to the applicant's house.

Ms. Westhoelter stated no. Maybe one or two people every three or four months.

Commissioner Schloot asked how many dogs are at the site at one time. Would there be a problem if the Commission limited the number of dogs?

Mr. Westhoelter stated if the Commission includes puppies as dogs in the limitation then the number could be questionable. Limiting the number of puppies could be a problem; limiting the number of adult dogs would not be a problem.

Ms. Westhoelter stated she had 14 dogs now; the applicants have some older ones that will be sent to homes. The applicants only breed the dogs for a certain amount of years then they find them homes. The applicants will not have more than 20 dogs at one time.

Chairperson Smith asked if the dogs were AKC (American Kennel Club).

Ms. Westhoelter stated the applicants have boxers that are AKC.

Chairperson Smith asked if the AKC has limits on the number of times a females could be bred.

Ms. Westhoelter stated no.

Open to public hearing.

No one spoke in favor of the request.

Present, speaking in opposition:

Peggy Jones, 151 W. Crofton Hall Rd., Sturgeon.

Ms. Jones stated she owns property next door to the applicants. When Ms. Jones bought the property she had planned on building a home and moving over there but she didn't know there were all of those barking dogs at that time.

Chairperson Smith asked Ms. Jones when she bought her land.

Ms. Jones stated about 12 years ago. She decided that she would not build there due to the barking dogs. Ms. Jones had someone living there who was renting the land, he is no longer there. The renter turned his radio up loud so he could hear something besides the dogs barking. Ms. Jones stocked a pond on the property so she could go fishing but it is not very peaceful to sit there and listen to the dogs barking. There are dogs there now and Ms. Jones is afraid there will be many more and it is already a problem being out in the country and hearing all of the dogs barking. The kennel is close to Ms. Jones' property line. If Ms. Jones decides to sell her property she is afraid she will have a problem doing so with all of the dogs barking.

Chairperson Smith stated the applicants indicated they have lived on the property for 14 years and have always had dogs and Ms. Jones bought the land 12 years ago. Did Ms. Jones not hear the dogs barking when she looked at the land to buy it?

Ms. Jones stated she did not hear the dogs barking at that time. Ms. Jones doesn't believe there was a kennel there at that time.

Closed to public hearing.

Chairperson Smith asked the applicants if they had dogs 12 years ago.

Ms. Westhoelter stated yes; she has had dogs for 20 years.

Chairperson Smith stated according to the staff report the kennel is in the middle of the applicant's property.

Ms. Westhoelter stated that is correct.

Chairperson Smith stated it is not on the property line.

Mr. Westhoelter stated the kennel is probably a couple hundred feet from the property line. Where the renter on the Jones' property placed the trailer it is probably within 300 to 400 feet of the applicant's kennel. Ms. Jones has 20 acres they can build a home on and not be that close.

Commissioner Martin stated on the last state inspection the applicants had 21 animals.

Mr. Westhoelter stated there are 21 animals including some that have not reached breeding age. The breeding age is when they produce a litter. At that point in time there were about 4 or 5 that had not reached the age.

Commissioner Martin asked if that number included puppies.

Mr. Westhoelter stated no.

Commissioner Harris asked the applicants if they anticipated any change in traffic volume.

Ms. Westhoelter stated no. The only things the applicants want to do is take down a building that was moved there when the applicants bought the property 14 years ago. The building needs to be torn down and a new building needs to be built. They are not going to have any more pens put in.

Commissioner Harris stated he was concerned because it was a private road and didn't know if there would be an increase in traffic flow. Commissioner Harris stated the existing operation is not out of compliance with anything.

Mr. Mach explained the existing operation didn't have a conditional use permit. The applicants attempted to apply for a building permit for the proposed building. Staff found the kennel was not in compliance because it didn't have a conditional use permit; they were then required to apply for a conditional use permit to come in to compliance with county zoning. However, this was not a complaint driven issue.

Commissioner Harris stated the kennel is a permitted use with a conditional use permit.

Mr. Mach stated that is correct.

Commissioner Fowler asked when the applicants replace the building will it be in the same location.

Ms. Westhoelter stated the applicants plan to put the building back where the old one is located. It will not be any closer to the property line.

Commissioner Schloot asked if the Commission were to approve this request can the Commission place a restriction on the number of feet it has to be from the property line.

Mr. Mach stated yes. From the measurement off of GIS it is approximately 385 feet from the nearest dwelling which is the neighbor's trailer.

Mr. Westhoelter addressed the complaint from the neighbor about the barking of the dogs and being able to fish. Ms. Jones was renting the property to an individual who raised coon hounds. At one point in time the renter had 13 coon hounds tied outside. If the applicant's dogs were barking the renter's dogs were barking. Ms. Jones wasn't just hearing the applicant's dogs barking.

Ms. Westhoelter stated the applicants go out to the kennels twice a day to feed; they bark when someone pulls in to the driveway and when the applicants go out and tell them to be quiet, they quiet down. If the applicants are in the backyard they are quiet but as soon as someone new comes around they will bark.

Chairperson Smith asked if the applicants ever had trouble placing the puppies.

Ms. Westhoelter stated no. The only time the applicants turn over dogs is when they have reached a point that they are not bred anymore because of their age. The applicants will either call "Second Chance" or will find them homes other ways.

Chairperson Smith explained that the Commission doesn't want to contribute to more unwanted animals in the County.

Ms. Westhoelter stated she understood and that she has a list of people she calls every time there is a litter and the puppies aren't taken.

Commissioner Oetting stated the application indicates the applicants want to expand the building. Commissioner Oetting asked if the applicants want to expand just to make the units bigger or to increase the number of dogs.

Ms. Westhoelter stated she is not expanding; she wants to build a new building. The existing building is an 8' by 12' building that has 4' by 2' or 4' by 4' boxes on it. With the number of animals the applicants have they have one in the building that has four. The applicants want to build a better building with an air conditioning and heating unit and have four pens. The business is not expanding and the applicants aren't buying any more dogs.

Mr. Westhoelter stated the expansion will come in the amount of pens not in the amount of dogs.

Commissioner Schloot stated he wants to make sure he knows exactly where this kennel is on the map.

The applicants showed the commission where the kennel is located on the map.

Commissioner Schloot made a motion to approve the request with the following conditions:

1. No more than 22 breeding animals.
2. None of the buildings involved in the breeding operation are to be closer than 150 feet to the property line.

Mr. Shawver asked if the 22 animals included males and female.

Commissioner Schloot stated yes.

Mr. Yonke asked the applicants if there was anything within 150 feet of the property line.

Mr. Westhoelter stated he believes it is close.

Commissioner Freiling stated the condition applies only to the new building not the existing buildings.

Commissioner Schloot made and Commissioner Harris seconded a motion to **approve** the request by Shadd and Melinda Westhoelter for a permit for a dog kennel on 18.34 acres, located at 15253 N. Tucker School Rd., Hallsville **with the following conditions:**

1. No more than 22 breeding animals on site at any time.
2. No new structures shall be constructed any closer than 150 feet to any property line.

Pat Smith - Yes

Boyd Harris – Yes

Carl Freiling – Yes

Mike Morgan – Yes

Larry Oetting – Yes

Paul Zullo – Yes

Gregory Martin – Yes

Michael Morrison – Yes

John Schloot – Yes

Patricia Fowler – Yes

Motion to approve the request carries unanimously.

Commissioner Freiling informed the applicants that this request would go before the County Commission on May 27, 2008 and the applicants need to be present for the hearing.

VI. Rezoning Requests
None.

VII. Planned Developments
None.

VIII. Plats

1. Daisy Way. S3-T49N-R12W. A-2. Marjorie Kay Spiva, owner. Curtis E. Basinger, surveyor.

The following staff report was entered in to the record:

The property is located on Spiva Crossing Road, approximately ½ mile east of Brown Station Road, approximately 2 ½ miles northeast of Columbia. This plat creates one 5 acre lot from an 80.16 acre parent parcel. The property is zoned A-2 (Agriculture) and has A-2 zoning surrounding it. This is original 1973 zoning.

This lot has direct access on to Spiva Crossing Road to the south. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

Water service to this lot will be provided by Public Water Supply District #4. Fire protection will be provided by the Boone County Fire Protection District. Electrical service is provided by Boone Electric.

An on-site system will be providing wastewater disposal. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

The property scored 26 points on the rating system.

Staff recommends approval of this plat.

No one present to represent the plat.

Commissioner Martin made and Commissioner Harris seconded a motion to **approve** Daisy Way **with** **waivers**:

Pat Smith - Yes

Boyd Harris – Yes

Carl Freiling – Yes

Mike Morgan – Yes

Larry Oetting – Yes

Paul Zullo – Yes

Gregory Martin – Yes

Michael Morrison – Yes

John Schloot – Yes

Patricia Fowler – Yes

Motion to approve the plat carries unanimously.



V. Old Business

Update on County Commission Decisions

The rezoning request for Strawn was approved as recommended.

The rezoning request for Lemone was approved as recommended.



The Planning and Zoning Commission held their first public hearing for the proposed stream buffer ordinance. The Commission is required to hold two more public hearings. One in the northern district and one in the southern district. At least one Planning and Zoning Commissioner needs to attend each hearing. Commissioner Freiling stated he would attend a hearing in Ashland. Commissioner Harris stated he would attend a hearing in Centralia.

VI. New Business

None.

VII. Adjourn

Being no further business the meeting was adjourned at 7:50 p.m.

Respectfully submitted,

Boyd Harris
Secretary

Minutes approved on this 19th day of June, 2008