

TERM OF COMMISSION: August Session of the May Adjourned Term

PLACE OF MEETING: Boone County Government Center Commission Chambers

PRESENT WERE: Presiding Commissioner Don Stamper
District I Commissioner Karen M. Miller
District II Commissioner Linda Vogt
Deputy County Clerk Michelle R. Malaby
County Counselor John Patton

The regular meeting of the County Commission was called to order at 7:00 p.m.

SUBJECT: Public Hearing on Planning and Zoning Requests

Director of Planning and Building Inspection Stan Shawver reported **David and Jacqueline Carter request a permit for a Day Care Facility on .46 acres located at 6801 E. Mt. Zion Church Road.** The tract is located approximately 2.5 miles south of Hallsville on Mt. Zion Church Road, a gravel, county maintained road. The tract is zoned A-R (Agriculture Residential). Surrounding land is zoned A-2 (Agriculture). A house is under construction on the property. The request is for a permit for a group day care home for up to twenty children. The property was rezoned from A-2 at the May meeting. The 1973 comprehensive plan designates this area as suitable for agriculture and rural residential land use. Staff notified 8 property owners concerning this request. At their hearing on July 20, the Planning and Zoning Commission voted unanimously to recommend approval.

The applicants were present.

Commissioner Stamper opened the public hearing. No one spoke.

Commissioner Vogt moved that the County Commission of the County of Boone approve a request by David and Jacqueline Carter for a permit for a day care facility on .46 acres located at 6801 E. Mt. Zion Church Road.

Commissioner Miller seconded the motion. Motion passed unanimously. **Order 397-95.**

Director Shawver reported **Woodrow and Ann Seabaugh, on behalf of Heifner Communications, request to rezone from A-2 (Agriculture) to C-O (Office Commercial) 3 acres, more or less, located at 11950 S. Route N.** The site is approximately five miles south of Columbia and one mile north of Easley. The tract is situated 200 feet east of the Route N right of way. Surrounding land is zoned A-2. There is a single family dwelling, barn and old silo on the property. There have been no previous requests concerning the property. The comprehensive plan designates this area as suitable for agriculture and rural residential land use. Staff notified 11 property owners concerning the request. The applicant amended his application at the Planning and Zoning Commission hearing to reduce the request from 4.5 acres to 3 acres. The Planning and Zoning Commission voted unanimously to deny the request. The applicant appealed. A petition in opposition to the request has been filed.

Commissioner Stamper opened the public hearing.

David Rogers, attorney with offices at 813 E. Walnut, Columbia, stated as a point of order, he believes the protest petition is defective. The rules require protest petitions be signed and acknowledged. Only one signature is notarized. That person stated they saw the others sign the petition. The Commission could consider it a legislative petition, but he questions whether it is a legal petition. It may be a moot question. Mr. Rogers stated the property is part of a larger 21 acre parcel. Mr. Heifner contracted to buy the property and secured an option to buy an additional tract there of approximately the same size. Heifner Communications is a business of the 90's. Such businesses did not exist in 1974 when the Boone County Zoning Ordinance was passed. There is no walk in customer trade. They use computers, fax machines, Federal Express, United Parcel Service and telephones to conduct business. They design satellite communication systems and small cable systems. About half the employees are on the road at any one time

installing systems they sell. At the Planning and Zoning Commission meeting, Mr. Heifner was asked how many people he employs. Mr. Heifner answered correctly--ten. He believes the Planning and Zoning Commission thought there would be a significantly larger on-site operation. It is a rare day that more than six people come to the office. Ninety percent of their business is outside the State of Missouri. They can operate anywhere there are telephone lines. For his psychic well being and that of his employees, Mr. Heifner hoped to move to a rural setting. Unfortunately, the zoning ordinance describes the only office zone available--the lowest level which permits this type of business--as Commercial Office. Testimony at the Planning and Zoning Commission hearing indicated concern the property could be sold for other uses. Commercial tends to indicate a situation where goods are bought and sold and customers might be attracted to the site. This business will not create more traffic than a large family. The request has been pared to the smallest acreage possible to encompass the house, barn and silo. The existing house would be used for the office. Mr. Heifner plans to build a home on the adjacent tract. Mr. Rogers submitted a proposed revision to the zoning ordinance which would establish a R-O, Residential Office, district. The only home occupation situation currently addressed is that where no one other than family members can be employed. Mr. Rogers stated this type of business is becoming more common. If the zoning ordinance were so changed, Mr. Heifner indicated he would immediately apply for rezoning.

At Commissioner Stamper's request, Mr. Rogers restated his objections to the petition filed.

Mr. Patton replied the petition is not acknowledged in the classic sense most attorneys are accustomed to considering an acknowledgment. He cannot say whether a court would find the substance of the regulation has been met with the petition submitted. Mr. Rogers must raise the issue to preserve it for judicial review. Frequently such issues are overlooked and not raised.

Commissioner Stamper opened the public hearing.

Peggy Thompson, 12120 S. Route N, stated she is opposed to the request. She signed the protest petition. This is a residential, agricultural area. That is why they built a home there. Changing the zoning would be spot zoning. Businesses are not welcome in the area. There is livestock in the area. There is enough traffic on Route N. It is a narrow, winding road. This would add to traffic congestion. At the last meeting, Mr. Heifner stated he has ten employees in addition to family members working for him. Employees will have to travel back and forth for lunch, adding to the traffic. An article was published in a bicycle magazine declaring Easley Hill the most difficult hill to bike in the United States. Many bicyclists use the road. There are many children in the area. She is concerned about the noise. Their employees may be very quiet, but there would be a lot of coming and going. She lives very close to the site. Her greatest concern is once the property is rezoned it can be sold and used for another purpose. The number of employees can increase. The last property owner said he would never sell the property. Promises are not legal commitments, but zoning is. The future must be considered.

Greg Heifner, 1914 Dartmouth, Columbia, stated he never dreamed he would be conducting a rock fight from the bottom of a well like this. When he built his business in the early 80's, he dreamed of having a non-conventional business. He is a non-conventional person. He never planned to build a big office building downtown. His vision was to provide his employees more docile surroundings than an industrial park. His options seem to be to work in an industrial park or leave the County. Without appearing before the Commission, he could open a greenhouse or a day care center. He is taking blame for what occurred in the area in the past. He has a clean business. He wanted to move there for the same reason these people did. He is sorry if this frightens anyone and is sorry the current zoning ordinance does not allow this type of business.

Mary Fran Russell, 12301 S. Route N, stated she is opposed to the request. She and her husband own 175 acres directly across the road. This tract is twelve miles from downtown Columbia. Surrounding land is used for pasture and residences. There is no commercial use. Rezoning the property would be inconsistent with the use of adjacent land. A-2 zoning protects property owners from being subjected to noise and traffic from a business. This would be spot zoning. It would destroy their nice, quiet neighborhood.

Dr. Robert L. Russell, 12301 S. Route N, stated bicycles use the road. It is hazardous. It is narrow. There are no shoulders. There are many wrecks on the corner where they live. People knock on the door, looking for transportation out of the area or to be pulled out of the ditch. He talked with a former member of the State Attorney General's office about the petition. He had no problem with the way it was prepared. This property, for sale for months, has apparently been purchased by speculators. If they can have the property rezoned commercial, the area will go commercial. The property owner apparently cannot get their money out of it the way it is. They are concerned with what will happen following the demise of Mr. Heifner. What about parking? If the Commission votes in favor of this request, it will be a disservice to what he and his wife have done there. Dr. Russell stated he thinks the world of Mr. Heifner. He is a friend of his son when they were growing up. He would love to have him as a neighbor. He has expressed his opposition to Mr. Heifner.

Doris Nistendirk, 11809 S. Route N, stated those present would be glad to re-sign the protest petition in Mr. Roger's presence. She does not care what Mr. Heifner does with his land as long as it is residential use. Planning and zoning was instituted to protect people--so they do not have to have a business or a trailer next door to them if they do not want to. Residents want the area to remain as it is. She does not want to worry about her grandchildren due to the increase in traffic.

Commissioner Miller stated she visited Mr. Heifner's business and is familiar with the property on Route N. Mr. Heifner has a minimal number of employees working on-site. His business is an example of what will be typical in the future. New zoning districts are needed to deal with them. Even so, she would want to see this request as a conditional use which could be revoked should the property be sold. This would be spot zoning. She cannot support the request at this time.

Commissioner Vogt stated she was once in Mr. Heifner's position. She tried to do the same thing. She understands a person's belief that they have the right to use their property as they wish. When you live in a certain zoning area, you should be able to expect uses allowed in that area are what you will have. New zoning districts should be considered. She does not understand why the applicant did not request planned commercial, which would give the neighborhood some guarantee that another business would not take the place of this one.

Mr. Rogers replied planned commercial is a true commercial zone, even though use can be limited. Office zoning is below commercial zoning in terms of intensity of use. They felt it would be more palatable to the neighborhood. Expense and time involved is another consideration with planned commercial zoning.

Commissioner Stamper stated he likes what Mr. Heifner's is trying to do, but is not fond of where he is trying to do it. This would create spot zoning. This is an isolated area. His real concern is what would happen on the site in the future.

Commissioner Miller moved that the County Commission of the County of Boone deny a request by Woodrow and Ann Seabaugh, on behalf of Heifner Communications, to rezone from A-2 (Agriculture) to C-O (Office Commercial) 3 acres, more or less, located at 11950 S. Route N.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 398-95.**

SUBJECT: Rock Quarry Road Change Order No. 1

Referring to a memo to the Commission dated August 1, 1995, Mr. Ratermann stated the change order would convert one payment item from a unit of square yards to tons for ease of measurement. They are building a channel along Rock Quarry Road and are encountering bedrock. Where bedrock is encountered, rip rap is not needed. The change will also add a new driveway culvert at an existing driveway where the existing pipe is substandard; additional rip rap at a location; additional rip rap where necessary; deletion of a water main relocation and adding a requirement that seed provided by a property owner be used on their property.

Commissioner Stamper moved that the County Commission of the County of Boone approve, and authorize a County Commissioner to sign, Change Order Number 1 to Contract Number 57-27APR95. Rock Quarry Road Improvement Project, for a cost not to exceed \$7,350.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 399-95.**

SUBJECT: Gillespie Bridge Road Change Orders No. 2 and 3

Mr. Ratermann stated change order number two includes removal of unsuitable subgrade material and replacement with suitable material obtained on-site. Encountering a soft clay seam in deep cuts is not unusual. The cost is not expected to exceed \$5,000.

Commissioner Stamper moved that the County Commission of the County of Boone approve, and authorize the Presiding Commissioner to sign, Change Order Number 2 to Contract Number 50-18APR95, Gillespie Bridge Road Improvement Project, for a cost not to exceed \$5,000.

Commissioner Miller seconded the motion. Motion passed unanimously. **Order 400-95.**

Mr. Ratermann stated change order number three includes installation of four 6 inch bends and ancillary materials where two 6 inch water mains tee into one 6 inch water main. The work could not be anticipated due to the lack of as-built drawings and the subsurface nature of the work.

In response to a question from Commissioner Miller, Mr. Ratermann confirmed such changes can be expected on all road improvement projects.

Commissioner Stamper moved that the County Commission of the County of Boone approve, and authorize the Presiding Commissioner to sign, Change Order Number 3 to Contract Number 50-18APR95, Gillespie Bridge Road Improvement Project, for a cost not to exceed \$3,500.

Commissioner seconded the motion. Motion passed unanimously. **Order 401-95.**

SUBJECT: Vote to Authorize Closed Meeting on August 2, 1995 per 610.021 (3) RSMo.

Commissioner Miller moved that the County Commission of the County of Boone authorize a closed meeting at 9:00 a.m. on August 2, 1995, as authorized by section 610.021 (3) RSMo. to discuss the hiring, firing, disciplining or promoting of a particular employee by a public governmental body when personal information about the employee is discussed or recorded.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 402-95.**

SUBJECT: Appointments to Boone County Regional Sewer District Board and Mental Health Board

Commissioner Miller recommended the Commission appoint Larry Noland to the Boone County Regional Sewer District Board. He works for Pro-Pumping, a septic tank pumping company. He would bring a different view to the board.

Commissioner Vogt agreed.

The Commission discussed whether his appointment would present a conflict of interest and decided it would not.

Commissioner Miller moved that the County Commission of the County of Boone appoint Larry Noland to complete the unexpired term of Randal Clark on the Boone County Regional Sewer District Board which will expire on May 31, 2000; and appoint Maronica Anne Hayes to the Mental Health Board for a term to expire August 1, 1998.

Commissioner Vogt seconded the motion. Motion passed unanimously. **Order 403-95.**

SUBJECT: Reports from Commissioners

Commissioner Stamper reported on a meeting of the JCIC Advisory Board on July 26. Priority medical dispatch and the need to replace computer hardware and software were discussed. The

cost of the priority medical dispatch project is estimated at \$45,000. The Boone County Fire Protection District and three area hospitals have agreed to share the expense with the County. Computer hardware and software is about ten years old. The time will come when it can no longer be maintained. The replacement cost is estimated at \$250,000. The emergency telephone tax can be used to fund the replacement.

Commissioner Stamper reported Dr. Bernard Ewigman of the Boone County Family Health Center will be requesting an additional \$25,000 to continue their primary health care survey. The Commission agreed to discuss the request in their worksession next Monday.

Commissioner Vogt reported Dr. Greg Casey of the University of Missouri Political Science Department completed the last long range planning survey. She will send the results to Booker Associates, the long range planning consultant.

The meeting adjourned at 8:00 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