

CLAY COUNTY PLANNING AND ZONING COMMISSION MINUTES

October 1, 2013

Regular meeting of the Clay County Planning and Zoning Commission, Commission Hearing Room, 3rd Floor, County Administration Building, One Courthouse Square, Liberty, MO.

Call to Order at 6:30 pm.

Roll Call

Members Present: Jim Carlson, Mark Beggs, Karl Walters and Cecil Troutwine

Members Absent: Barbara Ball and Gene Knisley

Staff Present: Matt Tapp, Director
Debbie Viviano, Planner
Tim Flook, Assistant County Counselor
Angie Stokes, Secretary

Mr. Beggs: Good evening ladies and gentlemen want to call the Tuesday, October 1, 2013 meeting of the Clay Planning and Zoning Commission to order, roll call.

Mr. Tapp: Karl Walters?

Mr. Walters: Present.

Mr. Tapp: Cecil Troutwine?

Mr. Troutwine: Present.

Mr. Tapp: Jim Carlson

Mr. Carlson: Present.

Mr. Tapp: Barbara Ball?

Ms. Ball: Absent.

Mr. Tapp: Mark Beggs?

Mr. Beggs: Present.

Mr. Tapp: Gene Knisley?

Mr. Knisley: Absent.

Mr. Tapp: Since Mr. Chairman Gene Knisley is not here the Vice-Chair Mark Beggs will lead the meeting.

Mr. Beggs: Thank you, I just want to go over some housekeeping chores this evening as we go through the applications we'll definitely have the applicant come to the microphone and make sure that you understand the conditions of that application. If you would we're recording the meeting so if you would when you come to the microphone if you would state your name and your address that we know who is speaking, if we have public comment if you come to the podium to speak we'll ask you to do the same so we can make sure that when we transcribe it we know who is saying what. With that said I'm going to go down the agenda second item is the approval of the September 11, 2013 Planning and Zoning Commission minutes, do I have a motion?

Mr. Carlson: So moved that the minutes for the September 11, 2013 Clay County Planning and Zoning Commission meeting be approved as written.

Mr. Beggs: Do I have a second?

Mr. Walters: Second.

Mr. Beggs: Vote.

Mr. Tapp: Karl Walters?

Mr. Walters: Approve.

Mr. Tapp: Cecil Troutwine?

Mr. Troutwine: Approve.

Mr. Tapp: Jim Carlson?

Ms. Ball: Approve.

Mr. Tapp: Mark Beggs?

Mr. Beggs: Approve.

Final Vote: 4/0/0 Approve September 11, 2013 Minutes

Mr. Beggs: The regular agenda tonight we have three cases the first is case number October 13-117F, it's a request for a final plat approval of the Lila Squire Sub-Division a proposed subdivision located at approximately 19509 Burriss Road. The applicant is Sabra A. Brelsford, representing the Lila Lee Squire Revocable Trust.

Mr. Tapp: Mr. Vice- Chairman, if I may so first attach the staff report as part as part of the record?

Mr. Beggs: Please do so.

Mr. Tapp: Summarized the staff report October 13-117F dated September 24, 2013.

Mr. Beggs: Is the applicant here, come forward.

Ms. Brelsford: Sabra Brelsford, 1820 NE Mule Barn Road, Lathrop, MO 64465.

Mr. Beggs: And are you familiar with the staff report?

Ms. Brelsford: Yes.

Mr. Beggs: Are you in agreement with all the conditions, oh there aren't any, are you familiar with it and understand?

Ms. Brelsford: Yes.

Mr. Beggs: Thank you; do we have any public comments? Any discussion from the Planning Commission? Do I have a motion?

Mr. Carlson: I move that we accept the final plat of Lila Squire Sub-Division applicant submittal, the final plat of Oct 13-117F.

Mr. Beggs: Second?

Mr. Walters: Second.

Mr. Beggs: Vote.

Mr. Tapp: Karl Walters?

Mr. Walters: Approve.

Mr. Tapp: Cecil Troutwine?

Mr. Troutwine: Approve.

Mr. Tapp: Jim Carlson?

Mr. Carlson: Approve.

Mr. Tapp: Mark Beggs?

Mr. Beggs: Approve.

Final Vote: 4/0/ 0 Approve Oct 13-117F; Lila Squire Sub-Division – Final Plat

Mr. Beggs: I should mention that the cases that we are discussing tonight they will be on the Clay County Commission hearing on October 21, 2013 at 1:30 in this room. I don't know if everybody knows but the Planning and Zoning Board is an advisory board to the Clay County Commission so the Clay County Commission has the final approval, so if you want to come to that meeting it's an open and public meeting I would encourage you to go. The second case tonight is case number Oct 13-118RZ/F is a request for rezoning from Agricultural (AG) to Residential Ranchette (R-5) for proposed lot 1A only and final plat approval for the proposed subdivision of Rhodus Farms, Replat of Lot 1 located at approximately 13526 Cameron Road and the applicant is Renee Rhodus. Staff have a report?

Mr. Tapp: Yes, Mr. Vice-Chairman if I may attach the staff report as part of the record.

Mr. Beggs: Please do so.

Mr. Tapp: Summarized the staff report October 13-118RZ/F dated September 24, 2013.

Mr. Beggs: Thank you. Is the applicant present?

Mr. Tapp: Yes Ms. Rhodus is here. Step to the mic please.

Ms. Rhodus: My name is Tamara Renee Rhodus and I live at 13526 Cameron Road in Excelsior Springs.

Mr. Beggs: Thank you, I guess do you understand what the staff, have they explained to you?

Ms. Rhodus: I don't understand what the difference between the R-5 and the RU-80 is.

Mr. Tapp: It's a reduction in lot width so that way you would be the lot width for RU-80, where you won't have with R-5 that's the required change. So that is why we have to go back out to the newspaper and the surrounding property owners because you're changing the requested rezoning. Because R-5 is 300 feet which you don't have, RU-80 is 140 feet which you do have, as proposed.

Mr. Beggs: RU-80 is more dense?

Mr. Tapp: Can be yes, but it's still going to be a 5 acre lot but yes it can be.

Mr. Beggs: So it's basically the zoning you are requesting the property does not fit in the land development code, the master plan that we have for Clay County, so staff is recommending reapplying the classification so that will be that.

Mr. Tapp: Republishing it yes, you don't have to reapply. Republishing in the newspaper, notifying the neighbors because we are changing it, if she pursues it, change to the different zoning.

Mr. Troutwine: I have a question, when you were filling out this application was you not given this information? I assume you would not have filled under something that you knew....

Ms. Rhodus: I in all actuality, I called M&M survey first and I talked to Terry McCanless and he spoke with Debbie and he said he had talked to her numerous times to see what all the recommendations and requirements were that I had to have in order for me to meet my criteria for Planning and Zoning and everything else because he knew it was going to take some juggling and everything else because of the way the ponds sit in the front to see what all I would have to do because he said the way the house sits and everything else on the property. He said he wanted to make sure so I didn't have to come back and jump through hoops and everything else and he said that nowhere on his plot or whatever he surveyed everything out nowhere does it say anywhere as to what zone I'm in or anything like that it doesn't specify what zone I'm in or anything like that so there is nothing in the paperwork saying that you know stating what zone I'm supposed to be classified in.

Mr. Troutwine: Well if the County has some responsibility in this maybe they should let the applicant know before they send out notices, I mean if it was flawed and nobody caught it at the County apparently maybe we need to look at our procedures because we are talking about a lot of time here and obviously expense.

Ms. Rhodus: Well I've got to, now I have got to table it for another 30 days so I mean I'm taken the chance that the interest rate to go back up and I'm losing interest rates because that is the whole reason I'm rezoning and doing all this is to try to get a cheaper interest rate on my mortgage.

Mr. Tapp: It was an unfortunate circumstance and we did follow the requirements of our Land Development Code which ultimately the applicant/owner's responsibility and the surveyor's responsibility to make sure that the application met all codes, we are to review it, which we did and we identified the lack of proper lot width. That's when we notified....

Mr. Troutwine: So it was flawed when the County got it?

Mr. Tapp: I don't know how many days, Debbie, it was? It was at the time of preparing staff report we identify it.

Ms. Viviano: We ended up getting a small PDF file that was about 8 ½ x 11 and I couldn't do measurements on an 8 ½ x 11. It didn't meet the standards you know where you can do measuring on scale, so I couldn't measure it at the time I talked to the surveyor and the surveyor told me that it had 300 feet of road frontage and I said okay.

Mr. Tapp: So it was on two ends where both thought they were speaking the right words and we thought it was fine and then when you put a ruler to paper in a large format it was shown in fact it did not meet the lot width, which is measured at the build line the surveyor, which they should, if they are doing business in a jurisdiction should know that but they failed to pin point that. We just recognize (*inaudible*).

Mr. Beggs: So they have 300 foot of frontage at the road but they don't have 300 foot at the build line, that's the problem?

Mr. Tapp: Yes, lot width measuring at the build line.

Ms. Viviano: She does have another option, if she did not want to go and do the rezoning she could go and get a variance for it possibly, you can't know, whether that would be possible if she shows a hardship, but I think her quicker recommendation would be to rezone it.

Mr. Beggs: Right, because a variance would take time as well.

Ms. Viviano: Yes it would take more time.

Mr. Flook: Just so the Commission knows staff did after they caught it they looked for a way to try to, they contacted me to look for a way for you all to be able to somehow pass it with a modification and put RU-80 in there, but if you do that and you pass it up to the Commission for final approval then legally the notice that went out didn't say that and the risk that they face the financial harm they face would be more, far greater because the fact of lack of notice voids the entire thing and they could be well down the path of doing what they are planning on doing and having the whole thing yanked out from under them. So there's really, we looked into it, there's really no way we can fix something that specific without creating, exposing them to further liability and creating a lot more problems and we don't know if the bank would have caught it either way but we do know that a local land owner may come back later and object and for some other unrelated reason and we left a kind of a land mine setting in the middle of their project so unfortunately the right thing to do means another delay but the good news is there's no one complaining. So if you do it now when no one's complaining and we follow the rules when no one's complaining then if someone changes their mind years from now it'll be a final result and it won't be subject to attack.

Mr. Troutwine: Number one I think, correct me if I am wrong, that one of the notices went to me, one of them went here, and then to your uncle and father, right? Were there any more notices sent out?

Ms. Rhodus: There was I think 23.

Mr. Troutwine: Oh, so it is a wider scope then...

Ms. Rhodus: I think there was about 19 different land owners or something.

Mr. Tapp: You were notified as a rezoning to R-5 if she does choose to go to the RU-80 option then you have got to renotify folks because you notice them on a R-5 not a RU-80.

Mr. Troutwine: I guess our hands are tied here.

Mr. Tapp: Again it's an unfortunate situation.

Mr. Troutwine: Thank you.

Mr. Beggs: Any further discussion from the Commission? Public comments? Do I have a motion? Oh I'm sorry I thought you were coming forward.

Mr. Walters: He's coming to see you.

Mr. Beggs: Would you like to speak? Please do, I'm sorry.

Mr. Hamilton: Craig Hamilton, 13425 Cameron Road, across the road from Renee Rhodus, I received your Planning and Zoning notification of this meeting and her rezoning. Speaking of a land mine there is a gravel quarry just south of her, I believe and it's going to become up under her in four to six years I did not ever receive a Planning and Zoning registered letter of any zoning change or anything like that none of the neighbor's did.

Mr. Beggs: For this application?

Mr. Hamilton: The rock quarry.

Mr. Tapp: It's inside Mosby, Craig you know that it's inside the City of Mosby; we had nothing to do...

Mr. Hamilton: Is there anything Mosby can't do? It's in the county, the state and

Mr. Tapp: You are talking to the wrong board you have got to talk to the City of Mosby; we take care of things outside of Mosby.

Mr. Hamilton: I've tried.

Mr. Tapp: I know.

Mr. Hamilton: Could they have a nuclear reclamation center there and nothing happens.

Mr. Flook: Their zoning is controlled by the city by Constitution, Constitutionally when the legislature authorized a creation of a city like Mosby, as soon as the voters created their own village or city they took control over those Planning and Zoning issues and the only party that can really step in would be the state with DNR or somebody like that, so this Commission has... we're powerless by virtue of how the law is, it just like we are powerless with regard what the City of Liberty decides for its zoning, so there's really nothing this body can do for you.

Mr. Hamilton: Don't like your County.

Mr. Flook: That's how the Constitution in this.. the way to change it if you would like to have the County to have more power, there are some that probably would agree with you, you take it to the legislature and require that classification of city yield it's Planning and Zoning to the County and the

County would have the power to trump it, that's the only way it could happen. We're without the statutory or Constitutional authority to step in, even if we wanted to.

Mr. Beggs: It would be like us trying to tell Kansas City, Missouri how to run their part of the city in Clay County.

Mr. Hamilton: Gotch ya, well when Guy Holt was across the road I received a letter that he was changing his zoning from residential to commercial for his nursery same piece of property the quarries on.

Mr. Flook: That would have probably, that would have come from the City of Mosby then and they would have sent their zoning department would have sent out notices.

Mr. Hamilton: Well why didn't they send me one about the gravel quarry?

Mr. Flook: Well that's a good question, that's a very good question. But it is a mistake on their part and if what you are saying is true then it's a mistake in the process and you can challenge the zoning at that level under its procedure and obtain a lawyer that handles zoning matters for cities and that's your option.

Mr. Hamilton: Alright, well I appreciate it.

Mr. Flook: Good luck.

Mr. Hamilton: Thank you.

Mr. Beggs: Is there anyone else, I didn't mean to overlook anyone. Any discussion from the Commission? Have a motion?

Mr. Carlson: I move that we table the Oct 13-118RZ/F until the applicant changes the zoning, what's the zoning number, RU-80.

Mr. Tapp: November 5th, Jim November 5th is the next meeting.

Mr. Carlson: At the November 5th meeting correct, I 'm sorry.

Mr. Tapp: And to clarify this motion is for the rezoning only because we got two motions one for the rezoning and then one for the final plat, so this one will be for the rezoning.

Mr. Carlson: This is for the rezoning and it's been tabled for the November 5th meeting.

Mr. Beggs: Do I have a second?

Mr. Walters: Second.

Mr. Beggs: Vote?

Mr. Tapp: Karl Walters?

Mr. Walters: Approve.

Mr. Tapp: Cecil Troutwine?

Mr. Troutwine: Approve.

Mr. Tapp: Jim Carlson?

Mr. Carlson: Approve.

Mr. Tapp: Mark Beggs?

Mr. Beggs: Approve.

Final Vote: 4/0/ 0 Table Oct 13-118RZ/F; Rhodus Farms, Replat of Lot 1 – Rezoning

Mr. Tapp: We have another motion for the final plat?

Mr. Carlson: Okay I will make another motion that for the case Oct 13-118RZ/F we are tabling it for the rezoning the final.

Mr. Tapp: Just the final plat.

Mr. Carlson: Final plat only.

Mr. Beggs: Do I have a second?

Mr. Walters: Second.

Mr. Beggs: Vote.

Mr. Tapp: Karl Walters?

Mr. Walters: Approve.

Mr. Tapp: Cecil Troutwine?

Mr. Troutwine: Approved.

Mr. Tapp: Jim Carlson?

Mr. Carlson: Approve.

Mr. Tapp: Mark Beggs?

Mr. Beggs: Approve.

Final Vote: 4/0/ 0 Table Oct 13-118RZ/F; Rhodus Farms, Replat of Lot 1 – Final Plat

Mr. Beggs: Next case on the agenda is the case number Oct 13-119RZ/P this is a request for rezoning from Agricultural (AG) to Residential Rural District (R-1) for Proposed Lots 3 and 4 only and a preliminary plat approval for the proposed subdivision of Kimberly Park Farm located at approximately 17608 Highway 33 the applicants are Steve and Kimberly Williams.

Mr. Tapp: Yes Mr. Vice-Chairman if I could attach the staff report as part of the record.

Mr. Beggs: Please do so.

Mr. Tapp: Summarized the staff report October 13-118RZ/P dated September 25, 2013.

Applicant/Owners are here to answer any additional questions.

Mr. Beggs: Will the applicants step forward please?

Mr. Williams: Steve Williams, property owner of 17608 Highway 33, Holt, MO 64048.

Mr. Beggs: Very good thank you, have you read the staff report and are you familiar with all the conditions and understand all their findings?

Mr. Williams: Yes, had many meetings with Debbie and went over a lot of it, yes.

Mr. Beggs: You are in agreement with everything in the staff's report?

Mr. Williams: Yes.

Mr. Beggs: Okay any other comments? Thank you. Is there any public comments?

Mr. Rader: My name is LeRoy Rader, I live at 17706 Talon Drive, Holt, MO and my property borders at 670 feet on the north side of there and I would like to get with Karl or someone to make sure the entrance off of lot 4 off of 177th street remain where the field entrance is now. I live at the very end of Talon Drive and at the present time the culvert under there goes through my property. Water flows over there and it was supposed to go back and flow through the 30 foot easement that's over there but it never got done and we have a lot of drainage problems there. So I would like to make sure that the entrance to lot 4 not come off of that curve down there. We have enough problems with the school buses and everything else there.

Mr. Walters: Well I have to go up there, LeRoy, Duane's the one who went up there and looked at it, I will get with you if you will see me afterwards and I will go up there and meet with you and stuff like that and we will look over that and make sure that it doesn't hinder anybody. Okay?

Mr. Rader: You will have to clear some trees and stuff for the sight distance.

Mr. Walters: I understand that, yes.

Mr. Beggs: So right now it's scheduled to go right where it's supposed to be, not going to cause a problem.

Mr. Walters: Yes.

Mr. Beggs: Thank you. Any other comments?

Mr. Williams: I can address that, the entrance ...

Mr. Beggs: Can you state your name, so we know who is speaking, sorry.

Mr. Williams: Sorry. Steve Williams, 17608 Highway 33, Holt, MO 64048. The entrance is still going to be where it's always been there's not going to be any construction in that area, it's actually going to be pasture and we want to keep it right where it's at.

Mr. Rader: I don't have any problem with any of that I just want to make sure it didn't cause any more problems in the culvert. I have lived there for 42 years and water comes across my yard and created a 20 foot gully.

Mr. Williams: Wow, okay.

Ms. Williams: (*inaudible*)

Mr. Rader: I got it pretty much under control now.

Mr. Beggs: Any additional comments? Discussion from the Commission? Can I have a motion?

Mr. Tapp: Again break out the rezoning and then the preliminary plat.

Mr. Carlson: I will make a motion that we recommend rezoning for the Agricultural District to Residential Rural (R-1) District for only lots 3 and 4 as to be approved subject to the petitioners addressing all rezoning standards.

Mr. Beggs: Do I have a second?

Mr. Walters: Second.

Mr. Beggs: Vote.

Mr. Tapp: Karl Walters?

Mr. Walters: Approve.

Mr. Tapp: Cecil Troutwine?

Mr. Troutwine: Approve.

Mr. Tapp: Jim Carlson?

Mr. Carlson: Approve.

Mr. Tapp: Mark Beggs?

Mr. Beggs: Approve.

Final Vote: 4/0/ 0 Approve with Conditions Oct 13-119RZ/P; Kimberly Park Farm – Rezoning

Mr. Carlson: I make a second motion we approve the staff recommendation for the preliminary plat of Kimberly Park Farm to be approved with conditions as shown on Exhibit A.

Mr. Beggs: Do I have a second?

Mr. Walters: Second.

Mr. Beggs: Vote.

Mr. Tapp: Karl Walters?

Mr. Walters: Approve.

Mr. Tapp: Cecil Troutwine?

Mr. Troutwine: Approve.

Mr. Tapp: Jim Carlson?

Mr. Carlson: Approve.

Mr. Tapp: Mark Beggs?

Mr. Beggs: Approved with conditions.

Final Vote: 4/0/ 0 Approve Oct 13-119RZ/P; Kimberly Park Farm – Preliminary Plat

Mr. Beggs: That is the final case for this evening; again these will go before the Clay County Commission on October 21, 2013 at 1:30 in this room. Any comments, Director's comments, staff? One thing we did not do we did not review the stats. The Commission might look at the stats from last month the activities of the Planning and Zoning Department. If you have any questions about that.

Mr. Tapp: Again we're up a little slightly from previous year both in numbers and money coming in, revenue.

Mr. Beggs: Any questions on that?

Mr. Tapp: You all can pass this around but it's just a City and County magazine you are more than welcome review it. Other than that that is it.

Mr. Beggs: Any advice from legal counsel this evening?

Mr. Flook: Just need a motion to adjourn.

Mr. Carlson: I will make that motion to adjourn.

Mr. Beggs: Do I have a second?

Mr. Walters: Second.

Mr. Beggs: All in favor?

All: Aye.

Meeting Adjourned

Chairman, Planning & Zoning Commission

Secretary, Planning & Zoning Commission

Recording Secretary