

Boone County Area Plan Commission (APC)
April 2, 2025 - 7:00 PM
Lamar Meeting Room – Boone County Government Building

Members Attending: Dan Fry, John Merson, Carol Cunningham, Dustin Plunkett, Commissioner Donnie Lawon and Jay Schaumberg

Members Absent: Tad Braner

Staff Attending: Bob Clutter (Attorney for the Boone County BZA and APC)

Participants Who Attended on Zoom:

Deborah Luzier (Area Plan Director)

A. Administrative Issues

1. John Merson opened the meeting at 7:00pm by leading the Pledge of Allegiance. Introductions followed.

2. **Determination of Quorum:** 6 of 7 members present

3. Approval of the Agenda:

None at this time.

4. Approval of Minutes for March 5, 2025:

Dustin Plunkett made a motion to approve the minutes from March 5, 2025, meeting. Carol Cunningham the motion. Motion carried 6-0.

A. Old Business Public Hearings:

1. 24JA-7M-273 Larry and Sue Utterback Keystone Trust; Special Exception to allow a Minor Residential Subdivision with 3 Lots on Property Zoned Agriculture (AG)

Attorney Bob Clutter read the staff report.

Jeff Utterback Trustee for Keystone Trust came forward on behalf of this petition. John Merson mentioned there were some technical questions that needed to be included on the plat. Carol Cunningham addressed that Hause Engineering did get the information needed for this site regarding the tiles and drainage easement and the requirements were met for the Surveyor's Office. Deborah Luzier stated that all TAC comments were addressed as well.

No one else came forward.

John Merson closed the public hearing and opened it to the board. No questions or issues were raised by Board Members.

Carol Cunningham made a motion to approve 24JA-7M-273 with the conditions stated in the staff report. Commissioner Donnie Lawson seconded the motion. Motion carried 6-0.

B. New Business Public Hearings:

1. 25ZO-16-045 Zoning Amendment; Updating Zoning Ordinance Provisions for a PUD

Attorney Bob Clutter read the staff report.

Deborah Luzier Area Plan Director spoke on behalf of this petition through zoom. She wanted to note that this is coming down from the Boone County Commissioners and something they want to move forward with right away. John Merson said there is nobody to come forward to present this petition, so we can open it for public comments.

As an interested public comment, Attorney Kent Frandsen came forward on behalf of representing Merritt's and their company MCI Development going forward with this matter known as the 47 Commons PUD. Their previous Attorney Matt Price has stepped away with further commitments and Attorney Kent Frandsen is taking over the petition going forward. He asked if it is not a request for your thoughts or recommendation of the 47 Commons Project or its rezoning application.

Mr. Frandsen said instead of tonight's proceedings it is for the Commissioner's and your thoughts and recommendation on 2 possible changes to the County's enabling Zoning Ordinance regarding local PUD's.

The first one should the current requirement the PUD must have at least 1,000 acres to qualify as a PUD be eliminated, thereby eliminating the requirement of any limited acreage for a PUD.

The second question is whether the County's requirement that the petition for a PUD must be served by public sewer and water even if that infrastructure is not then present at the site.

Attorney Kent Frandsen asked the board support what the County Commissioner's have proposed and that they would not lose the control or their development in this County. He asked if you would move this decision on with a recommendation tonight and not postpone it for another month.

Individuals from the audience then came forward to voice their concerns to the board.

John Merson closed the public hearing and opened it to the board.

Dustin Plunkett stated he doesn't have an issue with the 1,000 acres, but the water is a dilemma for him from a standpoint that it's not out in the unincorporated area yet.

Dan Fry commented he is good with dropping 1,000 acres and he could be in favor of the project before the sewer and water would get there as long there are guard rails are in place, similar to what Victoria Wessler handed out.

Jay Schaumberg said he doesn't have a problem with the request for the acreage change, but he'd like to see a number there. As far as the water he feels that in previous meetings and workshops the concern was voiced about that.

Commissioner Donnie Lawson mentioned they are working with companies coming in to help design the wastewater treatment facility and look at those numbers, but you can't do that without development. The companies that are talking about going in there have already committed to that they are already going to have their own septic and wells then immediately change over to the other. He also stated that the wastewater treatment facility is also not just tied to that area, we're looking at how we can move that towards Thorntown. He said this is not just a joint project with 47 and 65, but this is looking at everything as a whole. Jay Schaumberg asked what the rush was. Commissioner Donnie Lawson responded that it needs to be developed, and nothing has ever changed there and now is the time for the County to take control.

Carol Cunningham understands where the 1,000 acres came from but asked the Attorney Bob Clutter prior to the Anson PUDs were PUDs allowed in Boone County, and he responded yes. She stated that she isn't hung up on the acreage and is fine with reducing or eliminating the acreage requirement. She does have concerns with the sewer and water anywhere with PUDs in the County and that is something that needs to stay within the PUD sewer and water requirement, until there is something that is in place that infrastructure is coming and has a plan for sewer and water. She feels that the current sewer and water should stay how it is in the current Ordinance.

John Merson's observations on this were to Mr. Frandsen's comments that we were not to associate this proposal with any particular PUD is a challenge, because clearly, it's to address an upcoming petition. As far as the minimum acreage is concerned with the number of acres, but as for sewer and water if there were a clear-cut plan or something tangible that could be seen his opinion would be quite a bit different. In his opinion since there is none, he feels this would take a dangerous precedent for the entire County.

Attorney Bob Clutter stated with all being said there are 3 different options of sending it back to the Commissioner's. You approve the Ordinance changes as they are recited, disapprove of them or send them back with proposed changes.

Dustin Plunkett asked if there could be a deadline put on the sewer and water for infrastructure, because he doesn't feel we could have responsible growth if we don't have the infrastructure.

Carol Cunningham commented that she wouldn't want any confusion if they were to send it back with a favorable recommendation and it be construed as we sent and that it's specifically said.

Jay Schaumberg made a motion to send it back with an unfavorable recommendation with the exception that we would be willing to allow a modification of the acreage size to the Commissioner's discretion. Carol Cunningham wanted to clarify on how you're stating the motion that it's an unfavorable recommendation the way that it is written with the exception that if they chose to move forward with the acreage requirement eliminating that we would be open to accept that?

Attorney Bob Clutter stated the way he has it that Jay Schaumberg made a motion for an unfavorable recommendation except for a minimal change of the acreage modification at the Commissioner's discretion.

Carol Cunningham seconded the motion. Deborah Luzier wanted to make a recommendation from what she's hearing based on Jay Schaumberg's feedback and if we give a favorable recommendation to dropping the acreage requirement, but an unfavorable recommendation to mixing the requirement for sewer and water. Jay Schaumberg said that is correct, but since the document is submitted to us now as 1 document, he's more comfortable saying unfavorable to the proposal that was submitted, but with exception that the Commissioners can use their discretion regarding the PUD size.

Motion carried 4-2. Carol Cunningham, Jay Schaumberg, Dan Fry and John Merson voted to send the petition to the Commissioner's with an unfavorable recommendation. Commissioner Donnie Lawson and Dustin Plunkett voted against the motion.

C. Violations Report:

None at this time.

D. Administrative Matters:

1. Fee Schedule – Discussion

Deborah Luzier apologized that she did not get draft language for tonight's meeting due to a family emergency.

2. Ordinance Amendments – Discussion

Deborah Luzier apologized that she did not get draft language for tonight's meeting due to a family emergency.

3. Director's Announcements – Discussion

Deborah Luzier just wanted to note that there will be pretty big agendas for the next BZA and APC meetings.

With no further business, Dan Fry made a motion to adjourn at 8:02pm.
Dustin Plunkett seconded the motion. Motion carried 6-0.

