

EXCERPTS

PLANNING AND ZONING COMMISSION MINUTES

JUNE 18, 2020

Case Number 116-2020

A request by Crockett Engineering (agent) on behalf of T-Vine Enterprises, Inc. (owners), to rezone two parcels from R-1 (One-Family Dwelling) to A (Agriculture). The property is addressed 6114 N. Oakland Gravel Road.

MS. LOE: May we get a staff -- we'll do recusing before or after the staff report?

MR. ZENNER: It would be before.

MS. LOE: Before. So --

MR. TOOHEY: Madam Chair, I need to recuse myself from this case.

MS. LOE: Thank you, Mr. Toohey. Are there any other Commissioners who would like to? I see none. May we get a staff report, please

Staff report was given by Mr. Brad Kelley of the Planning and Development Department. Staff recommends approval the requested rezoning from R-1 to A.

MS. LOE: Thank you, Mr. Kelley. Before we ask staff any questions, I would like to ask any Commissioner who has had any ex parte prior to this meeting related to this case to please disclose that now so all Commissioners have the same information to consider on behalf of the case in front of us. Seeing none. Was there any questions for staff? Mr. MacMann?

MR. MACMANN: Thank you, Madam Chair. Mr. Kelley, am I correct in my remembering -- my memory of the City's agriculture districts that these lots -- these plats would allow a second home on these; is that correct?

MR. KELLEY: Yeah. Pursuant to a conditional-use permit.

MR. MACMANN: All right. And that's conditional-use. That gets me to where I was headed on the -- and if you don't know this, because I can't remember -- I'm sorry -- of right-of-ways. Is there a curb cut limitation on these lots?

MR. KELLEY: I -- I -- yeah. I think you're correct. I don't think they would allow a private drive on this. I believe it's a neighborhood collector, if you're referring to North Oakland Gravel Drive.

MR. MACMANN: Right. So that would be -- each of these lots would have one drive though; do we know? I don't know the answer to this question because we don't deal with Ag very often. I'm trying to inform myself for now and in the future.

MR. KELLEY: I'm not certain. Pat, can you --

MR. ZENNER: I cannot recall, Mr. MacMann, as it related to the platting.

MR. MACMANN: Well, the reason I ask this question is having grown up and lived in areas that have these style of farmettes, as we're calling them here, the second home usually means a -- or can mean a second driveway, and the use of animals might even mean a third driveway, you know, to service a barn or bring animals in and out. Sometimes it's just one, but that's a very common thing with this type

of use.

MR. ZENNER: Given that North Oakland Gravel in this particular location, if I'm not incorrect, is actually a county-maintained road.

MR. MACMANN: I think that is correct, yes.

MR. ZENNER: All driveway encroachment permitting would be subject to their requirements, not necessarily the City's. So I would have to defer to the Boone County resource management staff, and I don't know their regulations.

MR. MACMANN: Mr. Kelley, do we have a -- and I did not mean to cut you off. I'm sorry. Do we have any annexation triggers, like right in this area; do we know?

MR. ZENNER: No. This property was annexed as -- as indicated, back in 2007.

MR. MACMANN: Are any of these lots, like, up to the right we don't have anything? We have nothing coming in right away up here. Right?

MR. KELLEY: Oh, no. No. Not at all.

MR. MACMANN: Okay. I just -- I'm looking out for CATSO, like we just discussed. All right. Thank you very much, Mr. Kelley and Mr. Zenner. Thank you, Madam Chair.

MS. LOE: Any additional questions for staff? I just had one clarification following up on Mr. MacMann's question about an additional unit. Did -- was it a conditional-use permit, just checking? I'm seeing that two contiguous residential lots may be created in this district. The creation of an additional lot requires rezoning to R-1 and approval of a subdivision?

MR. KELLEY: In the --

MS. LOE: They can do two with the A, and if they wanted to do more than that, then that would have to go to R-1? But is there a conditional-use? I thought two houses were allowed in A.

MR. KELLEY: I believe you could have two on A, but the second one would require with conditional. And I was looking at the table, but --

MR. ZENNER: So a second -- a second primary dwelling unit on an Ag lot is permitted. That is - - that's permitted in the Ag and generally it would be associated potentially with a farmhand or somebody else. If you want to do -- if you wanted to divide the property into more than two residential lots in the Ag zoning district, we look at that as a residential -- the third lot would constitute a residential subdivision further cutting away at the integrity of larger acreage parcels that facilitate farming. So, you know, you may take a five-acre tract of land. The minimum land requirement for A is two and a half to grow and -- to grow or handle animals, livestock, and crops. So you could take that five acre, divide it into two. We would allow you to do that. But if you want to take that, then five acres and divide it into three, you've got to rezone to a -- to an R-1 subdivision in order to do it because you're whittling down the agricultural nature of the A district too far at that point.

MS. LOE: Right. Here it says 2.5 acres is the minimum lot for an A district, only one principal dwelling and one second principal dwelling allowed on each lot, so yeah. Just to be clear. Mr. MacMann?

MR. MACMANN: Just a point of clarity. That second primary, as it's listed in there -- that's an odd way to list that -- that does not require a replat. That's a by-right action for that. Right?

MR. ZENNER: That is correct.

MS. LOE: Correct.

MR. MACMANN: All right.

MS. LOE: All right.

MR. MACMANN: Mother-in-laws is who goes there, Pat.

MR. ZENNER: Topic for another discussion.

MS. LOE: Principal dwelling. Principal dwelling. Any additional questions? I see none. We will open up the floor for public comment.

PUBLIC HEARING OPENED

MS. LOE: If anyone has any comments they would like to provide on this case, please come up to the podium and provide your name and address for the record.

MR. BUTCHER: I'm David Butcher; I'm with Crockett Engineering. I'm not going to approach the podium because -- (inaudible).

MS. LOE: We need you in the microphone, I'm afraid.

MR. BUTCHER: All right. I'll step up here a little closer. I just don't want to have to disinfect everything. Are we good?

MS. LOE: A little bit closer.

MR. BUTCHER: All right. I'll do it. All right. So I'm here on behalf of T-Vine. I'm David Butcher; I'm the land surveyor that's working on this. The purpose of our request tonight is really so that this property, this ten-acre parcel would compete in the world with the other ten-acre parcels out there. These -- these parcels are not allowed to have a horse at this time. They've had lots of people with interest that would like to have horses on these properties, but since we can't have the horses, they've decided they'd walk away from it and they go somewhere in the county. So because this is a county-maintained road, because it's basically nestled in the county, we would like to downzone it so that we can accommodate that. I don't know anything about the second dwelling. I don't think that's part of the request. I understand that would come with it, but that's not the intent for what we're trying to accomplish. So I'm here if you have any questions.

MS. LOE: Any questions for this speaker? I see none. Thank you. I think a little bit closer, and your name and address for the record, please.

MR. AWAZU: My name is Yuval Awazu; I'm at 6120 North Oakland Gravel Road, which is that triangle on the right side of the property there. And I have no problem with, you know, horses being there, but if -- you know, it would be great if there's a way to limit it to horses. I mean, if it was, like, hogs or, you know, other animals, especially that being a very low floodplain area, I could see, like, you know, waste going into the -- the Bear Creek there that you wouldn't want, you know. So, I guess, that's the only thing I would be concerned with. I mean, you know, I'd love to have horses there. I don't care, you

know.

MS. LOE: Thank you. Questions for this speaker? Mr. MacMann?

MR. MACMANN: If I may, I'd like to redirect for you. Mr. Zenner, it's my recollection in Chapter 5 that hogs are not permitted, like meat production-type stuff?

MR. ZENNER: I mean, the raising or care of livestock, which a hog would be considered livestock, I can't speak to the fact if they are or they aren't. We do have regulations, though, that do deal with density, the number of animals, placement of features such as manure piles and things of that nature which are handled by our Environmental Health staff, not ours. So if somebody came in and was going to be seeking to do some type of animal operation, growing -- just not grazing horses, they're likely going to need to go through another level of review as it relates to that from the health side. So I think the concerns that you -- you may have as it relates to the environmental impacts, those are addressed through other regulatory measures.

MR. AWAZU: So if someone wanted, like, five hogs or something there?

MR. ZENNER: Based on, I think, the acreage calculations we were looking at, it's how many acres per horse?

MR. KELLEY: I think it's a half-acre per horse, which is -- yeah. So I think it would be limited to 42 if it was utilizing this entire acreage, for both ten-acre sites or eleven-acre sites.

MR. ZENNER: However, to Mr. MacMann's point, there may other regulatory provisions in play that I'm not familiar with that would limit other types of livestock -- chickens and things of that nature for hatcheries or something along that. Those actually, when you're looking at animal production facilities that you may be doing slaughtering or things of that nature on the property, that is not permitted in the Ag district. That is actually more of an industrial use.

MR. KELLEY: To add on to what Mr. Zenner is saying, concerning, like, concentrating feeding operations, that's something that the Missouri Department of Natural Resources has regulations for. Specifically, like, in terms of siting near houses, schools, that type of thing, it's, like, a minimum distance of property letters. And then in addition to that, they also look at floodplain as a consideration, so they're kind of taking into fact the drainage and kind of the stuff that you're mentioning, as well.

MR. AWAZU: So, but if someone wanted to have let's say the same amount of hogs that you could have horses, that would be allowable?

MR. KELLEY: From my understanding, yes.

MR. AWAZU: Horses I'm cool with, but --

MR. ZENNER: Mr. MacMann.

MS. LOE: Mr. MacMann?

MR. MACMANN: I just -- to let you know. I would -- sir, I would -- thank you, Madam Chair, and thank you, Mr. Zenner. I would suggest that you follow up specifically with the City -- which department is that, Pat?

MR. ZENNER: Environmental Health.

MR. MACMANN: Check with Environmental Health. They are not -- my understanding is that meat production like that is not allowed, but I strongly -- I don't have it in front of me and it's been a while since I've read it. I would strongly suggest that you follow up with them about your concerns to animal ratios. Animal ratios are usually based upon you said -- he said 42 horses on this lot. Mr. -- yeah. Horses are bigger than hogs, so you can divide by weight type thing. That's usually how devisors go. But, again, I would check with -- with our folks at the relevant office to get your questions -- but I'm almost positive, and I cannot speak with them exactly, but they cannot have a meat production operation there. That's a whole -- it's industrial use, they've got to get it rezoned and get permitted and the whole nine yards. I appreciate your concern because this -- a lot of the agricultural property in the City is not used for anything, maybe occasional grazing. And I was asking questions and the Chair was asking questions, so, like, well, we should really kind of inform ourselves on this a little bit because we don't deal with it very often. But thanks for coming up.

MS. LOE: Thank you. Any more speakers on this case?

MS. DOKKEN: Dee Dokken, 804 Again Street. And I'm -- this is just a comment. Any time, as someone who follows the confined animal feeding and DNR, anyone who states as reassurance that DNR is controlling this or regulating this, it is super lax. There is no inspections. The Clean Water Commission is -- I mean, there was just a ruling today or yesterday, I think, that it's okay for them just to put industry in there. So I -- I just think we should be cautious saying DNR has got it covered because that's not really the case.

MS. LOE: Thank you, Ms. Dokken. Mr. MacMann?

MR. MACMANN: If I may. Thank you, Ms. Dokken. The reason I brought up going to the relevant City organization, because I've lived in rural Missouri and I have friends who still live near these places. The county's hands are tied, for sure. I think you have more protections in the cities. But, again, I would suggest you follow up with the City about how all that zoning goes. I'm almost positive they have to either get a conditional-use permit and a whole -- maybe even rezoning to have animal production there. Personal use is one thing. You can raise a hog. We can raise chickens here in town. But for sale, that's a whole different -- and a valid concern.

UNKNOWN SPEAKER: (Inaudible)

MS. LOE: You need to --

MR. MACMANN: I don't know the answer to that question, sir. I'm sorry. It's -- I have read these regulations. It's not our bailiwick, so to speak. I'm just -- I'm giving the information that I can recall right now.

MS. LOE: Any additional speakers on this case? Seeing none, we're going to close public comment.

PUBLIC HEARING CLOSED

MS. LOE: Commission, discussion? Mr. Stanton?

MR. STANTON: Well, I was going to ask if the representative of Crockett Engineering could kind

of quiet some fears or give some -- you know, kind of address anything that's been addressed so far?

MR. BUTCHER: A rebuttal; is that what you're meaning?

MR. STANTON: Yeah. Something to tell me.

MS. LOE: We can open up public speaking again, yes.

MR. STANTON: I'm sorry. I'll try to keep --

MS. LOE: No, you didn't. You didn't.

PUBLIC HEARING REOPENED

MR. BUTCHER: So your rebuttal is under public speaking; okay. Perfect.

MS. LOE: Yes. And we need your name and address again.

MR. BUTCHER: David Butcher, Crockett Engineering, 1000 West Nifong, Building 1. With regards to the hog production, I will say that Boone County is a pretty large area and we've got other places that will be better suited for that type of production. These properties are not going to be cheap enough for someone to want to raise hogs on them. I would highly suspect that horse farming is probably the -- what's going to pull this wagon down the road. So not that you couldn't -- I understand his concerns and I really -- I respect that. I live out in rural Boone County, myself, and you always worry that the person next door is going to do that. I will say there are other places right there nearby him that don't have as many protections as what the City of Columbia would offer him because of the county that's nearby -- county property that's nearby. So I would say that that's probably a -- out in the weeds a little bit worried about these hogs, but I -- I do understand his concerns. It could be something else that could be as nefarious. That's all I got.

MS. LOE: Thank you.

MR. BUTCHER: You're welcome.

MS. LOE: Any additional public comment? I see none. We'll close public comment.

PUBLIC HEARING CLOSED

MS. LOE: Commission, discussion? Mr. Zenner? If I may, so Mr. Smith brought up the Code for me to look at. Livestock does include hogs, goats, and a variety of other animals inclusive of horses. A suggestion for the applicant to take back -- the applicant's representative to take back to the applicant and the neighbor to potentially discuss with the property owner would be to establish as part of the transfer of the property a restrictive covenant that just indicates that they're not going to allow the raising of livestock and list the animals that may be those that are not desired. If horses is all they want, it could be handled through a restrictive covenant to the property, which is not our bailiwick, but would get the property owner adjoining possibly some protection that he is desiring by bringing the comment up to the Commission here this evening. But as Mr. Kelley has pointed out, the agricultural designation for the property fits into the character of that area, and part of our land use assessment and the appropriateness of zoning goes to look at that. It does reduce the intensity of development on the property also, which is another contributing factor as to why the zoning classification is appropriate. There are other methods outside of the zoning, however, that could control the use of the property for undesirable animals.

MS. LOE: Comments? Ms. Russell?

MS. RUSSELL: How about a motion? In the Tuscany Estates Zoning Map Amendment Case 116-2020, I move to approve the zoning map amendment from R-1 to A.

MS. RUSHING: Second.

MR. STANTON: Second.

MS. LOE: Second by Ms. Rushing. We have a motion on the floor. Any discussion on that motion? Ms. Carroll?

MS. CARROLL: Yeah. I'm not sure if it's discussion on that motion that I'm -- I apologize. So the covenant that you mentioned -- or restricting the use to a specific animal, that's not part of this motion? This is just straight --

MS. LOE: No. That would be a deed restriction.

MS. CARROLL: Right. And we wouldn't be able to do that here? That's something they would do --

MS. LOE: That would be between the parties or it would be a private agreement.

MS. CARROLL: Exactly. I share the concern about the hogs. There's been fairly numerous recent news items regarding DNR and their ability to respond recently. And I'm not sure if all animal operations would be appropriate for this. I do support Ag use with horses, but I -- I wouldn't feel comfortable without any restriction for the types of animals at this point voting yes on this. I view it very much like I would view should we allow a conditional use across the school that even though the applicant doesn't plan to have a bar, would allow a bar, I view that the same. Even though the applicant doesn't plan to have a bar, would allow a bar, I view that the same. Even though this applicant may not plan to have hog farms, that's included on the list, and this goes with the property, so we cannot control what the use would be in perpetuity if we apply this. And that would be my reason against supporting this at this exact juncture.

MS. LOE: Mr. Zenner or Mr. Kelley, are we aware if there's any restrictions from having livestock operations -- I'm looking at the more dense residential to the west of the properties. So --

MR. ZENNER: County R-S zoned land, so, no.

MS. LOE: Okay.

MR. ZENNER: The property immediately to the north, which is the Horse Fair Farms, it's R-S, I believe, as well. So R-S district does -- I apologize. The R-S district does allow agricultural use in the county. The subdivision platted to the west is -- is obviously a platted subdivision. Immediately to the north, it's very possible that they could have probably livestock, but I don't know what the County's regulations are in relationship to that. What I can tell you is a feeding operation of any nature within the City is not considered a -- when you may have feeding or confined operations would probably not be considered an agricultural use, especially if you had any type of preparation -- meat preparation or anything along those lines. That is industrial in nature. A private restrictive covenant is a way of ensuring, at least between the property owners, that the -- the objectionable uses is addressed. It was

offered as an -- as an alternative or a suggestion to the applicant to take back to his client and for the property owner adjacent to be able to resolve these matters in a civil way as property owner to property owner. I understand the position that Ms. Carroll has, and others may share that. An agricultural district is meant for environments where it is low density and that this use would generally be considered consistent with the comprehensive plan, so hence our analysis and our recommendation of approval.

MS. LOE: Any additional questions or comments? All right. Ms. Burns, may we have roll call, please.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Rushing, Ms. Russell, Ms. Burns, Ms. Loe, Mr. MacMann, Mr. Stanton. Voting No: Ms. Carroll. Motion carries 6-1.

MS. BURNS: Seven to one -- six to one, motion carries.

MS. LOE: Thank you. Recommendation for approval will be forwarded to City Council.