

FRANKLIN COUNTY PLANNING COMMISSION

PUBLIC MEETING MINUTES

6:30 P.M., APRIL 21st, 2016 AT THE COUNTY COMMISSIONERS MEETING ROOM
FRANKLIN COUNTY ANNEX

ATTENDANCE:

MEMBERS: J. Peckham, Chair, K. Jones, D. Stottlemire, L. Spencer, and R. Bowers were present. L. Thurston and S. Valencia were excused. R. Welton and L. Stewart were absent.

STAFF: Larry D. Walrod, Planning Director and Deann Farrell were present

COMMISSIONERS: None were present.

ADMINISTRATOR: None were present.

CO COUNSELOR: D. Brown was present.

PUBLIC: Three (3) people signed in. Sign-in list is part of the official file copy located in the Planning Office.

NOTES: Chair called the meeting to order at 6:33 p.m.

GENERAL BUSINESS:

ADOPTION OF THE AGENDA: Chair asked if there were any amendments to the April 21st, 2016 Agenda. Staff stated there were none. Chair asked for a motion. R. Bowers made a motion to accept the agenda of April 21st, 2016 as presented. The motion was seconded by D. Stottlemire. The Chair called for voice vote. All voted in favor. The agenda was approved 5-0 as presented.

APPROVAL OF MINUTES: March 17th, 2016 Public Meeting

NOTES: Chair asked if there were any corrections to the March 17th, 2016 Public Meeting Minutes. There were none. Chair asked for a motion. R. Bowers made a motion to approve the minutes of the March 17th, 2016 Public Meeting as written. The motion was seconded by L. Spencer. The Chair called for voice vote. The minutes were approved 5-0 as written.

COMMUNICATIONS: Chair asked if there were any communications. Staff stated that there would be some communications later on this evening under General Board Discussion.

EX PARTE COMMUNICATIONS: There were none.

PUBLIC MEETING ITEMS:

1. *Application #1603-1384 (Dunbar) requesting to rezone approximately 10.00 acres from an A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District. Said property is located at the intersection of Douglas Road and US-59 Hwy., on the North side of Douglas Road and on the West side of US-59 Hwy., in the Southeast Quarter of Section 25, Township 18 South, Range 19 East.*

Staff Presentation: The Chair opened Staff Presentation. Staff stated that the applicant is requesting to rezone approximately 10.00 acres from an A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District. The property is located at the intersection of Douglas Road and US-59 Highway, on the North side of Douglas Road and on the West side of US-59 Highway, in the Southeast Quarter (SE ¼) of Section 25, Township 18 South, Range 19 East. The purpose for the rezoning is to permit the division of 10.00 acres from the approximately 160-acre tract, with an existing residence and outbuildings, in order for the applicant to sell the existing residence and 10.00-acre tract. The applicant would retain the remaining 150 acres. The aerial photo that is attached as part of your Staff Report is descriptive of the boundaries that are proposed and it does satisfy all of the requirements of the current County Zoning Regulations. The existing residence is already served with on-site water and sanitation. Staff finds that the rezoning request is substantially in compliance with the goals and objectives of the County Comprehensive Plan and the County Zoning Regulations. In consideration of the rezoning, the Planning Commission should look at the thirteen (13) findings of fact based on the guidelines that are listed in your Staff Report along with the factors from the Golden Case. Notice was sent to ten (10) surrounding property owners. The Planning Department did not receive any comments for or against the proposed rezoning request. After reviewing the character of the surrounding area and the policies of the Comprehensive Plan, Staff recommends that the Planning Commission adopt the attached draft resolution recommending approval of rezoning application #1603-1384 (Dunbar) to rezone approximately 10.00 acres from an A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District based on the findings as set forth in the resolution and forward a recommendation to the County Commissioners to rezone the property and to amend the County Zoning Map accordingly. The Chair closed Staff Presentation.

Applicant Presentation: The Chair opened Applicant Presentation. There were none. The Chair closed Applicant Presentation.

Public Comment: The Chair opened Public Comment. There were none. The Chair closed Public Comment.

Board Discussion. The Chair opened Board Discussion. D. Stottlemire asked if there was a reason for the proposed odd size tract.

Staff stated that most of the time, when they propose odd shaped tracts, it is because they are following an existing fence line, or something of that nature, so they are not disturbing any more of the agricultural land than necessary.

D. Stottlemire stated he wasn't sure if it was because that is the location of the lateral lines or not.

Staff stated that the Planning Department always makes certain that they meet the lot length-to-width ratio, which is criteria that is set forth in the County Zoning Regulations, but also the County Subdivision Regulations. The Planning Department tries to achieve at least those minimum standards, with the 4:1 ratio, and to make certain that the sanitation facilities are going to meet the criteria for setbacks. That way a non-conforming situation is not being created.

D. Stottlemire stated that it looks as if they are following an existing waterway in the aerial photo that was part of the Staff Report. The Chair closed Board Discussion.

The Chair asked for a motion. L. Spencer made a motion to recommend approval of application #1603-1384 (Dunbar) to rezone approximately 10.00 acres from an A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District. Said property is located at the intersection of Douglas Road and US-59 Hwy., on the North side of Douglas Road and on the West side of US-59 Hwy., in the Southeast Quarter (SE ¼) of Section 25,

Township 18 South, Range 19 East, based on Staff recommendations and the findings as stated in the Staff Report. The motion was seconded by R. Bowers. Chair called for a roll call vote.

Welton	Absent	Spencer	Yes	Peckham	Yes
Thurston	Excused	Stewart	Absent	Jones	Yes
Valencia	Excused	Bowers	Yes	Stottlemire	Yes

Motion carried 5-0.

2. *Application #1603-1386 (White) requesting to rezone approximately 12.37 acres from an A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District. Said property is located at the intersection of Hamilton Road and Tennessee Road, on the South side of Hamilton Road and on the West side of Tennessee Road, in the Northeast Quarter (NE ¼) of Section 11, Township 18 South, Range 20 East.*

Staff Presentation: The Chair opened Staff Presentation. Staff stated that the applicant is requesting to rezone approximately 12.37 acres from an A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District. The property is located at the intersection of Hamilton Road and Tennessee Road, on the South side of Hamilton Road and on the West side of Tennessee Road, in the Northeast Quarter (NE ¼) of Section 11, Township 18 South, Range 20 East. The purpose for the rezoning is to permit the division of 12.37 acres from the approximately 160 acres, with an existing residence and outbuildings, in order for the property owners to sell the existing residence. The applicant would retain the remaining 147.63 acres. The rezoning would be consistent with the County Comprehensive Plan overall goals and objectives in being able to preserve the remainder land for agricultural purposes. The existing residence is already served on-site water and sanitation, which are required pursuant to the policies associated with the Rural Residential Development in the County Comprehensive Plan. Staff finds that the rezoning request is substantially in compliance with the goals and objectives of the County Comprehensive Plan and the County Zoning Regulations. In consideration of the rezoning, the Planning Commission should look at the thirteen (13) findings of fact based on the guidelines that are listed in your Staff Report along with the factors from the Golden Case. Notice was sent to five (5) surrounding property owners. The Planning Department did not receive any comments for or against the proposed rezoning request. After reviewing the character of the surrounding area and the policies of the Comprehensive Plan, Staff recommends that the Planning Commission adopt the attached draft resolution recommending approval of rezoning application #1603-1386 (White) to rezone approximately 12.37 acres from an A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District based on the findings as set forth in the resolution and forward a recommendation to the County Commissioners to rezone the property and to amend the County Zoning Map accordingly. The Chair closed Staff Presentation.

Applicant Presentation: The Chair opened Applicant Presentation. There were none. The Chair closed Applicant Presentation.

Public Comment: The Chair opened Public Comment. There were none. The Chair closed Public Comment.

Board Discussion. The Chair opened Board Discussion. There were none. The Chair closed Board Discussion.

The Chair asked for a motion. K. Jones made a motion to recommend approval of application #1603-1386 (White) to rezone approximately 12.37 acres from an A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District. Said property is located at the intersection of Hamilton Road and Tennessee Road, on the South side of Hamilton Road and on the West side of Tennessee Road, in the Northeast Quarter (NE ¼) of Section 11, Township 18 South, Range 20 East, based on Staff recommendations and the findings as stated in the Staff Report. The motion was seconded by L. Spencer. Chair called for a roll call vote.

Welton	Absent	Spencer	Yes	Peckham	Yes
Thurston	Excused	Stewart	Absent	Jones	Yes
Valencia	Excused	Bowers	Yes	Stottlemire	Yes

Motion carried 5-0.

3. *Application #1603-1388 (White) requesting to rezone approximately 3.03 acres from an A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District and 1.7 acres from an R-3A (Single Family Residential Three Acre) Zoning District to an R-E (Residential Estate) Zoning District. Said property is located at the intersection of John Brown Road and Oregon Road, on the North side of John Brown Road and on the West side of Oregon Road, in the East Half (E ½) of the Southeast Quarter (SE ¼) of Section 10, Township 18 South, Range 20 East.*

Staff Presentation: The Chair opened Staff Presentation. Staff stated that the applicant is requesting to rezone approximately 3.03 acres from an A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District and to rezone approximately 1.7 acres from an R-3A (Single Family Residential Three Acre) Zoning District to an R-E (Residential Estate) Zoning District. The property is located at the intersection of John Brown Road and Oregon Road, on the North side of John Brown Road and on the West side of Oregon Road, in the East Half (E ½) of the Southeast Quarter (SE ¼) of Section 10, Township 18 South, Range 20 East. The purpose for the rezoning is to allow the applicant to merge 3.03 acres with an existing 1.7-acre tract, which has an existing residence, in order to create a 5.00-acre tract to be sold. The existing 1.7-acre tract is less than what the County would require for on-site sanitation, so they are making this more conforming to the minimum County standards for sanitation and lot size and all other criteria required in the Zoning Regulations and County Sanitation Code. Staff finds that the rezoning request is substantially in compliance with the goals and objectives of the County Comprehensive Plan and the County Zoning Regulations. In consideration of the rezoning, the Planning Commission should look at the thirteen (13) findings of fact based on the guidelines that are listed in your Staff Report along with the factors from the Golden Case. Notice was sent to eight (8) surrounding property owners. The Planning Department did not receive any comments for or against the proposed rezoning request. After reviewing the character of the surrounding area and the policies of the Comprehensive Plan, Staff recommends that the Planning Commission adopt the attached draft resolution recommending approval of rezoning application #1603-1388 (White) to rezone approximately 3.03 acres from an A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District and 1.7 acres from an R-3A (Single Family Residential Three Acre) Zoning District to an R-E (Residential Estate) Zoning District based on the findings as set forth in the resolution and forward a recommendation to the County Commissioners to rezone the property and to amend the County Zoning Map accordingly. The Chair closed Staff Presentation.

Applicant Presentation: The Chair opened Applicant Presentation. There were none. The Chair closed Applicant Presentation.

Public Comment: The Chair opened Public Comment. There were none. The Chair closed Public Comment.

Board Discussion. The Chair opened Board Discussion. There were none. The Chair closed Board Discussion.

The Chair asked for a motion. L. Spencer made a motion to recommend approval of application #1603-1388 (White) requesting to rezone approximately 3.03 acres from an A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District and 1.7 acres from an R-3A (Single Family Residential Three Acre) Zoning District to an R-E (Residential Estate) Zoning District. Said property is located at the intersection of John Brown Road and Oregon Road, on the North side of John Brown Road and on the West side of Oregon Road, in the East Half (E ½) of the Southeast Quarter (SE ¼) of Section 10, Township 18 South, Range 20 East, based on Staff recommendations and the findings as stated in the Staff Report. The motion was seconded by R. Bowers. Chair called for a roll call vote.

Welton	Absent	Spencer	Yes	Peckham	Yes
Thurston	Excused	Stewart	Absent	Jones	Yes
Valencia	Excused	Bowers	Yes	Stottlemire	Yes

Motion carried 5-0.

NON-PUBLIC MEETING ITEMS:

The Chair opened Non-Public Meeting Items. There were none. The Chair closed Non-Public Meeting Items.

PUBLIC COMMENT SECTION:

The Chair opened Public Comment. Todd Wright, 2789 Montana Road, stated that currently he and his family live with his parents to help operate a horse training facility. He stated that he and his wife would like to put a mobile home on the East side of 32.00-acre property. He spoke with the Planning Director and there is not enough frontage for two residences. He understands that law and requirement but he feels this is a little different situation. Him and his wife both work there at the horse operation and they have to get up real early in the morning. In the evenings they have to shut the farm down and take care of the horses. His two boys also live there and they sleep in a little longer than they do so they have to check on them regularly. This is why they are here this evening appealing it to the Planning Commission.

Staff stated that the County does have a provision in the County Zoning Regulations for variances and appeals, however, this matter can't go to the Board of Zoning Appeals because it is a situation that involves a land use issue. This is not the standards of the Zoning District like the setbacks or building heights where you can request a variance. What happens here is you would have to give special consideration to amending certain parts of the Zoning Regulations that would allow for a second dwelling unit in certain circumstances. We have the ability to put a mobile home on when it is an emergency situation where you are looking after someone for medical purposes such as a temporary mobile home. However, we don't have provisions to allow a second dwelling unit on the same parcel of land at this time and that is why Todd is here this evening. Staff looked at the ability to put an apartment unit in one of the outbuildings, however that wasn't available either because that would be a second dwelling unit on the same parcel. We looked at the capability of dividing the land to where you could meet the minimum standards of one of our Zoning Districts, which would require rezoning, surveys, etc. However, Staff didn't feel that was the appropriate solution either because if you look at the depth of the parcel it is almost ½ a mile deep. It has a limited amount of frontage onto Montana Road and, in order to satisfy the lot length-to-width ratio, even if you would create a 3.00-acre parcel, which is the minimum that would be allowed for a second dwelling unit, there would still be a situation where an exception would need to be granted in order to divide the parcel of land because there would be a violation of the lot length-to-width ratio. It barely meets the requirement as it exists today. Staff does not have the ability to allow them to put the mobile home out there. This is the reason they are here this evening, to see if the Planning Commission would be willing to make some modification to the Zoning Regulations that would permit this type of situation. The hardship mobile home condition is basically only for medical situations and only where the second dwelling unit would eventually have to be removed.

Chair asked about the property on the corner of K-68 Hwy. and K-33 Hwy., that used to belong to the COOP, originally had two homes on it. There was a basement home in the garage and then they built a new home and now there are people living in both houses. At that time, it was allowed because it was agriculture and both families were working on the farm.

Staff stated that the land also exceeded over 100 acres.

Chair asked if that was something that was allowed because it was over 100 acres or was it allowed because it was agricultural and both families worked in the agricultural process.

Staff stated it was because it was agricultural and it was over 100 acres and they were all involved in the agricultural operation and it was a subservient house to the main house. In other words, the County still has some bunk houses for the cowboys in the Southwest corner, where we have some ranch houses. They are just dormitory type housing where the cowboys hang their hats and sleep at night. Those are on parcels that are 640 acres or larger in size and they are involved directly in the agricultural operation. This is the only form of housing that Staff is aware of that the County currently has in those types of situations. Unfortunately, this situation doesn't meet that criteria because it is less than 40 acres.

Chair asked if it is the 31.9-acre tract that is on the aerial photo that was handed out earlier this evening.

Staff stated yes it is the 31.9-acre tract that is located close to the Community Revival Church facilities.

Mr. Wright stated that he understands what Staff is saying and he does agree with the rule in some situations. Each situation is different and he feels his is different than most of them. We looked at buying a house in town but since we

work there all the time, and his wife does the breeding and they have colts at all times of the day and night, it makes more sense for us live on-site.

L. Spencer asked if the Zoning Regulations are amended then other people would come into the Planning Department to get the same type of allowance on their property because we granted it in this situation.

Staff stated that he would refer to legal counsel on this question. However, once you have allowed certain situations that doesn't mean that you have to allow every request. These are going to be filed as individual cases and that is how the Planning Commission would address them, on a case by case basis. Staff does not have the ability to indiscriminately grant Mr. Wright an exception from the basic rules that are in place. One of the items that would come into play would be the lot length-to-width ratio. That is something that only the Planning Commission, as part of your subdivision and land division approval process, would be able to accept or deny. There are two methods to look at this situation, one would be to amend the Zoning Regulations to permit a second dwelling and the other would be to grant an exception on the lot length-to-width ratio to allow for the creation of a second lot, but it would require rezoning, a survey and land division, separate water meter and separate sanitation system. This is not an inexpensive process. This is one of the reasons Staff hadn't suggested it to Mr. Wright. This is still an option that is available if the Planning Commission were willing to accept a modification and grant an exception under a hardship to the lot length-to-width ratio.

Brett Wright, 2789 Montana Road, stated that he owns the piece of property and is Todd Wright's dad. Mr. Wright stated they are willing to do the survey and whatever else is necessary to make this work. As far as another water meter and electric meter and lagoon, these are all things they had planned on having to do. If we need to divide the property in half that is no problem either because it will be his one of these days anyways.

Chair asked County Counselor if this is something that could be allowed strictly in the Agricultural Zoning District and both families have to work on the farm. If they don't both work on the farm then one of the dwelling units needs to be removed, just like on the Temporary Hardship Mobile Home.

D. Brown stated that yes the Planning Commission could allow that, it is not illegal, but that would require amending the current Zoning Regulations, which the Planning Commission can do.

Chair stated that would stop other property owners from coming into the Planning Office and stating that it has to be allowed for their property too, which they could do if they were agricultural also.

D. Brown stated that it was mentioned earlier about setting a precedent and the only precedent that the Planning Commission would set would be allowing property owners to do this on parcels under 100 acres. He doesn't know how often the Planning Department gets these types of requests.

Staff stated that the Goodwin rezoning that was on the agenda last month was the result from the same type of request. We get these requests quite often and that is the reason these rezonings come through is because they are on parcels under 80 acres and they want a second dwelling unit. So they go through the rezoning process and divide the property. They have to meet all of the criteria, sanitation, on-site water, lot length-to-width ratios, building setbacks.

Chair asked if the Goodwin rezoning was a family that was doing farming together.

Staff stated yes the Goodwin rezoning was a family that was doing limited farming together.

D. Brown stated that the property owner stated that they are willing to do the survey and rezoning, if they do all that and figure out the on-site water and sanitation supply, we would be looking at the ability to do a variance at that point.

Staff stated that it would be an exception that the Planning Commission could approve on the lot length-to-width ratio.

D. Brown stated that the exception could be granted without having to amend the Zoning Regulations correct?

Staff stated that it could be done and he doesn't feel that it would be setting a precedent by granting the exception. The property owner does have to realized that there is a lot of expense in going through this process, installing separate sanitation facilities and purchasing a separate water meter, plus the rezoning and survey fees.

D. Brown stated it seems to him that if an exception can be granted that would be the best way to handle this situation.

Staff stated if the property owner chooses to do this it would be a more logical way to proceed because if you modify the Zoning Regulations, you have opened the door for everyone. This would be a variance on a case by case basis situation.

K. Jones stated that if the variance is granted, and someone purchases the property with the second residence on it, then the new owner could turn the second residence into a rental home. However, amending the Zoning Regulations would make it more permanent because there is the stipulation that it must be removed if sold and no longer in the family.

R. Bowers stated he understood it as if they go through the rezoning and the Planning Commission grants the exception to the survey then it is a separate parcel.

Staff stated that once the exception for the land division is approved, it runs with the land. Each individual parcel you have created can be described and deeded separately.

Chair asked the property owner if he had thoughts as to where they were going to build the second residence.

Todd Wright approached the Planning Commission and pointed out where they proposed to build the second residence on the aerial photo that was handed out earlier this evening.

D. Stottlemire asked how many acres would be split off the main parcel.

Staff stated that a minimum of 3 acres, however it could be anywhere from 3 to 5 acres.

Chair stated that would be creating lots you couldn't access without crossing their property.

Staff stated that they would have to take in the arena all the way to the road so they have road frontage. Hopefully they can get their on-site sanitation system within that area.

Brett Wright stated there is a lot of fall back to the East so the lagoon would go back behind where it was pointed out the house would be located. A lagoon would have to be installed because of the type of soil that is out there, lateral lines won't work.

R. Bowers asked if the requirement was 10 acres for a lagoon.

D. Stottlemire stated that the old requirement was 10 acres but it was amended a few years ago and now only requires 5 acres.

Staff stated that this request got complicated because of the vacation of the old roadway for Labette Road when the Interstate went through. Labette Road used to travel along the North boundary of this property but it was vacated out years ago. It would have been much simpler to get lot frontage if that road had remained opened but it won't be reopened. Staff went over several different options with the property owner and so Staff recommended that the property owner come here this evening to get clarification from the Planning Commission.

Chair stated that if Staff and County Counsel feel that doing the rezoning, surveying and granting an exception to the lot length-to-width would work, and the property owners are willing to go the expense to do everything, then she has no problem with granting the exception.

K. Jones asked if the surrounding property owners would receive notice of what is being proposed? What if the nearby church has problems with the proposal?

Staff stated that the surrounding property owners would receive notice of the rezoning that is required and with that the proposed land division that would be occurring. The church is further South, just out of view on the aerial photo that was handed out earlier this evening. The church shouldn't have an issue with the request. The aerial photo does show where the church's lagoon is located so they shouldn't have an objection to the fact that the neighboring property would be constructing a residence and a lagoon.

R. Bowers stated that he had no problem with what is being proposed.

D. Stottlemire stated that he had no problems with any of it.

Chair stated that she thinks it's that going to go back to generations of families working together on family farms. If this is something that the Planning Commission can grant and that families can stay together and work together, I am a firm believer in it as long as it complies with all the County Regulations. The Chair closed Public Comment.

GENERAL BOARD DISCUSSION: The Chair opened General Board Discussion.

R. Bowers stated that he wanted to bring to the Planning Commission's attention that he has ran across a little snafu in the Franklin County Environmental Sanitation Code involving his property. He has spoken with Staff, County Administrator and the County Commissioners are also aware of the issue. About a year ago the Planning Commission was presented changes to the Code. The Planning Commission went through everything and approved the Code on to the County Commissioners for their review. In July the County Commissioners approved the Code but they had some changes in it, one being the private water supplies. The County Commissioners added that private holding tanks/cisterns cannot be used as a private water source and shall be prohibited. Unfortunately, that is all he has is a holding tank. He hauls his own water. So when the County Commissioners approved the Resolution they took away the value of his property. There are discussions going on to figure out how to fix this situation. One of those may involve amending the County Environmental Sanitation Code. We are trying to keep this as quiet as possible because there are several properties in the County in the same situation. According to the County Appraisers Office all of these homes are now worthless on the market value. The reason is because you can't sell the property because you don't have access to an on-site potable water supply. There are discussions because there are several properties in the County that are located in a rural water district but don't want the expense to hook up to the water district lines. If they want to sell their home, they will have to hook up to the public water. However, in my situation, I am not located within a rural water district. There are two of them adjoining his property and neither one of those districts will allow him to hook up to their lines. I have lived at this location for 22 years and I am wishing I could hook up to rural water.

Chair asked which rural water districts are located adjacent to his property.

R. Bowers stated Franklin RWD 5 and Douglas RWD 5 are the two rural water districts located adjacent to his property. He stated he is located up near Centropolis. He has indicated to the County Commissioners that if they are going to have Regulations like this where they want us on a public water supply then the County needs to figure out how to promote and help establish these water districts so the whole County is covered with a rural water district and not just private water wells or hauling in water. I am willing to do anything I can to do remedy this.

Chair asked if it is possible for him to dig a private water well.

R. Bowers stated that he has tried to drill a well but no success because it came up dry. I am on the wrong side of the California Springs and aquifer.

Chair asked how far R. Bowers is from the nearest water district lines.

R. Bowers stated that he is about ¼ mile away from Franklin RWD 5.

D. Stottlemire asked how this change to the Sanitation Code regarding holding tanks or cisterns affects those people that are currently hauling their own water.

Staff stated that they are grandfathered. He stated that Mr. Bowers is grandfathered as he is today.

R. Bowers stated that he is grandfathered, and so is everybody else who is hauling water right now.

Staff stated that the issue arises when they go to sell their property.

R. Bowers stated that I can't sell my property until I have a potable water supply.

Staff stated that it is the same situation with the sanitation system. The County has sanitation systems out there that are failed but the County don't know it until the property goes up for sale and the system is inspected. When the inspection finds that the system is failing then it must be brought into compliance with the current code.

R. Bowers states that is where is ran into problems because he can't bring his property into compliance with the current code regarding a potable water supply because he is not located in a rural water district and he can't dig a well. You are no longer allowed to use cisterns or holding tanks.

Chair asked if the reason it was added to the County Sanitation Code was because they wanted it to read just like the Comprehensive Plan.

D. Stottlemire stated that the regulation should read "if rural water or well water is available". If rural water or well water is not available, then it is not available.

Staff stated that in 2006 the County adopted regulations that are in the Subdivision Regulations, Zoning Regulations and the Comprehensive Plan that no more dry lots would be created and that any of the non-conforming situations like this one would eventually be corrected. So those amendments went into the Sanitation Code, Subdivision Regulations and Zoning Regulations. When you address rezoning properties you look to see that they do have on-site water, not something you are hauling in. The water supply is on-site such as rural water or well water. We don't even rezone properties anymore without proof of an on-site water supply and haven't for about 10 years. The properties that currently haul in water can exist that way today until you go to sell the property.

D. Stottlemire stated that selling the property is not changing the use. You are only changing ownership you are not changing the property.

R. Bowers stated that no matter if they are getting a loan or paying cash, when the property sells the County will come out and inspect the property and if it is does not have an on-site water supply then it is not in compliance with the regulations that are in effect today.

D. Brown stated that it is a good policy it just needs to address situations where an on-site water supply is not available. It brings properties into compliance with all of the County Regulations, which is a good thing especially in regards to sanitation. However, in situations where there is no availability of an on-site water supply, nobody contemplated there not being any other option. This is why an amendment needs to be made that could state "if available" and that will allow the people that are located within a rural water district, who are voluntarily not hooking up to rural water, to have to hook up to rural water in order to sell or purchase the property. However, in situations where it in not possible to get an on-site water supply, then this amendment needs to address that.

Staff stated that there used to be an old well on R. Bowers property.

R. Bowers stated that the well that was already on the property was dry so they plugged it. He attempted to drill another well and it didn't hit water so it got plugged also. That is when they put in the holding tank or cistern. He thought that since there is a rural water district directly across the road, and another one that was 5 miles away at that time, that he would soon get rural water. That was 22 years ago and he is still unable to get rural water.

Staff stated that the rural water district is directly behind his property.

R. Bowers stated that the rural water district boundaries are directly behind his property but there are no water lines.

Staff stated that there is an amendment that needs to be made but not sure what that would be. He doesn't want to write a blank check for everybody that doesn't want to hook up to rural water.

R. Bowers stated that the Planning Commission was involved in reviewing the Sanitation Code and I guarantee that I went directly to that section and read it and that was not in there.

Chair stated that the County Commissioners added that section in and it didn't have to come back to the Planning Commission to review that change, they just put it in.

Staff stated yes and the County Commissioners have the authority to make changes.

D. Brown asked who recommended that change be made to the County Sanitation Code.

R. Bowers stated you would have to go back and read the July 15th, 2015 County Commissioners minutes to find out who recommended the change.

D. Brown stated that to stick up for the Board of County Commissioners, nobody would have added something just because.

Chair asked R. Bowers if the nearest water line is ¼ mile away and you can't hook up to that water line.

R. Bowers stated that Franklin RWD 5 won't let him hook up because he is not located within that water district boundary.

Staff stated that Franklin RWD 5 goes directly down the East side of Louisiana Road and R. Bowers property is located on the West side of the road.

R. Bowers stated that he did contact the water district again and they don't even want to talk to him since he is not located within their district. They took his \$150 to do a study, studied it and then came back and stated you are out of district, sorry.

D. Brown asked R. Bowers who he spoke with at the rural water district. He asked D. Stottlemire if the Board of County Commissioners had any authority over the rural water district.

D. Stottlemire stated that the County has zero authority over the rural water districts. The only thing they have authority over is the road crossing permits. If the rural water district wants to cross the roadway, they need the County's permission, but no fees are charged.

Chair asked if a water district has a water line on one side of the road and they want to run a line to the other side of the road they have to get permission from the County.

D. Brown asked R. Bowers if he would pay whatever the cost would be in order to get on rural water.

R. Bowers stated yes he would pay whatever the cost would be because he has been hauling water for 22 years and he doesn't want to haul water anymore.

Chair stated that when she first came on the Planning Commission back in the late 1990's, people who were selling their property would say there is a rural water line just across the road without ever telling the buyers that they couldn't hook up to that line because it was in a different rural water district. Or that the rural water line is just up the road but failed to tell the buyer that they would have to pay for the water line to be run for the ¼ mile to 1 mile to get it run to the house.

D. Stottlemire stated some properties were sold and they were told there was rural water directly across the road but the seller didn't tell the buyer that the rural water district won't run the line across the road.

Chair stated that this made the Planning Commission very conscientious about water at that time and that is why started stipulating that you have to have proof of an on-site potable water supply ahead of time.

D. Stottlemire asked if there is a copy of the one that the Planning Commission approved in Staff's files.

Staff stated he is not sure because it is not part of the Zoning or Subdivision Regulations. This was just a study issue and wasn't something the Planning Commission would approve. The Sanitation Code isn't part of the regulations that the Planning Commission would be involved in actually approving any more than the Building Codes.

R. Bowers stated that he has spoken with Douglas RWD 5, who have tried to expand in the last 5 years, and they were able to get 120 people to sign up and say yes they wanted rural water, including me. They then stated that they needed 150 to do the expansion. Is there anything from the County's standpoint that could help Douglas RWD 5 be able to do the expansion? As soon as those lines are in, more people would sign up to hook on to the lines. My neighbor down the road said that if they would run the lines that he would sign up. I asked him why he didn't sign up when they asked and he stated "how do we know they will run the lines".

Chair asked if it cost anything to sign up for the rural water.

R. Bowers stated that they had to put down a \$300 deposit but they got that money back when they didn't get enough people to sign up.

D. Stottlemire stated that the County Commissioners asked him to go to the Basin Advisory Committee and the same issue came up. At the meeting there was a State Representative to the Water Board present and they commented that they don't want the County involved with the rural water districts. He stated they told them they don't want involved but to help promote the rural water district and have some say.

Chair asked Staff to tell the Planning Commission what is going on with the quarry in Peoria Township.

Staff stated this involves an old rock quarry that is off of Texas Road, just south of Neosho Road, that Bo Killough opened many years ago. In 1978-79 Mr. Killough had a request to convert this site to a sanitary landfill, however it is being reopened as a rock quarry. It was never approved as a landfill because it wasn't part of the overall solid waste disposal master plan of the County. There are some challenges being made to the validity of the old SX Special Use Permit approved for the quarry. There are challenges being made as to whether the site was ever vacated because of the fact they were going through the process of converting it to sanitary landfill. There are issues relative to the situation with portions of Neosho Road which have been vacated and other parts of it that are basically a private road situation because no one else uses the road except the two owners on either side. There are quite a number of issues and there are lot of open records requests for information. Staff has been researching records for the last two weeks and has spent numerous hours on it and not sure we have satisfied everything as of yet. My observation is that, through the information that we have been able to find thus far, the County's position is good but it may ripen into some kind of litigation. Frankly, it has taken a lot of Staff time, including the Planning Department, County Counsel and the Clerk's Office, spending hours and hours going back and researching records.

Chair stated that she went through all of her Planning Commission records yesterday which took 2-1/2 to 3 hours of reading.

D. Stottlemire stated that there weren't very good records kept back in those days.

Chair stated that she remembers the Planning Commission going over the quarry being used for a dumping ground for trash. It was turned down because the residents of that area fought against it. They didn't want leakage into the ground water system. There is some sort of water that runs into the quarry and the residents said it would leak into their water supply. She doesn't remember the Planning Commission approving it as a quarry of any kind.

Staff stated that there was no formal application ever made because Peoria Township wasn't zoned at that time. This is one of the reasons Peoria Township finally accepted zoning, so you could have the possibility of rejecting these types of uses. There was never a formal application made for a special use permit, conditional use permit or anything else that I can find of record. The only application that was filed was with KDHE and they apparently approved the landfill. But because it wasn't part of the County Solid Waste Management Plan, they held off the final approval to actually start the landfill. The County wouldn't have had a lot of voice in the matter other than if it was part of the overall Solid Waste Management Plan. Trying to find paperwork on this matter is almost impossible.

D. Brown stated that it should be irrelevant whether the site was about to be a landfill or not. There is an irrevocable SX Special Use Permit for a rock quarry. Because of that, he doesn't think this should come before the Planning Commission or the County Commissioners, however, I will all but guarantee you that it will, so be ready for that.

Chair stated that is why she wanted the Planning Commission to hear what was happening because she knows who is involved and it is going to come before them and she didn't want the Planning Commission taken by surprise.

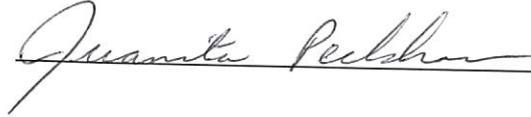
CALENDAR:

The next Planning Commission Public Meeting will be held **Thursday, May 19th, 2016, at 6:30 p.m.** in the **COUNTY COMMISSIONERS MEETING ROOM IN THE ANNEX BUILDING.**

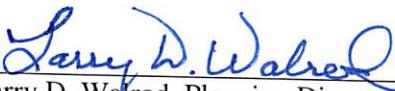
ADJOURNMENT:

With no further business to discuss, D. Stottlemire made a motion to adjourn. L. Spencer seconded the motion. All voted in favor 5-0. The meeting was adjourned at 7:34 p.m.

Attest:



J. Peckham, Chair



Larry D. Walrod, Planning Director