

**BOUNDARY COMMISSION  
ST. LOUIS COUNTY, MISSOURI**

**MINUTES OF PUBLIC HEARING - BC9702  
JUNE 17, 1997**

**COMMISSION ATTENDANCE:**

<b>COMMISSIONER</b>	<b>PRESENT(P)/ ABSENT(A)</b>
<b>ED BRUER</b>	<b>P</b>
<b>JULIUS FRAGER</b>	<b>P</b>
<b>AGNES GARINO</b>	<b>P</b>
<b>DENISE HADDOCK</b>	<b>P</b>
<b>SCOTT MIDDELKAMP</b>	<b>A</b>
<b>JACK REHAGEN</b>	<b>P</b>
<b>CHARLES SAULSBERRY</b>	<b>A</b>
<b>JACK WIESEHAN</b>	<b>A</b>
<b>ANNA MARIE WINGRON</b>	<b>P</b>
<b>DON WOJTKOWSKI</b>	<b>P</b>
<b>LARRY YOUNGBLOOD</b>	<b>P</b>

**OTHERS PRESENT:**

Carl Ramey - Executive Director  
Steve Martin - Legal Counsel

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**CALL TO ORDER**

Chairperson Wingron called to order the meeting of the Boundary Commission at 7:03 p.m. on June 17, 1997. The meeting took place at the Fenton City Hall, Fenton, Missouri. The purpose of the meeting was to conduct a public hearing on a proposal submitted by the City of Fenton to annex unincorporated territory described in their proposal as the First Baptist Church Annexation Area (BC9702).

**PUBLIC HEARING - BC9702 - FIRST BAPTIST CHURCH ANNEXATION AREA - CITY OF FENTON**

*A. CONVENE PUBLIC HEARING*

Chairperson Wingron convened the Public Hearing at 7:03 p.m. for BC9702, a proposal by the City of Fenton to annex an area known as the First Baptist Church Annexation Area. Her opening remarks included a brief introduction of the proposal, the procedures for conducting the hearing and the conduct expected during the hearing.

*B. PRESENTATION BY PROPOSING AGENT - CITY OF FENTON*

The City Attorney for Fenton, Mr. Jerry Wallach, offered an overview of the area to be annexed, discussing the challenges of the property to the City of Fenton, St. Louis County, and the potential developers, as well as the benefits to the parties involved if the proposal is approved. He indicated that other members of the staff, including the City Administrator, City Engineer, Finance Officer, as well as the Mayor and other City officials were present to answer any questions that might require more detailed information.

Mr. Wallach provided an overview of the geographic area sought to be annexed by the City. It includes approximately 31 acres of land, which represents approximately 10% of the total land area currently in the city (approximately 3200 acres). He reviewed the current boundary of the City and pointed out that the out boundary of the perimeter of the area sought to be annexed is 25% contiguous to the city.

He indicated the reason the simplified boundary change was before the commission is because a particular developer has come forward with interest in developing the property. However, Mr. Wallach stated the City for some time has considered a series of annexations which he described on a map for the Commission. Depicted in three phases, he stated that the City will not seek these annexations through a simplified proposal, and they will require a vote of the people. He explained that the City has yet to decide on the extent and timing of the annexation proposals, but wanted the Commission to be aware of the city's long range interests. The area sought now for annexation is a part of the Phase 2 annexation area shown on the map. He stated that the annexation of this area is not a one shot deal, but that the City has long contemplated extending its boundary south to the Jefferson County line. Doing so would provide for an orderly, cohesive community. Likewise, the extension of the city to the west would provide an economy of scale to provide a financially solid governmental structure in this area. He reviewed the out boundaries of the City, noting that this annexation would represent the City's first movement south of State Highway 141, which coincides with the City's long term interest in expansion south to Jefferson County.

Mr. Wallach noted that the property presents genuine developmental challenges. The significant challenge is found in the topography of the site. The site is traversed by a creek with a flood plain area to the north and a steep hillside to the south of the site. However, it is an extremely attractive location. Mr. Wallach stated that to his knowledge this may be the only major intersection on Highway 30 that has yet to be fully developed. The reason the property has not been developed is the high cost of dealing with the topography.

Mr. Wallach stated that the city indicated it is prepared to assist the developer through tax increment finance funding (TIF) for the basic infrastructure improvements involved in developing the property. He explained that included in these improvements would be the construction of a connector road, long envisioned by the County Highway Department, from Highway 141 to Highway 30. This would facilitate the movement of traffic through the annexed area without the use of a super-highway.

He indicated that the development would generate significant sales tax dollars which would not flow directly to the City of Fenton, but to those participating as "pool" or "B" cities, which St. Louis County is a participant. He estimated that the sales tax revenue generated would be approximately \$176,000 annually to be distributed to the pool cities. In addition, the development would generate approximately \$900,000 in traffic generation assessment funds (TGA). He explained there is a general agreement with St. Louis County that these funds would be used in developing the connector street through the annexation area from Highway 141 to Country Home Drive, which runs parallel to highway 30. A bridge would be built over the creek to connect Country Home Drive which is outside the area, but the fund will develop whatever length necessary to complete a meaningful flow of traffic from the area. Therefore, the use of these funds would not only be in the City of Fenton, i.e. the annexation area if the proposal is approved, but also in the adjacent area of unincorporated County. He claimed that the development of this connector through the use of TGA or TIF would benefit the residents to the south and not just this particular piece of real estate.

Mr. Wallach showed a FEMA (Federal Emergency Management Agency) map which depicts the flood plain and the flood way of the creek in the proposal area. The utilization of TIF funding will handle the issues of flooding and render the property useable.

The result of the annexation will be an increase in sales tax revenue to numerous government entities, with the pool cities being the primary beneficiaries. It is attractive to the City of Fenton for the control of its own immediate environment. There has been significant pressure from the residents of Fenton to have a grocery store of this type in the area. The City action was in response to a survey of its residents which identified a need for this type of development in the area.

Mr. Wallach showed a zoning and land use map of the City of Fenton. He indicated that well-balanced zoning is important to the City and commercial areas are restricted to the southeast quadrant of the City. Shopping, located on the other side of the intersection, is not convenient to a number of homes in the Fenton area. He stated that he feels, overall, the benefits of this annexation to the City of Fenton would be significant, the benefits to the area would be significant, that the generation of tax dollars would be beneficial.

He requested that the proposal be considered without a vote of the people as it has been submitted as a simplified boundary change with petitions signed by the residents of the area demonstrating their support.

*C. QUESTIONS FROM THE BOUNDARY COMMISSION*

Commissioner Bruer asked whether the city participated in the Federal Flood Insurance Program. Mr. Wallach stated they did.

Commissioner Haddock questioned why the developers did not want to develop in St. Louis County. Mr. Wallach stated he could not speak directly to that issue, but that the City of Fenton provides a hospitable environment for development. He stated the City was approached by the developers who asked if they would favorably consider providing a TIF and zoning if the property was annexed. The City indicated they would be open to those considerations. Mr. Wallach then introduced Don Anderson, the attorney representing the development, to address the question more fully. Mr. Anderson asked the Commission leave to respond in writing as the rationale of the developers includes multiple elements besides the qualities of the City which were already mentioned. Commissioner Wingron directed Mr. Anderson to coordinate such a response with Mr. Ramey.

Commissioner Garino asked the City to address further the extraordinary challenges faced in developing the property in the annexation area. Will most of the property be used by the developers or will the difficulties mean a lot will remain undeveloped? Mr. Wallach indicated that the city was receptive to sound engineering plans for the area. It is his understanding that the development would straighten a portion of the creek, which has been done upstream in conjunction with the development of Highway 141. There would be a cut made into the hill not only for the development, but for the connector street to Country Home Drive, which has been a desire of St. Louis County for many years. The cut will be used for the parking area back across the cliff range similar to other developments built over a flood way, such as the St. Louis Galleria. The developers will have to meet the criteria of the Army Corp of Engineers who has regulatory power, as well as FEMA and the City of Fenton.

Commissioner Garino asked the representative of the developer to address the actual usage of the property. Mr. Anderson stated that, again, they would like to address the issue in writing, but that Mr. Clark Parks from Greystone Construction was present and might be able to address these issues. Mr. Parks indicated they currently are seeking approval on plans for this site from the Army Corp of Engineers, the Metropolitan Sewer District (MSD), FEMA and the State Highway Department. He stated the new alignment of Highway 141 dictates the alignment of the creek. Presently, the plans for Highway 141 will realign the creek through approximately one-half of the site. The proposed development will handle the remaining half. The plans submitted to the Corps of Engineers is very close to approval. Mr. Parks went on to describe the development as a 132,000 square foot retail space with four out lots on the space between newly relocated highway 141 and the newly relocated creek. The site will be intensely developed with a significant amount of landscaping as the creek will be relocated and wetland areas incorporated into the creek site.

Commissioner Garino asked what the sales tax estimate was based upon. Mr. Wallach responded that it was based upon an estimate of sales submitted by the developers. Their estimate was based upon their experience and judgement with similar types of projects in similar locations. The city's interest is in the  $\frac{1}{2}\%$  sales tax for Parks and Storm Water which will remain in the City.

Commissioner Rehagen asked what is the timetable for the development of Highway 141 in this area? Mr. Wallach indicated that to his knowledge, all the properties had been acquired, and the contracts for construction had been let. He was not aware of the specific timetable of the Highway Department, but construction to the west of the Fenton City Hall has already taken place. This area is next in line.

Commissioner Rehagen asked whether a traffic study has been made concerning this project. Mr.

Wallach responded that 26,000 cars a day pass on Highway 141 and 40,000 plus on Highway 30. Mr. Rehagen asked specifically whether the study anticipated the traffic out of the shopping area. Mr. Wallach deferred to the representatives of the development who responded through Mr. Don Anderson that the firm of Crawford, Bunte and Braymeyer had been hired to conduct such a study and that they will submit a copy of the study to the Commission.

Commissioner Rehagen also questioned whether the creek would remain open for its entire length or would it be enclosed by a box culvert or something of that nature? Mr. Parks responded it would remain open the entire length. Mr. Rehagen asked if he could assume any building would be done on the highway flood plain and the rest would be parking area. The representatives responded yes.

Commissioner Youngblood asked, concerning the estimate of \$176,000 is sales tax that would go to the pool cities, whether under the tax increment financing plan 50% of the revenue raised would go to support that plan? Mr. Wallach stated that it would. Mr. Youngblood asked for a projection of how long the TIF would be in effect. Mr. Anderson replied that at this time he is not able to answer that question. Mr. Youngblood asked whether the City requested to annex the property for the sole purpose of blighting it, assuming it is not currently blighted. Mr. Wallach responded that they are not proceeding under the blighting theory or ordinance, rather the area is considered a redevelopment.

Commissioner Youngblood asked whether the city had adopted any ordinance regarding the TGA funds? Mr. Wallach stated they have not, but he indicated that TGA funds have been earmarked specifically for the improvement of this area. The TGA, in his opinion, is a curious legal anomaly with no set legal structure. It is the intention of the City to participate, and if an ordinance is a prerequisite of the Commission, the City is willing to comply.

Commissioner Youngblood asked the representatives of the development whether any engineering study on the impact of flooding on the adjacent unincorporated areas had been completed? Mr. Marty Hansen of Clayton Engineering stated that a flood study had been conducted, and as a result of the realignment there would be a one to two foot lowering of the water elevation on the western edge lower than intended by the Highway department. He stated that the situation would be no worse in the area than it is today and in fact would probably be better. Mr. Youngblood questioned what the impact on the adjacent areas would be. Mr. Hansen stated they will fill the flood plain area twenty feet above the depths of creek, fifteen feet above high water. Mr. Youngblood asked if there would be spillover on to the adjacent areas involved. Mr. Hansen responded the properties to the west are upstream and they will lower it further than the highway department planned to.

Commissioner Youngblood asked which rules are stricter regarding flood water control, St. Louis County's or FEMA's? Mr. Hansen answered in some respects they are similar. For raising water of elevation, FEMA allows one foot and St. Louis County allows zero. Mr. Youngblood stated then there is a significant difference.

Commissioner Youngblood inquired of Mr. Anderson whether there had been any type of meeting regarding this project with the St. Louis County Highway Department. Mr. Anderson responded that there were numerous meetings. Mr. Youngblood asked if they were before or after they approached the City of Fenton. Mr. Clark Parks responded that they met with Don Spenser of the County Highway Department after they approached the City.

Commissioner Youngblood queried whether this was a piecemeal approach to annexation given the other annexations contemplated by the city? Mr. Wallach responded that there was more urgency involved in this particular property, and the remaining plans will require the normal form of annexation and a vote of the people. But he stated this annexation is harmonious to the future intentions of the City. He also asked to correct a statement he made previously. He provided the Commission with an incorrect estimate of sales tax revenue to the pool cities. It should be \$693,000 and not \$176,000. It would then be adjusted by any TIF plan.

Commissioner Wojtkowski queried whether the TIF help needed for a commercial development on such a challenging and costly site is the driving force of this annexation proposal. Mr. Wallach responded that without the help of the TIF, a project of this nature probably would not happen. He indicated further that the City sees the need for goods and services in the City and is not in the business to support developers. And while it may be a bi-product that a project is assisted through such a financing tool, the motivation for the city is the orderly development of areas contiguous to the city and meeting the needs of its residents.

Commissioner Wojtkowski stated that the state law requires the Commission, in reviewing proposals, to consider the best interest of the area to be annexed, the city seeking the annexation, and the area adjacent to the annexation. He asked the city to summarize by addressing those three areas. Mr. Wallach responded that quality, convenient shopping was not available because of highway crowding and congestion. The development which could occur through this annexation would be a genuine benefit to the area. This benefit would be extended to those in the City of Fenton as well as outside of the city. It would be a general benefit to the area to be annexed to have secondary local traffic movement connecting Highway 141 and Country Home Road.

Commissioner Garino questioned what was the annexation history of the area of incorporated Fenton, immediately to the west of Bowles Avenue? Mr. Wallach indicated he did not know, but that he would try to find out and respond in writing.

Commissioner Youngblood asked whether the city polled the residents outside of the area regarding the development? Mr. Wallach responded they did not, their only polling was done in their City, except the residents in the annexation area who signed petitions demonstrating their support.

#### *D. Public Comment*

Mr. Bob Voss, 11 White Birch Court, Fenton, MO 63026, indicated he has sought to be annexed by the City in the past, but the City has only wanted to annex commercial and industrial property, not residential homes. He urged the commission not to approve the annexation until the City approached the residents and sought annexation of the entire area.

Mr. Jim Wynveen, 659 Summer Top Circle, Fenton, MO 63026, indicated he lived in the area to the south of the proposed annexation area and while he is not initially opposed to the annexation, he is opposed to the continuation of Country Home Road through the annexation area. He was opposed to the traffic which will come through this residential area.

Ms. Kim Cantino, 706 Summer Top Circle, Fenton, MO 63026, expressed concern about the amount of traffic which will be generated on Country Home Road if it were connected to Highway 141. Commissioner Bruer inquired if it were not connected, and the state closes the exit off of Highway 30 as has been implied, then how many points of access there would be to their subdivision? Ms. Cantino indicated there would be one exit on to Summit Road.

Mr. Thomas J. Mudd, 711 Summer Top Circle, Fenton, MO 63026-3902, indicated he was concerned about spot annexation and long range planning needs for the overall area. He felt the traffic needs of the area need to be studied more thoroughly. He also expressed concern about the possibility of having only one access off Summit as a potential safety hazard. He stated that whether it is St. Louis County or Fenton, it would be best to have only one governmental jurisdiction handling the project.

Mr. Larry Guess, 1378 Green Birch, Fenton, MO 63026, spoke in favor of the proposed annexation. He felt it was important to the growth and improvement of the area. There is a need for more quality shopping in the area which will also contribute to their continued prosperity. Because most of the businesses and retail in the area are located in Fenton, it would be consistent to have these businesses in the City. He stated he felt the proposal made good economic sense to the people of the area.

Mr. Jerry Spinolas, 631 Summer Top Circle, Fenton, MO 63026, expressed concern over the Commission's unfamiliarity with the area. He stated he does not oppose a Dierbergs, but he is against the extension of Country Home Road. He was concerned about the volume of traffic generated from the adjoining subdivisions, including approximately a thousand homes, going to the proposed annexation site. The road dead-ends and creates a more private setting that will be altered if the massive traffic from Highways 141 and 30 are diverted to this road. He also expressed concern that the City's development regulations may not be as stringent as the County's which he believes is the reason the developer wants to develop in the City and not the County.

Mr. Bruer asked if this was the first opportunity as a group they had to express their concerns. Mr. Spinolas responded that the annexation and development was first mentioned at their last subdivision meeting. At that time, the developers indicated they were extending the road as a favor to the County who wanted it built.

*Further Questions by the Commission*

There were no further questions by the Commission.

*E. ADJOURNMENT*

There being no further members of the public desiring to comment, the public hearing was declared closed by Chairperson Wingron at 8:08 p.m.

Respectfully submitted,  
Carl E. Ramey  
Executive Director

Approved July 1, 1997