

TERM OF COMMISSION: March Session of the January Adjourned Term

PLACE OF MEETING: Roger B. Wilson Boone County Government Center
Commission Chambers

PRESENT WERE: Presiding Commissioner Kenneth M. Pearson
District I Commissioner Karen M. Miller
District II Commissioner Skip Elkin
County Counselor CJ Dykhouse
Director of Planning & Building Stan Shawver
Planning & Building Planner Uriah Mach
Deputy County Clerk Kristina Johnson

The meeting was called to order at 7:00 p.m.

Planning and Zoning

1. Request by Debra Diller for a permit for Riding School and Equine Boarding Facility on 13.1 acres, located at 5950 N. Boothe Ln., Rocheport. (tabled 3/2/10)

Mr. Shawver stated Planning and Building has held two work sessions on this topic and here are formalized conditions for this permit. Mr. Shawver stated he has nothing more to add.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby **approve** the request by Debra Diller for a permit for Riding School and Equine Boarding Facility on 13.1 acres, located at 5950 N. Boothe Ln., Rocheport., subject to the attached conditions.

Attached Conditions for DEBRA DILLER CUP.

The structures utilized by this use be brought into compliance with Boone County's building code and the fire code to the satisfaction of the Director of Planning & Building Inspection and the Boone County Fire Protection District.

- Structure to be left open except for the side enclosed by stables.

Limited to 10 horses, including owner's horses.

- Up to 6 additional horses allowed on property when associated with training exercises.
- Any horse present on the property for more than three continuous days shall be deemed a boarded horse and count towards the 10 horse limit.

Operating hours 7:30 AM to 9:00 PM.

Manure and other waste material shall be disposed of in an appropriate manner so as to create no impact to adjacent properties.

Access drive at least 18' wide to allow two vehicles to pass.

- Widening to be completed by June 1, 2010.
- Access drive improvements to extend 50' past tract driveway.
- All improvements are at applicant's expense unless other users agree to share in the cost.
- Surface to be minimum of chip and seal by September 1, 2011.

Provide off street parking for 5 vehicles.

- Off street parking and interior driveway to be dust free.
- All event parking must be contained on site.

Portable toilet to be on site.

Any lighting is to be directed inward and downward.

County Health Department to be allowed access to sample pond from May to September to determine suitability for full body contact.

No 3rd party rental of the facility.

No parties.

Any overnight stay must be related to a site specific event.

Plant and maintain two rows of red cedar trees or other suitable evergreens to break up silhouette of the under roof riding facility.

- Trees are to be no more than 30 feet apart.
- Trees are to have a minimum diameter of 3 inches at grade.

Revised access and maintenance easement submitted prior to operation.

- Revised access and maintenance easement to be recorded at applicant's expense with the Boone County Recorder of Deeds.

Amplified sound system not permitted.

No horse trailers stored on site.

Commissioner Elkin seconded the motion.

There was no discussion or public comment.

The motion carried 3 to 0. **Order #164 -2010**

2. Request by Donald McKenzie to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 14.57 acres, more or less, located at 5240 N. Liddell Ln., Columbia. (appeal)

Mr. Mach stated the subject tract is located on Liddell Lane, northeast of the City of Columbia, approximately 1 mile west of Route Z. The applicant is seeking a rezoning of 14.57 acres of A-1 (Agriculture) zoning to A-2(Agriculture) zoning for purposes of dividing the property. That division would create a 4.57 acre lot with the existing house and outbuildings and a 10 acre lot to be sold. Currently, the property is zoned A-1, which is original 1973 zoning. It has A-1 zoning to the north, south, and east, and A-2 zoning to the west. The A-2 zoning was rezoned from A-1 in November of 2005.

Currently, the property has a house and two outbuildings on the property. Staff notified 18 property owners about this request.

The Master Plan designates this property as suitable for residential land uses. The Master Plan also identifies a “sufficiency of resources” test for determining whether there are sufficient resources available for the needs of the proposal.

The resources necessary to serve the proposed development can be broken down into 3 general categories; utilities, transportation, and public safety services.

Utilities: This property is served by the City of Columbia for water, Boone Electric Cooperative for electrical service, and uses an on-site wastewater system regulated by the Columbia/Boone County Health Department.

Transportation: This property has direct access on to Liddell Lane, a county maintained road.

Public Safety: The property is in the Boone County Fire Protection District. There are several fire stations located approximately 5 miles from this site

Zoning Analysis: Given the precedent set by the County Commission in 2005, this rezoning request may be considered as appropriate to this area as the prior one was. However, the subject of this rezoning request is somewhat different. The road frontage available to this property is limited when compared to the earlier rezoning to the west. The only way to develop the property is by use of a private driveway easement to serve the northern portion of the property, as opposed to the direct street frontage available to the adjacent property.

While this property can meet the sufficiency of resources test, limited direct road frontage make it less appropriate for higher density zoning than the property to the west.

Staff recommended denial of this request.

The Planning & Zoning Commission conducted a public hearing on this request during their

March 18, 2010 regular meeting. There were eight members of the commission present. Following the public hearing, a motion was made to recommend approval of the request. That motion did not carry. A second motion was then made that the request be denied. The motion to deny the request passed with 5 of the members voting to deny the request. The applicant filed a timely appeal of the Planning and Zoning Commission's decision, and so the application comes to the county commission on appeal.

Commissioner Pearson asked the Commission if there were any questions for staff.

Commissioner Miller asked if there was space to put a drive along the outer edge?

Mr. Mach stated the initial design had a straight east-west line across middle of the tract. It would be consistent with other drives that he has seen in other designs. Staff would expect to see the drive along the eastern boundary of the property. The density would not allow the drive to be fully utilized.

Commissioner Pearson inquired if anyone was present to testify for this item?

John Wade the potential buyer of the 10 acres of property. Mr. Wade stated the reason for the request to rezone was so Donald McKenzie can retain the 4.57 acres and his home, on this land. On the ten acres, there is 175 foot of road frontage once the land is resurveyed and the (extension goes through). Mr. Wade stated there is a stretch of Walnut trees across the ten acres of land which he helped plant about ten years ago. Mr. Wade stated he has no intention of removing those trees, and in fact he would like to purchase the land to ensure the trees remain. Mr. Wade stated much of the land that is in that 10 acre area is not conducive to development. There is a lake that extends through the property, there are the trees that he does not intend to remove, there is a large hill preventing any development, and so if a person wanted to build on this property, really the only place they could, would be right on top of the hill. Mr. Wade stated he really would not mind if the property remained A-1 but this was the only way they knew he could purchase the property.

Commissioner Pearson inquired if there was anyone who wished to speak in support of this appeal?

Commissioner Pearson inquired if there was anyone who wished to speak in opposition to this appeal?

Commissioner Pearson inquired if there was anyone who wished to provide information only?

Commissioner Pearson inquired if the Commission had any questions for this appeal?

Commissioner Elkin asked can the 10 acres remain A-1 and the 4.57 be rezoned to A-2?

Mr. Shawver stated yes, that could be done.

Commissioner Elkin asked if Mr. McKenzie and Mr. Wade were guided in that direction?

Mr. Shawver stated it is very difficult when talking with an applicant about all the different possibilities to lay out everything. There are so many various possibilities and Planning and Building tries to give an applicant advice on the best way to proceed. This advice is based on their experience and observation with regards to precedents set. At that time there would be one order the potential sale that may or may not go through.

Mr. Shawver stated to answer the first question again yes; the 4.57 can be re-zoned without including the ten. Mr. Shawver stated the application can be downgraded. The trick becomes a new survey and plat must be done for the 4.57 acres. The 14.57 acres is defined by deed and history there.

Commissioner Pearson stated so if the Commission wanted to try and accommodate the parcel with the house on it and change it to A-2, they would have to then go back through the whole process and get it surveyed.

Mr. Shawver stated what he would suggest, if that is what the Commission would like to do, is to have the order contingent on the owner following through with the submission and processing of the plat and then have the rezoning not take effect until the plat is filed.

Commissioner Elkin asked if that would be a minor plat?

Mr. Shawver stated yes, it would be a minor plat with an administrative survey on the ten acres.

Commissioner Miller stated she agrees with the 4.52 as A-2 leaving the 10 acres as A-1.

Commissioner Pearson inquired of Mr. Wade if this would work for him and Mr. McKenzie?

Mr. Wade stated that it would work.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby **approve** the request of Donald McKenzie to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 4.57 acres, more or less, located at 5240 N. Liddell Ln., Columbia. Said rezoning is not to take place until there is approval of the subdivision plat by the Planning and Zoning Department.

Commissioner Miller seconded the motion.

There was no discussion or public comment.

The motion carried 3 to 0. **Order #165 -2010**

3. Request by Grant and Mary Stauffer Revocable Trust to rezone from A-1 (Agriculture) to A-2P (Planned Agriculture 2) and to approve a Review Plan on 20 acres, more or less, located at 6521 S. Scott Blvd., Columbia.

Mr. Mach stated this property is located at the end of Scott Boulevard, less than ½ of a mile north of State Route K. The property is 19.12 acres in size and is currently zoned A-1 (Agriculture). There is A-1 zoning to the north, south, and west, with A-2 (Agriculture) zoning and the city limits of Columbia to the east. The applicants are seeking a rezoning to A-2P (Planned Agriculture) for purposes of subdividing the property into three lots. The property currently has a house and shed present, and they will be retained on one of the proposed lots.

The Master Plan designates this property as suitable for residential land use. The Master Plan also identifies a “sufficiency of resources” test for determining whether there are sufficient resources available for the needs of the proposal.

The resources necessary to serve the proposed development can be broken down into 3 general categories; utilities, transportation, and public safety services.

Utilities: The property is served by a Consolidated Public Water Service #1 12” line and a 4” line. Boone Electric Cooperative provides electrical service. The Boone County Fire Protection District will provide fire protection.

Transportation: All three lots have direct frontage on Scott Boulevard. Scott Boulevard, at this point, is classified as a minor arterial and will eventually be pushed through to Route K.

Public Safety: The nearest fire station is on Scott Boulevard, approximately 2 miles away. This rezoning will not significantly increase risk beyond that which is already provided for the current use of the property.

Zoning Analysis: This property has rugged topography. That topography, when combined with the stream buffer present on the property, renders much of it unsuitable for development. The controls placed on a property by a planned district allow for those physical characteristics to be identified and understood by all those involved prior to earth being moved and construction begun.

Staff did a field visit to consider issues presented regarding impacts on adjacent property owners. The nearest property owner’s residence, located to the north of the subject tract is screened by the existing trees. While an argument can be made for additional vegetative screening, the elevation differences between the neighbor’s residence and the northern-most building site make any solution a long-term one. It may take as long as ten years for any new tree growth to reach sufficient height to make any noticeable difference. As long as existing trees and vegetation are preserved as best as practicable, visual impacts on the adjacent properties will be mitigated.

While the density is greater than that of the surrounding properties, the number of lots proposed, the topography, and the tree coverage of the property will allow the subject tract to retain the low-density feel of the surrounding properties. It is strongly recommended that as much of the existing tree cover be retained for purposes of retaining that feel to the property.

This property can meet the requirements of the sufficiency of resources test and complies with

master plan.

The property scored 66 points on the rating system.

Staff recommended approval of this request.

The Planning & Zoning Commission conducted a public hearing on this request during their March 18, 2010 regular meeting. There were eight members of the commission present. Following the public hearing, a motion was made to recommend approval of the request. That motion passed with 6 members voting in favor of the motion, one opposed and one member abstained. Because this is a planned development, a second motion was required for the Review Plan.

- Any woody stem vegetation north of the existing driveway on lot 101 that is removed as a result of actions by the applicants must be replaced.

That motion received unanimous support and so the Review Plan comes forward with a recommendation for approval.

Commissioner Pearson stated he has a signed authorization from Grant Stauffer authorizing Jay Gebhardt to act in his behalf.

Mr. Gebhardt stated the applicant is trying to create three lots. Mr. Gebhardt stated they are trying to do this in a manner that uses the planned districts. There are no issues with any of the conditions that are on the plan. It is important to keep in mind that change is coming. The encroachment of the City in this area will bring this change wanted or not. Trying to develop this in a manner that is respectful to the neighbors is of particular importance to Mr. Stauffer. Mr. Gebhardt stated he knows that this is a change and people generally, including him, do not like change. Mr. Gebhardt stated that adding a third home on these twenty acres where they could already have two should not be that significant of a change. Mr. Gebhardt stated they do not want to take down the trees and the landowners would have the same issue as the people to the north would with street noise, if the trees were removed. Mr. Gebhardt stated he believes this is a good plan and he can answer any questions he may have.

Commissioner Miller asked Mr. Gebhardt if he would object to a condition in the order stating the widening come off the south side of the easement so the north trees are still protected?

Mr. Gebhardt stated that would be no problem but the only condition is that the easement is a benefit to the neighbor to the west of theirs and he has rights in that easement that they do not have control over. Mr. Gebhardt stated what they have tried to make clear in Planning and Zoning is that they will do anything and everything to move south of that road, but the person who ultimately owns that 20 acres to the west of them has rights to those fifty acres that they do not have any control of.

Commissioner Miller stated she understands that but if you are building next to your property

you can take it off the south side instead of the north.

Mr. Gebhardt stated absolutely.

Commissioner Pearson stated that is where the utility lines are currently.

Mr. Gebhardt stated they have already committed that they will not do anything north of that road.

Commissioner Pearson stated so the utility would have to be extended further south.

Mr. Gebhardt stated yes.

Commissioner Pearson asked how many acres was the property to the west?

Mr. Gebhardt stated 20 acres.

Commissioner Pearson asked what that is zoned?

Mr. Gebhardt stated A-1.

Commissioner Elkin inquired about the proposed lake on the property.

Mr. Gebhardt stated the decision to build the lake has not been made but they wanted to show this as a possibility in case that was an issue on the plan. Mr. Gebhardt stated he likes to show things that he knows are a possibility.

Commissioner Elkin asked how he would handle the lakes being on multiple tracts?

Mr. Gebhardt stated they have been given advice to speak with Turner Jones about homeowner's easement to the lake. This would create the discussion of rights to fish and water maintenance.

Commissioner Elkin asked why the stream buffer is stopped halfway across the property?

Mr. Gebhardt stated that is where the stream buffer ends according to the regulations. Just so the Commission knows, they have spoken with the Corp of Engineers about the dam and they do not have any issues with the proposal.

Commissioner Miller stated the road is just an easement. Is that not right?

Mr. Shawver stated yes.

Commissioner Miller stated a fifty foot easement.

Mr. Gebhardt stated a fifty foot gravel easement, yes.

Commissioner Miller stated yes, I saw it yesterday.

Commissioner Pearson asked if this area is rezoned and the person on the west side has the easement, can this be used to get back to their property?

Mr. Shawver stated yes.

Commissioner Pearson asked what can happen on those twenty acres?

Mr. Shawver stated the property to the west is zoned A-1, so by right it could be split into two ten acre tracts. In theory they could probably get four additional lots if this area was rezoned to A-2.

Commissioner Pearson stated so there would be a total of six or four?

Mr. Shawver stated four.

Commissioner Miller stated they could also improve the road and make it a public road. Then they could split it up.

Mr. Gebhardt stated no, they cannot do that. The easement does not grant the right to turn it into a public road. That grants access for ingress and egress but it does not give the right to dedicate it.

Commissioner Miller stated so it would have to be an agreement with the people all around them.

Mr. Gebhardt stated correct.

Commissioner Elkin stated 15 feet is not enough room to make a road anyway. They would have to use additional easements.

Commissioner Pearson stated so the most that could be done on that back area would be four lots?

Mr. Shawver stated correct. That is the most that could be done under the existing conditions.

Commissioner Elkin asked Mr. Shawver what the existing conditions were for the existing lagoon?

Mr. Gebhardt stated that is probably a mistake on the plan, it is not a lagoon. Mr. Gebhardt stated they have an absorption system.

Commissioner Elkin asked if that was a class A system?

Mr. Shawver stated yes.

Commissioner Elkin asked if there were any existing regulations for class A?

Mr. Shawver stated the set back for an absorption is typically ten feet.

Commissioner Pearson inquired if anyone wished to testify in support of this request?

Commissioner Pearson inquired if there was anyone who wished to testify in opposition to this request?

Letha Albright stated she lived at 6301 S. Scotts. Ms. Albright was present in opposition to this item. Ms. Albright stated she and her husband are the neighbors to the north of the Stauffer's property and they do have a few concerns about this request. Ms. Albright stated the plan is okay for the most part because it has the potential to set the bar high for any future rezoning requests in this neighborhood. As the Commission may know there is an 18.8 acre parcel of land that is directly to our east which will be auctioned on the sixteenth of April. Ms. Albright stated she and her husband are concerned that this piece of property will also be rezoned. Like many of her neighbors they moved to their ten acre plot in Boone County because they value peace and privacy and they would like this to continue. Even if the Stauffer's property is rezoned one of the properties will be accessed by a road which is used by us. Ms. Albright stated she is happy to hear that if the road is widened, it sounds as though it will be widened to the south but she does like the thought of very few trees being removed. Ms. Albright stated she realizes that she has very little power over that but when talking about specific bird species they need very large amounts of wooded area to nest and they are being pushed farther and farther to the outskirts of our county. Ms. Albright stated this is an issue she is again concerned about. Ms. Albright stated if the Commission does decide in favor of the rezoning, we are asking that the Commission remembers some factors:

- the road being widened to the south is important to us
- the trees between the road and our property are very important to us
- would like to see stronger language with regards to the removal and replacement of wooded vegetation
- covenants are drawn up addressing vegetation and wooded vegetation
- until these things are done they request this be tabled

Commissioner Miller stated the Commission has no control over the covenants because they are a private system. It might be good for Mr. Gebhardt to discuss what might be included in the covenants when he comes back. Commissioner Miller stated the removal and replacement of wooded vegetation seems reasonable to her because the necessary infrastructure must be allowed to put in place to support the homes. Commissioner Miller stated the intention is very strong through the language.

Sandy Rikoon stated he is in opposition to this rezoning request. Mr. Rikoon stated he lives a little north and on the other side of the road to the Stouffers' with his wife. Mr. Rikoon stated he loves the area and he loves the green space and raised sheep on his property along with some

other animals and this is just a wonderful place to be. Mr. Rikoon stated his professional work is in rural development and he knows the areas that are on the urban fringe, like we are, are bound to change. The question is when is this going to change and if that change is going to change in an orderly fashion or in a haphazard fashion. Mr. Rikoon stated he certainly respects the County's long term plans for Scott Blvd. and its designation but at this point he believes it is premature to rezone this area. Mr. Rikoon stated he does not believe it is needed and he does not believe that it is necessary. Anyone who comes out to this area on Rte KK or Scott Blvd. will notice that there are large areas already rezoned for development that are going stagnant. There is very little building going on both to the north and northeast of this area. Scott Blvd. will be run through but as staff said it will not be immediate but eventual. No one knows when that is going to occur which is why he believes this is a premature rezoning request that is not necessary and puts development in a checker board pattern.

Steve Morris stated he lived at 6201 S. Scotts. Mr. Morris stated he is in opposition to this request. Mr. Morris stated he lives two blocks north of this property. He purchased this property when River Hills Estates was created in the late seventies and has lived there ever since. Mr. Morris stated when River Hills Estates was created A-1 zoning was specifically retained so that lot sizes would be at least ten acres. Mr. Morris stated he believes that is important. There are numerous subdivisions already around River Hills subdivision some of which are Thornbrooke, Mill Creek Manor, Southport Lake, Magnolia Falls, Copper Creek, and that is not all of them. There are literally hundreds of building lots that are not there, ranging from size one quarter acre to ten or more acres. So there really is no need to generate more lots in this particular area. Mr. Morris stated he would argue there is a compelling need to retain some open space at least until there is build up of the areas that have already been bulldozed and scraped and planted with ribbons of concrete. That would seem to be a reasonable building process to me.

Mr. Gebhardt stated he jotted down some notes and will try to address as many of the issues as he can. Mr. Gebhardt stated that he agrees with Commissioner Miller with regards to the trees and intent, we want to be able to have flexibility so if a tree gets knocked down or dies or one has to come out for utilities, we have no issue replacing it but that flexibility is needed. Mr. Gebhardt stated he does not see any problem with putting the same conditions that are in the plans into the private covenants. These are going to be nice homes, with large lots, which will be expensive. Mr. Gebhardt stated he does not believe that there will be any issue with the covenants on these lots. The whole issue with the trees as the buffer on the lower side will be self resolving. The person, who buys that first lot and builds a home there, will have the same issues with the roads that the neighbor has, so he believes this will be self correcting. Mr. Gebhardt stated as far as the gentlemen who said this is premature zoning, when River Hills was done there was no infrastructure out there and so large lots were appropriate. Now, there has been a large amount of infrastructure put out there in the form of water lines and roads. The time is near when there is going to be a big change in this area when Scott Blvd goes through. Mr. Gebhardt stated he does not know exactly when but he would think in the next five or ten years. We want to set an example of what will be allowed here. Mr. Stouffer lives here as well and this is his neighborhood too. The reality is the City of Columbia touches on the far Southeast corner and if this area was to annex to the City of Columbia there is not a single

zoning category A-1 or anything else that will preserve these large lots. Because of the requirements in the City of Columbia because of their infrastructure, no one can afford to do large lots. Mr. Gebhardt stated he knows that to many neighbors this seems like a false statement but we are actually trying to do something that preserves the integrity of the neighborhood, while still allowing the transition to the urban environment. Mr. Gebhardt stated he does not believe this is premature but rather good planning. Change is coming and this will be an appropriate way to address the issue of this change and the best way to approach this. The way that we have done this was by using the planned district to ensure the County has controls which gives the Commission authority to put conditions on this. This cannot be changed without coming back to the neighbors and Mr. Gebhardt stated he believes that is the most important thing here.

Commissioner Pearson stated on the condition “any woody stemmed vegetation north of the existing driveway in lot 101 that is removed as a result of actions by the applicants must be replaced” if they are making the improvements on the south side, he understands that occasionally something might get hit but is there a way we could strengthen this in some manner?

Mr. Gebhardt stated he would really like to live with the conditions that Planning and Zoning Commission set forth for several reasons:

He does not have any control over a concrete truck driver who runs into this area and knocks a Cedar Tree down. That is the kind of thing that we are discussing. If this happens, the tree will be replaced.

If Boone Electric decides they have to trim trees for whatever reason, we will go back and do mitigation for that.

Again, this is just as important to the inhabitants of lot 101 as the individuals to the north of this area. Mr. Gebhardt stated he believes this is pretty clear, and he would like to live with that condition.

Commissioner Miller inquired if this is the easement that Boone Electric has to? Commissioner Miller stated they can come in and trim any tree they want.

Mr. Gebhardt stated they have a hundred foot easement to the south of this. They do not have rights in that fifteen foot.

Commissioner Miller stated she was just going to point out that if this is their easement the Commission cannot control that.

Commissioner Pearson stated he was trying to keep them to the south and out of those trees altogether if possible. This is a twelve foot driveway right now, sort of, correct?

Mr. Gebhardt stated sort of, they anticipate making that area asphalt or some other means to make that dust free. The owner may want to make that twelve feet wide everywhere. There may need to be a replacement of a pipe that is there. The intent here is to avoid anything north of that. We will replace trees damaged.

Commissioner Elkin asked Mr. Shawver what the correct acreage on this property was.

Mr. Shawver stated the deed is twenty acres more or less, and there was some dedication of right of way that has gone to Boone County so it is a little less than the twenty.

Commissioner Elkin asked if the request to rezone was not taking place, could this be split into two parcels?

Mr. Shawver stated they would have to have a variance on the Board of Adjustment on a minimum lot size. Mr. Shawver stated he would make the case that if they went before the Board of Adjustment and said two tenths of an acre to Boone County for the right of way for Scott Blvd. he would venture to say they would grant that.

Commissioner Elkin asked so realistically they could divide this tract into two individual tracts with no restrictions or covenants on it.

Mr. Shawver stated yes.

Commissioner Elkin stated so they are asking for three with restrictions and covenants.

Mr. Shawver stated right.

Commissioner Elkin asked if Mr. Mach could zoom in on that area. Is there a road that accesses that twenty acres to the west of that subject tract?

Mr. Mach stated no, he does not believe so. He believes if there is, it is something similar to what is there.

Commissioner Elkin asked if these are County maintained roads?

Mr. Mach stated yes.

Commissioner Pearson asked where the City touches this subdivision?

Mr. Mach stated on the south.

Commissioner Pearson stated so the City is coming.

Commissioner Miller stated the City is there. Commissioner Miller stated personally this is an ideal situation. The Stauffer's have a huge investment out there in their home. To go from A-1 to PUD there really is a need for A-2 in between to transition. Commissioner Miller stated she believes this is a reasonable request and if they put the two conditions on it then that should address most of the people's concerns.

Commissioner Elkin asked Mr. Gebhardt if he had said that he would put the covenants on the

actual plat itself?

Mr. Gebhardt stated no he would put the conditions that are on the PRD plan for lot 101, into the covenants so that it is clearly communicated about the no disturbances north and only widening to the south.

Commissioner Elkin asked if there is overhead electric in there currently?

Mr. Gebhardt stated he does not believe that there is overhead.

Commissioner Elkin stated it says OE on the drawing. Is it in there physically right now?

Commissioner Pearson stated yes.

Commissioner Elkin stated so if this is improved in the future this will be widened to the south.

Mr. Gebhardt stated yes. This electric would be underground to service these homes.

Commissioner Elkin inquired what the other condition was that was for the suggested addition.

Commissioner Miller stated that if the drive is widened it must be widened to the south side of the easement.

Commissioner Pearson stated so we know the City is right across the street.

Commissioner Miller stated Mr. Daugherty has to build that road and it is tied to his lots. As soon as this economic building curve starts turning around he will be forced to build that road at his expense.

Commissioner Elkin stated on other planned developments that the County has done, the Commission has had the surveyor designate vegetative buffer.

Mr. Shawver stated with the nature of this one being an easement, an access easement, quite honestly I would say we are restricted. Mr. Shawver stated he would be uncomfortable with saying he has to maintain that buffer. Mr. Shawver stated he is more comfortable the wording that the Planning and Zoning Commission came up with, as far as restoring things. Mr. Shawver stated the Commission could require a buffer on the south side of the easement. The easement serves the property to the west and they are not bound by what restrictions the Commission would place on it.

Commissioner Elkin stated if he were a buyer of the twenty acres to the west, the first place he would look is on the plat for the restrictions not the Commission Order. Commissioner Elkin asked how do we ensure that twenty years from now the twenty acres and restrictions on the vegetation is still conveyed.

Mr. Shawver stated if someone is going to buy they are going to provide the buyer with a copy of the access easement. There it will say these are your rights. Now if this plan is approved with the conditions the final development plan will list those conditions on there.

Commissioner Pearson stated who really owns the property where the easement is.

Mr. Shawver stated the owner of this property owns border to border but they have an easement which allows access across this property to the west and they have no right to restrict that.

Commissioner Pearson stated since they own this, can we not put a restriction on that? Is there any way to ensure that somebody does not mess with this?

Commissioner Elkin asked if there was anymore definitive way that this can be restricted?

Mr. Gebhardt stated he would answer that if allowed. The rights of the twenty acre parcel to the west, has the rights to go in there today and clean that fifty feet of every leafy stem vegetation if he determines that he needs a fifty foot wide pavement, he could do that today. He could do that after this plan is approved. Mr. Gebhardt stated he does not know why anyone would do that but they do have that right and we do not have any way to retract that right or control their actions. There is nothing that can be done. Mr. Gebhardt stated what he can guarantee the Commission is that this property owner will not do anything to cause that. One of the issues with the ingress, egress, over this, the man does not live on the property and may only be there a few weeks of the year every year. Mr. Gebhardt stated one of the things that he has told Grant is that he needs to be a little more detailed over the ingress, egress of that easement. Mr. Gebhardt stated he can give the Commission his assurances that if he does this with that man he will try to ensure that woody buffer is maintained. Right now this is the rights of ingress, egress. Mr. Gebhardt stated the Commission's legal counsel may disagree but that is his understanding of this issue. Mr. Gebhardt stated he cannot control the owner to the left.

County Counsel CJ Dykhouse stated that is a true statement. The reason is, the owner of the prominent tenement, the tract to the west, is not before the Commission requesting anything; it is the owner of the servient tenement that is before the Commission which restrictions can be placed as to that easement. The owner of the dominant tenement, as to that easement has nothing before the Commission that would allow the Commission to enter words with respect to that bundle of sticks. At some point they negotiated an access easement and that is a separate property interest.

Commissioner Elkin asked if they ever wanted to come before the Commission and do something with that twenty, that is when we could impose conditions on that easement.

County Counsel CJ Dykhouse stated yes. And to answer your question earlier Commissioner, as a practical matter, he believes the way this will end up on record is it will end up ultimately on a plat as a notation. Ultimately, there is going to be a plat and there will be those notations.

Commissioner Pearson stated that still would not restrict the dominant property.

County Counsel CJ Dykhouse stated no but it does provide some idea of what the servient tenement can do with respect to that area.

Mr. Gebhardt stated he believes that this would self heal because they would want to put up a screen to buffer themselves from all the trees that had been cleared.

Commissioner Elkin stated he is okay with the subdividing but he just wants to make sure that this has been thoroughly examined.

- **- Rezone**

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby **approve** the request of Grant and Mary Stauffer Revocable Trust to rezone from A-1 (Agriculture) to A-2P (Planned Agriculture 2) on 20 acres, more or less, located at 6521 S. Scott Blvd., Columbia.

Commissioner Miller seconded the motion.

There was no discussion or public comment.

The motion carried 3 to 0. **Order # 166-2010**

- **- Review Plan**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby **approve** the request of Grant and Mary Stauffer Revocable Trust for a Review Plan on 20 acres, more or less, located at 6521 S. Scott Blvd., Columbia with the following condition:

- Any woody stem vegetation north of the existing driveway on lot 101 that is removed as a result of actions by the applicants must be replaced.
- If the existing road that crosses lot 101 is widened it must be taken off the south side of the easement.

Commissioner Elkin seconded the motion.

There was no discussion or public comment.

The motion carried 3 to 0. **Order # 167-2010**

4. Petition submitted by BLG, LLC to vacate and re-plat lot 75 of Sunrise Estates subdivision, located at 7740 E Sunny Vale Dr., Columbia.

Mr. Shawver stated the intent is to demolish the existing building and replat lot 75 into two separate lots and build two new homes. The subdivision regulations require that requests to

vacate and re-plat must come before the County Commission. Section 1.8.2 states before a lot can be replatted, it must first be vacated; sec 1.8.3 of the regulations say that the County Commission shall conduct a public hearing before a lot is to be vacated, all property owners within 500 feet of the subject lot are to be notified and that in considering the request for vacation the County Commission takes into consideration the character of the neighborhood, traffic conditions, circulation, proper location, alignment and improvement to the roads adjacent to the subdivision, property values within the subdivision, public utilities, facilities and services, and the health, welfare, or safety of persons owning or possessing real-estate within the subdivision.” There is a picture of the subject plat, projected on the screen. The address of the site is 7740 E. Sunnyvale Drive. There is a house on that lot. This subdivision is served by the Boone County Regional Sewer District. The subject lot if split will result in approximately two additional lots, about 16 thousand square feet per lot.

Commissioner Pearson asked Mr. Shawver what the relative sizes of the other lots in the neighborhood are?

Mr. Shawver stated lot 75 is probably one of the larger lots, and the other lots average about 150 by 210.

Commissioner Pearson stated that he was wondering what the two proposed split lots will look in comparison to the other lots in the neighborhood.

Commissioner Elkin stated it would be about half.

Commissioner Pearson opened the hearing for this item.

Lenny Gilpin stated there was a house on this lot and the bank could not sell this lot with the house which was dilapidated on the lot. We were able to purchase the lot from the bank stating we would tear the house down. We decided since this was a large lot we would submit a request to split it into two lots.

Commissioner Miller asked how large the lots are?

Commissioner Elkin requested Mr. Gilpin bring the drawings over to the Commission.

Commissioner Pearson opened the hearing over this item and inquired if anyone was present to speak for or against this request.

Andrew Timbrook stated he has been on his property for five years and he has two siblings that have been living there for approximately fifteen years. Over the past few years apartments have gone in the back of the neighborhood and as a result there are people driving 70 miles per hour in a 20 mile per hour speed limit zone. The apartments have brought in people of questionable character, and he has many reservations about what goes in there. Mr. Timbrook is glad to see that these are not multifamily dwellings however these homes do not really match the neighborhood. The apartments have decreased property values and there is concern that these

smaller lots will also decrease property values. Mr. Timbrook stated he would be more than happy to see a new house built there but he believes two houses are overkill. There is no way this request will not lead to people parking on the street and he is willing to bet somebody is going to get T-boned coming out of those driveways within the first year. There have already been accidents in the neighborhood from over population and speeding, and one guy almost lost his life in his front yard. Mr. Timbrook stated he believes that this continues to take the neighborhood in the wrong direction.

Charles Wren stated he would like to see something nice go into that area. Mr. Wren stated he does not agree with having a house about eight feet off his fence. Mr. Wren stated he does not understand why two houses need to be built on that lot. The roads are horrible out there because people are driving too fast on the roads. Mr. Wren stated he moved from 10 acres because he did not want take care of that land anymore but they still wanted a nice yard. Mr. Wren stated he built a nice back deck and he is not real comfortable with seeing somebody right off the fence. Mr. Wren stated he agrees with the idea of building a new home, just not two. Mr. Wren stated the roads are horrible because of the cars flying up and down the road and you cannot even walk during the day because of the kids.

Commissioner Miller asked if Mr. Wren has called the Sheriff's Department?

Mr. Wren stated oh yeah, all the time. Mr. Wren stated there is a drainage problem all around this neighborhood. Mr. Wren stated if there are two houses there it will just make the drainage problem worse. There are a lot of issues that need to be addressed before two houses are put on this lot.

Fred Lewis stated he lived at 7701 S. Parklane. Mr. Lewis stated they had to cut a road to get him in there. That is how long he has been in the neighborhood. The lots out there were originally supposed to be owner occupied single family dwellings. They are going to squeeze those two houses pretty close together. Mr. Lewis stated this will set a precedent for the rest of the neighborhood. The lots will continue to shrink and decrease our property value. The land is not stable in this area and with the increase in construction this instability will only get worse.

Carol Pendleton stated she lived at 7721 Parklane. Ms. Pendleton stated the selling point of this subdivision is the large lots. Ms. Pendleton stated even if you put two very nice looking houses on one of those large lots it is going to look very out of place in the subdivision. Ms. Pendleton stated two houses on that particular lot will cheapen the way her house looks.

Joe Kropac stated he lived at 7721 E. Sunny Vale. Mr. Kropac stated he is really concerned because he does not think there is enough room to put two houses on that lot. Mr. Kropac stated he believes that the houses will be too close to him. Mr. Kropac stated he also believes that these homes will be smaller than the other homes in the neighborhood and not in character with the rest of the homes at Sunnydale.

Jim Whitacre stated he lived at 280 E Parklane. Mr. Whitacre stated the original intent of this neighborhood was to have the owners occupy the houses. Renters are not as careful as

homeowners. This will change the character of the neighborhood and not for the better.

Ken Epperson stated he lived at 7641 E. East Court. Mr. Epperson stated he owns multiple lots in the neighborhood. Mr. Epperson stated he was denied a building permit on his property for a shop he wanted to put up. He was denied the permit because this would not fit the character of the neighborhood. Mr. Epperson stated he does not know how the four-plex and duplex were able to get put in behind this neighborhood with a lot of single family homes right next to it. Mr. Epperson stated he has seen fire trucks come through on these streets and there have been too many vehicles for the trucks to get through. The integrity of the neighborhood was not taken into consideration with the construction of these multifamily dwellings. People are parking on the wrong side of the streets and this area is not being kept up.

Commissioner Pearson stated to summarize, you are looking for neighborhood integrity.

Mr. Epperson stated yes.

Matt Fox stated he lived at 561 N. South Ct. Mr. Fox stated he is representing the Homeowners Association. Mr. Fox stated the integrity of the neighborhood will be compromised with the construction of these houses on a single lot. Most of the homes in this neighborhood are brick homes and well valued homes. The homeowners association is also against the construction of these two houses because the density of the houses will restrict the view. Mostly families live in this area and being able to keep an eye on their kids a couple of streets over. This is very important. The increased traffic in this area is a concern. Mr. Fox stated Boone County Public Works is in the process of a five or ten year plan to address significant issues with water and drainage in the area. Particularly in this area, the lot in question does sit at a higher elevation to the rest of the area so there is a lot of drainage that comes off of this property. There are numerous houses in the neighborhood that are negatively impacted by the poor drainage and this is a major oversight.

Mr. Gilpin stated he wanted to address the concern that the houses are too close together. First, these two houses will be thirty five feet off of the closest neighbor's fence line. These houses will be able to have four cars in the driveway so that should address the concern of people parking on the street. These homes are not rentals, they will be sold.

Commissioner Miller asked for clarification on how he plans on dealing with the drainage.

Mr. Gilpin stated when they platted this; they attempted to ensure that what they were putting in was not more in purpose area then what was there before. The driveway in the other house was really long and when the architect measured everything out, with our proposed plan there will be less impervious area then there was with the one house.

Commissioner Miller asked if he was planning on keeping the trees?

Mr. Gilpin stated yes all the trees are safe.

Commissioner Miller asked if it was possible to have a driveway down the other street rather than Park Lane?

Mr. Gilpin stated we would love to do that but what we were told when talking to Mr. Shawver that it was too close to the corner.

Commissioner Elkin asked if all the corner lots in the subdivision could potentially follow this same example to vacate and replat into two plats?

Mr. Shawver stated yes the other corner lots could be subdivided.

Commissioner Elkin stated this leads him to the point he would like to make. Commissioner Elkin stated the Commission has had these issues in other subdivisions where large lot single family homes have had requests to divide these lots into two. The Commission in these cases takes into account the character of the neighborhood in order to decide if these requests should be granted. Commissioner Elkin stated what he sees here is a precedent that if the Commission allows the vacate and re-plat to take place, he could see other property owners wanting to do the same thing. Commissioner Elkin stated he believes this would have a direct impact on the character of the neighborhood. The precedent would be set, there are clear issues with storm water in this area, and if all these lots begin to subdivide there will be a significant impact on the aggregate. Commissioner Elkin stated if the Commission was to support this vacation and re-plat he does not see any justification to deny any future requests. Commissioner Elkin stated he commends Mr. Gilpin for wanting to get rid of an old dilapidated house but he has a great deal of concern with granting this request.

Commissioner Pearson stated the Commission had this same issue with Pin Oak and this was exactly as Commissioner Elkin had said. These lots had been re-platted and made to the size they currently were from larger lots, and then they were sold. Commissioner Pearson stated after this had taken place we had thought this negatively impacted the character of the neighborhood. Commissioner Pearson stated he is inclined to say this looks like the same sort of issue and he does have a concern over the corner lots.

Commissioner Miller stated she looks at this totally different because they could be living next to a dilapidated house that would have a whole lot more negative effect on the neighborhood. Commissioner Miller stated she lives next to a dilapidated house that has been through foreclosure. Commissioner Miller stated she has a lot of concern, and she appreciates the fact that the bank had it taken down and not left it there. Commissioner Miller stated she is more sympathetic to splitting this from that perspective. She does not disagree that this would set a precedent but she just thinks the neighbors need to recognize that they could be in a whole lot worse shape looking at a dilapidated house. Commissioner Miller stated it only takes a couple of years and then it is an eye sore, she has been there.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby **deny** the petition by BLG, LLC to vacate and authorize the re-plat lot 75 of Sunrise Estates subdivision, located at 7740 E Sunny Vale Dr., Columbia.

Commissioner Pearson seconded the motion.

There was no discussion or public comment.

The motion carried 2 to 1. **Order # 168-2010**

5. Request by Christopher Campbell for a permit for a Day Care Facility on .61 acres, located at 21 E. Clearview Dr., Columbia.

Commissioner Miller stated do we not just deny the request if the people do not show up?

Mr. Shawver stated the regulations say that when the recommendation is to deny when the applicant does not show up then the Commission summarily deny it; but when the recommendation is to approve and the applicant does not show up and opposition shows up the Commission must summarily deny it.

Commissioner Miller stated we could table it.

Mr. Shawver stated the request is up to the applicant to convince the Commission of their request.

Commissioner Elkin stated it does not hurt anything to table it.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby **table** the request of Christopher Campbell for a permit for a Day Care Facility on .61 acres, located at 21 E. Clearview Dr., Columbia.

Commissioner Elkin seconded the motion.

There was no discussion or public comment.

The motion carried 3 to 0. **Order # 169-2010**

6. a) Squirrel Ridge Estates. S10-T50N-R13W. A-2. H-Town Properties LLC, owner. Steven R. Proctor, surveyor.

b) Audubon Estates Plat 3. S25-T47N-R13W. A-2. Anna Marie Albert-Lewis and Gary Lewis, owners. J. Daniel Brush, surveyor.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby receive and accept the following subdivision plats and authorize the presiding commissioner to sign them:

Squirrel Ridge Estates. S10-T50N-R13W. A-2. H-Town Properties LLC, owner. Steven R. Proctor, surveyor.

Audubon Estates Plat 3. S25-T47N-R13W. A-2. Anna Marie Albert-Lewis and Gary Lewis, owners. J. Daniel Brush, surveyor.

Commissioner Miller seconded the motion.

There was no discussion or public comment.

The motion carried 3 to 0. **Order # 170-2010**

Commission

7. 07-23Feb10 Application Development Tool/ Report Writer Software (second reading, first read on 3/25/2010)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby award bid 07-23Feb10 Application Development Tool/ Report Writer Software to MRC, Ltd. It is further ordered the Presiding Commissioner is hereby authorized to sign said contract.

Commissioner Elkin seconded the motion.

There was no discussion or public comment.

The motion carried 3 to 0. **Order # 171-2010**

8. 2010 Revenue Sharing: (second reading, first read on 3/25/2010)

- **City of Ashland**
- **Centralia Special Road District**
- **City of Centralia**
- **City of Columbia**
- **City of Hallsville**
- **City of Harrisburg**
- **Village of Pierpont**
- **City of Sturgeon**

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the 2010 Revenue Sharing Contracts with the following:

- | | |
|------------------------------------|-------------------|
| a. City of Ashland | for \$ 40,000.00 |
| b. Centralia Special Road District | for \$ 60,000.00 |
| c. City of Centralia | for \$ 80,000.00 |
| d. City of Columbia | for \$ 275,000.00 |
| e. City of Hallsville | for \$ 35,000.00 |
| f. City of Harrisburg | for \$ 30,000.00 |
| g. Village of Pierpont | for \$ 10,000.00 |

h. City of Sturgeon for \$ 20,000.00

It is further ordered the Presiding Commissioner is hereby authorized to sign said contracts.

Commissioner Miller seconded the motion.

There was no discussion or public comment.

The motion carried 3 to 0. **Order # 172-2010**

9. Budget Amendment for Government Center/ Johnston Building (second reading, first read on 3/16/2010)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the following budget amendment to increase the budget for Furniture Design and Documentation by Simon Oswald and Inside the Lines:

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
4010	71211	Gov't Center/Johnson B	A/E Fees		37,000.00
4010	71212	Gov't Center/Johnson B	A/E Reimbursables		3,000.00

Commissioner Elkin seconded the motion.

There was no discussion or public comment.

The motion carried 3 to 0. **Order # 173-2010**

10. Proposal for the Code of Health Regulations: Re-adoption of Chapters 1 through 8 and Revision of Chapter 9 (first reading)

Commissioner Pearson stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available commission meeting with an appropriate order for approval.

11. Proposal for the Order for Public Notice of Chapters 1 through 9 (first reading)

Commissioner Pearson stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available commission meeting with an appropriate order for approval.

Miscellaneous

12. Public Comment

13. Commissioner Reports

The meeting adjourned at 9:30 p.m.

Attest:

Wendy S. Noren
Clerk of the County Commission

Kenneth M. Pearson
Presiding Commissioner

Karen M. Miller
District I Commissioner

Skip Elkin
District II Commissioner