

TERM OF COMMISSION: January Session of the January Adjourned Term

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

PRESENT WERE: Presiding Commissioner Kip Kendrick
District I Commissioner Justin Aldred
District II Commissioner Janet Thompson
Director of Resource Management Bill Florea
Planner Uriah Mach
Boone County Counselor CJ Dykhouse
Deputy County Clerk III Jodi Vanskike

Conference Call Information:

Number: 425-585-6224 Access Code: 802-162-168

The meeting was called to order at 7:00PM and roll call was taken.

P&Z

1. Consent Agenda

A. Hinton Lake. Preliminary Plat. R-S. S1-T49N-R13W. Higbee Lake Investments LLC, owner. Kevin Schweikert, surveyor.

Planner Uriah Mach read the following staff report:

The Planning and Zoning Commission reviewed agenda items 1, 2, and 3 at its December 19, 2024, meeting. The minutes of that meeting and the Boone County Zoning and Subdivision Regulations are incorporated into the record of this meeting.

Regarding item 1, the consent agenda, the preliminary plat, item A was approved and is presented as a report only item.

The subject property is located approximately three miles north of the City of Columbia, at the northeastern corner of the intersection of Hinton Road and State Highway VV. The property is 38.75 acres in size and zoned Residential Single-Family (R-S). The property has one house and two large water features, one pond and a part of a larger lake. The surrounding zoning is as follows:

North & West – Agriculture-Residential (A-R)

East – A-R & R-S

South – R-S

This proposal sets up an 8-lot subdivision, with lots ranging in size from 1.86 acres to 15.30 acres. The 15.30-acre lot has the larger lake, and the 5.45-acre lot has the pond and existing house.

The property has direct access onto two publicly-dedicated and publicly-maintained roads, Hinton Road and State Highway VV. Lots 1-5 will use access to Hinton Road with new driveway permits through Boone County Resource Management, and lots 6-8 will have access to State Route VV through Missouri Department of Transportation Access Control.

Water to the site is provided by Consolidated Public Water Service District #1, with a 6-inch line on Hinton Road and an 8-inch line on Route VV. Fire hydrants will be required to the satisfaction of the Director of Resource Management and the Boone County Fire Protection District.

This development is proposed to be served by central sewer provided by the Boone County Regional Sewer District. Plans have been submitted to the Sewer District and they are under review.

The property scored 66 points on the rating system.

Staff recommended approval of the preliminary plat.

- 2. First Reading: Request by Dale & Karen Wesselmann to rezone from Agriculture 1 (A-1) to Agriculture 2 (A-2) on 28.86 acres located at 8825 E Clatterbuck Rd, Ashland. (open public hearing)**

Planner Uriah Mach read the following staff report:

The Planning and Zoning Commission conducted a public hearing on this request at its December 19, 2024, meeting. A motion to recommend denial failed on a 3-7 vote. A second motion to recommend approval passed on a 7-3 vote.

The subject property is 28.86 acres located off E Clatterbuck Road, approximately 1700 feet east of the intersection of E Clatterbuck Road and S Rangeline Road. The property is currently undeveloped. The property owners have submitted a request to rezone the property from Agriculture 1 (A-1) to Agriculture 2 (A-2) and to execute three family transfers to eligible family members for single family residential development.

The surrounding zoning is as follows:

- North, east, and west – A-1
- South, across E Clatterbuck Road – A-2

The A-1 zoning is original 1973 zoning. The A-2 zoning to the south across E Clatterbuck Road was rezoned in 1974.

The Boone County Master Plan designates this area as being suitable for agriculture and rural residential land uses. The sufficiency of resources test was used to analyze this request.

Transportation: A 122-foot-wide strip of land provides the access to E Clatterbuck Road, a publicly-maintained roadway. Dividing the property into three tracts would likely require a private access easement to provide future residential development access to the public road.

Utilities: The property is in the Consolidated Water service area. A 2-inch waterline is present along E Clatterbuck Rd. Boone Electric provides power service.

The rezoning application indicates that onsite wastewater systems will be utilized to serve the future residential development including the use of wastewater lagoons. No public sanitary sewer service is available in this area.

Public Safety: The Southern Boone County Fire Protection District provides fire protection. The nearest station, Station 17, is approximately 3.6 miles away.

Zoning Analysis: This proposal seeks to rezone the property from A-1 to A-2 to accommodate three family transfers. No additional public infrastructure such as a road extension or sewer service is proposed as part of this rezoning. It is important to note that this rezoning request is for an open zoning district and not a planned development. The commission does not have the ability to place any conditions on the request should it be approved.

A closer examination of the reasoning provided in the rezoning application is warranted for this request. The cover letter to the application states, “Since this property has access limitations, it

is self-governing on the total number of possible parcels the parent parcel can contain.” The application further states “...The current subdivision regulations regarding private drives and the shape of this property has width issues along the road frontage, it is self-limiting from needing a planned district to control aggressive land division. The only tool available to divide is by family transfer. Even with rezoning to A-2 a traditional subdivision is not possible without a change to a planned district.”

Land division by family transfer is a specific exception to the Subdivision Regulations and is not required to meet any of the standards contained in the Subdivision Regulations. The only standards applicable to a family transfer division are the zoning regulations, notably minimum acreage required for each district. Utilizing the 2.5 acre minimum required for an A-2 zoning district, the property could, theoretically, be divided up to 11 times assuming current or future owners had enough qualifying family members. Due to unbuildable acreage for the lake, topography, and the property stem to the public road, staff estimates that the subject property could support up to seven possible land divisions with reasonable building sites for single family residential development should this rezoning be approved.

The application indicates that three family members of the current owners will receive land via family transfer. Future owners of the property may choose to execute additional transfers should ownership or plans change. Should this rezoning be approved, there are no safeguards to prevent the property from being divided further than the three family transfers proposed.

Without any additional infrastructure or controls to limit land division by family transfer, this proposal fails to meet the sufficiency of resources test. The development potential proposed by the rezoning could lead to a higher density of single-family dwellings than intended by the application for rezoning.

The proposal scored 35 points on the point rating system. Staff notified 20 property owners about this request.

Staff recommended denial of the request.

Commissioner Kendrick opened and closed the public hearing. No members of the public spoke on this item.

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

- 3. First Reading: Request by Terry & Erma Pauley to rezone from Agriculture 1 (A-1) to Agriculture 2 (A-2) on 6.03 acres located at 5361 E Deer Park Rd, Columbia. (open public hearing)**

Planner Uriah Mach read the following staff report:

The Planning and Zoning Commission conducted a public hearing on this request at its December 19, 2024, meeting. A motion to recommend denial failed on a 5-5 vote. A second motion to recommend approval passed on a 6-4 vote

The property is located on the north side of Deer Park Road, approximately half-mile west of US Highway 63, 1.5 miles south of the city limits of Columbia. The property is 6.03 acres in size developed with a house and two accessory buildings. The zoning is Agriculture 1 (A-1) and is surrounded by A-1 zoning. This is all original 1973 zoning.

This proposal is to rezone the property from A-1 to Agriculture 2 (A-2) for purposes of a family transfer. This family transfer is to allow the daughter of the property owners to reside nearby and provide care as needed to her parents.

The Boone County Master Plan identifies this area as being suitable for agriculture and rural residential land uses. The sufficiency of resources test was used to analyze this request.

Transportation – The subject property has direct access onto Deer Park Road, a publicly-dedicated and maintained right of way.

Utilities – The property is in Consolidated Water service area and is served by a 6-inch water line. Boone Electric Cooperative provides electrical service, and the property is in the Boone County Fire Protection District. The existing house has a lagoon system. Any future development on the site after the family transfer will require a new on-site wastewater system to support a new residence.

Public Safety – The property is a little over two miles from the nearest Boone County Fire Protection District Station, Station 15, on Tom Bass Road.

This property scored 60 points on the point rating system.

Zoning Analysis – Existing infrastructure for the subject property can provide sufficient levels of service for the request. However, approval of the request moves the property further from the overall character of the neighborhood.

Analysis of the existing properties within the 1000' notice area (Figure 1), and a larger half-mile area (Figure 2) indicate that the current zoning is consistent with the desired character of the

neighborhood. Within the 1000' area, the subject parcel is the smallest parcel in the identified area. Within the half-mile area, it is below half the average parcel size.

Approval of the rezoning will increase the level of nonconformity with the neighborhood character. The family transfer division will also require the property to go before the Board of Adjustment for a variance to allow the barn south of the existing house to remain in front of the main building on a lot that will be smaller than 5 acres.

The precedent this request could set for an environmentally sensitive area with minimal infrastructure is difficult to justify. There have been no significant infrastructure improvements in this area to make it more suitable for increased development. Small requests such as this one undermine the current development pattern by creating an expectation for approval of future requests. Compounding individual approvals, nearby properties may see advantages in changing the current zoning to allow for more intense development without any improvement in infrastructure. Increasing development in an area lacking significant infrastructure improvement can lead to negative impacts on existing infrastructure, along with increased risks due to the environmental sensitivity of this area.

There are other means available to the property owner to achieve the desired goal. An addition could be built on to the existing home. Or an application could be presented to the Board of Adjustment to allow temporary placement of a single wide mobile home to house a caretaker for the property owners.

Staff recommended denial of the request.

Commissioner Thompson asked, "If we're looking at either the 6.03 or 5.46 acres, whichever number is being looked at, if we're going to divide this, where is the onsite system for the current house and where is it proposed to do the on-site system for the other house?"

Planner Uriah Mach stated they don't have the information at this time to answer where the new on-site wastewater system will be placed. Planner Mach stated that will depend on how the line is cut to have the second tract, this is a family transfer and they have received no information on that at this time.

Commissioner Kendrick asked if staff could remind him of the setback requirements if this were to become two lots. Director Florea stated the lagoon will have to be 100' from the home it serves, 200' from any neighboring home, 75' from any property line and there must be at least 100 feet of overland flow from the outlet of the lagoon until that water crosses the property line. Director Florea stated it's not necessarily linear, but you would follow that topographic line until it crossed the property line for at least 100' where the water could cross the property line.

Commissioner Thompson asked, and because that hasn't been determined, we don't know whether that's possible, is that correct?

Director Florea stated “Correct”. Commissioner Thompson asked, “What would it take to figure that out?” Director Florea stated a surveyor first of all to establish a boundary in the area that’s involved because the lots are going to have to be at least 2.5 acres a piece if the rezoning is approved. Director Florea stated that in large part will determine where the property line is going to go, then you would need to apply the building setbacks which are 50’ from the front and the rear, 15’ from the sides which establishes the building envelope. Director Florea stated you would also need to apply the lagoon setbacks and determine if there’s a space on the second lot that meets the lagoon standards, and you need to also determine if the existing lagoon was made nonconforming by the land issues.

Commissioner Thompson stated whether you look at it at 6.03 or 5.46, it’s going to be a tight fit and we don’t know if it will actually work.

Commissioner Kendrick asked we’re talking about a lagoon, but what if there was an on-site system like an engineered or drip system? Director Florea stated they require more area because the dispersal field is a lot larger than a lagoon. Director Florea stated the setbacks are 10’ or 15’ on the drip system and 10’ on the tanks. Director Florea stated you would use more of the lot for those systems and they are considerably more expensive.

Commissioner Thompson asked the applicant’s representative if she has had the property surveyed by Kevin Schweikert, to which she said no. Commissioner Thompson stated her concern is, if the Commission was to approve this at this point, without knowing if the estimates are going to meet the regulations and they ended up not meeting the regulations, the applicant would be in a world of hurt. Commissioner Thompson stated her thought is, they could table this item to give the applicant an opportunity to consult with Kevin Schweikert and make sure everything fits and it can be done then the applicants’ money won’t be wasted and create a situation for the land that puts it in a worse position than it is now.

Commissioner Kendrick stated, part of it is the understanding that if it were rezoned and then you find out you need two engineered systems, then you’d be looking at around \$80,000.00 for two drip irrigation systems. Commissioner Kendrick stated what they’ll do, is go ahead and have the public hearing tonight but the second reading and a Commission decision will be tabled until there is more information on what a survey will show.

Commissioner Kendrick opened and closed the public hearing. No public comment forms were submitted for this item.

This item was tabled by the Commission.

Commission

4. First Reading: Calling for a Special Election on August 5, 2025

Boone County Counselor CJ Dykhouse stated Boone County Clerk Brianna Lennon certified the Boone County property senior tax exemption petition that was submitted to the Boone County Commission on or around October 25, 2024. Counselor Dykhouse stated the first two entries are the most relevant for our purposes. The first entry showing 4,423 registered voters were registered in Boone County at the address indicated in the petition, and the second entry showing 116 registered voters were registered in Boone County at an address different than the one listed in the petition. Counselor Dykhouse stated Clerk Lennon went on to note one duplicate signature and 159 people who don't live in Boone County. Counselor Dykhouse stated if you add the first two numbers together, 4,423 and 116, you get 4,539 registered voters and Clerk Lennon notes the threshold numbers for the 2020 gubernatorial election would be 4,536 and there are three signatures more than the threshold. Counselor Dykhouse stated if the 2024 gubernatorial election was used as the measure date, 4,453 which is a much lower threshold but either way the petition is certified as indicated by Clerk Lennon's research into the petition. Commissioner Kendrick asked, "116 voters registered within Boone County at a different address than the one listed on the petition?" Counselor Dykhouse stated yes, that's what Clerk Lennon indicated and qualified voters would include both of those in category 1 and category 2. Commissioner Kendrick asked, "So 159 of the people who signed, at the date of signing, are not registered to vote so I assume those weren't counted then?" Counselor Dykhouse stated, "That's true. Not in the 4,539 number that I just read." Commissioner Kendrick stated what he would like to do, is enter an email he received from Representative Cheri Reisch on Thursday, January 2, 2025, into the record. Commissioner Kendrick stated the petition was submitted in October, but the request came to the Commission on Thursday, January 2, 2025, with the request of the petitioner that the language that needs to be deleted from the current ordinance is RsMO Section 4A2 which states, "Levies related to any and all approved bond indebtedness from the taxing entity" so he will submit that to record as part of the request of the petitioner. Commissioner Kendrick stated he does have a question for counsel. Commissioner Kendrick asked, "so, August 2025 tends to not have an election generally. Has the clerk talked about what a cost estimation would be?" Counselor Dykhouse stated no, but he has made inquiries. Counselor Dykhouse stated the reason they have to contemplate August is because the petition called out "the next soonest or August election date," so when it was submitted in October and certified by the Clerk, the next soonest August or November election date would be those dates in 2025. Counselor Dykhouse stated he has asked Clerk Lennon if there are ways we can try to mitigate some of the costs of administering the election and she is going to get him some information to bring to the Commission on Thursday at the anticipated second reading. Commissioner Thompson asked, "just to clarify, since the petition itself called out the applicable time for this to be placed on the ballot, that's not something we can ignore, is that correct?" Counselor Dykhouse stated they can't ignore the plain language of the petition, that's what people signed. Commissioner Kendrick stated, "what we have asked to be placed in the record is a request from the petitioner to exclude the voter-approved bond indebtedness, the constitutionally-authorized voter-approved bond indebtedness, which is the same exemptions, both voter-approved bond indebtedness and the blind pension fund, both constitutionally-authorized and the same exemptions that at least 18 other counties have made in the state of Missouri, the vast majority of counties who have adopted, implemented and made their policy public have made those same

exemptions as Boone County.” Commissioner Kendrick stated he wanted to take a moment to say thank you to everyone involved within Boone County Government, especially the Boone County Collector’s Office, on standing up the application process, getting over 8,500 seniors through the process on parcels, representing well over 10,000 seniors participating in the program. 11.4% of total parcels and 21% of residential parcels are now part of that program. Commissioner Kendrick stated it is also important to clarify, because I know the petitioner called what the Commission did a “partial freeze”, but it’s important to note the constitutionally authorized program that is the bond indebtedness, the debt levies represent a small portion of it, of the overall program so if they are going to call this a partial freeze he wants to make sure that he clarifies that the petitioner has not requested the other constitutionally authorized program to be excluded from the exemptions so it’s under consideration that the blind pension fund will still be included as an exemption and would be misleading to say this is a petition for a full freeze. Commissioner Thompson stated the petitioner has asked that the blind pension fund be exempted from the freeze as having constitutionally protected status, but voter-approved bond indebtedness, which also has a constitutionally protected status, not be exempted. Commissioner Kendrick stated, “so seniors will continue to see some small increases to their tax bill as the blind pension funds assessed evaluation goes up, but still a partial freeze at that.” Counselor Dykhouse stated, “to your point, there are also two statutorily mandated exceptions from Senate Bill 756 relating to new construction and annexation which will always result in a partial freeze.” Counselor Dykhouse stated there is no such thing as a full freeze under Missouri law. Commissioner Thompson stated now they are looking at two statutory exemptions and one of the two constitutionally protected exemptions. Commissioner Kendrick stated it was discussed that this was passed in May, and the petitioner was operating under the assumption the Commission could somehow pass it before the law of Senate Bill 756 came into effect and the Commission was somehow grandfathered in. Commissioner Kendrick stated that is certainly not how state statute works; in fact, four counties – Franklin, Jasper, Ray and Buchanan Counties – all adopted their programs after August 28, 2024, and made the same constitutionally authorized exemptions that Boone County made, being the blind pension fund and voter-approved bond indebtedness. Commissioner Kendrick stated certainly other counties, at minimum eighteen other counties, made the constitutionally authorized exemptions, but we’re on this train now towards an election and he’s proud of how Boone County Government has handled this and provided clarity for seniors, and he hopes the program continues. Commissioner Kendrick stated that he’s concerned about potential legal uncertainty, but the Commission will continue to do what they can to keep the program going and provide seniors with the certainty they need. Commissioner Aldred stated, “we will effectuate the will of the voters.”

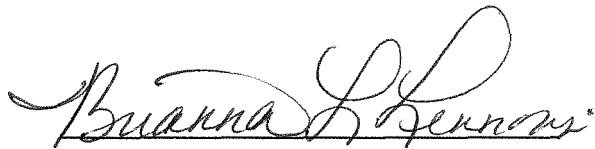
5. Public Comment

None

6. Commissioner Reports

Commissioner Aldred stated he wants to thank the Boone County Road and Bridge crew for everything they have done throughout the winter weather, as they have been out since Saturday and continue to work.

Attest:



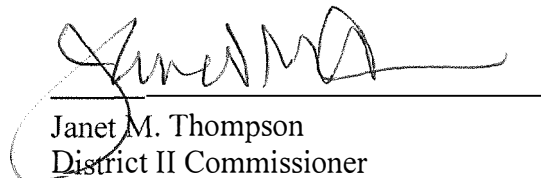
Brianna L. Lennon
Clerk of the County Commission



Kip Kendrick
Presiding Commissioner



Justin Aldred
District I Commissioner



Janet M. Thompson
District II Commissioner