

TERM OF COMMISSION: September Session of the July 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
Director of Planning and Building Stan Shawver
County Counselor CJ Dykhouse
Deputy County Clerk Josh Norberg

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

Planning and Zoning

1. Request by Michael Cooper to rezone from A-1 (Agriculture) to REC (Recreation) on .36 acres, more or less, located at 11505 S. Smith Hatchery Rd., Columbia

Mr. Shawver stated this property is located southwest of Columbia approximately 1 mile north of Easley on the west side of Smith Hatchery Road between the Katy Trail and the Missouri River. The property is situated approximately 3&1/2 miles south of the closest municipal limits of Columbia. The property of this request is zoned A-1 Agriculture. The remainder of the property under the same ownership is zoned REC (Recreational) which was rezoned from A-1 in 1986. All property in this area to the west of the Katy Trail, excluding that owned by the applicant, is zoned A-1, while all the adjoining property on the east side of the Trail is zoned A-2. These are all original 1973 zonings. There is a mobile home residence that is partly in the A-1 zoning and partly in the REC zoning. The applicant has used the subject property for RV camping. This site lies within the Columbia Public School District. The site is in Consolidated Public Water District #1 and there is a private well on the property in the REC area. The site is in the Boone County Fire Protection District and fire requirements will be up to the fire district. Electric service will be provided by Boone Electric Cooperative. Wastewater service is required by the approved conditional use permit to be provided by engineered wastewater systems for all site activities. The applicant has made some steps with regard to wastewater compliance but still needs to bring the property into total compliance with the conditions of the CUP. The master plan designates this area as being suitable for agriculture and rural residential land uses, it should be noted that recreational zoning already applies to this remainder of the property. Staff notified 5 property owners about this request.

The Master Plan calls for the use of a “Sufficiency of Resources Test” when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: This site is served by Boone Electric Cooperative and while in Consolidated Public Water District 1. The travel trailers that have been found on the site are already subject to a requirement to install an engineered wastewater system since they are under the CUP conditions should this rezoning go forward.

Transportation: Access to the site is from Smith Hatchery Road.

Public Safety: The nearest fire station is located over 5 miles away and the property is adjoining the Missouri River and is in the 100 year Floodplain.

While staff would not recommend approval of a request for REC zoning at this location if there were no REC zoning existing in the area. The request is essentially the shifting of the district boundary edge by a relatively small amount to encompass a single property. The resources needed for the additional property of the request represent no greater demand than is needed for the existing portion of REC zoning. Therefore, staff recommends approval of the request.

Mr. Shawver stated the Planning and Zoning Commission conducted a public hearing on this request at their September 18 meeting. Nine members of the Planning and Zoning Commission were present at that meeting. Following the hearing, a motion was made recommending approval of the rezoning request. That motion received 8 “yes” votes and 1 “no” vote. It comes forward with a recommendation for approval.

Commissioner Pearson asked for comments in favor of this request.

Michael Cooper, 11505 S. Smith Hatchery Rd.

Mr. Cooper stated Cooper’s Landing is a business that is open year-round, but by the nature of its activities, it is seasonal. He stated it is the only marina service on the Missouri River in the state. Many people enjoy the services that Cooper’s Landing provides. This request is simple: to rezone 1/3 of an acre to be zoned the same as the rest of the property. The uses and site plan for this area have not changed since the conditional use permit hearing several years ago, and there are no plans to change them now. As a result of the conditional use permit hearings, an old dispute over ownership of this piece of land was raised and has since been resolved. This has resulted in a new tract that may or may not be covered by the original rezoning request in 1986. Mr. Cooper stated to avoid any future complications, he is requesting to rezone this piece of land to REC.

Mr. Cooper stated the only opposition at the September 18 Planning and Zoning meeting was from his neighbors. Their complaints did not address any problems this rezoning would cause. Their complaints were unrelated to the request. Their main complaint was that Cooper’s Landing’s septic system was inadequate to take care of the customers of Cooper’s Landing. Cooper’s Landing is serviced by three separate septic systems.

Mr. Cooper stated in the conditional use permit hearing, a complaint was that the music was too

loud, so he moved the music venue to the side of the building facing the river and away from their property. They complained about parking problems at some of the more popular events. He stated he obtained land use licenses from the Katy Trail for parking and permits from Boone County Public Works to improve parking areas. In response, they built a rock fence on the public use right of way, which has reduced the shoulder of the road, blocked access to public utilities, and increased the parking problem. Their opposition to this rezoning request has nothing to do with concerns over problems this rezoning will cause them. It is part of a personal vendetta to oppose anything he wants to do. He stated he has been cooperating with Boone County Health inspections. He stated he has also been working with Boone County Planning and Zoning staff. He will continue to try to limit the impact of his activities on his neighbors. The activities that will be taking place are consistent with the purposes of REC zoning.

Chris Browne, 9205 County Road 389, New Bloomfield

Mr. Browne stated he is a Callaway County resident, but he uses Mr. Cooper's facilities. He stated he and his wife use Mr. Cooper's property almost weekly during the summer. He stated what they like about the place the most is the environment it creates. The music does not go late into the night. He stated they don't stay up late and they don't sleep well, so they wouldn't like the loud music either if it were happening. He doesn't see that it is a big problem with the neighbors.

There were no further comments on behalf of this request.

Commissioner Pearson asked for comments in opposition to this request.

Dave Rechten, 11602 S. Smith Hatchery Rd.

Mr. Rechten stated he lives across the street from Mr. Cooper. He stated he thinks he can speak for all of the adjoining property owners. They have all told him they are against the rezoning for one reason or another. They are basically fed up with having this enterprise intruding on their life. They moved down there to have a quiet life. Instead, they have a party atmosphere almost every weekend. When Mr. Cooper originally asked for the REC zoning, he asked for their support and they gave it to him because it was going to be a bait shop and a marina. It has evolved into quite something else. There is liquor and a concert venue and an RV trailer park. He stated they wouldn't be against the rezoning if it weren't for the parties that go on there. He has amplified music and fundraisers there often. He stated he questions whether his commitment to a safe and peaceful enterprise is as sincere as he would like it to be. He stated if there were restrictions on the rezoning, it wouldn't be as bad. He stated he thinks Mr. Cooper could be a better neighbor and not abuse them just because they don't agree with his entrepreneurial proclivities.

Commissioner Miller stated the Commission does not have the authority to place restrictions on this rezoning request. It is just a plain rezoning request; it is not a planned district so it does not give them any authority to condition the property.

Commissioner Elkin asked Mr. Shawver what is allowed under REC zoning. Can they sell package liquor?

Mr. Shawver stated the conditional use permit the Commission granted in 2005 authorized incidental retail sales. There is no definition of that, so package liquor would be allowed.

Commissioner Elkin asked if concerts are allowed in REC zoning.

Mr. Shawver stated that is permitted under REC zoning. When this was approved in 1986, there was not a planned REC component. Had there been, that could have been a condition that there not be concerts.

Commissioner Elkin asked Mr. Rechten when he moved to that location.

Mr. Rechten stated he has lived there since 1973. When this was originally rezoned in 1986, they thought it was going to be a marina and bait shop and not a concert venue and liquor sales.

There were no further comments in opposition to this request.

Commissioner Pearson asked Mr. Cooper if he would like to add a rebuttal.

Mr. Cooper stated some of the facts that Mr. Rechten used were not correct. There are 1 or 2 fundraisers a year for not for profit organizations. The music ends early and is not very loud. He stated it is a family atmosphere and it is a non-threatening situation.

Commissioner Miller stated she went by the property a couple of days ago and there was the underpinning of a trailer near the ditch area.

Mr. Cooper stated it is a houseboat trailer, which is part of the parking area that is licensed from the Katy Trail.

Commissioner Miller stated it is over the culvert that the County has to keep clean. Staff had requested that Mr. Cooper move the trailer so we can get in there should we need to and it was still there.

Mr. Cooper stated he moved it at the County's request. He stated he spoke with John Watkins from Public Works and he said it was not a problem where the trailer was sitting.

Mr. Cooper stated he will resolve the issue with Planning and John Watkins.

Commissioner Miller stated her concern with the trailer is that there isn't much parking anyway, so when the trailer is put there, it forces other people to park on the road and jam it up.

Mr. Cooper stated the reason he picked that area is that there is a ditch there, and it keeps people from parking in that area.

Commissioner Pearson closed the public hearing.

Commissioner Miller stated there is always conflict when there are different zonings adjoining each other. Mr. Cooper has a successful business, which creates more conflict. What he is asking for today, though, on this .36 acres is that it be zoned the same way as the land that he has his operation on. She stated she thinks that is a reasonable request. We are always asking people to fix these little anomalies so the zoning is clear, so she doesn't have a problem with supporting this. It will not change anything one way or another.

Commissioner Elkin stated even if we did require planned recreation on this little tract, it is not going to change anything on the overall tract. There are issues that the neighbors have with one another, but even if we denied this, those issues are not going to go away. He stated he does not see any benefit in denying this. It will not change the uses that it has now.

Commissioner Miller stated she thinks they have been using it all along anyway. That was part of the conflict.

Commissioner Elkin asked Mr. Cooper if he has music there every weekend.

Mr. Cooper stated there is music every weekend during the summer months.

Commissioner Elkin asked if it is always amplified.

Mr. Cooper stated when it is amplified it is primarily for the vocals. It is amplified, but it is not loud.

Mr. Rechten stated he doesn't understand why you can't just say there will be no amplified music. He has to listen to it and it is noisy.

Commissioner Miller stated that is something you and Mr. Cooper will have to work out. The Commission cannot work that out with this request.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby **approve** the request by Michael Cooper to rezone from A-1 (Agriculture) to REC (Recreation) on .36 acres, more or less, located at 11505 S. Smith Hatchery Rd., Columbia.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 459-2008**

2. Request by I-70 LLC to rezone from R-S (Single Family Residential) to M-L (Light Industrial) on 17.32 acres, more or less, located at 7901 E. Richland Rd., Columbia

Mr. Shawver stated the property is located east of Columbia on the north side of Richland Road, adjacent to and southeast of Sunrise Estates. The land is currently vacant and is zoned RS, which is the original zoning. The proponent is currently developing land adjacent and to the east as a light industrial park and desires to incorporate this tract into the park. The request excludes a fifty-foot wide strip of land that would retain its RS zoning. The purpose of that strip is to prohibit industrial activity within 50-feet of adjacent RS zoned land.

The land to the north and west is currently zoned RS and is used for residential purposes. Land to the south, across Richland Road, is zoned A-1 and is in residential and agricultural use. Land to the east is zoned ML and is being developed as an industrial park.

The Master Plan identifies a sufficiency of resources test for determining whether there are sufficient resources available for the needs of the proposal. The sufficiency of resources test provides a “gate-keeping” function. Failure to pass the test should result in denial of a request. Success in passing the test should result in further analysis. The resources used in the test can generally be broken down into three categories: utilities, transportation and public safety services.

Utilities:

- Water: Public Water Supply District Number 9 provides service to the property. Water main extensions and fire hydrants have been installed on the property adjacent to the east. There is sufficient water to meet the needs of the request.
- Sewer: A sewer connection to the Boone County Regional Sewer District collection system is planned and a construction contract has been let. When that connection is complete there will be adequate sewer service available to this property.
- Electricity: Electric service is provided by Boone Electric and is sufficient for the needs of this proposal.

Transportation: Access to I-70 is via Richland Road to Rangeline Road or Trade Winds Parkway to I-70 Drive SE. The property is well served by the transportation network.

Public Safety Services: The Boone County Sheriff provides law enforcement service. Boone County Fire Protection District provides fire service.

Zoning Analysis:

- There are adequate public services available to this property if the rezoning is granted.
- The property is adjacent to existing ML zoning which is being developed as a light industrial park. Development of this property for light industrial use is not out of character with the pattern of development in the area.

The property scored 78.5 points on the rating system. Staff notified 132 property owners about this request.

Staff recommends approval of the rezoning request.

Mr. Shawver stated a public hearing was conducted at the September 18 meeting of the Planning and Zoning Commission. There was no opposition to the request. A motion was made to recommend approval of this request. That motion received unanimous support. It comes forward with a recommendation for approval.

Commissioner Pearson asked for comments in favor of this request.

Robert Hollis

Mr. Hollis stated he represents I-70 LLC. He stated he believes this tract is already part of Trade Wind Park and it has been treated that way. He stated they have created buffer zones around the proposed rezoning. There are very few large contiguous M-L zoning sites. It is near I-70 with looping utilities and the South Fork Trunk Line will be extending to the property. This request has the support of over 50 neighbors and property owners surrounding the property.

Commissioner Elkin asked who will have title to the buffer.

Mr. Hollis stated the title will remain with I-70 LLC. The buffer can be enforced by anybody that owns the property surrounding the buffer zone. The agreement is in favor of the property owners surrounding the property.

Commissioner Pearson thanked Mr. Hollis for his presentation and his work on this.

There were no further comments in favor of this request.

Commissioner Pearson asked for comments in opposition of this request.

There was no opposition.

Commissioner Pearson closed the public hearing.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby **approve** the request by I-70 LLC to rezone from R-S (Single Family Residential) to M-L (Light Industrial) on 17.32 acres, more or less, located at 7901 E. Richland Rd., Columbia.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 460-2008**

3. Request by The Bourgeois Family LLC to approve a revised Review Plan for “The Winery” on 12.33 acres, more or less, located at 12847 W. Hwy BB, Rocheport

Mr. Shawver stated this property is located at the immediate northeast corner of the intersection of I-70 and State Route BB. This is a proposal for a revised review plan for the site of the existing Les Bourgeois gift shop and wine production facility and to seek approval of a review plan on a majority of the property under M-LP (Planned Industrial) zoning. A small 0.29-acre portion of the parent parcel, that actually contains the gift-shop structure, is proposed to remain C-G (general commercial). The current zoning for the property is technically C-G (General Commercial) since a 2004 rezoning process was never finalized by obtaining an approved Final Development plan. Property to the east on the north side of I-70 is zoned A-2 (Agriculture) as is property to the north and northwest. Property to the west but north of I-70 is C-G. All these surrounding zonings are all original 1973 zonings. An approved Final Development Plan is required before any new zoning will go into effect or any building permits can be issued. This property is currently the site of the Les Bourgeois gift shop and wine production facility while the gift shop is a use that would fit in the original C-G district the wine production facility would need a minimum M-L or M-LP zoning designation to actually comply with the zoning ordinance. The proposal is to legitimize the existing uses and allow additional buildings as shown on the proposed review plan to create a unified complex. The old motel structure that was previously on the site has been removed. The proposed uses are listed on the face of the plan under Allowed Uses, as is required. This site is in the Columbia School District. Water will eventually be provided by Consolidated Public Water District No. 1. Boone Electric provides electric service. Sewer service is to be provided by a DNR regulated system for the complex. We have documentation that Marshall Engineering has done the design for the sewer. Fire hydrants and flows will be required to meet fire district approval and the Fire Marshall will have to approve any systems before construction or occupancy will be allowed. Any change in use beyond what is proposed will require a new Revised Review and Revised Final Plan. The proposal rates 32 points on the point rating scale. The master plan designates this area as being suitable for commercial land uses. Staff notified 15 property owners concerning this request. The Master Plan calls for the use of a “Sufficiency of Resources Test” when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: This site is served by Boone Electric Cooperative and Consolidated Public Water District #1 and waterlines capable of providing fire flow are required to be installed. A commercial waste-water system has been designed and is required.

Transportation: Access to the site from State Route BB and the site is at the I-70 interchange.

Public Safety: The property is located approximately 2.5 miles from a Boone County Fire

Protection District Station which is located in the city of Rocheport.

Staff recommends approval of the Revised Review Plan with the following condition:

1. That the development meet fire district requirements for commercial/industrial uses as a condition of approval and that specific approval from the Fire Marshall will be required with respect to buildings and construction on the site. Adjustments to the site plan can be made to accommodate fire district requirements without another revision of the plan as long as the adjustments are not deemed significant by the Director of Planning.

The Planning and Zoning Commission conducted a public hearing on this request at their September 18 meeting. A motion was made to recommend approval of the request with the condition suggested. That motion received unanimous support. It comes forward with a recommendation for approval.

Commission Elkin stated the staff report had a lot of emphasis on fire flows. He asked if that was going to be a problem.

Mr. Shawver stated this is an area that used to be served by water district #3. That district dissolved. Consolidated Water District #1 has taken over water services in the City of Rocheport and they have been doing water line improvements. Any time you have a place of assembly, such as a winery, fire and emergency services become a concern. The fire district wanted to make sure they had plenty of access.

Commissioner Elkin stated this does not affect what they are doing right now.

Mr. Shawver stated that is correct.

Commissioner Pearson asked for comments in favor of this request.

Mark Skinner, Marshall Engineering

Mr. Skinner stated his client is trying to move his processing over into M-LP zoning, which allows the processing while C-G doesn't. They are trying to comply with the zoning requirements. He stated he designed a road for the fire trucks to be able to come around to the building. There is also a 12 inch water line approaching the property and an 8 inch line connecting to the hydrant.

Commissioner Pearson asked Mr. Bourgeois if he had any comments.

Mr. Bourgeois stated he did not.

There were no further comments in favor of this request.

Commissioner Pearson asked for comments in opposition to this request.

There was no opposition.

Commissioner Pearson closed the public hearing.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby **approve** the request by The Bourgeois Family LLC to approve a revised Review Plan for “The Winery” on 12.33 acres, more or less, located at 12847 W. Hwy BB, Rocheport. **with the following condition:**

- That the development meet fire district requirements for commercial/industrial uses as a condition of approval and that specific approval from the Fire Marshall will be required with respect to buildings and construction on the site. Adjustments to the site plan can be made to accommodate fire district requirements without another revision of the plan as long as the adjustments are not deemed significant by the Director of Planning.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 461-2008**

4. Lake View South. S27-T46N-R12W. A-2. Richard D. McCubbin, owner. Neal R. Slattery, surveyor

Mr. Shawver stated this is a 7 lot subdivision plat. It has a lake right in the center of it. Planning and Zoning approved this plat and it is ready to be received and accepted by the County Commission with an authorization for the Presiding Commissioner to sign it.

Commissioner Miller asked how big the lots are.

Mr. Shawver stated they are each about 5 acres.

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

Lake View South. S27-T46N-R12W. A-2. Richard D. McCubbin, owner. Neal R. Slattery, surveyor.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 462-2008**

5. Conceptual Approval of Participation in a Cost Share Project for the Hinkson Creek Watershed Restoration Project

Mr. Shawver stated he wanted to ask for authorization to proceed with a cost share for the Hinkson Creek project. Columbia Parks and Recreation has applied for a grant to do some improvements at the old wastewater site near the Katy Trail. They are trying to do some recovery at that site. They have asked if we would be willing to participate with them. We would purchase about \$3,000 worth of trees. It would be a cost share on a contractual basis. The application for the grant had to be turned into the State today, so we told them we were confident the Commission would approve that. He stated with authorization they would go ahead and get working on the paperwork.

The Commissioners stated they are okay with it.

Purchasing

6. C204013001 – Video Conferencing Equipment (first and second reading)

Commissioner Miller stated this is a formality because this equipment has been ordered and it is being put in right now. It is being ordered off of a state contract and is part of the court's budget. This is just so they can have the ability to order it off of the state contract instead of a bid.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby authorize the utilization of the State of Missouri cooperative contract for Video Conferencing Equipment with Expedite Video Conferencing Services, Inc. of Westbury, New York. It is further ordered the Presiding Commissioner is hereby authorized to sign said contract.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 463-2008**

Human Resources

7. Recommendations from Job Classification Committee (first reading)

Commissioner Pearson stated the Job Classification Committee met on Sept. 18 and 24, 2008 to review and discuss proposed Public Works position classifications and salary ranges for Civil

Engineer I and Storm Water Educator and 3 position reclassification requests from the Sheriff's Dept. (Angela Ayers, Leasa Quick and Britt Shea)

The Job Classification Committee members unanimously agreed to bring forward the following recommendations to the Commission:

- 1) **Civil Engineer I** - Establish a new position classification at a pay range of 45;
- 2) **Storm Water Educator** – Establish a new position classification at a pay range of 38;
- 3) **Angela Ayers' position** – Reclassify from Administrative Assistant (Class Code 1012 - pay range 28) to Administrative Deputy (Class Code 4059) with a pay range of 36;
- 4) **Leasa Quick's position** – Reclassify from Senior Account Specialist (Class Code of 1003 – pay range 25) to Budget Administrator (Class Code 4060) with a pay range of 31; and

All of the above changes are proposed with an effective date of 1/1/2009.

Note: Britt Shea's position – no recommendation needed from this Committee – the change from Investigator (range 39) to Sergeant (range 41- an already established position classification) will be reviewed during the 2009 Budget Process.

Commissioner Pearson 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 an appropriate order for approval.

Public Works

8. Authorize Presiding Commissioner to Sign Application for Nonpoint Source Pollution Minigrant

Commissioner Pearson stated this is in the amount of \$6,656. It is an application, but it is not a competitive grant. It will allow us to try some things that we otherwise would not be able to do.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby authorize the Presiding Commissioner to sign the Application for Nonpoint Source Pollution Minigrant.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 464-2008**

Juvenile Justice Center

9. Budget Revision for JABG Grant (first read on 9/23/08)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the following budget revision for the county match portion of the JABG Grant:

Department	Account	Department Name	Account Name	Decrease	Increase
1243	71100	Juvenile Justice Grants	Contractual Services		\$100.00
1242	71100	Juvenile Justice Center	Contractual Services	\$100.00	

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 465-2008**

Miscellaneous

10. Authorize Use of Courthouse Grounds

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the use of the Courthouse Grounds on November 9, 2008, from 7:00 p.m. through 9:00 p.m., and from November 10, 2008, at 11:00 a.m. through November 11, 2008 at 11:30 a.m.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 466-2008**

11. Commissioner Reports

Commissioner Miller stated she would like to request that the Commissioners take a road tour of all the properties the County is responsible for, such as some of the buyout properties that aren't leased. She stated some of the properties may not be in use by anyone anymore and we should go check out how they are doing. She stated there are so many little pieces the County is responsible for and if we don't check on them regularly, someone may be using them.

12. Public Comment

There was no public comment.

The meeting adjourned at 8:16 p.m.

Attest:

Kenneth M. Pearson
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Skip Elkin
District II Commissioner