

TERM OF COMMISSION: June Session of the April 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  
Planning and Building Inspection Planner Uriah Mach  
Deputy County Clerk Joshua Norberg

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

### **Juvenile Justice Center**

Pete Schmersahl, Juvenile Justice Center, was present on behalf of this item.

#### **1. American Recovery and Reinvestment Act Grant Application**

Mr. Schmersahl stated he is requesting authorization to submit an application for the National Schools Lunch Program Equipment Assistance Grant through the American Recovery and Reinvestment Act. He stated there is no match required for this grant. He stated they are requesting funding for nine items in order of need, including a 21 year old stove, a food warmer, refrigerator and freezer, dishwasher, food cart, milk dispenser, food mixer, and ice machine. He stated the total allotment that they are seeking is \$22,853.92. We don't plan on getting that full amount, but we should be able to get some of these items.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby authorize the National Schools Lunch Program Equipment Assistance Grant application for the Juvenile Justice Center.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 240-2009**

### **Planning and Zoning**

**2. Request by Green Acres Estates LLC on behalf of Columbia Area Jobs Foundation to rezone from A-R (Agriculture Residential) to M-L (Light Industrial) on 210 acres, more or less, located at 1800 N. Rte Z, Columbia**

Mr. Mach stated the minutes for the Planning and Zoning Commission meeting of May 21, 2009 along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

This property is located east of Columbia on the east side of State Route Z approximately 500 ft north of the intersection of I-70 Dr NE and State Route Z. The subject property is situated approximately 1.25 miles east of the closest municipal limits of Columbia. The property of this request is zoned A-R (agriculture – residential). Property to the north is also zoned A-R. To the northeast, east, west, and northwest the zoning is A-1 (agriculture) and these are original 1973 zonings. The zoning to the southeast is R-SP/C-GP (planned residential and planned commercial) and was rezoned from A-R in 2005. The zoning to the south is A-2 agriculture rezoned from A-R in 1993. Additional zoning to the south is A-R and C-G (general commercial) and these are original 1973 zonings. The property to the southwest is zoned C-G and is also an original zoning. The applicant is requesting a rezoning to M-L (light-industrial) on the approximately 210.81 acres. There is a house and several out-buildings on the property. The assessor's information indicates the residential structure is a duplex; a duplex is not a legal use type under permitted uses in the A-R district. The application indicates the residential structure is vacant and un-inhabitable. This site lies within the Columbia Public School District. The site is in Public Water District #9 and there is a 12 inch waterline on the west side of State Route Z and a 4 inch line on the property itself. Improvements to the water system are likely needed to meet fire requirements for the types of uses proposed as major industrial/business employers. The site is in the Boone County Fire Protection District and fire requirements will be up to the fire district; however, if the property comes under a pre-annexation agreement with the City of Columbia, it will be subject to both standards and will have to meet the greater of the two. Electric service will be provided by Boone Electric Cooperative. Wastewater service is proposed to be provided by a City of Columbia sewer main extension that is anticipated to be at least 3 years from completed installation and is subject to approval/agreement by the BCRSD. The master plan designates this area as being suitable for agriculture and rural residential land uses. The master plan also indicates that new commercial or industrial requests should be of the planned zoning type. The request is not consistent with the master plan. Staff notified 31 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. However, this test only serves a gate keeping function to see if a request merits further detailed analysis.

Utilities: This site is served by Boone Electric Cooperative and Public Water District 9. There are existing district waterlines serving the property, but upgrades will be needed if the M-L rezoning is to be utilized at anything near the intensities proposed for a major industrial/business employer. Public central sewer service is proposed to be provided by the City of Columbia. This central sewer will most likely be installed and operational at the earliest in 3 years.

Transportation: Access to the site is from State Route Z and would need to be primarily provided by public roads created as part of an Industrial/Business complex. These new public roads would then access State Route Z. While this limited access type of development pattern is supported by the applicant's graphics and presentation materials, there is no way to require the needed performance measures to mitigate impacts under an M-L zoning. It would require an M-LP (planned industrial) zoning to require these performance measures. The subject property is not contained within the current boundary of the CATSO metropolitan transportation area.

Public Safety: The nearest fire station is located within 5 road miles but the travel connections are limited to just two travel paths. These paths are I-70 itself and St.Charles Rd. to State Route Z. Both of these paths present challenges to a quick response time. Potential future roadway improvements in the area may help this situation, but these new roadways have no timeframe or funding associated with their construction.

So, while it does appear that suitable infrastructure might be able to be provided at some point in the future, the request seems somewhat premature in the context of the general area. There is significant acreage of M-L zoning in the area that is either vacant or significantly under utilized. Most of this existing M-L zoned property has roughly equivalent infrastructure to that of the request in place or planned and is available for development. This situation calls into question the suitability of this request at this time.

Some of the potential M-C uses from the City of Columbia found in the applicants documentation are not actually allowed under the proposed M-L zoning and these differences have a real potential to cause future conflicts in the differing expectations of the multiple parties involved and affected should the rezoning gain approval. Additionally, the size of the request is itself a significant concern: 210 acres of open M-L zoning without the mitigating requirements that would be placed upon a planned rezoning request presents too great a risk of possible unmitigated impacts. The applicant has indicated that the property will be restricted by private covenant and contract. Private covenant/restrictions and contracts can be modified or rescinded and are not suitable replacements for governmental safeguards. Only a small portion of the property is proposed to actually come under direct control of a pseudo-governmental entity with some potential to acquire additional portions of the property in the future. In our experience we have seen large extended timeframe plans fail to materialize as originally envisioned or presented but the zoning is permanent and would stay in place without the benefit of governmentally enforceable restrictive safeguards to mitigate potential impacts to neighboring properties, the surrounding area, and the community in general.

By policy and precedent the Boone County Planning Department has not supported open industrial zoning requests of this size; instead, we have recommended that such industrial requests seek a form of rezoning to a planned type of industrial zoning. Depending upon the details of the request, staff feels that a planned industrial rezoning request could be supported for this property.

For the reasons outlined in this analysis staff couldn't support the request as presented for an open M-L zoning request and recommended denial of the request.

The Planning and Zoning Commission conducted a public hearing on this request during their May 21, 2009 meeting. There were 9 members of the commission in attendance at the meeting. Following the public hearing, a motion was made to recommend that this request be approved. The motion to recommend approval of the request passed with 7 members voting in favor of the motion. It comes forward with a recommendation for approval.

Commissioner Pearson opened the public hearing and asked for comments in favor of this request.

### **Paul Land, 2401 Bernadette Dr., Columbia**

Mr. Land stated he is President of Columbia Area Jobs Foundation (CAJF). He stated the purpose of CAJF is a public benefit, non-profit corporation. The mission is to invest and reinvest and undertake real estate developments for the benefit of the City of Columbia metro area in an attempt to attract major employers to the area. He stated he never likes to go against staff recommendation, but he feels that he made a compelling argument before the Planning and Zoning Commission and the majority of commissioners agreed that this is an appropriate area for this type of zoning.

Mr. Land stated in the last 15 years, this community has failed to recruit a major employer in a new building of 100,000 square feet or larger. The last such development was Quaker Oats in 1995. He stated there is a reason for that and part of it is a lack of shovel ready sites with appropriate zoning, price, location, and infrastructure. He stated the community has done a good job of replacing major employers that have left, but we haven't added any new employers to expand the employment base. He stated while there is about 1.3 million square feet on this plan, there has been over 2 million square feet built in the surrounding counties in the same time period that Boone County has not attracted those employers. Part of those choices is availability of land at affordable prices. He stated this project wasn't cooked up over coffee; it was a long time in the making. We reached out to neighbors in this area. He stated they met with the property owners within 1000 feet on 3/18/09 and 4/21/09 to present the plans. At the second meeting, he stated the described self-imposed design guidelines that we will put on this property to protect the property owners to the north. He stated they have suggested M-C uses and design criteria. M-C in the City of Columbia has specific design criteria for lighting, setbacks, landscaping, building heights, etc., which are not specified in the County regulations. He stated in the southwest corner of the site, 40 acres will be retained by the property owner, and we suggested that it could have C-3 uses, although we don't know what those would be. He stated the M-L zoning allows those uses, but they are just putting in self-imposed design criteria.

Mr. Land stated their intent with the development of this site is to attract major users. The thing that has cost us in the past is having 50 or 75 acre sites. He stated staff refers to a property on the south side of I-70 having adequate size. He stated one of the tracts is cut by power lines and sewer lines that effectively strip it down to about a 15 acre tract. The other tract is very narrow. He stated the tract that they are proposing is deeper and is more likely to attract a major user like 3M. The goal is to develop this tract over a 10 year period and use the zoning and sewer as

leverage. He stated they will acquire the first 21 acre site; they will control the next 120 acres through a 10 year option, and control the next 20 acres under first right of refusal. The 40 acres will remain under the control of Green Acres LLC, and the benefit they will receive is the upgraded zoning; the benefit we receive is a fixed price over a 10 year period that we can hold constant for major employers. He stated one thing that led them to this site is the introduction of a high school to this area. He stated he thinks the area is going to change and there will be a need for commercial services. The high school will probably increase residential growth as well. We don't know if St. Charles Road will be able to handle more commercial development so it will probably go to Route Z or the Lake of the Woods exit. He stated they feel that this is an appropriate site.

Mr. Land stated he would like to address a couple things that the neighbors brought up. On the northwest corner there is a residential property owner. He stated CAJF is willing to set any building or parking lot improvements 50 feet away from that property line and we are willing to record that on the plat. The property owner to the south would like the extension of East Clark Lane, which is shown on the plan, to be on the property line or entirely on his property to the south.

Mr. Land stated that is all he has for now and he would like to respectfully ask for approval.

Commissioner Elkin asked if the site south of I-70 was Tradewinds.

Mr. Land stated it is.

Commissioner Pearson asked for further comments in favor of this request.

**John John, 33 E. Broadway, Columbia**

Mr. John stated he works in real estate and he has been with clients that have bypassed Boone County because of the time. They would not wait for a planned development. They would not wait for rezoning. It had to be zoned properly and they would not even look at Boone County even if it were available unless it was open zoned and available to start work on when they closed. He stated this is a long term project. There aren't going to be buildings out there next year. He stated the commercial development will not come until there are people out there in that intersection in enough volume so they can get business. He stated this is to plan for the next 10 or 15 years.

Commissioner Elkin stated staff reported that there is plenty of M-L zoning that is out there. He asked why people aren't jumping on that open M-L zoning.

Mr. John stated one reason is that the prices for those properties are 2 to 3 times what the clients are willing to spend for the size of the sites. The sites also have to be pretty square. They need big, open, flat sites. If we are going to compete we need low priced land that is ready for development.

**Melvin Blase, 9100 E. St. Charles Rd., Columbia**

Mr. Blase stated he is a property owner on an adjoining property. He stated a couple of years ago there was a provision suggested before the Commission that Petro establish a development that subsequently put in the Kingdom City area. He stated he was among the leaders who opposed that development. It was rejected by the Commission. The reason for the objection was that there were a number of characteristics of that type of use that make it attractive, and that we faced the possibility of diesel trucks on the adjoining property running all night long, flood lights being on, etc. He stated he and his son are purebred Angus breeders. They are interested in having a neighbor that is hospitable to deal with the problems of agriculture. He stated he has done some research at the University on problems of the rural-urban fringe, and he realizes there are problems with every rural-urban fringe situation. The question is what is the best possible use? When you look at alternative uses, one of which was Petro, and if you look at the possibility of congestion of houses right across their fence, you can imagine the kind of problem you have with kids crawling across your fence. The question is not whether we can preserve what we have now. Most of us in the community are very happy with the situation we have now. The truth of the matter is the world is not going to stand still, and many of us recognize that we do in fact have to look at what the alternatives are and decide which are the ones that make sense. He stated he looks at that from the standpoint of a researcher and from a private point of view. He feels that on both of those counts, this is a reasonable alternative that has been put forward.

Commissioner Pearson asked for further comments in favor of this request.

There were no further comments.

Commissioner Pearson asked for comments in opposition to this request.

**Chris Beckett, 2275 N. Dozier Station Rd., Columbia**

Mr. Beckett stated he lives to the northeast of this development. He stated there are several other sites like this already available in the Tradewinds area, on Lemone Industrial Drive, and on Route B. Whether or not they are priced competitively he doesn't know, and he stated that is not his concern. He stated his concern is who is going to be a good neighbor. He stated when Petro was trying to come to this spot, the MoDOT engineers said the road was at capacity for the number of trucks that were going over it as is, and it has not been upgraded. He stated he has concerns about the private covenants. Those are historically hard to enforce and they seem to change over the years. Another issue on the open zoning is they really only have a use for the first section and everything else is just open. He stated the reason we have planning and zoning is to protect the existing land owners and to control the growth. He stated he also noticed that Commissioner Pearson was also on the board of directors of CAJF and he wanted to know which hat he was wearing.

Commissioner Pearson stated he is wearing his Commission hat.

Mr. Beckett stated he didn't think there would be any conflict of interest.

Commissioner Pearson stated there would only be a conflict of interest if he had a financial interest in this, and he doesn't, and as an exempt entity, none of the members can benefit from what kind of transactions take place. That would be a violation of their exempt status.

Mr. Beckett stated he understands that and he just thought it would be worth noting.

**Jan McAdams, 10950 E. St. Charles Rd., Columbia**

Ms. McAdams stated she is worried about the roads and the traffic on St. Charles Rd. She stated she hasn't seen any plans to combat the traffic suggestion from the new high school. She is concerned about the infrastructure. She stated she has heard that it is always a hard thing to get in. She stated she would just like to see more planning and information. She stated she has also not heard anything about how they are going to control the runoff. If it is M-LP, how are you going to control runoff? She stated her property and road already gets flooded sometimes.

**Harriet Francis, 2251 N. McGuire Ln., Columbia**

Ms. Francis stated her primary access to any point in Columbia is through the St. Charles Rd.-Route Z intersection. She stated she is probably one of the few people in this room who has actually lived on the subject site, but her concerns are not generated as much from her affinity of the property as from her concern over the planning process. During the time that she has been in Columbia, she has watched the Planning and Zoning Commission function with great concern for the citizens. This is the first time she can remember a proposal coming before the body asking for a complete open zone without anything other than a covenant saying they agree that they aren't going to do anything that would be injurious to the neighbors. As staff pointed out, restrictive covenants can be amended. They are not the equivalent of some kind of planned zoning requirement. She stated while she appreciates the interest in having some type of restrictions on the property they develop, that is little assurance to the people of the County that the processes are being followed. In the testimony before the Planning and Zoning Commission, they indicated they were specifically targeting 50-acre users, yet their initial investment in this piece of property is just a 21 acre tract with an option and right of refusal, neither of which obligate them to purchase the entire property, and leaves a 40 acre tract that will be subject to whatever the current owner decides to do with it. She stated she has heard nothing this evening to indicate that there is any obligation on the part of the current landowner to restrict the uses that are going to be made of that 40 acre tract on the southwest corner. She stated the applicability of City M-C requirements, while it is a good reference point, there is nothing that will hold the development to those requirements.

Ms. Francis stated that while she agrees that development will come to this area whether we like it or not, the concept of orderly growth is still important to citizens in this area of the County. We deserve the protections that are afforded the other citizens in other areas of the County. She stated she is not anti-development, but she also finds it hard to believe that the lack of shovel-ready land is the only impediment to bringing in large businesses to Boone County. She stated counties often make significant concessions in their property tax structure in order to bring large

businesses in. What concessions are we going to have to make to bring people in? She stated we are doing an excellent job trying to attract different kinds of industries coming into Discovery Ridge. It is not that the County is not making significant overtures. She stated she would urge the Commission to strongly consider this because of the wide latitude it gives a nongovernmental body that is not responsible to the citizens of the County. They are only responsible to their board of directors.

She stated she also wants to mention infrastructure. Public Water District #9 has a 4-inch line on that side of Route Z and a larger line on the opposite side. They have not allowed existing customers on the 4-inch line to connect to the larger line. The water pressure on that side of Route Z is average. She stated she questions whether or not the Water District has the ability to provide water service at the same rate to existing customers and service any kind of large industrial development in the area.

Commissioner Elkin stated a comment was made that if this is rezoned M-L and annexed into the City under M-C, the City will not recognize their M-C requirements. He asked Mr. Shawver if he had heard that before.

Mr. Shawver stated if it is annexed into the City under M-C, the M-C zoning would apply.

Commissioner Elkin stated they would have to enforce all the M-C zoning requirements.

Mr. Shawver stated that is correct.

Commissioner Elkin stated the City's requirements have certain standards that are similar to the conditions the County sometimes places on land such as lighting, sign heights, etc.

Commissioner Pearson asked for further comments in opposition to this request.

There were no further comments.

Commissioner Pearson asked for any comments offering general information.

**Tim Crockett, 2608 N. Stadium, Columbia**

Mr. Crockett stated he is here on behalf of the applicant. He stated he would like to add a couple items for clarification regarding the water and sewer. He stated staff adequately discussed the sewer situation. The extension of the City sewer from Frank Stanton Station in the future would not serve just this site. It would serve all the properties along the way as well as the entire area. He stated there is a 4-inch water line on that side. He stated he is not sure what the water pressure is in that line, but they have typically been sub par. For a development of any nature out here, whether it is a single family residential or open industrial, you have to come off that 12-inch line. The 4-inch is simply not adequate for any fire protection. It will be a public extension, so there will be access to tie into that line and bring it through this site. He stated the Water District anticipates extending the line eastward through the development and tying into a new 8-



inch extension going down the outer road to I-70, so it would be a looped system in the future.

Mr. Crockett stated we are talking about this development in future terms. It will most likely develop in the City, and the City has stormwater and stream buffer regulations. There is every belief that if the property does develop in the County, they will have those same regulations by that time, so the stormwater and stream buffer issues will be under the County's regulations. He stated Commissioner Elkin spoke about the M-C zoning. If it comes into the City as M-C zoning, there are lighting, landscaping, and various other regulations that we must abide by.

Commissioner Elkin stated if a company comes in and wants to develop a site and it is annexed into the City at that time, do they have to have their plan approved showing the landscaping, stormwater, stream buffer, lighting, etc.?

Mr. Crockett stated they do, and it goes a step further than just showing it on the plan. The lighting has to be certified by a professional post-construction. The lighting ordinance is very strict and specific. A professional has to come out after the lighting is installed and certify that it meets the requirements, so you can't show that you are going to do one thing on your plans and then just not do it.

Commissioner Elkin stated there has been some discussion about infrastructure. He stated a building permit would not be issued for any building if they did not have adequate water, sewer, etc.

Mr. Shawver stated that is correct.

Mr. Crockett stated they wouldn't even be able to plat the property without showing all of the infrastructure and utilities on the plans.

Commissioner Elkin asked if there would be a need for a traffic study.

Mr. Crockett stated there absolutely would. He stated any large user that he has ever worked with always uses their own traffic study. They don't want to purchase and develop a piece of property if they don't have adequate access off of the interstate.

Commissioner Miller stated it was brought up earlier that Discovery Ridge is out there and we are recruiting these businesses. She asked if Discovery Ridge is planned.

Mr. Shawver stated Discovery Ridge is planned, but it is a University development.

Commissioner Miller stated it doesn't have regulations that the governmental bodies can enforce.

Mr. Shawver stated the University has restrictions on it.

Commissioner Pearson stated it has designated sites for construction and they have to meet

requirements in terms of appearance and similar things, but those are all University standards.

Mr. Shawver stated he participated in many of the planning meetings with the University and they had an extensive review of all aspects of that development as it was being set up.

Commissioner Miller stated any development doesn't want a poor piece developed because it hinders the whole picture, and that is something that we sometimes forget.

Mr. Beckett asked the Commission if the property is open zoned, when it is annexed does it automatically become M-C or could it be some other zoning?

Mr. Shawver stated the City's procedure when land is annexed in is the property owner annexing in can request any zoning. The City Planning and Zoning Commission conducts hearings and makes recommendations to the City Council similar to what this process is. In some cases they have upheld the request and in some cases have turned them down. There have been properties that have not annexed into the City because they did not get the zoning that they wanted. There have been properties that have withdrawn and reconfigured their layout or proposal and gone back to the City. It has to be agreed upon by the owner and the City.

Commissioner Pearson stated there are times when the City is annexing and they send us information and give us a chance to respond.

Commissioner Elkin stated they do that for all annexations.

Commissioner Pearson stated we would have an opportunity at that point to express any concerns about that request and make recommendations.

Mr. Shawver stated the County's response is typically to provide the past history of a property, specifically if they have had development activities or rezoning requests and how they comply with performance. The City is not obligated to follow those recommendations, but they do take them under consideration.

Commissioner Elkin stated we have had conversations with the City Manager about this issue. When we go through the process and make a decision on a particular zoning issue, we would expect the City to uphold all the information and public testimony on both sides to uphold that particular zoning.

Commissioner Miller stated she would suggest that the City has the upper hand because they have the sewer. If this development wants sewer, they are going to have to work with the City in order to meet their requirements. You can't get the building without the sewer so the City has the upper hand.

Commissioner Elkin stated under pre-annexation agreements, if this land wants sewer they will have to meet all of the City requirements.

Mr. Shawver stated typically under pre-annexation agreements, they do have to meet all City requirements. In some cases they are more stringent than what the County has and in some cases the County's are more stringent. It is a dual review type process.

Commissioner Elkin stated there was a question about them following through on their plans. If they don't follow through, they don't get the sewer. We don't have that leverage from the County perspective, so there are some protections in there.

Phillip Popham asked for an opportunity to testify.

Commissioner Pearson allowed Mr. Popham's testimony.

**Phillip Popham, 1545 N. Dozier Station Rd., Columbia**

Mr. Popham stated if you look at the look at the landscape in the area, this seems out of sorts because everything else around this site is A-1, A-2, some A-R, and then up next to I-70 is a little C-G. It seems that if you were planning the area, this site would stick out like a sore thumb. He stated this is not the right location compared to what is all around it, especially with the school coming. He stated he would also like to echo the comments about the infrastructure.

Commissioner Pearson asked for further comments.

There were no further comments.

Commissioner Pearson closed the hearing and gave Mr. Land an opportunity for rebuttal.

Mr. Land stated he appreciates the input from parties they had not yet heard from. He stated the makeup of the CAJF board will hopefully allay some of the fears that were brought up tonight. The board is made up of the City Manager, Presiding Commissioner, four members from the Chamber of Commerce, and three members from the REDI board of directors. These people are nominated from each of those organizations for appointment to this board. These are people who are going to have an influence on this project. They will be accountable people who you will see on the street everyday and who won't take the risk of making a bad development in this community. He stated the reason they are buying the 21 acre tract is because they don't have the capacity to buy the whole 210 acres. It is just a matter of pragmatics. He stated they control the rest through a long term option so it is a matter of when you lay the funds out for that. We had to have enough funds for the seller of the property to recognize enough gain to give us the 10 year control. He stated the pre-annexation agreement will cover a lot. It is a negotiated settlement between any annexing party and the City of Columbia. That sewer is a big part of that. They can hold us to any standard that is reasonable, and we have agreed that we could come in with M-C zoning criteria for the entire site. He stated they do believe that there could be C-3 uses on the southern half of the site if the Clark Lane extension comes through, but their intention is for M-C uses. He stated Discovery Ridge is limited to research oriented employers. There is a place in this community for things that are not research oriented. There is room for employers who are making products that people use everyday and that is how this site is intended.

Commissioner Elkin stated this site is currently zoned A-R, which would allow one dwelling per one half acre.

Mr. Shawver stated that is correct.

Commissioner Elkin asked how many homes could theoretically go in there right now without any rezoning.

Mr. Shawver stated realistically it would be 300 or less.

Commissioner Elkin stated because it is open A-R zoning, as long as they met the subdivision regulations, we would have no controls over landscaping requirements, etc.

Mr. Shawver stated that is correct.

Commissioner Elkin stated we have been pretty adamant in the past about planned zoning. He stated he sees this in a different light in the fact that this is not an individual asking for open zoning. It is a non-profit organization comprised of community leaders who are accountable to their particular boards and the citizens. He stated this is a different animal that what we normally see because of that. With the way the economy is right now, we are not exempt from what is happening nationwide, and we have had to make some adjustments on our historical way of thinking by creating tax incentives for some programs and things of that nature. Different times require different ways of doing business, and we have to be able to adapt and change with the changing environment. He stated sometimes that is uncomfortable to do and sometimes it is against the norm, but we have to make decisions that are what we feel are in the best interest of the community as a whole and he stated he thinks this is in the best interest given the makeup and goals of CAJF. He stated this is a long term project. We won't see any dirt being moved out there possibly for several years, but we have to lay the foundation to be able to close those deals. He stated he supports this and thinks it is a good plan.

Commissioner Miller stated extraordinary times take extraordinary measures. She stated she believes we are in that position. She stated in her last 16 years on the Commission, it has only been in the last year and a half that we have cared about economic development other than our \$25,000 we give to REDI and we expected them to do everything. We really didn't take an initiative to protect the economic viability of our community because we didn't have to, but we have to now. Things have changed for us and she stated she believes this kind of an opportunity comes once in a lifetime. She stated she appreciates REDI taking the lead on this and putting together this quasi-governmental body that has found a way through options to control the costs and give us the opportunity to have these sites available when business are looking at our community. Commissioner Miller stated sitting on the REDI board she sees proposals of businesses that are looking for large sites in our community. If we could just have some options to offer to those businesses, we would be able to secure some of these businesses and allow for more manufacturing in this community. We are not all set out to be engineers or researchers that belong in Discovery Ridge. There is another sector of our public that needs jobs just as much as

the researchers and this project gives us that opportunity. She stated because it is a quasi-governmental body that is overseeing this land, we have the upper hand. There is a lot of influence in this by the local governments. She stated you want that first development to be right so you can fill out the whole development, and she has a lot of confidence in this group of people. She stated she supports this effort.

Commissioner Pearson stated one of the things when he was running for office that he was concerned about was the community working together. He stated he talked about the community as a whole working together for the benefit of the whole in terms of economic development. He stated he sees this as a fruition of that desire. As a member of the REDI board, you do see these potential companies looking at sites and when you hear that what they want is not available you begin to develop some concern. This is an opportunity for all of us to work together to provide good paying jobs. That doesn't mean that we don't have other small companies coming in, it just means that this is one other opportunity and tool in the toolbox. He stated that is why he thinks we need to do this and support this.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby **approve** the request by Green Acres Estates LLC on behalf of Columbia Area Jobs Foundation to rezone from A-R to M-L on 210 acres, more or less, located at 1800 N. Rte Z, Columbia.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 241-2009**

**3. Request by Dolores A. Wolfe to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 10 acres, more or less, located at 8900 E. Old Hwy 124, Hallsville**

Mr. Mach stated the subject property is a 10 acre tract located approximately 1 mile to the northeast of Hallsville on Old Highway 124. This rezoning is being sought to allow for division of this property by family transfer to allow for an additional dwelling. There is currently a house, shed, and a barn on this property. The property is zoned A-1(Agriculture), and they are seeking a rezoning to A-2(Agriculture) to split the property into two five acre tracts. There is A-R(Agriculture-Residential) zoning to the east, and A-1 zoning to the north, south and west. This is all original 1973 zoning.

The Master Plan designates this property as suitable for agriculture and rural 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 Public Water Service District #4 Boone County Fire Protection District, & Boone Electric Cooperative. This rezoning will not increase demand on available public utilities.

Transportation: Access to this property is via Old Highway 124 & Level Road. The rezoning will not increase traffic to this site.

Public Safety: This property is approximately 1 mile from the nearest fire station, located in Hallsville. This rezoning will not significantly increase risk or require additional service beyond that which is already provided for the current use of the property.

Zoning Analysis: This request is reasonable and consistent with the current use of the property. The property is sited at a boundary between A-1 and A-R districts. Rezoning to A-2 is not out of character for this area, as there are some smaller lots in the immediate vicinity, particularly to the east. The requirements of the sufficiency of resources test have been met, leading staff to believe that this rezoning is consistent with the policies created by the Boone County Master Plan.

Staff recommended approval of the request.

The Planning and Zoning Commission conducted a public hearing on this request during their May 21, 2009 meeting. There were 9 members of the commission in attendance at the meeting. Following the public hearing, a motion was made to recommend that this request be approved. The motion to recommend approval of the request passed unanimously. It comes forward with a recommendation for approval.

Commissioner Pearson opened the public hearing and asked for comments in favor of this request.

**Robert Boyd, 991 E. Quince Ct., Columbia**

Mr. Boyd stated they want to get this piece of land rezoned so they can build another house on it that will be close to their mother. He stated her health is failing so they wanted to take this opportunity to get this done right now.

There were no further comments in favor of this request.

Commissioner Pearson asked for comments in opposition to this request.

There were no comments in 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 Dolores A. Wolfe to rezone from A-1 to A-2 on 10 acres, more or

less, located at 8900 E. Old Hwy 124, Hallsville.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 242-2009**

**4. Request by Three Creeks Co., LLC on behalf of Air Master Corporation to approve a revised Review Plan on 9.82 acres zoned M-LP (Planned Light Industrial located at 10501 S. Hardwick Lane, Columbia**

Mr. Mach stated this property is located on the east side of Highway 63 and west of Hardwick Lane approximately 1200 feet south of the intersection of State Route H and Hardwick Lane, adjacent to the Ashland city limits. The current zoning for the site is M-LP (planned industrial) rezoned in 2003 from its original 1973 A-1 (agriculture) zoning. There is no private property to the north between this site and the intersection: it is all ROW. The property to the immediate south is zoned M-LP which was rezoned from C-GP (planned commercial) in April of 2001. The C-GP was rezoned from A-1 (agriculture) in 1991 and a revised review and revised final plan were approved in 2003. All the other surrounding County zoning is A-1 and these are all the original 1973 zonings. The property to the east is in Ashland municipal limits and is zoned Airport Commercial. The subject property contains approximately 9.82 acres. The property is currently the site of two commercial/industrial structures and a storage yard. This request is to approve a revised review plan allowing for some future expansions of existing building 1 on the plan. Proposed building 3 has never been built and is essentially the same as is currently approved. There is no change in the allowed uses proposed. This site is within the Southern Boone County School District and the Southern Boone County Fire Protection District. The site is located in Boone Electric Cooperative and Consolidated Public Water Service District #1 service areas. When any building permits are taken out for new construction or to expand/intensify the use, current fire district requirements must be met. There is a 4" waterline and hydrant located near the east property line as shown on the proposed review plan. Sewage is currently provided by a sub-surface engineered wastewater system that will be regulated by the Health Department. Any wastewater systems or modifications will have to be engineered. No direct access to highway 63 is allowed. This portion of Hardwick Ln is under MoDot jurisdiction and any driveway relocation/work in the ROW will need to be worked out as appropriate with the State. The site does drain to Bass Creek and concerns with respect to water quality and stormwater are the same as those of the existing approved plan. Since the proposed revision is minor the resources needed under the "sufficiency of resources test" have not changed since the approval of the current plan, and therefore, the test is not detailed further. The only issue that has come to our attention since the original approval is that there is a stormwater/drainage problem between this property and the property to the south. Some form of mitigation is needed. The current approved plan indicates that stormwater from this property will not significantly impact neighboring properties due to run-off. The master plan designates this area as being suitable for agricultural and rural residential uses. The proposed use is not consistent with the master plan. However, the M-LP zoning node has already been established and the master plan does indicate

that where commercial and industrial development is to occur it should be planned. Staff does believe that a limited planned commercial/industrial node is appropriate at this location but would not support continuous strip development of the highway 63 corridor. The request scores 66 points on the point rating scale. Staff notified 8 property owners.

Staff recommended approval of the revised review plan subject to the following 8 conditions; most conditions are identical to conditions placed on the original approved plan:

1. That it is recognized that all drive and parking areas are required to be a minimum of a chip seal surface. Also, that parking is diagrammatic on the plan and that additional parking may be required by the actual size and use of the buildings.
2. That the landscape screening/buffer area should be a minimum of two rows of evergreen trees at an average spacing of 15 feet triangulated on center on both the east and west of the storage yard.
3. That an approved landscaping plan is binding and that all planting and buffering must be maintained in good condition at all times. Any planting materials that die or are not providing proper buffering will be replaced no later than the next growing season with plantings that will provide the required buffering equivalent.
4. That an engineered stormwater and erosion control plan be acceptable to the NRCS, County Public Works, and Planning Departments which will include a riparian buffer along the creek tributary and relocation of the drive to building 3.
5. That the engineered wastewater system be acceptable to the Health Dept. and Director of Planning and that if an acceptable solution cannot be reached the approval of the development is void and will require redesign and resubmittal and a new approval of a revised review plan.
6. That the proposed sign shown on the plan is limited to a single business sign that is ground mounted and of no larger than 80 square feet with a height no higher than 12 feet to the highest point on the sign, and that the sign not be illuminated in any manner.
7. That all lighting on the site be shielded and focused inward and downward.
8. The owner of this property work with the property owner to the south to resolve the stormwater run-off issues between the two properties so as to be in compliance with the approved plans.

The Planning and Zoning Commission conducted a public hearing on this request during their May 21, 2009 meeting. There were 9 members of the commission in attendance at the meeting. Following the public hearing, a motion was made to recommend that this request be approved with the suggested staff conditions. The motion to recommend approval of the request passed unanimously. It comes forward with a recommendation for approval.



Commissioner Pearson opened the public hearing and asked for comments in favor of this request.

**Ron Lueck, 300 St. James, Columbia**

Mr. Lueck stated seven of these eight conditions were on the previously approved review plan. He stated the property owners are already working on resolving the runoff issues so that should not be a problem.

There were no further comments in favor of this request.

Commissioner Pearson asked for comments in opposition to this request.

There were no comments in 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 Three Creeks Co., LLC on behalf of Air Master Corporation to approve a revised Review Plan on 9.82 acres zoned M-LP (Planned Light Industrial) located at 10501 S. Hardwick Lane, Columbia **with the following eight conditions:**

1. That it is recognized that all drive and parking areas are required to be a minimum of a chip seal surface. Also, that parking is diagrammatic on the plan and that additional parking may be required by the actual size and use of the buildings.
2. That the landscape screening/buffer area should be a minimum of two rows of evergreen trees at an average spacing of 15 feet triangulated on center on both the east and west of the storage yard.
3. That an approved landscaping plan is binding and that all planting and buffering must be maintained in good condition at all times. Any planting materials that die or are not providing proper buffering will be replaced no later than the next growing season with plantings that will provide the required buffering equivalent.
4. That an engineered stormwater and erosion control plan be acceptable to the NRCS, County Public Works, and Planning Departments which will include a riparian buffer along the creek tributary and relocation of the drive to building 3.
5. That the engineered wastewater system be acceptable to the Health Dept. and Director of Planning and that if an acceptable solution cannot be reached the approval of the development is void and will require redesign and re-submittal and a new approval of a revised review plan.
6. That the proposed sign shown on the plan is limited to a single business sign that is ground mounted and of no larger than 80 square feet with a height no higher than 12 feet to the highest point on the sign, and that the sign not be illuminated in any manner.
7. That all lighting on the site be shielded and focused inward and downward.
8. The owner of this property work with the property owner to the south to resolve

the stormwater run-off issues between the two properties so as to be in compliance with the approved plans.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 243-2009**

**5. Request by Gary E. and Edith A. Naugle to rezone from A-1 (Agriculture) to A-R (Agriculture Residential) on 13.67 acres, more or less, located at 1700 N. Dozier Station Rd., Columbia (Appeal – tabled 4/28/09)**

Mr. Mach stated this request was originally scheduled for the April 28, 2009 Commission meeting but was tabled at the request of the applicant.

This property is located east of Columbia approximately 1/2 mile north of the intersection of I-70 Dr NE and Dozier Station Rd. on the east side of Dozier Station Rd. The property is situated approximately 3 miles east of the closest municipal limits of Columbia. The property of this request is zoned A-1 Agriculture. Property to the north and northeast is developed as Lake LaVista subdivision which was rezoned from A-1 to A-2 in 1975. Property to the east, southeast, and south of the request was rezoned from A-1 to A-2 in 1987. Property to the southwest and west is zoned A-2P and was rezoned from A-1 in 1991. Property to the northwest is zoned A-1 and this is an original 1973 zoning. The applicant is requesting a rezoning to A-R (agriculture-residential) of the approximately 13.67 acres. There is Lake on the property. Just south of the lake on the eastern portion of the property is a home, detached garage and several sheds. In the northwest corner of the property there is a small residence with a wastewater lagoon. On the eastern half of the property there is a large building and parking area that has an occupancy permit for a legal non-conforming use for manufacturing building system components. This site lies within the Columbia Public School District. The site is in Public Water District #9 and it may be possible to increase water flow and pressure to meet potential fire requirements. 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 expected to be provided by a BCRSD facility upgrade that is planned for the facility serving Meadow Village. The master plan designates this area as being suitable for agriculture and rural residential land uses. This site has 66 points on the point rating scale. Staff notified 37 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 Public Water District 9. There

are existing district waterlines serving the property but upgrades will be needed if the A-R rezoning is to be utilized at anything near the possible density allowed under the zoning. The only way to utilize the possible density of the requested zoning is to connect to the BCRSD facility that is currently undergoing upgrades.

Transportation: Access to the site is from Dozier Station Rd. which is a major north south connection in this portion of the County.

Public Safety: The nearest fire station is located just within 5 road miles.

The actual character of the area is one of mixed size residential lots. There is a block A-R zoning within 1500 ft of the request and R-M (moderate density residential) zoning within 1000 ft. The resources to support the request seem adequate or able to be provided to support the rezoning. Therefore, staff recommends approval of the request.

The Planning and Zoning Commission conducted a public hearing on this request during their April 16, 2009 meeting. There were 10 members of the commission in attendance at the meeting. Following the public hearing, a motion was made to recommend that this request be denied. The motion to recommend denial of the request passed with 9 members voting in favor of the motion. The applicant filed a timely appeal of the recommendation for denial and so the request comes forward to the Commission on appeal.

Commissioner Pearson opened the public hearing and asked for comments in favor of this request.

**Gary E. Naugle, 1700 Dozier Station Rd., Columbia**

Mr. Naugle stated he apologizes for last month's miscue. He stated the issue of planned versus open zoning is part and parcel of his zoning request and he plans on addressing it tonight. He stated he has been a builder for more than 50 years, a nationally certified remodeler, a licensed real estate broker and owner of Naugle Realty Co., a building material supplier and owner of Builder's Supply Company. He has been a member of the Columbia Building Codes Commission since 1997 and in 1973 he enrolled in the first new home in mid-Missouri in a 10 year structural warranty program.

Mr. Naugle stated he wouldn't be here tonight if he had known how the County treats planned zoning. He stated page 1 of his submittal shows the proposed subdivision with the two possible lots in the future. He doesn't know why two possible lots at some future date created such a stir. Page 2 of the exhibits is the score sheet filled out by Planning and Zoning. He stated it is his understanding that 50 points is acceptable and his proposal scored 66 points. The Planning and Zoning minutes stated that no one showed up in support. He stated no one living in the country wants more neighbors. He stated just like everyone that moved to Dozier Station Road after him, everyone deserves to have a piece of the country. There were 37 notices sent out and only three contested. He said everyone else is either for or doesn't care about this development. He stated they may realize that everyone deserves a piece of the country.

Mr. Naugle stated he would like to address Mr. Anthony's concerns about the drainage and the lagoon. Page 3 is a current aerial photo of the area. He stated Page 3 also shows the current size and shape of the pond. He stated in 1971 he rebuilt the pond, enlarged it, and installed an overflow pipe. This was five years before his son bought what is now the Anthony property. He stated the pond has an approximate 6 acre watershed that when full and saturated, a one-inch rain in a one hour period would send 13,000 gallons of water over the Anthony property in a little over an hour. With the metering by the pipe, it is more like an average of 550 gallons per hour over a 24-hour period. He stated with the intentional flat area downstream by the original pond builders and the metering of the pond, the Anthony drainage area would be wet most of the year without the lagoon.

Mr. Naugle stated all of the photos show that the drainage ditch has been pretty much the same for 80 years. However, the earlier photos seem to show more of an actual ditch from the pond to the trees. He stated this observation is supported by the 1939 photo that shows a secondary ditch on the Anthony property that is currently healed.

Mr. Naugle stated the lagoon was designed and the construction inspected by Stanley Elmore. It was accepted by the state and the Farmers Home Administration. He stated it was designed 40 years ago when the general population was smaller and ate and showered less. The original design was for 18 families, but its capacity today is more like 16 or 17 families. He stated the lagoon is currently rated for 6,000 gallons per day. He stated the historical outflow readings show that it exceeds capacity 15% of the time and it is only a trickle 15% of the time. The new plant will have a capacity of 16,500 gallons. The operating conditions will be much stricter and the outflow much cleaner.

Mr. Naugle stated he would like to address Mr. Anthony and Mr. Ledbetter's concerns on Dozier Station Road. The surface is 2" of asphalt with a recent seal coat applied. It is 22' wide with a 35 mph speed limit. I-70 Drive Northeast is 21' to 22' wide with a speed of 50 mph. Route Z is 22' wide with a speed of 60 mph. St. Charles Road is 22' wide with a speed of 45 mph, and it is also a cross county road that handles traffic from the Callaway County line to Columbia. He stated none of these roads are safe for walking, but he stated he sees people that regularly walk all of these except Route Z. He stated most walk in the evening with insufficient lights and reflective clothing. It is a pain for drivers as well as the walkers. He stated his development will give residents unlimited safe walking or biking on a 28' wide street.

Mr. Naugle stated Dozier Station Road, including his proposed subdivision, has 85 potential families on its one and a quarter mile length. St. Charles Road, with the recently approved and completed Golf View Subdivision and Copper Creek, has 130 potential families within one mile of roadway. Both roads require about  $\frac{3}{4}$  of a mile to empty the majority of the residents onto a State maintained road. The County Public Works Department stated that most new subdivisions are constructed off of a 22' wide pavement.

Mr. Naugle stated he agrees with the Planning and Zoning Commission that zoning up is a financial benefit. He stated if he had set it up one would pay something to the County to zone up,

keeping in mind developers give the County land for off site street right of ways and extend utilities for the further benefit of the County and its citizens. He stated in his case he is willing to give up his grandfather rights that in the next 50 years would yield much more for his heirs and assigns than the development.

Mr. Naugle stated he doesn't intend to waste the Commission's time answering Ms. Carl's vitriolic rhetoric, but it did seem to have an effect on the Zoning Commission. He would like to point out that according to her testimony, Ms. Carl is for good development in the area and he would assume that as she holds numerous one third acre lots off Dozier Station Road that his half acre lots would be a step up.

Mr. Naugle stated he would like to address planned versus open zoning. He stated he would like to parse 6.1.1 of the Zoning Regulations. He stated the primary element is at the end of the sentence, "To allow greater flexibility in the design of buildings and building complexes than would otherwise be possible through the strict applications of district regulations". He stated the second element is its purpose: "To encourage unified (planned) developments". He stated in no way does this element imply force, applying force, or forced upon. He stated the third element is to protect the public. For the right to willingly come forth with different solutions and ideas, the County has the duty "to minimize adverse impacts on the surrounding areas". He stated he would like to point out that this third element under normal planned use is mainly visual and noise buffers. If the County is going to continue to force planned development they should change the definition of what it is.

Mr. Naugle stated when the County made the decision to force planned zoning, they set the stage for potential corruption and certainly unprofessional performance by some officials. He stated just the decision to force planned zoning for more unnecessary control over people was, in its essence, corrupt. Many, if not most, developers are just citizens and not professional developers. He stated he cannot attest to any monetary or moral corruption, but all one has to do is really concentrate on and parse the minutes of his zoning commission meeting to find unprofessionalism and corrupt thinking. He would hate to think that one day we would have to look to staff for protection from our officials rather than looking to the officials for protection from staff.

Mr. Naugle stated the Commission doesn't have to make a decision on this tonight, and he thanked the Commission for their time.

Commissioner Miller stated she is concerned about the comments about monetary and moral corruption of our system.

Mr. Naugle asked if she would like some examples.

Commissioner Miller stated she would.

Mr. Naugle stated one of the Planning and Zoning Commissioners stated "...would it make any difference to either party if it was planned zoning? The Commission could add a stipulation that

they couldn't drain the lake." He stated that lake is an attractive nuisance and to force a citizen to maintain an attractive nuisance is ludicrous. He stated if someone drowns in that you are automatically guilty. He stated you have a Commissioner saying we can make sure they don't drain the lake. He stated he has no business saying anything like that. Mr. Naugle stated another quote was, "I assume it was discussed sometime during the application process whether to do planned or straight zoning." Mr. Naugle stated that means, "What is this jerk-face doing in here with straight zoning when we don't look at anything but planned zoning?" He stated that is exactly the tone. Mr. Naugle stated the staff asked if it still needed to be platted and the response was, "Correct. That is where some input is still available." He stated what can you control on a 20 acre subdivision? He stated another quote was, "I think it is the public lagoon causing that erosion problem." He stated a lagoon is not enough to cause erosion problem. He stated another Commissioner said it was undersized. Mr. Naugle asked how did they know it is undersized. He stated that is the kind of stuff he is talking about.

Commissioner Miller stated she was just curious as to what made Mr. Naugle say that.

Mr. Naugle stated he missed some comments and asked if he could go back and make them.

Commissioner Pearson allowed the comments.

Mr. Naugle stated through the rezoning process he has become impressed with the quality of the staff. They are knowledgeable and professional. The County has very good regulations and the staff is very good at seeing that the regulations are followed. He stated one thing he would recommend to his County government is to pay more attention to staff.

Commissioner Pearson asked for further comments in favor of this request.

There were no further comments in favor.

Commissioner Pearson asked for comments in opposition to this request.

**Chad Slate, 2200 N. Dozier Station Rd., Columbia**

Mr. Slate stated in response to Mr. Naugle's statement that everyone deserves a piece of the country, that may be true but he doesn't believe that gives you the right to just divide up your property into little half acre pieces. That doesn't really make it the country anymore. The reason he moved out into the country is to get a nice place where he can go to the mailbox in his underwear. He stated he and his fiancé are some of the people that Mr. Naugle sees walking on Dozier Station Road. The road is not very wide but after certain times the road quiets down and it is very nice, and you can very easily walk on it. He stated he is concerned that, if Mr. Naugle puts a bunch of houses in, we will very easily lose this and that is really not what he moved out there for. He does not feel that the road is substantial enough to support another development. He stated he is not very comfortable with the quality of those houses either. They are right next to each other and it is lower income housing. He is also concerned with the pollution and the property values.

**Meagan Martin, 2200 N. Dozier Station Rd., Columbia**

Ms. Martin stated if she is at the Lake of the Woods exit or the Highway 63/I-70 exit, she takes the back way home. From St. Charles Rd. to her house is gravel. It is a huge issue if there is going to be a lot more people using that access. She stated that they want a small place in the country, and this is their little piece.

**Leroy Anthony, 1450 N. Dozier Station Rd., Columbia**

Mr. Anthony stated he has lived at his property for almost 25 years. He stated he moved out there to live out in the country. At the Planning and Zoning Commission he expressed his concerns about the increased traffic and the road and the erosion coming from the lagoon. He stated he measured the road in front of his house and it was 21.5', and at the intersection of Dozier Station Road and the access road, it is 21.5'. He stated the difference is that on Dozier Station Road, where the road ends his yard begins and on the access road there is plenty of room to park a car. He still has concerns over the traffic. He stated he walks along the road.

Mr. Anthony stated regarding the erosion problem, some people call it a trickle, but he doesn't. Water runs out of the lagoon all the time and he is on the downhill side. He stated he knows they are supposed to put in a new unit that is supposed to take care of a lot of things, but he is still on the downhill side.

**Patricia Carl, 2957 S. Rangeline Rd., Columbia**

Ms. Carl stated she owns three lots across from Mr. Naugle as well as a few other lots around the area. She stated she came thinking she was going to see some kind of development plan or some information on how he was going to get utilities or sewer, and those questions have not been answered for her. She stated she doesn't know where we are supposed to go from here. She still has some of the same issues about building that many houses without some sort of restrictions or plans. She stated she also has concerns about the quality of the houses. Mr. Naugle is an excellent builder, but he chooses to build lower quality houses than Ms. Carl is comfortable with there.

**Phillip Popham, 1545 N. Dozier Station Rd., Columbia**

Mr. Popham stated he would like to apologize to Mr. Naugle for not being able to be at the previous meeting. He stated all the water from this area comes right down through his land and ends up in the creek. If this tract gives us more water with runoff from development, that is a scary proposition. He also has a horse and he shares the fear of someone getting in his property and getting injured. He stated he also likes to walk along the road and the fewer people driving on it the better.

**Chris Beckett, 2275 Dozier Station Rd., Columbia**

Mr. Beckett stated he has several concerns. He stated he knows there will be some growth out there with the new school in the area, but as Ms. Martin stated, a lot of people do come through on the gravel road. One of his bigger concerns is with 18-20 houses. Mr. Naugle will have to connect to a sewer, but that will have to be connected with Meadow Acres and he has no access to that. He stated he and his kids are the ones to feed livestock in that area, and they have been in Mr. Anthony's fields many times over the years and it smells like sewer; it is ankle-deep every time he has been out there. He stated he doesn't think that is just a trickle.

**Elton Fay, 2351 Dozier Station Rd., Columbia**

Mr. Fay stated he owns some property with Chris Beckett to the north of this site. When he moved out there, there were only two houses around Lake La Vista. He stated he could catch large bass in the lake, and if you go to the lake now you can't catch the same quality fish because the lagoon and sewage plant around the lake don't work. He stated that area is bad for the sewage, and if you put 18 more houses out where Mr. Naugle lives, it is going to make the back side of Mr. Anthony's house even worse.

Mr. Fay stated he and Mr. Anthony went to high school together and he is the only guy on that road except for Mr. Beckett that has permission to come down and borrow any piece of equipment he has. He stated he knows every time Mr. Anthony borrows it because he goes out in his pasture and comes back and it smells like sewage and it has been that way for 25 years. He stated he encourages the Commission to deny this.

Commissioner Pearson asked for further comments in opposition to this request.

There were no further comments.

Commissioner Pearson gave Mr. Naugle a chance to rebut.

Mr. Naugle stated there is no way any drainage from his land gets anywhere near those properties. He stated if Lake La Vista has a problem you have Mr. Fay to thank for it.

Commissioner Elkin stated the context of increased water is because there will be added capacity.

Mr. Shawver stated the Regional Sewer District has planned to take that lagoon out and replace it with a treatment plant. The permit has not yet been issued and the Sewer District does not have a construction permit yet. They want to get SRF funding. Potentially 16,000 gallons/day will pass through that plant; it will be a much higher quality discharge than the lagoon currently has.

Commissioner Elkin stated the runoff from the subject tract is what is in question.

Commissioner Elkin stated staff supported the open zoning on this.



Mr. Shawver stated that is correct.

Commissioner Elkin stated the Planning and Zoning Commission denied it because they wanted to see planned zoning.

Mr. Shawver stated that is correct.

Commissioner Elkin asked if they specified planned A-RP.

Mr. Shawver stated they did not specifically say that. They said they wanted planned A-R or R-S.

Commissioner Elkin stated his point is that if we approved this as A-R tonight, he could potentially put 18 houses. If we denied this and he came back next month in front of Planning and Zoning with an A-RP and there would still be 18 homes. The same issues would still be out there on the traffic, sewer, fire flow, etc.

Mr. Shawver stated the issues could be mitigated to some extent. For example, there could be a requirement for off site road improvements, a traffic study. He would still have to resolve all the issues.

Commissioner Elkin stated a lot of the testimony had to do with concerns about traffic, property values, runoff, roads, etc. He stated regardless of whether it is A-R or A-RP you are still going to have those same issues. He stated even if we denied this and he came back in a month, we are not mitigating the neighbors concerns out there.

Commissioner Pearson stated there would still be essentially the same number of homes.

Commissioner Elkin stated he couldn't be any denser in A-RP that he could be with A-R.

Mr. Shawver stated the density is the same. The difference is that it is 13 acres, so the density allows for a possibility of 26 units. Mr. Naugle has indicated that he is going to do 18 lots.

Commissioner Miller stated we can guarantee the 18 lots with the A-RP versus the 26 with the A-R.

Mr. Shawver stated if he drained the lake he could probably do 23 or 24 lots.

Commissioner Pearson stated with the planned you would know what you were getting.

Mr. Shawver stated that is correct.

Commissioner Elkin stated he could come back with A-RP with the maximum number of units too.

Mr. Shawver stated he could come back with an A-RP with 26 lots in a clustered development right at the front with a lot of open space around it. He stated there is a lot of flexibility in the planned developments.

Commissioner Elkin asked what the Planning and Zoning Commission's concerns were with open A-R zoning versus the planned.

Mr. Shawver stated the concerns of surrounding property owners are better addressed with planned zoning in their view by government oversight. Neighborhoods are assured that if a developer says he is going to have 18 houses then he will have 18 houses unless they come back with a new application. It provides some certainty.

Commissioner Miller stated she was surprised staff supported it. She stated she could support open A-2 zoning because it is surrounded by A-2. She stated she is surprised by the A-R. That is a little denser than the neighborhood.

Mr. Shawver stated they looked at it as the fact that it did have A-2 surrounding it that it was a limited piece of property and there was the R-M zoning to the south. This is the only piece of property the developer owned at this location. Regardless, it is 13 acres and you are not making it more or less. He stated they did not see the value in it going to A-2.

Commissioner Elkin stated if he zoned open A-2, which is compatible with everything that is surrounding that, how many units could he get on there?

Mr. Shawver stated on 13 acres he could probably get 4.

Commissioner Elkin stated his gut feeling is that this thing would pass with A-RP. He asked what we are gaining from doing the A-RP instead of the A-R.

Mr. Shawver stated you are gaining neighborhood assurance.

Commissioner Elkin stated his concern is that if he is asking for 18, if he has to come back with planned he could ask for 26.

Mr. Shawver stated that doesn't mean you have to approve it.

Commissioner Pearson stated if it is zoned open and he is saying he wants to put 18 on it now, he could still do 26 if it is not planned.

Commissioner Miller stated we have been really consistent on planned zoning and she does not support this.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby **deny** the request of by Gary E. and Edith A. Naugle to rezone from A-1 (Agriculture) to A-R (Agriculture Residential) on 13.67 acres, more or less, located at 1700 N. Dozier Station

Rd., Columbia.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 244-2009**

**6. Meadow Lakes Plat 3. S16-T49N-R12W. R-S. James and Eurlene Baylor, owners. J. Daniel Brush, surveyor; Grandview. S15-T50N-R12W. A-2. GW Developers LLC, owner. Christopher M. Sander, surveyor; Street Estates Plat 1. S12-T49N-R13W. A-R. Boone County National Bank, Inc., owner. Neal R. Slattery, 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:

Meadow Lakes Plat 3. S16T49N-R12W. R-S. James and Eurlene Baylor, owners. J. Daniel Brush, surveyor.

Grandview. S15-T50N-R12W. A-2. GW Developers LLC, owner. Christopher M Sander, surveyor.

Street Estates Plat 1. S12-T49N-R13W. A-R. Boone County National Bank, Inc., owner. Neal R. Slattery, surveyor.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 245-2009**

## **Public Works**

### **7. Lakewood NID Proposal for Professional Services (first and second reading)**

Commissioner Elkin stated this is the agreement for the survey work for the Lakewood NID.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the agreement for professional services with Bartlett and West, Inc. for Lakewood NID Surveys. It is further ordered the Presiding Commissioner is hereby authorized to sign said agreement.

Commissioner Miller seconded the motion.

There was no further discussion or public comment.

The motion passed 3-0 **Order 246-2009**

**Purchasing**

**8. 20-28APR09 – Street Sweeping Services Term and Supply (first read on 5/19/09)**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby award bid 20-28APR09 – Street Sweeping Services Term and Supply to Scrubby, Inc. 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 247-2009**

**Facilities Maintenance**

**9. Budget Revision to Cover Costs of Flood Damage to MKT Trail (first read on 5/28/09)**

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the following budget revision to cover flood damage to the MKT Trail:

Department	Account	Department Name	Account Name	Decrease	Increase
1123	86800	Emergency & Contingency	Emergency	\$23,266.00	
1610	60400	Parks	Grounds Maintenance		\$23,266.00

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 248-2009**

**Miscellaneous**

**10. Appoint Gregory K. Martin to Planning and Zoning Commission**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby appoint Gregory K. Martin to the Planning and Zoning Commission for a term beginning June 2, 2009, and ending May 31, 2013.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 249-2009**

**11. Appoint Michael Hight to Road and Bridge Advisory Committee**

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby appoint Michael Hight to the Road and Bridge Advisory Committee for a term beginning June 2, 2009, and ending May 31, 2013.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 250-2009**

**12. Authorize Closed Meeting 610.021(1)**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby authorize a closed meeting on Friday, June 5, 2009, at 10:30 a.m. The meeting will be held in Room 243 of the Roger B. Wilson Boone County Government Center at 801 E. Walnut, Columbia, Missouri, as authorized by 610.021 (1) RSMo. to discuss legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 251-2009**

**13. Commissioner Reports**

There were no commissioner reports.

**14. Public Comment**

There was no public comment.

The meeting adjourned at 9:58 p.m.

Attest:

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Kenneth M. Pearson  
Presiding Commissioner

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Wendy S. Noren  
Clerk of the County Commission

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Karen M. Miller  
District I Commissioner

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Skip Elkin  
District II Commissioner