

TERM OF COMMISSION: November Session of the October Adjourned Term

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

PRESENT WERE: Presiding Commissioner Keith Schnarre  
District I Commissioner Karen M. Miller  
District II Commissioner Skip Elkin  
Planning and Zoning Director Stan Shawver  
County Counselor John Patton  
Deputy County Clerk Shawna Victor

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

**Subject: Planning and Zoning**

Commissioner Schnarre noted that during Planning and Zoning sessions, the Commission will receive a report from staff and then the Commission will have the opportunity to ask staff any questions. The Commission will then move to a presentation from the applicant or agent of the applicant on behalf of their request. After that, the Commission will convene a public hearing where any testimony in favor of or in opposition to will be welcome. Following the public hearing, the Commission will discuss the issue and then vote on the issue.

Stan Shawver, Director of the Planning and Building Inspection Department, stated that the Boone County Zoning Regulations and the Subdivision Regulations are entered into the record. (note - the file copy is retained in the Planning and Building Inspection Department)

**A. Request by James and Melanie Abernathy and Hemme Construction LLC to approve a Final Development Plan for Golf View Gardens on 14.1 acres located at 7400 E. St. Charles Rd., Columbia.**

Mr. Shawver stated this proposal is for a revised final plan for a 34-lot planned residential development that is located on the south side of St. Charles Road immediately east of Stanton Subdivision. The site is located approximately 1 mile northeast of the Columbia City Limits. The property is currently split zoned with the portion north of the creek zoned R-S (residential single family), the portion currently approved as Abernathy PRD zoned R-SP (planned residential) and the portion south of the creek zoned A-2 (agriculture). The R-S and A-2 are original 1973 zonings. The R-SP went into effect December of 1995 and was revised in March of 1997.

A revised review plan for this current proposal was approved by the County Commission in November of 2004. With the approval of this current revised final plan the entire

property will become zoned R-SP. The total development proposed is for approximately 13.95 acres. The surrounding zonings also follow the creek with the properties north of the creek being zoned R-S and those properties that are south zoned A-2. These are all original 1973 zonings.

The site is within the Columbia School District. Public Water District #9 will provide water service. Fire hydrants will be required and will have to meet fire & water district approvals. The actual requirements will vary based upon the actual size, uses, and construction methods proposed for the structures. The site is in the Boone Electric service area and Boone County Fire Protection District. Sewer service is proposed to be from the Boone County Regional Sewer District facility serving Stanton Subdivision and Copper Creek Subdivision. There is available capacity at this facility but it is limited and this capacity is on a first come first serve basis. It is a portion of this excess capacity that this development is proposing to secure and use; this will have to be fully finalized prior to the plat going to County Commission. The location of the new public road connection to St. Charles Road will have to meet Boone County Public Works standards. The proposal rates 80 points on the point rating scale.

Staff recommends approval as long as the following issue is recognized:

1. That it is recognized that when the final plan is recorded that the lots shown on the final plan have not been created and do not exist and can not be legally transferred until the recording of the final Plat.

Mr. Shawver noted the zoning regulations now require development plans be recorded but do not create separate lots until a subdivision plat is recorded. A subdivision plat cannot be recoded until infrastructure is in place.

The Planning and Zoning Commission conducted a public hearing on this request at their November 17, 2005 meeting. Eight members were present. A motion was made to approve the request with the staff recommended condition. This motion received unanimous approval.

Tim Crockett, Crockett Engineer Consultants, 2608 N. Stadium Boulevard, was present on behalf of the applicant.

Mr. Crockett stated the Commission approved the Preliminary Plat and Review Plan in November 2004. This Final Plan is in compliance with that approval.

Commissioner Schnarre opened the floor for a public hearing on this request.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.

Commissioner Elkin moved to approve the request by James and Melanie Abernathy and Hemme Construction LLC to approve a Final Development Plan for Golf View Gardens on 14.1 acres located at 7400 E. St. Charles Road, Columbia.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 457-2005**

**B. Petition submitted by Kristina Metcalf to vacate and re-plat Lot 2 of Little Horse Acres Subdivision (located on Mt. Zion Church Rd. west of State Highway B).**

Mr. Shawver stated in accordance with Section 1.8.2 and 1.8.1.3 of the Subdivision Regulations require the County Commission to hold a public hearing in order to consider any petition to vacate and/or re-plat, taking into consideration character of the neighborhood; traffic conditions; circulation; the proper location and improvement of streets and roads within and adjacent to the subdivision; property values in the subdivision; public utilities; facilities and services and the re-plat will not generally adversely affect the health, welfare, or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate.

Kristina Metcalf, 5000 Mt. Zion Church Road, and Roger Metcalf, 1501 Maplevue Drive, were present on behalf of this request.

Kristina Metcalf stated she wishes to sell 2.5 acres.

Commissioner Schnarre asked if there is a home on this lot. Mr. Shawver stated there is a home now. It is a 6.5 acre lot zoned A-2 (Agriculture).

Commissioner Elkin asked if this lot backs up to a subdivision. Ms. Metcalf stated that is correct.

Commissioner Elkin stated there are other tracts on Mt. Zion Church Road that have been re-platted.

Commissioner Schnarre opened the floor for a public hearing on this request.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.

Commissioner Elkin moved to approve the petition submitted by Kristina Metcalf to vacate and re-plat Lot 2 of Little Horse Acres Subdivision (located on Mt. Zion Church Rd. west of State Highway B). Said vacation is not to take place until the re-plat is approved.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 458-2005**

**C. Petition submitted by P & M Sales, Inc. to vacate and re-plat Lot 6 of Boone Industrial Park North Block 2 (located at the intersection of Highway 763 and Boone Industrial Blvd.).**

Mr. Shawver stated this is the Kemper Arena site.

Section 1.8.2 and 1.8.1.3 of the Subdivision Regulations require the County Commission to hold a public hearing in order to consider any petition to vacate and/or re-plat, taking into consideration character of the neighborhood; traffic conditions; circulation; the proper location and improvement of streets and roads within and adjacent to the subdivision; property values in the subdivision; public utilities; facilities and services and the re-plat will not generally adversely affect the health, welfare, or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate.

Daniel Brush, Brush and Associates, was present on behalf of the applicant.

Daniel Brush stated Lot 6 has been cut up over the years by surveys and other re-plats. This petition would create an additional one care lot for future development.

Commissioner Miller asked if this is cutting the corner where the shed sits. Mr. Brush stated that is correct.

Commissioner Schnarre asked if this was originally one big lot. Mr. Shawver stated that is correct.

Commissioner Elkin asked with the County's sewer connection agreement with the City, if this would trigger any mechanisms for annexation. Mr. Shawver stated the City of Columbia owns the sewer system serving Boone Industrial Park now. Any new connection resulting from new construction will have to either annex into the City or sign a pre-annexation agreement with the City.

Commissioner Miller asked if the property owner plans to use the current driveway. Mr. Brush stated that is correct.

Commissioner Schnarre opened the floor for a public hearing on this request.

Ronald Carter, 1244 Sunset Drive, was present in opposition to this request.

Mr. Carter submitted four photographs of his property located to the south/east of the property in question. These photographs show the runoff water from property in question, across the eastside of his property. The erosion is now up to six feet close to the building on his property.

He is concerned that any changes might make the runoff and erosion worse. He has been unable to get the property owner to speak with him about possible solutions.

Commissioner Elkin asked Mr. Carter if he owned the church. Mr. Carter stated that is correct, the building is being leased to a Baptist church at this time.

Commissioner Miller asked if the erosion is the ditch like area shown in the picture. Mr. Carter stated that is correct. The original owner told him there was a depression or ravine there. Since then it has become three to four times larger. All the water where the satellite shed is also runs toward the building on the north side. There is a lot more water that comes of that property since it has been paved.

Commissioner Schnarre asked if this whole lot is paved. Mr. Carter stated it was paved a year ago.

Commissioner Miller stated this looks like the natural drainage and based on Mr. Carter's statement, this was a grass swale so that is where the water will go. She understands his concerns of more water running off but since it is already paved she does not believe the runoff will worsen even if an additional building is put on the lot. She does not believe this can be corrected with this vacate and re-plat request.

Commissioner Schnarre stated if there is new construction some methods could be put in place to alleviate the problem.

Commissioner Schnarre closed the public hearing.

Commissioner Miller asked what could be done to mitigate this problem. Mr. Brush stated he has not seen the problem but believes any development that would occur on this one acre lot would reduce the impervious area because the developer would want landscaping and grass.

Commissioner Schnarre stated the drainage issue does not change the re-platting issue.

Commissioner Miller moved to approve the petition submitted by P & M Sales, Inc. to vacate and re-plat Lot 6 of Boone Industrial Park North Block 2 (located at the intersection of Highway 763 and Boone Industrial Blvd.). Said vacation is not to take place until the re-plat is approved.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 459-2005**

**D. Petition submitted by Alvin Barkley to vacate and re-plat Lot 2 of Pin Oak Subdivision Block 2 (located on Pin Oak Blvd. north of St. Charles Rd.)**

Mr. Shawver stated the zoning for this lot is R-S.

Section 1.8.2 and 1.8.1.3 of the Subdivision Regulations require the County Commission to hold a public hearing in order to consider any petition to vacate and/or re-plat, taking into consideration character of the neighborhood; traffic conditions; circulation; the proper location and improvement of streets and roads within and adjacent to the subdivision; property values in the subdivision; public utilities; facilities and services and the re-plat will not generally adversely affect the health, welfare, or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate

Daniel Brush, Brush and Associates, was present on behalf of the applicant.

Daniel Brush stated the applicant has a 1.8 acre lot and would like to create a separate lot with the existing house and build a new house on the remainder. The applicant is requesting to create a 16,000 to 18,000 square foot lot and leave the remainder as one tract.

Mr. Brush noted most of surrounding lots are half the size of the current lot. Due to frontage and configuration, it is not possible to divide the tract in half. That is the reason for the smaller lot with the existing house.

Commissioner Schnarre asked if there were other buildings behind the existing house. Mr. Shawver stated that is correct.

Commissioner Schnarre opened the floor for a public hearing on this request.

Kirk Doolady, 1505 N. Pin Oak Boulevard, was present in opposition to this request.

Mr. Doolady stated this has been an issue for many years. This neighborhood was platted in the late 1950s, early 1960s. There was a hand written code of covenants that was not

properly recorded, stating lots on this street would be no smaller than one acre. His property is a little more than two acres. The property to the north of his, which was originally the same size as his lot, was allowed to be re-platted into two one acre lots. These lots are narrow and long. This started a trend in the neighborhood of having one acre lots into half-acre lots.

This property is narrow to begin with and to put a house on this would upset the character of the neighborhood. Also, the house size could also affect property values in the area. He is concerned with the possibility of having additional rental housing on the street.

Commissioner Miller asked if the current house is close to the street. Mr. Doolady stated that is correct and there is a barn type structure behind the house.

Commissioner Schnarre closed the public hearing.

Commissioner Schnarre stated in 2003, the County Commission denied a request to vacate and re-plat for property only two lots north of this property. Mr. Shawver stated that is correct. It was a one acre lot, which is smaller than this property.

Commissioner Schnarre asked what the smallest size could be. Mr. Brush stated 16,000 to 18,000 square feet. According to the subdivision regulations, this is as big as he can make the lot without violating the 3:1 ratio and the frontage regulations.

Mr. Shawver stated that is correct.

Commissioner Elkin stated he has the same opinion as he did in 2003. The precedent that would be set if this was approved would not be a good one for the character of the neighborhood. He is not sure he wants to subdivide all the lots that come forward with a request.

Commissioner Schnarre asked if the lots to the south of this property are half-acre lots. Mr. Shawver stated those lots are about one-quarter acre. Originally those four lots were approximately the same size of this lot.

Commissioner Schnarre asked if that split happened in one process. Mr. Shawver stated it was originally part of Pin Oak, which was a surveyed subdivision.

Commissioner Miller stated the last time the Commission heard a request on this street; there was discussion about set backs and people not wanting houses closer to the road because current homes are set farther back from the road. Mr. Shawver stated this was discussed.

Commissioner Schnarre asked how long Mr. Barkley has lived on this property or owned it. Mr. Brush stated he does not know how long he has owned the property. He does not

believe that Mr. Barkley lives there at this time but the house is now a rental unit. Mr. Barkley has discussed with him putting the new house closer to the current barn.

Commissioner Miller stated this whole subdivision has good size lots.

Commissioner Elkin stated if someone were to look at the lot that was split north of Mr. Doolady's property, it changed the neighborhood.

Commissioner Elkin moved to deny the petition submitted by Alvin Barkley to vacate and re-plat Lot 2 of Pin Oak Subdivision Block 2 (located on Pin Oak Blvd. north of St. Charles Rd.)

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 460-2005**

**E. Petition submitted by Jerry Swartz to vacate and re-plat Lot 2 of Inscore Subdivision (located on Robinson Road south of Highway 124).**

Mr. Shawver stated this is a minor subdivision located on Robinson Road, west of Hallsville. The zoning is A-2. Lots 1-3 were platted in 1997.

Section 1.8.2 and 1.8.1.3 of the Subdivision Regulations require the County Commission to hold a public hearing in order to consider any petition to vacate and/or re-plat, taking into consideration character of the neighborhood; traffic conditions; circulation; the proper location and improvement of streets and roads within and adjacent to the subdivision; property values in the subdivision; public utilities; facilities and services and the re-plat will not generally adversely affect the health, welfare, or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate

Bill Crockett, Crockett Engineering Consultants, 2608 N. Stadium Boulevard, was present on behalf of the applicants.

Mr. Crockett stated the intent of Mr. Swartz is to split the lot, which is five acres, into separate lots. There is currently one house on the property.

Commissioner Schnarre opened the floor for a public hearing on this request.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.



Commissioner Miller asked what size the lots across the road are. Mr. Shawver stated it is zoned A-2. The property was originally zoned A-1 but was rezoned in 1996 with the intent to develop lots but at that time there was not sufficient water supply. Water District #4 has brought water lines to the area.

Commissioner Miller asked if that property is platted. Mr. Shawver stated that is correct.

Commissioner Elkin stated A-2 was platted further south on the east side of the road.

Commissioner Miller asked what is behind this property. Commissioner Schnarre stated it is farm land and this all was farm land before it was platted.

Commissioner Miller stated the infrastructure is there.

Commissioner Schnarre stated this would change the character of the neighborhood.

Commissioner Elkin moved to approve the petition submitted by Jerry Swartz to vacate and re-plat Lot 2 of Inscore Subdivision (located on Robinson Road south of Highway 124). Said vacation is not to take place until the re-plat is approved.

Commissioner Miller seconded the motion.

Commissioner Elkin stated the way the houses are situated on the other lots; he believes it would be difficult for the other lots to subdivide.

Mr. Shawver stated the houses are situated in the middle of the lots.

The motion failed 1-2 as follows: Commissioner Schnarre – Nay, Commissioner Miller – Nay, Commissioner Elkin – Aye.

Commissioner Schnarre moved to deny the petition submitted by Jerry Swartz to vacate and re-plat Lot 2 of Inscore Subdivision (located on Robinson Road south of Highway 124).

Commissioner Miller seconded the motion.

The motion passed 2-1 as follows: Commissioner Schnarre – Aye, Commissioner Miller – Aye, Commissioner Elkin – Nay. **Order 461-2005**

**F. Request by Kirby McKenzie Construction, Inc. to rezone from A-1 (Agriculture) to A-2 (Agriculture) of 10.31 acres, more or less, located at 5260 Liddell Ln., Columbia. (Appeal)**

Mr. Shawver stated this property is located approximately 2 miles east of the municipal limits of the city of Columbia and is immediately to the east of the intersection of Dusty Rhodes Lane and Liddell Lane. This property is zoned A-1 (Agriculture) as is all the surrounding property on the north, northeast, east, southeast, and south and these are all original 1973 zonings. The zoning to the southwest, west, and northwest is A-2 (agriculture) and these are also the original 1973 zonings. The property is currently the site of one single family dwelling.

This site is located within the Columbia School District. Electric service is provided by Boone Electric Cooperative. Water service is provided by the City of Columbia. There have been no previous requests to rezone this property. The master plan designates this area as being suitable for residential land uses. Staff notified 16 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 City of Columbia Water. There is both a 6-inch and 8-inch waterline in the area. A central waste-water system is not available for this site. The developer is proposing the use of individual on-site waste-water systems.

Transportation: Access to the site is from Liddell Lane, a, county maintained road.

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

The sufficiency of resources test is not the only measure of the appropriateness of a rezoning; it is essentially a “gate keeping” function. If a rezoning proposal does not meet the sufficiency of resources test it should be denied. If a proposal does meet the sufficiency of resources test it does not mean that the property should be rezoned; it only means that further arguments about the suitability of the request should be evaluated. In this situation the dividing line between the A-1 and the A-2 zoning districts follows the section/range line for 4 miles from just north of I-70 to Mt. Hope Road. Along the property in question the section/range line is in the road making the road the boundary line between zoning districts. The only deviation from the section/range line as the district boundary is that the road becomes the west boundary edge of the A-1 zoning district all the way to Mt. Hope Road. This is true with the exception of a single 1-acre

nonconforming lot on the east side of Liddell Lane at one of the 90 degree bends in the road. The land between the section/range line on the west side of the road was rezoned from A-1 to A-2 to bring land under a single ownership under a single zoning and to make the road the district dividing line in this area by bringing the properties west of the road under a single zoning rather than having a split in zoning districts within single tracts. Part of the justification for these rezonings was that the road was an identifiable and “natural” boundary for the zoning districts. The A-1 zoning of the subject tract is the same as all the property continuing to the east all the way to the county line which is approximately 4 miles. A rezoning of this property would open the door to justification of additional requests to rezone from A-1 to A-2 for purely speculative reasons. Additionally, recent decisions on similar requests to rezone from A-1 to A-2, even those proposed to facilitate family transfers, have been denied by this commission and the County Commission. In most cases the denial was accompanied with the suggestion that planned requests have traditionally had better chances of getting approved. In this case even a planned request to rezone from A-1 to A-2P (planned agriculture 2) would seem inappropriate. Staff recommends that this request be denied.

The Planning and Zoning Commission conducted a public hearing on this request on November 17. A motion was made to deny the request and this motion received six “yes” votes and two “no” votes. An appeal was filed in a timely fashion and is before the Commission on appeal.

Kirby McKinzie, 6381 Liddell Lane, Columbia and Gene Basinger, 19335 S. Route A, Columbia, were present on behalf of this request.

Mr. Basinger stated the intent of this rezoning request is so Mr. McKenzie can divide the tract into two tracts. He has presented a proposed plat to the Commission showing the two tracts. The land is 10.31 acres. After the right of way is dedicated, there would be a little over nine acres. The maximum lots that could be put on this tract under A-2 zoning would be three. Mr. McKenzie is only asking for two lots.

There is a creek that runs through the north part of this tract that would make creating three lots difficult. There is an existing on the south end of the current tract.

The land to the southeast of this tract is a large farm. The land to the west is zoned A-2. Directly across the road from this tract is Julie Ann Subdivision, a two lot subdivision, one three acre tract and one four acre tract. There is a nine acre tract to the north of the subdivision and a three acre tract west of the subdivision. North of these tracts is a large tract of land that has a proposed PUD. Due east of this tract, the tracts are no smaller than 10 acres. The surrounding land is all residential with the exception of the farm. He thinks the smaller lots might have been created before Planning and Zoning was created in this county.

Mr. Basinger stated he would like to address the concerns raised by Planning and Zoning.

One concern was the precedent that would be set to rezone this tract. Mr. Basinger believes that each rezoning request would be taken under consideration on a case by case basis. He believes because this tract is in a residential area that the rezoning would be appropriate.

Another concern was the number of lots. They have presented a two lot subdivision to the county. If this plat is approved, any future changes, even to the number of lots, would have to come back before the Commission for their approval. He believes something could be worked out to with the Commission to guarantee there only be two lots.

The Planning and Zoning Commission expressed concerns about having a planned zoning proposal. Mr. Basinger stated he does not have a lot of dealings with planned zoning in the County on residential tracts. He has seen planned zoning for large tracts with a large number of lots. He does not think that planned zoning is supposed to be for smaller tracts like this with a few lots. He thinks planned zoning would only control the number of lots and he believes this can be handled with the platting procedure.

Finally, Planning and Zoning had concerns with the zoning line being along Range Line Road. With Boone County being progressive and the reason for having zoning regulations is to be able to look at situations like this. There are zoning lines that are not straight throughout the County. There is even many areas in the County with islands of zoning. He does not believe this request would set any kind of bad precedent as this is already a residential area.

Commissioner Miller asked when the lakes were created. Mr. McKenzie stated it was over 20 years ago. This land has been in his family for over 100 years.

Commissioner Miller stated she thinks it is unusual that the lakes go across the lots. Mr. Basinger stated the surveys and deeds are very old. He does not have any history on this. It is possible the neighbors came to an agreement about the lakes.

Commissioner Miller stated she has an issue with the lot lines crossing the lake. She believes this can cause problems.

Commissioner Schnarre opened the floor for a public hearing on this request.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.

Commissioner Schnarre asked how far south does the A-1 zoning go. Mr. Shawver stated along the township line to just north of I-70, east to the County line, then north to the next section line.

Commissioner Miller noted this is now two miles from the city limits and believes this will be in the city before long.

Commissioner Elkin stated there has been a lot of emphasis put on the 1973 zoning line. That was fine for 30 years but this county is growing and it would be wrong for the Commission to think this line will stop any future growth. The growth has already started south of this area. He believes that changing the zoning from A-1 to A-2 is the mildest step to take. Looking at the maps, even though these are larger tracts, it is not farm land and will not be for much longer.

Commissioner Schnarre stated one does not have to go too much farther to get into farm land. Commissioner Elkin stated he does not believe it will be farm land for much longer.

Commissioner Miller asked if this tract is currently being farmed. Commissioner Schnarre stated no.

Commissioner Miller stated development should occur then it should happen where the land is not being farmed.

Commissioner Elkin stated if this was a 30 acre tract then there would be no discussion of open zoning but since it is a nine acre tract, with a maximum of three lots.

Commissioner Miller asked if Mr. McKenzie is willing to move the lot line away from the lake. Mr. McKenzie stated he would be willing to do that but had the line this way so the new land owner could have access to the lake.

Commissioner Miller stated she understands but worries that people will fight over maintenance.

Mr. McKenzie stated if that is what he needed to do, then he would move the line.

Commissioner Elkin stated if he were the person buying the lot then the lake would be an attraction. Mr. McKenzie noted it is currently a shared lake.

Commissioner Miller asked who shares the lake. Mr. McKenzie stated it is shared with the neighbors.

Commissioner Elkin asked if there would be a covenant on the tract saying it is a shared lake. Mr. Basinger stated there would be a maintenance agreement.

Commissioner Elkin stated he does not have a problem with the rezoning request. He asked if the Commission has to sign off on the plat. Mr. Shawver stated if the plat meets the subdivision regulations then the Commission has to sign off, they have no choice

Commissioner Miller stated she would prefer to have the line moved to where it does not allow for more than two lots. Mr. Shawver stated the only issue before the Commission this evening is the rezoning request.

Mr. Basinger stated the only problem there could be with moving the lot would be the building sight because of the creek on the tract. It is not suitable for three lots.

Commissioner Miller stated there are houses next to this but asked if they were on lots. Commissioner Schnarre stated there are 15 acre lots, a 12 acre lot and a five acre lot.

Commissioner Elkin stated to the north and across the road from this property is the A-RP development.

Mr. Basinger stated there is a 5.5 acre tract that adjoins this property and a 20 acre tract north of that.

Commissioner Schnarre stated there are large farm tracts close to this property. Commissioner Miller noted the city limits are getting close to this property and is residential.

Commissioner Elkin moved to approve the request by Kirby McKenzie Construction, Inc. to rezone from A-1 (Agriculture) to A-2 (Agriculture) of 10.31 acres, more or less, located at 5260 Liddell Ln., Columbia.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 2-1 as follows: Commissioner Schnarre – Nay, Commissioner Miller – Aye, Commissioner Elkin – Aye. **Order 462-2005**

**G. Request by Gilpin – Sells LLC on behalf of Bobcat of St. Louis to rezone from R-SP (Planned Single Family Residential) to C-GP (Planned Commercial) of 4.89 acres, and approve a revised Review Plan and Preliminary Plat, located at 6989 I-70 Drive NE, Columbia. (Appeal from 10/20/05)**

Mr. Shawver stated the property is located at 6989 I-70 Drive N.E., approximately 4 miles east of Columbia. The 36.94 acre tract was originally zoned A-R. In 1994 17.12 acres was rezoned to Recreation REC, the remaining 19.82 acres retained the original A-R zoning. The golf driving range was allowed by conditional use permit in 1989. In January 2005 the north 29.44 acres of the property was rezoned to RS-P and the south 7.5 acres was rezoned to CG-P. A final development plan and preliminary plat was also approved showing 88-residential lots and 2-commercial lots.

Zoning adjacent to the property is as follows: north – A-1 and A-R; east – A-R; south – A-2; west – A-2.

The current application is a request to rezone an additional 4.36 acres from RS-P to CG-P. The review plan and preliminary plat shows three lots. Lot 1, which is 7.96 acres in area, is proposed to be developed with a commercial building not to exceed 30,000 square feet. Lot 2 currently zoned CG-P will remain vacant and Lot 3 is shown as vacant.

The Master Plan designates this property as suitable for agriculture and rural residential land use. The Master Plan identifies the use of planned districts to establish new commercial and industrial areas. 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 typically used for this analysis can generally be broken down into three categories, Utilities, Transportation and Public Safety Services.

Utilities: Public Water District Number 9 provides water service to the property. The district is not able to confirm whether the existing infrastructure, available at the property, is sufficient to support the level of development that would be allowed if the proposed rezoning is granted. However, there is a sufficient water source located to the west of this property that could be extended to this property at the developers cost.

There is no central sewer currently available to the site. The review plan states that sewage effluent may be treated on site or by a treatment facility located offsite and operated by the Boone County Regional Sewer District. There are several other developments in various stages of planning in this vicinity and two existing wastewater treatment facilities in the Little Cedar Creek Watershed. Consolidation of wastewater treatment within the watershed is in the public interest. The Boone County Regional Sewer District has recommended that the developer be required to coordinate wastewater treatment infrastructure planning and construction with the Sewer District.

Transportation: A traffic analysis prepared by Crockett Engineering Consultants was submitted with the previous request. MoDOT has reviewed the traffic study and agrees with the conclusion that no improvements to I-70 Drive N.E. are warranted because the base traffic flow is low enough that even with the additional traffic generated by the previously proposed development, the street will continue to function at level of service A. The current proposal should generate less traffic because of the elimination of 88 residential lots. The developer has agreed to construct a left turn lane adjacent to the development. The left turn lane will be built under a permit from MoDOT to MoDOT specifications.

Public Safety Services: There is no indication that public safety services are not readily available to the property.

Zoning Analysis: The commercial zoning that was approved with the previous request was supported as a service to the residents of the area. Although there were no allowed uses approved with the development plan, it was anticipated that future uses would be of a type and scale similar to the Neighborhood Commercial district. The current plan proposes uses that are General Commercial in nature and do not provide neighborhood type services.

There is adequate land in the vicinity of the subject property that is currently zoned to allow the requested uses. Approximately 92-acres of undeveloped land zoned General Commercial (CG) and 185-acres of undeveloped land zoned Light Industrial (ML) is within 1.25 miles of this property.

Review Plan: The review plan shows one freestanding sign near the intersection of Lenway Drive and I-70 Drive N.E. A note on the plan indicates the sign will be double faced with 252 square feet of sign area per face. The maximum size allowed by the Zoning Regulations is 80 square feet per face. Three entrance/exit signs are shown, one at each entrance. These signs each constitute a free standing sign. The regulations specify a limit of one freestanding sign per public street frontage.

The parking shown is inadequate for the proposed Allowed Uses. A minimum of 1-parking space per 300-square feet of floor area is required. The development plan limits the maximum building size to 30,000 square feet. A 30,000 square feet building requires 100-parking spaces.

The property scored 56 points on the rating system. 11 property owners were notified of this request.

The sufficiency of resources test supports the requested rezoning. However, there has been no change in conditions to support the requested rezoning for General Commercial type uses. In addition, there is an adequate supply of appropriately zoned undeveloped land in the immediate vicinity. Therefore, staff recommends denial of the rezoning, review plan and preliminary plat. If the Commission chooses to approve the request the following conditions are suggested to apply to the review plan:

1. The developer shall coordinate planning and construction of wastewater treatment facilities with the Boone County Regional Sewer District.
2. Change the note indicating the size of the freestanding sign to reflect the maximum sign size of 80-square feet.
3. Change the note indicating the number of entrance/exit signs to reflect that the maximum number of such signs is one.
4. Change the Parking Calculations note to be compliant the requirements of the zoning regulations and revise the site plan to show the required number of parking spaces.



The Planning and Zoning Commission conducted a public hearing on this request on October 20, 2005. After public hearing, a motion was made to deny the rezoning request and this received five “yes” votes and three “no” votes. A motion was made to deny the review plan and this received seven “yes” votes and one “no” vote. In denying the review plan, the preliminary plat was also denied. The applicant filed an appeal in a timely fashion and is before the Commission on appeal.

Dan Simon, legal representative for the applicant, Jennifer Hedrick, project architect, Tim Crockett, project engineer, and Dan Anich, Bobcat representative, were present on behalf of this request.

Dan Simon stated the tract is currently vacant and used to be Tiger Tee. There are already a number of existing commercial facilities along this road starting at the Route Z interchange to the east.

The front portion of this site is already zone C-GP. The applicant has proposed to take the 4.04 acres on C-GP with 3.96 acres, which is currently zoned for residential use, and convert it all to C-GP. If the Commission does approve the rezoning request, they then approve a review plan. If this is approved, then 50% of this land would remain an open, landscaped area.

The applicant wants to place a Bobcat dealership in Columbia. Bobcat is light industrial equipment mainly sold to contractors.

This is primarily a land use hearing. The proposed question is “what is the best use for this land?” Mr. Simon does not believe that it is residential use. It is not appropriate due to the proximity to I-70. As the County grows, sites along I-70 will become more important for uses that are beneficial to the entire county than a residential type use. Residential uses will not have the same tax benefit that a commercial use will. They believe sites such as this should be used for purposes that generate appropriate tax revenues.

This particular site is not appropriate for neighborhood commercial. Neighborhood commercial, such as a convenience store, are beneficial if they have a substantial amount of traffic. There is not enough traffic at this time to have that be successful and this amount of traffic will not be present in this area for a long time. The Bobcat business would not generate a large volume of traffic.

Mr. Simon stated another item to consider is what is good for the neighbors. The neighbor to the immediate west of this property is the Pet Resort. Residential use next to the Pet Resort is not compatible and would create numerous complaints. Construction equipment will not bother the dogs. Mr. Anich has visited the property and is aware of what is there. They believe this is the most compatible use with their immediate neighbor.

This is a land use request. He requested the Commission take into consideration the land uses from the west to this property. Residential uses are not appropriate for this site.

There will be a substantial amount of landscaping.

This use will not generate a lot of traffic. The developer has already proposed to put in the additional traffic lane to accommodate any additional traffic.

This is the most appropriate use of this land. This is the best use as it would generate more taxes than a residential use.

Mr. Crockett stated the traffic study originally done indicated there would be no need for additional turn lanes. This study was approved by MoDOT. The applicant will be putting in a left-hand turn lane on the outer road into the private drive access.

There will be a concrete or heavy duty asphalt surface and a chip seal or lighter grade of asphalt surface area around the building.

The building will be almost 100' behind the building line. The previously set building line was 50'. This will allow for customer parking in the front of the building and an equipment display area. The services and storage area will be in the rear of the building.

They will be working with the Boone County Regional Sewer District as there have been discussions of a possible regional sewer facility in this area. The applicant is proposing to have an on-site treatment facility. This will service their needs and allow for other options in the future.

The rear and west side of the building will be landscaped with evergreen trees. This will help shield between the business and the Pet Resort.

The applicant is proposing to detain their on-site storm water. There is a detention basin located on the southern portion of the property. There is a small box culvert under I-70, in the MoDOT right of way. Mr. Crockett does not believe this will affect MoDOT's system.

Commissioner Elkin asked where the water will go from the wash bay. Mr. Crockett stated there will be an internal filtration system with a grit trap and oil separator. Then the clean water will be put in the on-site treatment facility.

Mr. Crockett stated the parking lot will be secured with a fence. The fence is shown on the plan as maximum eight feet in height but will more likely be six feet. They are proposing to do a black vinyl coated fence, which is low visibility. This will be similar to the fence around Shelter Gardens.

Commissioner Elkin asked what they propose the traffic generation to be. Mr. Crockett stated they are anticipating 20 to 30 customers on a busy day. There will be one parts truck at least once a week and an equipment one to two times per month.

Mr. Crockett explained their parking calculation. They understand the need for 1 parking per every 300 square feet for retail sales or office building. With the use of this building, they do not believe that number is appropriate. They have reviewed the number of possible customers, employees and type of vehicles and believe the number of spaces they proposed is adequate.

Commissioner Miller asked how much of the building is actual office space. Mr. Crockett stated this will be discussed further by the architect but the majority of the building is storage space.

Ms. Hedrick explained the lay out of the building, such as sales area and service bay area. The actual space for the public will only be around 8,000 square feet. This is how the number of parking spaces was determined along with the number of employees.

The front portion of the building will be 15'. The warehouse area will be taller to accommodate the service and storage areas.

Commissioner Miller asked about the landscaping plan for the front of the building. Ms. Hedrick stated they have tried to minimize the landscaping along the road to allow for views of the new equipment. There will be landscaping along their access road, around the building near the break room area. There will plantings on both sides of the display at the front of the building. There is a glass area in the front of the building. The intent is to have some landscaping and areas to display the newest Bobcat equipment.

Commissioner Miller asked if there will be equipment displayed on hard surface next to the perimeter fence. Ms. Hedrick stated there will be some on the hard surface but none on the grass.

Ms. Hedrick stated they understand the sign regulations and will change their plan. They were just following Bobcat International guidelines.

Commissioner Miller asked if the parking requirement can be changed. Mr. Shawver stated it is a requirement and cannot be changed. Based on the plan that was submitted, which was the overall footprint, the department had to base the parking on the 30,000 square foot building. When building plans are submitted, then the parking can be based on that. This is for the reason for the condition.

Commissioner Schnarre asked how parking was calculated for a previous request like this. Mr. Shawver stated it was done the same way.

Mr. Anich stated he bought Bobcat of St. Louis 15 years ago. They had the opportunity to take on the Columbia location over a year ago. They are currently in the old Van Keppel building and it is time for their own facility

They have looked for property and this is one of the only places that will be appropriate for the facility.

The hours of operation will be 7:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to 12:00 p.m. Saturdays.

90-90% of their business is contractor and construction related. They do a lot of business with cities and other municipalities. There is some business for residential rental.

60% of their business is sales of equipment. The balance is parts, rental and service.

Commissioner Schnarre opened the floor for a public hearing on this request.

Shelley Hamilton, 9551 I-70 Drive NE, Columbia, was present in favor of this request.

Mrs. Hamilton stated she is the owner of the land immediately to the west of this proposed request. She has discussed this proposal with the applicant's attorney and the owner on the proposed development. She believes this is a better use for this land. She does not believe the dogs will be bothered by the equipment and vice versa. The hours of operation are almost the same.

She was able to take the applicant on the property while the dogs were at the Pet Resort and the applicant did not have a problem with the dogs.

If there is an attempt to make a perimeter sound barrier she believes it will make all parties happy.

Commissioner Schnarre closed the public hearing.

Commissioner Schnarre asked if this land is currently zoned R-SP. Mr. Shawver stated that is correct along with some C-GP in the front of the property.

Commissioner Schnarre asked about the previous development plan for this property. Mr. Shawver stated the Commission has a revised review plan and this will change the entire tract. There is already C-GP in the front. There is a request for an additional 4.63 acres to be rezoned to C-GP. The balance of the 24.32 acres remains R-SP but is shown as one lot. Until a final development plan is filed, the previous final development plan is in effect and the zoning is in effect.

When a final development plan is present and is the same as the review plan then the final development plan is recorded and that takes precedent.

Commissioner Miller asked if the conditions previously placed on the property stay. Mr. Shawver stated that is correct and those conditions have been incorporated into this plan.

Commissioner Schnarre asked if there is a plan for the remainder of the tract. Mr. Simon stated at this time it is unknown but he does not believe there will be any residential use. A part of CATSO's plan is to extend St. Charles Road. It is more likely this will be used for commercial uses.

Any that is done to this property will have to have the approval of the Commission.

Mr. Anich stated he agrees with Mr. Simon.

Commissioner Miller stated she does not disagree with this being a better use. She actually encouraged the last request to have planned commercial because residential should not be that close to I-70.

She is concerned with the look coming into Columbia and the way the community is growing. She believes this has been addressed by the architect and engineer by not having this facility encroaching on any future plans of possible expansion of I-70. She also was concerned with the landscaping because she wanted the property inviting to the community.

She is still concerned with the R-SP on the remainder of the tract. This is proposal will now change what the property can be used for in the future.

By saying this is the best use for this property and all the way down I-70 then everyone that comes before the Commission will want this kind of zoning. The community is not prepared for this. There needs to be a corridor plan for I-70 and Highway 63 so that it is inviting to the community.

Commissioner Miller stated she can support this request this evening.

Commissioner Elkin stated he agrees with Commissioner Miller's suggestion of having a corridor plan.

He believes this is a better proposal for this tract than what was approved earlier in the year. More information has been given, such as the possible extension of St. Charles Road.

This will create less traffic than what was previously approved.

Commissioner Elkin stated he is concerned with the exterior lighting. Ms. Hedrick stated the lighting will be “dark sky compliant”. There will be enough lighting for the facilities security cameras. All lighting will be downward and facing in as to only light the ground and display area.

Commissioner Elkin asked if there will be lighting on the building. Ms. Hedrick stated everything will be “dark sky compliant”. Mr. Anich is not concerned with lighting the building at night but having enough lighting to secure the facility.

Commissioner Schnarre asked if all parties agree with the parking calculation. There was no disagreement.

Commissioner Elkin moved to approve the request by Gilpin – Sells LLC on behalf of Bobcat of St. Louis to rezone from R-SP (Single Family Planned Residential) to C-GP (Planned Commercial) of 4.89 acres at 6989 I-70 Drive NE, Columbia.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 463-2005**

Commissioner Elkin moved to approve the request by Gilpin – Sells LLC on behalf of Bobcat of St. Louis to approve a revised Review Plan at 6989 I-70 Drive NE, Columbia, with the following conditions:

- The developer shall coordinate planning and construction of wastewater treatment facilities with the Boone County Regional Sewer District.
- Change the note indicating the size of the freestanding sign to reflect the maximum sign size of 80-square feet.
- Change the note indicating the number of entrance/exit signs to reflect that the maximum number of such signs is one.
- Change the Parking Calculations note to be compliant with requirements of the zoning regulations and revise the site plan to show the required number of parking spaces.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 464-2005**

Commissioner Elkin moved to approve the request by Gilpin – Sells LLC on behalf of Bobcat of St. Louis to approve a Preliminary Plat located at 6989 I-70 Drive NE, Columbia.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 465-2005**

**H. Receive and Accept Perche Hills Estates Plat 2**

Commissioner Miller moved to receive and accept Perche Hills Plat 2.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 466-2005**

**Subject: Purchasing Department – Second Reading and Award of Bid 66-03NOV05 (Fencing and Appurtenances Term and Supply)**

Commissioner Miller moved to award bid 66-03NOV05 for Fencing and Appurtenances Term and Supply to Custom Fencing.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 467-2005**

**Subject: Public Works – Second Reading and Approval of Grant of Easement for Water Utility Purposes (City of Columbia)**

Commissioner Elkin moved to authorize the Presiding Commissioner to sign the following:

- Grant of Easement for Water Utility Purposes
- Temporary Grant of Easement for Water Utility Purposes

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 468-2005**

**Public Comment**

There was no public comment.

The meeting adjourned at 8:57 p.m.

Attest:

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Wendy S. Noren  
Clerk of the County Commission

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Keith Schnarre  
Presiding Commissioner

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Karen M. Miller  
District I Commissioner

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Skip Elkin  
District II Commissioner