

TERM OF COMMISSION: March Session of the January Adjourned Term

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

PRESENT WERE: Presiding Commissioner Dan Atwill  
District I Commissioner Karen Miller  
District II Commissioner Janet Thompson  
Director Resource Management Stan Shawver  
Planner Uriah Mach  
County Counselor C. J. Dykhouse  
Deputy County Clerk Mike Yaquinto

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

### **Resource Management**

- 1. Public Hearing and request by Allen and Judy Ronnebaum and Jennifer and Melvin Heath to rezone from A-1P (Planned Agriculture) to A-2P (Planned Agriculture) and to approve a review plan for A.J. Green Acres 2 on 26.89 acres, more or less, located at 2901 and 3125 N Rte Z, Columbia.**
  - Rezone**
  - Review Plan**

Stan Shawver read the following staff report:

This request was considered by the Planning & Zoning Commission during their March 19, 2015 meeting.

The minutes for the Planning and Zoning Commission meeting of March 19, 2015, along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

This site is located approximately 1 mile east of the city of Columbia, on State Route Z between Mexico Grave Road and St. Charles Road. It consists of 26.89 acres currently zoned A-1P (Planned Agriculture). It is surrounded by A-1 zoning. Currently, there is one house on the property. In 2000, the applicants requested that 38 acres be rezoned to A-2 (Agriculture). That request was denied. Subsequently, the applicant created a 10 acre parcel that included the existing house for family transfer to his daughter. In 2006, the property was successfully rezoned to A-1P (Planned Agriculture) and platted to create a 3.58 acre lot and a 22.94 acre lot. There is a house on each of those lots. The current request is to rezone to A-2P (Planned Agriculture) in order to further divide the 22.94 acre lot into two lots, granting an overall density of 8.84 acres per lot vs the existing 11.47 acres per lot under the present A-1P zoning. The site is located in Public Water Service District #9 and Boone Electric service areas. It scored 52 points on our point rating system.

The applicants are requesting a rezoning to A-2P and approval of a review plan. The review plan shows the creation of two new lots, one of 12.94 acres, the other of 10 acres. The existing 3.58 acre lot will be preserved. Staff notified 20 property owners about this request.

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

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

**Utilities:** Public water is provided by Public Water District Number 9. The existing infrastructure is capable of providing domestic service and fire protection. Boone Electric can provide sufficient electric service to the site. For residential use, on-site wastewater systems have been proposed.

**Transportation:** Access to the site is by State Route Z, which gives close access to I-70, Mexico Gravel Road, and St. Charles Road. Consultation with the Missouri Department of Transportation has identified that of the two access points to Route Z, one at the northern end of

the property and the other at the southern, the southern point is the better access for southbound traffic. Southbound traffic, towards St. Charles Road and the I-70 interchange is much more likely than northbound traffic towards Mexico Gravel Road. That said, the new 10 acre lot will access Route Z off the southern access point. Increased traffic on Route Z due to the presence of the new high school and, in the future, the new elementary school may make increased direct access on to Route Z more hazardous.

**Public Safety:** The nearest fire station is in Columbia, approximately three miles away. The existing road network provides ready access for emergency service providers.

**Zoning Analysis:** This site is located in an area where the majority of the surrounding tracts conform to the A-1 zoning of 10 acres or more per lot. That was slightly modified in 2006 with the A-1P rezoning that had a slightly lower density, at 11.47 acres per lot, but created a 3.58 acre lot. In the intervening 9 years between the A-1P rezoning and this request, the surrounding area has received a new high school and is receiving a new elementary school. The presence of new educational institutions are usually considered heralds of increased growth and development in their immediate surrounding.

However, since the placement and construction of the schools, the surrounding area has seen little to no construction of new residential or commercial development. There have been several proposals, some of which have only recently been approved by the appropriate governing bodies, but none have, as of yet, constructed infrastructure and improvements to the area. That lack of physical improvement leads staff to believe that any desire for increased density outside of the immediate vicinity of the new schools is premature. If there is a need for additional residential development, it is best that it be located in an area that has infrastructure to support it at a higher density. Small pockets of increased density outside the area surrounding the schools will only slow the development of the area near the existing infrastructure put in place to support the schools.

The rezoning and review plan are good proposals, maintaining a comparable overall density to the property's surroundings. However, when they are considered in the larger perspective of the Northeast Area Plan, the increase in density for an additional residential lot is not easily

justified, particularly when combined with the increased need for direct access on to Route Z and the slower development of the areas immediately surrounding the Columbia Public School district properties.

Staff recommended denial of the request.

If approval is granted, staff recommended the following condition be placed upon the Review Plan:

- 1) That a draft agreement covering the maintenance of the private drive on the southern side of this property be submitted with the final plan for review.

The Planning & Zoning Commission conducted a public hearing on this request during their March 19, 2015 regular meeting. There were eight members of the commission present during the meeting.

Following the public hearing, a motion was made to recommend approval of the rezoning request and Review Plan with the following conditions:

1. That a draft agreement covering the maintenance of the private drive on the southern side of this property be submitted with the final plan for review.
2. The expansion of the use of the existing drive by AJ Green Acres is limited to the one new lot being created.

The motion passed by a vote of 5-3, so it comes forward with a recommendation for approval.

Commissioner Atwill asked if the Commission had any questions before the Public Hearing is opened.

Commissioner Miller verified that a draft of the maintenance plan needs to be attached with

the submittal of the final plan.

Mr. Shawver said that is correct.

Commissioner Miller asked what the maintenance agreement would look like.

Mr. Shawver said they anticipate it would allocate who is responsible for improvements and maintenance of the road and how funds are collected for performing those activities.

Commissioner Miller said at this point, it appears that four properties will be serviced from this road.

Mr. Shawver said that is correct. Also, from a previous hearing, there was a property owner that has access to the west that was disappointed on how the access was being maintained and thought it was subject to a maintenance agreement. We have not seen it so we don't know what is involved. The easement passes through this property to the other properties.

Commissioner Miller asked, for clarification purposes, if that means this property owner would have to get an agreement with all property owners as to how it would be maintained.

Mr. Shawver said he believes the Commission was looking for some fair arrangement that would treat everyone equally that had access to the road. We don't believe there was any idea that anyone would get a free ride.

Commissioner Miller said that is what she was looking for.

Commissioner Atwill asked as a practical matter, what it means to require a draft agreement covering the maintenance. That would suggest it is a draft agreement that stays a draft and I don't believe that is the intent.

Mr. Shawver said it was understood that Commission wanted to look at an agreement and see what it says. The Commission can require that it be agreed to, but can't require property owners not involved in this to sign and agree to it. So, we were looking at a draft. The Commission, if they decide, can say they want a finalized formal agreement before the final

plan is approved.

Commissioner Atwill asked County Council if they have any advice or suggestions regarding this draft agreement.

Mr. Dykhouse said it appears the problem is that the property owner to the west was the common grantor that created these parcels and is now the owner of the right to the easement access and won't be required to contribute to this. Staff identified a problem and P & Z recommended approval with one of the conditions being this draft which seems to make them feel better on the recommendation on how to handle the private drive. I don't know if this recommendation solves the problem.

Commissioner Miller says it appears that the road goes through the Ronnebaum property and then goes to the property to the west. So they can quit their maintenance once it got through their property and be done.

Mr. Dykhouse said it depends on the other agreements from the original grantor who testified at a prior hearing and said there is some sort of agreement. There certainly is some access right.

Commissioner Miller said that we should proceed with the Public Hearing and some of these questions may be answered.

Mr. Dykhouse said that the Commission is appropriately concerned about the private easement.

Mr. Shawver said the easement runs along a stem from the property to the south to Route Z then passes through Mrs. Deviers property on the west. Mrs. Deviers originally sold the property to the Ronnebaums and others and the easement is not part of the review plan. It is a complicated situation.

Commissioner Miller asked if Commission has the authority to require a maintenance agreement if it is not part of the property.

Mr. Shawver said they are asking something with this property that they don't have a right to do. Since the Ronnebaum's own that property with the 10 acres as well and with the stem, there is a nexus there that one could say you have been party to this issue coming forward and you have the ability to solve it even though it is not part of that plat and we are going to require you to solve that problem or you can say you can't use that access to easement and will have to come in elsewhere.

Commissioner Atwill asked if the language is adequate when it says "Draft agreement covering maintenance." The idea that it is referenced as a draft agreement does not go far enough.

Mr. Shawver said it could be a two step process. A draft can be presented for review contingent upon suitable language which then can be recorded for the record before proceeding.

Mr. Dykhouse said that this suggestion by Mr. Shawver is much better. The draft alone does not get us to where we would need to be. We are going over the recommendation from P & Z, while noting that staff recommended denial.

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on behalf of this request.

Kevin Schweikert said he is representing the Ronnebaums who are asking for new 10 acre and 12.94 acre tracts, both zoned A-1. The zoning is appropriate based on the surrounding area. This will be creating a 10 acre lot with one more house. There is an existing easement that the Deviers gave on that driveway which includes the north and south lots as well as the portion to the west. The Ronnebaums currently own the part going out to Route Z and that is not part of the review plan.

Commissioner Miller asked if there is an original agreement on the maintenance.

Mr. Schweikert said there is an access easement agreement providing for maintenance and all those things that you are looking for. We can have it reviewed to make sure it is

appropriate. If need be, we can provide for review.

Commissioner Miller said based on what staff has said, we have the right to require an agreement.

Mr. Schweikert said at the previous meeting, there was opposition to the original request, but those in opposition were not against another 10 acre tract with a house on the property.

The Commissioners thanked Mr. Schweikert for speaking.

Commissioner Atwill asked if there is anyone else present that would like to speak on behalf of this issue. There were no additional speakers. Commissioner Atwill asked if there is anyone present that would like to speak in opposition of this request.

Terry Buckley said he lives in the neighborhood and believes that staff from the Resource Management Department had an excellent analysis of the situation. They are objective and professional and I endorse their analysis. They had put forward a recommendation to deny this request and I second that recommendation.

The Commissioners thanked Mr. Buckley for speaking.

Commissioner Atwill asked if there is anyone else that would like to speak in opposition to this request. There were no additional speakers and Commissioner Atwill closed the Public Hearing.

Commissioner Atwill asked Mr. Shawver and Mr. Dykhouse if it would be appropriate to table this request to look further into this matter. It is not a good situation when people can't use their land in a legitimate way. The problem that exists here would require, I believe, some other solution.

Commissioner Miller said the Commission would like to see the current agreement on the maintenance. It makes no sense to approve something with another agreement if they have an official agreement and the maintenance is not being taken care of. If so, then from my perspective, I will have a different result.



Mr. Dykhouse asked if Commission is looking for the existing agreement and some measure of analysis about compliance with the existing agreement.

Commissioner Miller said yes and also is there any way of forcing an agreement if we say yes to the request and require an agreement be submitted and it is an official agreement, what is the enforcement action to make them do this.

Mr. Dykhouse said this always ends up as a private matter. The Commission can ensure it exists, but the enforcement is among the interested parties. The matter can be tabled to the next night meeting if so desired by Commission.

Commissioner Atwill asked if there are any further questions by staff or members of the Commission. There were no further comments or questions.

Commissioner Atwill asked if Commission had a motion on this request.

Commissioner Thompson moved to table this request until the next night meeting which is April 28, 2015.

Commissioner Atwill seconded the motion.

The motion carried 3 to 0.

**2. Chitwood. S20-T51N-R11W. A-2. Michael and Marla Fuller, owners. Donald E. Bormann, surveyor**

Stan Shawver said this is a two lot subdivision located about 1½ miles south of Centralia off Hwy. 124. The zoning is A-2. The original 20 acres was split into two 10 acre tracts and then one of the 10 acre tracts is now being split into two five acre tracts. One of the tracts has direct access to Hwy. 124 and the other by an easement out to 124. Planning & Zoning approved this plat at the March 19<sup>th</sup> meeting and it is now ready to be received and accepted by the Commission.

There were no comments or questions.

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

Chitwood. S20-T51N-R11W. A-2. Michael and Marla Fuller, owners. Donald E. Bormann, surveyor.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #132-2015**

**3. Nichols Ridge - preliminary plat. S12-T49N-R13W. A-R/R-M. Greg Nichols Properties, Inc., owner. Christopher M. Sander, surveyor (report only).**

Stan Shawver said per request from Commission that staff apprise them of preliminary plats that are submitted and reviewed, this is a report on the Nichols Ridge Subdivision. It is part of the Nichols property and they are tagging into the area south of the pond, in the area of Clifton Ct. and Honey Lane. This will be split into four lots, all single family lots. The infrastructure will be tied into the wastewater treatment plant serving Kinkade Crossing. The original Sewer District authorized a variance for lots smaller than two acres to be connected to the pressure sewer which is one of the restrictions. Three lots will have force mains with septic and one lot will have gravity flow to the existing sewer line. There will be a little bit of infrastructure to be done before it comes before Commission.

There were no comments or questions and the Commissioners thanked Mr. Shawver for the report.

**4. Second reading; Policy Clarification to Subdivision Regulations for Minimum Lot Width (Public Hearing and 1<sup>st</sup> read 3-3-15)**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby establish a policy for measuring the minimum lot width as set forth in the Boone County Subdivision Regulations as follows:

**“The minimum lot width as required in the Boone County Subdivision Regulations, Table A, shall be:**

- **Lots 2.50 acres and larger shall be at least 150’ wide.**
- **Lots smaller than 2.50 acres shall be at least 60’ wide.**

**Measurements are determined at the building line, parallel to the front lot line and by using the long chord distance along any curve or arc.**

**See attached exhibit.”**

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #133-2015**

**Purchasing**

**5. First reading; Contract Amendment Number One to 28-23JUL13, 911/Joint Communications Consultant Services**

Commissioner Miller said that C.J. Dykhous has been working on this process, the CAD duplicative system special project for Mission Control Partners.

not suitable for auction.

It is further ordered the Presiding Commissioner is hereby authorized to sign said Request for Disposal forms.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #136-2015**

**9. Second reading; Professional Services Agreement with Maximus Consulting for Cost Allocation Plan for the Auditor's Office (1<sup>st</sup> read 3-26-15)**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the attached professional services agreement with Maximus Consulting Services, Inc. of Springfield, IL for the Cost Allocation Plan for the Auditor's Office.

The terms of the agreement are stipulated in the attached Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Agreement to Provide Professional Consulting Services.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #137-2015**

**10. Second reading; Bid Award 10-26FEB15 – 2015 Chip Seal Pavement Preservation (1<sup>st</sup> read 3-26-15)**

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby award bid 10-26FEB15 – Chip Seal Pavement Preservation 2015 to

Missouri Petroleum Products Company, LLC of St. Louis, MO.

The terms of the bid award are stipulated in the attached Contract Agreement. It is further ordered the Acting Presiding Commissioner is hereby authorized to sign said Contract Agreement.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #138-2015**

### **Commission**

#### **11. 1<sup>st</sup> & 2<sup>nd</sup> reading; February 2015 Office of Emergency Management Expenses**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the attached invoice for the February 2015 Office of Emergency Management expenses in the amount of \$12,293.29

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #139-2015**

#### **12. 1<sup>st</sup> & 2<sup>nd</sup> reading; Organizational Use of the Courthouse Plaza by Memorial Day Weekend Salute to Veterans for May 25, 2015**

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the Organizational Use of the Courthouse Plaza by Memorial Day Weekend Salute to Veterans Celebration for May 25, 2015 from 7:00 a.m. to 1:00 p.m.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #140-2015**

### **13. Public Comment**

Gene Basinger said he is a professional surveyor and has two items he would like to talk about. First, he has a question about the second reading on the Policy Clarification to Subdivision Regulations for Minimum Lot Width. The question is whether that is the wording that came from the last meeting or different wording because we received information from Mr. Shawver that it was going to be different than what was read tonight and a sketch was even provided on what it would be. This is a little confusing and I am not sure we even had a first reading on this issue.

Commissioner Atwill said that Mr. Basinger can compare the language and the Commission is here to listen to his comments.

Mr. Basinger said he is just asking what the situation is and was there really a first reading on this matter.

Commissioner Atwill said there was a first reading as well as a Public Hearing.

Mr. Basinger said he would then like to move on to his next issue. Present Subdivision Regulations were adopted in 1995. At that time, we were required to submit three copies of the Administrative Survey. In November of 2004 it was change to four copies and in March of 2013 it was again changed to five copies. That was the requirement they gave us.

Unfortunately, they give us these requirements but they don't tell us the number of copies needed. They wait until we turn in our plats and then they say they need more copies.

On Wednesday, December 3, 2015, the day after I was in the Commission meeting with my

plat and the problem with the setback requirement, I submitted five copies of the Administrative survey to Planning. Uriah was not in at that time, but was told to drop them off. That afternoon, while on the west side of Columbia, I received a call from Uriah saying he needed one more copy. I asked him how many he had. He said he had five copies. I said that was the requirement and why does he need another. He said the survey was adjacent to a state highway and would need the extra copy before the survey can be processed. He said he could make me a copy at a cost of \$14. I said that I would bring him another copy. The Recorders Office charges \$2 for that same copy and a blue print cost \$1.08 for the same copy. I don't believe the \$14 is a cost that serves the clients of Boone County. My clients and the citizens of Boone County should not have to pay anywhere near this cost.

I quite often find the Planning Department changing the interpretation of the regulations and the requirements of surveyors. We usually find out about new interpretations and regulations when we turn in a plat. We get comments back on what we can or can't do. We say we have been doing these things for years and now we can't. We get that the interpretation has been changed or that they have changed their mind on how to deal with a certain situation. Just like the number of copies, where did that come from. It was like it came out of the blue. Some years ago we never had concept reviews, now we have concept reviews. We were not told that everything would require a concept review.

Also, some years back they changed the road and utility easements that we provide the County on the Administrative Survey. Once again, you turn in your copies of the easement and are told that they can't use this easement. This has been the same for 10 – 15 years and we are told at the time of submission that the easement policy has changed. We need to know this. Now you have to go back and re-do the easement and get them signed and notarized again. This is a real problem with the Planning Department. It seems pretty simple. They have all the e-mails of all the surveyors and they just need to send an e-mail to everybody letting us know what is going on.

This deal with the five copies and the need for a sixth copy. I have talked to more than five other surveyors and none of them are aware of the sixth copy needed in these cases. Additionally, in talking to other surveyors who have had plats adjacent to highways, they have turned in five copies and have not had a request to turn in a sixth copy. The first week in November, about 1 1/2 months before this latest plat problem in December, I turned in an Administrative Survey that was adjacent to a highway right of way and no one required me to turn in a sixth copy. Is it just a coincidence that the latest copy issue was a day after the meeting we had that December to discuss my plat or was there a policy change in November about the number of copies needed and no one knew about it or is it just some retaliation or harassment.

I consider myself and my clients as citizens of Boone County and ask the Commission if the citizens of Boone County deserve to be treated this way by the Planning Department. It really is the citizens of Boone County being treated this way, not me, I'm just a servant.

Personally, I believe that Stan does not always know what his staff is doing. It is not totally his fault. He depends on his staff to do the job. If he has to micromanage the staff and what they are doing, he should just get rid of staff and save the County and citizens a lot of money. Obviously, this is not reasonable. The problem is staff making decisions and policy changes without Stan knowing. That is my personal belief. The problem is mainly with staff, not Stan, and I hope that Commission and Stan realize there are problems out there and something needs to be done to fix these problems.

The Commissioners thanked Mr. Basinger for his comments.

Commissioner Atwill asked if there is anyone else that would like to speak tonight.

Don Bormann said he would like to address the policy regarding the minimum lot width. He is not sure why this is being changed. We have always measured the arc distance and



calculated the arc distance and that is what we used. Now we have redefined that to be the chord distance. This essentially redefines the rules of mathematics because the chord distance is less than the arc distance. If you take a pie and cut it into six pieces, all the same, each piece would be a 63 degree angle. If you do that with a cul-de-sac and use the 63 degree angle and a 47 foot cul-de-sac with a 25 foot setback line, the building line would measure on the arc 75.4 feet. If you measure along the chord it would be 72 feet. So, basically, on lots when along a curve, we are measuring a distance that is shorter than what the arc distance measures and are going to apply that to the same distance. On a 63 degree angle in a cul-de-sac, that would be the equivalent of legislating that Pi is no longer equal to 3.1415926, but is equal to 3.

The Indiana legislature tried to do this in the early 1900's or late 1800's. It got stopped in the Senate as cooler heads prevailed. This policy is ill conceived and I am not sure what the use is. If it is a matter of not being able to figure out how to measure this or how to calculate the length, calculating the length of an arc is easier to do than calculating the chord length. One involves trigonometry and the other is merely calculating an arc length which does not require trigonometry. There is a surveyor on staff that can calculate these measurements if there is a problem. The other way to solve this problem is to not worry about it at all and if a surveyor did not do it correctly, a complaint can be filed with the Board of Registration and either the surveyor was incompetent because he could not calculate it and negligent because he did not bother to calculate it or he was guilty of misconduct because he did not do what he was suppose to do. The Board of Registration is more than happy to deal with these people that do these kinds of things.

I am not sure what the policy does. There are certain surveyors that take great delight in pointing out that legislating movements in math does not work very well and I think that's what this does. This is not a good policy and certainly not what I believe is the intent of the Commission. It is the wrong way of doing this.

The Commissioners thanked Mr. Bormann for his comments.

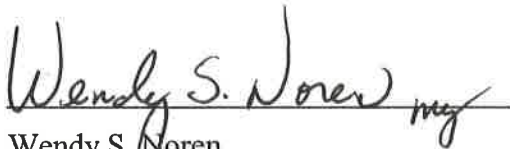
Commissioner Atwill asked if there is anyone else that would like to comment. There were no further speakers and Commissioner Atwill closed the Public Comment portion of the meeting.

**14. Commissioner Reports**

None

The meeting adjourned at 7:49 p.m.

Attest:



Wendy S. Noren  
Clerk of the County Commission



Daniel K. Atwill  
Presiding Commissioner



Karen M. Miller  
District I Commissioner



Janet M. Thompson  
District II Commissioner