

TERM OF COMMISSION: March Session of the January Adjourned Term

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

PRESENT WERE: Presiding Commissioner Dan Atwill
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 Gara W. Toalson Trust to approve a Revised Review Plan for Toalson Estates Planned Development on 81.99 acres, more or less, located at 7273 S Hidden Pond Ln., Columbia.**

Stan Shawver read the following staff report:

This request was considered by the Planning & Zoning Commission during their March 15, 2018 meeting.

The minutes for the Planning and Zoning Commission meeting of March 15, 2018, along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

The Planning & Zoning Commission conducted a public hearing on this request during their March 15, 2018 regular meeting. There were eight members of the commission present during the meeting.

The subject property is located south of State Route K, bounded by Nursery Road to the east, and Warren School Road to the west. The property is 81.99 acres in size and is zoned A-2P (Planned Agriculture). A portion of this property applied to be rezoned to A-2(Agriculture) in April of 2015 and was denied. It was successfully rezoned to A-2P with a final plan approved in May of 2017. It has the City of Columbia and R-S zoning to the east, A-1 zoning to the north and west, with A-1P (Planned Agriculture) and A-1 zoning to the south. The A-1P was created in 1996. To the east, a transmission facility conditional use permit was granted in 2001 and the R-S zoning was rezoned from A-2 to R-S in August of 2016. To the west, an adjacent property attempted an A-1 to A-2 rezoning in April of 2015 and was denied. That same property came back in July of 2015 with an A-1 to A-2P (Planned Agriculture) rezoning and was approved. The subject property scored 76 points on the rating system.

The applicant has submitted a revised review plan to change the designation of the lot in the southeastern corner as a developable lot from being a utility lot.

The Boone County Master Plan has designated this area as being suitable for residential land uses. The Boone County Master Plan designates a sufficiency of resources test for the evaluation of zoning changes where each proposal is evaluated to see if sufficient utility, transportation, and public safety infrastructure is in place to support the change in zoning. The sufficiency of resources test provides a “gatekeeping” function. Failure to pass the test should result in denial of a request. Success in passing the test should result in further analysis.

Utilities: Boone Electric provides electrical service to this property. Consolidated Public Water Service District #1 provides water service to this property. Sewer service is provided via a connection to the Boone County Regional Sewer District(BCRSD) Route K facility. Documentation of sufficient sewer service from the BCRSD has been confirmed.

Transportation: Access to this property is off of State Route K, Nursery Road, and Warren School Road. State Route K is a publicly-dedicated, publicly-maintained right of way and direct access is controlled by the Missouri Department of Transportation. They have located one access point for the property. Nursery Road is a publicly-dedicated, publicly-maintained road, recently improved with development of Nursery Heights to the east. Two lots have direct access on to Warren School Road, but the approved plan and proposed revisions to the review plan do not make use of that access. The lot being unlocked by this plan will use Nursery Road for access.

Public Safety: The property is located in the Boone County Fire Protection District, whose station on Route K is the closest to provide emergency services. Warren School Road, Nursery Road, and Route K can provide access for emergency services. The private drive has been proposed to meet a fire code minimum width.

Zoning Analysis: The Boone County Master Plan indicates that this area is suitable for residential development. The sufficiency of resources test shows that sufficient resources are present for the expansion of this development with one more residential lot. This revision is comparatively minor and meets the density requirements of the A-2P planned district.

Staff recommends **approving** the requested revised review plan.

The Planning & Zoning Commission conducted a public hearing on this request during their March 15, 2018 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 Revised Review Plan. That motion carried unanimously.

The Commission had no questions.

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

David Butcher said he is representing the applicant and the request stems from the location change of the treatment plant. The sewer has been extended into the subdivision and a new area is now needed. This is to assign a lot number and proceed with this change, so we are before Commission tonight with this request.

Commissioner Atwill asked if there is anyone else present that would like to speak on behalf or in opposition to this request. There were no speakers and Commissioner Atwill closed the public hearing.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the request by Gara W. Toalson Trust to approve a Revised Review Plan for Toalson Estates Planned Development on 81.99 acres, more or less, located at 7273 S. Hidden Pond Ln., Columbia.

Commissioner Atwill seconded the motion.

The motion carried 2 to 0. **Order #154-2018**

- 2. Public hearing and petition submitted by Nextech LLC for permission to re-plat a 19.89 acre tract shown as a survey recorded in Book 4251 Page 31 of Boone County Records including a section previously platted as Tower Estates Plat 3 Lot 2 located at 4980 S South Cowan Loop, Columbia.**

Stan Shawver read the following staff report:

Nextech LLC has submitted a petition to replat land previously platted as lot 2 Of Tower Estates Plat as shown in Plat Book 21, Page 47 of Boone County Records. This parcel was granted permission to be vacated in October 2013 so that it could be included in a larger administrative survey, with the provision that further subdivision of the land would be subject of a re-plat hearing in accordance with Section 1.8.2 of the Boone County Subdivision Regulations.

This site is located south of Columbia with access from South Cowan Loop, a county-maintained road. The property is zoned R-S (Single Family Residential). Part of this property was originally platted as Tower Estates Subdivision which began in 1977. Plat 3 was approved in 1987.

There are 19.89 acres included in the area being requested for replat. The applicant's petition indicates a desire to develop 12 lots on 6.99 acres which is a density of .58 acres per lot. The remaining 12.9 acres will be a non-development lot for "future considerations." In May 2016 a concept review was conducted which indicated a plan to plat 38 lots. A preliminary plat has not been submitted for review.

In accordance with the Section 1.8.2 of the Subdivision Regulations "if the County Commission finds after public hearing that replat will not adversely affect the character of the neighborhood, traffic conditions, circulation, the proper location, alignment and improvement of streets and roads within and adjacent to the subdivision, property values within the subdivision, public utility facilities and services, and 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."

Information provided by the Boone County Regional Sewer District indicates this property is subject to a binding contractual agreement that only provides enough wastewater capacity for 4 lots. Any change to this agreement would have to be first approved by the Boone County Regional Sewer District.

Staff notified 37 property owners within 500 feet of this property.

Commissioner Atwill noted we have had this before and he has read the minutes from that previous meeting which occurred in 2013.

Commissioner Thompson asked Mr. Shawver to refresh our recollection as to what occurred at that meeting for the record.

Stan Shawver said this is in reference to the October 1, 2013 minutes which were attended by Commissioners Atwill, Miller, and Thompson as well as myself and Mike Yaquinto, Deputy County Clerk. The petitioner was asking to vacate a lot so a larger tract could be cut out and for real estate reasons, wanted to separate the old retirement home that is on the property, and attach it to a larger lot.

The lots on Plats 2 and 3 had frontage on South Cowan Loop and during the vacation request, the neighbors spoke extensively about the concerns of how the 19 acres would be developed because there is only access on South Cowan Loop as well as the concerns about access to wastewater and the change to the character of the neighborhood.

The County Commission decided that since there was not a plat before them to look at, they wanted to allow the lot to be separated so the real estate transaction could proceed. The vacation proceeded allowing the lot to be vacated and apportioned into the large lot with the provision that before any development were to take place, the re-plat of those 19 acres were to come before Commission for the public hearing per our regulations, taking into consideration the impact of the neighborhood, design and those other factors mentioned.

Commissioner Thompson noted in the report read tonight, it was indicated that a preliminary plat was not submitted for review.

Mr. Shawver said that is correct.

Commissioner Atwill noted that he believes this was requested.

Mr. Shawver said the Commission indicated it would be appropriate to have a layout so the people could see what the impact would be.

Commissioner Thompson asked Mr. Shawver if he or any of his staff has been contacted with respect to this request.

Mr. Shawver said no.

Commissioner Atwill said he believes, procedurally, this is not ready for us and opened the public hearing and asked if there is anyone present to speak on behalf of this request.

Ron Lueck said he is representing the applicant and has been involved with this piece of property for the last 20 years. It has been intended as a development tract. We have several layouts, proposing 11 lots with a 12th lot for future development. There is capacity in the sewer system for 12 more units. The owners have purchased that capacity in August of last year for \$19,200. That should be the end of capacity for that treatment plant.

We have, essentially, the layout that would be a preliminary plat. The request tonight is to vacate the 19.89-acre tract and to do a re-plat, bringing it to a major subdivision plat. It will have a roadway, a cul-de-sac, of 720' and the lots should all front on this cul-de-sac, not on South Cowan Loop. South Cowan Loop will be the access point for this subdivision. *(Mr. Lueck presented documents to re-plat with concept review notes.)* There is a maximum of

50 lots allowed on the cul-de-sac and there are currently 33 in use, leaving room for 17 more, but sewer capacity will trump that.

Commissioner Thompson asked Mr. Shawver if he has seen this re-plat request with the notes.

Mr. Shawver said he has not seen it.

Mr. Lueck said it was submitted as an attachment to the re-plat.

Mr. Shawver said it was not attached.

(Mr. Shawver and Mr. Lueck reviewed the documents each has on hand.)

Commissioner Thompson said this leaves us in the position, as Commissioner Atwill stated earlier, of this coming to us in a procedural place where staff has not had the opportunity to vet something to assure ourselves that everything is proceeding per regulations before we get to where this request is taking us. Staff is aware of these regulations and they are the professionals. They can say, we as a County, can support this or not and that is where this needs to go first.

Mr. Lueck said this is just a request to re-plat and the preliminary plat would come several months after that.

Mr. Shawver said that during the October 1, 2013 meeting, the Commission wanted to see the design when the re-plat was considered. My suggestion is to table this until the neighbors and the County can see the plans.

Commissioner Thompson said this would give all parties time to look at exactly what we are considering.

Mr. Shawver said that would also give them the opportunity to get with the Sewer District because that agreement is very specific mentioning only four lots.

Mr. Lueck said the agreement was for 12 lots.

Mr. Shawver said the agreement he has states four lots.

C. J. Dykhouse said these are the types of factual issues, that with time, can be corrected and not contested.

Commissioner Thompson said that is correct. We would know exactly what the facts are and there are no questions.

Mr. Lueck said at the concept review, we were told 12, and that is the agreement with BCRSD.

(Mr. Shawver and Mr. Lueck reviewed documents concerning this issue.)

Mr. Lueck said at this time, we have an impasse and it would be better to table the issue.

Commissioner Atwill said in fairness to the neighbors, they would need time to look at this and evaluate. We can reschedule this and have everyone back once they have had an opportunity to review.

Mr. Dykhouse said the next meeting will be Tuesday, May 1st at 7:00 p.m.

Commissioner Atwill closed the public hearing.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby **table** a petition submitted by Nextech LLC for permission to re-plat a 19.89 acre tract shown as a survey recorded in Book 4251 Page 31 of Boone County Records including a section previously platted as Tower Estates Plat 3, Lot 2, located at 4980 S. South Cowan Loop, Columbia.

Commissioner Atwill seconded the motion.

The motion carried 2 to 0. **Order #155-2018**

3. Receive and accept the following plat:

- **Turkey Creek Plat 3. S15-T47-R12W. A-1P. Mary Jane Waters and Henry J. Waters III, owners. David Borden, surveyor**

Stan Shawver read the following plat description:

Turkey Creek Plat 3 is located on Deer Park Road, east of Highway 63, approximately 2 miles south of Columbia. The property is currently zoned A-1P having been rezoned from A-1 in 1998. An on-site wastewater treatment system provides sewage treatment. On January 25, 2018, Case Number 2018-001, the Board of Adjustment granted a variance to the requirement to provide a minimum 250-foot lot depth.

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:

- Turkey Creek Plat 3. S15-T47-R12W. A-1P. Mary Jane Waters and Henry J. Waters III, owners. David Borden, surveyor

Commissioner Atwill seconded the motion.

The motion carried 2 to 0. **Order #156-2018**

Purchasing

4. **Second reading; Bid Award 18-25APR17 – Youth Homeless Programs (1st read 3-22-18)**

Commissioner Atwill moved on this day the County Commission of the County of Boone does hereby approve RFP Award Recommendation 18-25APR17 – Youth Homelessness Program as follows:

Vendor: Child Abuse & Neglect Emergency Shelter, Inc., dba Rainbow House

Program: Youth Homelessness Programs

Contract from date of award through December 31, 2019

Not to exceed contract amount: \$51,244.00

Terms of the contract award are stipulated in the attached Contract Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Contract Agreement.

Commissioner Thompson seconded the motion.

The motion carried 2 to 0. **Order #157-2018**

Joint Communications

5. **Second reading; Tower and Equipment Transfer Agreement with the Boone County Fire Protection District (1st read 3-22-18)**

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the attached Tower and Equipment Transfer Agreement between Boone County and the Boone County Fire Protection District.

The terms of the Agreement are stipulated in the attached Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Tower and Equipment Transfer Agreement.

Commissioner Atwill seconded the motion.

The motion carried 2 to 0. **Order #158-2018**

6. Second reading; Radio Frequency Inter-Governmental Agreement with the Boone County Fire Protection District (1st read 3-22-18)

Commissioner Atwill moved on this day the County Commission of the County of Boone does hereby approve the attached Radio Frequency Inter-Governmental Agreement between Boone County and the Boone County Fire Protection District.

The terms of the Agreement are stipulated in the attached Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Radio Frequency Inter-Governmental Agreement.

Commissioner Thompson seconded the motion.

The motion carried 2 to 0. **Order #159-2018**

7. Second reading; Radio Equipment Shelter Site License agreement with Southern Boone County R-1 School District (1st read 3-22-18)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the attached Radio Equipment Shelter Site License Agreement between Boone County and the Southern Boone County R-1 School District.

The terms of the Agreement are stipulated in the attached Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Radio Equipment Shelter Site License Agreement.

Commissioner Atwill seconded the motion.

The motion carried 2 to 0. **Order #160-2018**

13th Judicial Circuit Court

8. Second reading; Juvenile Justice Programming Assistance grant application (1st read 3-22-18)

Commissioner Atwill moved on this day the County Commission of the County of Boone does hereby approve the attached Juvenile Justice Program Assistance grant application submitted by the 13th Judicial Circuit Family Court – Juvenile Division.

Commissioner Thompson seconded the motion.

The motion carried 2 to 0. **Order #161-2018**

Sheriff's Department

9. Second reading; Law Enforcement Asset Transfer Cooperative Agreement between Boone County and Centralia, MO – One (1) K-9 configured law enforcement patrol vehicle and eight (8) MDT's (1st read 3-22-18)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the attached Law Enforcement Asset Transfer Cooperative Agreement between Boone County and the City of Centralia for the transfer of the following:

- 2011 Ford Crown Victoria Police Interceptor, Asset Tag 17799
- Whelen Liberty SX8BBRR lightbar, Asset Tag 17655
- Ace Hot-N-Pop Pro heat alarm and door pop system, Asset Tag 17907
- Eight (8) Mobil Data Terminal Laptop, Asset Tags 18134, 18135, 18136, 18137, 18138, 17671, 17983, and 17984

The terms of the Agreement are stipulated in the attached Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Law Enforcement Asset Transfer Cooperative Agreement and Request For Disposal/Transfer Forms.

Commissioner Atwill seconded the motion.

The motion carried 2 to 0. **Order #162-2018**

Commission

- 10. Second reading; Approve Federal Tax Matters Certificate associated with the Boone County, Missouri Hospital Refunding Revenue Bonds Series 2014 (1st read 3-22-18)**

Commissioner Atwill moved on this day the County Commission of the County of Boone does hereby approve the attached Federal Tax Matters Certificate for Corporate Tax Rate Change as prepared by the County's bond counsel, Gilmore & Bell PC, relating to the Boone County, Missouri Hospital Refunding Revenue Bonds (Boone Hospital Center) Series 2014.

It is furthered ordered, the Presiding Commissioner is hereby authorized to sign said Certificate.

Commissioner Thompson seconded the motion.

The motion carried 2 to 0. **Order #163-2018**

11. Public Comment

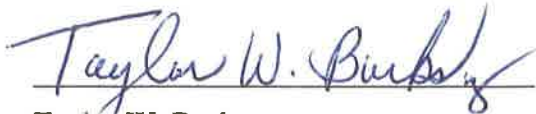
Commissioner Atwill recognized two Cub Scouts in Chambers. In attendance were Timothy Market and Cyd King, both 5th graders at Lee Elementary School. They were at the Commission meeting learning about local government as part of the requirements for them to earn their Cub Scout "Arrow of Light" award which is the last milestone prior to transition to Boy Scouts.

12. Commissioners Reports

None

The meeting adjourned at 1:56 p.m.

Attest:



Taylor W. Burks
Clerk of the County Commission



Daniel K. Atwill
Presiding Commissioner



Fred J. Parry
District I Commissioner



Janet M. Thompson
District II Commissioner

TERM OF COMMISSION: October Session of the July Adjourned Term

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

PRESENT WERE: Presiding Commission Daniel Atwill
District I Commissioner Karen Miller
District II Commissioner Janet Thompson
Director Resource Management Stan Shawver
Deputy County Clerk Mike Yaquinto

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

Resource Management

1. Request by D & D Investments LLC to use an existing building for storage space on 3.86 acres located at 6215 W Cunningham Dr., Columbia.

Stan Shawver read the following Staff Report:

The minutes for the Planning and Zoning Commission meeting of September 19, 2013, along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

The subject property is located on Cunningham Drive, in between Schotte Lane and Taliesin Way, east of the I-70/Highway 40 interchange at Midway. The property is 3.86 acres in size and is zoned C-G (General Commercial). It has C-G zoning to the north & west, C-GP (Planned General Commercial) to the south, M-LP (Planned Light Industrial) to the southwest, M-LP to the southeast and A-2(Agriculture) zoning to the east. The C-G and A-2 zoning is original 1973 zoning. The southeast M-LP had its zoning revised most recently in May 2011. The southwest M-LP was rezoned in 2003. The C-GP was

There were no comments or questions from the Commission.

Commissioner Atwill opened the Public Hearing and asked if anyone was present to speak on behalf of this issue. There were no speakers.

Commissioner Atwill asked if there was anyone present that would like to speak in opposition of this issue. There were no speakers.

Commissioner Atwill closed the Public Hearing.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the request by D & D Investments LLC to use an existing building for storage space on 3.86 acres located at 6215 W Cunningham Dr., Columbia.

- Applicant must comply with all building and fire code requirements of the Boone County Building Inspections division & the Boone County Fire Protection District.
- All lighting must be focused inwards and downwards with no light leaving the site.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #436-2013**

2. Petition submitted by Payne Enterprises, Inc. for permission to vacate and replat Lot 2, of Tower Estates Plat 3, as shown in Plat Book 21, Page 47 of Boone County Records.

Stan Shawver read the following petition from John Payne of Payne Enterprises, Inc.:

With this letter, I, John R. Payne of Payne Enterprises, Inc., hereby petition the Boone County Commission to vacate Lot 2 of Tower Estates Plat No. 3, as shown in Plat Book 21, Page 47 of the Boone County records, in accordance with Section

1.8.1.3 of the Boone County Land Use Regulations, Chapter 1, Subdivision regulations. It is the intention to resurvey the above described Lot 2 and incorporate it into a larger lot with road frontage on South Cowan Loop.

Mr. Shawver said that Tower Estates was platted in 1987 and at that time, there were no provisions for re-platting other than what is in the re-zoning regulations. Mr. Shawver cited subdivision regulation 1.8.1.3 in conjunction with 1.8.1 and 1.8.2. The petition was submitted within regulations and property owners within 500 ft. of the plat in question were notified.

Commissioner Atwill asked if there were any written responses to the notification.

Mr. Shawver said there were no written responses but there were several phone inquiries.

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

John Payne, president of Payne Enterprises said that he has owned approximately 23 acres for about 10 years and is doing what Resource Management has requested him to do, which is to plat the property into two lots.

Ron Lueck of Lueck Surveying said the vacation of the lot needs to take place in order to re-plat the lot with the remaining vacant land behind it. There will be two lots, one 3.8 acres and the other about 20 acres – a one lot subdivision.

Commissioner Miller questioned why the additional parcels are not included.

Mr. Lueck said the others were done by survey and do not have the same requirements as the others.

Mr. Payne said that this is mostly a clean-up project. There is a one lot survey next week and there are no plans for the other parcels at present.

Commissioner Miller asked Mr. Shawver the reason for the Staff recommendation.

Mr. Shawver said it was to consolidate into one piece of ground. The plat that includes the nursing home is on for the October P & Z meeting.

Commissioner Atwill asked what will the property boundaries eventually be.

Mr. Lueck described the eventual boundaries and said it will have 10-12 sides to the property.

There were no further questions or comments.

Commissioner Atwill asked if there was anyone else that would like to speak on behalf of the applicant. There were no additional speakers.

Commissioner Atwill asked if there was anyone present that would like to speak in opposition of the applicant.

Teressa DeSmit said that she is a resident and has been caught off guard because the notice she received said it was for the vacation of the lot and the agenda says it is a vacate and re-plat. She is not opposed to development of the property and would like any development to be in the same character of the existing properties. It is difficult to make an informed decision when there are no plans to review. One can't say yes because we don't know what we are saying yes to.

Ms. DeSmit addressed the subdivision regulation 1.8.1.3 and how it relates to the neighborhood and what is required by Mr. Payne to go forward. The bullet points addressed in the regulations are a concern to us because we have no idea what Mr. Payne's plans are. The residents are heavily invested and property values can be affected. Once again, we are very uninformed and haven't seen a re-plat.

Commissioner Miller said the Commission has not seen one either so that will not be considered tonight.

Commissioner Atwill said that an option is to allow the vacation to take place contingent upon a Public Hearing for the re-plat.

Ms. DeSmit said once the vacation is allowed, it is a done deal and we will all be here again for the re-plat.

Commissioner Atwill asked if there has been a meeting with Mr. Payne.

Ms. DeSmit said that the property was offered for \$1 million and no one was going to write him a check. We just want to know what he is going to do with the property. Let us know up front so we can be informed.

Commissioner Atwill thanked Ms. DeSmit for her thoughts on the matter and asked if there was anyone else that would like to speak on the issue.

George Flenner asked Commissioner Miller for a clarification on the infrastructure needs for the property.

Commissioner Miller said she was referring to the property already zoned RS and it would need to go through the regular process for meeting subdivision regulations and requirements.

Mr. Flenner said that all residents are on septic and feels that there would be a significant cost to go to a sewer system and who would pay for that.

Commissioner Miller said they would not need sewers and the Nursing Home on the property does have sewer.

Mr. Flenner said it feels like the community is being invaded. If there were to be a house built on the property, that would be ok, but if it is used to get to the other property to develop that would be totally different. We feel for our safety and just want that to be considered.

Commissioner Atwill thanked Mr. Flenner for speaking on this issue.

Catherine Dunn said she purchased her house in 2009 because of the character on the neighborhood and the large lots and trees. The aerial view picture (given to each Commissioner) shows the wooded lots and the large spaces. There is no reason why the lot should be vacated, it is the same size as all the other lots.

Commissioner Miller noted that the vacation is necessary because the re-plat of the Nursing Home piece would cut off access to the road system and that is not acceptable. There needs to be access to a public road.

Commissioner Atwill thanked Ms. Dunn for her comments.

Randy Rippey said he lives next to the lot in question and the dirt road that gives access to the larger 11 acres. There are quite a few trucks on a daily basis using the dirt road to bring fill to the larger lot right behind his property. Does the re-plat give permission to build a real road.

Commissioner Atwill said that it does not allow any construction as it is a vacation and not a re-plat.

Commissioner Miller noted that this is a two step process; vacate then re-plat.

Mr. Rippey said he understands that the property is Mr. Payne's and just does not want to see the road expand as it is right behind his house and there are no barriers such as fences or trees to block a future road if constructed.

Commissioner Miller said that it could happen if the only access to the property is to have a road of that nature.

Mr. Rippey said this would definitely affect the character of the houses on both sides. There will be traffic flow on the street right in his backyard. This could be a detriment to the value of the property.

Commissioner Atwill thanked Mr. Rippey for speaking tonight.

Rebecca Ochoa-Jackson said she lives on the corner lot and the stem on the lot in question is the only access to her garage.

Commissioner Miller asked if she has an easement.

Ms. Ochoa-Jackson said she does.

Commissioner Miller said that gives her the right to continue to use the stem.

Ms. Ochoa-Jackson said that she heard in an earlier discussion that the stem would be closed and re-worked in another direction leading to the 11 acre property.

Commissioner Miller said the discussion concerned the stem as it relates to the 3.8 acres where the Nursing Home is located. Mr. Payne will clarify this once we are done hearing from everyone.

Ms. Ochoa-Jackson said the stem is vital to getting to her driveway and garage. Her property is on the corner and she sees the constant truck traffic and if the street is re-directed it would have a major impact on the value of her home. Also, Tower Estates has lot requirements on size and character.

Commissioner Miller asked if this is a neighborhood covenant.

Ms. Ochoa-Jackson said it is.

Commissioner Miller said the County does not enforce neighborhood covenants, only what the zoning is for the area. If there are issues concerning the neighborhood covenant, that would be a civil suit.

Commissioner Atwill thanked Ms. Ochoa-Jackson for speaking tonight.

Ann Roland said she walked around the loop today taking pictures and shared those with the Commission. The views will certainly change for some of the residents. It is a lovely neighborhood and we would like to maintain the character and welcome anyone with the same vested interests that are shared with all the other residents.

Commissioner Atwill thanked Ms. Roland for the pictures and for her comments.

Joan Smith said she would like a clarification on the road that loops around the Nursing Home for parking and the dirt road off the loop road that leads to the 11 acres. It would seem that the road going behind the Nursing Home would be better for accessing the 11 acres than

the dirt road off the loop.

Commissioner Miller said that we will have Mr. Payne explain this once everyone has spoken.

Commissioner Atwill thanked Ms. Smith for speaking tonight.

Michael Smith said there are 26 houses on the loop and 15 of those are represented here tonight. He went door to door to discuss what was going on, but could not because we don't know what is going on. A concern is that there could be duplexes or four-plexes built. Also, if this is approved and the land is sold to someone else, will this have to be done all over again.

Commissioner Atwill said that the zoning and platting go with the land.

Commissioner Miller said that the zoning of RS remains and it still will have to be platted. It is still the same process.

Commissioner Atwill thanked Mr. Smith for his thoughts on the issue.

Don Gibson said he wanted to make sure he understands that it is a two step process; vacate then re-plat. When the regulations were read, he understood that the Commission must find no adverse affect to the neighborhood in order to approve.

Mr. Shawver read the regulations again for Mr. Gibson.

Mr. Gibson thanked Mr. Shawver for the re-read and is clear on the procedure.

Commissioner Atwill thanked Mr. Gibson for speaking tonight.

There were no other speakers in opposition.

Commissioner Atwill asked Mr. Payne to come forward to address some of the issues by the opposition.

Mr. Payne said he was glad the residents came out tonight. He can always be reached by

phone. The only plan he has is to sell the property.

Mr. Lueck said that the only plan he has is to turn the 1.5 acres into 16 acres.

Mr. Payne said he has no development plans and the property does have sufficient sewer capacity. Boone County Regional Sewer District forced him off the lagoons thru the DNR to justify the treatment plant. He had to close the lagoons, fill them in and hook up to the Boone County sewer. Filling in the lagoons is what started all the truck traffic. There is a 12" water line running the full length of the east side of the property because I allowed Consolidated Water #1 an easement to put it in at no cost to them for service to the airport. There is plenty of sewer and water for any purpose. The plan is to sell the property and at present there is no contract to do so.

Mr. Payne said he is only doing what Resource Management has suggested. He said that no one is taking the easement from Ms. Ochoa-Jackson and no one can. He wants to do this the correct way and make sure that everything is up front. The requirements by Resource Management and the regulations in place require him to proceed in this manner. He understands the concerns of the residents, but whoever purchases the property and decides to develop it, must be aware that Columbia is growing and it is only a matter of fact that this will happen. The area just north of here is expanding and it is only normal that this will to.

Commissioner Atwill thanked Mr. Payne for his comments.

There were no further speakers on the issue.

Commissioner Miller said that selling off the lot with the Nursing Home is reasonable and then to come back with a one lot re-plat. There are safe guards in the regulations that will make sure everything is done properly.

Commissioner Thompson said she understands the concerns of the residents but the process requires us to have access to people's land. The parcel of land we are talking about must have access to a public road. When looking at the subdivision regulations for the vacation procedure and the impact on the neighborhood, it is not certain that the vacation of the lot

will adversely affect the character of the neighborhood.

Commissioner Thompson also said that as things develop or as plans are put forward, one can decide then if it has an adverse affect to the character and conformity of the neighborhood.

Commissioner Atwill asked Stan Shawver to outline the process if vacated then re-platted.

Mr. Shawver said there are two scenarios. First is an administrative survey which would encompass all but the 3.8 acres with the Nursing Home. Also there is the re-plat with multiple lots where there is a preliminary re-plat with the Planning & Zoning Commission and if approved, then scheduled through the County Commission for what is being proposed. If approved then the developer/owner will prepare designs for streets, infrastructure, storm drainage, land preservation, storm water and sewer plans which all can be done ahead of time or bonded for installation and then the plat follows.

Commissioner Atwill asked Mr. Shawver that if the plat is vacated can they build on a landlocked property without the steps mentioned.

Mr. Shawver said any tract of land is entitled to one dwelling. Tracts of 20 acres or more could have two dwellings. It all depends on the actual survey.

Commissioner Miller said that the two in question, the 1.53 acres and 11 acre lots would be combined and would be big enough for one dwelling.

Mr. Shawver said that if the stem were cut off, the vacation is the best way to guarantee access to the 11 acres.

There was no further discussion on the topic and Commissioner Atwill closed the public hearing.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby **approve** the petition submitted by Payne Enterprises, Inc. for permission to vacate Lot 2, of Tower Estates Plat 3, as shown in Plat Book 21, Page 47 of Boone County

Records.

Said vacation shall not to take place until the re-plat is approved following a public hearing conducted by the Boone County Commission in accordance with Section 1.8.2 of the Boone County Subdivision Regulations.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #437-2013**

3. Receive and Accept the following subdivision plats:

- **Gibbs. S35-T50N-R13W. A-2. Scott and Mary Gibbs, owners. Steven R. Proctor, surveyor.**

- **McNary. S30-T50N-R13W. A-2. Koy and Margie McNary, owners. Steven R. Proctor, surveyor.**

Stan Shawver said that the McNary request will not be considered tonight because there was a name change on the title. It will be considered in a future meeting. Mr. Shawver requested that the Presiding Commissioner sign the subdivision plat for Gibbs.

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 them:

- **Gibbs. S35-T50N-R13W. A-2. Scott and Mary Gibbs, owners. Steven R. Proctor, surveyor.**

Commissioner Miller seconded the motion.

