

BOONE COUNTY PLANNING & ZONING COMMISSION
BOONE COUNTY GOVERNMENT CENTER, COMMISSION CHAMBERS
801 E. WALNUT, COLUMBIA, MISSOURI
(573) 886-4330

Minutes

7:00 P.M.

Thursday, August 21, 2008

I. Chairperson Smith called the meeting to order at 7:00 p.m., with a quorum present.

II. Roll Call:

a. Members Present:

Pat Smith, Chairperson

Larry Oetting

Mike Morgan

Michael Morrison

Gregory Martin

Patricia Fowler

Perche Township

Three Creeks Township

Bourbon Township

Columbia Township

Katy Township

Missouri Township

b. Members Absent:

Carl Freiling, Vice-Chairperson

John Schloot

Paul Zullo

David Mink

Vacant Seat

Cedar Township

Rocky Fork Township

Rock Bridge Township

Public Works

Centralia Township

c. Staff Present:

Stan Shawver, Director

Bill Florea, Senior Planner

Paula Evans, Staff

Uriah Mach, Planner

Thad Yonke, Senior Planner

III. Approval of Minutes:

Minutes from the July 17, 2008 meeting were approved with corrections by acclamation.

IV. Chairperson Statement

Chairperson Smith read the following procedural statement:

The Boone County Planning and Zoning Commission is an advisory commission to the County Commission. The Commission is made up of individuals representing each township of the County and the county engineer. The Planning and Zoning Commission makes recommendations to the County Commission on matters dealing with land use. Tonight's agenda includes two rezoning requests and five subdivision plats.

In general, the Planning and Zoning Commission tries to follow Robert's Rules of Order, however, it is authorized by the Missouri State statutes to follow its own by-laws. The by-laws provide that all members

of the Commission, including the Chairperson, enjoy full privileges of the floor. The Chairperson may debate, vote upon, or even make any motion.

The following procedure will be followed:

The agenda item will be announced, followed by a report from the Planning Department staff. At that time, the applicant or their representative may make a presentation to the Commission. The Commission may request additional information at that time or later following the hearing. After the applicant's presentation, the floor will be opened for anyone wishing to speak in support of the request. We ask that any presentation made to the Commission be to the point.

Please give your name and mailing address when you address the Commission. We also request that you sign the sheet on the table after you testify.

Next the floor will be given over to those who may be opposed to the request. Direct all comments or questions to the Commission and please restrict your comments to the matter under discussion. Please be considerate of everyone here. We ask that you please not be repetitious with your remarks. We also recognize that some issues can be quite emotional. In that regard we ask that you refrain from applause, cheers, or other signs of support or displeasure. Please afford those with a different point of view than yours the same respect and consideration you would like yourself.

After those opposed to the request have had a chance to speak the applicant will have an opportunity to respond to the concerns of those opposed to the request. Next the staff will be given an opportunity for any additional comments, as appropriate. The public hearing will then be closed and no further comments will be permitted from the audience or the applicant unless requested by the Commission. The Commission will then discuss the matter and may ask questions of anyone present during discussion. Finally, a motion will be made to either recommend the approval or denial of the request to the County Commission. Please note that the Boone County Zoning Regulations and Subdivision Regulations are considered to be a part of the record of these proceedings.

All recommendations for approval are forwarded to the County Commission. They will conduct another public hearing on Tuesday, September 2, 2008. Interested parties will again have the opportunity to comment on the request at that time. The County Commission generally follows the recommendations of the Planning and Zoning Commission; however, they are not obligated to uphold any recommendation. Requests that have been denied will not proceed to the County Commission unless the applicant files an appeal form within three working days. Please contact the Planning office to see if a request that has been denied has filed an appeal, as there will be no further public notification due to the short time between the hearing tonight and the County Commission hearing. The County Commission hearing scheduled for Tuesday, September 2, 2008 will begin at 7:00 p.m. and will convene in this same room.

V. Conditional Use Permits
None.

VI. Rezoning Requests

1. Request by Catherine Greer and Thad LeFebvre to rezone from A-R (Agriculture Residential) to A-2 (Agriculture) on 8.0 acres, more or less, located at 9951 N. Highway VV, Columbia.

Planner, Thad Yonke gave the following staff report:

This property is located on the west side of State Highway VV approximately 3600 ft south of the intersection of Peabody Road and State Highway VV. The site is approximately 4-miles north of the nearest municipal limits of the City of Columbia. The subject property for the rezoning is 8-acres. The current zoning of this property is A-R (agriculture-residential) as is all the surrounding property to the west, southwest, south, southeast, and east and these are all original 1973 zonings. The property to the northeast, north, and the northwest is zoned A-2 (agriculture) and these are also original 1973 zonings. The northern most property line of the subject tract is the boundary between the 2 different zoning districts.

The subject property contains one single family structure and a couple of accessory structures, and a wastewater lagoon. Under the existing A-R zoning the theoretical maximum number of dwelling units allowable for this property would be 16 units; under the A-2 zoning the theoretical maximum number of dwelling units is 3. A down-zoning to the A-2 will make the property eligible to be divided by family transfer and we anticipate that this is what will happen should this request be granted. The property is located in Consolidated Public Water District #1. The district currently has a 4 inch and 8 inch water line along Highway VV. The site is in the Boone Electric service area and Boone County Fire Protection District service area. The site is within the Columbia School District. The proposal rates 40 points on the point rating scale. The master plan designates this area as being suitable for agriculture and rural residential land uses. The request is consistent with the master plan. Staff notified 15 property owners concerning this request.

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

Utilities: This site is served by Boone Electric Cooperative and Consolidated Public Water District 1. The proposed zoning will require less total utility service than the existing which already has adequate services for an A-2 density.

Transportation: Access to the site is from State Highway VV.

Public Safety: The nearest fire station is on Dripping Springs Rd.

The request is essentially the shifting of the district boundary edge and has sufficient resources to meet the requested zoning. Therefore, staff recommends approval of the request.

Present: Rod Stephens, Attorney, 11 N. Seventh St., Columbia.
Thad LeFebvre, 9951 N. Highway VV, Columbia.

Mr. Stephens stated the applicants live on eight acres at 9951 N. Highway VV. There is presently one house on these eight acres. The applicants would like to convey the house they live in plus 2.5 acres to Mr. LeFebvre's mother. His mother would then live in the house. The applicants would then build a new house on the remaining 5.5 acres. If the property remains zoned as A-R the applicants would have to replat their property in order to accomplish their goal and this would cause the applicants to incur significant expenses. The applicants wish to avoid these expenses so they are here tonight to request that their property be rezoned to A-2. If the property is rezoned as A-2 then the applicants can make a family

transfer and convey the house and 2.5 acres to Mr. LeFebvre's mother without having to replat. The applicants aren't aware of any opposition from any of their neighbors. Letters were sent out by Mr. Stephens' office on July 7 and have not heard of any opposition.

Open to public hearing.

No one spoke in support of the request.

Present, speaking in opposition:

Michele Wise, 9999 N. Highway VV, Columbia.

Ms. Wise stated part of her reason here was to have questions answered. Part of them have been answered. The concern now is Ms. Wise is not sure the applicants have adequate access to the remaining property if they transfer the front 2.5 acres to Mr. LeFebvre's mother. There is currently a driveway the applicants use to access the rear portion of their property. That driveway is just a matter of a few feet from Ms. Wise's property line and in some areas it crosses the property line. The applicants have a building that they use regularly at the back corner of their property. If the zoning is changed, can they expand and change that building? Once that zoning is changed, what other things, other than this transfer of property, can be done on that property that would not require any of the neighbors to be notified.

Bruce Beard, 9999 N. Highway VV, Columbia.

Mr. Beard stated the property line isn't clearly defined.

Closed to public hearing.

Mr. LeFebvre stated his eight acres goes back and around the Wise/Beard property. There was a corner post and Mr. LeFebvre took it out with Mr. Beard's permission. The road may be a little bit on their property. Mr. Beard's property has never been surveyed or registered. Mr. LeFebvre stated he is not arguing about it but if the road is on Mr. Beard's property Mr. LeFebvre will move it over.

Chairperson Smith stated the applicants will continue to use the road and the applicants indicate they will move the road if they need to.

Chairperson Smith asked the applicants about the building that is already there.

Mr. LeFebvre stated he works out of it; he is not going to take it down. The building is grandfathered in.

Mr. Stephens stated there are absolutely no plans to expand.

Mr. LeFebvre stated that is correct.

Commissioner Fowler asked what kind of work the applicant does out of the building.

Mr. LeFebvre stated welding.

Commissioner Fowler stated she sees a little pond and asked if there was a larger pond.

Mr. LeFebvre stated yes.

Commissioner Fowler asked the applicants if they were to move the road over and extend it to get access to the rear of the lot is there room to do that with the pond.

Mr. LeFebvre stated he may put it 2 or 3 feet right off of the corner of the property. Mr. LeFebvre stated he could put that corner post back up and not have to extend his road anywhere.

Commissioner Oetting stated when the applicants survey the property and it shows that the road is encroaching on to the neighbors property line the applicants will then move the road.

Mr. LeFebvre stated yes.

Commissioner Fowler asked staff to advise the Commission on the use of the existing structure and whether the building is grandfathered for welding.

Mr. Yonke stated it is not a legal use.

Commissioner Fowler asked staff if that was an issue the Commission needed to take up this evening.

Mr. Yonke stated it is not legal under the existing zoning and it wouldn't be legal under the zoning the applicant is asking for so it is a moot point. It is really a separate issue.

Commissioner Fowler stated to answer the questions about the uses on the rest of the lot.

Mr. Yonke stated assuming the remaining acreage is 5 acres or more then the applicants would be able to put a dwelling unit on it somewhere behind the plain of the current barn or outbuilding. If it was not a five acre piece that would raise some issues about having an accessory structure in front of a primary structure. The expansion of that barn would probably be prohibited because of its location in relation to the property line. Maybe because it was an accessory structure it was allowed to be closer to the property line at the time it was built. Once the new property lines go in that will become a front property line which has a 50 foot setback under A-2 zoning. A portion of the building would be inside the setback so the applicants would not be able to expand the building. Allowed uses of accessory structures is for residential storage, garage, or other types of incidental use associated with the residence on the property. You could use it as a home occupation but welding is not an allowed home occupation.

Commissioner Fowler stated she understands it is a non issue or a moot point but she is troubled by changing the zoning on this property when we have a non-conforming use.

Mr. Yonke stated there is no non-conforming use it is a possible zoning violation.

Commissioner Fowler asked if these were separate issues.

Chairperson Smith stated yes.

Mr. Yonke stated that before today, staff didn't have any knowledge of a potential zoning violation so staff hasn't opened a case or investigated yet.

Commissioner Morgan made and Commissioner Morrison seconded a motion to **approve** the request by Catherine Greer and Thad LeFebvre to rezone from A-R (Agriculture Residential) to A-2 (Agriculture) on 8.0 acres, more or less, located at 9951 N. Highway VV, Columbia.

Pat Smith – Yes
Mike Morgan – Yes
Gregory Martin – Yes

Larry Oetting – Yes
Michael Morrison – Yes
Patricia Fowler – Yes

Motion to approve the request carries unanimously.

Chairperson Smith informed the applicants that this request would go before the County Commission on September 2, 2008 and the applicants need to be present for the hearing.



2. Request by Karen L. Sapp to rezone from A-1 (Agriculture) to A-2 (Agriculture) on Tract 1, consisting of 10.0 acres, more or less, located at 8801 E. Logan Rd., and Tract 2 consisting of 8.8 acres, more or less, located at 9020 E. Highway AB, Columbia.

Planner, Bill Florea gave the following staff report:

The property is located about 3-miles southeast of Columbia. It is accessed from US-63 via State Route AB. The current zoning is A-1, which is the original zoning. The property is currently used for pasture. The applicant has stated that the purpose of the rezoning is to enable transfer of property to each of three children. A request to rezone the entire parent parcel was denied in June 2008. The current request proposes rezoning an 8.8-acre tract and a 10-acre tract. It should be noted that both tracts are of sufficient size to be subdivided under A-2 zoning.

Land uses in the area can be categorized as rural and residential and are in character with the A-1 zoning designation. The County GIS system was used to analyze the size of tracts within a one-mile radius of the property. The map being displayed on the screen shows tracts that are nominally 10-acres or greater and tracts that are less than 10 acres. There are 13 tracts less than 10-acres, two of which are the result of a PRD and are zoned A1-P.

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

Utilities:

- Water: The property is located within Consolidated Public Water District Number 1. The Water District reports that water is available in the area at a flow rate of 300-340 gallons per minute. The minimum rate necessary for residential development is 500-gallons per minute. Subdivision of the subdivision tracts could require fire protection. Therefore, water service sufficient to supply the needs of the proposal is not currently available.
- Sewer: There is no public sewer available in the area
- Electricity: There is no indication that there is a lack of electric system capacity for a residential subdivision of the property.

Transportation: Tract 1 has frontage on and direct access to Logan Road. Tract 2 has frontage on and direct access to Highway AB. The property is well served by the transportation network, which appears to be adequate to serve development at the existing density. Rezoning the two tracts to A-2 will not have a significant impact to the transportation system. A traffic study was not completed for this proposal however, anecdotal information received from neighboring property owners indicates concern about existing traffic on AB and Rangeline.

Public Safety Services: The nearest fire station is located near Columbia Regional Airport, within three miles of the property. Law enforcement is provided by the Boone County Sheriff. The nearest emergency medical services are in Columbia approximately 9-miles away.

Zoning Analysis:

- Granting this rezoning will not have a detrimental impact to the area due to lack of services necessary to support the rezoning. However, the precedent set by approving the request could lead to piecemeal disruption of the zoning district.
- The proposed rezoning is out of character with the pattern of development in the area. Development that has occurred since zoning was first implemented has been consistent with the A-1 requirements. There have been no changes in available infrastructure, development patterns or zoning in the area that support the rezoning request.
- The property is well suited for use within the current zoning regulations. Several Administrative Surveys have been approved, in the area, that have created 10-acre lots. Large lot residential development is viable in this area as evidenced by the current pattern of development.
- Granting the rezoning will arbitrarily favor a single land owner with no counterbalancing gain to the public health safety and welfare. There is a sufficient inventory of A-2 zoned land in Boone County
- There are other options open to the land owner to achieve her stated goal. A rezoning to A1-P with a review plan showing a 5-acre lot is a viable option that would not disrupt the integrity of the area.

The property scored 38 points on the rating system. Staff notified 12 property owners about this request.

Staff recommends that the request be denied.

Present: Karen Sapp, 6601 County Road 333, Fulton.

Ms. Sapp stated this request is to try and accommodate all of the concerns that were addressed in relationship to rezoning the whole property. Ms. Sapp is trying to accomplish what she is trying to accomplish as well as the staff saying they had a problem with anyone putting in a lot of houses on the property. Ms. Sapp stated she reduced that amount to just enough to have smaller tracts for her children. As far as sewer goes Ms. Sapp doesn't see how that is relevant whether it is A-1 or A-2, there is no sewer there, everyone is going to put in their own lagoon. So what it is lacking, it is lacking regardless of how it is zoned. Everybody's concern seemed to be the 108 acres when she was here before. Staff's, the Commissioners, and the neighbors concern, everybody seemed to express that they had no problem with Ms. Sapp giving small tracts to her children but not to try and rezone the whole 108 acres. Therefore, that is what the applicants have done. A legal description has been drawn up, everything in relationship to making these two smaller tracts farther away from each other instead of choosing which piece of property her kids get. Ms. Sapp thought this was going to take care of everybody's concerns.

Chairperson Smith stated that because some of their concerns had to do with what Ms. Sapp was going to do with this land, did the applicants think about going to A-1P? That would keep it with the A-1 and it would also be planned so the applicant could have the smaller lots.

Ms. Sapp stated she addressed that situation and she has addressed staff with it in the Commission meeting. If it is A-1P it still has to be 10 acres. There is no reason to rezone it at all. If you have 50 acres how many houses could you put on it.

Mr. Florea stated 5 houses.

Ms. Sapp stated basically each one is 10 acres.

Mr. Florea stated that is true in terms of density but you can put them on smaller sized parcels than 10 acres.

Ms. Sapp stated she would still have to take a 10 acre tract out of her property which would be the same difference.

Chairperson Smith asked what the property is used for now.

Ms. Sapp stated she has it rented for pasture. A-1P doesn't accomplish what Ms. Sapp is trying to do.

Mr. Florea stated it allows the applicant to do what she wants to do and not change the density of the area.

Ms. Sapp stated she would still lose 10 acres.

Mr. Florea stated she can still use it for pasture,

Ms. Sapp stated she would still lose 10 acres.

Chairperson Smith stated the applicant can use it the way it is being used now so she wouldn't lose it, it could still be pasture. This is the only kind in that area so that is spot zoning. If it is planned then we know what is coming up, right now we don't. These are some of the concerns that Chairperson Smith has.

Ms. Sapp stated that there is A-2 zoning right down Rangeline.

Mr. Florea stated he believes that was rezoned in 1977; it is a 5 acre tract.

Chairperson Smith stated she was curious why the applicant didn't apply for A-1P. If it is pasture now it could still be pasture. The children could put their houses in a little part of it and the applicant could fence it off.

Ms. Sapp stated she is not willing to give up 30 acres. Ms. Sapp has three kids that only want a small parcel to build a house on; you are talking about taking 30 acres out of it.

Chairperson Smith stated her kids would be welcome to have 10 acres.

Commissioner Oetting stated if it was zoned to A-2 the applicant could take this 10 acres and divide it in to four pieces.

Ms. Sapp stated she couldn't do that. This 10 acres is right across the flood zone.

Ms. Sapp presented Commissioner Oetting the map and showed the property location in relation to the flood zone.

Ms. Sapp stated the 100 year flood zone goes right through the middle of the 10 acre tract. There is no way in the world anyone could put four houses on the property.

Commissioner Oetting stated the applicant could take tract 2 and divide it.

Ms. Sapp stated that is 8 acres.

Commissioner Oetting stated it could be divided in to three lots.

Ms. Sapp stated that would be a mess.

Commissioner Oetting stated he understood what the applicant was trying to do. If the applicant were rezoning to planned there could be restrictions stating that it couldn't be further subdivided.

Ms. Sapp stated she is trying to take away what she wants for her kids to be able to build on; not to necessarily say they have to have 10 acres to build.

Chairperson Smith stated if the applicant did that with the 10 acres now they could build on 2.5 acres of that and Ms. Sapp would still retain title to the rest of that 7.5 acres. The applicant wouldn't be giving them 10 acres. She could give them 2.5 acres.

Mr. Florea stated the applicant could give her children a smaller portion of property and she would still have the balance.

Ms. Sapp stated she understood that.

Ms. Sapp stated there is no way anyone could take that 10 acres and divide it in to four 2.5 acre tracts. Two is the most it could possibly be.

Commissioner Martin asked what the applicants opposition to the planned district is.

Ms. Sapp stated that staff had indicated that it takes away from what she can do with the rest of the property. If she gets these two tracts rezoned; one son wants 5 acres now, he can go ahead and build it without Ms. Sapp having to go through this and all of the stuff you have to go through with this plan as well as giving up the rest of it. If Ms. Sapp took this 10 acres and made it A-1P and if she took the back 5 acres and sold it to her son now then two years from now her daughter comes up and she would like to build on the front five acres she wouldn't be able to do it.

Commissioner Martin asked the applicant if she was thinking she would A-1P just a 10 acre spot not the whole 108 acres.

Ms. Sapp stated that is correct. She only wants to get spots for three kids that are less than 10 acres.

Commissioner Martin stated if the applicant plans this, the whole 108 acres, then she has the ability to put 10 houses on there and she could put them on ten 2.5 acre lots.

Mr. Florea stated that is correct. If the applicant wanted to do two tracts now or set it up for the three full tracts, she could do a 30 acre A-1P and designate within that 30 acres whichever sized lots she wants to eventually transfer to the children and she can retain the balance. If she does 5 acre tracts, 15 would be set aside to be transferred to the children at some point in time and she could retain the remaining 15.

Ms. Sapp stated then she couldn't do what she wanted with that 15 acres.

Mr. Florea stated the applicant couldn't build on them anymore. But they could be used for agricultural purposes. That is no difference than what the applicant is already limited to.

Ms. Sapp asked why do it, it is just a big expense.

Mr. Florea stated because to do it the way the applicant is proposing increases the density on this tract and there is concern about doing that and leading to additional rezonings in this area based on that.

Ms. Sapp stated it is limited.

Chairperson Smith stated until the next person comes in and says the Commission did it for Ms. Sapp and now they want rezoned.

Commissioner Martin stated the concern is that the applicant is going to have two houses on one tract already at some point and if they want to put a house on one of their pieces of it they could position themselves so they could have three or four houses in a ten acre spot.

Ms. Sapp stated she wouldn't say there is a precedence if it was rezoned. The Commission rezoned the property on Rangeline even if it was 20 years ago. So if we are talking about precedence then Ms. Sapp would be saying that there is A-2 down the road and now you have to give it to her. Ms. Sapp stated she doesn't see that as a precedence issue. It is just a couple of small tracts.

Commissioner Fowler stated what she is troubled by is when Ms. Sapp was here last time Commissioner Freiling, who was chairing that meeting, explained to Ms. Sapp that the problem was that the applicants didn't have a plan. It was pretty clear that Commissioner Freiling and staff was telling the applicant the way to do this is through an A-1P. Commissioner Fowler stated she didn't find it very helpful that the applicant has come back and did all of these changes to address concerns but it was pretty clear from that hearing, and from what staff has told the applicant since then, that the best way to do this to accomplish both the concerns of the surrounding land, the existing zoning, and the fact that this land is under cultivation. Commissioner Fowler stated she is troubled by the way Ms. Sapp has brought this back and suggested that she has met all of the Commissions concerns because that is not what Commissioner Freiling said at the hearing in June.

Ms. Sapp stated she is probably referring to the last meeting with the County Commissioners because those were the concerns of the Commissioners and staff. Ms. Sapp made this less than 10 acres. The Commissioners all agreed it still incorporates 10 acres, A-2 is the way to accomplish what she wants to accomplish.

Commissioner Fowler stated that doesn't sound familiar.

Mr. Shawver stated he was at the County Commission meeting and he doesn't recall that being said.

Ms. Sapp stated this is why she went through all of the trouble to try to get it in smaller tracts because everyone was concerned about all the houses on the bigger tracts. With the flood zone through it Ms. Sapp doesn't see how it increases the density.

Open to public hearing.

Present speaking in favor of the request:

Crystal Masek, daughter of applicant, 5054 County Road 410, Fulton.

Ms. Masek stated she doesn't understand why you can't do with your land what you want to for your children such as the last case where the applicant wanted to move their parents on to their land. Ms. Masek stated she is in support of this request.

Charlene Brittain, 9701 E. Highway AB, Columbia.

Ms. Brittain stated she and her husband own a 240 acre farm across from Ms. Sapp's property on Highway AB. Ms. Brittain stated neither she nor her husband have any opposition to Ms. Sapp doing this for her children. Ms. Sapp has gone in to debt going through measures trying to proceed correctly and trying to get her children a piece of property to build a home. Ms. Sapp has also taken measures to try to improve her property for the whole community. This is a very nice community and it has been built accordingly and they are all very proud of it. There are pieces of property that are 1.7 acres and 3.7 acres cut out for members of a family. At the last Planning and Zoning Commission meeting Ms. Brittain had pictures of the 20 acres that joins her property and it is very difficult for people coming out from the city to maintain that much acreage. They think it is very wonderful to get out and away from a lot but they realize 10 acres is a lot to care for. The property ends up growing up in to cedars and other undesirable trees. There is a smaller tract of land on Highway AB, it looks as though the house was grandfathered because the house is closer to Highway AB and that acreage has to be mowed. That 6 to 8 acres they can't do much with but they do the best they can. They mow it but it is not conducive to a neighborhood desirable situation, but it is nice.

Ms. Brittain stated that on Rangeline there are 10 acres and the 20 acres and there is a lake there. The lake is probably 40 or 50 acres, supposedly the 10 acres they bought, half of the 10 acres is in the lake and it is very nice. We are happy that it is there, it has improved the neighborhood and they do have skiing and parties. When we were here before, if the Commissioners have the list of the opposition, it looked like an enormous amount of people that were opposed to the request, there are people that have signed it that didn't even own the property. People signed it that are already on A-2 zoning. When a person has some property that they would like to do something with to improve it, to make the neighborhood better and more desirable, that is what Ms. Brittain is for. Ms. Brittain is for the applicant to try to do this and of course it is through the Planning and Zoning Commission and County Commission that this can be accomplished. Ms. Brittain asked for the definition of A-1P; she thought it had to be a prepared plat showing infrastructure and platted pieces of property.

Mr. Florea stated with A-1P the applicants, in addition to submitting their rezoning application, would need to submit a drawn plan showing, in some cases, infrastructure, and in a case like this there wouldn't be much infrastructure to show. It would have to graphically show what tracts are being redesignated as A-1P. It is not a subdivision plat.

Ms. Brittain stated if it is an A-1P it has to show the individual tracts, that means surveying each individual one. This is something that Ms. Sapp wanted to get across, that it would cost a lot of expense for Ms. Sapp to do this whenever she would like to accomplish this for her children.

Mr. Florea stated the applicants can still do a family transfer within the A-1P; a family transfer does not require a survey. They would still be able to split the property by description just as you could with a straight zoning district but the applicants would still have to have a graphic plan. That plan doesn't have to be at survey level detail.

Ms. Brittain asked if any of the panel, in going through the request, ever drive out and look at the property.

Chairperson Smith stated yes; she was just out there.

Ms. Brittain stated it is important that people know that the Commissioner's look at the property to thoroughly investigate.

Jeremy Sapp, 7949 E. Hubbard Rd., Columbia.

Mr. Sapp stated other family members have done the same thing right down the road and he was curious why the applicants can't do the same thing and do them all at one time. Ms. Sapp is trying to do this so she doesn't have to go through this every time for each individual lot.

Chairperson Smith asked who did this down the road.

Mr. Sapp stated all kinds of people that have small lots.

Chairperson Smith asked if Mr. Sapp thought the whole area should be rezoned.

Mr. Sapp stated no. All he said is they did the same thing. They bought it off of each individual house out of their farm and their family's whole farm. Why is this such a big deal? Of course they did one house at a time, what is the difference in doing the three houses at the same time instead of coming in here and doing the whole expense because of what you are going to spend to do it. Each time you have to have this done. Each time you have to pay to have all of this stuff done. Mr. Sapp stated he is a business person and he understands. He also understands the Commissioner's don't want their breath wasted any more than anyone else. Why couldn't the applicants do the three lots at one time.

Mr. Florea stated there is no reason they couldn't.

Mr. Sapp asked why this was an issue.

Mr. Florea stated using the A-1P you could still do all three at once.

Mr. Sapp stated that with A-1P you have to do ten acres for each one.

Mr. Florea stated that is correct.

Mr. Sapp stated that is contradicting what the neighbors have done.

Mr. Florea stated he has not researched each individual one of those. The regulations used to allow family transfers of any size regardless of the zoning. That regulation has changed and that is why it is not allowed, that is why a rezoning is required. When they did it, it was legal to do that.

Mr. Sapp stated so now the whole deal has changed and you are just screwed, right?

Commissioner Fowler stated she didn't think that was a fair characterization.

Mr. Florea stated the applicants can still accomplish what they want, it is just a different way of getting there.

Mr. Sapp stated he would like to buy 5 acres from his mother and the Commission says he can't. Mr. Sapp stated he doesn't see a problem because other people have property under two acres.

Mr. Florea stated he still can buy property from his mother.

Mr. Yonke stated under A-1P Mr. Sapp can buy a 5 acre tract from his mother and she can keep 5 acres of it and it doesn't change the density. The fact that Ms. Sapp is asking to change the density is the exact issue that staff and the Commission has a problem with.

Mr. Sapp stated it is the exact thing the neighbors have done now.

Mr. Yonke stated no; those were done under a different set of regulations. That regulation was changed because it was considered to be a loop hole that was not intended under the original way the regulations were written. That regulation has changed to say in order to do a family transfer you have to meet the minimum lot size.

Mr. Sapp stated that staff is saying that no one can do that now, right?

Mr. Yonke stated that is correct; you have to meet the minimum lot size to do a family transfer.

Present, speaking in opposition to the request:

Kim Ponder, 8800 S. Rangeline Rd., Columbia.

Ms. Ponder stated she represents the neighborhood.

Ms. Ponder presented a letter and a petition to the Commission in opposition to the request.

Ms. Ponder gave a summary of the letter stating the following:

We appear before the Commission today in opposition. It is our understanding that this can be accomplished through the current procedures in place through A-1P. As property owners on Rangeline Road, Logan Road, and Highway AB, it is our right to stand before the Commission. The purpose of us coming here today is to protect the land as it is zoned. It is not for any other reason so if the true purpose is to transfer or sell to her children, the neighbors are in favor of that but they want it done the right way.

Ms. Ponder stated her property is on the corner of Rangeline Road and it is a large tract of land. If the precedent is set today that this could be open zoning, even though the scope has gone from 108 acres to 18.8 acres, the Commission is going to see more of these requests come in.

Ms. Ponder asked people who signed the petition to stand.

Ms. Ponder stated that if the applicant had requested A-1P zoning Ms. Ponder would not be here today and the majority of the people in opposition would not be here today.

Chairperson Smith stated the Commission received three letters in opposition to this request.

Closed to public hearing.

Chairperson Smith stated there is a way to do this that already exists. People don't understand why we have to rezone land to accomplish what you want to accomplish. We always ask ourselves the question, is this the appropriate use for the land under consideration. We pull in resources that we have from our staff, from the land owners that live there and we have to make our decision based on what we think is the right thing for the land and for the community. We would be much more receptive if there wasn't already a way for the applicants to do this.

Ms. Sapp stated that people within 1000 feet are notified. Where does the 1000 feet start?

Mr. Florea stated it is measured from the perimeter of the parent parcel.

Ms. Sapp stated Planning and Zoning says they look at the opposition and support of people within 1000 feet.

Chairperson Smith stated all property owners within 1000 feet are notified of the request.

Ms. Sapp stated at the same time you could be opposed even if you didn't own property.

Chairperson Smith stated this is America, you can be opposed to anything anywhere. The Commission doesn't ask for input from anybody that is not a property owner.

Ms. Sapp stated the reason she is asking is because anyone can go down the street and find 30 people to oppose something.

Chairperson Smith stated we could check and make sure.

Commissioner Fowler stated they are two different matters. The fact that you notify property owners within 1000 feet is because they are the ones that are closest, and they can then serve as a communication tool to other land owners. It would be unfair to ask a government to notify people within 5 miles but that doesn't mean that people outside of that 1000 foot buffer can not come and voice their opinion. They live within the same general area.

Ms. Sapp stated people within 1000 feet are notified but there are people who have signed the petition that don't own property or they are way down the road. The petition looks a whole lot larger than the people in the actual area.

Commissioner Oetting stated he is not totally opposed to A-2 zoning. The concern is that it is not planned; whether it is A-1P or A-2P. Commissioner Oetting stated he would not be opposed to the request if it was planned.

Ms. Sapp stated asked what the Commission meant by planned.

Commissioner Oetting stated the applicant has stated that the 8.8 acres can't be divided any further. If you get an engineer or surveyor out there he could possibly find some way to break that up in to a couple more lots. If it is A-2 planned it will take out that uncertainty.

Ms. Sapp stated the 10 acre piece can not be divided.

Commissioner Oetting stated he is not sure that it couldn't be done. If an engineer goes out there and maps it out he may be able to show that it can be divided.

Ms. Sapp stated she talked to the conservation people and they informed Ms. Sapp that she could not touch that 100 year flood zone at all. Everyone has told her that. That particular spot doesn't seem to be an issue of having more than two homes rather than one.

Commissioner Oetting stated if the applicant wanted him to be in agreement it needs to be A-2P; A-1P is a little more logical and more satisfying to the neighborhood. Commissioner Oetting stated he would support the request as A-2P.

Ms. Sapp stated she sees the same people coming up here over and over and Ms. Sapp took it down to the amounts that she was told to take it down to and did all of this all over again with the little portions. Ms. Sapp stated there is the same opposition but is this opposition legitimate enough? Could Ms. Sapp really increase the density that much or is this just that the opposition is getting carried away?

Commissioner Oetting stated that staff already informed the applicants that there is a way of getting it done and that is A-1P. The neighborhood has also said there is a way to get it done.

Ms. Sapp stated that they also told her to take it down to a few lots for the kids.

Commissioner Oetting stated A-1P will do that.

Ms. Sapp stated no; they said take it down to a few lots. She was told not to try to rezone the whole thing but take it down to just the lots for the kids.

Commissioner Oetting stated that would be the planned zoning.

Ms. Sapp stated that is what she did.

Commissioner Oetting stated no; that would be the planned, the A-1P.

Ms. Sapp stated that is what she did with the A-2 request.

Commissioner Oetting stated it is not planned.

Ms. Sapp stated no; but she took it down to just the amount she wanted for her kids.

Commissioner Fowler made and Commissioner Morgan seconded a motion to deny the request by Karen L. Sapp to rezone from A-1 (Agriculture) to A-2 (Agriculture) on Tract 1, consisting of 10.0 acres, more or less, located at 8801 E. Logan Rd., and Tract 2 consisting of 8.8 acres, more or less, located at 9020 E. Highway AB, Columbia.

Pat Smith – Yes
Mike Morgan – Yes
Gregory Martin – Yes

Larry Oetting – Yes
Michael Morrison – Yes
Patricia Fowler – Yes

Motion to deny the request carries unanimously.

Chairperson Smith informed the applicant that if she wished to appeal this decision to the County Commission an appeal form would need to be filed with the Planning Department within three working days. The County Commission will meet on September 2, 2008 at 7:00 p.m.

VII. Planned Developments
None.

VIII. Plats

1. Tumlin Hills Plat 2. S20-T47N-R12W. A-2. Justin G. Powell, owner. James V. Patchett, surveyor.

The following staff report was entered in to the record:

No one present to represent the plat.

The property is located south of the end of Tomlin Hill Road, approximately 1 ½ miles south of Pierpont, north of New Haven Road. This plat modifies one existing 2.52 acre lot to a 2.87 acre lot and creates one new lot at 2.57 acres. The property is zoned A-2 (Agriculture) and is surrounded by A-2 zoning. This is original 1973 zoning. This plat has been submitted to revise the setbacks for purposes of constructing a dwelling on the property.

This lot has direct access on to Tomlin Hill Road via an existing 50' roadway easement leading north. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

Water service to these lots will be provided by Consolidated Public Water Supply District #1. Fire protection will be provided by the Boone County Fire Protection District. Electrical service is provided by Boone Electric.

An on-site system will be providing wastewater service to these lots. Due to the extreme topographic conditions on site, a lagoon will not be acceptable. The property owner will be required to use an engineered wastewater system approved by the City/County Health Department.

While the front building lines on this plat are identified as 25', they are in compliance with the zoning due to the 50' wide easement for road purposes on this property. The front property line for Lot 1 is the centerline of this easement, establishing a 50' combined setback (25' from the easement, 25' for the building line). Lot 2 has a similar building line, only noted on the eastern portion of the lot because of the topography rendering the western portion of the lot unable to be built upon.

The property scored 10 points on the rating system.

Staff recommends approval of this plat and granting the requested waiver.

Commissioner Martin made and Commissioner Morrison seconded a motion to **approve Tumlin Hills Plat 2 with waiver request:**

Pat Smith – Yes	Larry Oetting – Yes
Mike Morgan – Yes	Michael Morrison – Yes
Gregory Martin – Yes	Patricia Fowler – Yes

Motion to approve the plat carries unanimously.

2. Lewis Estates. S4-T47N-R12W. R-S. Kenneth and Alene Lewis, owners. J. Daniel Brush Surveyor.

The following staff report was entered in to the record:

No one present to represent the plat.

The subject tract is located approximately $\frac{3}{4}$ of a mile to the east of the city limits of Columbia on Bonne Femme Church Road. This plat creates one 2.5 acre lot from a 53.92 acre parent parcel. The property is zoned R-S (Residential Single-Family) and has R-S zoning to the north, east, and west, and A-1 (Agriculture) zoning to the south. All of this zoning is original 1973 zoning.

The property has direct access onto Bonne Femme Church Road, a county-maintained right-of-way. The applicant has requested a waiver of the traffic study requirement.

Utilities are provided by Consolidated Public Water District #1 and Boone Electric Cooperative. Fire protection is provided by the Boone County Fire Protection District.

There is a lagoon on this property serving the existing dwelling. The applicant has requested a waiver on the sewer cost-benefit analysis.

The property scored 67 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

Commissioner Martin made and Commissioner Morrison seconded a motion to **approve Lewis Estates with waiver request:**

Pat Smith – Yes	Larry Oetting – Yes
Mike Morgan – Yes	Michael Morrison – Yes
Gregory Martin – Yes	Patricia Fowler – Yes

Motion to approve the plat carries unanimously.



3. Kari Lane Acres. S17-T47N-R12W. A-2. Edwin Scott Orr Revocable Trust, owner. James V. Patchett, surveyor.

The following staff report was entered in to the record:

No one present to represent the plat.

The property is located on Cheavens Road, approximately 1 mile to the southeast of Pierpont, off of Tomlin Hill Road. This plat creates two lots, one at 5.88 acres and one at 4.10 acres. There is a dwelling located on Lot 1, but no other structures on either lot. This property is zoned A-2 (Agriculture) and is surrounded by A-2 zoning. This is all original 1973 zoning.

Lot 1 has direct access onto Cheavens Road & Kari Lane. Lot 2 has access to Kari Lane. The applicant has requested a waiver to the traffic study requirement.

This property is served by Consolidated Public Water District #1, Boone Electric Cooperative, and the Boone County Fire Protection District for utilities and fire protection.

On-site systems will be used for wastewater on these lots. Any proposed on-site systems will need to be reviewed by the City/County Health Department. The applicant has requested a waiver for the Cost-Benefit Analysis.

The property scored 41 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

Commissioner Martin made and Commissioner Morrison seconded a motion to **approve Kari Lane Acres with waiver requests:**

Pat Smith – Yes

Mike Morgan – Yes

Gregory Martin – Yes

Larry Oetting – Yes

Michael Morrison – Yes

Patricia Fowler – Yes

Motion to approve the plat carries unanimously.



4. Valley Creek Plat 8 Replat Lot 88. R-M. Maranatha Properties LLC, owner. James V. Patchett, surveyor.

The following staff report was entered in to the record:

No one present to represent the plat.

The property is located at the southwestern corner of Trikalla Drive and Lakewood Drive, approximately 1500 feet to the east of the city limits of Columbia. This replat divides Lot 88 of Valley Creek Plat 8 into two lots, 88-A & 88-B. Each lot consists of ½ of the existing duplex and a portion of the lot as backyard. The property is R-M (Residential Moderate Density), and is surrounded by R-M zoning. This is original 1973 zoning. This property is also subject to a Planned Residential Development (PRD) plan created during the original subdivision process. This plat is consistent with the existing PRD.

The existing driveway for this property is on Lakewood Drive, a publicly maintained road. The applicant has requested a waiver for the traffic study.

This property is served by the Boone Electric Cooperative for electrical service, Columbia Water & Light for water service, and the Boone County Fire Protection District for fire protection.

Wastewater is handled by a central sewer under the auspices of the Boone County Regional Sewer District.

The property scored 82 points on the rating system.

Staff recommends approval of the plat and granting the requested waiver.

Commissioner Martin made and Commissioner Morrison seconded a motion to **approve** Valley Creek Plat 8 Replat Lot 88 **with waiver request**:

Pat Smith – Yes

Larry Oetting – Yes

Mike Morgan – Yes

Michael Morrison – Yes

Gregory Martin – Yes

Patricia Fowler – Yes

Motion to approve the plat carries unanimously.



5. Cole. S15-T46N-R12W. A-2. Terry Cole, owner. Steven R. Proctor, surveyor.

The following staff report was entered in to the record:

No one present to represent the plat.

The property is located on Liberty Lane, directly adjacent to the city limits of Ashland. This plat cuts a 3.00 acre lot from a 51.03 acre parent parcel. The property is zoned A-2 (Agriculture), with R-S (Residential Single-Family) zoning to the north, and the city limits of Ashland to the east, west, and south. The R-S and A-2 are original 1973 county zonings. The property has a house, several silos, and two sheds present. The sheds will need to be removed prior to the recording of the plat, as they are inside the side yard setback for this zoning district.

This property has an existing access onto Liberty Lane. The applicant has requested a waiver of the traffic study.

The property is served by Consolidated Public Water District #1, Boone Electric, and the Southern Boone County Fire Protection District for utilities and fire protection.

An existing on-site wastewater system serves this property. The applicant has requested a waiver of the sewer cost/benefit analysis.

The property scored 68 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

Commissioner Martin made and Commissioner Morrison seconded a motion to **approve Cole with waiver request:**

Pat Smith – Yes

Larry Oetting – Yes

Mike Morgan – Yes

Michael Morrison – Yes

Gregory Martin – Yes

Patricia Fowler – Yes

Motion to approve the plat carries unanimously.

V. Old Business

1. Update on County Commission Decisions

Mr. Shawver stated the plats from the July meeting moved forward to the County Commission and have been received and accepted.

VI. New Business

1. Stream Buffer Public Hearing

Mr. Shawver stated the Planning and Zoning Commission held the second public hearing on the Stream Buffer ordinance at the last Planning and Zoning Commission meeting in July. Subsequent to that meeting Mr. Shawver had a small meeting with property owners who had questions. They have some suggestions that they will forward to staff. There still needs to be one more public hearing in the northern part of the county. Commissioner Elkin requested that the public hearing be held in Hallsville. Mr. Shawver stated he would try to get the fire station in Hallsville scheduled. Only one Planning and Zoning Commissioner needs to attend this hearing. Mr. Shawver asked the Commissioners to let him know when they would like to have the meeting. It is required to put notice in the newspaper 15 days prior to the meeting.

2. Joint P & Z Meetings

Commissioner Fowler stated we are scheduled for a joint meeting on September 16, 2008. The meeting originally scheduled for September 11 was cancelled because the city had a work session. Commissioner

Fowler stated she was going to request putting off the September 16th meeting because she has a conflict that day.

3. Other Items

Mr. Shawver stated that Commissioner Oetting made the comment of possibly making staff mad. Mr. Shawver informed the Commission that they did not make the staff mad. When staff makes a recommendation they base it on patterns, precedence, what staff has seen the Commission do before, the master plan, and the existing land use in the area. It is only a recommendation. If the Commission has a different belief than staff that is not going to make staff mad; it happens.

VII. Adjourn

Being no further business the meeting was adjourned at 8:23 p.m.

Respectfully submitted,

Secretary
Patricia Fowler

Minutes approved on this 18th day of September, 2008