

**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, February 17, 2011**

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

II. Roll Call:

a. Members Present:

Boyd Harris, Chairperson	Centralia Township
Carl Freiling, Vice-Chairperson	Cedar Township
Mike Morrison, Secretary	Columbia Township
Gregory Martin	Katy Township
Larry Oetting	Three Creeks Township
Eric Kurzejeski	Missouri Township
Michael Poehlman	Rock Bridge Township
Paul Prevo	Rocky Fork Township
Kevin Murphy	Perche Township
Derin Campbell	County Engineer

b. Members Absent:

Brian Dollar	Bourbon Township
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c. Staff Present:

Stan Shawver, Director	Uriah Mach, Planner
Thad Yonke, Senior Planner	Paula Evans, Staff
Bill Florea, Senior Planner	

III. Approval of Minutes:

Minutes from the December 16, 2010 meeting were approved by acclamation.

IV. Chairperson Statement

Chairperson Harris 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 a rezoning request, two administrative plan approvals, and two 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 the applicant's representative may make a presentation to the commission. The commission may request additional information at that time, or later following the public hearing. After the applicant's presentation, the floor will be opened for a public hearing to allow anyone wishing to speak in support of the request. We ask that any presentation made to the commission be to the point.

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.

There may be individuals that neither support nor oppose a particular request. Those individuals are welcome to address the commission at any time during the public hearing portion of the request.

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. Also, we ask that you please turn off your cell phones.

Any materials that are presented to the commission, such as photographs, written statements or other materials will become a part of the record for these proceedings. In that regard, if you would like to recover original material, please see the staff during regular business hours after they have had an opportunity to make a copy of your submission.

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 the 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, March 1<sup>st</sup>. Interested parties will again have the opportunity to comment on the requests 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 are denied will not proceed to the County Commission unless the applicant files an appeal form within 3 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, March 1<sup>st</sup>, 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 Gary E. and Edith A. Naugle to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 13.67 acres, more or less, located at 1700 N. Dozier Station Rd., Columbia.

Planner, Thad Yonke gave the following staff report:

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

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

Utilities: This site is served by Boone Electric Cooperative and Public Water District 9. There are existing district waterlines serving the property but upgrades will be needed if the property is divided into more than three lots. Since the majority of the surrounding properties are already zoned to allow the A-2 density, the existing utilities should support the use of this property at the possible density allowed should the A-2 zoning be granted. Specific infrastructure requirements are tied to the process of subdividing the property and will be dependant upon the specific nature of the division proposed. Division that would allow for new residential construction will likely not qualify for on-site wastewater systems and connection to the BCRSD facility near the property would likely be required.

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

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

The actual character of the area is one of mixed size residential lots. There is a block A-R zoning within 1500 ft of the request and R-M (moderate density residential) zoning within 1000 ft, while a majority of the surrounding property adjoining the subject property is zoned A-2. While an argument could be made that perhaps an A-2P (planned agriculture) rezoning might be more appropriate by allowing the request to be tailored to the neighborhood, the resources to support the request seem adequate or able to be provided to support the rezoning. Therefore, staff recommends approval of the request.

Present representing the request:

Gary Naugle, 1700 N. Dozier Station Road, Columbia

Gary Naugle: All I am trying to do is to get situated where I can split out the acres my home is on.

Chairperson Harris: When you say “split out” what do you have in mind?

Gary Naugle: Three acres with my home and garage; that leaves me ten acres I can do something with.

Commissioner Freiling: One of my concerns with this is that this property has a diverse use between the manufacturing building, the residential building, and the lake; it is a complex use on this small piece. Is there a reason the applicant chose not to come in with a planned rezoning request and split out this three acres so the Commission knew what they were considering?

Gary Naugle: It costs a lot.

Commissioner Murphy: If this were rezoned what is the maximum number of lots that could be created?

Thad Yonke: Theoretically five; if you are doing a standard plat road frontage that is going to limit it. With family transfers the road frontage isn't as an issue but then you have to have eligible family members that qualify to receive tracts.

Gary Naugle: Two years ago I tried to subdivide and get one acre zoning; I just wanted to do something while I still may need the money.

Commissioner Martin: Does the 13 acres include the small house on the northwest corner?

Thad Yonke: Yes, it does.

Commissioner Martin: So with the existing two houses there would be a limit of three additional lots?

Thad Yonke: Five tracts could be created out of it to meet the zoning category. How the tracts are divided to try to fit the existing units on them is a different issue. The way the zoning ordinance currently works you are only allowed to have one dwelling unit on any single tract of ground that is less than 20 acres.

Open to public hearing.

Present speaking in favor of the request:

Patricia Carl, 2975 S. Rangeline Road, Columbia.

Patricia Carl: I don't mind Mr. Naugle building on that but with 13.67 acres I am figuring five buildings so if he already has two or three buildings on it I would like to know how many he would be allowed to put on there in addition to those. I think it should be a planned development which we did across the road; my only expense was the surveying of it. I brought in pictures of the houses, where the lot lines would be, and what the sewage system would be; it was not a lot of expense. I think if we do a little planning at this stage then we won't end up with something that is detrimental to the area. We have had some sewage problems with other areas that Mr. Naugle has developed so that is a concern. I am not sure how he can connect to the regional sewage that is down at Serenity because the land surrounding where he would connect to is owned by two of the land owners here that would not give permission to cross their land. That is my major concern; I would like to see some kind of plan.

Commissioner Freiling: There are three structures there now; two dwellings and a manufacturing building. In A-2 zoning the manufacturing would still have to maintain its own lot and still have to be 2.5 acre minimum per lot.

Thad Yonke: If they were trying to divide the lot so the building would fit on it then it would have to be a 2.5 acre lot.

Commissioner Freiling: So unless you tore something down there could only be two additional building lots created.

Thad Yonke: It is all going to depend upon how the proposals are done to divide the property. If you do a family transfer around the existing home and garage then that will be a three acre piece with a home and accessory structure on it; at that point you have ten acres left. Of the remaining ten acres it would depend on how that ten acres gets divided. You could theoretically have the manufacturing facility and the one other residence could end up on the same piece.

Commissioner Freiling: So you could theoretically but practically could you get that house and the manufacturing building on a 2.5 acre lot?

Thad Yonke: No.

Commissioner Freiling: But you could sell 2.5 acres with a manufacturing building and build a new house on that lot as well.

Thad Yonke: Yes.

Commissioner Freiling: So you could have three new dwellings.

Thad Yonke: Potentially, yes.

Commissioner Poehlman: What about the sewer connection?

Thad Yonke: The regional sewer district lines run to serve the lots in Meadow Village are actually up to Dozier Station and theoretically you could pressure sewer to the front along the road if you had to. Or the sewer district can condemn easements and get there if they need to.

Present speaking in opposition:

Leroy Anthony, 1450 Dozier Station Rd., Columbia.

Leroy Anthony: I appreciate Mr. Naugle trying to take care of himself in his old age but I think his request tonight is way too vague. The lagoon off of Serenity Circle (Meadow Village subdivision) drains on to my property. There should be some kind of plan and the other thing is the sewer issue. He has a lagoon on his property about ten feet from the road; I don't know if he wants to tie in to those. I would like to see a plan on all this stuff.

Elton Fay, 2351 Dozier Station Rd., Columbia.

Elton Fay: When it is represented to the Commission that there are two houses on there I think the visual picture of what is out there is probably important to understand. I have lived out there for 35 years, I own land north on Dozier Station, both on the left side and the entire north end of Dozier Station Road; all of the land that I own is zoned A-1. I have driven past this property for 35 years and during that time the little A-frame that is in the northwest corner is literally that. It is a little A-frame and has tenants in and out of it quite a bit. South of the rental unit is his lagoon; in all fairness Mr. Naugle has tried to clean it up a little bit the last couple of years. I have driven through his overflow on the both when it is frozen and when it is wet on that road until the county paved it about seven years ago. When Mr. Anthony said the lagoon is ten feet from the road I think he was stretching a little bit because that lagoon dam is literally right up beside the road. I realize that it probably grandfathered in but it does overflow; when it overflows it goes down across on to the other property that goes in to Cedar Creek. I am not sure how Mr. Naugle plans to do that but if he family transfers two more pieces back in there and puts two more units on and hooks it in to that same lagoon I don't think it is adequate; it is not adequate for what he is doing with it now. If you add two more units it certainly won't be. As a neighbor out there I would like to see a little more of the plan before it is rezoned. I think planned zoning would probably make more sense than the A-2.

Chris Beckett, 2275 Dozier Station Rd., Columbia

Chris Beckett: My concerns are the plan and the lagoon issue as has been stated. That is a problem now and I don't know that it is going to get any better and that is a major concern.

Linda Ordway, 1250 N. Dozier Station Rd., Columbia

Linda Ordway: I walk there all the time and the runoff from the sewer lagoon is definitely a problem a lot of times during the year so it is not something that just happens during the rainy season, it is that way all the time.

Closed to public hearing.

Gary Naugle: First of all none of these people have ever seen the outflow of my lagoon because it goes in to my pond drain and you can't even see the pipe. What they are talking about is 40 years old; I had it rebuilt once and over all of those years I have had two leaks. The last time was a few years ago; you can't go out there right now and find any sewage leaking. As far as Ms. Carl she always has some kind of a zinger. She has the property south of me and I had a terrace running over my swimming pond and it got to where the terrace had to be diverted because her sewage system was leaking; it is doing it right now and I have never said anything to her about it because I understand how these situations are. I can't build anything out there unless Stan says it is all okay. I guess it is all about my lagoon.

Gary Naugle (to Pat Carl): If you want to know how the sewer is going to get there I will condemn your property and run it across it.

Commissioner Oetting: The staff report mentioned that the applicant would probably have to hook on to the sewer district. That would also mean he would have to hook the existing on too.

Thad Yonke: Not necessarily; that is for new construction of new residential units. If you were to family transfer two lots with no buildings on it those become eligible for dwelling units but they only become eligible for dwelling units that can have a wastewater system that works. Those would be individual wastewater systems because the only collector wastewater systems that are allowed out here is that sewer district one; you can't tap two houses in to one lagoon. Each of those individual lots that would be created would have to have the ability to meet the requirements of the health department for an onsite wastewater system or there would have to be some mechanism found to get sewer to the property.

Commissioner Oetting: So that would not take care of the problem with the existing wastewater system.

Thad Yonke: The existing stuff would only have to be connected if it was failing and there was a complaint to the health department and they issued an order that the owner has to connect in to the sewer district.

Chairperson Harris: The nonconforming use stays with the use or with the property?

Thad Yonke: If the uses discontinues for one calendar year you will lose whatever grandfather rights you have. Most people who come in and say they have grandfather rights actually don't. This one does because it has the certificate of occupancy for a nonconforming use. That building is good on its footprint; you cannot expand a nonconforming use; if the building is destroyed you lose that nonconforming use.

Chairperson Harris: At this point the applicant is still using the building for what it was approved for.

Gary Naugle: Yes, my occupancy permit lists more than just manufacturing; I actually have light industrial zoning.

Thad Yonke: It is equivalent to light industrial.

Chairperson Harris: If the zoning change is approved and we can go to smaller lots and the parcel with the manufacturing building is sold. Can the new owner use the building for a similar use?

Thad Yonke: The new owner has the right to use that building for any M-L use or lower.

Chairperson Harris: So it would not have to be building components, it could be anything within the M-L district as long as there wasn't a 12 month cessation of use.

Thad Yonke: If someone bought the property and used that building for something with lesser intensity than an M-L use, such as a daycare, it would lose its nonconforming use as an industrial because the lowest category where you find a daycare is a much lower category; it is in one of the commercial zonings or actually residential uses. So the use goes down, it can't come back once it's gone down.

Gary Naugle: You can't do everything you can in M-L zoning. I restricted myself on that property as far as daylight and evening. The lagoon is 50 years old, I had it rebuilt about 20 years ago, I didn't even know it was leaking because I never go down to that part of my property. Someone must have called it in and I got a call from Gerry Worley. Other than that there has never been any complaints and I have never been contacted by Mr. Worley and he should have records to prove that.

Chairperson Harris: The applicant's intent is to pull three acres off.

Gary Naugle: That was my primary concern.

Chairperson Harris: What is the configuration? What is the location of the three acres?

Mr. Naugle pointed out the location of the home and the location of the three acres to be split off.

Chairperson Harris: Where is the location of the A-frame?

Mr. Naugle: It is on its own lot.

Chairperson Harris: It is already platted out by itself?

Thad Yonke: I'm not sure we honor that as a legal lot of record.

Mr. Naugle: Yes, that was done long before planning and zoning.

Chairperson Harris: The applicant stated that he wanted to do this for the purposes of a reverse mortgage. How is the applicant planning to describe that for purposes of a deed of trust or encumbrance for that reverse mortgage?

Mr. Naugle: It would be surveyed out.

Commissioner Freiling: So surveying it out as a minor subdivision is more expensive than setting in a plan?

Mr. Naugle: I don't know.

Thad Yonke: A legal description by a surveyor has to be done for a family transfer; that is the minimum amount of surveying that is required.

Commissioner Freiling: So you can do a family transfer of your personal residence to yourself?

Thad Yonke: No, they would have to family transfer either the remaining portion of the property or the house.

Commissioner Freiling: So a remnant lot would be created by a family transfer that would normally require a subdivision plat?

Thad Yonke: Yes.

Commissioner Murphy made and Commissioner Poehlman seconded a motion to **approve** the request by Gary E. and Edith A. Naugle to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 13.67 acres, more or less, located at 1700 N. Dozier Station Rd., Columbia.

Boyd Harris – NO  
Gregory Martin – NO  
Paul Prevo – Yes

Carl Freiling – NO  
Michael Morrison – NO  
Larry Oetting – NO



Eric Kurzejeski – Yes  
Derin Campbell – Yes

Michael Poehlman – Yes  
Kevin Murphy – Yes

Motion does not pass. 5 YES 5 NO

Discussion:

Commissioner Freiling: I don't have any objection to what Mr. Naugle says he wants to do but I do have an objection to open rezonings as a matter of principal. It seems that given the simplicity of what he wants to do it is not a burden to bring us a plan so we know what we are approving. It is not that what he wants to do is unreasonable because it is not. I just want to know that this is what is going to happen. Once that open rezoning is in place a lot of things can happen. I would be more than happy to vote yes on a planned request.

Chairperson Harris: As time passed and rezoning requests came along the trend was to approve things with a plan as we see across the road compared to those that are the open zoning around it.

Gary Naugle: I would like to know what can I do with A-2? Stan is not going to let me do anything near what you guys are going to let me do. How can I do something that is going to go against everything Stan has been working for? If I bring in a plan it has to have sewer and water expansion but I think now you are telling me I have to have that done before the plat is approved. So now I am done. I am probably done with this because the window is closing fast on the reverse mortgage. I can't understand why I have to go through all that, which will take about three months, when I can't bring you guys anything any different than what Stan is going to let me do. It is not like it is some complicated thing; no matter how I do it I still have to have my pond and my lagoon and my house in that three acres. My plan is for my four boys to end up with that property. They can't do anything that you wouldn't approve of right now today. I can see if it was a 150 lot subdivision. This whole property drains on to me all these other properties drain on to me and it goes down in my yard.

Commissioner Murphy: I see what Mr. Naugle is saying; he is very limited as to what can happen on this property. Two to three houses could go on it in the future, I don't think that is his intention right now. If there are problems with the existing lagoon right now that is something the health department can address. Any new structures that go out there will be required to tie in to the updated treatment facility in Serenity Court; it is going to be done in four or five months, I spoke to the sewer district about that, it has capacity for an additional 25 to 35 houses. I think the worse case scenario with this rezoning isn't that bad. A planned development is going to encumber it right now; it is going to encumber it in the future. If his family comes later and wants to do something it is something they will have to deal with again in revising the planned development. To come back and ask for something is always tough. I don't think everything needs to be zoned a planned development. There can only be a total of five houses on this thirteen acres and it is adequate, especially with the sewer districts new facilities and the comments from the water district that any more than three houses would need water upgrades as well. Those all take care of the concerns that people have and they will be addressed during development.

Chairperson Harris (to applicant): Do you have access rights to South LaVista Drive?

Gary Naugle: No.

Chairperson Harris: My concern here is the "what-if". The applicant may have the best intentions in the world then the next person comes along may not have those intentions. My concern is the unknowns. If it

goes to open zoning and gets subdivided as intensely as it possibly can the plat still has to meet the Commissions standards and the sufficiency of resources has to meet the standards.

Thad Yonke: For the type of division that is done. Family transfers have no real standards so if it is all done by family transfer then there is no review process. Even the water requirement for fire hydrants doesn't kick in with five lots where normally over three lots you would automatically kick in fire hydrant requirements. At the current state of the subdivision regulations there are no standards that can be applied to family transfers other than they have to prove the minimum lot size therefore they have to have a legal description done by a licensed surveyor.

Chairperson Harris: So we could end up with an intended surveyed three acre lot and a default 10 acre lot that could be subdivided without meeting the sufficiency of resources test if transferred by a family transfer but it couldn't be sold to outside persons.

Thad Yonke: Lots can't be less than 2.5 acres and the recipients have to be eligible family members, which is not just any family member, there is a specific list of who qualifies as an eligible family member, you may only receive one family transfer in a lifetime so you can't transfer property to the same person over and over. They have to hold the property for one year then it is a legal lot and it can be sold to anyone.

Gary Naugle: Again, you are going to have to satisfy all the sewer, water, and all the other requirements before anyone can build.

Commissioner Campbell: We can have family transfers but from looking at the layout at some point we are going to have to have some infrastructure built in order to get access.

Thad Yonke: You can do family transfers without any form of access.

Commissioner Martin: Even though we didn't come to a decision does this still move on to the Commission?

Stan Shawver: The motion didn't carry so the Commission has to start over. If the Commission wants to act on a motion to recommend approval you would first need to do a motion to reconsider the previous motion; that would have to be from someone that voted no on the previous motion. If the Commission wants to make a motion to recommend denial then you could proceed with that. However, so we don't end up in the same situation someone will have to change their vote. There is nothing wrong with changing your vote and saying for example, you are for approving it but I am voting against it so it can move forward. With a recommendation to deny the request the applicant will have the opportunity to file an appeal to the County Commission.

Commissioner Oetting: On the family transfer he wouldn't have to upgrade the sewer?

Thad Yonke: Sewer is really the only issue before you can get a building permit; you have to meet the health department requirements before we can issue a building permit. There are no standards that say you have to have public water and there are no fire hydrant requirements except by subdivision plat or a planned rezoning request.

Commissioner Oetting: What if the son sold the lot?

Thad Yonke: If it was done by family transfer it will never trigger the water requirement because the division has already happened.

Commissioner Murphy: The water district wouldn't have any say in that regardless; saying they don't have available water pressure to serve more than two houses out there.

Thad Yonke: No, if the lot exists you could put in a well. You are not required to have public water.

Gary Naugle: There have been a lot of family transfers done in this county and all those transfers can do everything you are talking about except they can't build without utilities. I think the Commissioners are looking at this with a whole different outlook. It's alright for someone else to make family transfers but you aren't going to let Naugle do it. He is a crook and will be screwing everybody again. It just doesn't seem fair to me. If I had 40 acres and wanted to divide it up in to four tracts I wouldn't have any problems at all. But it is not zoned yet, the Commission is using what might happen before any transfers to reason the zoning. The whole thing about zoning is it should be decided upon by what is proper for the area. I can't do anything with sewers unless the building department approves it. I don't think you can get a permit without water. I don't think this is being looked at fairly.

Commissioner Prevo: Is there a particular difference between this property that we are talking about and the A-2 that is on three sides of it? Is there something that is distinct about this property that makes it so that it should not be considered the same as the three that are surrounding it?

Thad Yonke: None of the ones surrounding it have a nonconforming use occupancy permit but that is the only distinction between them. I can't tell you when the others were rezoned.

Gary Naugle: I was the one who requested the rezoning; I sold those properties off and that is why I put restrictions on them.

Commissioner Freiling made a motion to deny the request stating that open rezonings have a potential of biting neighbors in the butt. Whereas planned rezonings, when I say that I am going to vote to approve a change in the neighborhood, I at least know what I am voting on. My personal belief is that planning and zoning itself is an agreement between the County and its citizens. When zoning was adopted it meant that citizens gave up some private property rights and what they got in return was a promise of protection. The law requires you to establish zoning at the time the vote is taken. To me, changing zoning is a change in the deal. If you are going to change the zoning there either needs to be a public interest as a reason to do it or you need to feel that you are not going to disadvantage surrounding neighbors who have the right to expect protection. A planned rezoning, to me, is not a burden; it takes away the question marks about what will happen. I will grant that it is a small tract, the total number of lots created is not onerous but if we approve this one what are we going to say on the next one? Over time we have trended toward planned rezonings as a way of knowing what you are approving. It is not a requirement, just my personal belief.

Commissioner Harris seconded the motion.

Commissioner Freiling made and Commissioner Harris seconded a motion to deny the request by Gary E. and Edith A. Naugle to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 13.67 acres, more or less, located at 1700 N. Dozier Station Rd., Columbia.

Boyd Harris – Yes  
Gregory Martin – Yes

Carl Freiling – Yes  
Michael Morrison – Yes

Paul Prevo – Yes	Larry Oetting – NO
Eric Kurzejeski – NO	Michael Poehlman – NO
Derin Campbell – NO	Kevin Murphy – NO

Motion does not pass. 5 YES 5 NO

Gary Naugle: Can you just approve rezoning of the three acres?

Chairperson Harris: No, it would have to be replatted.

Thad Yonke: You can't change a rezoning request once it's been submitted.

Stan Shawver: You can again have a motion to reconsider either of the previous motions or you can make a motion to table the request. There are ten members here, there are eleven members on the Commission, maybe next month there will be an odd number of Commissioners here. With a reconsideration someone is going to have to change their vote. Or the applicant could withdraw his application and resubmit a planned rezoning.

Gary Naugle: That would take about three months.

Thad Yonke: It would be at least a month and a half.

Commissioner Morrison: Would the cost of the original request be applied to the resubmission?

Thad Yonke: No, it is a new request.

Commissioner Campbell made and Commissioner Murphy seconded a motion to **table** the request by Gary E. and Edith A. Naugle to the March 2011 meeting:

Boyd Harris – Yes	Carl Freiling – Yes
Gregory Martin – Yes	Michael Morrison – Yes
Paul Prevo – No	Larry Oetting – Yes
Eric Kurzejeski – Yes	Michael Poehlman – Yes
Derin Campbell – Yes	Kevin Murphy – Yes

Motion to table the request carries. 9 YES 1 NO

Chairperson Harris informed the applicant that this request would come back to the Planning and Zoning Commission on March 17, 2011. Staff will send a reminder to neighbors via first class mail.

Thad Yonke indicated that the public hearing on this request has already taken place; the Planning and Zoning Commission is not required to hold another public hearing. The Commission is required to make a recommendation at the next meeting.

## VII. Planned Developments

1. Request by Gary and Rhonda Wilson to approve a final development plan for Silver Creek Subdivision on 19.21 acres, more or less, located at 5450 E. Hwy 124, Hallsville (administrative approval).

The plan was signed by the Chairperson.

2. Request by Henry J. Waters III to approve a revised final development plan for Turkey Creek Estates, on 30.21 acres, more or less, located at 5130 E. Deer Park Rd., Columbia (administrative approval).

The plan was signed by the Chairperson.

### VIII. Plats

1. Turkey Creek Estates Plat 2. S15-T47N-R12W. A-1P. Henry J. Waters III, owner. David T. Butcher, surveyor.

The following staff report was entered in to the record:

The subject property is located on Deer Park Road, east of Highway 63, approximately 1 ½ miles to the south of Columbia. The applicant has submitted a revised A-1P (Planned Agriculture) review plan. The property is currently zoned A-1P, rezoned from A-1 in 1998. The property is surrounded by original A-1 zoning. The original review plan covered approximately 30 acres with an overall density of 1 lot per 10 acres. This permitted 3 dwellings, but only one 5 acre lot was identified from that plan, with the remainder staying as a single lot. The plan was recently revised to identify a second 5 acre lot, and the remaining 20 acres staying undeveloped at this time. This revision leaves a single building lot available to this property, maintaining the 1 buildable lot per 10 acres. The proposed plat creates the new 5 acre lot and reconfigures the remainder into a 20 acre lot.

The five acre lot would have direct access on to Deer Park Road, and the remainder would have access to Deer Park Road through a proposed access easement. The applicant has requested a waiver to the traffic study requirement.

Consolidated Public Water Service District #1 has a 2" waterline along the north side of Deer Park Road. A road crossing meter service will need to be established to serve tract 3, and a main extension would be required to serve lot 2. Boone Electric will be providing electric service.

On-site systems as permitted by the Columbia/Boone County Health Department will provide wastewater treatment. The applicant has requested a waiver to the wastewater cost-benefit analysis requirement.

The property scored 41 points on the rating system.

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

No one present to represent the plat.

Commissioner Murphy made and Commissioner Martin seconded a motion to **approve** Turkey Creek Estates Plat 2.

Boyd Harris – Yes	Carl Freiling – Yes
Gregory Martin – Yes	Michael Morrison – Yes
Paul Prevo – Yes	Larry Oetting – Yes
Eric Kurzejeski – Yes	Michael Poehlman – Yes
Derin Campbell – Yes	Kevin Murphy – Yes

Motion to approve the plat carries unanimously.

2. Brookfield Estates Plat 4. S24-T47N-R13W. A-2. Janet and Michael Kelly, owners. Jay Gebhardt, surveyor.

Commissioner Murphy indicated he would recuse himself from participating in discussion and voting on this plat.

Commissioner Murphy left the commission chambers.

The following staff report was entered in to the record:

The subject property is located in the northeastern corner of the Brookfield Estates subdivision, northeast of the intersection of Blake Drive and Silver Brook Road, approximately one mile from the Village of Pierpont. This property is 10.77 acres in size and was previously described as lot 1 of the administrative survey recorded in book 3733, page 3. The property is zoned A-2(Agriculture), and was part of a rezoning that was attempted in 2000 to rezone it to A-R(Agriculture-Residential) but was denied by the Planning & Zoning Commission. It has since been part of the Brookfield Estates subdivision, but the preliminary plat design that would have divided this property and extended Blake Drive & Silver Brook Road has since expired. The purpose of this plat is to get the constructed extension of Silver Brook Road accepted as county right-of-way.

The lot will have direct access on to Silver Brook Road to the south once that extension is accepted by the county, and currently has access via an existing private road easement that extends towards the intersection of Silver Brook Road & Blake Drive. The applicant has requested a waiver to the traffic study requirement.

Consolidated Public Water Service District #1 provides water service to this site, and the Boone County Fire Protection District provides fire protection services.

An existing central wastewater facility operated by the Boone County Regional Sewer District will service this property.

As previously mentioned, the purpose of this plat is to get the existing extension of Silver Brook Road accepted by Boone County. Boone County Resource Management's Engineering Division will handle the inspection and consideration of Silver Brook Road prior to acceptance as a county-maintained road.

The property scored 69 points on the rating system.

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

No one present to represent the plat.

Commissioner Harris made and Commissioner Prevo seconded a motion to **approve** Brookfield Estates Plat 4 with waivers:

Boyd Harris – Yes	Carl Freiling – Yes
Gregory Martin – Yes	Michael Morrison – Yes
Paul Prevo – Yes	Larry Oetting – Yes
Eric Kurzejeski – Yes	Michael Poehlman – Yes
Derin Campbell – Yes	Kevin Murphy – Recused

Motion to approve the plat passes      9 YES      1 Recused

#### IX. Old Business

1. Kabler Estates. S35-T50N-R13W. A-2. Wes and Sandy Kabler, owners. J. Daniel Brush, surveyor.

The original plat for Kabler Estates was approved during the December 2010 meeting. After approval the surveyor noticed a typo on the plat; this plat is the corrected version.

Commissioner Harris made and Commissioner Kurzejeski seconded a motion to **approve** Kabler Estates:

Boyd Harris – Yes	Carl Freiling – Yes
Gregory Martin – Yes	Michael Morrison – Yes
Paul Prevo – Yes	Larry Oetting – Yes
Eric Kurzejeski – Yes	Michael Poehlman – Yes
Derin Campbell – Yes	Kevin Murphy – Absent

Motion to approve the plat passes      9 Yes      1 Absent

2. Update on County Commission Action.

Stan Shawver updated the Planning and Zoning Commission of the decisions made by the County Commission.

About 140 property owners were informed of the updated flood insurance rate maps and that the new map showed their property in the flood plain. Of those 140 letters two came back that were for common ground and we've had seven phone calls.

X. New Business

None.

XI. Adjourn

Being no further business the meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Secretary  
Michael Morrison

Minutes approved on this 17<sup>th</sup> day of March 2011