

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, October 18, 2012

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 (arrived 7:30)	Columbia Township
Eric Kurzejeski	Missouri Township
Gregory Martin	Katy Township
Kevin Murphy	Perche Township
Michael Poehlman	Rock Bridge Township
Brian Dollar	Bourbon Township
Paul Prevo (arrived 7:10)	Rocky Fork Township
Larry Oetting	Three Creeks Township
Derin Campbell	County Engineer

b. Members Absent:

c. Staff Present:

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

III. Approval of Minutes:

Minutes from the September 20, 2012 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 three rezoning requests, one subdivision plat and a public hearing on proposed revisions to the subdivision regulations.

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, October 30th. 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, October 30th, will begin at 7:00 p.m. and will convene in this same room.

V. Conditional Use Permits

None

VI. Rezoning

1. Request by Edward E. Bartel to rezone from A-1 (Agriculture) to A-2P (Planned Agriculture) and approve a Review Plan for Hayes Road on 15 acres, more or less, located at 5480 E Hayes Rd., Columbia.

Planner Bill Florea gave the following staff report:

The property is located approximately 3 miles north of Ashland; ½ mile west of Highway 63 and ½ mile south of Log Providence Road. The parent tract is 14.86 acres in area and is occupied by a single family dwelling. The current zoning for this property is A-1, which is the original zoning. Adjacent property is zoned as follows:

- North - A-2 and A-1
- South – A-1
- East – A-1
- West – A-1

The Boone County Master Plan identifies this site as being suitable for agriculture and rural residential land uses. The Bonne Femme Watershed Plan identifies this site as being within the recharge area for Hunters Cave. The Bonne Femme Plan establishes several policies that are applicable to this proposed rezoning by virtue of its location in the Bonne Femme Watersheds and Hunters Cave recharge area. Hunters Cave is a valuable recreational and scientific resource that is the site of on-going water quality and aquatic invertebrate monitoring.

The application consists of a request to rezone the property to A-2P. The proposed Review Plan identifies two parcels, each being 7.42 acres in area. If the rezoning and review plan are approved it is the owner's intent to divide the property via family transfer.

The Master Plan identifies a sufficiency of resources test for determining whether there are sufficient resources available for the needs of the proposed rezoning. The sufficiency of resource 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: Consolidated Water has an existing waterline along the east and south lines of the tract that is capable of providing domestic service. Water supply is not adequate for many of the proposed allowed uses shown on the review plan.
- Wastewater: The existing home on proposed Tract 1 utilizes a lagoon. An engineered system is proposed for the new home on Tract 2 as stipulated by the Bonne Femme Watershed Plan, which contains a policy that requires engineered wastewater systems for all new on-site wastewater systems in a recharge area.
- Electricity is provided by Boone Electric.

Many of the uses proposed by the developer have utility needs that exceed the capacity of available infrastructure. However, with the proposed conditions of approval, utilities are adequate for the needs of the proposed development.

Transportation

Access to this property from Hayes Road is by means of a private drive contained within a 30-foot wide private access easement. A review of aerial photography for this area indicates that about 4 other tracts gain access to Hayes Road by this private drive. Staff was unable to find a maintenance agreement for this private drive after conducting a brief search in the public records.

The potential traffic generated by many of the proposed uses shown on the review plan far exceeds the capacity of the private drive. However, with the proposed conditions of approval, the existing roads are probably adequate for the proposed development.

Public Safety Services

The property is within 3 miles of the nearest fire station. However, there may be increased response times due to inadequacy of the existing access.

It is not anticipated that the proposal will have a significant effect on law enforcement services.

Stormwater

The development is subject to the Boone County Stormwater Regulations. The property is in the recharge area for Hunters Cave and is therefore subject to the Enhanced Criteria for Environmentally sensitive areas.

Zoning Analysis

The applicant proposes to include all of the Permitted and Conditional Uses of the A-2 district as Allowed Uses. Most of those uses are inappropriate to this development due to insufficient acreage of the proposed tracts, the inadequacies of access via the shared private drive or because the location of the structure containing or defining the use is not shown on the review plan.

The following uses should not be allowed due to the lack of minimum acreage:

Allowed Uses

- Equine Boarding Facility for a maximum of six horses on a minimum 10-acre tract
- Equine Ranch on a minimum 10-acre tract
- Farm Dwelling (needs minimum 20 acres)

Conditional Uses

- Equine Boarding Facility for more than six animals on a minimum 10-acre tract
- Animal Training Facility on a minimum 10-acre tract
- Rock Quarry on a minimum of 40-acres
- Permanent Asphalt Plant within the boundaries of a rock quarry
- Airport

The following uses should not be allowed due to inadequate access:

Allowed Uses

- Public Park
- Bait House
- Place of Worship
- Public School, elementary or high, or private school having a curriculum equivalent to a public elementary or high school
- Livestock Sales Barn and Stockyard
- Veterinary hospital or Clinic or Animal Hospital
- Family Day Care Home (maximum 6 children)
- Group Day Care Home (maximum 10 children)

Conditional Uses

- Kennel or Hobby Kennel
- Riding School
- Privately Operated Outdoor Recreation Facility
- New Cemetery, human or animal
- Farm Implement Sales and Service and Other Agribusiness Uses
- Livestock Sales Barn and Stockyard
- Sewage Lagoon or Mechanical Treatment Plant
- Sanitary Landfill
- Portable Asphalt, Cement or Concrete Plant
- Creek or River Gravel Recovery Operation
- Bed and Breakfast
- Seasonal Deer/Game Processing

The following uses should not be allowed due the location of the use not being depicted on the Review Plan:

Conditional Uses:

- Water Tower
- Transmission Facility
- Private Family Cemetery

The property scored 34 points on the rating system. Staff notified 13 property owners about this request.

Staff recommends approval of the rezoning and approval of the review plan with the following conditions:

1. The Waste Water Treatment note shall be modified to include reconstruction of the existing systems if/when that system fails. This condition is not intended to prevent continuous normal maintenance of the existing lagoon.
2. The list of Allowed Uses on the final plan shall only include the following:
 - One Single Family Dwelling per Tract
 - Agricultural Activity
 - Home Occupation

Present representing the request:

Dan Brush, Brush and Associates, 506 Nichols St., Columbia

Ed Bartel, 5480 Hayes Rd., Columbia

Dan Brush: I have no problem with staff recommendations. The allowed uses shown on the review plan are a copy of the A-1 uses that are allowed today on the site. The only intent was to divide the property to allow construction of a single family home. Does a single family home allowed use also allow accessory structures?

Bill Florea: Yes. Typically in a planned development where residential uses are intended we don't require the developer to show the location of the home or accessory structures.

Dan Brush: I only asked because that wasn't mentioned in the staff report.

Open to public hearing.

Present speaking in favor:

Susan Bartel, 10325 Bartel Ln., Columbia

Susan Bartel: I am a senior family owner of the sixty acres that butts up to this. It has been the intent of my father and his brother when they purchased this land that it stay in the family. It is our intent to do so and I trust that it is the intent of the applicants. You cannot predict future behavior but it is our intent at this point that it stays in the family or goes back to conservation.

No one in opposition.

Closed to public hearing.

Commissioner Murphy: A rezoning request was made on this property for A-2 and was denied in 1994. Does anyone know the reason for that?

Ed Bartel: In 1994 that application was made at the time my father gave that land to me and the intent then was the same as it is now; to split it into two 7.5 acre tracts, one for me and one for my sister. There was no such thing as A-2P at that time so A-2 was our only option. We weren't well schooled in zoning laws and looking back now I realize that it was not the proper thing to request at that time; that would mean that anytime in the future that land could be broken down into 2.5 acre tracts which was never our intention. It was denied and rather than pursue a variance my father gave the property to me with the understanding that I give half to my sister whenever she was ready to build.

Chairperson Harris: Is Hayes Road a county road?

Bill Florea: Yes, I believe it is.

Chairperson Harris: What is the other road that comes down to the property?

Thad Yonke: It is Lewis Lane; I am not sure if that is its official name.

Ed Bartel: No, it is a private drive.

Chairperson Harris: It is a private drive from Hayes all the way down?

Bill Florea: Yes and it continues over until it crosses the southern boundary of the subject tract.

Chairperson Harris: Who maintains that?

Ed Bartel: Us and the other landowner, Mr. Lewis.

Chairperson Harris: With or without the benefit of any written agreement?

Ed Bartel: There is an agreement and it is still in effect per Mr. Lewis who is here tonight. It is our intention to include the new landowner in that agreement.

Chairperson Harris: Is it of record?

Mr. Lewis stated it is.

Thad Yonke: We don't look for private covenants.

Commissioner Murphy made and Commissioner Martin seconded a motion to **approve** a request by Edward E. Bartel to rezone from A-1 to A-2P on 15 acres, more or less, located at 5480 E Hayes Rd., Columbia.

Boyd Harris – Yes

Carl Freiling – Yes

Gregory Martin – Yes

Eric Kurzejeski – Yes

Brian Dollar – Yes

Larry Oetting – Yes

Paul Prevo – Yes

Michael Poehlman – Yes

Derin Campbell – Yes

Kevin Murphy – Yes

Motion to approve the request passes unanimously

Commissioner Prevo made and Commissioner Murphy seconded a motion to **approve** a request by Edward E. Bartel to approve a Review Plan for Hayes Road on 15 acres, more or less, located at 5480 E Hayes Rd., Columbia **with the following conditions:**

1. The Waste Water Treatment note shall be modified to include reconstruction of the existing systems if/when that system fails. This condition is not intended to prevent continuous normal maintenance of the existing lagoon.
2. The list of Allowed Uses on the final plan shall only include the following:
 - One Single Family Dwelling per Tract
 - Agricultural Activity
 - Home Occupation

Boyd Harris – Yes

Carl Freiling – Yes

Gregory Martin – Yes

Eric Kurzejeski – Yes

Brian Dollar – Yes

Larry Oetting – Yes

Paul Prevo – Yes

Michael Poehlman – Yes

Derin Campbell – Yes

Kevin Murphy – Yes

Motion to approve the request passes unanimously

Chairperson Harris informed the applicant that these requests would go before the County Commission on October 30, 2012 and the applicant needs to be present at the hearing.

2. Request by Ehren and Lisa Earlywine to rezone from A-2 (Agriculture) to A-2P (Planned Agriculture) and approve a Review Plan for Brookfield Estates Plat 4-A on 10.34 acres, more or less, located at 9050 S Blake Dr, Columbia.

Planner Uriah Mach gave the following staff report:

The subject property is approximately 2 miles to the south of Columbia, at the northeastern corner of Silver Brook Road and Blake Drive. The subject tract is approximately 10.34 acres in size. The subject tract is zoned A-2(Agriculture), and is surrounded by A-2 zoning. This is all original 1973 zoning. The subject tract was part of an A-RP(Planned Agriculture-Residential) rezoning in 2000 that was denied and later redeveloped at A-2 density. This tract is the final portion of that development. The applicant is seeking the rezoning for purposes of dividing the property via plat and using a private drive. The property has been undeveloped agricultural land until this point.

The Boone County Master Plan designates this area as being suitable for agricultural and rural residential land uses. The Master Plan also identifies a “sufficiency of resources test” to be used in determining whether there are sufficient resources available to support the proposed uses.

The sufficiency of resources test can be broken up into three categories: utilities, transportation, and public safety.

Utilities: The subject property is located in Consolidated Public Water Service District #1 and Boone Electric Cooperative service area. Residential land uses can be served by available utilities.

Transportation: Lot 1B has direct access on to Silver Brook Road, a public right-of-way. Lot 1A has access to Silver Brook Road and Blake Drive via a private drive.

Public Safety: The subject tract is located in the Boone County Fire Protection District, with the nearest station being located approximately 3 miles away.

Zoning Analysis: The proposal has a density that is consistent with the surrounding area and the planned zoning will allow for the construction of two homes on the larger lot 1A and a single home on lot 1B. This request is consistent with the overall character of the area and the Boone County Master Plan.

The property scored 59 points on the rating system.

Staff recommends approval of the request with the following condition:

1. That a maintenance agreement for the private drive be prepared for recording prior to recording the final plat.

Present representing the request:

Ron Shy, Allstate Consultants, 5600 S Highway KK, Columbia
Ehren Earlywine, 3802 Eagle View Court, Columbia

Ron Shy: The land around this tract is already zoned A-2, the reason we are going to the A-2P is to maintain the private drive. Mr. Earlywine bought this 10 acre lot with the intent of building his house on the lot to the north. He is going to sell the 2.5 acre tract.

Open to public hearing.

Present speaking in favor:

Justin Towe, 950 E. Silver Brook Rd., Columbia

Justin Towe: I own the lot to the southwest; I am also the Vice-President of the Homeowners Association. This is what was intended for this property, to be developed; we are excited that it can be finished. We just want to make sure that some sort of covenants are put in there to go along with our homeowner's association.

Mike Kelly, 1231 E. Bluebird, Columbia

Mike Kelly: I own the 20 acres to the east; I support this request.

Closed to public hearing.

Chairperson Harris: Lot 1B, is the intent for that to access off the private drive or off the subdivision street?

Ron Shy: The private drive accesses the public street; there is already a private access there to lot 26. We are maintaining that private access for lot 1A.

Chairperson Harris: Will lot 1B's access be on to the private driveway or will it come south on to Silver Brook Road?

Ron Shy: It is intended to come off Silver Brook Road; I don't know that for sure, it depends on Mr. Earlywine at this point.

(Commissioner Morrison joined the meeting)

Chairperson Harris: The request is to allow an additional house with both accessed by a private drive. We could end up with four residences working off of one small private driveway.

Ehern Earlywine: My intent is for there just to be one house on lot 1A and one house on lot 1B. As far as the drive, we are projecting that lots 26, 1A, and 1B will share the current driveway that lot 26 is currently using. However, if the people that buy lot 1B want to enter from Silver Brook I don't have a problem with that.

Commissioner Poehlman: Is Silver Brook a public or private road?

Thad Yonke: It is an approved county road. The Kelly's took care of that before they sold this piece off.

Commissioner Martin: Is that piece of property under the covenants of the subdivision too or will it be a separate piece?

Ehern Earlywine: My initial intent was to make the covenants even better, or higher. I went around and talked to a few of the neighbors and they were in hopes that whoever built a house on lot 1B will join the homeowner's association and be a part of those covenants.

Commissioner Freiling: So the expectation is to bring them in under that same umbrella?

Ehern Earlywine: Lot 1B for sure; I would rather not be myself on lot 1A, but we are going to exceed any covenants they have.

Commissioner Oetting: There was a comment about a recorded private road maintenance agreement.

Ron Shy: There will be one with the final plat.

Commissioner Oetting: Does the homeowner's association know that lot 1A will not be part of the covenants?

Ehern Earlywine: I sent an email out and I also talked to a few of the neighbors and told them that.

Chairperson Harris: Is it the applicant's intent to provide covenants to be recorded for lot 1A at the final plat stage?

Ehern Earlywine: That was the intent, yes. We drew up some initial covenants.

Commissioner Freiling made and Commissioner Prevo seconded a motion to **approve** a request by Ehren and Lisa Earlywine to rezone from A-2 to A-2P on 10.34 acres, more or less, located at 9050 S Blake Dr, Columbia.

Boyd Harris – NO
Gregory Martin – Yes
Brian Dollar – Yes
Paul Prevo – Yes
Eric Kurzejeski – Yes
Derin Campbell – NO

Carl Freiling – Yes
Michael Morrison – Yes
Larry Oetting – Yes
Michael Poehlman – Yes
Kevin Murphy – Yes

Motion to approve the request passes 9 YES 2 NO

Commissioner Murphy made and Commissioner Dollar seconded a motion to **approve** a request by Ehren and Lisa Earlywine to approve a Review Plan for Brookfield Estates Plat 4-A on 10.34

acres, more or less, located at 9050 S Blake Dr, Columbia with the following staff recommendation:

1. That a maintenance agreement for the private drive be prepared for recording prior to recording the final plat.

Boyd Harris – NO
Gregory Martin – Yes
Brian Dollar – Yes
Paul Prevo – Yes
Eric Kurzejeski – Yes
Derin Campbell – NO

Carl Freiling – Yes
Michael Morrison – Yes
Larry Oetting – Yes
Michael Poehlman – Yes
Kevin Murphy – Yes

Motion to approve the request passes 9 YES 2 NO

Chairperson Harris informed the applicant that these requests would go before the County Commission on October 30, 2012 and the applicant needs to be present at the hearing.

3. Request by Phoenix Property Development LLC to rezone from C-G (General Commercial) to M-L (Light Industrial) on 4.13 acres, more or less, located at 8400 E I 70 Drive SE., Columbia.

Planner Uriah Mach gave the following staff report:

The subject property is approximately 1 mile to the east of Columbia, on I-70 Drive Southeast. The subject site is part of a larger tract containing approximately 4.94 acres. Of that, .81 acres are zoned M-L, and the remaining 4.13 acres are zoned C-G. The zoning split is along a section line. The C-G area is the subject of this rezoning request. The split zoning is the original zoning. The surrounding property is C-G to the north and east and M-L to the west and south. The C-G is original 1973 zoning. The M-L zoned land to the south was rezoned in 1993 and 2002. The M-L to the west is the original 1973 zoning. The applicant has provided no proposed uses for the request. The property appears to be vacant, with no commercial activity taking place.

The Boone County Master Plan designates this area as being suitable for commercial land uses. The East Area Plan identifies this area as an industrial area on its future land use map, but also indicates that existing industrial property is sufficient to support future growth. Specifically the East Area Plan states, “the existing industrial parks within the study area, Lemone and Trade Winds, have adequate capacity to accommodate future growth” (page 105, East Area Plan). The Boone County Master Plan identifies a “sufficiency of resources test” to be used in determining whether there are sufficient resources available to support the proposed uses.

The sufficiency of resources test can be broken up into three categories: utilities, transportation, and public safety.

Utilities: The subject property is located in Public Water Service District #9; Boone Electric Cooperative service area; and Ameren natural gas service area. Central sewer to this lot is provided by a connection to the Boone County Regional Sewer District which connects to a Columbia trunk line.

Transportation: The subject tract has direct access on to I-70 Drive Southeast, a publicly-maintained right-of-way.

Public Safety: The subject tract is located in the Boone County Fire Protection District, whose nearest station is located on St. Charles Road, approximately 2 miles to the west.

Zoning Analysis: While the property meets the sufficiency of resources test for a rezoning, the guidance provided by the Boone County Master Plan and East Area Plan do not support such an action. While the submitted justification, “to make it compatible with the remainder of the lot and the adjoining tracts to the south and west”, is reasonable, the inverse of this request is equally reasonable. The M-L zoned portion of the property could be rezoned to C-G to make it compatible with the tracts to the north and east. Without some idea of what the property owner desires beyond undefined M-L uses (which includes C-G uses), staff has little to base a sound recommendation on in the application. When considering this impasse, staff relies on the statements of the approved guidance documents for zoning in the county, the Boone County Zoning Map, the Boone County Master Plan, and the East Area Plan. Those documents, as accepted by the public and adopted by the Planning & Zoning Commission and the County Commission, indicate that the property is properly zoned, commercial uses are suitable at this location, and that the area is already served with sufficient industrial property.

The property scored 73 points on the rating system.

Staff recommends denial of the request.

Present representing the request:

Dan Brush, Brush and Associates, 506 Nichols, Columbia

Dan Brush: The purpose of this rezoning is to satisfy a real estate contract that the owner has on the property. One of the adjoining owners wishes to purchase the property and requires that the owner continues with the M-L rezoning request.

Chairperson Harris: Would it be possible that an existing business owner has some sort of expansion in mind subsequent to this potential change?

Dan Brush: That would be my assumption; that the neighboring property owners is looking to expand their operation.

Commissioner Poehlman: What could the applicants have done to give an indication of what they plan to do?

Uriah Mach: I spent time looking over the application and it just said M-L uses. When I’m at an impasse indicating that both outcomes are equally reasonable I go back to the Commission approved documents, which are the master plan, zoning map, and East Area Plan. I read a direct quote from the industrial land use section of the East Area Plan. If I can’t see a strong argument either way, I go to the source documents that I use to base the recommendation on.

Commissioner Poehlman: Did staff hear from any of the neighbors?

Uriah Mach: No.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Chairperson Harris: Based on Mr. Mach's statements and understanding the nature of commercial development sometimes you don't want to put all your cards on the table but with just a modicum more information staff could have made an informed decision a different way.

Uriah Mach: This request could have been a coin flip; in times of uncertainty I refer to the previously mentioned approved documents.

Chairperson Harris: I wouldn't want this board to stand in the way of progress.

Commissioner Harris made and Commissioner Prevo seconded a motion to **approve** a request by Phoenix Property Development LLC to rezone from C-G (General Commercial) to M-L (Light Industrial) on 4.13 acres, more or less, located at 8400 E I 70 Drive SE., Columbia.

Boyd Harris – Yes

Carl Freiling – Yes

Gregory Martin – Yes

Michael Morrison – Yes

Brian Dollar – Yes

Larry Oetting – Yes

Paul Prevo – Yes

Michael Poehlman – Yes

Eric Kurzejeski – Yes

Kevin Murphy – Yes

Derin Campbell – Yes

Motion to approve the request passes unanimously

Chairperson Harris informed the applicant that this request would go before the County Commission on October 30, 2012 and the applicant needs to be present at the hearing.

VII. Planned Developments

None

VIII. Plats

The following items were placed on consent agenda:

1. Replat Waters Edge Estates Block IV Lot 99. S3-T48N-R12W. Edgewater / Water's Edge Recreational Association, owner. Steven R. Proctor, surveyor.

Planner Thad Yonke gave the following staff report:

This property is located northeast of Columbia and the western lot line of the platted area is the municipal limit line of the City of Columbia. The dam that contains the water in the lake for the Water's Edge and Edgewater developments is located on this lot. The property has no road frontage but this is not an issue because the lot is also a "not for development" lot and a note to that effect is found on the plat. The original lot has a pending vacation approval from the County Commission that will go into effect upon the recording of this re-plat. The purpose of this re-plat is to remove some of the old unnecessary easements from the property and show the current easement situation. The property of this request is zoned R-M (residential moderate density) as is the property to the immediate north, east and south. The property to the west is inside the city and appears to be zoned for residential uses with a flood overlay. All the county zoning of the adjoining tracts are original 1973 zonings.

The former roadway on the eastern portion of the dam was vacated a number of years ago. This request contains 1.26 acres. The site is currently vacant except for the dam and its associated spillway as well as utilities. This site lies within the Columbia Public School District. The site is in a city water service area. The site is in the Boone County Fire Protection District. Wastewater service is not needed for this lot. The master plan designates this area as being suitable for residential land uses. The request is consistent with the master plan. Staff recommends approval of the request.

No one present to represent the plat.

Chairperson Harris: They are basically just vacating a lot?

Thad Yonke: They vacated it so they could replat it and clean up the easements.

Chairperson Harris: Is it all down below the dam?

Thad Yonke: It is the dam.

Commissioner Freiling made and Commissioner Campbell seconded a motion to approve the Replat Waters Edge Estates Block IV Lot 99Edgewater / Water's Edge Recreational Association, owner.

Boyd Harris – Yes

Carl Freiling – Yes

Gregory Martin – Yes

Michael Morrison – Yes

Brian Dollar – Yes

Larry Oetting – Yes

Paul Prevo – Yes

Michael Poehlman – Yes

Eric Kurzejeski – Yes

Kevin Murphy – Abstain

Derin Campbell – Yes

Motion to approve the request passes 10 YES 1 ABSTAIN

IX. Old Business

1. Public hearing on proposed revision to the Boone County Subdivision Regulations.

Chairperson Harris stated this is a public hearing for comments, it is not a debate. If there are questions we will make notes and if they need to be addressed to staff then arrangements could be made to get those answered in an appropriate venue.

The public hearing was opened for comments.

Don Stamper, 2604 N Stadium Blvd, Columbia

Mr. Stamper stated he is a registered lobbyist in the State of Missouri. He is here representing the Columbia Home Builders and also the Central Missouri Development Council. Changes like this are very important and we appreciate the work that you do and the way you do it. Changes of this type need to be built on consensus, they need to have partners and stakeholders that are in agreement; there are a variety of places that we have concerns for the direction and interpretation and in some cases we have people who cannot understand what would be required of them under these changes and what direction would be required on their behalf. On behalf of those two groups, I urge the Commission to delay approval of this until such time as additional stakeholder involvement can be created. I met with staff on behalf of the Development Council about two years ago and we discussed a variety of issues in the documents before me there are a lot of issues that were not a part of that discussion; the homebuilders were not at the table. Our two organizations have established a relationship with the Columbia Board of Realtors, a group of consulting engineers and designers and we have requested from the County Commission an opportunity to meet and confer and discuss some ideas we have about how some of these issues may be approached differently and some concerns we have if adopted in its current form the impact it might have on future land issues or values and growth of our community. I submit to the record the two letters previously submitted and re-echo those comments and I request, that in some format, the Planning and Zoning Commission or the County Commission create an opportunity for stakeholders who have expressed an interest to meet and confer before it goes forward for adoption.

Commissioner Murphy: I agree with Mr. Stamper and I intend on supporting any manner of slowing this down a bit and getting more stakeholders involved. I understand that it has been advertised and has been worked on and discussed by staff but to see the entire document and putting it all together at once, to wrap your head around all of it is going to take some time and some adjustment.

Mike Tompkins, 6000 S. Highway KK, Columbia

Mike Tompkins: I also would like to have us wait a little bit. It seems I just saw this thing not too long ago and hear they've been working on it for four years and it seems that we need more than a few weeks to look at it. I was told it was just cleaning things up but I have seen a few major things, one of them the private road which is a huge change from what we've been doing. I see that as a big problem for me. I have talked to a few surveyors and none of them have really gotten through the whole thing. We need more time and we need to back off a little.

Commissioner Dollar: I am familiar with the type of developments you usually do, the administrative surveys with the private roads.

Mike Tompkins: This would virtually put me out of business. I build many houses for people on this type of development; there are people that want to live on private roads, they should have the right to do so. I have 14 employees and build 20 or so houses a year. I see this as being a huge impact for me. I also see it hurting property values; it is a whole avenue that somebody won't have anymore if they want to do what really, is their right to do. There are several other things in it that are going to make it much harder for me to provide housing for people that I've been doing successfully for several years.

Commissioner Oetting: Do you typically have road maintenance agreements?

Mike Tompkins: Always, yes. I have been doing this long enough and basically we haven't had any problems. We have recorded maintenance agreements.

Commissioner Oetting: How do you handle collection of fees and enforcement?

Mike Tompkins: We have lawyers that write it all up; it is all spelled out, it is based on per share of how many tracts are there. There are legal remedies if someone won't do what they are supposed to do.

Chairperson Harris: What are the standards for these private roads?

Mike Tompkins: It varies; it is based on the location we are doing. If I am going into an area that can support it we do concreted roads six inches thick. If I am a little further out off a gravel road it only makes sense to do a gravel road so we are doing six inches of rock base with an 18 foot width, we put a topping on it, road ditches, culverts, I have a set of standards that I use. Again, it varies based on the need. If we take this away we are stuck with the county roads that have their basic standards and it is one size fits all and that doesn't really work very well in some locations.

Chairperson Harris: Have you done any where your surfaced roadway was less than 18 feet?

Mike Tompkins: I never have. 18 feet is my minimum, to me that is just enough. You want it just wide enough for two cars to pass; one might have to slow down a little bit.

Chairperson Harris: If we were to go back a couple of winters when it was very wet and the roads were giving away, is an 18 foot gravel surface enough to let Boone County Fire pass an engine and a tanker at the same spot in the same road?

Commissioner Martin: I won't go so far as to say that even a 24 foot road is good in any condition like that.

Chairperson Harris: Worse case scenario, is that adequate?

Commissioner Martin: Yes, we could get them in.

Mike Tompkins: There are many county roads, when you measure the gravel surface they aren't even 18 feet wide.

Paul Land, 2501 Bernadette Dr., Columbia

Paul Land: The Columbia Board of Realtors has a government affairs committee that tries to stay on top of legislative changes like this. This became known to us about two weeks ago. We would like to ask that this be slowed down because in our meeting two weeks ago there was some things brought to light that we think can affect the density use options and choices on real estate development. Once you start affecting that and taking those choices away you affect the value of that property. When you affect the property values in this County you start affecting the tax base. These types of changes could impact hundreds of thousands, if not millions, of dollars in value. A little bit of delay while you can reach out to affected parties, realtors may represent 80% of the property owners here, I think they should be among the groups that are invited to this table. My request is to involve the realtors.

John Pekkala, 4350 N Route E, Columbia

John Pekkala: The private driveway would affect me quite drastically, not that I'm going to sell anything at the moment but the one size doesn't fit all; I would lose quite a bit of value. I think maybe this is a good opportunity to free the whole thing up to simplify these rules and regulations and get it right. There have been all these regulations for years and it seems like at some point they should come to a standing stake that is pretty good.

David Miller, 33 E Broadway, Ste 200, Columbia

David Miller: I am a broker for Remax and I am also on the board for the Boone County Farm Bureau. As Farm Bureau members we can see the proposed changes as putting some really severe limits because there comes a time when farmers that own larger tracts of land may want to separate it. This can lower values tremendously in some instances. As a realtor talking to people that come in here from other counties, one of the things that is very appealing to them is buying a piece of property and building a house and in some cases back off the road. I would subscribe to the idea that we need to get more stakeholder input into this. We need good regulation and in order to get good regulations one of the things we need to do is to get everybody involved. As a member of the Farm Bureau board we just recently became aware of this and as a member of the Board of Realtors we have a big stake in this and we've also just recently become aware of some of these changes.

Closed to public hearing.

Commissioner Prevo: I recommend that we table this until there can be further discussion with stakeholders.

Commissioner Murphy: I don't want to delay it any further than we have to. I would be open to recommending that some type of task force be formed; there are certain groups that need to be on it besides the general public that deal with these regulations regularly. I believe a task force should review the document and make recommendations.

Commissioner Freiling: As a realtor I work with land owners who would be really seriously affected by this and have no notion. I think the thing that has germinated is that an annoying and difficult circumstance has led to a seriously overreaching proposal as a solution that is going to have more negative impact. I know there are many other concerns among other parties beyond the one that has caught my attention which is the private road issue. We need to make sure the unintended consequences of this and unintended impact on the current and future landowners of Boone County is not severely impacted in ways that weren't intended in trying to fix a relatively limited problem. I think there is a better way to do this and I think we should take the time necessary to explore options.

Stan Shawver: To move this along, Commissioner Prevo suggested the item be tabled; it is really not an action to be tabled. What we've been hearing and the comments we've been receiving is that discussion on several topics need, or warrant additional discussion. I think it would be an appropriate recommendation from this body to the County Commission to do just that. That whatever fashion they choose, a stakeholders group, select sub-committee, members of the Planning and Zoning Commission, and realtors, leave that to the policy makers to determine who best to involve to further scrutinize to develop the best possible product for Boone County.

Chairperson Harris: I think you have all had phone calls, we've had a number of email communications and when it is all said and done there isn't but about four or five general issues that have raised concern. The phone calls that I have gotten have all gone toward slowing down and not rushing this through. There were also some appearances of trying to get done in a hurry and it didn't play well. If we step back and set up a task force, even those who have asked for that task force to be set up everyone has to realize that when all is said and done, no document that we can create will ever give everyone everything they want. Does it need tweaking and review? I think that is possible. If it is this commission's choice to deny the action that we also put some sort of time frame on it and I don't think that is unreasonable. I just don't think it is wise to table it and leave it open ended and not put any closure out there.

Stan Shawver: I don't know that denying is appropriate. You can't approve in its current form and deserves additional review and discussion. I hate for there to be a time table on it. It is important to move forward but I don't want to be faced in March with the same issues. It needs to have adequate vetting and discussion.

Commissioner Dollar: It is not just the details; we should communicate that we can't support the draft in its current form but we should also reflect what the public hearing is telling us that the process of revising regulations needs to include stakeholders.

Commissioner Murphy: As far as the time limit, Commissioner Harris had mentioned four or five items that are sticking points; I think that is only because people have not had enough time to dig into it. I have dozens of issues myself. It takes time to wrap your head around and get through it.

Commissioner Poehlman: What I would like for the Commission to know is to give us some feedback as to what they are going to do with this information now that we have all submitted comments for public record. How are County Commissioner's going to respond to that?

Commissioner Harris: If we have a scenario where we have a stakeholder review whose initiative is it to determine who participates in that?

Stan Shawver: You can make a recommendation but any stakeholders group would be set up by the County Commissioners; you can make recommendations on who you think should be included.

Commissioner Poehlman: The one thing I saw when I read a lot of those comments was they started out saying "I don't have time to work on this" or "I wish I had more time to work on this" I think that is what we are going to run in to.

Commissioner Freiling: If past experience speaks, each of these groups of stakeholders will find someone who has time to review them.

Commissioner Freiling made a motion to recommend to the County Commissioners that the review process for the proposed changes in the land use regulations be expanded to include members of the Boone County community, stakeholders; specifically those with professional expertise in matters of land use issues in order to provide that people of Boone County with as good a document as the community can provide. Understanding that the elected officials are the final arbiters but that the citizens are the final recipients.

Commissioner Prevo seconded the motion.

Voting was as follows:

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

Motion to approve the recommendation passes 10 YES 1 NO

2. Update on County Commission Action.

Stan Shawver updated the Commission of the actions taken by the County Commission. The planned development for Casey was approved as recommended. The four subdivision plats, Nolke, McBride, Casey, and Goose Down Estates, were received and accepted by the County Commission.

X. New Business

XI. Adjourn

Being no further business the meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Secretary
Michael Morrison

Minutes approved on this 15th day of November, 2012