

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, November 20, 2014

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
Paul Prevo, Vice-Chairperson	Rocky Fork Township
Eric Kurzejeski, Secretary	Missouri Township
Gregory Martin	Katy Township
Kevin Murphy	Perche Township
Michael Poehlman	Rock Bridge Township
Loyd Wilson	Columbia Township

b. Members Absent:

Carl Freiling	Cedar Township
Larry Oetting	Three Creeks Township
Derin Campbell	County Engineer
Vacant Seat	Bourbon Township

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 October 16, 2014 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 one conditional use permit, a rezoning request 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. Please sign the sheet on the table after you testify. Also, we ask that you 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. 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, December 2nd. 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, December 2nd will begin at 7:00 p.m. and will convene in this same room.

V. Conditional Use Permits

1. Request by David G. Allen on behalf of St. Charles Tower, Inc., for a transmission facility including a 110' tower on 2.33 acres located at 5170 S Scott Blvd., Columbia.

Planner, Uriah Mach gave the following staff report:

The subject property is located on Scott Boulevard, adjacent to the City of Columbia to the west, and approximately 800 feet to the north of Thornbrook Ridge's intersection with Scott. The property is 2.33 acres in size and is zoned A-2 (Agriculture). The property has A-2 zoning to the north and east, A-1 (Agriculture) zoning to the south, and the City of Columbia to the west. There is a previously approved 199' tower to the south that was approved in 1996 and another tower to the southwest that is 84' tall approved in 1993. The County zoning is all original 1973 zoning. The property is currently undeveloped. The Master Plan describes this area as being suitable for residential land use. Staff notified 49 property owners about this request.

A description of the lease area site has been submitted by the applicant in the application materials. The lease area for the tower is approximately 10,000 square feet out of the 2.33 acre parent tract. The siting of the tower may cause difficulties in the future if subdivision is desired. The proposal for a transmission facility is for a 110' monopole tower and support facilities. The applicants have met the submission requirements identified for a conditional use permit for a transmission facility

Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners. As a conditional use permit, the proposal must meet the following criteria from the zoning ordinance to be eligible for approval:

- (a) The establishment, maintenance or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare.

If operated in conformance with existing county regulations, the use should comply with this criterion.

- (b) The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations.

If operated in conformance with existing regulations, this use should not be injurious to the use & enjoyment of other property in the immediate vicinity for purposes already permitted by the regulations. Public testimony may be indicative as to whether this criterion can be met.

- (c) The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.

The application meets this criterion as per the zoning ordinance Section 15B section 4, subsection (e). However, this is a purely technical analysis as constructed by the regulations. Public testimony may better reflect any impacts on property values.

- (d) All necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage.

The use has limited needs with respect to utility infrastructure and so the site has adequate facilities to support the proposal.

(e) The establishment of a conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.

This area is zoned A-2, with residential uses limited to 2.5 acre tracts or larger. The property to the north and east has developed in a manner consistent with the A-2 zoning district. Property to the south is undeveloped, but unencumbered by the presence of the proposed transmission facility. Property to the west and southwest, being in the city limits of Columbia, has developed under the city's development regulations. Surrounding property has developed prior to the establishment of this conditional use permit or will be unencumbered by its approval.

(f) The establishment of a conditional use permit will not hinder the flow of traffic or result in traffic congestion on the public streets. This will include the provision of points of access to the subject property.

The proposed use is a minimal traffic generator and should not hinder traffic or cause congestion on public streets.

(g) The conditional use permit shall in all other respects conform to the applicable regulations of the zoning district in which it is located. The County Commission shall find that there is a public necessity for the conditional use permit.

The proposal conforms to other applicable regulations of the A-2 zoning district, particularly since no land division is proposed. Public necessity has been discussed by the Federal Telecommunications Act of 1997 to allow for widest dissemination of wireless communication services.

Staff recommends approval of this conditional use permit.

Present representing the applicant:

Eric Martin, Attorney for St Charles Tower, Inc., 211 N Broadway, St. Louis.

Mr. Martin stated his client is in the business of constructing towers so carriers can go on them and provide cell service. It is in the applicant's interest to build as few towers as possible because we want the carriers to be attracted to our tower. This tower will be built to hold up to three carriers. Based upon the current usage, especially in metropolitan areas, there is a need to have several cell towers in somewhat close proximity to each other and this is driven by coverage and the need to cover certain areas within a search ring and capacity. In areas that are building up you see the need for more capacity. With the type of service that is being provided by towers these days, such as streaming video there is a great need to have the capacity and coverage over metropolitan areas. The area around the proposed site has been identified as an area in need of coverage by a national carrier. Carriers prefer to find an existing tower to meet its needs but they couldn't do that in this case and as a result the tower that is being proposed will fill the coverage gap and provide the type of service that fills in the gap. The applicants believe that this is an ideal site for a tower. The tract is not developed, it is partially wooded and we think that is important in minimizing the visual effect. There is a water tower and other towers in the area and the applicants don't think this tower will be any more intrusive than those. The applicants believe this tower is well suited and wouldn't have an impact on property values and wouldn't affect the public health. The disruption of this type of tower is nonexistent because it is small enough that it doesn't require any lighting. It is not a structure that is going to have a lot of noise or emissions. There will be service on the tower with a

technician coming in to check things but it is minimal. This tower provides much needed service in the area and it does so in a minimally intrusive manner.

Open to public hearing.

No one spoke in favor of the request.

Present, speaking in opposition:

Cory Ridenhour, Thornbrook Homeowners Association, 5565 Waterfront Drive, Columbia

Mr. Ridenhour stated Thornbrook subdivision has about 550 homes. We are already impacted by a cell tower in the area and right next to it there is a water tower. The Association believes that the existing tower does not seem to be full; there may be a financial reason they want another tower. We believe this tower will affect property values in the area and will prohibit the enjoyment and use of the area. We also believe these areas will eventually be subdivided. There is a large piece of acreage to the north that has been preliminary platted.

Commissioner Harris asked staff how long the existing towers have been there.

Uriah Mach stated the first one was put up in 1993, it started as a temporary tower but it came back through and became permanent. The tower on the Hickam tract was placed in 1999.

Commissioner Harris asked when Thornbrook was developed.

Mr. Ridenhour stated the homes on Claybrook drive were constructed in the past three or four years. The others were done around 2000. The neighborhood was started approximately 1998.

Commissioner Harris stated that Mr. Ridenhour believes the construction of another tower would be detrimental to property values. The houses in the subdivision were built and sold in the face of the existing towers.

Mr. Ridenhour stated that is correct but when will there be enough towers? They need to use the infrastructure that is existing; we don't believe there is a public demand that requires another tower. If they can use the existing tower to add additional service then they can accommodate. Adding another eyesore in the area is not productive for the people that live there.

Commissioner Murphy stated that the State of Missouri enacted legislation earlier this year that severely limits the Commission's capability to deny these requests. We cannot force them to collocate on other towers and we can't question their business model for reasoning why they want to do this.

Mr. Ridenhour stated he understands that.

Commissioner Murphy stated he agrees with Mr. Ridenhour, there is a water tower and two other towers out there that these could potentially be collocated on.

Mr. Ridenhour stated the ordinance permits the Commission to accept or deny a tower through height restriction. If the Commission doesn't approve it then they will have to work with other providers.

Commissioner Murphy stated that state law supersedes any legislation that the County has. The legislation was passed for the expansion of broadband services throughout the state.

Mr. Ridenhour stated that this is just a formality then. The county has lobbyists at the State Capital, Mr. Ridenhour wishes that the county would lobby against this because it is a disadvantage to the people that live around them.

Commissioner Murphy stated there were several who did lobby against it. The Missouri Municipal League put up a huge fight against it.

Commissioner Murphy stated the surrounding property will likely be platted someday. Will Crabapple Lane be extended to Scott Boulevard someday?

Thad Yonke stated it was on the major thoroughfare plan at one time but it has since been amended to remove that road.

Commissioner Murphy stated it could be extended at some point.

Thad Yonke stated it could be.

Commissioner Murphy stated as it gets improved there may be easements taken.

Thad Yonke stated the easements should already be in place.

Commissioner Murphy stated the fall zone for the tower of 110 feet will probably not be met if additional easements are taken.

Thad Yonke stated the tower currently meets the 110 foot fall zone requirement, since it meets the requirement at the time of approval that is all that matters. It is unlikely that more right of way will be required.

Closed to public hearing.

Mr. Eric Martin stated it is the applicant's goal to be a good neighbor. The type of tower selected is a monopole design and that is done with the intent to minimize any visual disruption and it will not be lit. The fact that it is in the area of existing towers speaks to the point that it will not alter the character of the neighborhood. It is true that Senate bill 650 does prevent governmental bodies from forcing or requiring collocation but there is still an economic incentive, a carrier doesn't want to go through the great expense of building a new tower if other towers will work. The applicants believe it is a good site and provides needed coverage for the area and the fact that there may be one carrier that has service, well, the way that the National Telecom Act is written all carriers get a chance to build out their coverage. The applicants provided an RF engineering study in the packet which shows that there is a need for this carrier in that area.

Commissioner Murphy asked the applicant if additional easement has been acquired in the area.

Mr. Martin stated he believes there is an existing road there so there should already be an easement but Mr. Martin doesn't know if it has been formalized but the applicants will comply with county code.

Commissioner Murphy stated the drawing implies that additional right of way has not been given along there. If the area were to be platted there would be dedication of a street easement in order to build streets and sidewalks which would end up in the fall zone.

Mr. Martin stated that according to staff's comment that it is judged at the time of application and the applicants currently meet the fall zone requirement.

Commissioner Harris stated it is the applicant's intent that the existing vegetative cover would remain?

Mr. Martin stated he believes that is accurate, the applicant's try to blend in as much as possible and the fact that there are trees in the area helps shield the ground equipment

Commissioner Harris asked if the tower would have a single array of antenna's at the top.

Mr. Martin stated it is a monopole design and the carrier would have their antennas at the top and it would have the ability for two other carriers to collocate.

Commissioner Harris asked if the existing towers in the area are full or if they just don't meet the applicants need.

Mr. Martin stated St. Charles Tower is building this for a carrier and based on the economic reason that it would be preferable to collocate on an existing tower the applicants analyzed those and found it was not appropriate.

Commissioner Wilson made and Commissioner Murphy seconded a motion to **approve** the request by David G. Allen on behalf of St. Charles Tower, Inc., for a transmission facility including a 110' tower on 2.33 acres located at 5170 S Scott Blvd., Columbia:

Boyd Harris – Yes

Paul Prevo – Yes

Eric Kurzejeski – Yes

Gregory Martin – Yes

Kevin Murphy – Yes

Michael Poehlman – Yes

Loyd Wilson - Yes

Motion to approve the request passes unanimously.

Chairperson Harris informed the applicant that this request would go before the County Commission on December 2, 2014 and the applicant needs to be present at the hearing.

VI. Rezoning

1. Request by Heather Simms to rezone from A-1 (Agriculture) to M-L (Light Industrial) on 9.04 acres, more or less, located at 7600 E Richland Rd., Columbia.

Planner, Uriah Mach gave the following staff report:

The subject property is located approximately ¼ mile to the east of the City of Columbia on Richland Road. It is approximately 9 acres in size and has a single-family dwelling and several outbuildings present on the property. It is currently zoned A-1 (Agriculture), with A-1 zoning to the south, east, and west, with R-S (Residential Single-Family) zoning to the north. Sunrise Estates, directly to the north of the subject

property is zoned R-S zoning to the north has and was developed in the mid to late 1970's. This is all original 1973 zoning.

The applicant is seeking to rezone the property from A-1 (Agriculture) to M-L (Light Industrial). The property is the subject of a zoning violation. The applicant purchased the property at the end of June of 2014. Since July of 2014, there have been complaints about the operation of an insulation business on the property. The applicant has admitted to the operation of the insulation business on the property. The applicant is applying for the rezoning in an effort to legalize the business in its current location rather than relocate to an appropriately-zoned property. In this case, the nearest appropriately-zoned property is located on Richland Road, approximately 700 feet to the east.

The East Area Plan and the Boone County Master Plan have indicated that this property is suitable for residential land uses. The Boone County Master Plan also designates a sufficiency of resources test for the evaluation of zoning changes where each proposal is evaluated to see if sufficient utility, transportation, and public safety infrastructure is in place to support the change in zoning. The sufficiency of resources test provides a "gatekeeping" function. Failure to pass the test should result in denial of a request. Success in passing the test should result in further analysis.

Utilities: The subject property is located in Public Water Service District #9, which has a 12" main along Richland Road. Boone Electric provides electrical service. The property is served by the Boone County Regional Sewer District for domestic wastewater treatment.

Transportation: The property is located on Richland Road, a publicly-dedicated and maintained right-of-way.

Public Safety: The property is located in the Boone County Fire Protection District, who maintains a station near Lake of the Woods, approximately 3 miles away.

Zoning Analysis: The sufficiency of resources test provides a "gatekeeping" function. Failure to pass the test should result in denial of a request. Success in passing the test should result in further analysis. After reviewing the Boone County Master Plan and East Area Plan for guidance, it becomes clear that this site is not appropriate for the desired zoning. The Boone County Master Plan and the East Area Plan both identify this site as suitable for residential uses. Prior development, in the form of Sunrise Estates to the north, and the large lot development to the south shows the residential nature of this area. Recent activity to increase the amount of industrial property in this area is fairly limited, with a rezoning in 2008 of 17 acres in the southwestern corner of the Trade Winds industrial park being the most recent. Even that rezoning took the residential nature of property to the north and west into account by leaving a buffer strip of residential zoning on the property for purposes of limiting off-site impacts.

Both the East Area Plan and the Boone County Master Plan advise when creating new industrial areas, planned districts should be used to allow for greater tailoring of the request with the surrounding properties. Or if planned districts are not desired, "applications...should be prepared to show how they have incorporated best management practices and green building practices into their design proposals" (EAP 106). As a straight or open rezoning request, the possibility for incompatible uses in an area in close proximity to an established residential neighborhood is significant. The current status of the property as a zoning violation is a direct result of the neighborhood expectations based on the existing zoning and dissatisfaction with the current use and proposed zoning. The East Area Plan states, "...the issues with industrial development have to deal with accessibility and integration with adjacent development" (EAP 105). In this case, while accessibility is not a significant factor, being located on Richland Road, integration with adjacent development is a significant factor.

New industrial uses are most appropriately located approximately 700 feet to the east, in the Trade Winds Park industrial park. Currently, there are approximately 95 acres of undeveloped property in the Trade Winds industrial park and a further 210 acres of available property in another industrial area, north of Interstate 70 along Route Z. These areas, identified as ideal for commercial and industrial uses by the Boone County Master Plan and East Area Plan, are zoned M-L.

While the site may meet the standards of the sufficiency of resources test to allow consideration of this rezoning, the closer analysis fails to carry any support for approval of the rezoning. The current and anticipated future uses in the area are residential and large lot residential. Existing infrastructure capacity should be more appropriately utilized for additional residential development. The proposal is in direct conflict with the adopted policies of the East Area Plan and Boone County Master Plan. The presence of approximately 280 acres of undeveloped industrially-zoned property within a practical distance indicates that there is no appreciable need for additional industrially zoned property. And finally, the proposed zoning and current use has generated a number of citizen complaints and is not compatible with established land uses.

For these reasons, staff recommends denial of the request.

Present representing the request:

Drew Hilpert, Attorney, 2001 Bates Creek Dr, Columbia
Heather Simms, 7600 Richland Rd, Columbia

Mr. Hilpert stated the applicant is asking for M-L zoning, the applicants believe it is a little more consistent than staff does. There is M-L zoning two parcels down and to the north. Ms. Simms purchased the property in June 2014 with the intent to base her insulation company out of it. She spoke with some people who thought it would be a good idea because it was close to industrial zoning. The applicant's are aware now that it wasn't a good idea and it was a mistake that was made. Some of the storage units are already on the property and the applicants feel that the equipment that is stored there is similar to agricultural equipment that was there before. This is a staging area so there are insulation trucks and materials. One of the concerns that the neighbors will probably have is the noise and trucks going in and out and the type of activity. It is a once in and once out type of business; they aren't coming back in for materials, they go out, do their business and come back at the end of the day so it is not a heavy type of industrial use. We understand that it is not exciting to see trucks and storage of materials where there used to be farmland. Ms. Simms has been working with Crockett Engineering about screening, that is something she is committed to do both for sound and visual for the neighbors. We disagree a little with the staff report about the future, we know the area is not going to remain agriculture given the industrial, commercial and residential that is there now. Richland Road has been designed to be a thoroughfare, it is a major road and there are a lot of trucks with Trade Winds now and we think that will increase when Stadium goes out to I-70. Once that becomes a corridor truck traffic will increase whether this request is approved or not. There is a buffer around Trade Winds but as soon as that fills out the people in the neighborhood will feel that industrial use and we think the use that the applicant will have will be less intrusive. We also think it is a logical progression of where they are now because you have the natural buffer of Richland and a good part of the other side of Richland has multi-family homes which is a fairly natural buffer between residential. Currently the operation can be seen and heard but we think with the large acreage, the screening that we are open to will help that considerably because it is a limited use. It is a large lot for a relatively small business. It is good for the county as well, we know this is a small business that employs a number of people. Places like Trade Winds which was mentioned by staff are too expensive for most small businesses. The city is difficult on small businesses but the county seems to be

more reasonable. The land is vacant and the applicants believe the highest and best use for it is industrial use, it increases property taxes and creates jobs. The applicants believe with the screening and the natural buffer of Richland Road the impact will be minimal. The applicants concern is if this isn't approved the applicant is stuck with the property which would cause a negative economic impact for the applicant as well as the employees who work for her.

Ms. Simms stated she is a small business owner and has been in business for 20 years. In the last five or six years the recession has impacted us all. Ms. Simms can't go to Trade Winds and buy there because she can't afford it. Ms. Simms stated she is passionate about keeping her employees and their families; she wants to be a good neighbor and it is not just about the money but she has an obligation to her employees. Ms. Simms stated she is a small business owner trying to stay afloat and make a little money.

Commissioner Murphy asked where the business was located prior to this location.

Ms. Simms stated it was around the corner at Trade Center Drive and was there for three years until the landlord raised the rent. With the utilities it would have been \$4400 per month to be in that facility.

Mr. Hilpert stated that Ms. Simms looked around for other properties but didn't find any that were suitable.

Commissioner Harris asked if this property was for sale or did the applicant seek out the owner.

Ms. Simms stated it was for sale.

Commissioner Harris asked if in the course of negotiating with the real estate agent did the applicant inform the agent of the intended use for the property.

Ms. Simms stated yes.

Commissioner Harris asked if at any time during that process did the agent inform the applicant of the zoning of the property and the allowable uses under the ordinance.

Ms. Simms stated they said it was zoned agriculture but they also said the county is a lot more lenient than the city and didn't think this would be a problem.

Commissioner Harris asked the applicant if she asked county staff about the use prior to closing on the property.

Ms. Simms stated no.

Commissioner Harris asked the applicant why, knowing it was zoned contrary to the intended use, why would the applicant or their agent not ask Planning and Zoning staff.

Ms. Simms stated she is a small business owner and had to get out of the other property. Her choices were to shut her business down and let nine to ten people sit at home and not make a living, that is not acceptable.

Mr. Hilpert stated the applicant is not here to say she didn't make a mistake or that she is not at fault. She knew the zoning and relied on some bad advice. The applicants are here to try to fix it.

Open to public hearing.

No one spoke in favor of the request.

Present, speaking in opposition:

Eric Blume, 7750 E Richland Rd, Columbia

Mr. Blume stated the buildings that are on the property housed a single family which the property is zoned for. They had a tractor to plow the driveways and that was it. Now the neighbors are being asked to suffer as a result of the applicant's failure to do their due diligence. The day they moved in there those trucks came and put in a driveway the size sufficient to serve semis. What has occurred since is six to eight semi trailers parked between the home and the storage building, there is no way to avoid seeing them. Everyone hears everything starting at 6:30 am when the diesel engines start and we all see and hear what is going on, it is an eyesore. The Huhn's who own the property to the east of the subject tract have moved off the property as a result of their presence. They were concerned about their property value and didn't want to hear the operation everyday. Everyone who lives out there does so because it is outside of town and to own acreage and to be away from commercial businesses and now it is right there amongst us. The neighbors are now being asked to suffer potential financial loss so the applicant can obtain financial gain. The purpose behind zoning is to make the best use of the property while taking into account the impact that the use is going to have not only on that property but on surrounding properties. It is not zoned for that use and no one in the area can be very happy that the applicants failed to do their due diligence. The applicants wanted to ask for forgiveness rather than permission and it doesn't work that way.

Tom Mendenhall, 7300 Quantrill's Pass, Columbia

Mr. Mendenhall stated he believes the important thing is that you have to play by the rules. You can buy a property but if it isn't zoned for what you need then you need to get it properly zoned. You can't set up a commercial operation in a residential or agriculture area. Mr. Mendenhall stated he has property zoned that is commercial, it was agriculture but nothing was set up until it was zoned properly. There are nice farms to the east and west, it is a nice residential area.

Mike Monson, 8104 Richland Rd, Columbia

Mr. Monson stated that on more than one occasion the semis try to get into the property and end up blocking traffic. While the sewer line goes through the property there is a lagoon serving the business. Mr. Monson stated he owned the property prior to the owner who sold the property to the applicant. The applicant's property is limited in its usage due to a major waterway that comes out of Sunrise Estates and it also abuts up to the headwaters of Grindstone Creek area on the back. There are other people in business that have to compete, is it fair for one person to not comply with the regulations as other people?

Gary Evans, 7101 E Richland Rd, Columbia

Mr. Evans stated he opposes the rezoning of the property because it will be detrimental to the entire area.

Tim Mackey, 7101 E Richland Rd, Columbia

Mr. Mackey stated he is a small business owner he understands the tough times everyone went through but you have to make adjustments but we also had to sit in front of the Commission to ask for rezoning and go through the proper channels and that is the way this should have been done.

William Richards, 550 Olivet Rd, Columbia

Mr. Richards stated he hates to see a commercial piece of property in the middle of everyone's homes.

Sandy Monson, 8104 Richland Rd, Columbia

Ms. Monson stated besides being in contrast with the current zoning a lot of work went into the East Area Plan, there was a lot of thought put into it and it should be considered in this decision.

Matt Schofield, 706 S Olivet Rd, Columbia

Mr. Schofield stated the Grindstone Creek that passes through his property and a lot of the tributary waters that feed the property comes from the applicant's property.

Mr. Shawver stated that staff received two letters and an email in opposition to the request. One from Robert Bassett, another from Jerry and Joyce White, and another from John and Peggy Crafton who also sent pictures. The letters, email and pictures were submitted to the Commission.

Closed to public hearing.

Mr. Hilpert stated the first speaker suggested there was commercial activity from the beginning, the applicants didn't mean to imply there wasn't commercial activity. The applicant purchased the property for that purpose. The applicants are aware of the eyesore issue and that is why they will provide screening. Some of the speakers suggested that it wasn't appropriate to rezone to commercial. The Commission knows this won't stay agriculture. Another speaker implied that the Huhn's moved due to this operation; the applicant's don't believe that to be the case because the Huhn's offered to sell their property to the applicant. He was moving anyway. The property is served by a lagoon but there is a major sewer line that runs through the property. The city didn't put that in because of the residential, they know there will be commercial out there. The last speaker indicated that this would be detrimental to the water system. There is no commercial activity going on at the property other than moving trucks in and out. The applicants believe this will be commercial just due to natural development. The applicant made a mistake and she recognizes that.

Commissioner Martin asked if there was more than one business at the site.

Ms. Simms stated that there is an insulation business; there is also one semi, over-the-road truck and one dump truck.

Commissioner Martin stated there are two businesses out there.

Ms. Simms stated yes.

Commissioner Poehlman stated even if the applicants were able to come to an agreement with the neighbors if the applicant were to sell the property someone could come in and do different things so the Commission has to take that into consideration.

Ms. Simms stated she is two parcels down from commercial zoning. It isn't like she is right in the middle of a subdivision.

Mr. Hilbert stated a planned use would protect the neighborhood from other businesses doing other things, the applicants may be open to that.

Commissioner Harris stated the issue is unfortunate and there are a number of issues in play here. Mr. Blume raised a valid point in that the purpose of zoning is to allow people to do what they need and want to do on land where that use is appropriate while at the same time protecting the rights and privileges of adjacent property owners. A great deal of work and a phenomenal amount of cooperation between the county, city and stakeholders in the east central area went in to that East Area Plan. There were commitments made to those stakeholders in the area relevant to future land use so to make a change like this to open light industrial zoning with no plan would be a slap in the face to every one of those stakeholders and it would be a violation of our public trust on obligation to those people. The applicant got bad advice because if there is someone in the real estate professional community in this county who would tell a potential buyer to go ahead and do it then he or she is the person that bears the burden. Failure to do due diligence is unfortunate and the advice was poor. Commissioner Harris stated he cannot see any way that this is a reasonable use of the property. Commissioner Harris stated he understands the predicament the applicant is in but Boone County has zoning ordinances; as a business owner the applicant should have been aware of the ordinances in Boone County and had been counseled to ask questions. For the applicant to ask forgiveness after the fact opens a slope for others to try to follow.

Commissioner Murphy stated he sees faces in the audience of people who attended the East Area Plan meetings. The fact that this property is a few hundred feet from an industrially zoned area is not a reason for approval. There is plenty of industrial property available in Boone County. There will be more subdivisions in the area and the proposed use doesn't fit the area.

Commissioner Wilson made and Commissioner Martin seconded a motion to **deny** a request by Heather Simms to rezone from A-1 (Agriculture) to M-L (Light Industrial) on 9.04 acres, more or less, located at 7600 E Richland Rd., Columbia.

Boyd Harris – Yes

Paul Prevo – Yes

Eric Kurzejeski – Yes

Gregory Martin – Yes

Kevin Murphy – Yes

Michael Poehlman – Yes

Loyd Wilson - Yes

Motion to deny the request passes unanimously

Chairperson Harris informed the applicant that if she wished to appeal to the County Commission an appeal form would need to be submitted to Resource Management within three working days.

VII. Planned Developments

None

VIII. Plats

The following items were placed on consent agenda:

1. Docsville. S28-T50N-R13W. A-2. Donald and Joyce Karr, owners. Kevin M. Schweikert, surveyor.
2. Piest. S35-T49N-R14W. A-2. R-S/A-2. Alta Vista Properties, LLC, owner. David T. Butcher, surveyor.

Commissioner Prevo made and Commissioner Martin seconded a motion to approve as recommended the items on consent agenda and place the staff reports in to the record.

All members voted in favor, none opposed.

Staff reports

Docsville

The subject property is located on Old Number 7, north of its intersection with Dripping Springs Road, approximately 1 mile to the northwest of the intersection of Dripping Springs/State Route VV & Old Highway 63. The property is 20 acres in size, crossing Old Number 7. The proposal is to split the property into two 2.5 acre lots by subdivision plat across Old Number 7, dedicating a full-width right-of-way, and describing the remainder by administrative survey. There is currently a mobile home, a house and a large shed on the property. The house is slated to be removed prior to recording of the plat & administrative survey. The property is zoned A-2 (Agriculture), and is surrounded by A-2 zoning. This is all original 1973 zoning.

The subject property has direct access on to Old Number 7, a publicly-dedicated, publicly-maintained right-of-way. The applicant has submitted a request to waive the traffic study requirement

The property is located in the Boone Electric Cooperative & Consolidated Public Water Supply District #1 service areas. Utility services can be provided to the site.

The property will be served by a on-site wastewater system subject to the regulations of the Columbia/Boone County Health Department. The applicant has submitted a request to waive the wastewater cost-benefit analysis.

The property scored 33 points on the rating system.

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

Piest

The subject property is located on the north side of US Highway 40, approximately 2/3 of a mile to the east of Boothe Lane. The parent parcel is approximately 69.50 acres in size, and this plat splits off a 6.31 acre portion of the property and an adjoining not-for-development lot to the south. The proposal contains an existing house and barn. The property is split-zoned A-2 (Agriculture) and R-S (Single-Family Residential). The A-2 is the portion north of the section line and the driveway access to Highway 40. The R-S zoning is the portion that was part of the not-for-development tract, south of the section line. The

property has A-2 zoning to the north, east, and west, with some R-S to the southeast and the south across Highway 40. This is all original 1973 zoning

The subject property has direct access to US Highway 40. The applicant has submitted a request to waive the traffic study requirement.

The property has access to electrical service through Boone Electric Cooperative, water service through Consolidated Public Water Service District #1, and fire protection service from the Boone County Fire Protection District.

The property is located in a Missouri Department of Natural Resources Sinkhole area. The existing system is regulated in by the Columbia/Boone County Health Department. The applicant has requested a waiver to the wastewater cost-benefit analysis.

The site's location in a sinkhole area will require any new construction to have engineering data submitted to the satisfaction of the Building Inspection Division of Boone County Resource Management.

The property scored 45 points on the rating system.

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

IX. Old Business

1. Update on County Commission Action.

Stan Shawver updated the Commission as follows:

The rezoning and review plan request by Overton was approved as recommended. The County Commission added another condition to the review plan that the developer enter in to an agreement with the Boone County Regional Sewer District for provision of wastewater services.

The rezoning request by Phoenix Properties was approved as recommended.

X. New Business

None

XI. Adjourn

Being no further business the meeting was adjourned at 8:25p.m.

Respectfully submitted,

Secretary
Eric Kurzejeski

Minutes approved on this 18th day of December, 2014