

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, April 16, 2015

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
Paul Prevo, Vice-Chairperson
Carl Freiling
Gregory Martin
Kevin Murphy (left 7:54 pm)
Michael Poehlman
Lloyd Wilson

Centralia Township
Rocky Fork Township
Cedar Township
Katy Township
Perche Township
Rock Bridge Township
Columbia Township

b. Members Absent:

Eric Kurzejeski, Secretary
Derin Campbell
Vacant Seat
Vacant Seat

Missouri Township
County Engineer
Three Creeks Township
Bourbon Township

c. Staff Present:

Stan Shawver, Director
Thad Yonke, Senior Planner
Paula Evans, Staff

Uriah Mach, Planner
Bill Florea, Senior Planner

III. Approval of Minutes:

Minutes from the March 19, 2015 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 two rezoning requests and one subdivision plat.

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, April 28th. 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, April 28th will begin at 7:00 p.m. and will convene in this same room.

V. Conditional Use Permits

None

VI. Rezoning

1. Request by Gara W. Toalson Revocable Trust, owner, to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 59.25 acres, more or less, located at 7401 S Nursery Rd., Columbia; and by Gara Ann Martin Trust and Williams N. Toalson, owners, to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 15.25 acres, more or less, located at 7500 S Warren School Rd., Columbia.

Planner, Uriah Mach gave the following staff report:

The subject property is located south of State Route K, bounded by Nursery Road to the east, and Warren School Road to the west. The property is 75.5 acres in size and is zoned A-1 (Agriculture). It has the City of Columbia and A-2 (Agriculture) zoning to the east, A-1 zoning to the north and west, with A-1P (Planned Agriculture) and A-1 zoning to the south. The A-1P was created in 1996. To the east, a transmission facility conditional use permit was granted in 2001. The property scored 51 points on the rating system.

The applicant proposes to rezone the entire property from A-1 (Agriculture) to A-2 (Agriculture) for purposes of development into lots smaller than 10 acres in size. The change in density goes from allowing up to 7 lots under the A-1 zoning, to allowing up to 26 lots under the A-2.

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

Utilities: Boone Electric can provide electrical service to this property. Consolidated Public Water Service District #1 can provide water service to this property but a water study will be necessary to determine if improvements will be needed for optimal levels of service. Wastewater treatment is an issue for this property. The existing A-1 density could be served by on-site wastewater systems, but the proposed A-2 density would be best served by a collector system. If that is the case, then connection to the City of Columbia’s wastewater system or a new Boone County Regional Sewer District facility or is the correct action.

Transportation: Access to this property is off of Nursery Road and Warren School Road. Warren School Road is a publicly-maintained, publicly-dedicated gravel road and is able to provide service to the adjacent property under the existing zoning. Warren School Road is also located at the west side of the property and its remoteness for the bulk of the property would make using it as a primary point of access difficult. Nursery Road is also a publicly-dedicated, publicly-maintained gravel road. However, Nursery Road is a one lane gravel road with no shoulders and steep banks on both sides of the road. It also has a difficult turnaround at the end of the county-maintained portion. While it is a substandard road, it is

sufficient to serve the current A-1 density. Any increase in density would require substantial improvement to Nursery Road.

Public Safety: The property is located in the Boone County Fire Protection District, whose stations on Route K and Scott Boulevard to the north are the closest to provide emergency services. The use of Nursery Road as a primary public access may be problematic for public safety services due to the existing condition of that road.

Zoning Analysis: The Boone County Master Plan indicates that this area is suitable for residential development. That stated, the sufficiency of resources test, also in the Boone County Master Plan, would indicate that the limitations on this property, specifically in the transportation category, show that the current A-1 (Agriculture) zoning is most appropriate. The increase in density under an A-2 (Agriculture) zoning district is not supported by available transportation infrastructure. Development under A-2 or higher zoning would only be justifiable with substantial road improvements to Nursery Road as well as consideration of improvements to Warren School Road. Those improvements would be needed to meet both the Transportation and Public Safety requirements of the sufficiency of resources test. Additionally, development at the proposed density will likely require connection to central sewer, either by connecting to the City of Columbia to the east or by constructing a new Boone County Regional Sewer District facility to serve this development. Connecting to the City of Columbia would require annexation and development would be done under their rules and regulations. This property is best served by either remaining at its current A-1 zoning, or annexing into the City of Columbia for development at urban residential density, due to need for infrastructure improvements.

Staff recommends denial of the request.

Present representing the request:

David Butcher, Crockett Engineering, 2608 N Stadium Blvd, Columbia
Bill Toalson, 4505 W Route K, Columbia

Mr. Butcher stated the applicants would like to do an open rezoning from A-1 to A-2. When staff recommended denial it seems unusual that a property adjacent to the city of Columbia only be expected to have a density of ten acres or more. I think it is reasonable to be at a density that would allow 2.5 acres properties. I realize that we are talking about him being able to put in a density here that could potentially have 22 houses however there are steep grades through the center of the property. On the eastern third of this property and also a section on the west side the topography is going to prohibit putting a significant amount of density on the property, at least not without a significant amount of earth moving and it becomes cost prohibitive for that to become reality. This is what Mr. Toalson has in mind, he has a few people interested and he thinks this is a very viable option. What makes this good for us to look at right now is that it does fit with the topography, you can tell there isn't going to be any significant earth moving. You might ask why the applicant doesn't request a planned development. Mr. Toalson is only asking for two lots more than is already allowed under A-1 zoning so he would like the flexibility of being able to move the property lines and move the roads around a little bit. The wastewater system is designed to be in the southeast corner of the property. This is going to be a Boone County Sewer District facility, Tom Ratermann indicated that he is on board with helping us through that process to get a treatment plant there. A planned district would likely indicate that we would have to improve Nursery Road; I don't think that is feasible for what the applicant is asking. If the applicants were to bring a plan forward and these things didn't match up perfectly with our design we will have to redo the plan and spend more money on engineering to make it match whereas if we had open zoning we would have the flexibility to move the lot lines and roads to make it fit the topography the best. The cost with a planned district outweighs the

benefit, the applicants are already crossing a pipeline and they want to stay in the county. The goal is to stay in the county; the applicants don't want to annex into the City. This is appropriate for this area. There doesn't seem to be any reason why we can't leave it as open zoning. If one of the property owners wants to have a family member live on the property it would seem reasonable to allow that flexibility and not have to come forward with a new plan and bring a lot of the engineering costs associated with changing those layouts.

Commissioner Freiling asked why the applicants don't want to annex.

Mr. Butcher stated because of the luster and joy of the county; everyone should know what it is like to enjoy the county lifestyle. It is a rugged piece of ground with a rural feel. The applicant wants to live in the county and not have to deal with the urban feel and the things that come with living in the city.

Open to public hearing.

No one spoke in favor of the request.

Present with questions:

Leslie Canole, 7900 S Warren School Rd., Columbia

Ms. Canole stated her property borders the development. Ms. Canole asked where the proposed houses will be located and how close will they be to her property.

Also present with questions:

John Billman, 4208 Eagle View Ct, Columbia

Mr. Billman stated his property is along Nursery Road. Nursery Road is an issue because of its condition. How will the project affect the road? Especially the portion within the city limits. I know this isn't a county issue at this point but about half the road is maintained by the county through an agreement with the city and the road is in terrible condition, it is a gravel road although it is a city street. It is muddy and dust and noise are an issue. Mr. Billman stated he has spoken with the county about it and was told it is a city issue but now that the County is discussing this it becomes a broader issue. If the city would own up to taking care of the road and resurfacing with a hard surface then Mr. Billman's concerns with this issue would be diminished. If the city doesn't improve it then the increased traffic will be a problem. Mr. Billman stated he has talked to the city a number of times and one of the engineers said he would come and evaluate the situation, Mr. Billman stated he is still waiting for an answer. The county says it is a city problem but the city says the county maintains the road by an agreement.

Present speaking in opposition:

Joan Benjamin, 8050 S Warren School Rd, Columbia

Ms. Benjamin stated she is concerned about the traffic on Route K which is already pretty dangerous and adding more traffic is an issue. Ms. Benjamin asked what kind of sewer system is going in.

Closed to public hearing.

Mr. Butcher stated the sewer will be located on the southeast corner of the property in the low lying area between the gas main and the roadway. The goal is to keep the sewer in the low lying area and away from Warren School Road.

Commissioner Martin asked about the proposed sewer line and when proposing the size of the sewer treatment plan will it only be sized for the proposed nine lots?

Mr. Butcher stated the applicant's obligation is only going to be for what he is proposing. If the sewer district finds there is a demand for more they may be able to help to upsize if the need is there but the applicant's obligation is only for what he is creating.

Commissioner Martin stated if this is approved then everyone will be able to split their property further and we could end up with two houses on every lot. There are nine lots and every one of the lots could be split to add additional houses.

Mr. Butcher stated the applicants will make sure that the sewer design matches the final layout of the property.

Commissioner Martin stated there could be 20 homes.

Commissioner Poehlman stated that is the problem with it not being a planned development. The Commission understands the applicant's intent but the Commission can't depend on that. Once this is approved as A-2 what is to stop the applicant from selling the property and the new owner putting 20 homes on it?

Mr. Butcher stated the topography isn't going to allow that.

Commissioner Poehlman stated it is an intention and that is all it is. It is not a binding document. Even if it were a plan the applicants didn't address the road; the applicants know what is going to happen with the road if this is approved; nothing. There will be additional cars and there will be more deterioration. A plan that doesn't address the road is unacceptable.

Commissioner Murphy stated currently under A-1 the applicant can have seven lots and they are asking for nine.

Commissioner Poehlman stated that this is the applicant's intention, it doesn't mean anything.

Commissioner Murphy asked what type of assurance the Commission could have to make sure it could only be for nine lots. The applicants can put seven lots out there now and not do anything but if they put in nine lots under a planned district they would be required to address the road.

Mr. Butcher stated he appreciates planned districts but this is adjacent to the city limits of Columbia. Even if the applicant sells the property and someone comes in and levels the entire property they are still adjacent to the city limits, they could level it and put 100 lots on it. Regardless if the applicant sells the property and 22 lots are created versus 100 if we work toward making it happen while Mr. Toalson is in charge of it then it will likely happen the way it is being presented tonight. With a planned district brought in front of the Commission today the property could be annexed into the city tomorrow and have 100 lots on it. The applicant wants the county life, he doesn't want the engineering costs associated with a planned development and Nursery Road is probably not going to be improved any time soon. To make a case for Mr. Billman, he is in the city, that is what he enjoys the city for. The city is the one he needs to complain

to. Everything the applicants plan on doing is behind Mr. Billman's property. This corridor of land is going to be preserved because of the creek, you can't damage that ecosystem. The likelihood is there is probably 10 or 15 acres of land that even if it were sold for 22 lots that is not viable or reasonable that would ever happen because it is too cost prohibitive. The alternative is to allow the applicant the flexibility to not go through the undue expense of a planned district, don't force him to annex his property so he can do what he wants to do. Allow the applicant the flexibility to move his property lines and roads where he needs to and allow open zoning in an area that is appropriate for open zoning.

Mr. Toalson stated he plans to build his own house there; another lot will be gifted to his son. Mr. Toalson stated the last thing he wants to do is screw up his land and add a lot more houses next to his.

Mr. Butcher stated there is a sewer line close by that belongs to the city of Columbia and it is a gravity system. Mr. Toalson could annex and use that sewer system if he wants to but because he wants to live in the county he is willing to build the waste water treatment facility so the properties can have the waste water and not be required to connect to city sewer. With that expense it is already not likely to work out and be financially feasible to make a significant amount of profit. There isn't enough money to improve the road and make all the improvements. The open zoning works on this piece of property, it seems reasonable and is a good location.

Commissioner Martin stated the concern is if someone buys an 11 acre piece they can divide the property further and get additional houses.

Mr. Toalson stated he plans to have covenants in the sale stating that the property can't be subdivided smaller than five acres.

Mr. Butcher stated he realizes that covenants are private and not enforceable by the county and there is nothing that can prevent seven houses from going along Nursery Road now. The applicant doesn't want to have to annex and make it 50 homes. An open zoning will work here and if the Commission can see the applicant's vision it won't work with seven houses running up Nursery Road. While the Commission may ask for a plan to ensure that, there is a cost associated with a planned district. Not every property should be planned, there is space for open zoning and this is a good one for it.

Commissioner Martin stated he would be more comfortable if all the lots had access to Warren School Road. Nursery Road is too narrow, two emergency trucks cannot pass on the road.

Mr. Butcher stated that is because it is indicative of the topography and the use that has been out there. That is why this will work but the applicant needs the flexibility to move things around because it is going to continue to be that way.

Commissioner Murphy asked what kind of waste water facility will be there.

Mr. Toalson stated he got a permit from DNR for a drip system and the design has been approved by DNR.

Commissioner Murphy asked if the internal roads would be platted.

Mr. Butcher stated they would be private roads.

Commissioner Murphy asked what type of surface the roads would have.

Mr. Toalson stated the plan is to be 18 feet wide, or whatever is required by the fire department, with a heavy gravel base and the middle 13 feet of it would be blacktop.

Chairperson Harris stated he assumes every individual house or somewhere within the development there will be pump systems because the sewer system is on the highest spot.

Mr. Toalson stated there will be a septic system at every house and it will be pumped.

Chairperson Harris stated from the perspective of emergency services even as it is today, Nursery Road would be a nightmare. The best laid plans and the best intentions in the world can't change the fact that the request doesn't just allow 9 lots, it allows 26. Just to the east of the proposed site along Route K there is a big piece of real estate that had a lot of trees on it and it has been completely cleared.

Mr. Butcher stated because it was annexed.

Chairperson Harris stated there are a lot of concerns with this request. The property can be annexed just as easily and the density could go up and somewhere along the line the road would have to be fixed.

Commissioner Murphy stated that the hesitancy is that this could develop more densely and asked Mr. Butcher if there were any assurances that would limit the development to what the applicants have shown. Do the applicants have to enter in to an agreement with the sewer district?

Mr. Butcher stated there could be some restrictions on capacity so that once it is at full capacity there couldn't be any more connections.

Mr. Toalson stated the current one is based on this plan and the permit that the applicants have is for this plan. Mr. Toalson stated he wouldn't be able to triple the amount of houses and use that system.

Commissioner Murphy asked how big the sewer lot is.

Mr. Butcher stated it is three acres.

Commissioner Murphy asked if the applicants would have to use all of that for the sewer?

Mr. Butcher stated yes because of the grade it is sized for that. That is why the road comes in where it is and not further north because it would restrict the lateral field.

Commissioner Murphy asked if the three acres was the field size or the actual lot size.

Mr. Butcher stated that is the actual lot size, about 1.25 acres is needed for the lateral fields.

Commissioner Murphy asked how many lots that would serve.

Mr. Yonke stated there is no plan in front of the Commission so they have to be careful about how much credence they are putting in to what is in front of them. There is no plan and no design, it is just a thought.

Mr. Shawver stated staff hasn't seen anything from DNR regarding the waste water system.

Commissioner Wilson asked if the applicant were to build seven houses now then what would the applicant use for waste water.

Mr. Yonke stated potentially seven lagoons or septic tanks.

Commissioner Freiling stated the Commission has gotten away from open rezoning. Covenants are broken regularly and are only enforced by civil action between the parties.

Mr. Butcher stated that most of the county is open zoning. If the applicants were asking for this north of I-70 they wouldn't even have to ask but because it isn't the applicant wants to afford the same type of lifestyle and same type of property as those in the north side of the county. The zoning near the property is A-2 and there is open zoning around it.

Commissioner Freiling stated it is the fact that the Commission is being asked to change the zoning.

Commissioner Poehlmann stated the applicants mentioned they didn't want a planned development because they would have to accommodate changes. Isn't there a way to allow flexibility in a planned development?

Mr. Yonke stated yes. It could set the total number of units and give some flexibility on the lots. Staff spoke with Commissioner Campbell who is not present tonight and one of his concerns was while you can have seven additional lots under the current A-1 zoning if you had a plan that limited it to less than the seven then the Engineering Department would have less concerns about the impact on the road but the only way to limit that is through a plan that limits the number.

Commissioner Murphy asked staff if this were to come back as planned what would be the expectations for Nursery Road.

Mr. Yonke stated it is hard to say. If it is fewer than what they can already have then the Engineering Department feels like that is something they could support. Otherwise we would have to see the request and see where the access is coming off of. If all nine lots aren't coming from this direction and some are coming off of Warren School then that could make a difference.

Commissioner Murphy asked what if they presented something similar to what has been presented tonight.

Mr. Yonke stated he isn't sure that what has been presented tonight would meet regulations, it would have to be reviewed in that context. One of the other things a planned district could do is guarantee that they are going to have a central sewer because that is not guaranteed at this point.

Commissioner Murphy asked if all of Nursery Road has a full right of way.

Mr. Yonke stated he imagines it is statutory 30 foot right of way.

Commissioner Murphy asked if they were only developing on one side instead of using an internal street then they would be expected to upgrade the road.

Mr. Yonke stated depending on the development the developer is obligated to make road improvements to bring them up to certain standards.

Mr. Butcher stated that while the applicants could make a plan that is flexible enough to change things around the reality is that the final zoning plan has to match the review plan perfectly and it is not so easy to come up with that type of plan and that is where a lot of the cost comes from when you try to build in

the flexibility. You spend hours of engineering time to come up with a plan that allows flexibility for you to not have to change things and it becomes expensive. According to the regulations I have to have a review plan, a final plan, and a final plat that is going to divide the land so there are a lot of documents associated with it. The best thing to do is to allow the applicant to have the county life style of A-2 and have some five acre tracts and move them around as they need to.

Commissioner Poehlman made and Commissioner Martin seconded a motion to **deny** a request by Gara W. Toalson Revocable Trust, owner, to rezone from A-1 to A-2 on 59.25 acres, more or less, located at 7401 S Nursery Rd., Columbia; and by Gara Ann Martin Trust and Williams N. Toalson, owners, to rezone from A-1 to A-2 on 15.25 acres, more or less, located at 7500 S Warren School Rd., Columbia.

Boyd Harris – Yes

Carl Freiling – Yes

Gregory Martin – Yes

Paul Prevo – Yes

Kevin Murphy – Yes

Michael Poehlman – Yes

Loyd Wilson - Yes

Motion to deny the request passes unanimously

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

Commissioner Murphy stated that he had a conflict with the next request and would have to recuse himself. He left the meeting.

2. Request by Darren and Katie Nickerson to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 10.73 acres, more or less, located at 7400 S Warren School Rd., Columbia.

Planner, Uriah Mach gave the following staff report:

The subject property is located on Warren School Road, south of State Route K, approximately ½ mile to the west of the city limits of the City of Columbia. The subject property is 10.73 acres in size, and zoned A-1 (Agriculture). The property currently has a single-family house, a shed, and a barn present. The property is surrounded by A-1 (Agriculture) zoning. This is all original 1973 zoning. The property scored 55 points on the rating system.

The proposed zoning change is to facilitate further subdivision of the property for purposes of building a new house.

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

Utilities: Boone Electric can provide electrical service to this property. Consolidated Public Water Service District #1 can provide water service to this property. Wastewater will be an on-site system permitted by the Columbia/Boone County Health Department.

Transportation: The property has direct access on to Warren School Road, a publicly-dedicated, publicly-maintained right-of-way.

Public Safety: The property is located in the Boone County Fire Protection District, whose station on Route K is the closest to provide emergency services.

Zoning Analysis: The overall character of this area has long been rural in nature, with larger (10+ acre) tracts being the norm. The lack of development in this part of the county shows that interest has been in maintaining that rural character for the longer term. Without any new pressure for development in this area, the preservation of the existing character of the area is paramount.

Staff recommends denial of the request.

Present representing the request:

Jay Gebhardt, A Civil Group, 3401 Broadway Business Park, Columbia
Darren Nickerson, 3613 Wakefield Dr., Columbia

Mr. Gebhardt stated that the applicants met with staff and thought about requesting A-2P. The applicants would like to build a house on the back part of the property. There is an existing house on the front of the property which the applicants want to renovate and have Mr. Nickerson's mother move in. We are here to figure out a way to add an additional home on the property. The applicants were looking into A-2P and limiting it to two homes, you do have the issue that you could end up with four homes. The subdivision regulations require a ratio of 3:1 for the width versus the depth and a minimum frontage; this limits the applicants to two lots unless they build a street. The topography is not conducive to build a street for two more lots. We think there are some protections on this because of the county subdivision regulations. We thought we'd give A-2 a try and it is bad timing for the applicants because of the previous request on tonight's agenda. The way this request is different is that this is for one additional home off of Warren School Road which is a pretty good gravel road and close to Route K. The master plan shows this area as residential and not just agriculture. It received 55 points on the point rating system and the reason it got 55 points is because there have been a lot of changes since 1973 when this was zoned. Columbia is much closer than it was in 1973, Route K was just widened, and there is an 8 inch water main in front of the property so the fire protection is there. A new school is being constructed at Thornbrook which is pretty close to this. There were no fire stations near the property in 1973 so the infrastructure has been changed. The things that haven't changed is the sewer situation but the technology on sewers is a lot different. In open zoning the Commission can't require it but the applicants plan to do a no discharge system for the new and existing homes. The applicants agree that the character of the area is paramount but the applicants don't believe that one home will change that. The applicants bought the property to build a new home and it was because of the character of the land, the applicant doesn't want to mess it up for the neighbors. This is different than the previous request, the property is smaller. The applicant is not completely opposed to coming back with a planned rezoning request but he wants to get his home started soon however he understands there is a process. There is a cost consideration but there is a proper way to do this and the applicant is willing to do it if it is needed. Even in A-2 the worst that can happen is four lots but in reality, due to regulations, it would just be two.

Mr. Yonke stated if a family transfer is done instead of a subdivision plat the 3:1 ratio doesn't apply and neither does the road frontage requirement. This property can be divided by family transfer into four lots. Even if the applicants come back with A-2P they could divide the property by family transfer.

Mr. Gebhardt stated that the worst case scenario is four lots. Mr. Gebhardt stated he doesn't believe the applicant's intent is to transfer the property by family transfer.

Mr. Nickerson stated his mother has MS and he would like her closer.

Chairperson Harris asked how long the applicant has owned the property.

Mr. Nickerson stated he purchased it in March 2015.

Chairperson Harris asked the applicant if he knew he would have to relocate his mother when he purchased the property.

Mr. Nickerson stated no; currently her health is good but she wants to live closer.

Chairperson Harris asked the applicant if he was aware at the time of purchase that the property was zoned A-1 and was limited to only one home.

Mr. Nickerson stated no.

Open to public hearing.

Present speaking in support of the request:

Bill Toalson, 4505 W Route K, Columbia

Mr. Toalson stated he has no problem with this request.

No one spoke in opposition.

Closed to public hearing.

Chairperson Harris stated he went out and looked at the area. Each request has to stand on its own merits and the Commission knows that just because the previous request was denied doesn't mean that this request should be denied too. The problem is getting past spot zoning.

Mr. Gebhardt stated he believes it is an appropriate zoning because it is in close proximity to existing A-2 zoning. If the Toalson's property was to be rezoned A-2P that would add strength to this request. The city is coming and things are changing.

Commissioner Freiling stated there are efficient ways to deed a lot to the applicant's mother with the assurance that upon her death it becomes the applicant's property again and the applicants can do a family transfer.

Mr. Gebhardt stated the applicant's have talked to staff about that and a family transfer lot in A-1 has to be 10 acres.

Commissioner Freiling made and Commissioner Wilson seconded a motion to deny a request by Darren and Katie Nickerson to rezone from A-1 to A-2 on 10.73 acres, more or less, located at 7400 S Warren School Rd., Columbia.

Boyd Harris – Yes

Carl Freiling – Yes

Gregory Martin – Yes

Paul Prevo – Yes

Lloyd Wilson - Yes

Michael Poehlman – Yes

Motion to deny the request passes unanimously

Chairperson Harris informed the applicant that if he 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

1. Nichols Ridge. S12-T49N-R13W. A-R/R-M. Greg Nichols Properties, Inc., owner. Christopher M. Sander, surveyor.

The following staff report was entered in to the record.

The subject property is located to the southwest of the intersection of Hinton Road and US Highway 63 and at the north end of the Daniel Street stub off of Honey Lane. The property is approximately 13 acres in size, and is split-zoned R-M (Residential-Moderate Density) to the north, and A-R (Agriculture-Residential) to the south. There is R-M and C-G (General Commercial) zoning to the north, A-R zoning to the south, R-M and A-R zoning to the west, and C-G and A-2 (Agriculture) zoning to the east. On the R-M zoned portion of the property are ten duplex units along Cabo Lane, a private road. Located roughly in the center of the property is a large lake. The proposal is to split four lots off of the end of the Daniel Street stub, subsequently renamed Clifton Court, and leave the remainder with the duplex units to the north. The proposed small lots range from approximately ½ acre to ¾ of an acre in size, and the remaining 10.43 acres will be approved as part of a concurrent administrative survey.

The lots proposed by this plat will have direct access on to Clifton Court, a new publicly-dedicated, publicly maintained right of way. The applicant has submitted a request for a waiver to the traffic study requirement.

Consolidated Public Water Service District #1 will provider water service to these lots off of an extension built off of the 6" line south of Lot 4. Boone Electric will provide electrical service, and fire hydrants will be installed in conjunction with the water extensions at locations identified by the Boone County Fire Protection District.

Sewer service will be provided by the Boone County Regional Sewer district via pressure sewer extensions to Lots 1, 2, & 3, and a gravity sewer connection off of Lot 4.

The property scored 72 points on the rating system.

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

Commissioner Prevo made and Commissioner Martin seconded a motion to approve Nichols Ridge

All members voted in favor, none opposed.

IX. Old Business

1. Update on County Commission Action.

Stan Shawver updated the Commission as follows:

The rezoning request for Ronnebaum was recommended approval. The County Commission tabled that request until April 28, 2015 to further investigate the access easement that will serve the properties. Staff investigated that easement and there is one in place that goes back to 1982.

X. New Business

None

XI. Adjourn

Being no further business the meeting was adjourned at 8:24 p.m.

Respectfully submitted,

Acting-Secretary
Stan Shawver

Minutes approved on this 21st day of May, 2015