

**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, March 15, 2018**

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 (arrived 7:05)
Eric Kurzejeski, Secretary	Missouri Township
Gregory Martin	Katy Township
Loyd Wilson	Columbia Township
Bill Lloyd	Three Creeks Township
Rhonda Proctor	Perche Township
Jeff McCann	County Engineer

b. Members Absent:

Carl Freiling	Cedar Township
Michael Poehlman	Rock Bridge Township
Vacant Seat	Bourbon Township

c. Staff Present:

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

III. Approval of Minutes:

Minutes from the February 15, 2018 meeting were approved by acclamation.

IV. Chairperson Statement

The following procedural statement was entered in to the record:

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 rezoning request 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, March 27<sup>th</sup>. Interested parties will again have the opportunity to comment on the requests at that time. The County Commission generally follows the recommendations of the Planning and Zoning Commission; however, they are not obligated to uphold any recommendation. Requests that are denied will not proceed to the County Commission unless the applicant files an appeal form within 3 working days. Please contact the planning office to see if a request that has been denied has filed an appeal, as there will be no further public notification due to the short time between the hearing tonight and the County Commission hearing. The County Commission hearing scheduled for Tuesday, March 27<sup>th</sup> will begin at 7:00 p.m. and will convene in this same room.

## V. Conditional Use Permits

None

## VI. Rezoning

1. Request by 3101 S Olivet LLC to rezone from A-1 (Agriculture) to REC-P (Planned Recreation) and to approve a Review Plan for Somerton Event Center on 13.63 acres, more or less, located at 3101 S Olivet Rd., Columbia.

This rezoning request was removed from the agenda at the applicant's request.

2. Request by Gara W. Toalson Trust to approve a Revised Review Plan for Toalson Estates Planned Development on 81.99 acres, more or less, located at 7273 S Hidden Pond Ln., Columbia. Planner, Uriah Mach gave the following staff report:

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 81.99 acres in size and is zoned A-2P (Planned Agriculture). A portion of this property applied to be rezoned to A-2 (Agriculture) in April of 2015 and was denied. It was successfully rezoned to A-2P with a final plan approved in May of 2017. It has the City of Columbia and R-S 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 and the R-S zoning was rezoned from A-2 to R-S in August of 2016. To the west, an adjacent property attempted an A-1 to A-2 rezoning in April of 2015 and was denied. That same property came back in July of 2015 with an A-1 to A-2P (Planned Agriculture) rezoning and was approved. The subject property scored 76 points on the rating system.

The applicant has submitted a revised review plan to change the designation of the lot in the southeastern corner as a developable lot from being a utility lot.

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 provides electrical service to this property. Consolidated Public Water Service District #1 provides water service to this property. Sewer service is provided via a connection to the Boone County Regional Sewer District (BCRSD) Route K facility. Documentation of sufficient sewer service from the BCRSD has been confirmed.

Transportation: Access to this property is off of State Route K, Nursery Road, and Warren School Road. State Route K is a publicly-dedicated, publicly-maintained right of way. Direct access is controlled by the Missouri Department of Transportation. They have located one access point for the property. Nursery Road is a publicly-dedicated, publicly-maintained road, recently improved with development of Nursery Heights to the east. Two lots have direct access on to Warren School Road, but the approved plan and proposed revisions to the review plan do not make use of that access. The lot being unlocked by this plan will use Nursery Road for access.

**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. Warren School Road, Nursery Road, and Route K can provide access for emergency services. The private drive has been proposed to meet a fire code minimum width.

**Zoning Analysis:** The Boone County Master Plan indicates that this area is suitable for residential development. The sufficiency of resources test shows that sufficient resources are present for the expansion of this development with one more residential lot. This revision is comparatively minor and meets the density requirements of the A-2P planned district.

Staff recommends approving the requested revised review plan.

Present representing the request:

David Butcher, Crockett Engineering, 1000 W Nifong, Building 1, Columbia  
Bill Toalson, 7273 S Hidden Pond Ln, Columbia

David Butcher presented a copy of the original review plan highlighting the proposed change.

David Butcher: The only change we are making to this plan is the ability to build a house on this lot instead of having the sewer that was originally there. In our previous meetings we had discussions what we would do if we ended up connecting to the public sewer and we said we'd come back and ask for a buildable lot.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Commissioner Lloyd made and Commissioner Prevo seconded a motion to **approve** the request by Gara W. Toalson Trust to approve a Revised Review Plan for Toalson Estates Planned Development on 81.99 acres, more or less, located at 7273 S Hidden Pond Ln., Columbia:

Boyd Harris – Yes	Paul Prevo – Yes
Eric Kurzejeski – Yes	Greg Martin – Yes
Loyd Wilson – Yes	Bill Lloyd - Yes
Jeff McCann – Yes	Rhonda Proctor – Yes

Motion to approve the request passes unanimously.

Chairperson Harris informed the applicant that this request would be heard by the County Commission on Tuesday, March 27, 2018 and the applicants need to be present for the hearing.

## VII. Planned Developments

None

VIII. Plats

1. Turkey Creek Plat 3. S15-T47-R12W. A-1P. Mary Jane Waters and Henry J. Waters III, owners. David Borden, surveyor

The following staff report was entered in to the record:

The subject property is located on Deer Park Road, east of Highway 63, approximately 2 miles south of Columbia. The property is currently zoned A-1P having been rezoned from A-1 in 1998.

The lot will continue to have direct access on to Deer Park Road.

An on-site wastewater treatment system provides sewage treatment.

On January 25, 2018, Case Number 2018-001, the Board of Adjustment granted a variance to the requirement to provide a minimum 250-foot lot depth.

The property scored 41 points on the rating system.

Staff recommends approval of the plat and waiver requests.

Commissioner Martin made and Commissioner Prevo seconded a motion to approve Turkey Creek Plat 3:

Boyd Harris – Yes	Paul Prevo – Yes
Eric Kurzejeski – Yes	Greg Martin – Yes
Loyd Wilson – Yes	Bill Lloyd - Yes
Jeff McCann – Yes	Rhonda Proctor – Yes

Motion to approve the plat passes unanimously.

IX. Old Business

1. Update on Commission action.

Director, Stan Shawver updated the Commission on the actions taken by the County Commission as follows:

The rezoning requests for Vollrath and Payne Enterprises were approved as recommended.

2. Update on Subdivision Regulation comments.

Thad Yonke: Staff would like direction on Family Transfer specifications. Some Commissioners had reservations about the three year hold on both the transferred tract and the parent tract. It was also mentioned that they would like to see a mechanism for relief through the Board of Adjustment. In addition,

since the Commission requested different regulations for lots 20 acres and larger there will be no holding period for parent tracts over 20 acres. Staff came back with the following options:

- A. The Family Transfer lots and at most a single remainder are created. All lots have the three-year hold before further transfer. Removal of the hold is by platting, if possible (Current proposed)
- B. The Family Transfer lots and at most a single remainder are created. All lots have the three-year hold before further transfer. Removal of the hold is by platting, if possible, or by relief from the Board of Adjustment after a showing of exceptional and demonstrable hardship circumstances. (This will require additional language to be created.)
- C. The Family Transfer lots and at most a single remainder are created. Family Transfer lots have the three-year hold before further transfer. If a single remainder property is proposed, the single remainder has a one-year hold. Removal of either hold is by platting, if possible, or by relief from the Board of Adjustment after a showing of exceptional and demonstrable hardship circumstances. (This will require additional language to be created.)
- D. The Family Transfer lots and a single remainder are created, and all lots have a one-year hold before further transfer. (Removal of the hold by platting may be possible. Otherwise wait out the year.)

The Commissioners discussed these options.

Commissioner Prevo stated if it is truly a family transfer and they want to keep it within the family three years is not an excessive amount of time. People shouldn't use a family transfer as an easy way to divide property.

Commissioner Kurzejeski stated the reason Commissioner Freiling had suggested the three/one year hold is because there was questions of what a hardship consists of and is it a headache to go through the Board of Adjustment. We felt the three-year hold on the transferred piece was okay but didn't want to have a three year hold on the parent tract. I would rather do away with the Board of Adjustment relief on the one year hold.

Commissioner Proctor stated she also serves on the Board of Adjustment and didn't see a family transfer as a hardship. If someone said they had to sell land because grandma is going to a nursing home she don't necessarily see that as a Board of Adjustment decision. Commissioner Proctor stated she has hardships too but she doesn't family transfer something to get rid of a hardship.

Chairperson Harris stated the argument to the Board of Adjustment would be to get the restriction lifted.

Thad Yonke stated the way the language would have to be written is that it is not a variance but a specific provision of this where the Board of Adjustment can say there are exceptional circumstances and grant the relief.

Paula Evans stated she spoke with Commissioner Freiling this afternoon and Commissioner Freiling was under the impression that the Commission wasn't going to discuss the proposed subdivision regulations tonight. Having been informed otherwise, Ms. Evans called Commissioner Freiling before the meeting to inform him that the Commission was going to discuss the Family Transfers. Commissioner Freiling texted Ms. Evans the following: "My only concern is the three-year lock on future transfers. I think that is too restrictive."

David Butcher stated the Board of Adjustment should always be a viable place you can go to seek a variance. Three years is a long time to wait in your life.

Chairperson Harris asked if the Board of Adjustment is a place to seek relief for any reason?

Thad Yonke stated it is designed to seek relief from the zoning ordinance where an application of the rules is an unreasonable deprivation of use of the property. In legal terms that means there is no use of the property. If there is a use of the property the Board is supposed to say no. When it comes to subdivision regulations; there is no inherent right to subdivide your property. There is an inherent right to subdivide your property in compliance with the regulations. If you can't comply with the rules then you can't divide the property. For a variance from the subdivision regulations staff is required to give a recommendation. If the Commission wanted the ability to seek relief from the Board of Adjustment to remove the hold for Family Transfers then staff would be able to make a recommendation as to whether the variance should be granted. Staff would have to write special language in the regulations that state you can apply for a variance which could be granted for specific reasons.

Commissioner Prevo: I believe 3 years is acceptable for both lots; to get rid of the hold they can plat or try to go through Board of Adjustment. It is kind of a punishment on the parent tract but a family transfer is also a benefit.

The Commission held a straw poll with the following results:

- Option A: received no votes
- Option B: Prevo, Wilson, Martin, McCann
- Option C: Kurzejeski, Lloyd, Proctor, Harris
- Option D: received no votes

Thad Yonke stated staff will work on language for options B and C and will bring it back to the Commission.

X. New Business

None.

XI. Adjourn

Being no further business the meeting was adjourned at 7:47 p.m.

Respectfully submitted,

Secretary  
Eric Kurzejeski

Minutes approved on this 19<sup>th</sup> day of April, 2018