

BOONE COUNTY PLANNING & ZONING COMMISSION
BOONE COUNTY GOVERNMENT CENTER, COMMISSION CHAMBERS
801 E. WALNUT, COLUMBIA, MISSOURI
(573) 886-4330

Minutes

7:00 P.M.

Thursday, October 17, 2019

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
Gregory Martin	Katy Township
Rhonda Proctor	Perche Township
Steve Koirtyohann	Rocky Fork Township
Bill Lloyd	Three Creeks Township
Jeff McCann	County Engineer

b. Members Absent:

Eric Kurzejeski, Vice Chairperson	Missouri Township
Michael Poehlman, Secretary	Rock Bridge Township
Carl Freiling	Cedar Township
Fred Furlong	Bourbon Township
Vacant Seat	Columbia 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 September 19, 2019 meeting were approved by acclamation.

IV. Chairperson Statement

The following Chairperson statement was entered into 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 two rezoning requests, three final development plans and five 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. When you address the commission please speak directly into the microphone so that your remarks are properly recorded. Please sign the sheet on the table after you testify. Also, we ask that you turn off or silence 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, October 29th. Interested parties will again have the opportunity to comment on the requests at that time. The County Commission generally follows the recommendations of the Planning and Zoning Commission; however, they are not obligated to uphold any recommendation. Requests that are denied will not proceed to the County Commission unless the applicant files an appeal form within 3 working days. Please contact the planning office to see if a request that has been denied has filed an appeal, as there will be no further public notification due to the short time between the hearing tonight and the County Commission hearing. The County Commission hearing scheduled for Tuesday, October 29th will begin at 7:00 p.m. and will convene in this same room.

V. Rezoning Requests

1. Request by Todd and Michelle Werts to rezone from R-S (Single-Family Residential) to A-R (Agriculture Residential) on Tract 1 of 24.66 acres and from C-G (General Commercial) to A-R (Agriculture Residential) on Tract 2 of 4.50 acres, located at 6767 N Farrar Rd., Columbia.

Planner, Uriah Mach gave the following staff report:

The subject tract is located between the eastern end of Mauller Road and Farrar Road along Highway 63, north of the City of Columbia. The subject property is 98.08 acres in size and has a residence and two accessory structures present. This property is composed of three different zoning districts, A-R(Agriculture-Residential), R-S(Residential Single-Family), and C-G(General Commercial). This proposal seeks to rezone the 24.66 acres of R-S and the 4.5 acres of C-G to A-R. The purpose of this rezoning is the make the entire 98.08 acres one zoning district and more usable for the equine ranch use that is desired by the property owners.

The Boone County Master Plan identifies this area as being suitable for agriculture and rural 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: The subject property is in Consolidated Public Water Service District #1, the Boone Electric Cooperative service area, and the Boone County Fire Protection District.

Transportation: The property has access to Farrar Road, a publicly dedicated, publicly maintained right-of-way via a driveway across the Central Electric Power property to the south and Mauller Road to the west.

Public Safety: The property is in the Boone County Fire Protection District, with the station at Prathersville being closest for service.

The property scored 47 points on the rating system.

Zoning Analysis: This proposal is a downzoning to a lower intensity zoning classification. While the sufficiency of resources test indicates that there are noticeable limits to the available utility infrastructure and roadway infrastructure, this request is an overall decrease in the intensity of use for this property. Much of this tract is covered by floodplain, making it less suitable for the higher density R-S(Residential Single-Family) and C-G(General Commercial) development. In particular, the C-G zoned portion of this property is completely covered by the floodplain. Much of the R-S zoned portion of this property is also covered by floodplain. The development potential of this property is limited by the floodplain and the available infrastructure. Downzoning to A-R from R-S and C-G decreases the needs of this property for utility services while maintaining the intent of the original 1973 zoning by showing a higher-density band of development around the city of Columbia.

Staff recommends approval of the rezoning.

Present representing the request:

Todd Werts, 6767 N Farrar Rd, Columbia

Todd Werts: The purpose of this request is to bring the land into conformance for what we want to use it for. We bought the property as a horse farm. My wife and I raise horses. When we were in the process of purchasing the land I found that part of the property is zoned R-S and the portion that we are planning to move to the A-R zoning can never be developed without extraordinary expense. I haven't heard any complaints from the neighbors.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Chairperson Harris: The zoning to A-R is because of the consistency with the surrounding property?

Uriah Mach: A-R is prevalent in the area so this is consistent with the surrounding property.

Commissioner Koirtyohann made and Commissioner Lloyd seconded a motion to approve the request by Todd and Michelle Werts to rezone from R-S (Single-Family Residential) to A-R (Agriculture Residential) on Tract 1 of 24.66 acres and from C-G (General Commercial) to A-R (Agriculture Residential) on Tract 2 of 4.50 acres, located at 6767 N Farrar Rd., Columbia:

Boyd Harris – Yes	Greg Martin – Yes
Bill Lloyd – Yes	Rhonda Proctor – Yes
Steve Koirtyohann – Yes	Jeff McCann – Yes

Motion to approve the request passes unanimously.

Chairperson Harris informed the applicants that this request would move forward to the County Commission on Tuesday, October 29, 2019 at 7:00 pm and the applicants will need to be present.

2. Request by M E L Oetting Family's Legacy LLC to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 4.0 acres, more or less, located at 6750 E Hwy AB, Columbia.

Planner, Bill Florea gave the following staff report:

The property is located on the south side of Route AB, approximately one-half mile east of US 63. The zoning is A-1, which is the original zoning. All of the adjacent zoning is A-1. A 30-acre tract on the north side of AB and approximately ¼ mile west of the subject property was rezoned from A-1 to C-GP in 1998 for the purpose of establishing an insurance company office.

The property that is the subject of the request is part of a 278-acre parcel that is vacant and in agricultural operation. In 2003 the owner applied to for and was granted a Conditional Use Permit to operate a corn maze.

The property scored 63 points on the rating system. Staff notified 18 property owners about this request.

The Master Plan designates this property as suitable for agriculture and rural residential land use. The Master Plan identifies a "sufficiency of resources" test for determining whether there are sufficient resources

available for the needs of the proposal. Failure to pass the test should result in denial of a request. Success in passing the test should allow the request to be considered and evaluated based on accepted planning principles.

The resources used for this analysis can generally be broken down into three categories, Utilities, Transportation, and Public Safety Services.

Utilities: The property is in the Consolidated Water service area.

There is no public sewer available in this area, on-site systems must be used for sewage disposal.

Boone Electric provides power.

Transportation: The subject tract has frontage on and direct access to Route AB.

Public Safety Services: The property is approximately four miles from the Southern Boone County Fire station at Columbia Regional Airport.

Zoning Analysis:

The Master Plan designates this property as suitable for agriculture and residential land use. The area is characterized by large agricultural tracts, rural residential lots in the 10-20-acre range, and a few nonconforming rural residential lots that do not meet the minimum 10-acres of the A-1 District. There are two lots less than 10-acres that were created since 1991, both were created by Planned Residential Development. Pauley Estates approved in 1991 created a 4.0-acre residential lot and a 6-acre non-developable remainder. Turner's Estate created a 2.5-acre residential lot and a 7.5-acre undevelopable remainder.

Staff is unaware of any changes in the area that would indicate the original A-1 zoning to be inappropriate. Rezoning 4-acres for a specific land division could be a spot zoning. The Planned Residential Developments of Pauley Estates and Turner's Estate should be considered precedential in this area.

This request could be made to comply with that precedent if it was changed to an A-1P PRD that allowed creation of the desired 4-acre lot but encumbered a full ten acres as required by the current A-1 zoning.

Staff recommends denial of this request.

Present representing the request:

David Butcher, Crockett Engineering, 1000 W Nifong, Columbia
Larry Oetting, 6552 Hwy AB, Columbia

David Butcher: I received a copy of the staff report this afternoon and I was surprised that the staff recommended denial of this request. I think A-2 is a reasonable request for this site, it is a transitional zoning for residential, A-R or even more highly dense developments. It is still agriculture in nature and still allows for us to do the things that Mr. Oetting typically does on his property. There is commercial zoning right across the road and we are less than a mile away from industrial zoned property, we are three miles from the city limits of Columbia and three miles from the city limits of Ashland. We are at the Highway 63 corridor which is a federal highway. I would suggest that our goal is to preserve agriculture, we want to make sure that the farmers are not hindered in their ability to continue farming but I want the Commission to realize is that this is on the Highway 63 corridor between Jefferson City and Columbia and this property is probably not appropriate for A-1 zoning. A-1 is what is there and what was assigned to it originally and I think it is

appropriate for what the property is being used for and it fits him for now but to think that it is not appropriate to ever rezone it, or at least right now to start rezoning it, is an oversight on the Planning Department staff. It scored 63 points on the point rating system, that is pretty good, any other time that would be suggestion for approval. The Oetting's are doing this because they want a loved one to live on the property, right now his only option is to go with a 10 acre parcel of land to subdivide for his daughter. He is a farmer, land matters, that is how you make money is off the land and he shouldn't have to give up 10 acres just to have his loved one live nearby. The reason there are adjoining parcels up and down Highway AB that are substandard in size is because that is how farmers used to do it. Farmers didn't need to give 10 acres for their loved ones, they just needed to give enough land for them to live with them, the rest of the farm would provide. I think it is more than appropriate here and I think it is likely to be rezoned to something even more significant someday. Luckily we have someone like Mr. Oetting who is in control of this property, it has been in his family for 80 years and he has no intentions of selling but if he did I am pretty certain he would get a significant dollar amount for it and the reason is because it is at the intersection of two state highways, it is ready for development if someone is willing to take the expense to do it. It is not far-fetched to think that A-2 for a four acre parcel isn't appropriate. The biggest point is if I went to a planned development there are several negative things that happen here, one is it is going to cost thousands of dollars to create this plan. I understand planned zoning is important and we all like to think if you have a plan you get more control and more ability to have a say so over what happens on this property but what are we going to get with a plan? A single house. It is four acres, I didn't go to five because I was afraid it would appear to be divisible. We went to four because it is what she wants and it is appropriate and you can only have one residence on a four acre parcel in A-2 zoning. What else are you going to get with a plan? We aren't going to upgrade the streets or pave anything, there are no private roads. I think that requesting us to go to a planned district is doing nothing to help the community or help the neighborhood, it is only hurting the Oetting's in being able to accomplish what they want. The comparison with the other zonings that were done up and down the street where someone set aside 10 acres to end up doing the same thing which is a smaller parcel of land, a five acre parcel and three acre parcel. In my professional opinion, A-2 is more than appropriate here and I am not sure why staff recommended denial. I understand spot zoning but I tend to think there is a whole lot more coming than A-2 someday and it is not so far away being that close to the city limits.

Larry Oetting: This property has been in my family since 1944, it is a desire of mine to get a century farm, we are short of that. It is the hardest thing I have had to do in the last two years. I would not be doing this if it wasn't because of my daughter and son-in-law. There is a personal need for me to have them out there, I can't do the same farming operation work that I have done, it is impossible to get anyone hired, they all want \$20 an hour and you can't pay \$20 per hour for manual labor. It is nice to have someone nearby to help out. It is my desire to keep it all as one piece. I understand that some of these smaller acreages were created prior to Planning and Zoning but they have no effect on the community and neighborhood. They may have more of a positive effect because you have someone close down the road. When we get into people who have 30 or 40 acres and want to start chopping it up into 10 acre parcels, that has an effect on the neighborhood; you don't have the same community like you had before. It wouldn't have any effect on the community or the environment. I don't know of any advantage to the difference between A-2 and A-2P. At the end of the day I can't do anything more with that four acres whether it is zoned A-2 or A-2P; the difference is where you encumber a parcel of land because you are gaining the A-2 zoning. I don't know how many of you own a house but if you were to have someone come to you and say "If you want something done I want to encumber your house" and if it was an encumbrance that was an advantage or a need for it that would be one thing but to say we want you to encumber it just because we want to fill a formality, I don't know if that would be my thoughts of what Planning and Zoning is intended for. You can follow the letter of regulations but the intent is going to be the same whether it is zoned A-1 or A-2P, it is still going to be a four acre parcel, I can't do anything more to it than build one residence and that's it. They can't take a five or six acre parcel and decide to sell off a 2.5 acre parcel, it isn't going to happen. I don't see the need for the plan because it doesn't affect anything. It is still a four acre lot and one residence. If you were in my shoes I want to put a restriction on your property so you can do this? Why? Because it is a formality, we don't want someone else

to come and say that you did it for someone down the road, would you want to do that? To have your real estate encumbrance with a restriction, a covenant when there is no need for it?

David Butcher: I would also suggest that if this is a precedent I am not so sure it is a bad precedent. This is an appropriate place, if someone has this proximity and someone has this desire. This is an appropriate location for this. On a personal note, I live down the street and I welcome him and his family to do this. We have no problem or conflict with this, none of the neighbors do. We need to let Mr. Oetting have his family out there.

Larry Oetting: Mr. Butcher's mom lives on one of the smaller acreages out there. She isn't bothering anyone. There is A-2 zoning on Brandywine Creek that is not planned but they aren't hurting anyone. I don't see the necessity but at the end of the day it is the same thing and no one is being hurt.

Bill Florea: To clarify, staff's position is that it should be A-1P not A-2, staff is not concerned about the use of the property it is the precedential nature of changing the zoning designation to A-2 which can lead others in the area to ask for the same thing and then pressure is on the Commission to approve those requests because they allowed this one. With the A-1P they still get the four acre tract but they encumber the entire 10 acres, the six acres can be retained and the four can be transferred to Mr. Oetting's daughter.

David Butcher: Mr. Oetting was saying the other six acres should not be encumbered just because it somehow meets a planned district regardless of whether it was A-1P or A-2P. The important part was the planned wasn't necessary to encumber some additional property. In the end we hope to have four acres that they can move onto, why should there be additional property and Mr. Florea is saying because it sets a precedent and I am suggesting to you, so what?

Commissioner Lloyd: What kind of cost do you get into with A-1P.

David Butcher: Most of our rezoning plans we quote somewhere between \$2000 and \$4000 depending on how difficult. This one would probably be on the low side.

Larry Oetting: You are encumbering six acres. I don't like encumbering anything unless there is a reason to do so. If we were talking a subdivision then you have restrictive covenants and a lot of the concerns a government agency might have may be addressed in the covenants. It is one lot and will always be one lot and you are asking me to encumbrance more than the size of the lot that I am selling to them. I am sorry but to me, at my age, that doesn't set well. I have no desire to develop this. That doesn't say 10-15 years down the road that desire may change, 10 or 15 down the road this won't make a difference and it won't make a difference that they have to resell it to them. My goal, if I am able is to make this a century farm. You can see on the title "Legacy Farms", M for Martin, E for Edward, L for Larry, MEL Legacy Farms. I would not be doing this unless for my daughter and I want to do that for them and I think any of the Commissioner's would think the same way. I have a family member I want to help out and this is the way to do it. I am very hard headed about this encumbrance because you are going to be told to a certain degree that for me to do anything on the remaining 10 acres I have to come back before the Commission and get it approved. I guess I could go to any end of the farm and come out with another 10 acre parcel to do what I want to do and stay within the guidelines of A-1 and it wouldn't be close to this four acres. My house is right down the driveway from it, there is a need to have them out there.

David Butcher: Cost aside it is the same result, he wants to have one house on four acres but he doesn't want the encumbrance. It makes sense to me.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Chairperson Harris: I hear what the applicant is saying and I understand it. The property is zoned A-1 so they could do a family transfer on a 10 acre parcel with no problem.

Bill Florea: That's correct.

Chairperson Harris: That 10 acres would go to the recipient. There is no house on this property now?

David Butcher: Correct.

Chairperson Harris: Under the existing family transfer provisions in an A-1 zoning they can grant 10 acres, how do they get their four that they can build on to get financed and the other six to stay with the farm? Would the six acres be in the kids ownership or would it stay in Mr. Oetting's?

Bill Florea: It would be in the kids ownership under the A-1 if you are going to family transfer.

Chairperson Harris: From an income and operation perspective Mr. Oetting could retain a life estate for that six acres and not change anything operationally.

Bill Florea: There could be an agricultural lease on the six acres.

Chairperson Harris: That wouldn't have any impact on the ability to finance the four acres and build a house?

Bill Florea: I can't answer that.

Chairperson Harris: But there wouldn't be an encumbrance on the four acres.

Bill Florea: There would be no encumbrance on the four acres and the loan would be against the entire 10 acres.

Chairperson Harris: Or the four.

Bill Florea: It could be four.

Chairperson Harris: If the testimony has been that the intent is not ever to develop the property and keep it as agriculture with the objective to become a century farm the encumbrance doesn't really become an encumbrance if that is the long term objective. If it is going to stay an agricultural property there could be a designation to say it has to stay that way and can't be developed.

Thad Yonke: The only reason they are being encumbered is if it's an A-1P otherwise it is just a 10 acre tract.

Chairperson Harris: We are back to the same argument we had last month on a similar sort of request with a small tract zoning in a sea of a bigger zoning. We are back to the problem of promises that were made to that whole area in the sub-area plan and unfortunately on Highway 22 at Sturgeon, having heard this exact same argument a year ago and having given in to that argument that we want it to stay in the family and it's just for a family transfer there is a for sale sign in the yard less than a year after we granted this request and everything that the applicant said is gone because that property is going to leave the family on the open market and everything that was testified to has gone out the window. This is a difficult choice because Mr. Oetting has been on the Planning and Zoning Commission. With a straight A-2 zoning and what the sub-area

plan was and the concessions and promises that were made there what do we do six months from now when someone across the road wants to take 80 acres to A-2?

David Butcher: Chairperson Harris suggested that hypothetically this falls apart and the kids decide to move away, the important part here is that the suggestion for seeking approval was that we would still create the four acre parcel that we would just set aside an additional six acres that the applicant would have to come back and ask for permission for another child out there. It is possible that the other six acres would have to come back for rezoning at some time for something. That six acres is going to be encumbered to have to come back and do something with it. Whereas it could just remain unencumbered. It would be acceptable to have that four acre parcel if we went planned but is not acceptable to have the four acre parcel if it is open zoned. Either way we are taking about a four acre parcel. The suggestion is staff would recommend approval probably if we went with the planned rezoning and encumbered an additional six acres but in the end you still have a four acre parcel that this young couple could walk away from next year and we did exactly what the Commission suggested. I am not sure it would accomplish anything other than it has encumbered six acres of his land and made him spend an additional \$2000 for the exact same goal. That is why we chose such a small parcel of land so that the Commission would not worry about it being divided up further or that it was for financial gain so that the Commission would understand that they are only talking about one family member that was going to move there.

Larry Oetting: I don't know what the issue was with the rezoning last week or last month. If I wanted to do something with A-2 zoning it sure as heck would not be where this four acres is. I have Highway 63 and Highway AB frontage right at the intersection, if I am going to do a planned development I am going to do it there, I have natural gas and water. It goes back to the idea that there is no reason to have this encumbrance on this four or ten acres. My family has lived there since 1944, I already told you I wouldn't be doing this if I didn't want to help my daughter out. To encumber something just because you have the right to rubs me the wrong way.

Commissioner Martin: You have sat on this side of the table, why not just give the 10 acres and don't even put up with this aggravation?

Larry Oetting: Because they can't afford 10 acres, I'm not giving it to them.

Commissioner Martin: I can understand that but you can still farm the land with a small lease. We have done this many times over time, I don't like encumbering land either but I also don't like having to choose a spot and say this is where we are going to change one thing.

Larry Oetting: I think you are missing the idea that I am not giving it to them and I am not selling them 10 acres, I am selling them four acres. Even if they could somehow afford it I wouldn't sell them 10 acres. My plan is to hold on to as much as I can. The four acres was something that I felt was agreeable with them and that is why we are at this four acre piece. It comes down to policy but I am not in favor of encumbering anything of mine just because. Would you do that? If you had 20 acres and wanted to divide off five acres to give to your kids?

Commissioner Martin: You would prefer I not answer that question.

Larry Oetting: But I have to.

Commissioner Martin: I respect that but you also have to respect our side because each time we do something like this it starts a trend that we have been burned on many times. I have a hard time with that.

Larry Oetting: If the thought is that someone wants to rezone 80 acres across the street?

Commissioner Martin: If they want to rezone to A-2 we'll fight through that battle.

Larry Oetting: But they can't.

Commissioner Martin: Why can't they?

Larry Oetting: Because there is more than just one lot there, you have to have a plan. There is no plan with one lot. It is like the cartoon where they have a sign out that has a corn maze and they have one stalk. There is no plan, there is no maze.

David Butcher: If the existing zoning wasn't in place and you are on the Planning and Zoning Commission and you are here to help put zoning in place where you don't have any zoning here what you consider to be appropriate in this corridor? Would you say that it should be A-1 or something a lot more dense? The important part here is that being a member of this Commission, your objective is to try to find what is the most appropriate zoning that fits the area. I am suggesting that if we were setting brand new zoning on that area there is no way we would zone it A-1.

Commissioner Martin: My objective is to make sure that I don't spot zone 70 of these over the next few years out across there because someone wants to take this small acreage out, that is the part we have a hard time with. You know that can evolve.

David Butcher: The good thing is that we are only talking about one piece of property and you get to look at every one of them one at a time. If I were bringing 70 pieces of property to the Commission you would have a valid argument but we are only talking about one lot.

Bill Florea: I want to remind the Commission that the presumption is that the current zoning is the correct zoning. It is upon the applicants to prove that what they are asking for is more appropriate. It has already been decided that A-1 is the correct zoning.

Larry Oetting: I remember when I was on the Commission and Karen Sapp wanted to rezone her 80 acres. Some of it fronted on Highway AB and some on Rangeline Road and she wanted the entire 80 acres zoned to A-2 and I think someone suggested to her to apply for A-2P on 15 or 20 acres. She was persistent and wanted A-2 zoning. We were right at that time to deny that request but we aren't talking 80 acres. I don't know of one property owner in the area that would sell off 4 or 5 acres, if you want to buy my property you buy the whole thing. It comes down to encumbrance and policy. There is no reason to encumber my property.

Commissioner Lloyd: When we talk about spot zoning or setting a precedent and opening up a pandora's box, what is our history with people coming along and saying they want to rezone and the Commission tells them no and they say that we did it for the neighboring property?

Bill Florea: It happens all the time.

Thad Yonke: Then it becomes the justification for the next rezoning request.

Bill Florea: Essentially they are right in their justification because the Commission has said that it is a more appropriate zoning for the area.

Larry Oetting: I know my neighbors, they are all large parcel owners and own 50 to 100 acres. I don't think they would come before the Commission with a four acre parcel this year, five acres next year, seven acres the next year, they will come together with someone who is purchasing their property to rezone. This area is

going residential, this isn't going agriculture anymore. I am one of the last owners out there who actually owns land that has been in their family for years except for maybe Tom Bass.

David Butcher: In Karen Sapp's case she wanted to sell some property to her son but she asked for the whole parcel to be rezoned to A-2 and it was suggested to her that she only bring what she wanted which was just enough for her son.

Chairperson Harris: By your own comment you just said if you were to go to any of your neighbors and say you wanted to buy four acres off the corner of your farm they are going to say no. If I didn't know you and showed up to your door and asked to buy four acres what would you say?

Larry Oetting: No.

Chairperson Harris: Then why is it a valid argument to say it is okay to divide the four acres out?

David Butcher: Because his intent is for family.

Chairperson Harris: When we are looking at appropriate use of the land if it is not valid for someone else to split four acres off for someone else then why is it valid just because it is this situation?

David Butcher: If he were to bring his entire farm of 300 acres and ask that it all be rezoned to A-2 would you do that? Chances are you wouldn't. Or you would and it would be because it is appropriate out there. If it is appropriate for the 300 acres it is appropriate for four acres and we will eventually rezone the rest of it when it is time. But right now we can only talk about the four because that is all that was brought before the Commission.

Larry Oetting: That is all I am wanting to sell. I don't know how many times I have said it tonight.

Commissioner Martin made a motion to deny the request.

Commissioner Lloyd seconded the motion and stated to Mr. Oetting that because someone else burned the Commission he felt compelled to vote this way. Commissioner Lloyd wants to see Mr. Oetting's kids live next to him and have those four acres but between the precedent issue and the issue of people doing the family transfer and not being genuine about it, consistency in the Commission's behavior is necessary.

Commissioner Martin made and Commissioner Lloyd seconded a motion to deny the request by M E L Oetting Family's Legacy LLC to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 4.0 acres, more or less, located at 6750 E Hwy AB, Columbia:

Boyd Harris – Yes	Greg Martin – Yes
Bill Lloyd – Yes	Rhonda Proctor – Yes
Steve Koirtyohann – Yes	Jeff McCann – 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 filed with the Planning Department within three working days.

VI. Final Development Plans

1. Request by Fred Overton Development, Inc. to approve a Final Development Plan for Perche Ridge Planned Development on 17.0 acres, more or less, located at 6001 W Gillespie Bridge Rd., Columbia.

Thad Yonke gave the following staff report:

The property is located on the north side of Gillespie Bridge Road at the intersection of Gillespie Bridge Road and Coats Lane. In July 2019 the Planning and Zoning Commission recommended approval of a Rezoning from A-2 to R-SP and an accompanying Review Plan. The County Commission approved the rezoning and Review Plan, Commission Orders 312-2019 and 313-2019. The review plan was approved with two conditions:

1. The issues related to the intersection of proposed Tamarack Drive and Gillespie Bridge Road shall be worked out to the satisfaction of the County Engineer and the Director of Resource Management prior to submission of a Final Plan:
 - Sight distance and location issues
 - Conflict with the existing Drive
2. A right turn lane shall be installed in accordance with Boone County Roadway Regulations and to the satisfaction of the County Engineer and Director of Resource Management prior to recording any final plat.

The Zoning Regulations state that the Commission shall approve a Final Development Plan when it is satisfied that:

- All required information is accurately portrayed on the plan
- The Final Plan conforms to the approved review plan
- The Final Plan demonstrates compliance with all conditions, which the County Commission may have imposed on the Review Plan.

Staff has reviewed the plan. All required information is accurately portrayed, and the plan conforms to the review plan.

The conditions imposed by the County Commission have been complied with.

Staff recommends Approval.

Chairperson Harris stated there is no public hearing for this item.

Chairperson Harris: The Commission received a letter from the Sierra Club regarding this request with some concerns and asked the Commission to take some particular action. I am not sure the Commission can take those actions statutorily.

Stan Shawver: The authority the Commission has tonight under the regulations is an ministerial function. We have gone through the rezoning process and the review plan was approved. As stated in the staff report the Commission's action on the final plan is "the Commission shall approve a final plan when it is satisfied (it meets all the conditions)". The Planning and Zoning Commission is an advisory board to the County Commission; they do not make policy or set policy, they are strictly an advisory board who makes recommendations. I can find no place in the State Statutes that authorized the Planning and Zoning Commission to set a moratorium on any activity. I spoke with County Counsel and he stated that is correct, the Planning and Zoning Commission does not have the legal authority to pass a moratorium - they can only do what the regulations say which is to approve it.

Chairperson Harris: That was my belief as well, once it has met the guidelines the Planning and Zoning Commission is obligated to approve it. The Commission has acknowledged that letter and it is part of the record. The plan has met the requirements to be approved.

Commissioner Koirtyohann made and Commissioner Lloyd seconded a motion to approve the request by Fred Overton Development, Inc. for a Final Development Plan for Perche Ridge Planned Development on 17.0 acres, more or less, located at 6001 W Gillespie Bridge Rd., Columbia:

Boyd Harris – Yes	Greg Martin – Yes
Bill Lloyd – Yes	Rhonda Proctor – Yes
Steve Koirtyohann – Yes	Jeff McCann – Yes

Motion to approve the request passes unanimously.

Chairperson Harris informed the audience that this request will move forward to the County Commission on Tuesday, October 29, 2019.

2. Request by Charles V. Melloway to approve a Final Development Plan for Melloway A1-A2P on 31.81 acres, located at 9611 E Hwy OO, Hallsville.

Uriah Mach stated we did not receive an original for this item so it cannot move forward tonight. Therefore the plat also on this agenda cannot move forward.

3. Request by RML Investment Properties to approve a Final Development Plan for Mobility Worldwide P.E.T. Mobility Center on 2.13 acres located at 4901 E Meyer Industrial Dr., Columbia.

The subject property is located on Meyer Industrial Drive, south of Highway 63, to the south of the Magellan Pipeline facility on Tom Bass Road. The property is 2.13 acres in size and vacant. The property was rezoned from A-1(Agriculture) to M-GP(Planned General Industrial) in 2012, when Meyer Industrial Drive was created. The surrounding properties are zoned M-GP to the south, east, and west, with M-L(Light Industrial) zoning to the north, and C-G(General Commercial) to the northeast. The M-GP zoning was created under the same development plan as created the subject property's zoning in 2012, the M-L and C-G are original 1973 zonings. The revised M-GP review plan and rezoning were approved in October of 2018.

This proposal is to revise the current M-GP plan to allow a light manufacturing facility on this property. The current plan is a vacant plan with no approved uses. The proposed plan allows the manufacture or assembly of metal or fiberglass products and/or the manufacture or assembly of wood products, wholesale merchandising or storage warehouse. This final plan locks in the previously approved rezoning and allows the property to be developed as described on the approved plan.

The Boone County Zoning Ordinance, Section 6.2.14, Standards for Approval of the Final Development Plan identify 3 criteria for approval:

- All the required information is accurately portrayed on the Plan
- The Final Plan conforms to the approved Review Plan
- The Final Plan demonstrates compliance with all conditions, which the County Commission may have imposed on the Final Plan

After review of the submitted Final Plan, staff has found that the plan meets these three criteria and is ready for approval by the Planning & Zoning Commission.

The property scored 83 points on the rating system.

Staff recommends approval of the final plan.

Commissioner Koirtyohann made and Commissioner Lloyd seconded a motion to approve the request by RML Investment Properties to approve a Final Development Plan for Mobility Worldwide P.E.T. Mobility Center on 2.13 acres located at 4901 E Meyer Industrial Dr., Columbia:

Boyd Harris – Yes	Greg Martin – Yes
Bill Lloyd – Yes	Rhonda Proctor – Yes
Steve Koirtyohann – Yes	Jeff McCann – Yes

Motion to approve the request passes unanimously.

Chairperson Harris stated that this request will move forward to the County Commission on Tuesday, October 29, 2019.

VII. Plats

1. Flynt Lane Estates. S32-T50N-R11W. A-2. Brenda Rippetto, owner. David W. Borden, surveyor.

Flynt Lane Estates was removed from the agenda.

2. Melloway Plat 1. S20-T50N-R11W. A-2. Charles V. Melloway, owner. Kevin M. Schweikert, surveyor.

Melloway Plat 1 was removed from the agenda.

Plats 3 – 5 were placed on consent agenda

3. Quisenberry. S23-T50N-R12W. R-S. Shirley D Quisenberry and Kathryn M Quisenberry Family Trust, owner. Donald E. Bormann, surveyor.

The following staff report was entered into the record:

The property is located on the west side of Route B just south of Hallsville. It is occupied by an existing single-family dwelling.

The lot will have frontage on and direct access to Route B. The subdivider has requested a waiver to the requirement to provide a traffic analysis.

The property is in the service area of Public Water Supply District 4.

There is an existing lagoon serving the dwelling unit. A lagoon easement is proposed in order to locate the lagoon closer to the property line than would otherwise be allowed. The subdivider has requested a waiver to the requirement to provide a cost benefit analysis.

The property scored 50 points on the rating system.

Staff recommends approval of the plat and waiver requests.

4. Arrowhead Lake Estates Plat No. 2-A. A-2. 3WT Properties LLC, owner. David T. Butcher, surveyor.

The following staff report was entered into the record:

The subject property is located on the eastern side of Arrowhead Lake Drive approximately 600 feet north of the intersection of State Route K and Arrowhead Lake Drive. The subject property is 5.49-acres in size and zoned A-2P (Planned Agriculture). The property has A-2P zoning to the north, south and west, with State Route K and the City of Columbia further to the south. The property scored 74 points on the point rating system. The property had an A-2P review plan and preliminary plat approved by the County Commission on March 28th, 2017 with the following conditions:

1. Revision of the Phasing Plan to create three phases of development. Phase 1 will remain the same, covering lots 1-5 and C-1. Phase 2 will cover lots 10-14. Phase 3 will cover lots 6-9.
2. The proposed design for the private road to serve Phases 2 & 3 will require approval of the Director of Boone County Resource Management and the Boone County Fire Protection District.
 - a. Plans for construction of the road will be required to be submitted for approval prior to construction.
 - b. Road construction may be phased but shall be complete prior to recording any final plat containing lots to be served by the private road.
 - c. The road shall, at a minimum, consist of a 20-foot wide paved surface and be capable of supporting a 50,000-pound vehicle.
 - d. Where fire hydrants are located adjacent to the road the width shall be increased to 26-feet for a distance of 20-feet on both sides of the hydrant.
 - e. Maximum grade of the road shall not exceed 12.5%, contingent upon approval by the Director of Resource Management and Boone County Fire Protection District.
3. Prior to Final Plan approval the developer shall provide verification of sewer service from the City of Columbia and Boone County Regional Sewer District for each lot in the development.
4. Prior to Final Plan approval the developer shall provide documentation from Consolidated Water that adequate volume and flow is available to the property to provide for fire protection requirements.
5. Fire hydrants shall be installed prior to final plat approval at each phase of development. The location of the hydrants shall be approved by the Director, Boone County Fire Protection District, and Consolidated Water.
6. The list of Allowed Uses shall be revised on the Final Plan to exclude uses that are inconsistent with the proposed restrictive covenants; e.g. Kennel or Hobby Kennel, Water Tower, Sewage Lagoon or Mechanical Treatment Plant where not approved by County Subdivision Regulations, Public Park, Place of Worship, and Family Day Care Home and Group Day Care Home.
7. Lot 5 shall be adjusted to meet the minimum lot depth requirement of 250-feet.

The final plan completed the A-2P rezoning process and was approved on 30 May 2017. The Final Plat of Arrowhead Lake Estates Plat 2 was denied by the Planning and Zoning Commission but was approved by the County Commission on October 10th, 2017.

This final plat re-configures one of the lots created by Arrowhead Lake Estates Plat 2, creating Lot 1A in place of former Lot 1.

The lot has direct access on to Arrowhead Lake Drive, a publicly-dedicated, publicly-maintained right-of-way. The applicant has submitted a request to waive the traffic study requirement.

The property is served by Consolidated Public Water Service District #1 for water service, Boone Electric for electrical service, and is located in the Boone County Fire Protection District.

The property is served by the City of Columbia for central wastewater treatment.

Staff recommends Approval of the Final Plat for Arrowhead Lake Estates, Plat 2-A.

5. Starting Five. S16-T46N-R12W. A-2. Starting Five LLC, owner. David T. Butcher, surveyor.

The following staff report was entered into the record:

The subject property is located on the south side of Palis Nichols Road approximately 900 feet south of the intersection of Webster Road and Palis Nichols Road. The overall property is 41.27-acres in size. This Final Plat proposes the division of a 10.45-acre portion of the property into 3 lots. The property is zoned A-2 (Agriculture) as is all the surrounding property which is all original 1973 zoning.

The proposed development will get access from frontage along Palis Nichols Road. A private access easement is found along the property line between Lot 1 & Lot 2 which serves three 10-acre tracts that comprise the remainder of the property.

The subject property is in Consolidated Public Water Service District #1 and will get water from existing 4-inch water mains along with some possible water main extensions. The property is in Boone Electric Cooperative, and Southern Boone County Fire Protection District. Fire hydrants may be required to serve the proposed lots.

Wastewater is proposed to be from on-site systems and a wastewater diagram was provided. The Health Department does caution that if a lagoon style on-site system is proposed for any of these lots it may be tricky to make it work.

The property scored 67 points on the rating system.

Staff recommends approval of the plat and waiver requests with the recognition that Lagoon style on-site wastewater systems may not work for the proposed lots.

Commissioner Koirtyohann made and Commissioner Martin seconded a motion to approve the items on consent agenda:

All members voted in favor.

VII. 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 request for Melloway was approved as recommended. Commission Order 419-2019 (rezoning) and Commission Order 420-2019 (review plan).

The rezoning request for Millers Inc was approved as recommended. Commission Order 421-2019.

The rezoning request for Williams was recommended denial by the Planning and Zoning Commission, the applicants did not appeal the decision.

Plats for Hartman, Westcott, Barry Estates Plat 1 and Jack's Ridge were approved. Commission Order 422-2019.

VIII. New Business

1. West Area Plan

Stan Shawver: Yesterday I received a letter from Tim Teddy with the City of Columbia requesting that the county participate in a West Area Plan, I still need to take it to the County Commission and I would expect them to ask that we move forward. This would be a process similar to the East and Northeast Area Plans. The process for each took about 18 months.

Chairperson Harris: Was there a specific area proposed?

Stan Shawver: Generally it is looking at an area west of the exiting city limits to going as far as Hickory Grove School Rd to the west; going as far north as Booth Lane and all the way to Route K to the south. There will probably be some staff interface that takes place to discuss those things. The way it was handled before is that there were a couple of Planning Commissioners that were delegated to participate and those are usually Commissioners that represent those areas, in this case those would be Commissioners Martin and Kurzejeski and there is always the possibility of other Commissioners sitting in.

Chairperson Harris: Do we anticipate we can get through the wind farm and subdivision regulations before this takes place or are we going to have all three going on?

Stan Shawver: Right now our priority is wind farm regulations. I would like to get the subdivision regulations done but I can see that going on the same time as the West Area Plan.

2. Wind Farm Update

Chairperson Harris: It has been a while since we have met regarding the wind farm regulations. Has staff had the chance to start finalizing those to get them to the point of public hearings?

Bill Florea: At the last wind farm regulations work session the Commission had asked staff to develop a flow chart of how the process works. Staff has been working on that.

Chairperson Harris: Was there any new mapping done on setbacks?

Stan Shawver: Every boundary that the Commission talked about we already had a map for. We don't want to distract the Commission from their regular activities. When we start mixing activities it becomes confusing. Our initial agenda for October included six rezonings but as we reviewed them they failed to make the agenda but they will likely come back in November or December.

Thad Yonke: November looks to be a full agenda, it is usually difficult to get extra items on the agenda for December so we are probably looking at January 2020.

Stan Shawver: We are probably going to have to have some extra meetings in between.

Chairperson Harris: If we have to have some extra work sessions that may be crunch time for us.

IX. Adjourn

Being no further business the meeting was adjourned at 8:16 p.m.

Respectfully submitted,

Acting-Secretary
Rhonda Proctor

Minutes approved on this 21st day of November, 2019