

TERM OF COMMISSION: July Session of the July Adjourned Term

PLACE OF MEETING: Roger B. Wilson Boone County Government Center  
Commission Chambers

PRESENT WERE: Presiding Commissioner Daniel K. Atwill  
District I Commissioner Karen M. Miller  
District II Commissioner Skip Elkin  
Director of Resource Management Stan Shawver  
Captain Chad Martin  
Senior Planner Bill Florea  
Joel Schnarre  
Barbi Thornhill-Schnarre  
Don Bormann  
Cindy Bowne  
Jason Thornhill  
Brian Schnarre  
Deputy County Clerk Cameron Clarke

The meeting was called to order at 9:34 a.m.

**\*Adjourned Term\***

**Resource Management**

**1. Request by Joel F. Schnarre to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 8.78, more or less, located at 9651 E Hwy CC, Centralia (appeal)**

Senior Planner Bill Florea read the following minutes from the Planning and Zoning Commission:

The minutes for the Planning and Zoning Commission meeting of June 21, 2012 along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

The property is located on the north side of State Route CC 1.5 miles west of Centralia. The tract is 8.78 acres in area; it is occupied by a single family dwelling and several outbuildings. The zoning for the property is A-1 Agriculture. Adjacent property is zoned as follows:

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

The Master Plan identifies this site as being suitable for agriculture and rural residential

land uses. No previous requests have been made on behalf of this property.

The subject tract is currently non-compliant with the existing zoning. It was created out of an approximate 255-acre parent tract in 1986 by deed transfer from the owner, Opal Walker Lorton to Jack A. Hargis and Caroline Hargis. The 1986 division was a violation of the Zoning Regulations minimum lot size requirement of 10-acres and the use regulations, which allow a single family dwelling on a minimum 10-acre tract.

The applicant and current owner purchased the subject property in May 2003. He seeks rezoning to allow platting of the property which would resolve both violations and enable closing of a pending sale of the property.

The Master Plan identifies a sufficiency of resources test for determining whether there are sufficient resources available for the needs of the proposed rezoning. The sufficiency of resource test provides a “gate-keeping” function. Failure to pass the test should result in denial of a request. Success in passing the test should result in further analysis. The resources used in the test can generally be broken down into three categories: utilities, transportation and public safety services.

#### Utilities:

- Water: The property is in Public Water Supply District 10. Water is available to the property through a six inch waterline. It has not been determined whether the flow and volume is adequate to provide fire protection.
- Sewer: There is no sewer available to the property.
- Electricity is provided by Boone Electric.

#### Transportation

The property has frontage on and direct access to State Route CC. The rezoning could result in two additional residential driveways onto Route CC, which would require permits from Missouri Department of Transportation.

#### Public Safety Services

The property is within 1.5 miles of the nearest fire station. Public safety services to this location should be adequate for the needs of the development.

#### Stormwater

Future development on the property is subject to the Boone County Stormwater Regulations.

#### Zoning Analysis

The Master Plan identifies this property as suitable for agriculture and rural residential use. The original A-1 zoning designation for this area has been in effect since 1973. There are only two tracts within a 1.3 square mile area around this property that do not meet the minimum 10-acre lot size. Therefore, it can be concluded that development and land use within the vicinity is in conformity with the A-1 zoning. Approval of the rezoning, as proposed, is out of character with the existing zoning and land use.

In addition, approval of an open A-2 for this property will enable that tract to be divided into 3 rural residential lots. This could be construed as a material change in fact that could be used to justify additional requests for A-2 in this area.

There are alternatives available to the applicant other than an open A-2 rezoning:

- Acquire 1.22 acres from the neighboring property owner to net ten acres, and then subdivide by administrative survey.
- A1-P: Work with the neighboring property owner to encumber an additional 1.22 acres then plat the 8.78 acre tract and 1.22 acre not for development tract. In this case, ownership and use of the neighboring land does not need to change.
- A2-P: This option could limit the number of tracts that could be created from the parcel to one. In this case, there would be no practical change in land use but would allow the 8.78 acre parcel to be platted.

The property scored 38 points on the rating system. Staff notified 3 property owners about this request.

Staff recommended **denial** of the rezoning, but noted that any of the three alternatives listed above would achieve the results desired by the applicant but not lead to further subdivision of the property, provide justification for other rezoning requests in the vicinity or disrupt the A-1 character of development.

The Planning & Zoning Commission conducted a public hearing on this request during their June 21, 2012 regular meeting. There were nine members of the commission present.

Following the public hearing, a motion was made to recommend denial of the request. The motion to recommend denial of the request passed by a 5-4 vote. The applicant has filed an appeal of the recommendation for denial to the County Commission.

Commissioner Atwill opened the public hearing on this item.

Joel and Barbi Schnarre were present to speak on behalf of this item as owners of the property. Mr. Schnarre stated we have a buyer for the property, and the lender and underwriters for the buyer have found this problem. Mr. Schnarre stated they are not willing to lend until this problem is fixed. Mr. Schnarre stated if we don't get this passed we will lose our buyer. Mr. Schnarre stated he spoke to Mr. Meador, who owns the ground to the north, and he told him he is unwilling to sell his property. Mr. Schnarre

stated we've done some research on what it will cost to go to an A-2 plan, and spoke with Don Bormann about it. Mr. Schnarre stated Mr. Bormann told him it would be in the vicinity of \$6500-7000 to do, and would take at least 2-3 months. Mr. Schnarre stated he bought this property unknowing that this was going on. Mr. Schnarre stated we've looked into seeing if the title insurance covers this, but the lawyer said it could be a long, drawn out process and take over a year. Mr. Schnarre stated there are also a lot of legal fees with that, so we're appealing this so we can move on with getting the loans taken care of on our new house. Mr. Schnarre stated the buyers are looking forward to moving out into the country and owning their own home.

Commissioner Miller asked if there is a restriction that they could put on the land restricting this to one tract, even though it's A-2 zoned.

Mr. Shawver stated they could do that through a deed restriction, but the County would have no input.

Commissioner Miller asked if we could create an order that would require that.

Mr. Shawver stated you can't put a restriction on it.

Commissioner Elkin stated he knows staffs' concern was that two additional residences could be put on this tract, and asked if that would trigger subdivision regulations, and stormwater and sewer systems.

Mr. Shawver stated they would be subject to the stormwater regulations. Mr. Shawver stated he thinks there would be minimal stormwater issues, but they would have to plat and go through everything to further subdivide the property.

Commissioner Elkin stated that would be cost prohibitive, so we're in the same boat if we go A-2P or just open.

Commissioner Miller asked if they would be required to have a fire hydrant if it was subdivided into three.

Mr. Shawver stated no, four lots or more is where the fire hydrant requirement comes in.

Commissioner Miller stated she hates that these guys are being held hostage for something that's not their fault. Commissioner Miller stated the title company should've caught that.

Mr. Schnarre stated typically this hasn't been an issue with lenders, but a lot of rules have been changed in the lending industry, and they've gotten really particular about what they take on. Mr. Schnarre stated they're afraid of sellability and the fact that if the home were to be destroyed, a permit couldn't be issued to rebuild it. Mr. Schnarre stated as this gets drug out, expenses rise including interest on loans.

Commissioner Miller asked if staff recommended these plans when he came in the first time.

Mr. Schnarre stated he sent his agent in because he was very busy with field work, and spoke briefly with him. Mr. Schnarre stated not much was mentioned to him.

Mr. Florea stated he spoke to Mr. Schnarre on the phone on May 15<sup>th</sup>, and we did talk about all these options.

Mr. Schnarre stated if it goes through straight A-2, no surveying needs to be done.

Mr. Florea stated it was established at the Planning & Zoning Commission that it would be required.

Mr. Schnarre stated it was also mentioned that it needed to be surveyed, and he found that to be incorrect. Mr. Schnarre stated he feels that swayed members of the commission.

Mr. Florea stated platting is surveying. Mr. Florea stated one of the options was to add enough to get to 10 acres, and then divide by administrative survey. Mr. Florea stated that still requires a survey. Mr. Florea stated we're not saying the property can't be sold, we're just saying we can't issue a building permit until it has been rezoned.

Commissioner Miller confirmed they don't have to survey it if they don't want a building permit.

Mr. Florea stated yes, but it's still not a valid record, although we don't pursue enforcement on that.

**Don Bormann** was present to speak on behalf of this item. Mr. Bormann stated there is no requirement for a plat if they go to straight A-2 zoning. Mr. Bormann stated what triggers the requirement for a plat or survey is when you subdivide, and this isn't a subdivision. Mr. Bormann stated this is about rectifying a problem that is there.

Mr. Shawver stated this lot was not created legally, and therefore is not a lot of record. Mr. Shawver stated to get it into the record it would need to be done. Mr. Shawver stated a lot of record is a lot on parceled land that was legally created in compliance with the land use regulations in effect at the time the instrument creating the parcel is recorded with the Boone County Recorder of Deeds. Mr. Shawver stated the zoning regulations have been in effect since 1973. Mr. Shawver stated this does not qualify as a lot of record, so to properly create it; it would need to be platted or surveyed in some fashion.

Mr. Bormann stated he would contend that the lot has been created; it's just a matter of trying to make it legal. Mr. Bormann stated it was created in 1986, and said it was

illegally created, but changing the zoning fixes that, and does not change the requirement for a survey. Mr. Bormann stated in 1980 the requirement was that anything 5 acres or more did not require a survey or plat at all. Mr. Bormann stated the way to correct this is to change the zoning.

Commissioner Elkin asked how this would be recorded.

Mr. Bormann stated by legal description, and this has a valid legal description.

Commissioner Elkin asked if there are other lots in the county that are just recorded by the legal description.

Mr. Bormann stated yes, many.

Commissioner Atwill asked how long this has been an 8.78 acre tract.

Mr. Shawver stated since 1986.

Mr. Schnarre stated we bought it in 2003.

Commissioner Elkin asked if there was a legal description in 1986.

Mr. Bormann stated yes. Mr. Bormann stated the description is surveyable.

Commissioner Atwill asked if Mr. Schnarre could speak to the owner to the west and try to purchase some of his land.

Mr. Bormann stated it's the same owner all the way around.

Commissioner Miller stated there seems to be a difference of opinion between Mr. Bormann and Mr. Shawver, and so her recommendation is to table this until the County Attorney can be present.

Commissioner Elkin confirmed it will be a legal lot after it is recorded by legal description.

Mr. Bormann stated there is no requirement when you change zonings to have a survey done. Mr. Bormann stated the only requirement for surveys is the platting requirements. Mr. Bormann stated this lot may not be a legal lot under the definition, but it would be a legal lot under A-2 zoning. Mr. Bormann stated the only reason for going to A-2P would be to restrict the number of dwellings that could be put on there. Mr. Bormann stated he could do the same thing with a deed restriction, but that's not enforceable by the county, just privately.

Commissioner Miller stated if the house burns down, we still don't have to issue a building permit to rebuild, because it's an illegal lot.

Mr. Shawver stated we can't, until the survey and plat.

Commissioner Elkin stated that's only if it's A-1.

Mr. Bormann stated if it's A-2 they can issue a building permit on it.

Commissioner Elkin stated they're saying if it's not a lot of record they can't, but Mr. Bormann's contention is that if it's recorded via legal description, it is a lot of record.

Mr. Bormann stated it's a lot of record now, just not a legal lot of record. Mr. Bormann stated if you change the zoning on it, it will be conforming.

Commissioner Elkin stated ok, so they could get a building permit.

Mr. Shawver stated not as the regulations currently read.

Mr. Bormann stated there have been a lot of non-conforming pieces in the past where building permits have been issued, in spite of the fact they weren't conforming.

Commissioner Atwill asked what the problem is with A-2P.

Mr. Bormann stated it would cost around \$6,000 and several months time. Mr. Bormann stated they spend \$6,000-7,000 up front, and then they find out whether or not they will be approved. Mr. Bormann stated he could still be turned down. Mr. Bormann stated he thinks the planning process is flawed because people are required to put all of their money into it in advance, without any idea if it will be approved.

Commissioner Atwill asked what would happen if we approved the request.

Mr. Shawver stated it will allow the sale to go through, and then there's the question of whether they will get a building permit. Mr. Shawver stated Mr. Dykhouse's opinion was that it would need to be platted. Mr. Shawver stated this will allow them to make plans for the property closing.

Mr. Bormann stated there is precedent for allowing building permits on non-conforming pieces of land.

Commissioner Miller asked for examples.

Mr. Bormann stated he's not familiar with all of them, but he knows there was one done not too far from here.

Commissioner Miller stated she needs examples, and said she can't just have hearsay. Commissioner Miller stated the people who are buying the property need to know what they will have to pay to have it platted if they buy it. Commissioner Miller stated she just

wants to clarify so everyone knows what they're getting into.

Commissioner Atwill stated he doesn't know if that's a concern of his. Commissioner Atwill stated if we approve this, it's a standalone piece of property in a big area. Commissioner Atwill stated it's impossible to make ten acres out of this, and it has been used as a single family residence. Commissioner Atwill confirmed we can't require a deed restriction.

Mr. Shawver stated the Commission can't put restrictions on zoning, only on the planning process.

Commissioner Atwill stated they could voluntarily do it. Commissioner Atwill asked how the process would be handled.

Mr. Shawver stated they put the deed restriction on, and if the buyer wants to split it into three lots, he can present the subdivision plat to us and we will have to process it.

Mr. Bormann stated the County cannot stop a subdivision plat, only the neighbors can sue to stop it.

Commissioner Atwill asked if the buyer would agree to such a restriction.

Mr. Bormann stated he would assume he would.

Mr. Schnarre stated he has.

Commissioner Elkin stated he thinks it would be very difficult from a financial perspective to develop this into three lots, which is the absolute most possible. Commissioner Elkin stated there is a 2/3 acre lake on the property, which would have to be taken out if they wanted three lots, and would cost even more. Commissioner Elkin stated he doesn't ever see anyone being able to afford making three houses.

Mr. Bormann stated you could make it two houses without a lot of difficulty, but three would be hard.

Commissioner Atwill stated if the current owner represents to the Commission that they will place a perpetual restriction on there, and then they didn't do that, we would have no recourse.

Mr. Shawver stated there would be no recourse to turn down a three lot subdivision in the future.

Commissioner Atwill stated the neighbors could sue.

Mr. Bormann stated yes, the County really has no place in it. Mr. Bormann stated the



title people will find it and could enforce it, but that's private. Mr. Bormann stated he knows there is a precedent for things like this being done. Mr. Bormann stated in 1980, there was a piece on the bass farm was rezoned from A-1 to A-2. Mr. Bormann stated the County Commission saw that an isolated A-2 zoning there made sense. Mr. Bormann stated that's what the A-1 and A-2 zoning is for.

Commissioner Miller stated the rules have changed many times in the past 30 years.

Mr. Bormann stated the problem with the plans is you have to speculate and put all of your money upfront.

Commissioner Elkin stated a lot of record is "a lot or parcel of land that is legally created in compliance with land use regulations in effect at the time the instrument creating the parcel would be recording a legal description with the Recording of Deeds."

Commissioner Elkin stated there are thousands of lots in Boone County that have only been created using legal descriptions. Commissioner Elkin stated in his opinion if this is rezoned it will be a legal lot of record.

Commissioner Miller stated she disagrees; her opinion is that it was created when it was originally created. Commissioner Miller stated she doesn't think you can make it a legal lot by recording it as a legal lot.

Commissioner Elkin stated if it's A-2, it's a legal lot. Commissioner Elkin stated the kicker here is the instrument creating. Commissioner Elkin stated they're saying it has to be platted, but we have precedents with lots that were only recorded by legal description. Commissioner Elkin stated if it was zoned A-2; it would be a legal instrument for recording.

Mr. Shawver stated if it had been zoned A-2 when this was done, it would've been a legal lot.

Commissioner Elkin stated all they're asking for is A-2 zoning, and we've already got a legal instrument recorded.

Mr. Shawver stated it says at the time.

Mr. Florea stated you can't create an A-2 tract by legal description now.

Commissioner Elkin stated he thinks we're splitting hairs.

**Jason Thornhill** asked if any consideration was being made that someone from the Recorder of Deeds allowed this to be recorded as a legal lot.

Commissioner Miller stated they don't have any idea what is being recorded; you can record anything. Commissioner Miller stated the Recorder has no way of proving if it's

legal or not legal.

Commissioner Elkin stated he would guess there are probably dozens of these we don't know about.

Mr. Bormann stated it might've been caught, but not by the Recorder. Mr. Bormann stated the Assessor should've picked it up, unless they're not paying attention to the zoning either.

Commissioner Miller stated that's not what they're required to do. Commissioner Miller stated she thinks the title company is responsible.

Mr. Bormann stated there was a realtor involved in this as well, and he should've known too.

Commissioner Elkin stated lets back up and assume the tract doesn't exist today, and it's part of the big farm, and they want to request A-2 zoning. Commissioner Elkin asked how they would request an A-2 zoning on that tract of land according to the definition of a lot of record.

Mr. Shawver stated they would have to provide us with a legal description in order to get it on the zoning agenda. Mr. Shawver stated they would have to have a subdivision plat done to transfer the property.

Mr. Bormann stated the key there is to transfer the property. Mr. Bormann stated if they didn't transfer the property, they could get the A-2 zoning without platting.

Commissioner Elkin asked what would happen if they didn't want to transfer the property.

Mr. Shawver stated they could do that, but at some point they will probably want to transfer it. Mr. Shawver stated they could do a family transfer without it being platted. Mr. Shawver stated we couldn't find anything about this ever being a family transfer.

Commissioner Atwill stated we want to keep it from being subdivided, but we require the platting to show subdividing.

Mr. Florea stated we don't want to see it further subdivided.

Commissioner Atwill confirmed an owner that wants to have it further subdivided would have to go through the process.

Mr. Shawver stated they would have to have it surveyed, and go before Planning and Zoning.

Commissioner Atwill stated okay, so this isn't the end of the road, and we don't forever waive the right to keep it from being subdivided.

Commissioner Miller stated if it meets the regulations as they're spelled out, we have no choice but to approve the request.

Ms. Schnarre stated they don't want to subdivide it; they want to keep it as one piece.

Commissioner Miller stated you need to fix things when you make this change, not down the road.

**Cindy Bowne** was present to speak on behalf of this item. Ms. Bowne stated she owns property about a mile and a half down the road, farms the property across the road, and used to farm the property all around the tract. Ms. Bowne stated she's very familiar with Mr. Meador, and could've told you he won't sell an inch of his land. Ms. Bowne stated he's a farming land developer. Ms. Bowne stated Mr. Meador owns a lot of land around CC. Ms. Bowne stated expanding the lot was never a reality. Ms. Bowne stated she spoke to Fritz, and he said he would be willing to put it into the contract to limit it to one dwelling, and said this happens a lot in northern Boone County. Ms. Bowne stated there is A-2 zoning along CC to the east. Ms. Bowne stated the first parcel you see has one house on it. Ms. Bowne stated there is crop land south of CC zoned A-2. Ms. Bowne stated she doesn't know why it was set up that way.

Commissioner Miller stated if it's original zoning that's what the land owner requested at the time.

Ms. Bowne stated it's not unheard of to have A-2 out there. Ms. Bowne stated the pond on the property is spring fed, and said you won't be filling in that pond.

Commissioner Elkin stated there goes the third lot, unless you want a water fountain in your living room.

Ms. Bowne stated she's not going to say there isn't a possibility for two lots there. Ms. Bowne stated the only recourse she knows of was to tell them to ask for A-2 zoning. Ms. Bowne stated she's familiar with the A-2 plan. Ms. Bowne stated if you go to the northwest up Dinwiddy Road, there is a 4.85 acre lot with one house I own zoned A-1. Mr. Bowne stated we tore down the house, built a new one, and got a building permit for it. Ms. Bowne stated she was skeptical, but spoke with planning many times. Ms. Bowne stated there is your precedent right there. Ms. Bowne stated we weren't going to farm the dwelling area, so we sold it to a buyer who needed a home. Ms. Bowne stated we have since bought that back.

Commissioner Miller asked when all of this was done.

Ms. Bowne stated last year.

Commissioner Miller asked Mr. Florea and Shawver to explain that.

Mr. Florea stated it was a 2010 building permit. Mr. Florea stated he spoke with the technician and determined it was a mistake to approve it.

Ms. Bowne stated she doesn't want to see a house up there empty. Ms. Bowne stated if they decided to rent it there are some problems with that. Ms. Bowne stated she has two rental properties, and you have to have very good renters which are very hard to find. Ms. Bowne stated this was their home, now they've built a new home and someone else would like to make it their home. Ms. Bowne stated it's a very nice, older home.

Commissioner Atwill confirmed in the future, the worst case scenario is that three houses are built on this eight acre tract. Commissioner Atwill stated so what.

Ms. Bowne stated that is a great stretch of road without curves. Ms. Bowne stated if you had to put in two more driveways it wouldn't be a big deal. Ms. Bowne stated the sewage is all lagoons, unless you put in a sand system. Ms. Bowne stated there is a big water supply line that goes down CC.

Mr. Florea stated the staffs' concerns aren't having additional homes out there; it's the precedential nature of this. Mr. Florea stated this could be a justification for future rezoning.

Commission Elkin stated he would have a different perspective if this was a clean, open rezoning request from an open farm tract.

Commissioner Atwill stated he knows a little bit about precedent in the law, and someone might say something is precedent, but the facts and circumstances of each case are important in determining if the precedent applies. Commissioner Atwill stated the facts and circumstances here indicate we ought to let this thing go through and allow these people to move on. Commissioner Atwill stated we're at a point where red tape can just about destroy us, and this is red tape.

Commissioner Elkin stated he thinks these little quirky instances are why we have these open zoning designations. Commissioner Elkin stated ideally it would be nice to have every piece of land in Boone County planned zoning, but there are certain situations. Commissioner Elkin stated it will be very difficult to divide this up from a dollars and cents standpoint. Commissioner Elkin stated going from one house to three houses, so what.

Commissioner Miller stated she's not opposed to the A-2; her only concern is with the replatting. Commissioner Miller stated as we work on subdivision regulations we're looking at requiring surveys because people do these descriptions, and sometimes they go right through a house. Commissioner Miller stated her only concern is cleaning this up

for the future. Commissioner Miller stated she thinks the County Attorney needs to tell us if it needs to be platted or not.

Ms. Bowne stated they're asking to get this A-2 so it has a semblance of a legal lot. Ms. Bowne stated if they wanted to divide it, they would certainly have to survey it.

Mr. Florea stated yes, but it still needs to be platted.

Commissioner Miller stated that's why she wants the County Attorney's advice on what we need to require.

Ms. Bowne asked if it would need to be replatted before it was rezoned to A-2.

Mr. Florea stated no.

Ms. Bowne stated that's what they're asking for; they're not asking to develop it.

Mr. Florea stated this started as a request for written confirmation from our office that they could rebuild the home on their property. Mr. Florea stated that requires two steps, including platting. Mr. Florea stated we can't fulfill the original request.

**Jason Thornhill** stated he had conversations with multiple people in Resource Management and was told if the house were destroyed, there was a precedent for approving a building permit to rebuild. Mr. Thornhill stated the underwriter won't allow a loan to be sold if you can't rebuild. Mr. Thornhill stated he asked for this precedent in writing to give to the underwriter, but no one would put it in writing.

Mr. Florea stated that actually applies to non-conforming lots, which is a legal lot that is made illegal by the change in zoning. Mr. Florea stated that doesn't apply in this case.

Mr. Thornhill stated he thinks everyone is beginning to see now that we've talked about this for an hour and done fourteen circles around that none of these mistakes are the sellers fault. Mr. Thornhill stated if there is a reason for an exception that doesn't set precedent, this is it. Mr. Thornhill stated there are multiple ways to attempt to fix this, and the only way that can be done is very expensive, and takes too much time. Mr. Thornhill stated this is an opportunity to fix something in the system.

**Brian Schnarre** was present to comment. Mr. Schnarre stated when planning and zoning went into effect, the farmers fought for this ten acre rule. Mr. Schnarre stated they fought for it, because they thought it would help save farm land from going into development, but in reality it has done the opposite. Mr. Schnarre stated it seems like we're getting overzealous in enforcing this ten acre rule. Mr. Schnarre stated these zoning requirements aren't doing what they were intended to do. Mr. Schnarre stated in his opinion, if there were three houses put on this tract, it would save 20 acres of farmland somewhere else.

Joe Schnarre stated he would like to say that we would be willing to put a restriction on the deed.

Commissioner Atwill stated he thinks that's important, and closed the public hearing on this item.

Commissioner Elkin stated he thinks situations like this are why we still have open zoning, and said he's comfortable with this. Commissioner Elkin stated in the worst case there would be two dwellings on this tract, but from a cost standpoint he doesn't see how they could even make that work. Commissioner Elkin stated with a deed restriction, I'm very comfortable with moving forward to approve this. Commissioner Elkin stated if anything else comes in, it will be a whole different discussion.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby **approve** the request of Joel F. Schnarre to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 8.78, more or less, located at 9651 E Hwy CC, Centralia.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order # 321-2012**

**2. Request by Debra Diller to revise a permit for an Equine Boarding Facility on 13.1 acres, located at 5950 N Boothe Ln., Rocheport (tabled following public hearing on 5/1/12).**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby **approve** the request by Debra Diller for a permit for an Equine Boarding Facility and adopt the attached Findings of Fact and Conclusions of Law relative to a conditional use permit on 13.1 acres, located at 5950 N. Boothe Ln., Rocheport. The permit is issued with the following conditions:

- a) The structures utilized by this use be brought into compliance with Boone County's building code and the fire code to the satisfaction of the Director of Resource Management and the Boone County Fire Protection District.
  - Structure to be left open except for the side enclosed by stables
  - Structure may only be used in compliance with the Utility Use Group and imposed conditional use permit conditions.
- b) Limited to 10 horses, including owner's horses.
  - Any horse present on the property for more than three continuous days shall be deemed a boarded horse and count towards the 10 horse limit.
- c) Operating hours 7:30 AM to 9:00 PM.
- d) Manure and other waste material shall be disposed of in an appropriate manner so as to create no impact to adjacent properties.

- e) Access drive at least 18' wide to allow two vehicles to pass.
  - Access drive improvements to extend 50' past tract driveway.
  - All improvements are at applicant's expense unless other users agree to share in the cost.
  - Driving surface to be treated with magnesium chloride in order to control dust on an annual basis at the applicant's expense.
  - Magnesium chloride dust control to be applied from the intersection of the driveway with Boothe Lane a minimum distance of 528' (.10 mile) to the east.
- f) Provide off street parking for 5 vehicles.
  - Off street parking and interior driveway to be dust free.
- g) Portable toilet to be on site.
- h) Any lighting is to be directed inward and downward.
  - i) No third-party rental of the facility
- j) No parties.
- k) Plant and maintain two rows of red cedar trees or other suitable evergreens on each side of the under roof riding facility to break up silhouette of the building.
  - Trees are to be no more than 30 feet apart.
  - Trees are to have a minimum diameter of 3 inches at grade.
  - Planting to be completed by Nov. 1, 2012.
- l) Revised access and maintenance easement submitted prior to operation.
  - Revised access and maintenance easement to be recorded at applicant's expense with the Boone County Recorder of Deeds.
- m) Amplified sound system not permitted.
- n) No horse trailers stored on site.

Commissioner Elkin seconded the motion.

The motion carried 3 to 0. **Order # 322-2012**

### **3. Budget amendment for Angel Lane project (first reading)**

Director of Resource Management Stan Shawver was present on behalf of this item. Mr. Shawver stated this is part of the reallocation of previously committed funds for Ashland.

Mr. Shawver stated these were from the old revenue sharing programs. Mr. Shawver stated about \$100,000 is being redirected. Mr. Shawver stated this particular amendment requires some testing to determine conditions and to make sure there is a good mix. Mr. Shawver stated there is a \$5,000 commitment up front for this.

Commissioner Atwill stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading after the 10 day hold required for budget amendments with an appropriate order for approval.

**4. Budget amendment to reallocate prior year's funds that were granted for projects that were not completed (first reading)**

Director of Resource Management Stan Shawver was present on behalf of this item. Mr. Shawver stated this is a similar situation with Hallsville. Mr. Shawver stated there is about \$125,000 left over. Mr. Shawver stated they are from 2008-2009. Mr. Shawver stated they are going to overlay some roads.

Commissioner Atwill stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading after the 10 day hold required for budget amendments with an appropriate order for approval.

**Sheriff's Department**

**5. Accept 2013 Deputy Sheriff Salary Supplementation grant funding (first and second reading)**

Captain Chad Martin was present on behalf of this item. Captain Martin stated the Sheriff's Department is requesting Commission approval to accept the 2013 Deputy Sheriff Salary Supplementation Fund. Captain Martin stated we received less than we applied for, and have gone through the process to amend the application to match the award. Captain Martin stated it will be a yearlong program, and said they are working with the Auditor's and Clerk's offices to figure out how to add it to the payroll.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby accept the 2013 Deputy Sheriff Salary Supplementation grant funds from the Department of Public Safety, in the amount of \$82,878.87.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order # 323-2012**

**Purchasing**

**6. Cooperative Contract: 3-110721RJ – 10' Reversible Snowplow (first reading)**



Commissioner Elkin read the following memo from the Purchasing Department:

Purchasing and Public Works request permission to utilize the Missouri Department of Transportation contract 3-110721RJ to purchase one (1) 10' Reversible Snowplow from HENKE Manufacturing Corporation of Leavenworth, Kansas.

Total cost is \$8,947.00 and will be paid from department 2040 – Public Works Maintenance Operations, account 91300 – Machinery & Equipment. \$9,700.00 was budgeted for 2012.

Commissioner Atwill stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available Commission meeting with an appropriate order for approval.

**7. Cooperative Contract: C112055004 – 2013 Ford Police Interceptor Sedan (second reading, first read 6/28/2012)**

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the utilization of State of Missouri cooperative contract C112055004 – 2013 Ford Police Interceptor Sedan with Joe Machens Ford. It is further ordered the Presiding Commissioner is hereby authorized to sign said contract. In addition, the surplus disposal of a totaled 2011 Crown Victoria patrol car, fixed asset tag #17802 is approved by giving it to the insurance company. Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order # 324-2012**

**8. Surplus Disposal of a light bar (second reading, first read 6/28/2012)**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request by the Sheriff's Department to dispose of a Whelen LED Light Bar, asset tag 16973. The Sheriff's Department will be trading this equipment for credit at Professional Sound and Lighting.

Commissioner Elkin seconded the motion.

The motion carried 3 to 0. **Order # 325-2012**

**Commission**

**9. Sellenriek Release (first reading)**

Commissioner Miller stated this has to do with the water damage at the Boone County Annex. Commissioner Miller stated the contractor damaged water lines and caused flooding in the basement, and the release contemplates a payment from the contractor's

insurer in the amount of \$12,532.02. Commissioner Miller stated this payment will be processed through the County Clerk's Office, and in coordination with MOPERM will result in a partial reimbursement of the County's damages, including a pro rata share of the County's normal deductible with MOPERM. Commissioner Miller stated Susan Wells will coordinate the processing of this claim with MOPERM.

Commissioner Atwill stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available Commission meeting with an appropriate order for approval.

**10. Approve 2<sup>nd</sup> Quarter Minutes (first and second reading)**

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the Boone County Commission Minutes during the II Quarter beginning on 4/02/2012 through 6/30/2012.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order # 326-2012**

**11. Public Comment**

**12. Commissioner Reports**

The meeting adjourned at 10:42 a.m.

Attest:

\_\_\_\_\_  
Wendy S. Noren  
Clerk of the County Commission

\_\_\_\_\_  
Daniel K. Atwill  
Presiding Commissioner

\_\_\_\_\_  
Karen M. Miller  
District I Commissioner

\_\_\_\_\_  
Skip Elkin  
District II Commissioner