

TERM OF COMMISSION: July Session of the April 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 Miller
District II Commissioner Janet Thompson
Director, Resource Management Stan Shawver
County Counselor C. J. Dykhouse
Public Health Supervisor Kala Wekenborg
Deputy County Clerk Mike Yaquinto

The meeting was called to order at 7:00 p.m.

Health Department

1. Public Hearing on adoption of a new County Food Code

Kala Wekenborg said this is a result of the 3-C work session in May. This is the first of three public comment sessions for the adoption of the Boone County Food Code. The state of Missouri adopted a new state Food Code in September of 2013. It is based on a FDA model which is based on current science and research. It is used for state, local and municipal regulators nationwide to establish a uniform inspection for food safety. The FDA does seek input from academia, regulatory agencies and industry for the establishment of these model codes.

The goal is to align the Boone County code with the current science based code used by the state of Missouri. Letters have been sent out to all County food establishments notifying them of the three public comment sessions with a link to the proposed code and the changes from the current code. Additionally, a news letter was sent to all food establishments in December of 2013 outlining that this change would be coming.

Major technical changes include:

- Hot holding temperature dropping from 140 degrees to 135 degrees
- Defining major food allergens when used in items such as milk, eggs, fish, nuts, soybeans and wheat
- A clear definition of what a potential hazardous food is
- Adding Norovirus (Cruise Ship Virus) to the list of reportable illnesses

This proposal was presented to the Board of Health on March 13, 2014 and the Board was in favor of adopting the state code and the FDA model code. Once again, this is the code used by the state and is the model code established by the FDA.

There were no questions as Commissioner Atwill said most of the issues were covered in the 3-C work session.

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to comment on the proposed new Food Code. There were no speakers and Commission Atwill closed the Public Hearing.

Commissioner Atwill confirmed that the next Public Hearing will be Monday, July 7th at 9:30 a.m.

Resource Management

2. Public Hearing and request by Ralph and Mary Ann Gates to rezone from A-1 (Agriculture) to A-1P (Planned Agriculture) and approve a review plan on 20 acres, more or less, located at 12055 E St. Charles Rd., Columbia.

Stan Shawver read the following Staff Report:

This request was considered by the Planning & Zoning Commission during their June 19, 2014 meeting.

The minutes for the Planning and Zoning Commission meeting of June 19, 2014, along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

The subject property is approximately 150 feet to the west of the county boundary with Calloway County, near the intersection of Johnson Lane and Saint Charles Road. The rezoning request covers the properties owned by Ralph Gates and Jason Peck, totalling 20.57 acres. The properties have several sheds, a barn, and a house present. The properties are zoned A-1(Agriculture), and surrounded by A-1 zoning. This is all original 1973 zoning.

The proposal is to take advantage of the 20.57 acres of density present on this properties and under an A-1P(Planned A-1) rezoning and review plan, use the 1 dwelling unit per 10 acre density, and create two lots. The A-1P plan proposes one 7.07 acre lot and on 12.86 acre lot.

The Boone County Master Plan has indicated that this property is suitable for agricultural and rural residential land uses. The master plan also designates a sufficiency of resources test for the approval 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.

Utilities: The property is located in Public Water Service District #9, the Boone Electric Cooperative service area, and in the Boone County Fire Protection District. There is existing service to the house on proposed Lot 2.

Transportation: Proposed lot 2 has direct access on to St. Charles Road and Johnson Lane, both publicly-dedicated, publicly-maintained roads. Proposed lot 1 has direct access on Johnson Lane, a publicly-dedicated and publicly-maintained road.

Public Safety: The property is located in the Boone County Fire Protection District, whose closest station is at Lake of the Woods, approximately 5 miles to the west.

Zoning Analysis: The A-1P zoning district is designed to allow for lots that are smaller than 10 acres in size by securing sufficient density to permit the 1 residence per 10 acres under the plan. This proposal is designed to take advantage of the available density to create one slightly smaller lot than the minimum lot size for the zoning district, but not affect the overall density of the area.

The property scored 31 points on the rating system.

Staff recommended approval of the request.

The Planning & Zoning Commission conducted a public hearing on this request during their June 19, 2014 regular meeting. There were seven members of the commission present during the meeting.

Following the public hearing, a motion was made to recommend the approval of the rezoning request. That motion received unanimous support. A motion was then made to approve the Review Plan. That motion received unanimous support.

The Commissioners had no comments or questions at this time and Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak in support of this request.

Steve Proctor said he is a professional land surveyor and is representing the Gates. The reason for doing this is that the Gates want to purchase some additional property and then adjoin it to their present property. This will be for recreational purposes and maybe some light agriculture.

There were no comments or questions.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the request of Ralph and Mary Ann Gates to rezone from A-1 (Agriculture) to A-1P (Planned Agriculture) on 20 acres, more or less, located at 12055 E St. Charles Rd., Columbia.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #306-2014**

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the request by Ralph and Mary Ann Gates for a Review Plan on 20 acres, more or less, located at 12055 E St. Charles Rd., Columbia.

Commissioner Atwill seconded the motion.

The motion carried 3 to 0. **Order #307-2014**

3. Public Hearing and request by North Battleground LLC to rezone from A-2 (Agriculture) to R-SP (Planned Single Family Residential) and approve a Review Plan and Preliminary Plat for North Battleground on 37.92 acres, more or less, located at 8321 E St. Charles Rd., Columbia.

Stan Shawver read the following Staff Report:

The property is located on the north side of St. Charles Road approximately 1700-feet

west of Route Z. The parent tract is 38 acres in area and is occupied by a single family dwelling and several farm buildings. The current zoning for this property is A-2, which is the original zoning. Adjacent property is zoned as follows:

North - A-2

South – A-2

East – A-1

West – A-2 and AR-P

The Northeast Columbia Area Plan identifies this site as being suitable for residential land uses. A similar development plan for this property was on the Planning and Zoning Commission Agenda in November, 2011 with 100 single family dwellings at a gross density of 2.7 homes per acre. That request was withdrawn prior to the Commission making a recommendation. A second plan was proposed in February 2012 which was denied by the Commission. The applicant appealed the denial to the County Commission. The request was tabled by the County Commission.

The current application includes a request to rezone the property to Planned Single Family Residential (RS-P) along with the required review plan and a preliminary plat. The proposal is to create up to 88-residential lots varying in size from about 8,300 to 27,000 square feet. If approved as proposed, the resulting gross density will be 2.3 homes per acre.

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 9.

Sewer: The City of Columbia and The Boone County Regional Sewer District have a connection agreement for the service area that includes North Battleground PRD. The Developer has entered into an annexation agreement with the City of Columbia as a condition of receiving sewer service.

Electricity is provided by Boone Electric.

Transportation:

The development proposes two new public street connections to St. Charles. All lots within the development will have frontage on and direct access to the internal street network. The proposed street layout is interconnected with undeveloped property to the east and west. County regulations require subdivision streets to be stubbed out to adjacent properties in order to provide an interconnected road network. The streets in North Battleground are stubbed to adjacent properties at three locations All internal streets will be designed and built to Boone County Standards .

In October 2012 the County published the Boone County Northeast Transportation Plan that was prepared by the firm of Crawford, Bunte and Brammeier. The plan projected future land use and the development generated traffic in the area. It also defines a road network to accommodate the projected traffic. The plan also estimated the cost of the necessary road improvements and generated a per unit cost for the various types of development. The per unit cost is a proportional dollar amount that would be necessary to mitigate the impacts that are directly attributable to development in the study area. The plan is silent regarding the method for obtaining the mitigation fee but suggests that there may be several options including cash payment or construction of segments of the identified roadways.

The plan also identified future rights of way and suggested that right of way dedications should be obtained as development occurs. One of the future roads identified in the plan aligns with the north property line of this development. The developer has agreed to

dedicate a half width right of way along the north boundary of the development for future roadway purposes.

Public Safety Services:

The property is within 2.3 miles of the nearest fire station. Public safety services to this location should be adequate for the needs of the development. However, there may be increased response times due to inadequacies of existing roads. Comments received from the Boone County Fire District indicated that the internal street network is inadequate to meet the International Fire Code Appendix D section 107 which states, "Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with separate and approved fire apparatus access roads and shall meet the requirements of Section D104.3."

Section D104.3 Remoteness. "Where two access roads are required, they shall be placed a distance apart equal to not less than one half the length of the maximum overall diagonal dimension of the property or area served, measured in a straight line between accesses."

The developer and the Fire District have agreed to address this issue by staging the development. The southern portion of the development will be the Stage 1 and will include Lots 1-12, 54-88. The northern portion of the development will be Stage 2 and include all of the remaining lots. Stage 1 will be considered to meet the Fire Code Access standard. No portion of Stage 2 may be developed until a second access, in compliance with the Fire Code, is developed. Development of the Stages may be phased in accordance with the phasing plan on the Development Plan.

Stormwater:

The development is subject to the Boone County Stormwater Regulations. The current annexation agreement, which is necessary in order for the development to receive sewer

service, includes a requirement that the development must comply with Columbia Stormwater Regulations. Columbia has revised its policy regarding extraterritorial enforcement of its storm water regulations. A new annexation agreement may be sought by the developer that reflects the change in policy.

Zoning Analysis:

The Northeast Columbia Area Plan identifies this property as suitable for residential use but does not specify an appropriate density. The subject property is less than ½ mile west of Route Z, which is the eastern boundary of the area designated for residential use in the Northeast Columbia Area Plan.

The original zoning for this area is A-2 and several tracts have been developed at that density on the south side of St. Charles. Copper Creek, the development adjacent to the west, was rezoned from A-2 to AR-P in 1999. That was the first rezoning in this area since zoning was established in 1973. Therefore, Copper Creek can be seen as the foundation in establishing a new character of development. Copper Creek was approved as a planned residential development with lots ranging in size from 2.6 acres to 1.1 acres. The gross density in Copper Creek is six-tenths (0.55) of a dwelling unit per acre: approximately one third of the potential density allowed in an AR-P district.

The proposed density of North Battleground is 2.3 dwelling units per acre: approximately half of the potential density allowed in an RS-P district.

The construction of a new high school, elementary school, sewer trunk line and roundabouts on St. Charles at Clark Lane, Lake of the Woods and Route Z are material facts that have occurred since the approval of Copper Creek and which change the outlook for potential density in this area. These new elements of infrastructure indicate that a policy of increased density would be appropriate to this area. However, this policy should not be undertaken to the detriment of existing property owners. New

development in this area should tend to blend with the scale and pattern of existing development.

Neighborhood objections at the previous hearings were raised regarding the density and quality of housing in North Battleground. With appropriate design, the compatibility issues between the proposed and existing development can be mitigated.

The developer has addressed these stated compatibility issues by:

Reducing the total number of lots from 100 to 88

Increasing the size of lots directly adjacent to Copper Creek

Establishing a landscape buffer adjacent to Copper Creek

Proposing minimum housing standards and use restrictions in the restrictive covenants

The property scored 78 points on the rating system. Staff notified 40 property owners about this request.

Staff recommended approval of the rezoning, review plan and preliminary plat subject to the following conditions:

1. Prior to approval of the final development plan the developer shall enter into a development agreement, addressing traffic impact mitigation, with Boone County.
2. In order to comply with Fire Code access requirements the development shall occur in two stages. Stage 1 will include Lots 1-12 and Lots 54-88, C1, C2 and C3, a total of 47 building lots and 3 common lots. Stage 2 will include the remaining lots. Development of Stage 2 shall not occur until a second remote access is developed meeting the Fire District's approval. The note on the plan addressing phasing shall be modified to meet this condition.
3. Prior to final plan submission the developer shall submit preliminary water

quality BMP calculations on Boone County Stormwater Forms for review and approval by the Director. The Director may require submittal of a revised review plan and preliminary plat if warranted by the findings of the preliminary calculations.

4. Prior to final plan approval the developer may submit a new annexation agreement with Columbia that does not require compliance with Columbia's Storm Water Regulations.

5. If conditions require shifting the location of the unnamed future collector street on the north end of the development, the Director may approve amendments to the Review and/or Final Development Plans that are necessary to accommodate the shift in road alignment.

The Planning & Zoning Commission conducted a public hearing on this request during their June 19, 2014 regular meeting. There were seven members of the commission present during the meeting.

Following the public hearing, a motion was made to recommend the approval of the rezoning request. The motion passed by a 6-1 vote. A motion was then made to approve the Review Plan. That motion also passed with a 6-1 vote.

The Commissioners had no comments or questions at this time and Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on behalf of this request.

Tim Crockett said he is the representative on this request and said that the Staff Report was very comprehensive. The project was originally submitted in 2011. There have been several versions since that time. It started out with 100 units and before that it was much more with duplexes and multi-use development. Since then, the duplex and multi-use requests have

been removed and this has reduced the density and the units down to 88.

Much has happened since the original concept in 2001. There is now a High School and Elementary School which has drastically changed the area. We are aware of the concerns of the existing residents and the size of their lots. For that reason, we are trying to provide a transition from the existing development to this new development by adding screening and buffering to assist in the transition from the larger lots to the smaller lots.

The development has several conditions which have been discussed with staff. We are in agreement with each one of them. We understand the fire code. This will be a phased development and there is a need to provide other access for the back portion that will be developed. As for stormwater, we will be reporting back to Resource Management with our calculations illustrating we will meet all the stormwater regulations for the site.

The bigger item is the traffic issue. There has been a traffic study performed here and a network of roads to service the area is in the works. The impact of those roads and when and how they are built is still up in the air. We are in agreement, before a final plan is brought back to Commission, there needs to be a development agreement that addresses what our share of those offsite improvements would be; cash or providing roadway improvements. Don't know just yet. This was a last minute issue and it will need further study if the review plan advances. It will be justifiable to take the time and effort to work with County staff to come to an agreement.

Commissioner Miller said a big concern is the lack of sidewalks and has this been discussed since the last P & Z Meeting.

Mr. Crockett said it has not. There have been discussions about sidewalks from this development to the high school on the north side of St. Charles Road. Our development would enter into an agreement with the county to participate. We are in full agreement the need to work with staff. This was not explored too much unless we could get to this stage of the process. It would benefit our development as well as the neighbors to the west.

Commissioner Atwill asked for this area to be defined on the overhead viewer and asked

about the distance to the high school.

Mr. Shawver said the distance is about 2,000 feet.

Commission Miller asked if staff has looked into the right-of-way availability.

Mr. Shawver said that when Copper Creek was platted, there was a requirement for 50 feet and there is adequate right-of-way available for the sidewalk. The transportation study, when conducted, did not consider sidewalks. It was strictly on the road network. Exploring whether a sidewalk is appropriate mitigation towards the traffic study, allocating time and resource, was not a factor until there was a decision made on this issue.

Commissioner Miller said that unfortunately she did not envision kids walking in the "country" when the traffic study was proposed. She thought they would be taking busses to school.

Commissioner Thompson said that any study addressing traffic and the mitigation with Boone County will need to encompass the sidewalk issue.

Mr. Shawver said that it would do that.

Mr. Crockett concurred with Mr. Shawver.

Commissioner Atwill said that when this first came up, he was concerned about the traffic on St. Charles and since then, the roundabout has been constructed and the project to extend Clark Lane seems to be a priority with the city which will steer traffic away from St. Charles.

Commissioner Atwill asked if there is anyone else present that would like to speak for or against this issue. There were no additional speakers and Commissioner Atwill closed the Public Hearing.

There were no further comments or questions from the Commissioners.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request by North Battleground LLC to rezone from A-2

(Agriculture) to R-SP (Planned Single Family Residential) on 37.92 acres, more or less, located at 8321 E St. Charles Rd., Columbia.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #308-2014**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request by North Battleground LLC for a Review Plan for North Battleground Development on 37.92 acres, more or less, located at 8321 E St. Charles Rd., Columbia **with the following conditions:**

1. Prior to approval of the final development plan the developer shall enter into a development agreement, addressing traffic impact mitigation, with Boone County.
2. In order to comply with Fire Code access requirements the development shall occur in two stages. Stage 1 will include Lots 1-12 and Lots 54-88, C1, C2 and C3, a total of 47 building lots and 3 common lots. Stage 2 will include the remaining lots. Development of Stage 2 shall not occur until a second remote access is developed meeting the Fire District's approval. The note on the plan addressing phasing shall be modified to meet this condition.
3. Prior to final plan submission the developer shall submit preliminary water quality BMP calculations on Boone County Stormwater Forms for review and approval by the Director. The Director may require submittal of a revised review plan and preliminary plat if warranted by the findings of the preliminary calculations.
4. Prior to final plan approval the developer may submit a new annexation agreement with Columbia that does not require compliance with Columbia's Storm Water

Regulations.

5. If conditions require shifting the location of the unnamed future collector street on the north end of the development, the Director may approve amendments to the Review and/or Final Development Plans that are necessary to accommodate the shift in road alignment.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #309-2014**

4. Public Hearing and petition submitted by James C. and Melanie R. Abernathy for permission to vacate and re-plat Lot 2 of Wilhoit Subdivision as shown in Plat Book 40, Page 113 of Boone County Records along with Lot 2A as shown by the Lot Line Adjustment survey recorded in Book 4206, Page 111 of Boone County Records, and located at 8920 E St. Charles Rd., Columbia

Stan Shawver said this is a petition to vacate and re-plat Lot 2 and Lot 2A of the Wilhoit Subdivision on St. Charles Road. Mr. Abernathy has requested this so he can have his property platted into two lots. One would be 10 acres and the other about four acres. The intent is to build a house on the 10 acres.

Mr. Shawver cited Subdivision Regulation 1.8.1.3 and said that all property owners within 500 feet have been notified and in accordance with County policy, the petition is ready for Commission to consider a Public Hearing.

Commissioner Miller confirmed that it will be taking one lot and making two and inquired as to the access for the second lot of 10 acres.

Mr. Shawver said that would be done by easement.

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak in support of this petition.

David Butcher of Crockett Engineering said that the petition is to create two lots and to build a house on the larger, 10 acre lot. His son will live in the existing house that will be on the smaller lot and there would be an easement to access the 10 acres. This will not change the character of the neighborhood. It is a large acreage property in the back and the only thing visible from the road will be the driveway.

There were no questions for Mr. Butcher at this time.

Commissioner Atwill asked if there is anyone else present that would like to speak, for or against, on this petition. There were no speakers and Commissioner Atwill closed the Public Hearing.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby **approve** the petition by James C. and Melanie R. Abernathy for permission to vacate and re-plat Lot 2 of Wilhoit Subdivision as shown in Plat Book 40, Page 113 of Boone County Records along with Lot 2A as shown by the Lot Line Adjustment survey recorded in Book 4206, Page 111 of Boone County Records, and located at 8920 E St. Charles Rd., Columbia.

Said vacation is not to take place until the re-plat is approved.

Commissioner Atwill seconded the motion.

The motion carried 3 to 0. **Order #310-2014**

5. Public Hearing and petition submitted by Vida F. Schneider and Trenton Marshall-Isom to vacate and re-plat Lot 100 and the north 67' of Lot 101 of the Replat Sunrise Estates Subdivision as shown in Plat Book 7 Page 46 of Boone County Records, and located at 841 and 821 N West Park Ln. Columbia.

Stan Shawver said this is a section of the Sunrise Estates Subdivision with a request to re-plat. The Subdivision was originally platted in 1964 with 180 lots. The petition is to vacate Lots 100 and 101. Lot 100 currently has a house at the south end of the property. Part of Lot 101 was deeded off or sold back before there were the current regulations and there is a 67 foot piece of property that became part of lot 100 that was originally part of lot 101. Lot 100 and 101 will be re-platted so lot 100 will now include the additional 67 feet to the south of the property and lot 101 will remain its current size. For this reason, both lots are being included in the request. The owner's desire, after the re-plat, is to split Lot 100 into two lots of similar size. It is currently zoned RS and if approved, this will enable the owner to build another dwelling because there will be two lots instead on the one which has a dwelling on the south end of the property. Any other use of the lot would have to go back to P & Z for re-zoning. Property owners within 500 feet of this property have been notified.

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on behalf of this request.

Steve Proctor said he is representing Ms. Schneider and that Mr. Shawver's report fully explained the issue. The north part of Lot 100 looks vacant although there is a house on this lot and we cannot have two dwellings on one lot.

Commissioner Miller stated that the one lot representing the 67 feet is part of lot 100 and this is to make the records correct.

Mr. Procter said that is the intent.

Mr. Shawver said that it seems to have been deeded off which now would be a violation.

Judd Price, Real Estate Agent, for Ms. Schneider said that by doing this, it will make it easier for Ms. Schneider to realize more money for the property that she owns.

Commissioner Atwill asked if there is anyone else present that would like to speak on this matter, for or against.

Dennis Thessin said he is the owner of the property due south of Lot 101. His only concern

is that the boundary line between his property and Lot 101 will remain the same if this request is approved.

Mr. Shawver said that at one time, the north 67 feet of Lot 101 was deeded onto Lot 100 and to clarify matters, this portion needs to be included in this request. The south boundary of Lot 101 is not affected so there is no impact to that property line with Mr. Thessin.

Mr. Thessin said he wanted to make sure that this is only for a single family dwelling, not apartments, no commercial.

Commissioner Miller said it is not zoned for that and there would have to be a hearing on a re-zoning request for that property and he would be notified of that and could express his thoughts on that then, if it were to occur.

Commissioner Atwill asked if there is anyone else present that would like to speak on this issue.

Oscar Black said he lives several lots from this property and is not opposed to a single family dwelling on the property, but hopes that this is not a trend in the future where these lots are re-platted and re-zoned for other purposes.

Commissioner Atwill asked if there is anyone else present that would like to speak on this issue.

There were no additional speakers and Commissioner Atwill closed the Public Hearing.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the petition submitted by Vida F. Schneider and Trenton Marshall-Isom to vacate and re-plat Lot 100 and the north 67' of Lot 101 of the Replat Sunrise Estates Subdivision as shown in Plat Book 7, Page 46, of Boone County Records, and located at 841 and 821 N West Park Lane, Columbia.

Said vacation is not to take place until the re-plat is approved.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #311-2014**

6. Public Hearing and petition submitted by Bruce and Deborah Horman to vacate and re-plat Lot 13 of Manchester Heights Subdivision as shown in Plat Book 10, Page 4 of Boone County Records, located at 3110 Lawrence Dr., Columbia.

Stan Shawver said this is in the Manchester Heights Subdivision which consists of three plats. Plat #1 was done in 1968 and consists of nine lots with an average size of .275 acres. Plat #2 was also done in 1968 and consists of 14 lots with an average size of .95 acres. The lot in question tonight is part of Plat #2. Finally, Plat #3 was done in 1972 and consists of eight lots with an average size of .298 acres. The zoning for these plats is RS. The request tonight is to vacate and re-plat lot 13. Property owners within 500 feet have been notified.

Commissioner Miller asked if this vacate is to split the lot into two lots.

Mr. Shawver said that is the intent.

Commissioner Miller asked if the owners of the property know about the effect on the Neighborhood Improvement District with this request.

Mr. Shawver said the NID has already been formed and this lot was included as one share.

Commissioner Miller said it was not fair if the re-plat goes from one lot to two lots and the property owner will be getting two hook-ups for the price of one.

C. J. Dykhouse said that utilities and services is a factor for the Commission to properly consider in deciding whether to grant the vacation of the lawful use that exists on the property now.

Commissioner Atwill asked about the size of this particular lot.

Mr. Shawver said this lot is .97 acres.

Commissioner Miller said that is about the size of all the lots in this plat.

Mr. Shawver said that is correct. Plat #2 average size is .95 acres.

There were no further comments or questions at this time and Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on behalf of this request.

Steve Heying said he is a land surveyor representing Mr. Horman and what has happened is that Mr. Horman has built a shop and garage behind the house and put utilities in it and therefore needs to do a lot division since the shop and garage is viewed as a residence because of the utilities. The utilities are reachable by easements through the other lot. This is a one acre lot and dividing this in half won't be a detriment to either half of the lot. They intend to create a covenant to make sure the two pieces will be sold together and can't be sold to separate owners.

Commissioner Miller asked how one can guarantee that the two lots will stay together.

Mr. Heying said that it can be done by restricted covenant or to put a covenant notification on the plat.

Mr. Shawver said that it has been deemed a house. The permit was taken out as a shop. The building inspectors said it does not look like a shop or detached garage, but a house.

Commissioner Miller asked Mr. Horman if this is a house.

Mr. Horman said it started out as a two car garage and shop with part of it being for storage. The project evolved and evolved, starting in 2013, having inspections on the slab, structure and walls. Also, last year, my father who is 91, moved in with us. Because of that, the thought process was to make this a guest house so he would be close to us.

Commissioner Miller said it is illegal to have two houses on one tract.

Mr. Horman said that is why the inspector said I should stop and go to the P & Z for

clarification. In speaking to P & Z, they advised that if I was going to put in a living area, I needed to have a hearing with the Commission.

Commissioner Miller asked what would happen if the request to split the lot is denied.

Mr. Shawver said the structure would have to comply with the permit, that being a shop. All the living space would have to be removed. The inspector's notes say the structure is equipped with a kitchen, bath, laundry, closets, living room, sleeping, etc.

Mr. Heying said the lot is divisible to meet all the set backs. All the requirements will be met.

Commissioner Miller said this will change the look of the neighborhood comparing side-by-lots with this particular request.

Commissioner Atwill said this does raise the issue of double use of the sewer system.

Commissioner Miller said that is her concern and that is why it was brought up because she is the liaison to the Manchester Heights NID and wanted to make sure everyone was aware of the potential problem of the double use.

Mr. Horman said that if a double hook-up for sewer is required, he will certainly comply with whatever P & Z says.

Mr. Shawver asked if the guest house is hooked up to the existing house lines at this time.

Mr. Horman said yes, but has not been used.

The Commissioners thanked Mr. Heying and Mr. Horman for their input.

Commissioner Atwill asked if there is anyone else present that would like to speak on this issue.

Mark Wine said he lives across the street from the Hormans and is one of the trustees of the Manchester Heights Sewer District. He is here to lend support to Mr. Horman on what he is attempting to do. It has morphed into more than he intended due to the condition of his

father. He has agreed to place covenant conditions for both lots which would require them to be sold/transferred together.

Mr. Wine said the perception that the size of the lot being different from adjacent lots would not be an issue since you can't see it from the road. The building itself is completely behind the house and cannot be seen. Also, from my perspective and the neighbors I have talked to, that it would not harm values for properties along Lawrence Drive. If anything, the additions would enhance the value of the property. Many neighbors along Lawrence Drive have other facilities such as garages and workshops. It is not inconsistent with the visual aspect of the neighborhood.

So, I am here to support Mr. Horman for what he is doing and the covenants to keep the lots together moving forward and help him complete the project.

Commissioner Miller asked Mr. Dykhouse if this is put on a deed that they must be sold together, can that be changed in the future.

Mr. Dykhouse said that the covenants can be made to run with the land, but the thing is, one can't represent that it is permanent. Once you have commonality of ownership of the two lots, at the next level transition, what is to say that it does not get changed.

Mr. Wine inquired if the covenants don't transfer with each ownership change.

Mr. Dykhouse said that once you have one owner of all of it, the rules can be changed.

Mr. Heying said that if necessary, we can make the covenant a Manchester Heights covenant. All of the Manchester Heights owners would have to buy into that.

Commissioner Miller said that would then be a civil case if the owner tried to sell them as separate lots. Also, this is very disappointing as to how we got to this point. It is totally against the way we do business in Boone County. Getting a permit for a shop and turning it into a house is not right.

Mr. Horman said he is very sorry and apologizes for this problem.

Commissioner Miller said that her initial thought was to vote no but feels differently with the comments from Mr. Wine as his neighbor across the street. Mr. Wine has worked tirelessly on the sewer project and they are all knowledgeable. It just seems wrong to reward people who try to skirt the law.

Mr. Heying said that was not the original intent. The whole issue grew due to the condition of his father.

Commissioner Miller said she appreciates people putting parents into their own home and taking care of them in their elderly life. There is great admiration for that. This just puts us in a bad position.

Commissioner Thompson said Mr. Horman knew enough to consult with P & Z to get initial permits to start the work. It is just distasteful.

Mr. Horman said it started out as a two car garage with storage and a shop. There were inspections at every phase of the project, always calling and letting them know a phase was completed. It never crossed my mind to come back and update to get the proper permits. It is my fault and I apologize.

Mr. Wine said that the issue concerning the sewer can be taken off line with Boone County Regional Sewer District and Manchester Heights for resolution.

Commissioner Miller said at the very minimum, Mr. Horman should pay two shares so all the neighbors can get the benefit for this unfortunate situation. That will have to be dealt with through the NID.

Mr. Dykhouse said that there needs to be clarification on the sewer hook ups.

Commissioner Miller said it is illegal to have one hook up for two dwellings just like the building is illegal. When they eventually hook up to the sewer, there will be two individual connections and that is why they should pay two shares. It has to be two connections.

Commissioner Thompson said what is being done now can't continue.

Mr. Wine said the sewer separation can be accomplished very easily. There will be a collection point at the edge of the property and the two will feed into that.

Commissioner Miller said that it will change the plans with additional engineering costs that the neighbors will have to pay as well as another approval. This is not a little problem. It just snowballs. This will have to be worked out amongst themselves.

Mr. Wine said the neighbors are accepting or they would be here tonight to testify against this request.

Commissioner Atwill asked if there was anyone else present that would like to speak to this issue. There were no speakers and Commissioner Atwill closed the Public Hearing.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby **approve** the petition submitted by Bruce and Deborah Horman to vacate and re-plat Lot 13 of Manchester Heights Block 2 as shown in Plat Book 10, Page 4, of Boone County Records, located at 3110 Lawrence Dr., Columbia.

Said vacation is not to take place until the re-plat is approved.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #312-2014**

7. Public Hearing and request by VH Properties LLC to approve a revised Review Plan for the Midway USA Campus on 21.51 acres, more or less, located on the north side of Van Horn Tavern Road, Columbia.

Stan Shawver read the following Staff Report:

This property is located on the north side of Van Horn Tavern Road and is bounded on the north by I-70, approximately 1000 feet west of the intersection with U.S. 40. The site is about 1 mile west of the Columbia municipal limits. The subject property is 21.51

acres in size and zoned M-LP (Planned Light Industrial). Property to the northwest across I-70 is zoned C-G (General Commercial), north is zoned A-2 (Agriculture), northeast is zoned A-R (Agriculture-Residential). Property to the east and south is zoned A-R and property to the west is zoned C-GP. All of the zonings with the exception of the M-LP and C-GP are original 1973 zonings. Staff notified 21 property owners concerning this request.

The proposed changes involve creating lot lines for the future subdivision of this property into four separate lots. Otherwise, there are no changes in use or structures for this property.

The Boone County Master Plan designates this area as suitable for commercial land use. The Master Plan promotes the use of Planned Districts as a means to establish new commercial and industrial areas. The Master Plan also designates a sufficiency of resources test for the approval 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.

Utilities: The subject property is served by Consolidated Public Water Service District #1 and Boone Electric Cooperative for utility service. The property has been developed for quite some time, and existing services are sufficient to maintain the uses identified on the plan.

Public Safety: The subject property is approximately 1 mile from the nearest Boone County Fire Protection District station, located near Henderson Road.

Transportation: The subject property has direct access on to Van Horn Tavern Road, a publicly-dedicated, publicly-maintained right-of-way.

Zoning Analysis: This proposal is straightforward. No significant changes to the existing plan except for the addition of future lot lines, permitting the subdivision of this property. A subdivision plat accompanying the final plan will divide this property, the revised review plan and final plan lay the groundwork for that action.

The property scored 80 points on the rating system.

Staff recommended approval of the Revised M-LP Review Plan subject to the following recognition:

1. The fire lanes and fire protection requirements must satisfy the BCFPD on any building expansion and any waterline relocation must be made in conjunction with the water district at the developer's expense.

The Commissioners had no questions at this time.

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on this issue.

David Butcher from Crockett Engineering said he is representing the property owners and that Mr. Shawver's Staff Report explained the situation quite fully. The campus is too large for the average user and the intent is to sub-divide into individual parcels so each building can have a separate owner. We would like to add to the MLP Plan and prepare the subdivision for marketability.

Commissioner Atwill asked if there is anyone else to speak on this issue. There were no other speakers and Commissioner Atwill closed the Public Hearing.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby **approve** the request by VH Properties LLC for a revised Review Plan for Midway USA Campus Planned Industrial Development on 21.51 acres, more or less,

located at 5875 W Van Horn Tavern Rd., Columbia with the following condition:

- The fire lanes and fire protection requirements must satisfy the BCFPD on any building expansion and any waterline relocation must be made in conjunction with the water district at the developer's expense.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #313-2014**

8. Receive and accept the following plats:

- **Whitworth Hills Plat No. 3. S30-T46N-R13W. A-2. Tompkins Homes and Development, Inc., owner. David T. Butcher, surveyor.**
- **Wicks Bend. S3-T49N-R12W. A-2. Thomas and Linda Wicks, owners. David T. Butcher, surveyor.**
- **Bise Estates. S32-T51N-R11W. A-2. Barry and Kimberly Bise, owners. Steven R. Proctor, surveyor.**

Stan Shawver said that Whitworth Hills Plat No. 3 is a one lot subdivision, 4.8 acres in size. Wicks Bend is six lots, 32.53 acres in size and Bise Estates is three lots and 18.07 acres. The Planning & Zoning Commission approved the plats and they are ready to be received and accepted by the Commission.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby receive and accept the following subdivision plats and authorize the Presiding Commissioner to sign them:

- Whitworth Hills Plat No. 3. S30-T46N-R13W. A-2. Tompkins Homes and Development, Inc., owner. David T. Butcher, surveyor.

- Wicks Bend. S3-T49N-R12W. A-2. Thomas and Linda Wicks, owners. David T. Butcher, surveyor.
- Bise Estates. S32-T51N-R11W. A-2. Barry and Kimberly Bise, owners. Steven R. Proctor, surveyor.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #314-2014**

9. Midway Crossings Phase III preliminary plat. REPORT ONLY

Stan Shawver said that Midway Crossings is zoned RS and located off of Rollingwood Blvd. This started in 2007 and then the economy went bad and the original developer lost it to the bank. The bank has sold off most of the lots with the exception of a 9.91 acre tract. The new owner is proposing dividing this into 28 lots. The problem now is that the Fire Protection District wants a 2nd remote access. They currently only have one. The developer is required to complete a connector to one of the northern properties. Working with the developer, an agreed location was determined with the Fire Protection District for the connection. There would be a stub out and improved road to the Midway Crossing north property line and then gravel up to the right-of-way. It won't be good for driving, but the Fire Protection District will have secondary access. The FPD said it could be gated as long as they have access.

There were no comments or questions from the Commissioners.

10. Buckman preliminary plat. REPORT ONLY

Stan Shawver said Buckman is located off Schooler Road, just north of Hallsville. It is zoned AR and is 65 acres that will be divided into nine lots of various sizes. All lots will have frontage on Schooler Road.

There were no comments or questions from the Commissioners.

11. Second reading; FairCom East Driveway Improvements Security Agreement (1st read 6-24-14)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the attached Stormwater Security Agreement between the County of Boone and ANR Campus, LLC. The terms of the agreement are stipulated in the attached Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Agreement.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #315-2014**

County Counsel

12. First reading; Budget Revision for funds relating to Pending Federal Litigation

C. J. Dykhouse said this is a request for a second budget revision consistent with the plan outlined that we would move incrementally and cautiously as we deal with this litigation.

There were no comments or questions.

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 appropriate order for approval.

Purchasing

13. Second reading; Disposal of surplus equipment by auction on GovDeals (1st read 6-24-14)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the request by the Purchasing Department to dispose of the attached list of surplus equipment by auction on GovDeals or by destruction for whatever is not suitable for auction.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #316-2014**

14. Second reading; Bid Award 25-22MAY14 – Angel Lane Preservation Reconstruction (1st read 5-29-14)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby award bid 25-22MAY14 – Angel Lane Pavement Reconstruction to APAC – Missouri, Inc. of Columbia, MO.

The terms of the bid award are stipulated in the attached Contract Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Contract Agreement.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #317-2014**

Commission

15. First reading; Budget Amendment to increase appropriations in the Fairground Maintenance fund for renewal of contract with TAG Events

Commissioner Atwill said this has been discussed with all three Commissioners and approved.

Commissioner Atwill said a second reading will occur after the 10 day mandatory waiting period for budget amendments.

16. 1st & 2nd reading; Organizational Use of the Centralia Clinic by HOMEBANK of Centralia for July 1, 2014

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the Organizational Use of the Centralia Clinic by HOMEBANK of Centralia on July 1, 2014 from 8:30 a.m. to 4:30 p.m.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #318-2014**

17. 1st & 2nd reading; Re-appoint William A. Young to the Library Board

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby re-appoint the following:

Name	Board	Period
William A. Young	Library Board	July 1, 2014 through July 1, 2018

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #319-2014**

18. Public Comment


None

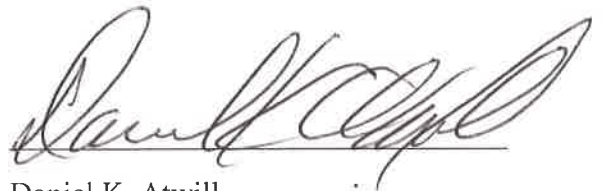
19. Commissioner Reports

None

The meeting adjourned at 8:40 p.m.

Attest:


Wendy S. Noren
Clerk of the County Commission



Daniel K. Atwill
Presiding Commissioner



Karen M. Miller
District I Commissioner



Janet M. Thompson
District II Commissioner