

TERM OF COMMISSION: March Session of the January Adjourned Term

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

PRESENT WERE: Presiding Commission Daniel Atwill
District I Commissioner Karen Miller
District II Commissioner Janet Thompson
County Counselor C. J. Dykhouse
Director Resource Management Stan Shawver
Planner Uriah Mach
Deputy County Clerk Mike Yaquinto

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

Resource Management

1. Public Hearing on request by Stephen and GERALYN Hill to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 16.0 acres, more or less, located at 9951 W Hwy 124, Harrisburg.

Stan Shawver read the following staff report:

This request was considered by the Planning & Zoning Commission during their February 19, 2015 meeting.

The minutes for the Planning and Zoning Commission meeting of February 19, 2015, along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

The subject property is located on Highway 124, approximately ¾ of a mile to the west of Harrisburg, along the county border with Howard County. The property is 16 acres in size and has a single-family dwelling present. The property is zoned A-1 (Agriculture),

and has A-1 zoning to the south, east, and north, with Howard County to the west. The zoning is all original 1973 zoning. The property scored 60 points on the rating system.

The applicant is seeking to rezone the subject property from A-1 (Agriculture) to A-2(Agriculture) for purposes of allowing a family transfer. The applicant owns property on both sides of the county line, however due to sight distance issues on Highway 124, any new residence would need to be located on the Boone County property.

The Boone County Master Plan has designated this area as being suitable for agricultural 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 located in Public Water Service District #10, who will provide public water to the property. Boone Electric provides electrical service. Any new residential development will make use of an on-site wastewater system as permitted by the Columbia/Boone County Health Department.

Transportation: The property is located on Highway 124, a publicly-dedicated and maintained right-of-way.

Public Safety: The property is located in the Boone County Fire Protection District, who maintain a station in Harrisburg, approximately 1 mile away.

Zoning Analysis: 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. While a rezoning to the A-2 zoning district would

allow for a significant increase in development potential, the existing infrastructure will serve to restrict development to a level which would not be extraordinary when compared to the surrounding properties.

Staff recommended approval of the request.

The Planning & Zoning Commission conducted a public hearing on this request during their February 19, 2015 regular meeting. There were eight members of the commission present during the meeting.

Following the public hearing, a motion was made to recommend approval of the rezoning request. The motion passed unanimously, so it comes forward with a recommendation for approval.

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 behalf of this request.

Steven Proctor said is a surveyor speaking on behalf of Stephen and GERALYN Hill to transfer a minimum of 2.5 acres to their son and daughter-in-law who are wishing to build a house for their growing family. There is another daughter who might use some of the land in the future so the Hills wanted to do all the zoning one time instead of repeating this process down the road if needed.

They also own property on the Howard County side and have had a discussion with MoDOT on site lines and it was determined that the Boone County side of the property was better for site distance and safety as well as the topography on the Boone County side was better for the construction of the house. We are asking for the whole 16 acres to be re-zoned so the

house and lagoon can be laid out and determine any setbacks that are required. This will insure they have enough land to do this process.

Commissioner Miller asked Mr. Proctor why this is not done first, layout the house and lagoon, and then request what is actually needed through re-zoning.

Mr. Proctor said it was a matter of spending the Hills money on something that would not occur if the request was denied by Commission. Also, it will be very hard to divide the property further because MoDOT has said there would not be any additional access points for this property.

The Commissioners thanked Mr. Proctor for explaining the request.

Commissioner Atwill asked if there is anyone else present that would like to speak on behalf or in opposition to this request. There were no additional speakers and Commissioner Atwill closed the Public Hearing.

There were no further comments or questions from the Commission.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the request by Stephen and GERALYN Hill to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 16.0 acres, more or less, located at 9951 W Hwy 124, Harrisburg.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #97-2015**

2. Public Hearing on petition submitted by Allen and Judy Ronnebaum for permission to vacate and re-plat Lot 1 of AJ Green Acres Subdivision as shown in Plat Book 40, Page 111 of Boone County Records and located at 3125 N Rte Z, Columbia.

Stan Shawver said they received a petition by Allen and Judy Ronnebaum to vacate Lot 1 of AJ Green Subdivision which is part of an A-1 subdivision and a planned residential development approved in 2006. The request is for the plat to be vacated as a first step and then they will seek re-zoning of the 26.9 acres so a new review plan can be submitted that will divide the one lot into roughly two 10 acre lots.

According to Subdivision Regulation 1.8.1.3, no subdivision plat may be vacated in whole or part unless the owner of the land for which vacation is sought petitions the County Commission for the vacation in writing and the County Commission finds after public hearing that vacation will not adversely affect the character of the neighborhood, traffic conditions, circulation, the proper location, alignment and improvement of streets and roads within and adjacent to the subdivision, property values within the subdivision, public utility facilities and services, and will not generally adversely affect the health, welfare, or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate.

The surrounding land in the area is all zoned A-1. Twenty neighbors were notified about the proposed revision to vacate.

Commissioner Miller asked if the acreage is 22.94.

Mr. Shawver said that is for the one lot.

Commissioner Miller said if it is zoned A-1P, could it still not be divided into two lots because of the 20 acres based on current zoning.

Mr. Shawver said you could, but it is A-1P and the review plan restricts it to the number of dwellings on it. The smaller lot that is cut out is part of the density so there are two lots on the 26 acres. AJ Green is a planned development of two lots consisting of 26.89 acres. The 2.5 acre lot came off the density of the 26 acres. On the 26 acres, there is a density of one dwelling per each 10 acres. In order to have a smaller lot, they did a planned development and split off the 2.5 acres leaving the balance. So now the density is all tied up in the remaining acreage.

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.

Kevin Schweikert said he is from Brush and Associates representing the applicants. The Staff Report explained the intent and we are just asking for a plat vacation.

Commissioner Miller asked if the vacation is granted tonight, does it automatically go to a re-plat.

Mr. Shawver said that generally, if the vacation is authorized, the re-plat is contingent upon meeting the regulations. They have filed an application to re-zone, so if this is approved, then on the March 19th P & Z meeting, they will hear a re-zoning request and after that the re-plat. The vacation will not take place until after a successful re-plat.

Commissioner Atwill asked if there is anyone else to speak on behalf of this request. There were no additional speakers. Commissioner Atwill asked if there is anyone present that would like to speak in opposition to this request.

Mr. Shawver said they received a letter today in opposition to this request and they are here to speak tonight.

Terry Buckley said he and his wife, Barbara, live across the road from the property in question and would like to offer the following comments for Commission consideration. Before that, I am representing several other neighbors and if it is ok, I would like those neighbors in attendance to please stand up (neighbors stand up to be recognized).

This proposal will rezone an existing 27 acre plat from A-1P to A-2P, changing the maximum housing density from one house per 10 acres to one house per 2.5 acres. This property is entirely surrounded by land zoned A-1, so granting this re-zoning request would establish spot zoning in the area. This was a principal reason for denying the owners' request to re-zone to A-2 15 years ago as referenced in P & Z meeting notes from June 15, 2000 and nothing has changed since then. The owners state that the A-1 land bordering their property on the west is narrow and should, therefore, be ignored. This is the same logic they used years ago, and it is no more valid now than it was then. Granting this rezoning request would make the owners the beneficiaries of a grant of special privilege which could lead to further such requests from other owners and a steady erosion of the established zoning and intended character and density of development in the area. Commissioner Fugit of the P & Z made this same point back in 2000 stating "The problem is that if somebody else wants to come in and rezone then they would have a hard time denying that zoning." Commissioner Fugit further states that, "All kinds of things could happen then because the zoning stays with the land forever." In fact, it is the owners' stated intention to sell the land and move to Arizona. Although they might be satisfied with just creating a 10 acre plot, what will the new owners of the property want.

The character of the neighborhood is what might be called country estate, with most parcels well over the 10 acre minimum for A-1 zoning, with just one house on the land and many owners with livestock. We have llamas, our neighbors to the north have horses, our neighbors to the east have cattle, other neighbors two plats north have a dog kennel and other animals and north of them are neighbors with sheep and more neighbors with cattle. The land bordering the property in question on the north provides grazing for cattle and the

land just south of the property in question harbors horses. We have all bought into the country lifestyle and do not want dense housing.

We have great concern about more lagoons on this plot of land. There are already two houses feeding waste into lagoons, the overflow of which goes under Route Z and onto the property just north of us, skirting our northern boundary. This proposal will add the possibility of effluent from up to 10 or 11 houses, which must follow the same egress that the topography dictates. The Northeast Area Plan shows that there is not adequate sewage disposal infrastructure in the area for so many houses. It would be best to avoid a five-fold increase in housing density in the area until such infrastructure exists.

This was also a principal reason for denying the owners' request to rezone to A-2 15 years ago and again nothing has changed since then. It was also a principal reason to steer the owners toward an A-1 planned development rather than A-2 zoning. The current A-1P zoning restricts the number of houses that can be built on the property, thus limiting the negative impact of wastewater flow. We would like to see that maintained.

Traffic conditions on this section of Route Z are a real problem. Drivers coming north from I-70 must navigate through a blind "S" curve and over a slight rise before coming to this area with several driveways on both sides of the road. Unfortunately, people tend to drive too fast and are often not ready for what they encounter. There have been multiple accidents in this area over the years with at least one death. An increase in the number of people living in the area and going into and out of the driveways will only make the problem worse. Something should be done to improve visibility on Route Z and provide better turnouts for residents before housing density is increased.

Finally, if the Commission's decision is to deny the rezoning request, we would like to offer this for the Commission and the owners to consider; the owners' proposal results in the creation of a 10 acre parcel that would allow another home to be constructed. This cannot be

done with the current A-1P zoning, but it might be possible if the owners apply for and are granted a variance. Barbara and I are just two neighbors out of many, but we would not be opposed to a variance that would allow the creation of the 10 acre parcel and one more house to be built. That would be three homes on 27 acres, a density of one home per nine acres, which will be visually indistinguishable from the A-1 maximum density of one home per 10 acres. It would add one more home's wastewater to the area, which is not desirable, but it might be a good compromise that will give the owners what they want and the neighbors what they want. I thank you for considering these comments.

The Commissioners thanked Mr. Buckley for his comments.

Commissioner Atwill asked if there is anyone else present to speak in opposition to this matter.

Marci DeVier said her property is west of the property up for discussion tonight and she also owns the 92 acres to the west of her current residence where her house is 20 feet from the Ronnebaum property line.

The driveway from Route Z goes past his daughter's home, servicing this home as well as a barn that stores multiple pieces of equipment. The agreement was they were to maintain the driveway and they never brought it up to standard. I have had to put money into the driveway even though it was used for his daughter and his renters. The access to Route Z, which is in front of his daughter's home is not very visible to oncoming traffic. There have been many accidents and adding more people using this driveway is questionable at best. Also, the lagoon is questionable. One more house, I can understand, anymore than that, I don't think so. The daughter's house is on a lot that is less than the 10 acres per the current zoning. He has not maintained the driveway.

Commissioner Miller said that this is a private agreement concerning the driveway and that

is not something we can consider in this testimony.

Commissioner Miller asked Mr. Shawver to explain the 2.5 acre lot that exists on this property.

Mr. Shawver said that it is part of the bigger lot. In 2006 when it was rezoned to A-1P, the development plan called for the 26 acres to be divided into two parcels, one is the 2.5 acre lot and the other is the 24 acres. They are allowed, on the 26 acres, two lots with any combination of lot sizes as long as it does not exceed the allowed density. If this is all approved, the density will only increase by one unit per the review plan submitted. There will be one 10 acre lot, one 12 acre lot and the current 2.5 acre lot.

The Commissioners thanked Ms. DeVier for speaking tonight.

Commissioner Atwill asked if there is anyone else that would like to speak in opposition to this request. There were no additional speakers. Commissioner Atwill asked if there is a reply from the applicant on the testimony heard.

Kevin Schweikert that Mr. Shawver explained it very well. The smaller lot was done under the A-1P plan and under the A-2P we are just creating one more buildable tract out of the larger 22 acre piece. There will be two tracts if approved.

Commissioner Miller asked about the access to the property.

Mr. Schweikert said he is not sure. There has been some concern expressed tonight about the site distance problem with the existing access. It could be done on the south side of the property. There are options.

Commissioner Miller asked Mr. Shawver about the regulations regarding the private

driveway and adding another house to it when there are already two.

Mr. Shawver said they are allowed to have up to four.

Commissioner Thompson asked if this is approved, would there be anything to preclude this tract from being developed further.

Mr. Schweikert said that they would have to request a rezone again and go through the process all over again and it will be discussed through Public Hearing just like this request.

There were no further questions of the applicant and Commissioner Atwill closed the Public Hearing and asked for discussion from the Commission.

Commissioner Miller said she is not opposed to another house, but the use of the same driveway is undesirable. That is a problem for me. Since the school has been built, everything has changed in the area. The school is about $\frac{3}{4}$ mile as the crow flies and all the AR-P and RS is going to change as this becomes more of a community. The A-2P is not unreasonable based on what is happening in this area.

There were no further comments or questions.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve a petition submitted by Allen and Judy Ronnebaum to vacate and re-plat Lot 1 of AJ Green Acres Subdivision as shown in Plat Book 40, Page 111 of Boone County Records and located at 3125 N Rte Z, Columbia.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #98-2015**

3. Rangeline Estates. S13-T47N-R12W. A-2. J Alan Investments LLC, owner. David T. Butcher, surveyor.

Stan Shawver said this is a two lot subdivision on Rangeline Road. It has been approved by P & Z and is ready for receipt and acceptance 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 plat and authorize the presiding commissioner to sign it:

Rangeline Estates. S13-T47N-R12W. A-2. J Alan Investments LLC, owner. David T. Butcher, surveyor.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #99-2015**

4. Second reading; Budget Revision for the DNR 319 Urban Retrofit Grant (1st read 2-26-15)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the following budget revision for the Resource Management Department.

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
2140	71100	DNR 319 Urban Retrofit	Outside Services		38,550
2140	23050	DNR 319 Urban Retrofit	Other Supplies	38,550	

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #100-2015**

5. Public Hearing and First reading; Policy Clarification to Subdivision Regulations for a Minimum Lot Width

Stan Shawver said last week, per Commission direction, language was prepared for clarification of the minimum lot width. It was put on the agenda last week. There were some concerns expressed by Jon Cole and Don Bormann concerning the wording during the Public Comment portion of the meeting. Mr. Cole presented alternative language and it was decided by Commission to step back and conduct a Public Hearing on this matter.

There were no questions from the Commissioners at this time.

Commissioner Atwill opened the Public Hearing and asked if there is anyone present that would like to speak on behalf or in opposition to this proposal.

Mike Tompkins says he does some land developing and from what he understands from this, he will not be able to continue to do what he currently does. There are issues if there is a cul-de-sac where the lots get narrow towards the front of the lot to where it comes to a point in the center of the road. For A-1 zoning, the minimum lot width is 150' at the front setback line. We have commonly had to adjust that line back enough because of the lot that gets wider towards the back. It is necessary to adjust that setback line to achieve 3 or 4 lots at the end of a cul-de-sac.

If this interpretation is changed, it would effectively make it where there would be only one lot for the entire cul-de-sac and even going partway down the neck to get the full width. That is my understanding and what I see as the negative consequences of this. I would like to just continue to do what we have been doing.

Commissioner Miller said they are just looking for consistency and giving staff direction and

asked Mr. Tompkins if the cul-de-sac is the biggest issue for him with this clarification.

Mr. Tompkins said it is more about the unique characteristics of the land especially when the front of the lot is narrowed down. A cul-de-sac is a perfect example, but there are other situations where this can occur. It is understandable that there should be some limits. Some kind of compromise is needed and how big of a problem have we had in the past with this situation.

Commissioner Miller said there is a balancing act with this.

Mr. Tompkins said that is so and it is a possibility that this could result in one lot on a cul-de-sac. Most have four lots on the end which is typical and presented a drawing to the Commission of a 100 acre tract with a cul-de-sac. On the drawing, there are two tracts, number 3 and 4, that would not be to code if the wording were to be approved.

David Butcher said he believes there is a disconnect between the interpretation and what we have been trying to clarify through the language. He apologizes for not being clear on what Mr. Cole and Mr. Bormann had to say earlier. During the stakeholders group, when discussing the subdivision regulations, the biggest thing that came out of it was with regard to lot width and the change in the language. Per regulation 1.9.2.3 – Minimum Lot Width, it states: The minimum lot width shall be maintained throughout the lot between the front and rear setback lines as established in the Minimum Yard Requirements in the Zoning Regulations.

Going over this in the stakeholders meeting, I was under the impression that the problem was when lots are created and they meet the criteria and then at the setback lines they may have narrowed or necked down or created some other shape and got below what is prudent for that sized property. I did not realize that we were making a connection with the Zoning Regulations and not the Subdivision Regulations. In talking with staff, they were asked or

advised that they can only fall back to what is required in the Zoning Regulations and the building lines shown on the subdivision plat are unenforceable. I'm not sure that's right and would disagree with that premise. I am not an attorney and would defer to Mr. Dykhouse, but I found one case in the last 100 years regarding a building line. There is not enough case law to say we can't adhere to what is shown in the subdivision plats. The highlight states: The principal matter here is the decision of the real intent for which the reference to this restriction and the intentions of the parties is paramount and the controlling question.

The important thing here, with reference to the subdivision regulation, is that the way it is written, it is not broken. It works fine and is a matter of interpretation. I am not sure where the disconnect occurred between the way it has been written and how we want to re-write it. The way it has been proposed to be re-written is now tied to the Zoning Regulations and not allowing the flexibility to put the building line on a subdivision plat. The plat should mean something. The lot lines mean something, the easements mean something and all these tangible items mean something, including the building lines. A survey is a plat and a subdivision of land. If we present an administrative survey, while it may not be accepted here, it is the reality that it means something to the title company and will be adhered to.

We need to take the language out that ties it to the Zoning Regulations and allow us the flexibility to leave it the way it is and allow staff to understand the interpretation is we can defend the building line as shown on a survey or plat. So, when they file for a building permit, there is a distance, it is achievable, it can be measured and make them build it in the right spot. It is the same as being too close to someone else's property.

Commissioner Miller asked if there is property zoned AR and supposed to be 150' wide, should there be flexibility where that 150' wide starts.

Mr. Butcher said there is already a requirement for an absolute minimum width and a requirement for a 3 to 1 rule and the space a person can have for a lot. As an example, if

there was a lot 1,000' deep and 300' wide and even if it was zero in the front and 600 in the back, you would only be 100' behind the property line before you reach the 150' width based on this assumption.

Commissioner Miller said this still allows for a 10' wide at the road. We are talking about main county roadways and possibly having very large houses on 10' wide driveways.

Mr. Butcher said the interpretation of this has not allowed this to happen yet. The regulation is not broken, it is just the interpretation and it needs to be cleaned up. The main thing is to fix this disconnect and whether it can be defensible on a surveyor plat. If it can, we should be able to put it on a plat; where the width is, and make them build there. They have their safe distance, the right area and meet the 3 to 1 ratio. They have all the right components needed to fulfill the required obligations. There is no need to force us to have a 150' or 60' width at the front where it meets the road. What is equitable is we get access, and can we get utilities along with the right amount of space. Those things are there as long as we are allowed to interpret as we have been doing.

This is the only jurisdiction where I have encountered this type of situation. The way we have been interpreting this is the correct way. This can be cleaned up without the change proposed. We need to strike the Zoning Regulation portion from this and leave it the way it is, at least for now. If nothing else, the other surveyors will tell you how important this is. The constituents of the County don't understand this, but we do. It is really important and perhaps we should take this a little slower and fix it. It is a very difficult issue and will hurt the constituents of Boone County if not done correctly.

This really never came up quite this way during the stakeholders group meetings. Now that it has been tied to the Zoning Regulations, there is a problem. In the Zoning Regulations under Yard Requirements, Section 10, Table A: Minimum Yard Requirements – "The minimum yard requirement, for non-farm use, as measured in feet, shall be provided within these

distances.” It goes on to list measurements and it says minimum and does not say we can’t go beyond these minimums. Now that is in the Zoning Regulations and I believe it is there to say that if it is not shown on a subdivision plat, then this is the absolute minimum we will allow you to be to the road.

Within the current Subdivision Regulations, the definition of a Building Line is set at: “A line specifically established upon a plat or by Zoning Regulations as defined open, unobstructed area between the road and building.” That language fits within a lot of jurisdictions that I work in. There are two reasons that language is there. First, if it is shown on a plat or survey, then here is your building line. This is the requirement to show a minimum and show it on the plat. Secondly, by taking what is defined in the Zoning Regulations. In my opinion, we should take out any connection to the Zoning Regulations.

Mr. Shawver said that based on the suggestions by Mr. Butcher, the edited proposed Commission Order would read: The minimum lot width as required in the Boone County Subdivision Regulations, Table A, shall be 1) Lots 2.5 acres and larger shall be at least 150’ wide and 2) Lots smaller than 2.5 acres shall be at least 60’ wide. Measurements are to be made perpendicular to the front and rear lot line.

Mr. Butcher said he has no problem with that. The language is just fine as long as the minimum setback is shown on the plat, then they are allowed to interpret it that way. I believe that is where we are headed. I have now just seen the letter submitted at the last meeting by Jon Cole and the language looks pretty good. It would work fine.

Commissioner Miller said she likes the clear description of 60’ or 150’. There would be no question on what staff would have to measure. That is preferred. Something that is clear and concise so we can be consistent.

Mr. Butcher said he thinks there is a common goal between the letter from Mr. Cole and

what he has described. We want to be able to push the building back past the minimum width to whatever it takes to achieve the width. As long as it is shown in a plat or survey, this gives staff the tools needed to make people build in the right place so we don't have a substandard issue.

Mr. Shawver said for the record, he will read the letter submitted by Mr. Cole on February 26, 2015:

Please consider the following for a clarification of the existing Boone County Subdivision Regulations. I believe this clarifies and re-states what has been commonly done in the past in this and many other counties.

For the purposes of clarification of the Boone County Subdivision Regulations and the Boone County Zoning Regulations, building setback lines shall be measured as follows:

Minimum lot width at the building line shall meet or exceed the minimum building setback per applicable zoning regulations. It shall be measured at a perpendicular distance from the front of the lot. In the event that this is not desirable or practical, the building setback distance may be increased so as to meet or exceed the minimum lot width at the new setback line.

Mr. Shawver said the difference at this point is that Mr. Cole is still citing the applicable Zoning Regulations which Mr. Butcher expressed as a concern. From Staff's point of view, the last sentence in Mr. Cole's letter brings us back as to why we are here now. It is appreciated what Mr. Cole is saying, but I feel we will end up in a debate as to what is desirable or practical and the Commission won't have any certainty.

Mr. Butcher said another thing that has come to mind is if you have property zoned RS and is 10 acres, under this it says lots 2.5 acres or larger have to meet the 150' width, but

technically, if created in that zoning district, it would only have a 60' width. Whereas, what Mr. Cole is doing is trying to make sure that if zoned appropriately, we should be able to go down to the width allowed in that zoning regardless of the area of the property. I don't know if I agree or disagree with that. It could come up to be an issue in the future. If you have that much space already, it does not seem unreasonable to stick with the 150' width for 2.5 acres or more. This is what we have currently and I don't think we need to change that. The reality is that there needs to be some give and take, we don't want to come here and start a fight. We just want everyone to understand that the Zoning Regulations tied specifically to the building line will be a problem for us. We won't be able to adjust the building line, whereas the Subdivision Regulations will allow us to tie it to a plat and give us the flexibility to move it to where we need it to be.

Commission Atwill thanked Mr. Tompkins and Mr. Butcher for expressing their thoughts and asked if there is anyone else that would like to speak.

Don Bormann said it is not real hard to find examples where this has been done in the past on plats. It is not common, but is a tool that has been used for many, many years in Boone County. We haven't seen any examples of any problems when this has been done in the past. Nobody has shown us any issues arising from this so why are we fixing something that has not been a problem in the past. There will be consequences if the proposed change is approved. There could be a need to increase the length of cul-de-sacs in order to meet the regulations which will be added costs to the County in the form of road maintenance. Also, there will be more requests for variances from land owners. This will not serve the public well due to the costs associated with this.

This process seems to be rushed. The language proposed is not any better than the language currently in the regulations. Mr. Cole's language is much better and could possibly be improved. In most jurisdictions, when changes are made to the Subdivision Regulations, they go through the P & Z Commission and get input from them. This has not been done in

this case. Last year, the Subdivision Regulations were re-done in Centralia and there were hearings in both the P & Z and Board of Aldermen. This too should be run through the P & Z here to get their input because they deal with this on a more regular basis. We would like to see more vetting on this before adoption.

Commissioner Miller said it was pointed out that we have been inconsistent all the time and we need to be consistent so we were looking for something that is consistent so we could treat everyone fairly.

Mr. Bormann said he understands that but what has been done in the past has worked. We have not seen any examples where this has caused any problems.

Commissioner Miller said we have not looked for the problems. We are just looking for consistency for staff to follow. That is what we asked them to do. We are not in a rush. We asked them to bring this forward with something that could be consistent.

Mr. Bormann said that what has been brought forward has not been very well vetted.

Commissioner Thompson asked Mr. Bormann if he has considered the amendment as done by Mr. Shawver tonight based on the input from Mr. Butcher.

Mr. Bormann said that he has not really considered it yet. He needs to examine it a little closer.

The Commissioners thanked Mr. Bormann for speaking.

Commissioner Atwill asked if there is anyone else that would like to speak.

Gene Basinger said he would like to see the language to really study it, but does have some

questions. The proposal says Measurements are to be made perpendicular to the front and rear lot line. It would read better if it said Setback lines are to be parallel to the lot lines. Under the proposed wording, one could not do a reverse pie shaped lot. In this type of lot, where are the measurements done. There is no lot line, just a lot point. The wording should be parallel to the lot lines. If the front lot line is a curve or has a PI, then it is understandable the measurements are from each line perpendicular to it, but by the same token, we are unsure if perpendicular to a curved line should not be radial to the curve. If the rear lot line is a point and is not a perfect pie shape, where do you measure from to get the perpendicular distance.

Something needs to be done or just re-worded to make it clear as to what we want to accomplish. Hearing all the testimony today, it appears we are back to where we started, dealing with minimum lot widths at the building line and that line can be set back, something we have done for 35 years and we have precedence to show that. It appears, to me, that this is already clear and needs no clarification. If it is not broke, why fix it. As I said before, I would like to look into the wording concerning the measurement made perpendicular to the front and rear lot line.

The Commissioners thanked Mr. Basinger for his comments.

Commissioner Atwill asked if there is anyone else that would like to speak.

James Pounds said he is in agreement with Mr. Bormann in that there really is no problem with the current wording. My feeling is that Mr. Shawver should complete the re-wording and present to the Planning & Zoning Commission. It should be tabled for now and come back 30 to 60 days later and not rush to a decision tonight.

Commissioner Atwill said it is not up for a decision tonight.

The Commissioners thanked Mr. Pounds for speaking tonight.

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

Jon Cole said he is still not fond of the way the regulation has been re-written. His version is still preferred and could possibly be tweaked. He has come up with some additional ideas while listening to the others speak and feels his version is more flexible in the long run to meet the occasional irregular lot shapes of a cul-de-sac. No matter what conclusion, if you can't meet the commonly thought of irregular lot shapes, there will eventually be a problem.

In addition to my previous writing, I have made a few notes while the others were speaking. One is that all setback distances not at the required minimum should be clearly indicated on the survey map or plat. Also, to meet the concerns of minimum road frontage and to possibly provide some flexibility, added wording such as “in no case should the road frontage be less than “x” feet.” This will provide the flexibility based on the lot shapes. This is a difficult task and our hope is that you take into consideration those thoughts expressed tonight and come up with a good result.

The Commissioners thanked Mr. Cole for speaking.

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

Commission

6. 1st & 2nd reading; Approve Closed Session authorized per RSMo Sec 610.021 (1) and RSMo Sec 610.021 (9) at 10:30AM on March 5, 2015

Commissioner Miller moved on this day the County Commission of the County of Boone

does hereby authorize a closed meeting on Thursday, March 5, 2015, at 10:30 a.m. The meeting will be held in Room 338 of the Roger B. Wilson Boone County Government Center at 801 E. Walnut, Columbia, Missouri, as authorized by RSMo 610.021(1), to discuss legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys and RSMo 610.021(9), preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #101-2015**

7. Public comment

Hugh O'Dell said for clarification purposes, he would like some information on the Operation Desert Storm memorial. He has made some phone calls and looked into the minutes to see what has happened. I have received some documentation from the County Counselor and would like to know when the Commission will reach a decision. He believes this is a first amendment violation (sites first amendment). The government should stay out of religion and they can't stop anyone from exercising their religion. They should not be imposing their views on others.

Commissioner Atwill said there has been no decision on this and if Mr. O'Dell will be patient, a decision will be forthcoming.

Mr. O'Dell said he believes the Commission is covering up this matter.

Commissioner Atwill so that is not so. We are still evaluating ideas for a solution and this

does not violate the 1st amendment. That is your opinion, not ours.

Mr. O'Dell said it is a violation if you are not revealing any information.

Commissioner Atwill said this is not the place to continue this and if you can be patient, we will have a solution to this issue.

Mr. O'Dell said he is speaking in defense of the 1st amendment.

Commissioner Atwill said we understand that and are aware of that. If you can be patient, we will get this resolved.

Mr. O'Dell said it has been 10 months.

Commissioner Atwill said he is not here to argue.

Mr. O'Dell asked why this has not been resolved. A lot has been said, but nothing has been done.

Commissioner Atwill said that is your opinion. If you can be patient, we are looking into solutions.

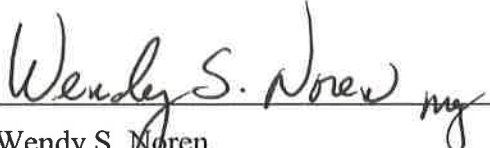
There were no further comments. The Commissioners thanked Mr. O'Dell for speaking his thoughts on this issue.

8. Commissioner Reports

None

The meeting adjourned at 8:39 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

