

TERM OF COMMISSION: June Session of the April Adjourned Term

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

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

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

### **Resource Management**

- 1. Public hearing and request by the Keeven Columbia LLC on behalf of Smarr Family Farms for a permit for topsoil management, harvesting, conditioning and stockpiling on 106.5 acres, more or less, located at 4949 W I-70 Dr NW, Columbia.**

Stan Shawver read the following staff report:

This request was considered by the Planning & Zoning Commission during their June 16, 2016 meeting.

The minutes for the Planning and Zoning Commission meeting of June 16, 2016, along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

The Planning & Zoning Commission conducted a public hearing on this request during their June 16, 2016 regular meeting. There were eight members of the commission present during the meeting.

This site is located west of Columbia off of the west end of I-70 Drive NW, east of Perche Creek. The property was rezoned from R-S to A-1 in March 2016. Adjacent land to the east, under the same ownership, has an approved Review Plan for and tentative rezoning to ML-P. A Final Plan has not been approved for the ML-P. The adjacent land not owned by the developer is zoned as follows:

- North A-2
- East R-S and R-M
- South A-R, R-M, South of I-70 REC, ML and Columbia R1
- West R-S and A-2.

The 106 acre site is within the 100-year floodplain of Perche Creek. The site is mostly level and bordered by bluffs to the east and agricultural/floodplain land and Perche Creek to the west. The character of the area is described as agricultural with low density residential to the east. The master plan designates this site as being suitable for residential land uses.

The request is to allow removal, conditioning and export of topsoil. Topsoil will be removed from a portion of the site each year and stockpiled for sale. The operator may utilize equipment such as agricultural tractors, scrapers, bull dozers, loaders, dump trucks and a topsoil screener. Agricultural operations will continue on the site, and will not be subject to the limitations of a conditional use permit (if granted). Truck traffic leaving the site will enter I-70 Drive NW at the southern end of the property. Then proceed east to the intersection with Stadium Blvd.

Potential externalities that could result from the use include noise from equipment and traffic and mud/debris on the road caused by trucks hauling soil from the site. With proper conditioning and operations those impacts can be minimized.

The application must meet the criteria for issuance of a conditional use permit. Those criteria are addressed as follows:

*(a) The establishment, maintenance or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare.*

Externalities such as noise, dust and exhaust fumes should not impact the public due to the isolated nature of the project site. Conditions of approval requiring dust control on the access road should adequately address the possibility of dust related impacts. Noise will be mitigated by the elevation difference between the project site and nearby residential areas and limited hours of operation.

*(b) The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations.*

Activities in the area that are already permitted include agricultural and residential uses. Much of the project activity will be similar in nature to the agricultural uses that have been occurring on the property for several decades. For example, topsoil removal utilizes mechanical scrapers which will sound like a farm tractor from a distance. The noise will occur over a longer period of time however, because the topsoil removal occurs between harvest and planting.

The limited hours of operation will confine the likely impacts to hours when most homeowners are at work or school. However, topography and conditions of approval will provide additional mitigation of impacts.

*(c) The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.*

Due to the limited nature of the potential offsite impacts and the proposed conditions of approval it is unlikely that the use will result in diminished or impaired property values in the area.

(d) All necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage.

The proposed use does not require any public utilities. The proposed use will utilize I 70 Drive NW (collector street) and Stadium Blvd (arterial) for access. Both streets should be able to sustain the additional truck traffic.

(e) The establishment of a conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.

Most of the property adjacent to the east that is outside of the 100-year floodplain has already been platted although much of it has remained undeveloped. Property to the west is in agricultural use and a topsoil operation is ongoing there as well. The site is separated by areas not within the floodplain by topography. There is an elevation difference between the site and adjacent residential areas ranging from 80 to 90 feet. This should provide adequate screening of the topsoil operation from adjacent residential uses and any undeveloped properties.

*(f) The establishment of a conditional use permit will not hinder the flow of traffic or result in traffic congestion on the public streets. This will include the provision of points of access to the subject property.*

The applicant anticipates approximately 20 to 30 truck trips per day. Averaging 30 trips over the 12 hour per day operating window yields an hourly traffic count of 2.5 trucks per hour. This will not result in traffic congestion on area roads.

*(g) The conditional use permit shall in all other respects conform to the applicable regulations of the zoning district in which it is located. The County Commission shall find that there is a public necessity for the conditional use permit.*

Conditions of approval address the need to obtain a Land Disturbance permit and comply with the Stream Buffer Regulations. All other applicable regulations are likewise enforceable.

Staff notified 37 property owners about this request.

Staff recommended approval subject to the following conditions:

1. Hours of operation shall be limited to
  - Monday through Saturday 7 AM to 7 PM
  - No operation Sunday
  - No operation on New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day
2. A land disturbance permit shall be acquired prior to any earth moving on the site. The permit shall specifically identify the portion of the site where topsoil is to be removed on an annual basis.
3. When the topsoil removal site is adjacent to Perche Creek the stream buffer shall be staked so as to prevent removal of soil from within the stream buffer.
4. The topsoil removal operation shall be limited to 20 acres per year which will be enforced through the Land Disturbance Permit
5. The operator shall employ the use of management practices to prevent mud, dirt or debris from being deposited on public roads to the satisfaction of the Director of Resource Management.
6. The operator shall maintain the access road in a dust free condition to the satisfaction of the Director of Resource Management.

The Planning & Zoning Commission conducted a public hearing on this request during their June 16, 2016 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 conditional use permit with the conditions suggested by staff.

The motion was approved unanimously, so the request comes forward with a recommendation for approval with conditions.

Commissioner Thompson asked if the condition #2 which allows a permit for each year will specify the portion of land each year.

Mr. Shawver said that is correct.

There were no additional questions at this time and Commissioner Atwill opened the public hearing and asked if there is anyone present to speak on behalf of this request.

Jay Gebhardt said he is with A Civil Group and is representing the property owner. We were here last March for a re-zone and at that time we mentioned we would be back for this request tonight. We testified at the P & Z meeting and staff has gone through the conditions we are to meet. We are here to answer any questions or concerns.

Commissioner Miller asked for an overview of the operation concerning harvesting, when and how long, how many trucks and so forth.

Mr. Gebhardt said the operation usually begins in the spring. 20 acres are identified and a light layer of soil is removed. It is then stockpiled and remains stockpiled until a customer calls with an order. The order is then put in a screener where the soil is made customer ready. It is loaded on the truck and delivered. The harvesting actually occurs in a 2 – 4 week period in the spring and fall.

Commissioner Miller asked if the 20 – 30 trips per day is still the average.

Mr. Gebhardt said that is the average we are using. We are using this as the average, but there will be days when there will be more. We can't set a 30 per day maximum. We believe the average will be far less than that but there could be a day where there are 40 – 50 trips. There will also be periods during the winter where there will be no trips at all. Spring and Fall will be the highest demand periods.

Commissioner Thompson asked if the noted hours of operation, Monday – Saturday from 7:00 a.m. to 7:00 p.m. involve both the removal/stockpiling and hauling.

Mr. Gebhardt said it does.

There were no further questions for Mr. Gebhardt at this time.

Mr. Shawver said he would like to correct the record. In the staff report, it was noted that the vote was unanimous. The actual vote was 6-2 in favor.

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

Allen Garner said he is an attorney and is representing adjoining property owners to this parcel of land. We recognize that the decision on the use of the property has been made, now the question is what can be done to mitigate impact. We have heard from staff on points of conditional use and one of the concepts of land use is performance standards. Throughout the process, there have been broad generalizations like the number and frequency of trucks. There are things we can address on a performance standard to further protect the neighborhood and still let the activity continue. One of the things to consider is putting into

the permit some of those representations that were made because they go to mitigating impact on others properties and one of those things is to note that stockpiling only take place on the west side of the building.

Rain causes problems as well as vibrations from the trucks and just because there is a visible bluff, it does not necessarily limit or stop the noise or dust. The permit deals with dust on the road, but with prevailing winds, that dust can go wherever.

There are several suggestions that we would like to present to Commission. One of those deals with hours of operation. It has been mentioned many times that the hours are when people are not at home. The hours of 7 to 7, Monday through Saturday runs counter to that. We understand the weekday hours, but would suggest more reasonable hours on Saturday such as 8:00 a.m. to 3:00 p.m.

Also, defining harvesting in the concept of working days so there can be adjustments based on weather conditions. This puts it into a defined measurable performance standard. The same can apply to truck trips. Traffic in that area has changed dramatically in the last two years. There is higher volume with more school busses. There are several periods during the day when the volume is highest and some things can be done from a performance standard to try to minimize this impact.

The other performance safety net is the decibel level as measured at the property line. As an example, 90 happens to be the general transmission sound of a lawn mower and saying that, it is nice in the middle of 106 acres, but when one is by the property line, it will be much louder.

In the CUP, as suggested previously, the land disturbance permit was the vehicle to control some of this, but again, it does not have the same enforcement mechanism, the same ability to come back to Commission for adjustments as the impacts are measured.



Commissioner Atwill asked if this is the same presentation made to the P & Z Commission.

Mr. Garner said it is very similar.

Commissioner Miller said in reading the minutes from that meeting, it is pretty close. Also, our ordinances and conditions are always set up to be complaint driven. For instance, if there are operations going on at 10:00 p.m., we will get a complaint and we can address it then. When one is asking for performance standards where we have to keep track of things, that is not going to work. We have to be careful with conditions that staff would have to manage because we would need more staff than what we have and if we start with one, no telling where that might go.

Mr. Garner said he appreciates that as he is familiar with the complaint driven system. Part of the issue is not necessarily that staff go out and do enforcement, but there is no standard that can be enforced. It can still be complaint driven, but if there is no standard, the complaint can't be judged. There needs to be measurable and not necessarily done by the County. It could be a neighbor.

Commissioner Miller said that would be ones word against another and we do not want to go down that road.

The Commissioners thanked Mr. Garner for speaking tonight.

Commissioner Atwill asked if there is anyone else that would like to speak in opposition to this matter.

John Rellas said he is the closest to the operation sitting on the bluff. He can hear the operation from across Perche Creek which is over one mile away. Now, the operation will be several hundred yards from him. The noise is a concern and the operation will be 7 to 7, six

days a week. Also, the road near the operation is like a roller coaster and that is due to the operation. I-70 NW will also get that way with the expanded operation.

Commissioners thanked Mr. Rellas for speaking.

Commissioner Atwill asked if there are any other speakers. There were no additional speakers and Commissioner Atwill closed the public hearing.

Commissioner Miller asked if a condition was put in to only stockpile on the west side of the building, would that be a problem.

Mr. Gebhardt said that would not be a problem.

Commissioner Thompson said that according to the P & Z minutes, you indicated that you wanted the hours of 7 to 7, Monday through Saturday but would consent to Saturday hours of 7:30 a.m. to 3:00 p.m.

Mr. Gebhardt said that the preference for that day is 7:00 a.m. to 3:00 p.m.

Commissioner Miller said it should be 8:00 a.m. to 3:00 p.m. as people would like to sleep in on Saturday morning.

Mr. Gebhardt and Mr. Smarr said that would be ok.

Commissioner Miller said that is the best balance with the testimony today and the issues we can measure. It is the fairest compromise.

There were no further comments or questions.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request by the Keeven Columbia LLC on behalf of Smarr Family Farms for a permit for topsoil management, harvesting, conditioning and stockpiling on 106.5 acres, more or less, located at 4949 W I-70 Dr NW, Columbia, subject to the following conditions:

1. Hours of operation shall be limited to
  - Monday through Friday 7 AM to 7 PM; Saturday 8 AM to 3 PM
  - No operations on Sunday
  - No operations on New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day
2. A land disturbance permit shall be acquired prior to any earth moving on the site. The permit shall specifically identify the portion of the site where topsoil is to be removed on an annual basis.
3. When the topsoil removal site is adjacent to Perche Creek the stream buffer shall be staked so as to prevent removal of soil from within the stream buffer.
4. The topsoil removal operation shall be limited to 20 acres per year which will be enforced through the Land Disturbance Permit
5. The operator shall employ the use of management practices to prevent mud, dirt or debris from being deposited on public roads to the satisfaction of the Director of Resource Management.
6. The operator shall maintain the access road in a dust free condition to the satisfaction of the Director of Resource Management.
7. Material will be stockpiled on the west side of the building.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #305-2016**

- 2. Public hearing and request by 3WT Properties LLC to rezone from A-2 (Agriculture) to A-2P (Planned Agriculture) ) and to approve a Review Plan and Preliminary Plat for Arrowhead Lake Estates on 59.15 acres, more or less, located at 3151 W Rte K, Columbia. (request to table by applicant)**

Stan Shawver read the following from the property owner:

On June 16, 2016, the Boone County Planning & Zoning Commission approved 3WT's request to rezone the above property with several contingencies including obtaining adequate sewer service. This rezoning request was scheduled to come before the County Commission at this Tuesday's meeting.

For several months, we have been working with the BCRSD and the City of Columbia to obtain sewer service for this property but an unforeseen circumstance has caused a delay in the process.

Therefore, we respectfully request that our rezoning request be tabled until the County Commission's July 26<sup>th</sup> meeting at which time we hope to have more information regarding sewer access.

Please contact me at 573-808-5190 or email [skeithahn@aol.com](mailto:skeithahn@aol.com) if you require additional information.

Commissioner Atwill said this item will be tabled at the request of the applicant.

**3. Public hearing and request by EKD Properties V LLC to approve a Final Development Plan for Bobcat of St. Louis Planned Commercial Development on 35.91 acres, more or less, located at 1101N Lenway Dr. Columbia.**

Stan Shawver read the following staff report:

The property is located at 6989 I-70 Drive N.E., approximately 4 miles east of Columbia. The 36.94 acre tract was originally zoned A-R (Agriculture-Residential). In 1994, 17.12 acres was rezoned to REC (Recreation), the remaining 19.82 acres retained the original A-R zoning. The golf driving range was allowed by conditional use permit in 1989. In January 2005 the north 29.44 acres of the property was rezoned to RS-P(Planned Residential Single-Family) and the south 7.5 acres was rezoned to CG-P(Planned General Commercial). A final development plan and preliminary plat was also approved showing 88-residential lots and 2-commercial lots. In October of 2005, a new plan was filed requested expansion of the C-GP area. Zoning adjacent to the property is as follows: north – A-1(Agriculture) and A-R; east – A-R; south – A-2(Agriculture); west – A-2. The Commission approved a revised Review Plan in May 2016.

In accordance with the Zoning regulations, a final development plan can be approved by the signature of the P & Z chairperson and secretary in cases where the County Commission has not added or changed conditions of approval agreed to by the P & Z Commission. The Final Development Plan was signed by the Planning and Zoning Commission chairperson and secretary at the June 16, 2016 meeting. There is no public hearing required so a motion to accept the final development plan is in order.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the request by EKD Properties V LLC to approve a Final Development Plan for Bobcat of St. Louis Planned Commercial Development on 35.91 acres, more or less, located at 1101 N Lenway Dr. Columbia.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #306-2016**

**4. Receive and Accept the following subdivision plats:**

- a. **Gateway South Plat No. 7-A1. S10-T47N-R13W. R-S. Bradley and Abigail Baker, owners. David T. Butcher, surveyor.**
- b. **Deline. S18-T47N-R12W. A-2. Kelly C. Deline, owner. C. Stephen Heying, surveyor.**
- c. **KW Estates. S25/26 –T50N-R13W. A-2. KW Properties Inc., owner. Kevin Schweikert, surveyor.**
- d. **Gobbling Tom. S2/11-T47N-R13W. R-S. Michael R. Covington, owner. James R. Jeffries, surveyor.**
- e. **Clearview Plat 8. S24-T49N-R13W. R-M. Enrich Properties LLC, owner. Kevin Schweikert, surveyor.**

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:

- Gateway South Plat No. 7-A1. S10-T47N-R13W. R-S. Bradley and Abigail Baker, owners. David T. Butcher, surveyor.
- Deline. S18-T47N-R12W. A-2. Kelly C. Deline, owner. C. Stephen Heying, surveyor.
- KW Estates. S25/26 –T50N-R13W. A-2. KW Properties Inc., owner. Kevin Schweikert, surveyor.

- Gobbling Tom. S2/11-T47N-R13W. R-S. Michael R. Covington, owner. James R. Jeffries, surveyor.
- Clearview Plat 8. S24-T49N-R13W. R-M. Enrich Properties LLC, owner. Kevin Schweikert, surveyor.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #307-2016**

### **Purchasing**

#### **5. First reading; Bid Award 30-19MAY16 – Office Furniture for the Emergency Communication Center**

Commissioner Miller read the following memo:

*Request for Bid 30-19MAY16 – Office Furniture for the Emergency Communication Center* closed on May 19, 2016. Two bids were received. Recommendation for award is Inside the Lines for offering the responsive, responsible bid for Boone County. The low bid offered by Marathon Building Environments did not meet the specification that mounted storage cabinets must be mounted to structural columns. Marathon's bid cabinets are wall mounted. In addition, Marathon did not bid the night stand shelves.

Total cost of contract is \$256,843.76 and will be paid from 4100- ECC Facility Construction Project, account 91100 – Furniture and Fixtures. There is \$500,000 budgeted for office furniture.

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.

**6. First reading; RFP Award 08-01MAR16 – On-Line Computer and General Research Services for Boone County Legal and Prosecuting Attorney Department**

Commissioner Thompson read the following memo:

Request for Proposal 08-01MAR16 – On-Line Computer and General Research Services opened on March 1<sup>st</sup>, 2016. Two proposal responses were received.

The evaluation committee consisted of the following:

Bonnie Adkins, Office Administrator, Prosecuting Attorney

CJ Dykhouse, Legal Counsel

Tracy Gonzalez, First Assistant Prosecuting Attorney

Stephanie Morrell, Assistant Prosecuting Attorney II

Keith Hoskins, Corrections Captain, Sheriff

The evaluation committee recommends award for the Prosecuting Attorney's office & Legal Counsel to West Publishing Corporation.

Cost of contract for Legal is \$424.08 per month, July 1, 2016 – June 30, 2017 (\$5,088.96) and will be paid from department 1126 – County Counselor Office, account 22500 Subscriptions / Publications. \$8,915.00 was budgeted for 2015.

Cost of contract for Prosecuting Attorney is \$1,712.37 per month, July 1, 2016 – June 30, 2017 (\$20,548.44) and will be paid from department 1261 – Prosecuting Attorney,



account 22500 Subscriptions / Publications. \$15,144.00 was budgeted for 2015.

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.

### **Sheriff's Department**

#### **7. Second reading; Food Service Contract with CBM Managed Services (1<sup>st</sup> read 6-23-16)**

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the attached Food Service Contract between Boone County and Catering By Marlin's Inc. d/b/a CBM Managed Services.

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

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #308-2016**

### **Juvenile Division**

#### **8. Public hearing and second reading; Budget Amendment regarding Domestic Relations Resolution Fund – Contact for Kids (1<sup>st</sup> read 6-14-16)**

Commissioner Atwill opened the public hearing and asked if there is anyone present that would like to speak on the budget amendment. There were no speakers and Commissioner Atwill closed the public hearing.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby acknowledge the following budget amendment from the Juvenile Division to increase revenue and expenditures for the Domestic Relations Resolution Fund – Contact for Kids: A Safe Way Grant for the period 7/1/16 through 12/31/16.

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
1243	3451	Judicial Grants	State Reimbursement		5,000
1243	71101	Judicial Grants	Professional Services		5,000

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #309-2016**

**9. Public hearing and second reading; Budget Amendment for the Probation Services grant (1<sup>st</sup> read 6-16-16)**

Commissioner Atwill opened the public hearing and asked if there is anyone present that would like to speak on the budget amendment. 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 acknowledge the following budget amendment from the Juvenile Division to increase revenue and expenditures for the Probation Services grant for the period 7/1/16 through 12/31/16.

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
1243	3451	Judicial Grants	State Reimbursement		45,222
1243	10100	Judicial Grants	Salaries/Wages		35,485
1243	10200	Judicial Grants	FICA		2,714
1243	10300	Judicial Grants	Health Insurance		5,820
1243	10325	Judicial Grants	Disability Insurance		135
1243	10350	Judicial Grants	Life Insurance		48
1243	10375	Judicial Grants	Dental Insurance		420
1243	10500	Judicial Grants	401(A) Match		600

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #310-2016**

### Commission

#### 10. 1<sup>st</sup> & 2<sup>nd</sup> reading; New board appointments for the following:

- **Michael Leipard to the Building Code Commission**
- **Kelli Canada to the Judicial & Law Enforcement Task Force**

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

Name	Board	Period
Michael Leipard	Building Code Commission	July 1, 2016 through June 30, 2018
Kelli Canada	Judicial & Law Enforcement Task Force	July 1, 2016 through June 30, 2019

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #311-2016**

**11. Public Comment**


None

**12. Commissioner Reports**

None

The meeting adjourned at 7:50 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