

TERM OF COMMISSION: May Session of the April Adjourned Term

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

PRESENT WERE: Presiding Commissioner Dan Atwill
District I Commissioner Fred Parry
District II Commissioner Janet Thompson
Director Resource Management Stan Shawver
Planner Uriah Mach
County Counselor C.J. Dykhouse
Deputy County Clerk Mike Yaquinto
Deputy County Clerk Michelle Thompson

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

Resource Management

- 1. Public hearing for a request by Debbie R. Smith, Katrina L. Eddings and Christine E Gehlkin for a permit to allow a single-wide manufactured home to remain in a subdivision on 2.5 acres located at 1550 W Rte F, Clark. (public hearing)**

Stan Shawver read the following staff report:

This request was considered by the Planning & Zoning Commission during their April 19, 2018 meeting.

The minutes for the Planning and Zoning Commission meeting of April 19, 2018, 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 April 19, 2018 regular meeting. There were eight members of the commission present during the meeting.

This site is located on the south side of State Highway F, 1.6 miles west of US Highway 63 North. The property is zoned A-2, which is the original zoning. All adjacent land is zoned A-2.

There is an existing singlewide mobile home on the northeast corner of the 75-acre tract. It is the intent of the owner to plat a 2.5-acre tract for the mobile home to allow the owner of the mobile home to remain on the property. The remainder of the property is to be sold. The Boone County Zoning Code requires a conditional use permit in order to install or maintain a mobile home on a lot in a platted subdivision.

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.

The existing mobile home is being used as a single-family residence. It is not expected that any externalities will be generated that impact public health, safety, comfort or welfare.

(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.

The mobile home has been a fixture of the neighborhood for a several years. Resource management has no record of complaints tied to this address, which indicates compliance with this criterion.

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

The current home appears to be well maintained and does not appear to diminish or impair property values in the neighborhood. However, mobile homes tend to devalue over time the very nature of a mobile home is its ability to be moved. A condition should be placed on this permit to limit the ability of the property owner to replace the current home with a different mobile home.

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

All necessary facilities are in place for the current home

(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.

Allowing the existing, well maintained, home to remain on the property will not impede development in this area. This could change over time if the home falls into disrepair or if it is replaced with a home that has not been well maintained. A condition should be placed on this permit to limit the ability of the property owner to replace the current home with a different mobile home.

(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 existing home is expected to generate a normal amount of traffic. Granting this

permit will not result in traffic congestion.

(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.

There are two accessory structures on the property that appear to be located within the required side setback. Their location will be verified during the platting process. If they are found to be violating the setback they will be required to be moved or removed prior to approval of the plat.

Staff notified 20 property owners about this request.

Staff recommended approval subject to the following conditions:

1. This permit is issued exclusively for the existing mobile home. The permit will terminate when the existing home is removed from the property and does not extend to any other mobile home.
2. The property owner shall ensure that all structures on the property comply with zoning setback requirements.

The Planning & Zoning Commission conducted a public hearing on this request during their April 19, 2018 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 suggested conditions. That motion carried unanimously.

There were no comments or questions from the Commission.

Commissioner Atwill opened the public hearing and asked if there was anybody present that would like to speak on behalf of this request.

Don Bormann said two of the land owners live outside the area and the other one works evenings, so I'm here to represent them as well as the owner of the mobile home who is going to get this lot when it's all said and done. Stan pretty much said it all. It's existing. It's already there. Since the land owners are out of the area, they would like to sell the property and they find it more conducive to sell it without the mobile home on the property. There's a five-acre piece right next to it that is already there with a house on it. The guy that lives there was the uncle of the people that own it and he has a 20 or 30-year lease on the property. He's not going anywhere, this won't impact anything, they just want to facilitate this to sell the property.

There were no comments or questions from the Commission.

Commissioner Atwill asked if there was anyone else present that would like to address the Commission on the matter. There were no other speakers. Commissioner Atwill closed the public hearing.

Commissioner Parry moved on this day the County Commission of the County of Boone does hereby **approve** the request by Debbie R. Smith, Katrina L. Eddings and Christine E Gehlkin for a permit to allow a single-wide manufactured home to remain in a subdivision on 2.5 acres located at 1550 W. Rte. F, Clark, Missouri.

Commissioner Thompson said before I second, I have a question to ask of Mr. Dykhouse. Is the language on here sufficient without the conditions as stated?

Mr. Dykhouse indicated that the conditions need to be in the motion.

Commissioner Thompson said the conditions are not on the order, so, I would amend the order

with your permission to include under the following:

- This permit is issued exclusively for the existing mobile home. The permit will terminate when the existing home is removed from the property and does not extend to any other mobile home.
- The property owner shall ensure that all structures on the property comply with zoning setback requirements.

And with that, I second.

Commissioner Atwill said the motion has been made, amended, and seconded.

The motion carried 3 to 0. **Order #237-2018**

- 2. Public hearing for a request by James and Tammy Heuer to rezone from R-S (Residential Single Family) to C-N (Neighborhood Commercial) on 1.04 acres, more or less, located at 15471 N Old Hwy 63, Sturgeon.**

Stan Shawver read the following staff report:

The subject property is 1.04-acres and located approximately half way between Harrisburg and Hallsville about eight miles north of Columbia on Old Hwy 63 N. The property is zoned R-S (residential single-family) and comprises lots 1 & 2 of McGlasson subdivision. Property to the south, west, and north is also zoned R-S with property across Highway 63 to the East zoned A-2 (Agriculture) and these are all original 1973 zonings. There has been a store/café on the property since before the County adopted zoning, however, the initial zoning for the property was not assigned as any form of commercial, as it could have been. In 1999 the Board of Adjustment issued a Certificate of Occupancy for a Non-Conforming Use with the zoning equivalent level as C-N (Neighborhood Commercial). Later that same year the owner requested re-zoning to C-GP (Planned Commercial), however, a Review Plan and Final Plan were never submitted as required so no rezoning occurred.

There is an existing store/café building on the property in the area of the original Lot 1 and a home was on the area of original Lot 2. The home has recently burned and would have been required to be demolished/removed anyway if the rezoning is approved since it is not an allowed use in the C-N district. Any debris from the burned house will need to be removed from the site and be properly disposed of in order to not be a zoning violation.

The main purpose of this rezoning request is to make the store/café a permitted use rather than a legal non-conforming use and to allow the two existing lots to be re-platted into a single lot so a new permitted wastewater system for the store/café can be installed on the resultant combined lot. The existing means of handling wastewater for the property have not been appropriate and have resulted in problems for both the property and its neighbors. The property has received a tentative approval for a vacation of the original two lots that will go into effect with the recording of the new re-plat. The property has also received a variance from the Board of Adjustment for the existing store/café building to encroach into the required setback areas. This variance goes for the existing structure only and any reconstruction will need to be in compliance with the appropriate setbacks.

The property is located inside the Hallsville school district, the Boone County Fire Protection District, & Public Water District #10.

The Master Plan describes this area as being suitable for agriculture and rural residential land use. Staff notified 13 property owners about this request.

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 which provides water service to the store/café from a six-inch waterline that does not have sufficient flows for fire protection, the Boone Electric Cooperative service area, and the Boone County Fire Protection District.

Transportation: The property has direct access on to Old Hwy 63 N, a publicly-dedicated, publicly-maintained right of way.

Public Safety: The property is located in the Boone County Fire Protection District, with the station on Dripping Springs Rd being closest for service.

Zoning Analysis: If approved, this proposal would officially create a tiny commercial node in an area the Masterplan designates as rural residential and agricultural. If the store/café use had not been part of the historical fabric of the immediate area this request could not be justified and would be inappropriate. As a non-conforming use, it is hard to justify the needed costs for improvements when there is no ability for expansion. Additionally, the recognition that the nonconforming use would be regulatorily discontinued due to damage such as from a fire or storm makes such investment too uncertain. The site does not currently have access to adequate public water for fire protection and in this respect does not meet the sufficiency of resources test, however, in this case the rezoning is needed to correct wastewater issues and establish a base for additional improvements such as increased water for fire needs in the future. It needs to be understood that even if the rezoning is approved no building permits will be issued for the property that would allow expansion or additional construction until after proper public water and improvements for fire protection are installed on the site. The existing wastewater lagoon on the site will have to be removed and be properly closed and the

new engineered wastewater system installed, both to the satisfaction of the Health Department and the Director of Resource Management.

If the property had historically been used solely for residential or vacant uses, the request could not be justified because all necessary services do not exist at this time and are not being proposed to be installed at this time. However, as part of a plan to minimize impacts to the surrounding properties from the existing use and make the existing uses more compatible with each other, staff recommended **approval** of this request.

The Planning & Zoning Commission conducted a public hearing on this request during their April 19, 2018 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. That motion carried unanimously.

Commissioner Thompson asked if all of the requirements of your office and the Health Department will come following rezoning?

Stan Shawver said they would.

Commissioner Thompson asked if those will have to be met before Mr. Heuer is given permission to proceed?

Stan Shawver said they would.

There were no further comments or questions from the Commission.

Commissioner Atwill opened the public hearing and asked if there was anybody present that

would like to speak on behalf of this request.

Robert Hollis presented a PowerPoint presentation regarding this matter, which is attached at the end of these minutes.

Commissioner Parry said the sewer district is in the process of changing their regulations on these irrigation systems where you will have to have a redundant leaching field.

Stan Shawver said that's correct.

Commissioner Parry asked if this be exempt from that?

Stan Shawver said yes, it would be.

There were no further comments or questions from the Commission.

Commissioner Atwill asked if there was anyone else present that would like to address the Commission on the matter. There were no other speakers. 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 James and Tammy Heuer to rezone from R-S (Residential Single Family) to C-N (Neighborhood Commercial) on 1.04 acres, more or less, located at 15471 N. Old Hwy 63, Sturgeon, Missouri.

Commissioner Parry seconded the motion.

The motion carried 3 to 0. **Order #238-2018**

3. **Request by Gara W. Toalson Trust to approve a Revised Final Development Plan for Toalson Estates Planned Development on 81.99 acres, more or less, located at 7273 S**

Hidden Pond Ln., Columbia.

Stan Shawver read the following staff report:

The subject property is located south of State Route K, bounded by Nursery Road to the east, and Warren School Road to the west. The property is 81.99 acres in size and is zoned A-2P (Planned Agriculture). It was successfully rezoned to A-2P with a final plan approved in May of 2017.

The applicant has submitted a revised review plan to change the designation of the lot in the southeastern corner as a developable lot from being a utility lot. A Revised Review Plan was approved during the March 2018 Commission meeting.

The Boone County Zoning Ordinance identifies three standards for approval of a Final Development Plan: all required information is accurately portrayed on the Final Plan, the Final Plan conforms to the approved Review Plan, and the Final Plan demonstrates compliance with all conditions, which the County Commission may have imposed on the Review Plan.

After review of the submitted Final Plan, staff has determined that the Final Plan meets the identified standards.

There were no comments or questions from the Commission.

Commissioner Parry moved on this day the County Commission of the County of Boone does hereby **approve** the request by Gara W. Toalson Trust to approve a Revised Final Development Plan for Toalson Estates Planned Development on 81.99 acres, more or less, located at 7273 S. Hidden Pond Ln., Columbia, Missouri.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #239-2018**

4. Request by Deborah Vollrath Revocable Trust to approve a Final Development Plan for Vollrath A-2P on 9.77 acres, more or less located at 7370 S Bennett Dr., Columbia

Stan Shawver read the following staff report:

The subject property is located on Bennett Drive, approximately 1 mile to the east of the village of Pierpont, and one mile south of the City of Columbia. The subject property is 9.99 acres in size. It currently has a house and several accessory structures present on the property. A request to rezone the property from A-1 (Agriculture) to A-2P (Planned Agriculture) and a Review Plan were approved in February.

The Boone County Zoning Ordinance identifies three standards for approval of a Final Development Plan: all required information is accurately portrayed on the Final Plan, the Final Plan conforms to the approved Review Plan, and the Final Plan demonstrates compliance with all conditions, which the County Commission may have imposed on the Review Plan.

After review of the submitted Final Plan, staff has determined that the Final Plan meets the identified standards.

There were no 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 Deborah Vollrath Revocable Trust to approve a Final Development Plan for Vollrath A-2P on 9.77 acres, more or less located at 7370 S. Bennett Dr., Columbia, Missouri.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #240-2018**

5. **Status update only, NO ACTION TO BE TAKEN, on petition submitted by Nextech LLC for permission to re-plat a 19.89 acre tract located at 4980 S South Cowan Loop, Columbia (tabled 3/27/2018).**

Stan Shawver that the Commission had opened a public hearing for the re-plat of this tract at the March 27th meeting. If you recall, one of the questions that came up was whether there was adequate utility service available or not for what the developer wanted to do. He wanted to do 12 lots and there was an agreement with the sewer district that only provided for 4 lots and you tabled that action until it could be clarified or changed. I have contacted Boone County Regional Sewer District and they have not made any reallocation. You may recall there is a 20,000 square foot building the majority of the sewer capacity was committed to that building which was to be used for a daycare or a school. That is what's it's being re-modeled for. Mr. Dweek has contacted the sewer district, but they haven't been able to get together and discuss it. I think you saw an email earlier this week that laid out the regulations to provide service of what is already out there, which was in line with the agreement. So, you tabled it and said it would be considered at the May 1st meeting. Your actual tabled motion did not set a date. So, for the record, I thought it was important to come back and at least report to you even though it remains on the table with no action take in case someone down the road the road is reading through the minutes and wonders what happened.

Commissioner Atwill said so, it remains tabled? Do we need to set a date?

Stan Shawver said until they can figure out how to change the status of that one building, I don't know that it can be resolved. Certainly, it would be up to the Regional Sewer District to make any actions there.

Commissioner Thompson said we have no control over either, right?

Stan Shawver said right, and the fact is there is a 20,000 square foot building over there that needs to have sewer.

Commissioner Atwill asked My Dykhouse for his input.

C.J. Dykhouse said I think it would be appropriate, Commissioner if you desire, to set a docket date. Set a date certain for this to come up because at some point, it becomes appropriate in my judgement, to deny the petition as presented and let them file a new petition when these issues have been resolved.

Commissioner Atwill said what would be an appropriate time to wait?

C.J. Dykhouse suggested we defer to Mr. Shawver.

Stan Shawver said I would say give them another 3 months. Any change will have to go back to the sewer district board and they meet just once a month. So, I would say at least 3 months from now.

Commissioner Atwill said we don't need a motion for that. By consensus, we ask you to do that.

C.J. Dykhouse said August 28th is the next P & Z meeting in the month of August.

Commissioner Parry said perfect, that is 4 months.

There were no further comments or questions from the Commission.

6. **Receive and Accept the following plats:**

- **Toalson Estates Plat No.1-B. A-2P. S8-T47N-R13W. Gara Toalson Trust, owner. David T. Butcher, surveyor.**

- **Heuer's Café. S12-T50N-R13W. James and Tammy Heuer, owners. James R. Jeffries, surveyor.**

- **Sycamore Hollow. S17-T50N-R12W. Fredrick R. Hill and Susan I. Hill Revocable Trust, owner. Kevin M. Schweikert, surveyor.**

- **Forest View Acres. S24-T47N-R13W. Wendling Development LLC, owner. J. Daniel Brush, surveyor.**

Commissioner Parry 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:

1. Toalson Estates Plat No.1-B. A-2P. S8-T47N-R13W. Gara Toalson Trust, owner. David T. Butcher, surveyor.
2. Heuer's Café. S12-T50N-R13W. James and Tammy Heuer, owners. James R. Jeffries, surveyor.
3. Sycamore Hollow. S17-T50N-R12W. Fredrick R. Hill and Susan I. Hill Revocable Trust, owner. Kevin M. Schweikert, surveyor.
4. Forest View Acres. S24-T47N-R13W. Wendling Development LLC, owner. J. Daniel Brush, surveyor.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #241-2018**

7. **Lot 202 Trade Winds Park Plat 2B (preliminary plat). S12-T48N-R12W. M-L. Trade Winds Technology Development LLC, owner. Jay Gebhardt, surveyor (report only).**

Stan Shawver read the following staff report:

Trade Winds Park Plat 2B (preliminary plat) The subject property is located at the northwestern corner of the intersection of Trade Winds Parkway and Richland Road, approximately ½ mile to the east of the city limits of Columbia. The property is 28.53 acres in size and zoned M-L(Light Industrial) & R-S(Residential Single-Family). This proposal divides the property into sixteen lots ranging in size from 2.43 acres to .91 acres and extending two roads into cul-de-sacs.

Stan Shawver said previously there had been a preliminary plat submitted on this and for some internal considerations, the developers decided they wanted to change configuration of the cul-de-sacs and so it required them to submit a new revised preliminary plat. It's the same number of lots as what they saw originally.

Commissioner Parry asked who is the owner of the property?

Stan Shawver said Heubert Trucking.

Commissioner Parry asked if they are turning the technology park into residential?

Stan Shawver said no, there's just a little bit of residential on that.

There were no further comments or questions from the Commission.

Community Services

8. Second reading; Contract Amendment Number One related to Office of Social and Economic Data Analysis (1st read 4-26-18)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the attached Contract Amendment #1 between Boone County and The Curators of the University of Missouri, on behalf of the Office of Social and Economic Data Analysis.

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

Commissioner Parry seconded the motion.

The motion carried 3 to 0. **Order #242-2018**

Collector

9. Second reading; Tax Collection Agreement with the city of Hallsville (1st read 4-26-18)

Commissioner Parry moved on this day the County Commission of the County of Boone does hereby approve the attached Tax Collection Agreement between Boone County and the City of Hallsville.

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

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #243-2018**

Commission

10. 1st and 2nd reading; Organization Use of The Government Center Chambers by Mo Women's Political Caucus on May 20, 2018.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the Organizational Use of the Government Center Chambers by MO Women's Political Caucus, on May 20th, 2018 from 11:30 am to 3:30 pm.

Commissioner Parry seconded the motion.

The motion carried 3 to 0. **Order #244-2018**

11. Public Comments

None

12. Commissioner Reports

None

Before the Boone County
Commission

Request for Rezoning & Plat Approvals

James and Tammy Heuer

“Heuer’s Country Store & Café”

May 1, 2018

Heuer's Country Store & Cafe

- James Heuer, 8600 West Callahan Creek Road, Harrisburg, MO 65265, Applicant
- Jamie Jeffries, Allstate Consultants, 3312 LeMone Industrial Blvd., Columbia MO 65201, PLS for Applicant
- Robert N. Hollis, Van Matre, Harrison, Hollis, Taylor, Elliott, and Hicks, P.C., 1103 E. Broadway, Columbia, MO 65205, Attorney for Applicant

Heuer's Country Store & Cafe



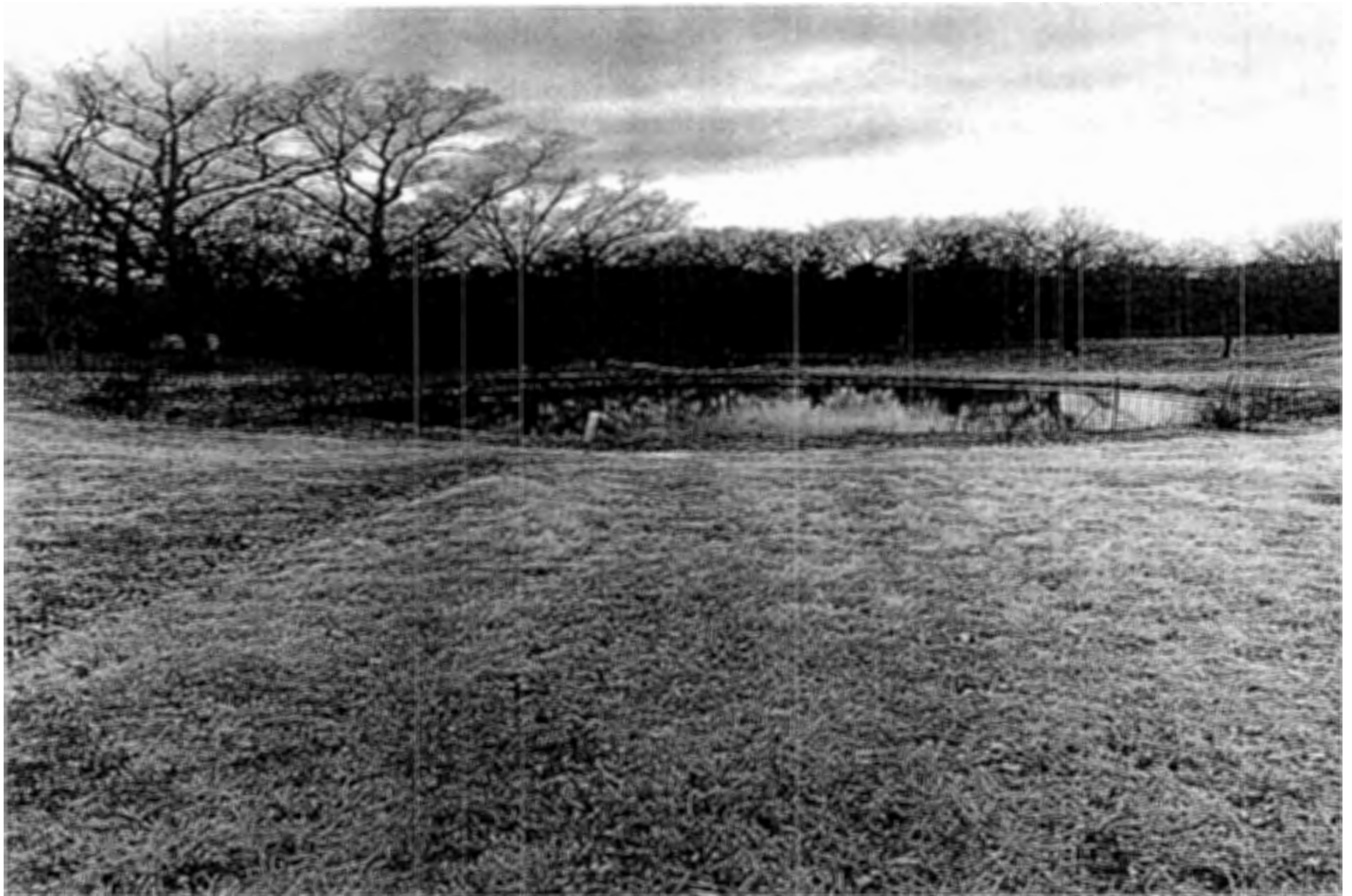
The Plan

- Obtain variance with respect to setbacks (Done)
- Obtain plat vacation approval (Done) and “Replat” into one lot to accommodate drip system sewer improvements
(Requesting “Replat” - P&Z unanimously recommended approval)
- “Rezone” to C-N to be consistent with previous approval by County **(Requesting Rezoning - P&Z unanimously recommended approval)**
- Replace existing sanitary sewer system (lagoon) at Heuer’s Country Store & Café (Following Approvals)

Heuer's Country Store & Cafe



Heuer's Country Store & Café – Sanitary Sewer Improved

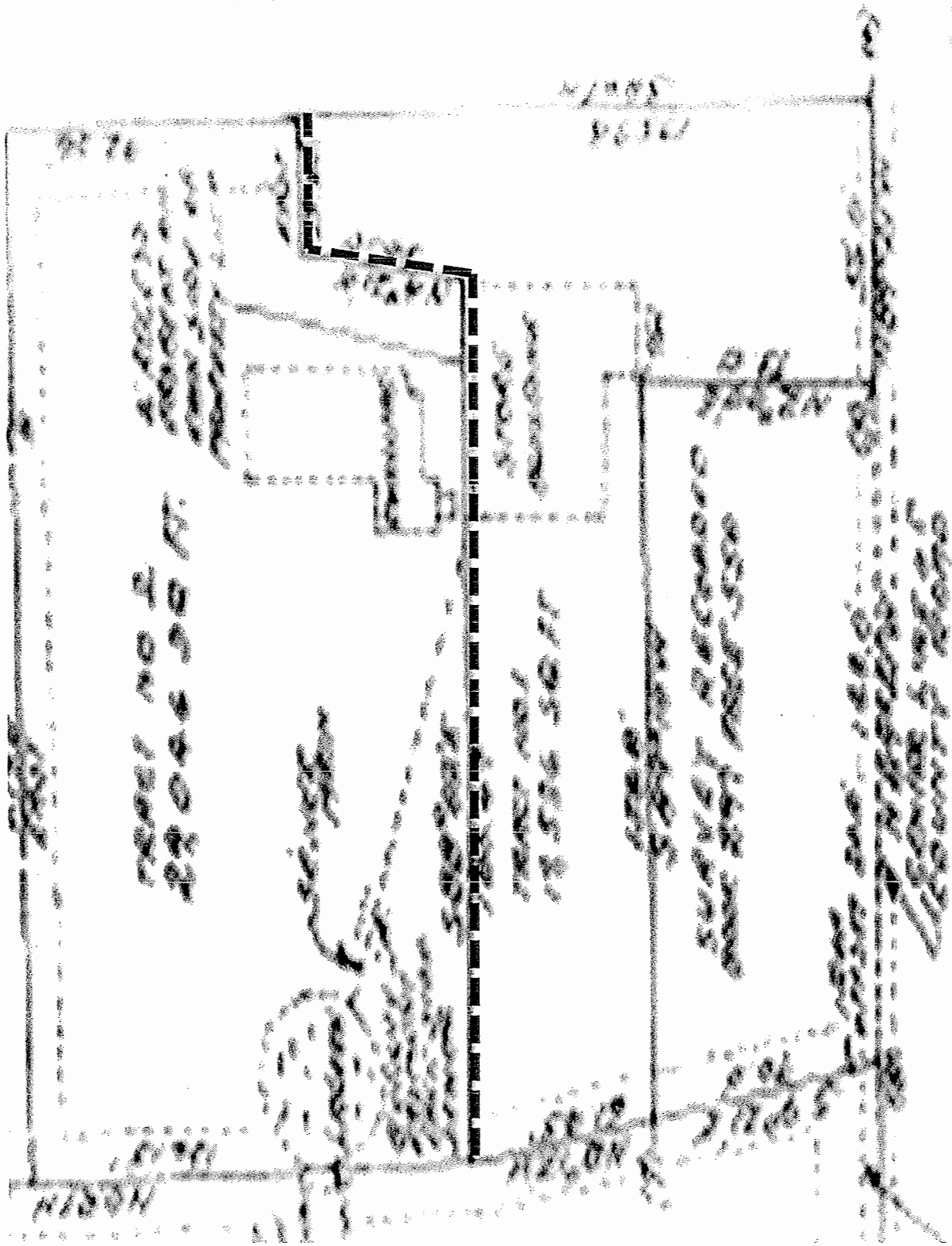


01/20/2025

01/20/2025

01/20/2025

Heuer's Country Store & Café - Zoning/Platting



Rezoning Meets County Regulations

- There is competent, substantial evidence that the proposed change in the Zoning District Map is justified:
 - There would be no change in the existing use which is proper for the area as proven by years of operation
 - Any additional uses would comply with Neighborhood Commercial standards.
 - Additional uses are naturally constrained by limited space and resources/utilities

Vacation/Re-Plat Complies with Sections 1.8.1.3 and 1.8.2 of Subdivision Regs

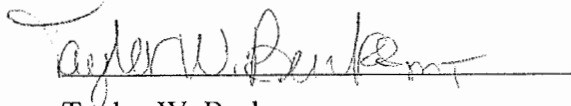
- As required, the County Commission found that the vacation/replat will not adversely affect the following:
 - Character of the neighborhood
 - Traffic conditions, circulation, the proper location, alignment and improvement of streets and roads within and adjacent to the subdivision
 - Property values within the subdivision
 - Public utility facilities and services
 - Health, welfare, or safety of persons owning or possessing real estate within the subdivision to be vacated/replatted or surrounding real estate.
- No change from major to minor
- No re-plat with changes prior to vacation per regs

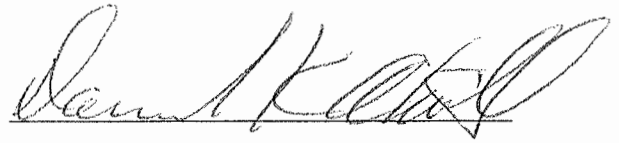
Conclusion

- Your approval is requested for the rezoning and re-plat submitted by Allstate Consultants on behalf of James and Tammy Heuer.
- Questions?

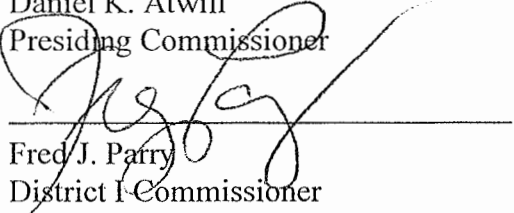
The meeting adjourned at 7:34 p.m.

Attest:

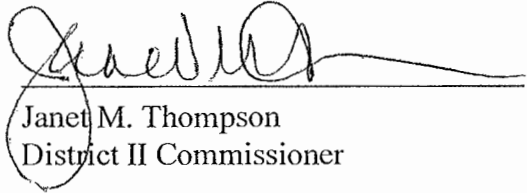

Taylor W. Burks
Clerk of the County Commission



Daniel K. Atwill
Presiding Commissioner



Fred J. Parry
District I Commissioner



Janet M. Thompson
District II Commissioner

