

TERM OF COMMISSION: June Session of the April Adjourned Term

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

PRESENT WERE: Presiding Commissioner Dan Atwill  
District I Commissioner Justin Aldred  
District II Commissioner Janet Thompson  
Director of Resource Management Bill Florea  
Planner Uriah Mach  
Deputy County Clerk Jodi Vanskike

Public: Tim Crockett – Crockett Engineering, Bridget Early, Don Bormann – Bormann Surveying

**Conference Call Information:**

**Number: 425-585-6224 Access Code: 802-162-168**

The meeting was called to order at 7:00pm.

**P & Z**

- 1. Request by VH Properties LLC for a conditional use permit for an indoor shooting range in the REC-P (Planned Recreational) zoning district on 5.32 acres located at 5885 W Van Horn Tavern Rd, Columbia. (Open Public Hearing) Tabled from 5/31/2022**

Director of Resource Management Bill Florea read the following staff report: The Planning and Zoning Commission conducted a public hearing on this request at its May 19, 2022 meeting and voted to recommend approval of the request on a unanimous vote. The minutes of that meeting and the Boone County Zoning and Subdivision Regulations are entered into the record of this meeting.

This property is located on the north side of Van Horn Tavern Rd approximately 1900 feet west of the intersection with State Route UU and 300 feet west of the Columbia city limits. The 5.32-acre lot is zoned of Rec-P (Planned Recreational) after a rezoning April 2022. The lot has been developed with a large existing commercial building and associated parking.

Adjacent zoning is as follows:

- East and west, M-LP (Planned Light Industrial)
- North, across I-70, A-2 (Agriculture)
- South A-R (Agriculture-Residential).

The request is to obtain a Conditional Use Permit (CUP) for an indoor shooting range. The change of use will require modification of the building under the direction of an Architect licensed to practice in Missouri. The building modifications will be required to prevent rounds from penetrating the exterior shell of the building. The proposal indicates that the firearms used will be air rifles and guns using .22 long rifle or less powerful cartridges. The building modifications will also dampen any sound caused by the shooting activity.

The following criteria are the standards for approval of a conditional use permit, followed by staff analysis of how this application may meet those standards. Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners.

(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.

Limitations on the power of the firearms involved accompanied by the required modifications to the building should address any concerns related to the public health, safety, comfort, or general welfare. The building is already served by public sewer and water.

(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.

Nearby properties are either developed for significant commercial/industrial use or underdeveloped for residential use. The property is located along a major interstate highway with the corresponding level of noise. With the required building modifications, the establishment of this conditional use permit should not be injurious to the use and enjoyment of those properties in the immediate vicinity for purposes already permitted by these regulations.

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

If this activity is operated within county regulations, this conditional use permit should not substantially diminish or impair property values.

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

Adequate infrastructure and utilities are available to serve this site. The current site has adequate storm drainage for the facility and does not create any known downstream flooding issues.

Wastewater from the building is treated at a sanitary sewer plant, located on the adjacent property, that is owned and operated by Boone County Regional Sewer District. Electrical service is from Boone Electric.

Roadway access is to Van Horn Tavern Road. There are also three other access points that could potentially be used as access to the lot from adjacent properties via private internal driveways as part of the overall development complex. Circulation within the site is good with adequate access for emergency service providers.

(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.

The further development of the surrounding properties will not be impeded by the establishment of this conditional use permit.

(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 subject property is part of a development complex that has multiple access points onto Van Horn Tavern Road. There are also three other access points that could potentially be used as access to the lot from adjacent properties via private internal driveways. Circulation of the site is good with adequate access for emergency service providers.

The previous use of the subject property was that of warehouse, distribution, and office with approximately 50 employees. Most of the vehicular traffic was confined to weekday AM and PM peak hours. The shooting range would have its peak traffic flow on weekends which will reduce the amount of peak hour traffic generated at this location. Furthermore, the proposed uses would have phased or staggered usage times. This would further break up the amount of traffic that is generated or using the adjacent roadways at any specific time.

The existing roadways and intersections have available capacity to adequately handle the traffic volumes that would be generated from the proposed uses. Relocation of the MidwayUSA campus and the transition of the other buildings to less intense uses will result in additional traffic reduction.

Specific traffic for the proposed uses for Lot 3 would include, at a maximum, 8 full time employees. They would also hold intermittent classes and seminars with attendants ranging from a few individuals up to 100 shooters. There would also be occasional weekend shooting tournaments with staggered attendance. These activities are not the normal daily activity of the facility and would generate traffic at non-peak times. Furthermore, the generated traffic would be less, campus wide, as compared to the previous use.

(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.

This proposal can, in all other respects, conform to the applicable regulations of the zoning district in which it is located.

Zoning Analysis: This proposal will be less intensive than the traditional use of the property and meets the CUP criteria with conditions;

The property scored **80** points on the rating system.

Staff recommended approval of the conditional use permit, subject to the following conditions:

1. The facility is limited to using ammunition that, at maximum, is equivalent to .22 caliber long rifle cartridges or less in power, any desire for more powerful ammunition will require an amended conditional use permit.

Commissioner Atwill opened the public hearing. Tim Crockett from Crockett Engineering stated they are looking to redevelop the site for an indoor shooting range. Mr. Crockett stated this is not a for profit business, rather a not for profit, and the other items before the Commission tonight is for a snack bar and indoor sales for this business. Mr. Crockett stated this will not be a large shopping center, they will be accessory uses for the indoor shooting range. Mr. Crockett stated there will be self-contained shooting lanes that have provisions to prevent penetration of the building and capture of the projectiles. Mr. Crockett stated several times a year the projectiles will be recycled, and the process is the self-contained unit itself will keep bullets from penetrating outside of the building. Mr. Crockett also stated this will apply to both vertically and laterally. Commissioner Atwill closed the public hearing.

Commissioner Aldred moved on this day, the County Commission of the County of Boone does hereby **approve** a conditional use permit for VH Properties, LLC to operate an indoor shooting range in the REC-P (Planned Recreational) zoning district on 5.32 acres located at 5885 W Van Horn Tavern Rd, Columbia, subject to the following condition:

1. The facility is limited to using ammunition that, at maximum, is equivalent to .22 caliber long rifle cartridges or less in power. Any desire for more powerful ammunition will require an amended conditional use permit.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #270-2022**

**2. Request by VH Properties LLC for a conditional use permit for a snack bar as an incidental use in the REC-P (Planned Recreational) zoning district on 5.32 acres located at 5885 W Van Horn Tavern Rd, Columbia. (Open Public Hearing) Tabled from 5/31/2022**

Director of Resource Management Bill Florea read the following staff report: The Planning and Zoning Commission conducted a public hearing on this request at its May 19, 2022 meeting and voted to recommend approval of the request on a unanimous vote. The minutes of that meeting and the Boone County Zoning and Subdivision Regulations are entered into the record of this meeting.

This property is located on the north side of Van Horn Tavern Rd approximately 1900 feet west of the intersection with State Route UU and 300 feet west of the Columbia city limits. The 5.32-acre lot is zoned of Rec-P (Planned Recreational) after a rezoning April 2022. The lot is developed with large existing commercial building and associated parking.

Adjacent zoning is as follows:

- East and west, M-LP (Planned Light Industrial)
- North, across I-70, A-2 (Agriculture)
- South A-R (Agriculture-Residential).

The proposal is to obtain a Conditional Use Permit (CUP) for a restaurant, cafeteria, and bar use. At this time, there is no intention of having an actual on-site restaurant. All meals would be catered and brought to the site already prepared. Should a restaurant be added, its use would be incidental to the overall use of the facility. It is anticipated that any such use would be a snack bar use that sells pre-packaged goods and foods. No sit-down style restaurant is being proposed. The use of restaurant, cafeteria, and bar would be solely for the patrons of the shooting facility. It would not be open to the general public as a standalone use but rather as an incidental use for the shooting facility. The above use was anticipated and included in the sewer capacity calculations that were presented to the BCRSD and included in the recent sewer agreement. indoor shooting range. Modification of the building will be required under a commercial building permit and an Architect licensed to practice in Missouri will be required to produce the plans.

The following criteria are the standards for approval of a conditional use permit, followed by staff analysis of how this application may meet those standards. Staff analysis of the request is

based upon the application and public comments received following notification of the surrounding property owners.

(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.

Limitations to a snack bar use selling pre-packaged food should address any concerns related to the public health, safety, comfort, or general welfare. The building is already served by public sewer.

(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.

Limitations to a snack bar selling pre-packaged food should address any concerns along with the required building modifications. This conditional use permit should not be injurious to the use and enjoyment of those properties in the immediate vicinity for purposes already permitted by these regulations.

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

If this activity is operated within county regulations, this conditional use permit should not substantially diminish or impair property values.

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

Limitations to a snack bar use selling pre-packaged food should address any concerns.

(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.

The further development of the surrounding properties will not be impeded by the establishment of this conditional use permit.

(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.

Limitations to a snack bar use selling pre-packaged food should address any concerns.

(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.

This proposal can, in all other respects, conform to the applicable regulations of the zoning district in which it is located.

Zoning Analysis: This proposal will be less intensive than the traditional use of the property and meets the CUP criteria with conditions;

The property scored **80** points on the rating system.

Staff recommends approval of the conditional use permit, subject to the following conditions:

1. The facility is limited to a snack bar/catering and any proposal to add a higher level of food service will require coming back through the process for a new approval.

Commissioner Atwill opened and closed the public hearing.

Commissioner Thompson moved now on this day, the County Commission of the County of Boone does hereby **approve** a conditional use permit for VH Properties, LLC to operate a snack bar as an incidental use to an indoor shooting range in the REC-P (Planned Recreational) zoning district on 5.32 acres located at 5885 W Van Horn Tavern Rd, Columbia, subject to the following condition:

1. The facility is limited to a snack bar/catering. Any proposal to add a higher level of food service will require an amended conditional use permit.

Commissioner Aldred seconded the motion.  
The motion carried 3 to 0. **Order #271-2022**

3. **Request by VH Properties LLC for a conditional use permit for retail sales as an incidental use in the REC-P (Planned Recreational) zoning district on 5.32 acres located at 5885 W Van Horn Tavern Rd, Columbia. (Open Public Hearing) Tabled from 5/31/2022**

Director of Resource Management Bill Florea read the following staff report: The Planning and Zoning Commission conducted a public hearing on this request at its May 19, 2022 meeting and voted to recommend approval of the request on a unanimous vote. The minutes of that meeting and the Boone County Zoning and Subdivision Regulations are entered into the record of this meeting.

This property is located on the north side of Van Horn Tavern approximately 1900 feet west of the intersection with State Route UU and 300 feet west of the Columbia city limits. The 5.32-acre lot is zoned of Rec-P (Planned Recreational) after a rezoning April 2022. The lot is developed with large existing commercial building and associated parking.

Adjacent zoning is as follows:

- East and west, M-LP (Planned Light Industrial)
- North, across I-70, A-2 (Agriculture)
- South A-R (Agriculture-Residential).

The proposal is to obtain a Conditional Use Permit (CUP) for retail sales incidental to the shooting range. The sales area would be about 2,500 square feet in size with a storage and stockroom of about 1,500 square feet. Sales would be limited to t-shirts, ammunition for use on-site, and other items that would be complementary to the overall shooting use. Product delivery would either be brought in personally by employees, delivered via standard delivery service (USPS, UPS, FedEx, etc.), or delivered via commercial courier. Deliveries would be received at the southeast corner of the building where delivery trucks would have adequate access to and through the site. This use was anticipated and included in the sewer capacity calculations that were presented to the BCRSD and included in the recent sewer agreement. Modification of the building will be required under a commercial building permit and an Architect licensed to practice in Missouri will be required to produce the plans.

The following criteria are the standards for approval of a conditional use permit, followed by staff analysis of how this application may meet those standards. Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners.

(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.

Limitations on the amount of space dedicated should address any concerns related to the public health, safety, comfort, or general welfare. The building is already served by public sewer.

(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.

Limitations on the amount of space dedicated should address any related concerns and along with the required building modifications, the establishment of this conditional use permit should not be injurious to the use and enjoyment of those properties in the immediate vicinity for purposes already permitted by these regulations.

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



If this activity is operated within county regulations, this conditional use permit should not substantially diminish or impair property values.

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

Limitations on the amount of space dedicated should address any concerns.

(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.

The further development of the surrounding properties will not be impeded by the establishment of this conditional use permit.

(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.

Limitations on the amount of space dedicated should address any concerns.

(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.

This proposal can, in all other respects, conform to the applicable regulations of the zoning district in which it is located.

Zoning Analysis: This proposal will be less intensive than the traditional use of the property and meets the CUP criteria with conditions;

The property scored **80** points on the rating system.

Staff recommended approval of the conditional use permit, subject to the following conditions:

1. The facility is limited to 3000 square feet of retail space with another 1500 square feet of stockroom any proposal to add a higher level of retail use will require coming back through the process for a new approval.

Commissioner Atwill opened and closed the public hearing.

Commissioner Aldred moved now on this day the County Commission of the County of Boone does hereby **approve** a conditional use permit for VH Properties, LLC to conduct retail sales as an incidental use to an indoor shooting range in the REC-P (Planned Recreational) zoning district on 5.32 acres located at 5885 W Van Horn Tavern Rd, Columbia, subject to the following condition:

1. The facility is limited to 3,000 square feet of retail space with an additional 1,500 square feet of stockroom. Any proposal to add a higher level of retail use will require an amended conditional use permit.

Commissioner Thompson seconded the motion.  
The motion carried 3 to 0. **Order #272-2022**

**4. Request by Bridget Early for a conditional use permit for a private family cemetery in the A-2 zoning district on one acre located at 21 & 31 E Audubon Rd, Columbia. (Open Public Hearing) Tabled from 5/31/2022**

Director of Resource Management Bill Florea read the following staff report: The Planning and Zoning Commission reviewed this request at its March 17, 2022 meeting and voted to recommend denial on a unanimous vote. The minutes of that meeting and the Boone County Zoning and Subdivision Regulations are entered into the record of this meeting.

The property is located on the north side of Audubon Road, approximately 600 feet west of the intersection with State Route N. The applicant owns two lots, each is approximately 5 acres. Each lot is developed with a single-family dwelling and various outbuildings. The zoning is Agriculture, A-2. All adjacent zoning is A-2 except to the immediate southwest which is Single Family Residential R-S.

The applicant is requesting a conditional use permit to create a private family cemetery. The application indicates that the cemetery would be one-acre in size and located on the common property line between the two lots. Staff notified 43 property owners about this request.

The following criteria are the standards for approval of a conditional use permit, followed by staff analysis of how this application may or may not meet those standards. Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners.

(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.

In order to meet this criterion, it is important that the presence of the cemetery is documented in a manner that provides notice of its location to the public. Measures to provide such notice can include a recorded survey of the boundary and fencing the perimeter of the cemetery. The application does not contain any information to indicate an intent to permanently identify the location of the cemetery.

(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.

Missouri statutes provide a right of access, enforced by the sheriff, to persons wishing to visit a private cemetery that is surrounded by privately owned land if no public ingress is available. No public ingress is available to this proposed cemetery. Therefore, in the future, adjacent property owners or non-family owners of these lots could be forced to allow access to the cemetery which, could be injurious to the use and enjoyment of their property.

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

There is no indication that the use will diminish or impair property values.

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

A cemetery is a permanent installation. Its very nature raises questions about long term maintenance that extend beyond the lifespan of the current property owners. The application contains no indication of how the current owners intend to provide perpetual maintenance for the cemetery. Under Missouri law, maintenance of the cemetery can become the responsibility of the County. This is burdensome to the public. Lacking an adequate maintenance plan, the proposal does not meet this criterion.

(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.

The proposed use could impede the normal and orderly development of surrounding property. There are rights associated with burial sites that limit the use of land. This could impede future development activities.

(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 proposed use should not have any measurable effect on the flow of traffic.

(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 several cemeteries with available space in Boone County. There is no public necessity for a private family cemetery.

Staff recommended denial of the request for failure to meet criteria a, b, d, e, and g. If the Commission chooses to approve the request, Staff recommends the following conditions:

1. A survey of the cemetery boundary including the proposed location of an access easement from W. Audubon Road, subject to the approval of the Director, be recorded in Office of the Boone County Recorder. The applicant shall bear the cost of the survey and the recording fees.
2. The applicant shall construct and maintain a fence around the perimeter of the cemetery.
3. Prior to issuance of the Conditional Use Permit, the applicant shall develop and implement a maintenance plan that ensures perpetual maintenance of the cemetery by a private entity. The plan shall identify the entity responsible for maintenance activities and a funding source with enough money to provide for perpetual maintenance. The plan is subject to approval by the Director.

Commissioner Atwill opened the public hearing. Applicant Bridget Early stated this is a green cemetery, which means the bodies are not embalmed, they are in a simple wooden casket so that their bodies can go back to the earth without a lot of external resources. Ms. Early stated her husband was buried there in 2011 and when she was out there last week, she noticed his grave is already starting to melt into the surrounding ground. Ms. Early stated the perpetuity isn't going to be forever and although she isn't sure how long it would be, Ms. Early stated she doesn't think it would be longer than about one hundred years before people won't even be able to see where these graves were. Ms. Early stated that is okay with her and her family because they do want the earth to go back to how it was. Commissioner Thompson asked if there is any other facility in this area that does a similar kind of thing. Ms. Early stated there is a green cemetery somewhere in Cooper County but stated that is forty-five minutes away from where she lives. Commissioner Thompson stated under item E in the staff report, it states 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. Commissioner Thompson stated what's in the staff report is that the proposed use would impede the normal and orderly development of the surrounding property. Commissioner Thompson stated rights associated with burial sites limit the use of land and there is a concern that this would impede future development. Commissioner Thompson asked, "Mr. Florea, would you have any other comments about that?" Director of Resource Management Bill Florea stated in reviewing the records of previous applications like this that have come through the County, there has been testimony from development professionals about difficulties they have encountered in developing property where there's a cemetery located on it. Ms. Early responded stating there may also be difficulties depending on what else is built on it. Ms. Early stated when there is any kind of permanent structure, it can impede further development. Ms. Early stated they are "really out in the boonies" and there isn't anyone close by or on top of them. Ms. Early stated they are surrounded by woods and since it's on a hillside, she doesn't think there would be a lot of opportunity for development. Commissioner Thompson stated, regarding the work that Ms. Early indicates she is going to do in terms of getting maintenance plan for this, the County has been the unfortunate recipient of other cemeteries and they have not come to the County with adequate resources to maintain them. Commissioner Thompson stated that is a real concern for the Commission because it has been a drain on the public. Ms. Early stated she would like to have some guidelines as to what is adequate for a green cemetery. Commissioner Thompson

stated all she knows is they must be respectful of a cemetery and over the years of her being a Commissioner, she has mowed and weed-eated cemeteries because there hasn't been any funding for it. Commissioner Thompson stated this is a drain on public resources and disrespectful to the individuals buried there. Ms. Early stated she doesn't see her cemetery having this issue as it's already in the woods, it doesn't require any mowing and the idea is as time goes on, the area will go back to nature, so it doesn't require any upkeep. Commissioner Thompson stated her issues aren't just with Ms. Early owning the property, but anyone in the future who would own that property and the expectation that the area would be a "gift that keeps on giving" when it's given to the County. Commissioner Atwill stated this is a classic example of personal rights vs public interest. Commissioner Atwill stated they must look into the deep future and try to figure out what is best in the long-term of the County. Commissioner Atwill stated, while it appears it would be in the very far future in seeing any kind of development, in the forty plus years he has been here, development has happened in areas he didn't expect it would. Commissioner Atwill stated what the Commission would need to be prepared for is other people wanting to do the same thing. Commissioner Atwill stated when you do development and you have human remains, there is a huge investigation that comes about to determine if they are Native American remains. Commissioner Atwill stated this opens many doors and it's one that concerns the Commissioners because Boone County now has more than 180,000 residents and it's growing so other development will happen. Commissioner Atwill stated he hates to be disappointing to Ms. Early and the interest that she has because he thinks they are legitimate; however at the same time, how do they create a little niche that doesn't expand beyond her needs to other places within the County, and deal with future people who come forward with the same kind of issues. Commissioner Atwill stated the Planning & Zoning Commission explored this topic quite well. Commissioner Atwill stated they asked good questions and illustrated their process as to why this is not something that should be done quickly, without careful thought and planning. Ms. Early stated this has not been done quickly as they have been working on this for six months and have done a lot of work. Ms. Early stated she thought the whole reason to get a survey done is so in the future, people will know to avoid that area. Commissioner Atwill stated the survey is one thing Planning & Zoning has pointed out would be necessary if this was approved. Ms. Early stated she has already had the survey done. Ms. Early's sister Teresa was on the phone and stated if the Commission has not reviewed the photographs with the original application, those will give them a better idea of the actual location they are talking about. Teresa stated one edge of the property is owned by the Audubon Society nature preserve so there is some limit to development in that part of the area.

Commissioner Atwill closed the public hearing.

Commissioner Thompson moved now on this day, the County Commission of the County of Boone does hereby **deny** the request by Bridget Early for a Conditional Use Permit to allow a private family cemetery on one acre located at 21 and 31 E. Audubon Rd, Columbia.

Commissioner Aldred seconded the motion.  
The motion carried 3 to 0. **Order #273-2022**

5. **Request by D Who Land, LLC to rezone from A-1 (Agriculture) to R-SP (Planned Single-Family Residential) and to approve a review plan for Five Pines on 145.72 acres located at 8100 E Richland Rd, Columbia. Appeal of a Recommendation of denial by the Planning and Zoning Commission. (Open Public Hearing)**

This item was tabled until the August 4<sup>th</sup> meeting.

6. **Five Pines Subdivision PRD. Preliminary Plat. S13-T48N-R12W. D Who Land, LLC, owner. Derek Forbis, surveyor. Appeal of a denial by the Planning and Zoning Commission**

This item was tabled until the August 4<sup>th</sup> meeting.

7. **Bertlee Acres Plat 3. S29-T51N-R11W. A-2. Edgar D & Diann L Hancock, owners. Don Bormann, surveyor.**

Director of Resource Management Bill Florea read the following staff report: The Planning and Zoning Commission reviewed the plat of Bertlee Acres Plat 3 at its June 16, 2022 meeting and approved it with one condition on a unanimous vote. Director Florea asks that Commission waive the reading of the staff report and authorize the clerk to insert it into the meeting minutes. The condition has been met, and staff recommends that Commission receive and accept the plat of Bertlee Acres Plat 3 and authorize the Presiding Commissioner to sign it.

The Planning and Zoning Commission reviewed this plat at its June 16, 2022 meeting and voted to approve with one condition.

The subject property is located off Drew Road, south of the intersection of Drew Road and Ball Road, and approximately 2 miles south from the municipal boundaries of Centralia. The current proposed subdivision is a replat of Lot 5 of Bertlee Acres Plat 1 approved April 28<sup>st</sup>, 1977, and northern half of Lot 6 of Bertlee Acres Plat 2 approved February 27<sup>th</sup>, 1979. The southern half of Lot 6 is owned by the owners of Lot 7 and is not being consolidated in Bertlee Acres Plat 3. The proposed subdivision would create a 4.10-acre lot out of one and one-half previously platted lots.

An existing shop building exists over the property boundary between lots 5 and 6. The shop structure violates Section 10 of the Boone County Zoning Ordinance 15-foot side setback from the property line for the A-2 zoning district. The proposed replat under Bertlee Acres Plat 3 would consolidate Lot 5 and the north half of Lot 6 into Lot 5A. The existing shop structure would follow setback requirements with the proposed Lot 5A. The property is zoned A-2 and surrounded by A-2 zoning on all sides. The A-2 zoning is original 1973 zoning.

The property has road frontage along and direct access to Drew Road. A driveway exists to serve the house and shop structure. Note #25 of survey states that a 33-foot half right-of-way

was dedicated along Drew Road as part of Bertlee Acres Plats 1 and 2. Note #25 also mentions that the lot lines to the center of Drew Road exceeds 33 feet. The right-of-way dimension is not shown on the plat. The applicant has requested a waiver of the traffic analysis study.

Public Water Supply District #10 supplies water to the tract. The Boone County Fire Protection District provides fire protection for the tract. The nearest station, Station 10, is approximately 2 and a half miles away off Route CC.

An existing on-site wastewater lagoon is present on the property. The lagoon is under the jurisdiction of the Boone County/Columbia Health Department. The applicant has requested a waiver of the sewer cost-benefit analysis.

The dimensions of Drew Road and Ball Road to the north of the area to be platted are not shown on the plat. Per Section 3.4 of Appendix A of the Boone County Subdivision Regulations, "Show the location, dimension and purpose of all easements and rights-of-way." The subdivision plat does not show right-of-way for either Ball Road nor Drew Road. Without dimensions that show their right-of-way width, the submitted plat does not meet the requirements of a Final Minor Plat.

The property scored 37 points on the rating system.

Staff recommends approval of the plat with the requested waivers subject to the following condition:

That all right of way shown on the plat meet the requirement under section 3.4 of appendix a of the Boone County subdivision regulations, "Show the location, dimension and purpose of all easement and rights-of-way."

The surveyor has added the required data to the plat, which now conforms to the plat standards. The condition of approval has been satisfied.

Commissioner Thompson moved now on this day, the County Commission of the County of Boone does hereby receive and accept the following subdivision plat and authorizes the Presiding Commissioner to sign said plat:

- Bertlee Acres Plat 3. S29-T51N-R11W. A-2. Edgar D & Diann L Hancock, owners. Don Bormann, surveyor.

Commissioner Aldred seconded the motion.  
The motion carried 3 to 0. **Order #274-2022**

8. **Sully's Meadow Estates Plat 1. S18-T50N-R11W. A-R. Jody Carmichael Siding & Guttering, LLC, owner. Steven Proctor, surveyor.**

Director of Resource Management Bill Florea read the following staff report: The Planning and Zoning Commission reviewed the plat of Sully's Meadow Estates Plat 1 at its April 21, 2022 meeting and approved it with one condition on a unanimous vote.

The property is located three quarters of a mile east of the city of Hallsville along East Old Highway 124. The property is within a A-R (Agricultural- Residential) zoning district. The proposed subdivision plat would create three lots, a 3.15-acre lot, a 3.26-acre lot, and a 3.63-acre lot. A corresponding administrative survey was submitted to the Director of Resource Management for the remainder of the parent parcel, which is 10 acres. The administrative survey lot would be served by separate utility and access easements along the west portion of lot 3. The property is surrounded by A-R zoning to the east, south, and west. A-1 (Agriculture) zoning exists to the north across E Old Highway 124. All surrounding zoning is original 1973 zoning.

All three lots of the proposed subdivision have frontage on and direct access to E Old Highway 124. Lot 1 of the subdivision has an existing driveway to serve a single-family home and barn structures. Lots 2 and 3 will require new driveways for connection onto E Old Highway 124. The corresponding administrative survey lot will have an access easement along the western boundary of lot 3 to connect to E Old Highway 124. The applicant did not submit a request to waive the traffic study.

The platted area is within the service area of Public Water Supply District #4. Boone Electric Cooperative provides power for the area. Boone County Fire Protection District provides fire protection.

The three lots are proposed to utilize onsite wastewater lagoons. An existing lagoon on the proposed lot 2 currently serves a house that sits on lot 1. The applicant did not submit a request to waive the wastewater cost benefit-analysis. Removal of the lagoon on the proposed lot 2 would be required before the plat is accepted by the County Commission.

No written request for waivers for the traffic analysis or wastewater cost benefit was received by staff. However, the size of the proposed plat would have minimal impact to both traffic and wastewater services. Waivers of these two studies are warranted.

The property scored 63 points on the rating system.

Staff recommends approval of the plat as submitted and waivers to the traffic study and wastewater cost benefit analysis based on the following condition:

1. That the existing lagoon on the proposed lot 2 be relocated to lot 1 with the existing house it currently serves before final approval from County Commission.

Commissioner Aldred moved now on this day, the County Commission of the County of Boone does hereby receive and accept the following subdivision plat and authorizes the Presiding Commissioner to sign said plat:



- Sully's Meadow Estates Plat 1. S18-T50N-R11W. A-R. Jody Carmichael Siding & Guttering, LLC, owner. Steven Proctor, surveyor.

Commissioner Thompson seconded the motion.  
The motion carried 3 to 0. **Order #275-2022**

### **Resource Management**

#### **9. Second Reading: Request to name and un-named road (First Read 06.23.22)**

Commissioner Thompson moved now on this day, the County Commission of the County of Boone does hereby approve the request to name an unnamed roadway that is currently a private, non-county-maintained road to Haydens Pointe. Said road being in S15 & 16-T50N-R11W and is shown on surveys recorded in Book 5633, Page 124 and Book 5633, Page 125 of the Boone County Records.

Commissioner Aldred seconded the motion.  
The motion carried 3 to 0. **Order #276-2022**

#### **10. Second Reading: Erosion and Sediment Control Security Release on behalf of 40-J Farms LLC & 40 & J Development LLC for stormwater improvements located at Midway USA Phase 2, W. Hwy 40 & N. Rte J, Columbia, Missouri 65202 (First Read 06.23.22)**

Commissioner Aldred moved now on this day, the County Commission of the County of Boone does hereby release Performance Bond #41391990 from the Platte River Insurance Company in the amount of \$267,401.88. Said bond was issued on behalf of 40-J Farms LLC & 40 & J Development LLC for stormwater improvements located at Midway USA Phase 2, W. Hwy 40 & N. Rte J, Columbia, Missouri 65202. The work has been completed as required. The original Commission Order accepting the Performance Bond is 336-2020.

Commissioner Thompson seconded the motion.  
The motion carried 3 to 0. **Order #277-2022**

### **Purchasing**

#### **11. Second Reading: Amendment #1 to Co-op Contract 210101 for Technology Solutions, Products and Services – Term & Supply (First Read 06.23.22)**

Commissioner Thompson moved now on this day, the County Commission of the County of Boone does hereby approve the award of Amendment #1 to Co-op Contract 210101 for Technology Solutions, Products and Services – Term & Supply for the Boone County Information Technology Department on behalf of the Boone County Sheriff's Office to Mobile Wireless of Plano, Texas.

Commissioner Aldred seconded the motion.  
The motion carried 3 to 0. **Order #278-2022**

**12. Second Reading: Contract for Signature for Boone County: C000419 (coop 83) - Public Safety Radios (First Read 06.23.22)**

Commissioner Aldred moved now on this day, the County Commission of the County of Boone does hereby approve Cooperative Contract Number 83 of the America Regional Council-Kansas City Regional Purchasing Cooperative (MARC/KCRPC). It is approved for the County to utilize to purchase Public Safety Radios (P25 Capable) from Motorola Solutions, Inc. of Chicago, IL.

Commissioner Thompson seconded the motion.  
The motion carried 3 to 0. **Order #279-2022**

**Commission**

**13. Second Reading: Approving a Caucus Agreement for the Central Workforce Development Board (First Read 06.23.22)**

Commissioner Thompson moved now on this day, the County Commission of the County of Boone does hereby approve the attached Chief Local Elected Official (CLEO) Caucus Agreement for the Central Workforce Development Board and authorizes the Presiding Commissioner to execute the same.

Commissioner Aldred seconded the motion.  
The motion carried 3 to 0. **Order #280-2022**

**14. Public Comment**

Don Bormann read a typed statement that has been attached to the end of the Commission minutes.

**15. Commissioner Reports**

None

Attest:



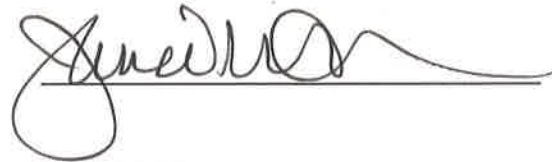
Brianna L. Lennon  
Clerk of the County Commission



Daniel K. Atwill  
Presiding Commissioner



Justin Aldred  
District I Commissioner



Janet M. Thompson  
District II Commissioner

I have a plat before you tonight. My client owns Lot 5 of Bertlee Acres Block 1 and the north half of Lot 6 of Bertlee Acres Block 2. Because he wants to add a garage for his RV, the county requires him to replat his property. This only became a problem because he wants to add another building. In most communities, there would be no problem; he would be allowed to build even if the building was on the lot line as long as he owned both sides of that line. That was the case in Boone County when his current garage was built but the rules were changed for some unknown reason.

This should have been an easy job as it was already platted, but the previous surveyor apparently did not bother to set monuments around the water district tract and only set one of the interior corners for Block 2. Nor did he set monuments along the lot lines that run into the lake. It took a fair amount of surveying to determine his property lines.

In doing the survey, I retraced the lots along Ball Road and Bertlee Drive. It is a good surveying practice to show these roads so property owners and others can orient themselves to the drawing. I showed these roads as I always have. The review comments said I had to show right-of-way widths for these roads, despite the fact that they are NOT adjacent to his property. Yes, that is what the regulations say; however, it has never been required before. Now, "in the interest of following the rules," this will be required on all plats and administrative surveys. If I do not show and label the road, then I am not required to show the right-of-way. How stupid is that?

I ran into this problem once before when Uriah Mach first started working for the county. He refused to sign a survey

because no right-of-way was shown for a county road not touching the surveyed tract. I went to one of the county commissioners and explained the problem. The commissioner told Uriah to sign the survey and NOT to require showing right-of-way off of the surveyed tract. There has been no problem since until a new planner was hired.

I called Bill Florea after receiving an email that my plat was approved conditional upon my showing the rights-of-way for Ball Road and Bertlee Drive. A week later, he called back to tell me my plat was NOT on the agenda for the commission approval because I did not comply with this "requirement." He agreed however to waive the requirement for the Ball Road and Bertlee Drive this one time.

I would ask the county commission to show some common sense and tell staff NOT to enforce this stupid rule. Even better would be for you to tell the planning and zoning commission to have a public hearing to revise this rule to require that only adjacent right-of-way be shown. Right-of-way should only be required to be shown for the side of the road being surveyed. To get this plat back on the meeting agenda, I had to show the right-of-way on the landowner's side of the road AND to show the right-of-way for the other side of the road. Showing the right-of-way for the other side of the road serves NO useful purpose. Since there are no subdivision plats east of Drew Road, I can only assume that there is a 15-foot statutory right-of-way, but it might be more based upon a Missouri Supreme Court ruling. Or, more right-of-way could have been dedicated in the 1800's in the old county court minutes. In either case, it is irrelevant; the landowners across the road will dedicate additional right-of-way when, and if, they

subdivide their property. The landowner cannot dedicate right-of-way he does not own. Staff does not maintain a list of roads that require right-of-way dedication because that would include virtually every road in the county. There is no logical reason for this requirement except to show staff's power over surveyors.

Staff can apparently overlook requirements when it suits their purpose because the regulations also require a recorder's statement on the plat. We have not done that for some time. If we put that statement on the plat, the recorder will "X" it out and place their own sticker on the plat. This tells me that the staff can use digression when they choose. Or, is staff going to enforce the letter of this regulation, too in the interest of "following the rules?"

Enforcing the rule for showing right-of-way off of the surveyed property is completely arbitrary, but, since I know the county's rules, I can play this game, too. For instance, while there is a requirement that we show the 100-year flood zone, there is no requirement to state there is no such flood zone. But, staff tells us this is required because they want it on the plat.

The zoning regulations require a storm water plan showing any required stream buffers. If there are no stream buffers, a statement that there are no stream buffers is required. We can show the stream buffer on our plat or put the "no stream buffer" statement on the plat in lieu of this requirement. If I turn a storm water plan, then there is NO requirement that I show stream buffers on the plat. A storm water plan is easy to prepare, but no one sees it but staff which sort of defeats its purpose.

In the future, when staff “requires” me to show something on the survey, they will need to tell me what rule requires it. This should be a requirement any way.

On this plat, I lined through both the no flood plain statement and the stream buffer statement. These will no longer appear on my plats or surveys.

If you choose to revise the regulations, I would advise that you modify the requirement for a metes and bounds description. In this case, it is a perfectly valid legal description to say “Lot 5 of Bertlee Acres Block 1 and the north half of Lot 6 of Bertlee Acres Block 2.” In fact, it is considered to be a very poor surveying practice to use a metes and bound description in this case. Another example would be the northeast quarter of a section. That is a valid description by itself, there is no need to provide anything else, and again it is a poor surveying practice to do so.