

BOONE COUNTY PLANNING & ZONING COMMISSION

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, November 21, 2002

Chairperson Smith called the meeting to order at 7:00 p.m., with a quorum present. Roll Call was taken by Commissioner Sloan.

Present:	Pat Smith, Chairperson	Perche Township
	Michael Caruthers, Vice-Chairman	Centralia Township
	Mary Sloan, Secretary	Rocky Fork Township
	Carl Freiling	Cedar Township
	Kristen Heitkamp	Missouri Township
	Keith Neese	Columbia Township
	David Mink, Director	Public Works

Absent:	Mike Morgan	Bourbon Township
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Also present:	Stan Shawver, Director	Bill Florea, Staff
	Thad Yonke, Staff	Paula Evans, Staff

The minutes of the October 17, 2002 meeting were approved with no corrections. Approved by acclamation.

Chairperson Smith read the procedural statement which stated that the Boone County Planning and Zoning Commission is an advisory commission to the County Commission. The Commission is made up of individuals representing each township of the county and the county engineer.

The Planning and Zoning Commission makes recommendations to the County Commission on matters dealing with land use. Tonight's agenda includes one conditional use permit, five rezoning request and five subdivision plats.

In general, the Planning and Zoning Commission tries to follow Robert's Rules of Order, however, they are authorized by the Missouri State Statutes to follow their own by-laws. The by-laws provide that all members of the Commission, including the Chairperson, enjoy full privileges of the floor. The Chairperson may debate, vote upon or even make any motion.

The following procedure will be followed for the conditional use permit and the rezoning request:

The agenda item will be announced, followed by a report from the Planning Department Staff. At that time, the applicant or their representative may make a presentation to the commission. The Commission may request additional information at that time, or later following the hearing. After the applicant's presentation, the floor will be opened for anyone wishing to speak in support of the request. We ask that any presentation made to the Commission be to the point.

Please give your name and mailing address when you address the commission. We also request that you sign the sheet on the staff table after you testify.

Next, the floor will be given over to those who may be opposed to the request. Direct all comments or questions to the Commission and please restrict your comments to the matter under discussion. Please be considerate of everyone here. The agenda tonight is lengthy, and while we wish to extend an opportunity to everyone that wishes to speak, we ask that you not be repetitious with your remarks. We also recognize that many issues can be quite emotional. In that regard we ask that you refrain from applause, cheers, or other signs of support or displeasure. Please afford those with a different point of view from you own the same respect and consideration you would like yourself.

After those opposed to the request have had an opportunity to speak, the applicant will have a chance to respond to the concerns of those opposed to the request. Next the staff will be given an opportunity for any additional comments, as appropriate. The public hearing will then be closed and no further comments will be permitted from the audience or the applicant unless requested by the Commission. The Commission will then discuss the matter and may ask questions of anyone present during discussion. Finally, a motion will be made to either recommend the approval or denial of the request to the County Commission. Please note that the Boone County zoning regulations and subdivision regulations are considered to be a part of the record of these proceedings.

All recommendations for approval are forwarded to the County Commission. They will conduct another public hearing on Monday, December 2, 2002. Interested parties will again have the opportunity to comment on the requests at that time. The County Commission generally follows the recommendations of the Planning and Zoning Commission; however, they are not obligated to uphold any recommendation. Requests that are denied will not proceed to the County Commission unless the applicant files an appeal form within 3 working days. The County Commission hearing scheduled for Monday, December 2, 2002 will begin at 7:00 p.m. and will convene in this same room.

CONDITIONAL USE PERMITS

1. Request by Michael Cunningham for an animal training and boarding facility (horse stable) on 2.7 acres, more or less, located at 5801 N Liddell Ln., Columbia.

Planner, Thad Yonke gave the staff report stating that this property is located two miles east of the general Columbia municipal limits. The site is situated on the west side of Liddell Lane approximately ½ mile south of the intersection of Mount Hope Road and Liddell Lane. The site of the proposal comprises 2.7-acres of a 54.6-acre parent parcel. The property of the request is currently zoned A-2 (agriculture). The remainder of the parent parcel is currently also zoned A-2, however, a request to rezone this remainder to A-R/PRD is also on the agenda tonight. Property to the south, west, and north of the requested site is zoned A-2. Property to the east- northeast is zoned A-2 with property to the east-southeast zoned A-1. The adjoining tracts that are east-northeast along the west side of Liddell Lane were rezoned from A-1 in 1991 & 1996. The other zonings are all the original 1973 zonings. The site currently has an existing shed and lagoon system for the existing house that is on proposed lot 1 of Lakeview Stables Estates PRD. The lagoon will be removed by the centralized wastewater system of the development. Access will remain from an existing connection to Liddell Lane. The drive and required parking will have to be brought up to a minimum chip seal surface. Even though this request is related to

the proposed rezoning and development it can be reviewed on its own standing while still taking into consideration its role in the overall development. Since the proposal is adjacent to common open space in the proposed development and is mostly buffered from property outside of the development, the rather limited size of the request does not pose concern. With the main focus being to provide stabling of horse for residents of the development staff feels that a limitation on the lighting should be sufficient to mitigate impacts rather than limits on hours of operation. There have been no previous requests submitted on behalf of this site. The master plan designates this area as being suitable for residential land uses. Since the development is a cluster development with a significant amount of open space the proposed use is consistent with the master plan. Staff notified 22 property owners about this request. Staff recommends approval with the following conditions:

- The driveway and required parking area be dust free with a minimum of a chip seal surface. The required parking area will be determined by the area of the stables.
- Animal waste to be disposed of in an appropriate manner.
- No lighting for after-dark riding be allowed.

As a CUP the proposal must meet the following criteria from the zoning ordinance to be eligible for approval.

- 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.
- 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.
- c. The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.
- d. All necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage.
- 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.
- 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.
- 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.

Present: Jay Gebhardt, A Civil Group, 711 W. Ash, Columbia.
Michael Cunningham, 5801 N. Liddell Ln., Columbia

The applicants displayed a drawing of the property.

Mr. Gebhardt stated that Mr. Cunningham currently owned 55 acres with a 7-acre lake. Mr. Gebhardt showed the Commissioners the location of Liddell Lane and Mr. Cunningham's home. For the conditional use permit the applicants are proposing a twelve stall horse barn. There is an existing driveway up to an existing shed and that would be expanded for a little parking area which would be chip and sealed. The applicants have no problems with the staff conditions on either of the requests, the conditional use permit or the rezoning request.

Mr. Gebhardt stated that he did a summary on the project and one of the things that is in error is that it states the stables would only be for the homeowners. The way it is being set up under the conditional use permit it would be open to the public. Mr. Cunningham's intention is to provide stables for the homeowners and not for business purposes. In working with staff it became easier to do it as a conditional use permit to allow everyone to use it. Including the 2 ½ acre lot that required for the stable because it is A-2 zoning the applicant has about 51 acres of open space. There is 6.6% impervious surface. The applicants tried to something a little different in the grouping of the lots; most of the roads are loaded on one side instead of having both sides loaded. The applicants wanted to do something unique so the homes had could face an open area and the other homes could face the lake without another home blocking their view. Typically you just have homes around a lake and only the people that live on the lake really get to see it or enjoy it. There is a private road that leads down to the wastewater treatment plant and there are three homes shown on that road. Only two of the homes would be accessed off the private road, the other home could have access off of Liddell Lane. Because of the layout, the applicants went to the Board of Adjustment and asked for a variance to have 28-foot streets rather than the usual 32-foot curb and gutter streets the Road and Bridge Advisory recommended approval on that. The street is considered a terminal street, like a cul-de-sac, and it is an excess of 1000-feet so the applicants also received a variance from Road and Bridge on that.

Mr. Gebhardt stated that there was one thing that was not in the staff report is that because the homes are only loaded on one side and sidewalks are required for lots this size, the applicants proposed to build sidewalks only on one side of the road. Because the homes are only on one side the applicants feel that sidewalks on one side is adequate. Mr. Gebhardt stated that the applicants don't have any problems with the staff conditions.

Commissioner Mink stated that he saw some drainage structures going through but on the plan there are no drainage easements for those.

Mr. Gebhardt stated that there would be on the final plat.

Chairperson Smith asked how many lots the applicant plan on developing at a time.

Mr. Gebhardt stated that what he understands is that Mr. Cunningham would come in and do three or four houses and stop; when those are sold he may come in and do the cul-de-sac. It would be done in phases instead of going in and incurring the expense for the whole thing at one time.

Chairperson Smith asked if the applicant expected the barn to just be a boarding barn or will it be a commercial operation with shows and clinics.

Mr. Cunningham stated no, it would just be a boarding barn.

Chairperson Smith stated that there wouldn't be any big events there that would bring a lot of traffic in.

Commissioner Caruthers asked what the proposed total build out time is.

Mr. Gebhardt stated that it depends on how fast the market absorbs the lots. Mr. Gebhardt stated that he expects this to be a minimum of five years; it might be 7 or 8 years.

Commissioner Mink stated that he noticed the sidewalks that are proposed about half of them are on the side with no homes.

Mr. Gebhardt stated that he put the sidewalks on the lake side. Along the lake is a nice place to walk rather than in front of peoples homes. Mr. Gebhardt stated that the applicants don't particularly care which side the sidewalks are on but believe it is over-kill to put sidewalks on both sides.

Commissioner Mink asked about the gaps in between.

Mr. Gebhardt stated that it is part of the common area.

Commissioner Neese asked how soon the City of Columbia will increase the water line.

Mr. Gebhardt stated that the City has told the applicants that they are going to get a contract on it and should be build in February or March 2003.

Open to public hearing.

No one spoke in favor of the request.

Present speaking in opposition of the request.

Bill Lyddon, 5240 N. Liddell Lane, Columbia.

Mr. Lyddon stated that his concern is the value of homes that will be placed on the property and also in talking about chip and sealing the road. Mr. Lyddon stated that he has been there since 1962 and the traffic has continued to increase rapidly and any construction trade as well as all the cars coming in from Route Z in front of his house which is a gravel road. If you add 35 homes in there that means that each home is going to have an average of 2 cars and they will leave twice a day then all of the construction people are going to come in front of his house on that gravel road and it will make a mess. There is a mess now. Mr. Lyddon stated that he is opposed unless the applicants do something with Liddell Lane out to Route Z because it is a mess now with the traffic. The new subdivision on Liddell Lane and Mt. Hope road, all of the construction people come in off of Route Z because they don't like to go around and they won't come up Kircher Road because of the hills, they always come in the other way.

Chairperson Smith stated that Liddell Lane is going to be chip and sealed.

Mr. Lyddon stated no.

Mr. Yonke stated that the information from Public Works was to take it north with the chip and seal not back to Route Z. Staff originally thought it would be from there south to Route Z, but the information from Public Works indicated north is what they preferred. Mr. Yonke stated that it doesn't matter to staff which way it goes as long as the road gets improved in some way.

Chairperson Smith asked how far it is to go south.

Mr. Yonke stated about 1 to 1 ½ miles.

Joe Wade, 5260 N. Liddell Lane, Columbia.

Mr. Wade stated that he lives south of the proposed subdivision. Mr. Wade stated that his concern is the road situation because the vehicles do not go back to Mt. Hope road. Another big concern is the water pressure problem the water tower that services that area is lower than what the land it, they have had to put in a pressure tank in the area of 1000 gallon pressure tank that is going to be feeding that whole area. Mr. Wade stated that he can not see that number of additional homes with that situation unless the Columbia public water does something on that. The other concern Mr. Wade has is the location of the boarding facility. It would almost have to be on the back part of the property for it not to drain in to the lake.

Mr. Gebhardt pointed out the proposed location of the boarding facility.

Mr. Wade stated that the location is uphill from the lake. Mr. Wade asked what is going to keep the drainage from going in to the lake. The other is the location of the sewer treatment plant and the location of it.

Mr. Gebhardt pointed out the location of the sewer treatment plant.

Mr. Wade stated that it is very close to the lake. Mr. Wade stated that he is not necessarily concerned about the water quality in the lake but they should be concerned.

Mike Jones, 5505 N. Liddell Lane.

Mr. Jones stated that he is the closest to the proposed development than anyone else.

Using the applicants map Mr. Jones showed the Commissioners the location of his property.

Mr. Jones stated that he purchased 10-acres from the applicant about 3 years ago and purchased acreage to be out in the country and to have acreage around him. Mr. Jones stated that his biggest concern is the smaller acre lots. Half acre lots in the country? The property should stay the way it is now with the minimum lot size of 2 ½ acres. Mr. Jones asked what the snowball effect would be if the Commission approved ½ acre lots and someone across the street or down the road may want to start building developments in there also. Once you start it, where do you stop? Mr. Jones stated that his wife sits on the Board of the School, she is the Secretary for the Board and Two-Mile Prairie is already over crowded they have four trailers. 32 homes average about 2 kids per home and there is a proposal for more homes. The snowball effect for someone else that builds more houses; where do you stop it? Who is going to pay for enlarging school? The water treatment plant is Mr. Jones' biggest concern; there will be three houses next to his house and if he looks out his back window he will see the water treatment plant. Mr. Jones stated that is not why he bought 10-acres. If it stays 2 ½ acres there may be a chance that he will have one house out his back window.

Chairperson Smith asked how long ago Mr. Jones bought his property.

Mr. Jones stated about three years ago.

Chairperson Smith asked if he bought it from Mr. Cunningham.

Mr. Jones stated yes.

Chairperson Smith asked Mr. Jones if the applicant gave him any indication that he wanted to develop at that time.

Mr. Jones stated that he knew that Mr. Cunningham was interested in developing the property. Mr. Jones stated that he had no idea of the size of the acres but knew that it was 2 ½ acres at the time. Mr. Jones stated that he assumed that the applicant could build one house behind his property. Mr. Jones stated that he didn't have a problem with that.

Closed to public hearing.

Mr. Gebhardt stated that the restrictive covenants are being drawn up by Turner-Jones right now. If it is a slab home the minimum square footage is 1500 square feet, if it is a two-story the footprint would be 1200 square feet. The applicants estimate the homes to be \$130,000 minimum in value. The City took over the water district in this area and as part of that they agreed to extend the 8-inch water main; because it is City of Columbia they don't follow the minimum DNR standards, they would provide fire protection for 800 gallons per minute instead of the 250 gallons per minute. The applicants are fortunate that it is a City water line with City standards.

Mr. Gebhardt stated that the average here is 1 home per 1 ½ acres. There are 8000 square foot lots but it averages to that. The treatment plant is a re-circulating sand filter, everything is under ground and all you will see at the worst will look like a little gravel parking lot and pea gravel for the sand. The last thing is the chip and seal or the road situation. Mr. Gebhardt stated that he has been talking with Dave Nichols with Boone County Public Works and applicants have agreed to pay for the chip and seal. Mr. Gebhardt stated that even if this is developed as A-2, 2 ½ acres the applicants would be chip and sealing the road. The way staff has this set up is that with the condition that has been placed the applicants will work this out with Public Works whether the applicants have to go to the south or to the north and do their fair share of improvements to the road.

Chairperson Smith stated that the applicants would take chip and seal to the south if that was a condition.

Mr. Gebhardt stated that if that was a condition and it was determined to be the applicant's fair share.

Commissioner Mink asked if the applicants would take it both directions.

Mr. Gebhardt stated no, one way.

Commissioner Mink asked how we know which way the traffic is going to go.

Mr. Gebhardt stated that the applicants would work with Public Works to determine what the applicants should do with that if it is felt that the applicants should go both directions that will be close to 2 ½ miles of chip seal. It gets to be a big number. If it is felt that it is the applicant's fair share then that is what the applicants will do.

Commissioner Mink stated that it is the applicant's fair share because right now the traffic on the road is low enough to where it is working as a gravel road. If you add this much traffic it is going to add significantly in both directions. The condition should be that it be chip sealed all the way from Route Z to Mt. Hope.

Mr. Gebhardt stated okay.

Commissioner Caruthers asked Mr. Gebhardt if that was a problem.

Mr. Gebhardt stated that the applicants would have to sit down with public works. If that is a condition of approval then the applicants will accept it and make their decision.

Commissioner Mink asked applicants if they had any reason to believe that people would tend to go north out of there, it seems that they would head to the highway.

Mr. Gebhardt stated that it depends on where you are going. Mr. Gebhardt stated that he is not real familiar with the area but you can get out to Route PP pretty easily if you go north, there may be some advantages for some people.

Mr. Cunningham stated that he figured if it was chip and sealed to the north then that is the route the traffic would take because it would be a hard surface all the way in and no gravel.

Commissioner Heitkamp stated that the neighbors have indicated that most people go south to Route Z.

Mr. Cunningham stated that it is gravel both ways now, so the obvious way is to go south now.

Commissioner Heitkamp stated that is the existing traffic pattern. Commissioner Heitkamp asked if it were crucial to develop lots 35, 36, and 37.

Mr. Gebhardt stated that the applicants wanted to take advantage of the lake on that side. There is plenty of room and those lots are a little bigger than the other lots in the development. The applicants had to put in a road for the sewage treatment plan to get to that location. Applicants felt it was appropriate to develop those lots.

Commissioner Heitkamp asked if the proposed location of the sewage plant was the best place.

Mr. Gebhardt stated below the dam is the lowest point on the property.

Commissioner Heitkamp asked if those would be the last lots to be developed or would those be the first.

Mr. Cunningham stated that he had planned on starting with those due to the fact that the road has to go in to the treatment plant so they would be ready made lots.

Chairperson Smith asked if the property were developed now as A-2 how many homes could fit in there.

Mr. Yonke stated 20 homes.

Chairperson Smith stated that the applicants are talking about 36 homes now.

Mr. Yonke stated that even though 103 could be proposed; since the applicants are proposing 36 the applicants are limited to the 36 and no more than that.

Commissioner Caruthers stated that he lives on a gravel road with pavement on two sides and notes that most people do prefer to access the pavement as soon as possible.

Commissioner Mink stated that the applicants stated it would take quite a while to develop this so it is going to take quite a while for the traffic to really start to increase. The condition that was proposed was to do this shortly after the water line goes in.

Mr. Gebhardt stated that what the applicants have talked about with Dave Nichols was to figure out the monetary value of this and write a check to Public Works and they could schedule it. It would probably be advantageous to schedule it after some of the construction has started so that it does not tear up the chip and seal. That is what the applicants tentatively talked about.

Commissioner Sloan asked how many miles of chip and seal the applicants are talking about.

Mr. Gebhardt stated if the applicants went both directions it is about 2 ½ miles total.

Mr. Cunningham stated that it is considerably shorter going to Mt. Hope road than going south to Route Z.

Commissioner Sloan asked the cost of chip and seal.

Commissioner Mink stated he believed it is about \$30,000 per mile.

Commissioner Sloan asked the applicants what would prevent them from doing this.

Mr. Gebhardt stated that if the conditions are such that it is not economically feasible that would certainly prevent it.

Commissioner Sloan asked what would happen to the development.

Mr. Gebhardt stated that the applicants would have to come back with something else. It is the chicken and the egg; the applicants have to afford the chip and seal and they need more lots to be able to afford to do that. Or the applicants have to back up and go back to straight A-2 zoning with 2 ½ acre lots and 20 homes. Mr. Gebhardt stated that he can not say for sure but the applicants would have to look at both of those alternatives.

Commissioner Mink stated that if the applicants theory is correct and the traffic would go north and not south then what the applicants are proposing makes sense but only time will tell whether that is accurate or not.

Mr. Cunningham stated that several of the houses, like his neighbors to the north typically go north because it is a much shorter stretch of gravel.

Commissioner Sloan asked the difference in distance.

Mr. Cunningham stated that it is about more than a mile difference going to the south.

Mr. Gebhardt stated that it is a mile north or 1 ½ miles south.

Mr. Cunningham stated that it is about 1 ½ miles to the south and about ½ mile to the north.

Commissioner Freiling stated that it is also a straighter stretch of road going north.

Mr. Yonke stated that to answer Commissioner Mink's earlier question; no development of additional houses can be placed if this is approved until the water requirements come in to play because the applicants wouldn't be able to meet the fire flow until the water line is extended; it hinges on when the water is done. Staff is amenable to modifying the specifics of the condition back to the applicants working it out acceptable to the Public Works Department as far as the chip seal liability.

Commissioner Mink stated that he didn't realize that it was so much closer in one direction than the other.

Mr. Gebhardt stated that it is not very far north to the asphalt.

Mr. Cunningham stated that there is a real bad hill there with a maintenance problem, it washes out and is pretty steep, when there is a big rain it consistently washes out so that stretch of road is in need of chip and seal more than the rest of it is.

Commissioner Freiling addressed the neighbors stating that this is the neighbors first time to face this; for the Commission it is very common particularly areas closer in to the city but not entirely. One of the things the Commission has been faced with is a choice between allowing someone to take the existing zoning, come in and put in a loop road and sell off 2 ½ acre lots with individual wastewater systems or accept an increased density but an increased standard infrastructure of a wastewater treatment facility. The Commission has tended in the past year to favor clustered housing, smaller lots, more green space and a higher standard of infrastructure. It is not that it is what anyone wants in the neighborhood to have an increased density but it is not the Commission's role to stop growth; trying to direct growth is the Commission's responsibility. When the Commission looks at a plan like this, if the developer is willing to address the issues that staff raises and that the other service providers raise, road and bridge, and the water districts and if their density request seems appropriate for the site it is hard to say no to these proposals. This development is a more environmentally sound approach because it clusters the development and allows for better filtration of runoff and wastewater. The increased traffic is a tough one because it is always the case and there is not a good answer to that because to bring roads to urban standards would require urban density which would be the whole tract used on small lots.

Commissioner Caruthers stated that one of the comments made was about Two-Mile Prairie School and that the school is over crowded. Commissioner Caruthers stated that it is recognized that all Columbia Schools are over crowded

Commissioner Caruthers made and Commissioner Mink seconded a motion to **approve with staff conditions** the request by Michael Cunningham for an animal training and boarding facility (horse stable) on 2.7 acres, more or less, located at 5801 N Liddell Ln., Columbia.

Carl Freiling – Yes
Pat Smith – Yes
Keith Neese - Yes
Mary Sloan – Yes

Kristen Heitkamp - Yes
Mike Caruthers - Yes
David Mink – Yes

Motion to approve request carried unanimously.

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REZONING REQUESTS

1. Request by Michael Cunningham to rezone from A-2 to A-R / PRD (Agriculture Residential / Planned Residential Development) and approve a Review Plan and Preliminary Plat for Lakeview Stables Planned Development on 51.93 acres, more or less, located at 5801 N Liddell Ln., Columbia.

Planner, Thad Yonke gave the staff report stating that this proposal is for a 42 lot 36 home development on 51.92-acres which is the remainder of the site on which the preceding CUP has been requested. (See above report for basic location and zoning info) The proposed development will most likely be constructed in phases. An acceptable phasing plan needs to be submitted with the final development plan. The proposal includes the construction of 2 new county public roadways and a non-gated private drive that serves 3 residential lots and the proposed wastewater treatment plant. The development will have a central wastewater treatment facility constructed by the developer and acceptable to and turned over to the BCRSD. Under the existing A-2 zoning the Maximum Theoretical Density for the property is 20-units. Under the proposed A-R/PRD rezoning the Maximum Theoretical Density for the property is 103 units. The specific review plan and preliminary plat submitted proposes only 36 homes or roughly 1/3 the density that could be requested in an A-R/PRD for this property. The proposed structures are single family homes on their own lots with common area adjoining all home lots. Proposed Lippizan Drive may need a new name as JCIC has not yet approved the name. This roadway is a few hundred feet in excess of the maximum length of 1000 feet for a public road. Because of the specifics of this design staff recommends that the length be approved if the development is approved, as this commission can allow specific proposals in excess of the 1000 feet. The level of development will trigger some off-site required road improvements. County Public Works and the project engineer are working out the specifics but at a minimum this would be that at the developer's cost Liddell Lane must be chip sealed to Kircher Road. Water service and fire hydrants will be required for this development. The City of Columbia provides water service and is in the process of providing an 8" water main extension. The site is in a Boone Electric service area, Boone County Fire Protection District, and the Columbia Public School District. In any rezoning request it is incumbent upon the applicant to show that the requested zoning is more appropriate than the existing zoning. Additionally, the Master Plan calls for the use of a "Sufficiency of Resources Test" when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: All necessary utilities can be provided in an efficient manner.

Transportation: With the required off-site improvement there should be adequate transportation infrastructure.

Public Safety Services: The property is in the Boone County Fire Protection District. There is no district fire station located within 5 road miles of this site. The required waterline extension will bring fire flow to the area.

The *master plan* designates this area as being suitable for residential land uses. Both the existing and proposed zonings are consistent with the *master plan*. This site has 46 points on the point rating system.

Staff recommends approval of the Rezoning Request, Review Plan, and Preliminary Plat with the Review Plan & Preliminary Plat subject to the following 3 conditions:

1. That an acceptable phasing plan be submitted with the final development plan. This provision must be added as a note to the review plan and preliminary plat.
2. That it is recognized that Liddell Lane is to be improved to a minimum of chip-seal surface from the south limits of the development to Kircher Road to the north at the developer's expense and that the details be worked out with Boone County Public Works and be acceptable to both the Public Works and Planning Directors.
3. That waterline upgrades and hydrants be installed, along with all needed easements required, prior to construction of any additional structure in the development.

(See discussion and public hearing under related Conditional Use Permit.)

Commissioner Caruthers made and Commissioner Neese seconded a motion to **approve with staff conditions and that the chip and seal issue** be contingent upon approval by the Director of Public Works and the Director of Planning; the request by Michael Cunningham to rezone from A-2 to A-R / PRD (Agriculture Residential / Planned Residential Development) and approve a Review for Lakeview Stables Planned Development on 51.93 acres, more or less, located at 5801 N Liddell Ln.,

Carl Freiling – Yes
Pat Smith – Yes
Keith Neese - Yes
Mary Sloan – Yes

Kristen Heitkamp - Yes
Mike Caruthers - Yes
David Mink – Yes

Motion to approve request carried unanimously.

Commissioner Caruthers made and Commissioner Mink seconded a motion to **approve with staff conditions** the request by Michael Cunningham approve a Preliminary Plat for Lakeview Stables Planned Development on 51.93 acres, more or less, located at 5801 N Liddell Ln.,

Carl Freiling – Yes
Pat Smith – Yes
Keith Neese - Yes
Mary Sloan – Yes

Kristen Heitkamp - Yes
Mike Caruthers - Yes
David Mink – Yes

Motion to approve request carried unanimously.

Chairperson Smith informed the applicants these this matters would go before the County Commission at 7:00 p.m., December 2, 2002.

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2. Request by Donald L. Robb to rezone from A-2 (Agriculture) to C-GP (Planned Commercial) of 5.69 acres, more or less, located at 10000 W Sontag Rd., Rocheport.

Planner, Bill Florea gave the staff report stating that this property is located near the Interstate 70 and Highways O / J interchange. The site is 5 ½ miles west of Columbia and 4 miles east of Rocheport. The property is currently vacant and is zoned A-2. Property to the east and south is zoned A-2. Property to the west is zoned C-G. The north boundary of this tract is I-70. The applicant has requested that this tract be rezoned to C-GP (Planned Commercial). A review plan has not been submitted for consideration at this time. County zoning regulations allow the commission to consider rezoning requests to C-GP and M-LP districts without a review plan. However, zoning of the tract does not take place until such time that both a review plan and a final development plan are submitted and approved. The master plan designates this area as being suitable for agriculture and rural residential land uses. However, the master plan does recognize that commercial and industrial land uses may be appropriate at the intersections of the major highways in Boone County, provided they are developed through the use of the planned district designation. The original zoning for this tract is A-2. There have been no previous requests submitted on behalf of this tract. Staff notified 12 property owners concerning this request. Staff notified 9 property owners about this request. The Master Plan calls for the use of a “Sufficiency of Resources Test” when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: This site is served by Boone Electric Cooperative and Consolidated Public Water District No. 1. The water district indicates that there is only a 2 inch water line available at this time. This would not provide the fire flow necessary for a commercial land use. A central waste-water system is not available for this site and the applicant has not proposed any specific wastewater system at this time.

Transportation: Access to the site is from Sontag Road, an asphalt, state maintained road. Lacking any specifics about the future use of this property, it is impossible to determine the adequacy of the existing road.

Public Safety: The property is in the Boone County Fire Protection District. A district fire station is located inside the city of Rocheport, approximately 5 road miles from this site. There is also a fire station in the Midway area which is a similar distance away.

This property is adjacent to C-G zoning. However, it should be pointed out that there is at least 20 acres of C-G land at this interchange that is vacant and available for development. Staff sees this request as being speculative in nature and cannot support the request. Staff recommends denial at this time. Should the Commission feel that rezoning of this tract can be justified at this time; staff recommends that any motion to approve the request include conditions concerning lighting, signage, landscaping, buffers and a traffic study as the minimum conditions that should be included.

Present: Harriett Frances, Attorney, Van Matre/Harrison, 1103 E. Broadway, Columbia.
Donald L. Robb, 10000 W. Sontag Rd., Rocheport.
Chris Amos, Gold Star Real Estate, 220 County Road 45, Fayette.

Ms. Frances presented to the Commission an enlarged plat map of the property.

Ms. Frances stated that this property is on Sontag Road which is the access road at the intersection of the I-70 interchange and the Route O to the south and Route J to the north. The applicants have chosen to bifurcate this rezoning request, applicants are only asking for the planned commercial designation at this time recognizing that a second trip through the process with a proper plan will be required before any development is approved. The reason that this is important is that it has become a chicken and the egg scenario, this piece of property is a small parcel, it is adjacent to the Clark Trucking commercial ground on Sontag. It is 5 ½ acres and lies in an area which would lend it to a commercial development. In order to attract the proper commercial development is difficult to do if the incoming business doesn't recognize that it is a proper location for their business subject to the conditions that would be placed on them in a proper plan. Therefore the applicants have chosen to come in and ask for the planned commercial designation which would allow the applicants to properly market the property and then come back with a plan for approval which would be subject to all the conditions that were noted in staff reports. It is impossible at this time to say with specificity what would be needed to address traffic, additional utilities, what wastewater treatment would be appropriate until the actual end user of the property is known and the site plan developed for it.

Ms. Frances stated that with respect to some of the other property in the area; there is commercial property. Ms. Frances stated that it is her understanding from working with the realtor that this is the only piece of property being actively marketed and they have had inquiries as to the availability of this piece of ground subject to its rezoning in to a commercial designation.

Commissioner Caruthers stated that the realtor hasn't had any noted interest in purchasing the commercial land that exists but would rather purchase this tract if it were commercially zoned.

Mr. Amos stated that the real estate company has had the sign up there and have had some inquiries. Looking on the map the lot has 880 foot of frontage on the outer road and it is only 269 foot deep so that will limit it. It has a good view of the interstate, it goes on top of a hill and there have been some inquiries as to the zoning on it. This is why the applicants have decided to start the zoning because the people that are looking want to know what the zoning is.

Commissioner Caruthers stated that there has been no interest in 20-acres of commercially zoned property that is currently vacant adjacent to this property.

Mr. Amos stated that property is not commercial.

Mr. Florea stated that there is a C-G district that is centered on the intersection about ½ mile square. There is significant amount; whether the owners are actively marketing that property is the point that was made earlier.

Mr. Amos stated that there is 20 acres further east on Sontag that has a for sale sign.

Mr. Florea stated that he is not saying anything is for sale; but is referring to the zoning of the property.

Ms. Frances asked staff if it were true that the commercial zoning on the corners has been a responsive zoning in many ways such as the Sydenstricker parcel which is the parcel across Route O where the furniture store is.

Mr. Florea stated that is all original zoning and has been in place since 1973.

Ms. Frances asked if the Clark property was original zoning.

Mr. Florea stated yes.

Commissioner Heitkamp stated that there is a home on that land and a sign that said "fabrics for sale". Commissioner Heitkamp asked if that was the property in question.

Mr. Robb stated no.

Commissioner Heitkamp asked which side of this property is that. Furniture World is on the southwest corner then Clark trucking is on the southeast corner.

Mr. Shawver stated that it is probably Clark trucking.

Commissioner Heitkamp stated that she can recognize the need for commercial neighborhood zoning in that area although there is much that exists as staff has indicated. Most of the neighbors on the south are A-2.

Ms. Frances stated that it is all A-2 with the exception of the Clark parcel.

Open to public hearing.

No one spoke in favor of the request.

Present speaking in opposition to the request.

Jeff & Lisa Brown, 9840 W. Sontag, Rocheport.

Mr. Brown stated that he is the property owner to the south of the property in question. Mr. Brown stated that he had several concerns. His home was built last year and checked the zoning of the property in question prior to building his home. There are six homes in the area that are off of a private drive and all have 5 plus acres; this is a private drive that the property owners maintain. Mr. Brown stated that his biggest worry is that this is a lottery ticket; he has no idea what he is going to get as a neighbor. Mr. Brown stated that he is 150-feet from the property in question and their property is only 200-feet wide. Whatever it is, it is going to be very close to his home. This proposed rezoning will affect his property values. Mr. Brown stated that his biggest worry is the additional traffic and exposure. Right now it is very quiet and it is a private road. There are small children that walk to the end of the private road and stand on Sontag to catch a bus. Mr. Brown stated that he doesn't have a good feel for what is going on there and does not support it.

Mrs. Brown stated that she worries about the safety value out there depending on what is being placed there. There are people from the highway that go to Clark Trucking and they come to the Brown's home looking for help. If something is put on the small acreage that is not very wide it is going to bring more people from the highway when they have problems.

Tom Hammond, 9920 W. Sontag, Rocheport.

Mr. Hammond stated that he didn't receive a letter regarding this request. Mr. Hammond stated that he is the developer of the property. Taking this as a commercial property would devalue the homes; the minimum value of the homes now is between \$275,000 and \$500,000 and do not want a commercial

property there. Mr. Hammond stated that he owns a commercial piece of property right across the road from Sydenstricker. Before Mr. Hammond bought the property from Mr. Marsh he came to the Planning and Zoning Commission to find out what was available out there. Right below Furniture World is vacant property which is commercial and is for sale. Marsh owns two more five acre lots beside Mr. Hammond which are for sale; there is also property on the south side that is for sale. There is plenty of commercial property out there for sale and don't need another one. Mr. Hammond stated that another thing that concerns him is where the septic is, sewer or whatever is going to be on the property. It is on top of a hill and the only thing it can do would leach in to Mr. Brown's property or leach in to the existing waterway beside Sontag. The greatest concern is the safety of his children. Mr. Hammond stated that he has a five year old and does not care to have trucks going up and down. Mr. Hammond stated that he has been in contact with Clark Trucking and talk to them on a regular basis. Their vehicles all head down Route O to the highway, there is no other commercial venture beside him at this time and can not see the Planning and Zoning Commission to allow this to happen.

Frank Bonuchi, 9840 W. Sontag, Rocheport.

Mr. Bonuchi stated that he just build a new \$350,000 home in August. Mr. Bonuchi stated that he did a lot of checking and there was no planned commercial property other than what is currently there and realized that the four corners of the intersection were commercial and some of it is vacant and doesn't seen any need to commercialize any further down Sontag road. That is the only entrance in to the neighbors' property within 60-feet of this property in question.

Holly Mackley, 3800 Saddlebrook Place # 303, Columbia.

Ms. Mackley stated that she is the trustee of the King property that is still for sale. Ms. Mackley stated that she did not receive notification either. The property values are going to go down with having another business that close.

Commissioner Heitkamp asked Ms. Mackley if she owned 245 acres.

Ms. Mackley stated that she is the trustee of the King property which is 22 ½ acres to the east.

Dorothy Weir, 801 Dometroch Road, Rocheport.

Ms. Weir stated that she has lived on Dometroch road for 20 years. It seems that at the beginning of zoning they worked this out very nicely so at each corner of the highway they had a commercial property. This commercial property is not full at this time. This is a very small tract the applicants want to commercialize. On a tract that small it would seem that the applicants would have to have some kind of business that would require traffic, five acres is not large enough to grow anything significantly or do anything except something that would involve customers that would have to come with traffic. The roads out there are not set up for that kind of traffic. It is country living and the neighbors went to that area for that purpose. Ms. Weir stated that she hoped the Commission would see fit not to rezone this property at this time.

David Dwyer, 1101 N. Dometroch, Rocheport.

Mr. Dwyer stated that the Commission has heard all the good reasons why they should not allow the rezoning; the water, the road doesn't go both ways, it is gravel on the east side. Rather than rehash all that, Mr. Dwyer stated that he arises in opposition because of all of these reasons. However, it is nice to live in a country where people can do what they want to do with their own property. If there is a really good reason why this should be changed and why we should throw out all of these zoning recommendations that the County has been following for the last 30 years then Mr. Dwyer is all for it, let the applicant do what he wants to do, but not a pie in the sky. The applicants have not come through with

a good reason why the zoning should change; if the applicant can come up with a good reason then Mr. Dwyer will change his position and be for the rezoning.

Mr. Hammond stated that one of the Commission Members stated that Sontag was a paved road, it is just an oil and chip road, it is not a paved road.

Closed to public hearing.

Chairperson Smith stated that one of the main concerns of the neighbors is why it is necessary to do this.

Ms. Frances stated that she thinks the neighbors are asking for are concrete assurances of what might be the potential use of this property. The reasoning is that this seems to be the highest and best use for this particular piece of property in the mind of the applicants and other people associated with it. That is a reasonable reason that anyone looks at when they want to develop a piece of property, whether it is because they want acreage for their home, a place for their office, or a place for their business. One thing about the process is that this isn't carte blanche it is the first step in a two step process with additional strict limitations that will be placed on it before any type of commercial enterprise can go in to it. This includes buffer zones; it might include screening, adequate protections for children that are playing close to the road. We would hope that no child would be put in danger in any kind of enterprise whether it is commercial or residential. There are a number of ways to address all of these concerns in the second part of the process, because we are not at that part of the process the applicants are not able to give those assurances but recognize that those are still there and that they are going to be addressed. The issue of road maintenance will be addressed when the proper entity that is going to locate its business and in the C-G district there are a number of things that can be done as businesses. They don't necessarily have to be a high traffic business simply because it is a 5.6 acre tract. There are a number of businesses now that can operate in a building of this size but not have substantial retail traffic; those are all considerations that will be given when we come in to the planned stage and the neighbors will have an additional time for input and recommendations when it comes to that part of the rezoning process.

Commissioner Sloan asked if Mr. Robb is planning to develop this property or is he simply wanting it rezoned so he can sell it.

Ms. Frances stated that Mr. Robb is open to both options; either developing it himself to the proper tenant or sale to an entity that would further develop the property.

Commissioner Sloan stated that she suspects if Mr. Robb sells it to someone else he is not going to put a lot of conditions on it for the sale.

Ms. Frances stated that the sale is not what attaches the conditions. It is the planned process and any potential purchaser or tenant of the property is going to be obligated to go through the planning process and to submit the plan and to work with the recommendations of staff and the decisions that come through the Planning and Zoning Commission and at the final level the County Commission.

Commissioner Sloan stated that she understands that but is hesitant to give approval to something without having some idea of what might happen to it other than what is in the zoning regulations because if the neighbors in the audience knew what might go in there they would probably be up protesting even more than they are. Commissioner Sloan stated that she understands that Mr. Robb will want to get the highest and best use of his property.

Ms. Frances stated that in effect what Commissioner Sloan is saying is that this part of the process becomes useless as far as what the zoning ordinance allows the applicants to do.

Commissioner Sloan stated that it is not useless but it becomes a little more difficult.

Commissioner Freiling stated that even though what is applied for as a planned development; this situation is more complicated by the fact that the increase in marketability and value of the applicant's property will come at the expense of the neighbors and that is because of the different uses. Neighbors to the west have existing commercial zoning but the neighbors to the south and east do not. Extending the commercial zoning adjacent to their properties will devalue those residential properties. Even if that were not the case, to rezone property even as a planned development without knowing what the potential use is going to be is much more problematic than having a clear and final application in front of you for what the use is going to be. The Commission has become increasingly reluctant to grant rezonings, especially in the face of opposition, without having a clear idea of what the next tick is going to be. Because once you grant the planned use, if an applicant comes in with an appropriate use for that zoning it is very difficult to say no if they meet the requirements even though it may be completely objectionable. The last thing is that there needs to be a need for the Commission to rezone beyond the applicants increased property value, in this case, since the commercial property was laid out on the four corners of the interchange and is still available it may not be as desirable as the applicants property from the highway visibility standpoint but it is not clear to the Commission that they should allow the rezoning.

Commissioner Caruthers stated that the applicants are asking for a planned development without a plan.

Ms. Frances stated that she has to ask why the zoning ordinance allows the applicants to approach the planned zone without the plan in the initial stage. It is a viable option under the zoning ordinance.

Commissioner Caruthers stated that the zoning ordinances do allow for that but the Commission is not obligated to approve it.

Commissioner Heitkamp stated that the property does not pass the resource test. There is a lack of resources to the property.

Commissioner Caruthers made and Commissioner Heitkamp seconded a motion to **deny** the request by by Donald L. Robb to rezone from A-2 (Agriculture) to C-GP (Planned Commercial) of 5.69 acres, more or less, located at 10000 W Sontag Rd., Rocheport.

Carl Freiling – Yes
Pat Smith – Yes
Keith Neese - Yes
Mary Sloan – Yes

Kristen Heitkamp - Yes
Mike Caruthers - Yes
David Mink – Yes

Motion to deny request carried unanimously.

Chairperson Smith informed the applicants that if they wished to file an appeal it would need to be done within three working days.

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3. Request by Clifton and Linda Nahler to rezone from A-1 (Agriculture) to A-2 (Agriculture) of 20.0 acres, more or less, located at 3700 E Biggs Rd., Ashland.

Planner, Thad Yonke gave the staff report stating that this property is located 1 ½ miles northwest of Ashland on Biggs Road, west of State Highway DD. This property is zoned A-1 (Agriculture). Land to the north and south is zoned A-1. Land to the east was rezoned from A-1 to A-2 in September. Land to the west is zoned A-2. The property is currently vacant but it has been used for agricultural purposes. This site is located within the Southern Boone R-1 School District. Electric service is provided by Boone Electric Cooperative. Water service is provided by Consolidated Public Water District No. 1. The original zoning for this tract is A-1. There have been no previous requests to rezone this property. The master plan designates this area as being suitable for agricultural and residential land uses. Staff notified 12 property owners concerning this request. The Master Plan calls for the use of a “Sufficiency of Resources Test” when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: This site is served by Boone Electric Cooperative and Consolidated Public Water District No. 1. There may not be adequate water available at this time to serve a residential development. A central waste-water system is not available for this site. The developer is proposing the use of individual on-site waste-water systems.

Transportation: Access to the site is from Biggs Road, a gravel, county maintained road.

Public Safety: The property is in the Southern Boone County Fire Protection District. A district fire station is located inside the city of Ashland, approximately 2 miles from this site.

This property is adjacent to A-2 zoning. As mentioned, the tract to the east was rezoned from A-1 to A-2 in September. Staff recommends that this request be approved.

Present: C. Stephen Heying, 1202 Madison Street, Columbia.
Clifton Nahler, 1201 Hartsburg Bottom Road, Hartsburg.

Mr. Heying stated that the tract has already been developed on the west side as A-2 tracts with 2 eight acre tracts. Mr. Heying stated that he would like to mention that they are not very far from Highway DD, less than ¼ mile, and that is paved State maintained. The northwest corner of Biggs and Highway DD has also been rezoned and has 5 acre tracts on it as well. This is consistent with the land use in the area. Mr. Heying stated that it was his understanding that there was plenty of water along Highway DD and up Biggs road up to the corner as well.

Mr. Yonke stated that there may not be some fire flow but there should be some domestic service and that is something that can be worked out when someone comes in to develop the property depending upon how many lots they would be looking at developing.

Mr. Heying stated that there is plenty of electricity, there is a three phase on Highway DD that is less than ¼ mile away for the utilities.

Open to public hearing.

No one spoke in favor of or in opposition to the request.

Closed to public hearing.

Commissioner Freiling stated that he is going to vote to approve this request. Commissioner Freiling stated that he wanted to post his personal notice because he believes under the circumstances the County can not say yes to the Austin tract and say no to this one two months later. Commissioner Freiling stated that this is a pattern that he doesn't want the Commission to get in to. To have A-1 zoning converted to A-2 zoning as a blanket rezoning. We now have 40-acres of A-2 zoning that someone can come in and do something very different with than was envisioned on the 20-acre tract. The property is on a dead end gravel road and both of these tracts are more than the official approval length of the County cul-de-sac road presently. Commissioner Freiling stated that the Commission approved these because they seemed harmless and in a way they are and yet they are not good planning.

Commissioner Caruthers made and Commissioner Freiling seconded a motion to **approve** the request by Clifton and Linda Nahler to rezone from A-1 (Agriculture) to A-2 (Agriculture) of 20.0 acres, more or less, located at 3700 E Biggs Rd., Ashland.

Carl Freiling – Yes	Kristen Heitkamp - No
Pat Smith – Yes	Mike Caruthers - Yes
Keith Neese - No	David Mink – Yes
Mary Sloan – Yes	

Motion to approve request carried. **5 Yes** **2 NO**

Chairperson Smith informed the applicants that this matter would go before the County Commission at 7:00 p.m., December 2, 2002.

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Mr. Gebhardt stated that he is here to represent both the Straub and Peckham rezoning requests. Mr. Gebhardt stated that there is a witness whom has not yet arrived regarding the Straub request and asked the Commission if they could hear the Peckham rezoning request first.

The Commission agreed.

- Request by Nicholas Peckham to rezone from R-S (Single Family Residential) to R-S/PRD (Single Family / Planned Residential Development) and to approve a Review Plan and Preliminary Plat for Old Plank Village Planned Development, on 15.0 acres, more or less, located at 1851 W Rte K, Columbia.

Planner, Bill Florea gave the staff reporting that the site is situated on the north side of State Highway K across from both the intersection of Coneflower Avenue and State Route K and the intersection of

NewTown Avenue and State Route K. The property is also immediately south of a portion of Gateway South Subdivision and immediately adjacent to the Columbia city limits to the west.

The 15-acres comprising this request are zoned R-S (residential single-family). Property to the south, excluding the NewTown development, the southwest, and west of the proposal is zoned A-2 (agriculture). Property on the north side of Route K to the north and east is zoned R-S. These are all original 1973 zonings. The NewTown development is composed of a central section zoned R-S/PRD (Residential Single Family/Planned Residential Development) flanked on the east and west by C-GP (planned commercial) zoning with a condition limiting uses of the commercial areas to the C-N (neighborhood commercial) uses with C-N. All the NewTown zonings were rezoned from A-2 in 1998. In August 2002 a proposal to rezone the property to Two-Family Residential (R-D) was denied by the Planning and Zoning Commission.

A single-family dwelling, garage, and an outbuilding occupy the property. There is both 100-year Floodplain and Floodway present on the property. The site slopes downward from north to south towards Route K.

Under the existing R-S zoning the Maximum Theoretical Density of the property is approximately 93 dwelling units. The current request is for approval a review plan and preliminary plat, which includes 31 lots. Granting this request will not change the maximum density but will allow the construction of duplexes, which would otherwise require a conditional use permit. Duplexes are proposed on 30 of the lots. The existing home will occupy the remaining lot; the developer intends to reserve the right to convert that lot to duplex use in the future. Therefore, this proposal seeks to utilize up to 62 of the maximum 93 units of density available to the property.

Boone County Regional Sewer District will provide sewer treatment for this property at a district facility south of Cedarbrook Subdivision. The sewer access will be by connection to the collection system within NewTown. There is available capacity in the Cedarbrook system for this development. Consolidated Public Water District No. 1 provides water service in this area. There is an eight-inch and a four-inch water main available at the property. The District has objected to the placement of landscape berms within the 30-foot utility easement.

The *Master Plan* designates this area as being suitable for residential land uses. Both the existing and proposed zonings are consistent with the *Master Plan*.

This site has **70** points on the point rating system. Staff notified 156 property owners about this request.

Staff recommends approval of the preliminary plat and review plan subject to the following conditions:

1. The following items from the project narrative shall be incorporated into the plan; the review plan shall be modified to include them as notes:
 - The project shall be designed so as to incorporate disconnected impervious surfaces to the maximum extent practicable.
 - Impervious area within the development shall be kept to less than 30%
2. Prior to any grading or clearing, the developer must provide proof to the County that a land disturbance permit has been issued for the site by the Missouri Department of Natural Resources.
3. Prior to construction of a duplex on Lot 22 or conversion of the home on Lot 22 to a duplex or two-family dwelling the developer must demonstrate that an additional unit of sewer service has been purchased from the Boone County Regional Sewer District.

4. The developer shall work with Missouri Department of Transportation to ensure that sight distance standards are met.

5. The developer shall provide the Missouri Department of Transportation with hydraulic calculations with respect to the proposed detention facility.

6. Due to the concerns of Consolidated Water District Number 1, the landscape berms adjacent to Route K shall be deleted from the plan or relocated so as to be outside of the 30-foot utility easement.

Present: Tom Schneider, Attorney, 11 N. 7th Street, Columbia.
Jay Gebhardt, A Civil Group, 711 W. Ash, Columbia.

Mr. Schneider stated that he represents the applicant Nick Peckham. Mr. Schneider stated that he was coming in to this project late and understands it was submitted as open zoning some months ago and the Commission requested that it be processed and come back as a planned development. Mr. Gebhardt has prepared a plan. Staff indicated that they sent out 156 letters; Mr. Schneider stated that the applicants sent out that many letters as well. The applicants had a forum at the Rock Bridge Shopping center last week and sent the letters to the same parties within 1000-feet and Mr. Reichlin the contract purchaser, the realtor, Mr. Gebhardt, and the applicants met with those who chose to attend the meeting. There were 6 or 7 people present. The applicants went over the project in some detail and in particular they had the chance to meet Mr. Reichlin and he showed a photographic composite of a somewhat similar duplex project which he has developed off of St. Charles Road, it is a very high quality project and after having an opportunity to meet with Mr. Reichlin and see the quality of the duplex project a lot of the neighbors concerns were alleviated.

Mr. Reichlin presented a photo composite of Woodsmill plat 1.

Mr. Schneider stated that the applicants pointed out one of the advantages of this application is that Mr. Reichlin is going to own most of the duplexes and he can develop them himself; Mr. Reichlin indicated that another individual who may buy 6 to 10 of them. The ownership is going to be concentrated in one or two individuals. The advantage of that is that it almost assures that the quality of the development will be maintained because of the amount of the investment being concentrated between two individuals. They would be shooting themselves in the foot not to be sure they have a quality grade of tenant that was not going to be rowdy and disrupting the peace of everyone else. The concentrated ownership has a tendency to make sure the properties are kept up.

Mr. Reichlin stated that the least expensive of properties in this are would be \$140,000. There is a substantial investment involved.

Commissioner Freiling stated that ownership is always a dicey issue because it is temporary to some degree. Commissioner Freiling asked if the tenants tended to be University based or family based.

Mr. Reichlin stated that it is more family based. There is less turn over with family based clientele.

Commissioner Freiling stated that there is a privacy screen indicated along the east. Commissioner Freiling stated that he had concern because the duplexes come close to the existing single family residential on the east corner. Commissioner Freiling asked what kind of privacy barrier had been proposed there.

Mr. Gebhardt stated that there is a 25-foot perimeter setback that is shown on the dash line. The back of the lots are about 5-feet further than the 25-foot perimeter. On the back of those lots there are white pines.

Commissioner Freiling asked how big the white pines are that will be started.

Mr. Gebhardt stated they will be 6-foot.

Mr. Gebhardt stated that some of the things he wanted to point out is that it is a 15 acre tract and there is 7-acres of common area. The applicants met with the neighbors last week. One of the neighbors lives in one of the homes that back up to the common area and would like to have an interest in the common area. Mr. Reichlin has no problem with that; the details do need to be worked out. The applicants don't have any problems with staff conditions. When the applicants were before the Commission the last time they had mentioned that this was a more appropriate development for the City. The applicants did go that route and tried to annex in to the City and met with City staff and they had indicated that they have no way to serve this development. The City was hesitant to work with the sewer district; it was going to be a complicated situation. The applicants felt it was better to come back to the County with planned zoning. Mr. Gebhardt stated that the development has an entrance across from Route K. The green things on the map are the berms. Mr. Gebhardt stated that he put those in because he thought that the development should be screened from Route K. If the water district doesn't want the screening that is fine.

Mr. Gebhardt pointed out the location of the existing house. The applicants are going to the Board of Adjustment because the house sits in front of the platted building line. If the applicants don't get the variance then the house will have to be torn down.

Commissioner Caruthers stated that where the applicants are accessing Route K; how close is that to where High Point Lane accesses Route K.

Mr. Gebhardt stated that High Point Lane is probably 800 to 900 feet down the other way. The applicants met with the Highway Department this morning and they measured the site distance at about 800-feet in both directions.

Commissioner Mink stated that the plan showed a 20-foot building line and the requirement is for a 25-foot building line.

Mr. Gebhardt stated that being it is PRD the applicants have flexibility; this was done to shorten the driveways. One of the large concerns by the neighbors was stormwater. The applicants are shortening up the driveways.

Mr. Mink stated that it looks like lot 5; almost half of that lot is in the 100-year flood plain.

Mr. Gebhardt stated that this is one of those things where the map location doesn't fit the contours on the ground. The map locations was based on USDS maps they don't match the physical ground. Lot five is probably 10-above the elevation of the floodplain. It will still require a flood plain development permit.

Commissioner Mink stated that some of this might be corrected later on but it shows in lot 7 a proposed easement. Commissioner Mink asked what that easement was for.

Mr. Gebhardt stated that it is for a sanitary easement. The applicants are working with the sewer district. Gateway South number 7 has a pump station upstream and there is an odor problem with the people on West Way where the pump station dumps in to the gravity. The applicants are working with the sewer district to put their sewer in deep enough that it can run out and the sewer district can extend the sewer up to the pump station and eliminate it.

Commissioner Mink stated that there is no drainage easement shown for the pipe structure going out there. It shows the water line going further than the easement goes.

Mr. Gebhardt stated that he would correct that.

Commissioner Mink stated that something that concerns public works is note 21 which states that water line easements will be dedicated prior to recording the plat. What that ends up being is that they have the primary right of way and the County ends up with a secondary right of way. The public works department is opposed to that.

Mr. Gebhardt stated that he put that note on there because he was told to. The water districts always asks for that.

Commissioner Mink stated that he would have a hard time voting for this request with that left in there. It ends up being a financial burden to the County if they ever have to do anything to the road.

Commissioner Freiling asked staff if it was their perception that the water district by just being hard-nosed about this particular aspect of their business which is their business that it not be shared and that no one else has any right to the area and that they have a right; is this limited to district one and is this a correct perception. Commissioner Freiling stated that it seems to him that they insist on things where their easement areas that no one else does.

Mr. Florea stated that this seems to be a water district type issue. There are other water districts in the County that makes the same requests.

Commissioner Mink stated that the County has a law suit with the water districts and if they have the first shot at the right of way then if the County ever chooses to do any improvements to the road and a water line is required to be moved then it becomes the County's expense. If public works is given the primary right of way then it becomes the water district's expense, that is why they are jumping in ahead to try to make sure that it is the County's expense and not the water districts.

Mr. Gebhardt stated that he understands and if there was a way to get the plat recorded without the water district easement then he is all for it. Right now the way it stands is that Mr. Gebhardt can't get a plat recorded until he gets the okay from the water district and the water district won't okay it until the easements are given and they are recorded. If that process could be changed Mr. Gebhardt stated that he would gladly comply.

Commissioner Sloan asked if there was any solution to that problem.

Mr. Florea stated that it is not the developer's responsibility to solve that problem. That is something the County and the water districts need to work out.

Commissioner Mink stated that the terraces are proposed to direct the water around the homes and there is a concern about the quantity of water that would be coming off of the east end of lot 19 and in to the cul-de-sac, it would be running down the street all the way to the storm inlet.

Mr. Gebhardt stated that is correct. There are the homes then the slope. The water will either run between the homes and getting in to the street and running down the street or you can try and protect the homes and run it down. Mr. Gebhardt stated that he can check the gutter capacity and make sure they are not exceeding gutter capacity if they are Mr. Gebhardt stated that he would have to run another storm drain to catch it.

Commissioner Mink asked if there was any concern of any collection and accumulation of water coming off the east end of the east terrace creating an undesirable gully through there or erosion problem off the end of it because it looks like there is a drop in the grade from the end of the terrace to the end of the cul-de-sac.

Mr. Gebhardt stated that he can look at that and determine the velocity of the water and see if it is erosive and if it is they will rip rap it or take the water another direction.

Commissioner Mink stated that as far as the water that falls to the south of the terrace is still going to have to be dealt with as it comes down on these lots; Commissioner Mink asked how the applicants plan to deal with that stormwater.

Commissioner Heitkamp asked if these homes are on slabs.

Mr. Gebhardt stated that they will be split foyers. The basement walls will be 4-foot in the ground.

Commissioner Mink stated that he didn't hear what staff said about the note about the right of way.

Mr. Florea stated that he didn't believe it is the developer's responsibility to solve that problem. That is a question that the County needs to resolve with the water districts.

Commissioner Mink asked if that could be done in regards to this request.

Mr. Florea stated that he didn't know that is a public works issue.

Commissioner Mink stated that it sounds like a legal issue.

Mr. Florea stated that he didn't have a solution for that.

Commissioner Freiling stated that in his experience the surveyors in particular have complained because it makes their lives tougher. If the water district simply refuses to play ball unless the surveyor does this. Commissioner Freiling stated that as far as he knows there is no way to coerce the water district, short of a legal challenge to change their behavior. So far no one has been willing to make that challenge. Commissioner Freiling stated that he is not sure there is a basis.

Mr. Gebhardt asked if it would make Commissioner Mink feel better if a condition is made that the note be removed on the final development plan.

Commissioner Mink stated yes but thought the applicants couldn't do that.

Mr. Gebhardt stated that he can remove the note if he is required to but will need Commissioner Mink's help down the road.

Mr. Florea stated that the problem arises when the developer wants to record the plat and they can't do that without the approval of the water district and the water district won't give their approval until they have their easement. Regardless of the note on the plat the issues still exists.

Commissioner Heitkamp stated that this is going to be held up until something happens with the water district. The development won't go through until it can be recorded.

Mr. Florea stated that is correct unless the water district allows it.

Mr. Gebhardt stated that happens on every plat that comes through.

Mr. Schneider stated that this should be resolved independent of this particular application.

Commissioner Mink stated that he thought this was tried shortly after this agreement was ratified and there was some action taken to stop this kind of thing from happening.

Mr. Shawver stated that apparently the water district wasn't advised of that.

Commissioner Mink stated that he thought this was tried about a year and a half ago when all this was settled and John worked around it some way.

Commissioner Neese asked if there was going to be a centralized mail collection or will there be mailboxes in front of all the units.

Mr. Reichlin stated that he hasn't addressed that yet.

Commissioner Neese asked how many square feet are going to be in each unit.

Mr. Reichlin stated that they will be between 1200 and 1300 square feet with three bedrooms and two baths.

Commissioner Neese asked what the rent would be.

Mr. Reichlin stated \$650 to \$750.

Open to public hearing.

Present speaking in favor of the request:

Steve Reichlin, 4208 Fall River Drive, Columbia.

Mr. Reichlin stated that he wanted to briefly state that there has been discussion about some function of using the common area and having input from the surrounding neighbors. Mr. Reichlin stated that he is ready, willing, and able to try and resolve that issue and wanted that to be clear to the Commission.

Bob Whittet, 1980 Westway Drive, Columbia.

Mr. Whittet stated that his home would look down on this property. Mr. Whittet stated that he has lived at this site for 24 years and he approached this with a positive approach with some trepidation but

realized that some development will occur. Mr. Whittet stated that the last time this was presented he opposed the project because it wasn't planned. The neighbors are feeling more comfortable because there is a plan that was put forth with opportunity for the neighbors to respond. There is concern about the density of this project but realize that development is going to occur. The neighbors ask that this plan, if there were any changes to it that any change come before the Commission. The neighbors are feeling frustrated because New Town did not turn out the way it had been proposed so that leaves some anxiety with the development here. Mr. Whittet stated that he is very please with the proposal with the green space; as mentioned this evening it would be appropriate for the neighborhood that will be facing this property to have opportunity to have input as to how it will be developed.

No one spoke in opposition to the request.

Closed to public hearing.

Commissioner Neese stated that the Commission is sensitive because of what happened with New Town. Commissioner Neese commended the applicants for their site of putting the entrance in to this subdivision.

Commissioner Heitkamp asked if the 7-acre open space would be dedicated as a park.

Mr. Reichlin stated that he can only revert back to ready, willing, and able because he is not an attorney and there hasn't been any discussion about the best way to do it.

Mr. Schneider stated that he doesn't represent Mr. Reichlin as the purchaser and for that reason he can't address that at great detail except to say that what commonly is done is a not-for-profit homeowners association is incorporated and that association then takes title to that area and there are a lot of procedural provisions and sometimes some caps on what can be assessed and so on. Mr. Schneider suggested to Mr. Reichlin that he visit with his attorney and that they work out something. It can be done, but it is not something that Mr. Schneider would be involved in.

Mr. Reichlin stated that he is not qualified; all he can do at this time is express willingness to resolve it to the neighbors.

Commissioner Heitkamp stated that Mr. Reichlin has stated on record that he is willing to resolve this but the neighbors have no assurance that Mr. Reichlin will do it. Mr. Reichlin is willing but there is no legal assurance that it will be done.

Mr. Schneider stated that in this planned process there is a great deal with the right to participate and a great deal of input; although they would have a proprietary interest if they enter in to some arrangement with Mr. Reichlin whereby they then, as an organization or an association, take title of this. Mr. Schneider stated that he is not sure it would add that much to what they have as a result of this process.

Commissioner Freiling stated that the use of the area can not change from an open space use. For the neighbors that is the one assurance they have, it will be an open space use. Beyond that, this is an issue of good will and what Commissioner Heitkamp has said is correct, there is no guarantee that the neighbors will work out an acceptable agreement with the developer in this case and that they will have the right to participate in the decisions or process of how that piece of property is managed. From a practical standpoint Commissioner Freiling assumes the worst that can happen is nothing. Commissioner Freiling stated that he can't imagine motivation for the developer to spend a lot of money to develop that area as a recreation area. The recovery capacity of that investment would be difficult. On a legal side

the neighbors protections are minimal, but on a practical side it would seem unlikely that anyone would do something that the neighbors would find objectionable.

Mr. Gebhardt stated that there is a motivation on Mr. Reichlin's part to work with the neighbors and there has been a verbal agreement to share in the financial burden.

Commissioner Heitkamp asked if that location was the top of the hill and the homes are being built that would be split foyers in to the hill.

Mr. Gebhardt stated that they would be located at the base of the hill.

Commissioner Heitkamp asked if the 7-acres would be developable property.

Mr. Gebhardt stated that it could be.

Commissioner Caruthers stated that being a planned development, if there were any changes to this, given that a final plat was approved then the developers would have to come back before the Commission to make any changes. There would still have to be a public hearing.

Mr. Gebhardt stated that it would apply if they were to build a picnic structure.

Commissioner Caruthers stated that is correct.

Commissioner Mink stated that on the water line easement; are they talking only about the part that is behind the street and sidewalk easement or are they talking about every crossing that goes across the road.

Mr. Gebhardt stated that typically it is the 20-foot easement that is adjacent and joining the right of way.

Commissioner Caruthers made and Commissioner Neese seconded a motion to **approve** with staff recommendations the request by Nicholas Peckham to rezone from R-S (Single Family Residential) to R-S/PRD (Single Family / Planned Residential Development) and to approve a Review Plan for Old Plank Village Planned Development, on 15.0 acres, more or less, located at 1851 W Rte K, Columbia.

Carl Freiling – Yes
Pat Smith – Yes
Keith Neese - Yes
Mary Sloan – Yes

Kristen Heitkamp - Yes
Mike Caruthers - Yes
David Mink – Yes

Motion to approve request carried unanimously.

Commissioner Caruthers made and Commissioner Neese seconded a motion to **approve** with staff recommendations the request by Nicholas Peckham to approve a Preliminary Plat for Old Plank Village Planned Development, on 15.0 acres, more or less, located at 1851 W Rte K, Columbia.

Carl Freiling – Yes	Kristen Heitkamp - Yes
Pat Smith – Yes	Mike Caruthers - Yes
Keith Neese - Yes	David Mink – Yes
Mary Sloan – Yes	

Motion to approve request carried unanimously.

Chairperson Smith informed the applicants that these matters would go before the County Commission at 7:00 p.m., December 2, 2002.

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5. Request by the Martha L. Straub Trust to rezone from A-1 (Agriculture) to R-S/PRD (Single Family Residential / Planned Residential Development) and to approve a Review Plan and Preliminary Plat for Martha’s Grove Planned Development, on 20.0 acres, more or less, located at 5201 E. Bonne Femme Church Rd., Columbia.

Planner, Thad Yonke gave the staff report stating that this property is located one mile south of the general Columbia municipal limits to the north. The site is situated on the north side of Bonne Femme Church Road approximately 3000 feet southwest of the intersection of Highway 63 South and Bonne Femme Church Road. The site is immediately west of Bonne Femme Mobile Home Park. The site of the proposal comprises 20-acres of a 64.85-acre parent parcel. The property of the request is currently zoned A-1 (agriculture). The remainder of the parent parcel is also zoned A-1. Property to the south, west, and north of the requested site is zoned A-1. Property to the east is zoned A-1 with a small pocket of R-M (moderate density residential) upon which the existing MHP is located which was rezoned from A-1 in 1983. The other zonings are all the original 1973 zonings. Under the existing A-1 zoning the Maximum Theoretical Density for the property is 2 units. Under the proposed R-S/PRD rezoning the Maximum Theoretical Density for the property is 124 units. The specific review plan and preliminary plat submitted proposes only 20 buildings comprising a total of 40 units. Since the specific proposal includes 40 units, that is the maximum that would be allowed and is somewhat under 1/3 the density that could be requested in an R-S/PRD for this property. The proposed structures are single family attached units which externally resemble a duplex but have to be built to a higher standard under the building code. The development is proposing a private drive for internal circulation which would be treated similarly to an apartment complex parking lot. The vehicular circulation as proposed can not be made into public roads. There is some 100-year Floodplain on the property near the proposed entry drive and the property is in the watershed of environmentally sensitive streams. The design for the development is proposing storm water detention and several best management practices for stormwater and erosion control. The site is currently vacant and wooded. Sole primary access to the site is from Bonne Femme Church Road. The most direct route to the main traffic network is to go to Highway 63; however, there is a low water crossing in this path. Additionally, the portion of the road proximate to the development proposal and continuing on to the west is an unimproved gravel road. Some road improvements will be required for this development, if approved. Two additional emergency-only improved grass lanes have been provided for emergency vehicle access. A centralized sewer collector system is proposed for this development. The BCRSD is somewhat receptive to accepting a central system for this development; however, the specific type of system acceptable to the BCRSD has yet to be worked out. There is still concern that

even treated wastewater from 40 units will have impact on the streams and water quality. However, the developer is working with the BCRSD, DNR, Rock Bridge State Park, and the County to find an acceptable means to deal with the wastewater. Water service and fire hydrants will be required for this development. Consolidated Water District #1 has indicated they are not sure that there is sufficient existing water service for the development and that waterline upgrades will likely be required and will be at the developer's expense. Staff does concur with the concept that a rezoning to increase the potential density and use of the property would have to be planned due to the sensitive nature of the site and area and believes that with conditions the development can be made compatible with the surrounding area. In any rezoning request it is incumbent upon the applicant to show that the requested zoning is more appropriate than the existing zoning. Additionally, the Master Plan calls for the use of a "Sufficiency of Resources Test" when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: As mentioned previously, the existing water system is most likely inadequate at this time and will require upgrades to be sufficient. The central sewer operated by BCRSD is preferable in general to on-site systems and with conditions can mitigate the impact of the volume and scale of the system on the area. Boone electric has power to the site. A centralized propane gas system including 2 large tanks is proposed by the developer.

Transportation: The low water crossing on the road leading to the development can be addressed with off-site improvements.

Public Safety Services: The property is in the Boone County Fire Protection District. There is no district fire station located within 5 road miles of this site. Required waterline improvements will bring fire flow to the area and the emergency access drives provide secondary access for emergency services.

The development will be within the Columbia Public School District. The *master plan* designates this area as being suitable for residential land uses. Both the existing and proposed zonings are consistent with the *master plan*. This site has 56 points on the point rating system. While staff does not believe that the rezoning of A-1 to higher densities is generally appropriate especially in sensitive areas the R-S/PRD is appropriate because of the specific design and conditions. Staff notified 19 property owners about this request.

Staff recommends approval of the Rezoning Request, Review Plan, and Preliminary Plat with the Review Plan & Preliminary Plat subject to the following 7 conditions:

1. That the development not be gated. The private drive/vehicular circulation system within the development is not allowed to have access limiting equipment or fixtures installed. This provision must be added as a note to the review plan and preliminary plat.
2. That it is recognized that the private drive/vehicular circulation system within the development can not become public roads and will not be accepted by the county for maintenance.
3. That waterline upgrades and hydrants be installed, along with all needed easements required and that these improvements be acceptable to the Consolidated Water District #1, Director of Planning, and Boone County Fire District.
4. That the road improvements required by the development be worked out with Boone County Public Works and be acceptable to both the Public Works and Planning Directors.
5. That the specifics of the wastewater system and the steps taken to mitigate the potential impact of the effluent be acceptable to the BCRSD, the Director of Planning, and DNR. It should be

recognized that the Director of Planning will take into account the concerns of Rock Bridge State Park when determining acceptability. The acceptable solution may require more than the minimum DNR would require to simply permit the wastewater system. This is an essential issue and if an acceptable solution is not worked out or followed then the development approval is essentially voided.

6. That the two proposed locations for the wastewater system can be amended on a permanent final review plan without the need to resubmit the proposal provided the Director of Planning agrees to the clarifications and all notes and comments from the planning department are followed on the revision and are acceptable to the Director of Planning.
7. That the location, spacing from structures, and other considerations with regards to the centralized propane tanks and suitability of the emergency access drives be acceptable to the Boone County Fire District and the Director of Planning. The locations of the central tanks and applicable notes and notations can be amended on a permanent final review plan without the need to resubmit the proposal provided Fire Marshall and the Director of Planning agree to the clarifications and all notes and comments from the planning department are followed on the revision and are acceptable to the Director of Planning.

Present: Jay Gebhardt, A Civil Group, 711 W. Ash, Columbia.
Gary Straub, 4604 Bonne Femme Church Rd, Columbia.
James Straub, 1318 Ridge Road, Columbia.

Mr. Gebhardt stated that since the Commission is familiar with this he will just go over some of the changes since last time. Mr. Gebhardt presented a drawing of the site. Mr. Gebhardt stated that there are 20-acres now. There are 2.4 units per acre, the reason this is important is last time it was stated that the applicants are trying to set a model here and set a model density; the applicants arrived at 2 units per acre with ½ acre lots. The two emergency accesses that were asked for have been included in the plan. Mr. Gebhardt pointed out the location of the accesses. One of them leads to the churches parking lot. The other one leads off to an existing gravel road that leads back out to Bonne Femme Road. It would also serve as a construction entrance. When the applicants met with Ms. Weaver and Mr. Schulte, the applicants had 23 percent impervious surface on the last plan; there was a 24-foot wide drive through the development and the applicants looked at ways to try to decrease the impervious area and one of the things Mr. Gebhardt did was take out 4-feet out of that to make it a 20-foot wide drive. The resulting impervious area with 20-acres is 17.3-percent impervious. The applicants tried to get below 15-percent but didn't make it. But because of the BMP's that the applicants are doing with the water quality control structure and other things the applicants are comfortable that they are doing everything that they can. The reason that 20-feet was picked on the driveway was because the building code calls for that as the minimum width for a fire lane. No parking is allowed on the drive. There was some concern last time that should the worst case scenario happened and there were a bunch of students living in these. What the applicants need to explain is that each one of these has a two car garage and there are two more spaces in each one of the driveways. The result is that there are 9 ½ spaces per building or 4.75 spaces per side, which with a three bedroom it should handle all the parking needs.

Mr. Gebhardt stated that the applicants are working with the sewer district regarding the sanitary sewer. Mr. Gebhardt stated that he would not go in to a lot of detail because it is kind of complicated. The applicants are looking at two different options and are working with Rock Bridge State Park, the planning department, and the Boone County Regional Sewer District board to figure out what is in the applicants and the parks best interest for this. One option is a sand filter on site with a step system to

pump to it; treating it in the basin. The second option is to pump it out of the basin and treating it in to Gans Creek water basin. Both of those options have pros and cons.

Mr. Gebhardt stated that the applicants received a letter from the water district. The letter says that the applicants have adequate water pressure. Mr. Gebhardt presented a copy of the letter to the Commission.

Mr. Gebhardt stated that the church has expressed interest in joining the sewer system.

Commissioner Freiling asked about the trailer park.

Mr. Gebhardt stated that it was going to take a big step to get the trailer park. Mr. Gebhardt stated that at the first meeting there were several people from DNR there and they were writing down names and notes. Mr. Gebhardt stated that it gave him the impression that the people at the trailer park were going to be contacted.

Mr. Gebhardt stated that in the Commissioner's packet there was a red book regarding the propane system. Mr. Gygr did a good job of explaining it except he did make a mistake in his comparison of everything. Mr. Gygr compared two tanks to twenty 1000-gallon tanks it really should be forty 1000-gallon tanks because there are twenty buildings but there are forty units. All the numbers about stored gas on the site is actually $\frac{1}{2}$ when it should be doubled. Mr. Gebhardt stated that the rules are that you only have to have 60-feet of separation between a structure and a tank. The reason for that is if there is a ground fire under the tank it has a pressure release valve at 250 psi and there is a stand pipe that goes up about 20-feet above the tank if there was a fire that heated the propane and reached the 250 psi, propane goes up, propane takes a tremendous amount of air to burn so fire doesn't actually occur until it is about 30 or 40-feet off the stand point and the fire is up in the air. When the tank loses pressure then the temperature drops and the check valve is shut off until the fire heats up and shoots off. It is not continuous and it is not like a bomb that is going to blow up, it has a way of releasing its pressure. If there is a big enough fire it would catch the fuel on fire but it would be up high and it would shut itself off. That is one of the features that an individual tank doesn't have.

Chairperson Smith asked if Gygr has ever done one like this before.

Mr. Gebhardt stated they have done this in several other counties. Gygr is trying to promote these things because it means less trips for their drivers and they are a safer system.

Commissioner Heitkamp stated that she believes they have a central system at their trailer park in Rocheport.

Commissioner Mink asked where the tanks would be sited.

Mr. Gebhardt pointed out on the map the proposed locations of the tanks. Mr. Gebhardt stated that the locations are flexible. Assistant Fire Chief Ken Hines has expressed some concern and would like to look at that and maybe locate them somewhere else so it is not on the road in and out.

Commissioner Freiling asked what reinforced grass means.

Mr. Gebhardt presented a black grid to the Commission. Mr. Gebhardt stated that the grid is filled with dirt and grass. It is a containment for the soil.

Mr. Gebhardt stated that the stormwater on the site is handled; the impervious surface is as low as it can get. The applicants tried to answer all the concerns that were raised at the last meeting.

Open to public hearing.

Present speaking in support of the request:

Jan Weaver, Friends of Rock Bridge State Park, 412 ½ W. Walnut, Columbia.

Ms. Weaver stated that she is going to speak in support but it is going to be a backhanded support. The ideal situation would be no development in this watershed and the next best thing would be no discharge development. We are probably a ways from having that in this county. Ms. Weaver stated that she believed the development that has been proposed would go a long way to setting some stringent standards for other developments in the county to meet. Keeping in mind that Ms. Weaver doesn't want zoning this from agriculture to residential to create a precedent that other developers can take advantage of in the county. There are a lot of positives about it; the low amount of impervious surface, the applicants got it down to 17.35-percent and it is possible with BMP's it can get below 15-percent. At the sewer district meeting the other night they saw that as an opportunity to address long term issues of wastewater treatment in that water shed. This would be a point where we talk about how the County is going to address wastewater treatment in that part of the water shed. The potential to pull in the church and the trailer park; the trailer park is already contributing to degradation of water quality in the water shed that offsets the concerns she has about rezoning this. Based on that Ms. Weaver stated that she withdraws her objections expressed at the last meeting.

Commissioner Sloan commended the applicants for working so hard with these people and they are to be commended also in trying to make this a standard, better than anything the Commission has seen.

Ms. Weaver stated that she believed that a lot of credit goes to County staff for taking the initiative to calling us together to meet about these issues and helping work through the concerns.

Scott Schulte, Rock Bridge Memorial State Park, 5901 S. Highway 163, Columbia.

Mr. Schulte stated that essentially if he had his way he would rather there be no development in the water shed that affects Rock Bridge State Park and the Devil's Icebox Cave system. Given the location of this property Mr. Schulte doesn't believe it is unreasonable to request this rezoning. Mr. Schulte stated that he didn't want this to be a blank endorsement for a lot rezoning of A-1 property in that watershed but the work the applicants have done trying to meet the parks needs sets a good precedent for future development in the area that is already zoned residential. If more people would work like the applicants it would be appreciated. Mr. Schulte stated that he is confident that the two options chosen for the sewer system will suit the parks needs.

No one spoke in opposition to the request.

Closed to public hearing.

Commissioner Freiling stated that he would like to congratulate all the parties on willingness to sit down together and work out a best possible arrangement given the realities. It makes it easier for the Commission when the parties work out their difficulties. Commissioner Freiling stated that for what it is worth as an advanced notice each application in a sensitive watershed will have to be considered on a case by case basis, each one will have unique circumstances. For other parties in these watersheds that contemplate development the Commission would encourage the same sort of willingness to pay attention to the details of making these developments as ecologically and environmentally and socially acceptable

as possible. The approval of this development with its special circumstances by no means insures approval of a similar development in different circumstances. Specifically in this case the capacity to mitigate to existing public use wastewater systems by incorporating them in to this system seems to be a particular benefit.

Commissioner Heitkamp stated that when the applicants presented their plan to the Commission it presented a challenge not only considering the rezoning request but also planning for Boone County's future. It was put on the Commission to create model standard. Commissioner Heitkamp stated that she has come up with two standards; one is to do no harm, number two is to mitigate. That is what has been shown tonight the opportunity to mitigate the harm that is already done repairs the environment, it shows that the applicants are willing to offer stewardship of the land.

Commissioner Sloan made and Commissioner Caruthers seconded a motion to **approve** with staff recommendations the request by the Martha L. Straub Trust to rezone from A-1 (Agriculture) to R-S/PRD (Single Family Residential / Planned Residential Development) and to approve a Review Plan for Martha's Grove Planned Development, on 20.0 acres, more or less, located at 5201 E. Bonne Femme Church Rd., Columbia.

Carl Freiling – Yes	Kristen Heitkamp - Yes
Pat Smith – Yes	Mike Caruthers - Yes
Keith Neese - Yes	David Mink – Yes
Mary Sloan – Yes	

Motion to approve request carried unanimously.

Commissioner Sloan made and Commissioner Caruthers seconded a motion to **approve** with staff recommendations the Preliminary Plat for Martha's Grove Planned Development, on 20.0 acres, more or less, located at 5201 E. Bonne Femme Church Rd., Columbia.

Carl Freiling – Yes	Kristen Heitkamp - Yes
Pat Smith – Yes	Mike Caruthers - Yes
Keith Neese - Yes	David Mink – Yes
Mary Sloan – Yes	

Motion to approve request carried unanimously.

Chairperson Smith informed the applicants that these matters would go before the County Commission at 7:00 p.m., December 2, 2002.

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PLAT REVIEWS

- 1. Cherokee Ridge Estates. S33-T46N-R12W. A-2. John and Ethel Reeder, owners. Curtis E. Basinger, surveyor.

The following staff report was entered in to the record:

The property is located on the north side of Route A, approximately three miles south of Ashland. The purpose of the plat is to adjust the location of the north boundary line.

The lot has frontage on and access to State Route A. Right of way sufficient to create 33' half-width right of way is being dedicated by this plat. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

Consolidated Public Water District Number 1 provides water service in the area. There is a 4-inch waterline adjacent to Lot 1 with adequate water for domestic use.

On-site wastewater systems will be used for sewage disposal. A plan, showing a suitable location for a lagoon has been submitted and is on file. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

The property scored 41 points on the rating system.

Staff recommends approval of the plat and waiver requests.

Commissioner Heitkamp made and Commissioner Caruthers seconded a motion to **approve** with staff recommendations the plat of Cherokee Ridge Estates. S33-T46N-R12W. A-2. John and Ethel Reeder, owners. Curtis E. Basinger, surveyor.

Pat Smith – Yes	Keith Neese – Yes
Mike Caruthers – Yes	David Mink – Yes
Mary Sloan – Yes	Kristen Heitkamp - Yes
Carl Freiling - Yes	

Motion to approve plat with waiver requests carries. 7 Yes

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- 2. Wooldridge. S7-T48N-R11W. A-2. Brad and Shelly Wooldridge, owners. James V. Patchett, surveyor.

The following staff report was entered in to the record:

The property is located approximately 3 miles east of Columbia on I-70 Drive Northeast. This tract is zoned A-2 (Agriculture). In 1993, 9 acres were rezoned from A-R to A-2 and a conditional use permit was issued for a kennel. In September the CUP was revised to allow operation of the kennel on 5 acres. The applicants now seek to subdivide the property.

Lot 1 will have frontage on and access to I-70 Drive NE. Lot 2 will have access to I-70 Drive NE via a private access easement. No right of way dedication is required by this plat.

Public Water Supply District Number 9 provides water service in this area.

There is an existing lagoon on Lot 1 that will remain in service. A lagoon will also be used for wastewater treatment on Lot 2. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

The property scored 48 points on the rating system.

Staff recommends approval of the plat and waiver requests.

Commissioner Heitkamp made and Commissioner Caruthers seconded a motion to **approve** with staff recommendations the plat of Wooldridge. S7-T48N-R11W. A-2. Brad and Shelly Wooldridge, owners. James V. Patchett, surveyor.

Pat Smith – Yes	Keith Neese – Yes
Mike Caruthers – Yes	David Mink – Yes
Mary Sloan – Yes	Kristen Heitkamp - Yes
Carl Freiling - Yes	

Motion to approve plat with waiver requests carries. 8 Yes

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3. Northwest Estates (preliminary plat). S4-T46N-R12W. A-2. Bruce and Connie Bauer, owners. Bill R. Crockett, surveyor.

The following staff report was entered in to the record:

This property is located 1 ½ miles northwest of Ashland on Biggs Road, 1200 feet west of State Highway DD. This property was rezoned from A-1 (Agriculture) to A-2 in September 2002. The property is currently vacant but it has been used for agricultural purposes.

A public road, to be built by the developer, will provide access to the lots. The road will be extended south from Biggs Road to the south boundary of the property. A temporary cul-de-sac will be installed at the end of the road. This will result in a temporary cul-de-sac that is approximately 1200 feet long. Right of way, sufficient to provide a 66-foot half-width will be dedicated on the final plat. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

Consolidated Public Water District Number 1 provides water service in this area. There is a four-inch main available to the property. All major plats are required to be served by a six-inch or larger main capable of providing a minimum fire flow of 250 gpm. The water district cannot confirm whether the minimum flow can be provided until the results of a hydraulic analysis are available. The developer has contracted with the district to conduct the study however the results will not be available for a number of weeks.

A central sewer system will be installed for wastewater treatment. After construction, the system will be turned over to the Boone County Regional Sewer District for maintenance and operation.

The property scored 36 points on the rating system.

Staff recommends approval of the plat and waiver request subject to the following condition:

1. A final plat cannot be submitted until the developer has demonstrated there is adequate water available to meet the minimum needed fire flow requirements.

Commissioner Heitkamp made and Commissioner Caruthers seconded a motion to **approve** with staff recommendations the plat of Northwest Estates (preliminary plat). S4-T46N-R12W. A-2. Bruce and Connie Bauer, owners. Bill R. Crockett, surveyor.

Pat Smith – Yes	Keith Neese – Yes
Mike Caruthers – Yes	David Mink – Yes
Mary Sloan – Yes	Kristen Heitkamp - Yes
Carl Freiling - Yes	

Motion to approve plat with waiver requests carries. 7 Yes

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4. Weingartner. S22-T46N-R12W. Daniel Smith, Reba Kraus and Charlotte Weingartner, owners. James V. Patchett, surveyor.

The following staff report was entered in to the record:

This 1 lot minor plat is located on the south side of Dee Woods Road immediately west of W-K Subdivision Plat 1, approved in September of 2001, and approximately 850 feet west of the intersection of Old Highway 63 and Dee Woods Road. The site is approximately 1/4 mile south of the municipal limits of the City of Ashland. The area being subdivided contains 2.73-acres. The property is zoned A-2 (agricultural) as is all the surrounding property. These are all the original 1973 zonings. The property is currently the site of one house and the proposed plat is predominantly to enlarge the existing lot to solve an on-site sewage problem. The existing parcel is one of a number of small lots along Dee Woods Road that do not meet the minimum lot size for the zoning district. The proposed lot in this plat will meet the minimum lot size. The site is in Consolidated Water District #1 and a 6" waterline runs along the south side of Dee Woods Road. Fire hydrants are not required for minor plats containing less than 4 lots, as this is the 4th lot that has come out of the larger tract to the south fire hydrants can be required. The site is in the Southern Boone County School District. Sewage treatment will remain from on-site systems. A

waiver from both a traffic analysis and cost benefit analysis for central sewer has been requested. Staff concurs with the granting of these waivers. The site is in the Southern Boone County Fire Protection District and Union Electric Service areas. This plat has 68 points on the point rating scale.

Staff recommends approval along with the granting of the waiver requests.

Commissioner Heitkamp made and Commissioner Caruthers seconded a motion to **approve** with staff recommendations the plat of Weingartner, S22-T46N-R12W. Daniel Smith, Reba Kraus and Charlotte Weingartner, owners. James V. Patchett, surveyor.

Pat Smith – Yes	Keith Neese – Yes
Mike Caruthers – Yes	David Mink – Yes
Mary Sloan – Yes	Kristen Heitkamp - Yes
Carl Freiling - Yes	

Motion to approve plat with waiver requests carries. 7 Yes

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5. Amy. S24-T49N-R13W. Hei Mei Chow, owner. James W. Brush, surveyor.

The following staff report was entered in to the record:

This 2 lot preliminary of a major plat is located on property that fronts Highway 763 on the east and touches Clearview Subdivision and Spencer Hills Subdivision on the west. The plat is proposed to create the extension of Sackets Road from Spencer Hills subdivision to Highway 763 providing a collector/commercial class road as a second way into the area. The proposed connection of Sackets Road to Highway 763 is approximately 1500 feet south of the intersection of Prathersville Road and Highway 763. The site is contiguous to the municipal limits of the City of Columbia across Highway 763 to the east. The area proposed for subdivision contains 36.55-acres out of an approximately 135.96-acre parent parcel. The two lots proposed are required to be platted in order to provide required easements and building lines. However, the lots are marked as not for development until replatted. While this would normally be an acceptable solution, staff has become aware there are existing structures within or near the proposed lots. Having existing structures in the area makes the proposal questionable as an acceptable plat or acceptable solution to problems of the area. Additionally, existing structures, how such structures currently relate to the area, and how such structures are proposed to relate to the proposal is required information on a preliminary plat. No indication of this required information is present nor is the proposal's relationship to this issue able to be properly assessed as it was not provided. The property is predominantly zoned R-S (single-family residential) with a strip approximately 600 feet wide along Highway 763 zoned C-G (general commercial). All the surrounding property is zoned R-S except for the adjoining frontage along 763 which is C-G and these are all original 1973 zonings. The site is in the City of Columbia Water service area. Fire hydrants are required for all major plats, as is the case here. A 6-inch minimum waterline with hydrants needs to be provided along the proposed roadway. The site is in the Boone County Fire Protection District and Columbia School District. The site is in the Boone Electric Service area. Sewage treatment is not required at this time as there can be no development; however, the property is likely to be served eventually by the City of Columbia Cow Branch sewer. Sewer services for

the existing structures is also required information that has not been provided. There are a number of significant problems with proposed plat. While County staff has been working with the developer and property owner for several years on this property no specific concept review for this current submittal was requested or conducted as is required. Had there been a specific concept review staff believes many of the problems with this proposal could have been resolved. Because of an incomplete initial and current submittal we have not received comments from some of the critical agencies involved with this plat. MoDot, the City of Columbia, and Boone County Public Works must all approve the specifics of the plat or else the current proposal will have to be significantly revised and require resubmittal of a new preliminary plat. At this point in time we have only received preliminary comments from the City of Columbia and Boone County Public Works. Both have strong objections to the proposal in its current configuration. The City of Columbia and BCPW have noted that the current proposal is not in compliance with the CATSO approved Major Thoroughfare Plan to which the County is a party. The MTP shows the proper location for this primary second connection for the area as an extension of Hackberry Blvd to 763 to line up with Harvester Road on the east side of 763. Even if this current proposal were approved it would not eliminate the requirement that Hackberry Blvd be provided on the property as shown on the MTP. The current proposal will then likely cause problems for the orderly development of the remaining property by placing the two collector roadways too close together and be of benefit to neither the property owner nor the County. The property from which the current proposal is located will contain an extension of Providence Road and there is concern that this proposal has not made any provision or allowance for how this proposal will interact with Providence Road. Additional concerns have been expressed at the proposed connection of Sackets Road to 763 as the future plans currently under design at MoDot will be placing a barrier median in the portion of 763 in front of this connection. This will limit the utility of the current proposal to meet the traffic needs it is supposed to address as the connection will be limited to a right in right out entrance with no ability to access the road from traffic traveling to the north from the City. We are already aware of the barrier median concern but MoDot is likely to have other concerns and we have not heard from MoDot at this time. No information with respect to the acceptability to MoDot on the current proposal was or has been provided in conjunction with this submission by the applicant. If this connection to Sackets Road becomes the primary second connection to the area then it will put an undue traffic burden on Autumn Drive located in Clearview Subdivision and Spencer Hills Subdivision as Autumn Drive becomes the default collector connection extension of Sackets Road. Autumn Drive was not designed to handle this type of traffic and due to topographic reasons already has problems even as a local roadway. The location of Sackets Road was chosen by the developer since a required road stub was needed but the County did not determine the location. The provision of Sackets Road was seen as a possible replacement for the East Cedar collector connection that was on the MTP at the time of the platting of Spencer Hills. This was proposed as an alternate as the developer originally showed the stub as a connection of East Cedar rather than at the current location of Sackets Road. This connection is not a replacement for the Harvester extension but rather the additional connection further to the north. A preliminary plat is required to show the entire property as well as any additional property within 200 feet owned by the subdivider; the current proposal does not. A preliminary plat is required to show planned roadways and services that will affect the property and show how the proposal takes these existing plans into account with respect to the property. The current proposal does not meet this provision of the regulations. While staff does recognize the importance of getting a primary second access to the area, unfortunately, staff must recommend denial of this request as it does not comply with the subdivision regulations. Failure to look at these kinds of issues in the past and to have proposals fit into existing plans is exactly why we are in this situation of having a proposal that appears to solve a problem but does not meet the requirements of the County regulations. Staff does feel however, that a solution that does meet the need of providing a primary second access to the area and meets the provisions of our regulations can be worked out and looks forward to working with the property owner on how to best accomplish this.

Commissioner Mink stated that this plat does not conform to the CATSO plan. The CATSO plan shows Hackberry hooking up to Harvester that is the desire of MoDOT to have this road tie in at Harvester so that it provides for better traffic planning. 763 is under design for upgrading at some point in the future and that has been their desire that the road come out there.

Commissioner Freiling asked if the applicants own the small lot in the southeast corner where Harvester abuts.

Mr. Yonke stated they do not.

Commissioner Freiling stated that the applicants don't have the option.

Mr. Yonke stated that there are other options on this property for bringing the predominant alignment along the Harvester right of way corridor and then jogging up to an additional spot for a local road connection without necessarily being the primary road connection. There was no concept review nor any real effort to coordinate this with the adopted plans of the County or City or MoDOT, that is part of the reason it doesn't comply with the regulations.

Commissioner Neese made and Commissioner Caruthers seconded a motion to **deny** the plat of Amy. S24-T49N-R13W. Hei Mei Chow, owner. James W. Brush, surveyor.

Pat Smith – Yes	Keith Neese – Yes
Mike Caruthers – Yes	David Mink – Yes
Mary Sloan – Yes	Kristen Heitkamp - Yes
Carl Freiling - Yes	

Motion to deny plat with carries. 7 Yes

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OLD BUSINESS

Mr. Shawver updated the Commission on the decisions by the County Commission.

The conditional use permit for Danny Wolfe for the agri business was approved by the County Commission.

The rezoning request by the Snyder's was withdrawn before a motion was made and did not go forward to the County Commission.

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NEW BUSINESS

Chairperson Smith stated that a committee needed to be established to review the green belt plan.

Chairperson Smith appointed a sub-committee to review the green belt plan.

Those appointed were, Commissioner Sloan, Commissioner Mink, and Commissioner Heitkamp.

Commissioner Caruthers asked if the County Commission amended its authority with the joint planning.

Mr. Yonke stated that he was at that meeting and it was done as a first reading and was approved as a first reading.

Chairperson Smith stated that if they had the second reading next Tuesday then the Planning and Zoning Commission will be authorized and Jerry and Chairperson Smith are going to try and set another date preferably before January for a short meeting to lay out the strategy.

Commissioner Freiling stated that having been so persistent in their request for this permission it is incumbent on the Commission to be prompt in our response.

ADJOURN

Being no further business, the meeting was adjourned at 10:11 p.m.

Respectfully submitted,

Mary Sloan,
Secretary

Minutes approved on this 19th day of December, 2002.