

**BOONE COUNTY PLANNING & ZONING COMMISSION**

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, December 19, 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
	Mike Morgan	Bourbon Township
	Carl Freiling	Cedar Township
	Kristen Heitkamp	Missouri Township
	Keith Neese	Columbia Township
	David Mink, Director	Public Works

Absent: None.

Also present:	Stan Shawver, Director	Bill Florea, Staff
	Thad Yonke, Staff	Paula Evans, Staff

The minutes of the November 21, 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, two rezoning requests, and four subdivision plats. It should be noted that the rezoning request by Bomgaars and Associates LLC. to rezone 12.4 acres located on highway BB has been withdrawn at this time. The request was withdrawn too late for the staff to notify anyone of the withdraw; the Commission apologizes for any inconvenience this may have caused. Staff will notify again when this request is resubmitted.

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 requests:

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 could be 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 to be shown 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 30, 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. Please contact the Planning office to see if a request that has been denied has filed an appeal as there will be no further public notification due to the short time between the hearing tonight and the County Commission hearing. The County Commission hearing scheduled for Monday, December 30, 2002 will begin at 7:00 p.m. and will convene in the Boone County Courthouse.

## **CONDITIONAL USE PERMITS**

1. Request by David and Teresa Carlos for an animal boarding and training facility and for a privately operated outdoor recreational facility on 10.95 acres, located at 11403 W Hwy 40, Rocheport.

Planner, Thad Yonke gave the staff report stating that this site is located on Highway 40, approximately 3 ½ miles east of Rocheport. The property is zoned A-1 (Agriculture), as is property to the north and east. The land located to the west and south of this site is zoned A-2. There are two houses on the property. One is occupied by the applicants. The application indicates that the other house is being used as an entertainment house as part of their business. There are also two barns, a hen house and a tack house on the property. This application has two parts. The first part is a permit for an animal training and boarding facility. The second part is for a privately operated outdoor recreational facility. This site is within the Boone Electric and Consolidated Public Water District No. 1 service area. It also lies within

the Columbia Public School District. The master plan designates this area as being suitable for agriculture and rural residential land uses. The original zoning for this area is A-1. There have been no previous requests submitted for this property. The staff sees the proposed uses as being compatible with the neighborhood, and recommends approval.

Staff recommends approval of the animal training and boarding facility with the following conditions:

- Driveway and parking area to have a dust free surface within six months of approval of permit.

Staff recommends approval of the privately operated outdoor recreational facility with the following conditions:

- Hours restricted to 9 P.M. weekdays, 10 P.M. weekends.

As a final note, while this property fronts on Highway 40 on the south side, "old" Highway 40 is located along the north boundary of the property. This is a concrete surface roadway. The Commission may wish to permit this roadway to be used by the applicants in meeting the parking requirements for the site. Such use should be contingent upon the applicants demonstrating that they have title to this area and is no longer considered to be state right-of-way.

Present: David Carlos, 11403 W. Highway 40, Rocheport.  
Teresa Carlos, 11403 W. Highway 40, Rocheport.

Mr. Carlos stated concerning the old highway, Mr. Carlos stated that he has talked to the State. The State said it goes back to the land owner. Mr. Carlos stated that he has closed the road down and uses it to run horses on.

Ms. Carlos stated that Mr. Yonke summed it up well, the time requirements are okay; the last party ended at six anyway and it wouldn't interfere with the business operation.

Chairperson Smith stated that the area we are talking about needs to be dust -free.

Mr. Yonke stated that it has to be a minimum chip and seal surface; that would be any required parking or access lanes that they might add in to the property the unusual situation of having that non-used roadway there; if they can park cars on that it could be counted as parking which would eliminate them having to have a certain number of spaces which means they may not need to have a parking lot; if they don't have a parking lot, they don't need to chip seal it. If the Commission wishes to look at that they can.

Chairperson Smith stated that she drives by there a lot and is familiar with it. Chairperson Smith asked if people parked in that whole area.

Ms. Carlos stated that all the parking area is where the gate entrance is.

Mr. Carlos stated that it is all gravel right now.

Chairperson Smith stated that if it was dusty who would it bother? It would only bother the owners and their guests.

Commissioner Caruthers asked what type of gravel is down now.

Mr. Carlos stated it is 1-inch clean.

Open to public hearing.

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

Closed to public hearing.

Mr. Yonke stated that staff received a couple of phone calls. The only concern was to make sure the area was not being rezoned to commercial use. They didn't have a problem with it remaining agricultural and having a commercial type of business on the property if it were allowed within the ag use. But they didn't want to see it turned in to commercial which would then domino the rest of it.

Commissioner Heitkamp stated that in the past the Commission has granted several requests for animal boarding facilities. In addition to that the Commission has dealt with outdoor recreational facilities requests as well. Commissioner Heitkamp stated that her feeling about this is if the Commission is going to grant a conditional use for an outdoor recreational facility it can not be granted for an indoor recreational building. If the Commission is going to do this they have to apply regulations across the board to all people who come before the Commission looking for outdoor recreation facility designation. That means that the parties can be held outdoors but if the applicants want a conditional use for a building the applicants would have to request rezoning for part of the property. For instance the Chapel View Stables on Route E was granted a conditional use permit for an outdoor recreational facility, however the conditions included lighting directed downward and inward, no amplified music, all boundary fences to be in good repair and that the recreation be done outside. In other words the applicants would be in violation of the A-2 zoning if the applicants plan to hold parties in the party house. Commissioner Heitkamp stated that her child has been to pony parties at Annie's and for years the applicants have been operating wonderful facilities for kids to hold birthday parties. The type of conditional use that the applicants are requesting has to be outdoor. It has to be limited to that in order for it to be fair to everybody in the county. Commissioner Heitkamp stated that she believes she has a legitimate concern.

Commissioner Caruthers asked what the regulations state about that.

Mr. Shawver stated a privately operated outdoor recreational facility.

Commissioner Heitkamp stated that if the applicants got an R-M district rezoning for a part of land the applicants could operate a private recreational facility and the applicants should have to go to R-M in order to do that.

Mr. Shawver stated that you could go with recreational zoning or commercial zoning.

Commissioner Heitkamp stated that if the applicants came to the Commission with a recreational zoning could the Commission pass it then.

Commissioner Caruthers stated it would be better to wait until we had the planned recreational.

Chairperson Smith stated that once again we are looking for a conditional use permit to take the place of a rezoning that we don't have which is planned recreation that is why conditions are put down.

Ms. Carlos stated that the party house is only used for the cake and ice cream; that is the only thing it is used for, everything else does occur outside; the games and rides.

Chairperson Smith asked what happens if it rains; do the applicants cancel.

Ms. Carlos stated no. The applicants try not to cancel unless it is threatening weather. If it is threatening weather then the party is rescheduled. Ms. Carlos stated that it is left up to the parents because they know the kids the best. Kids like to play in the rain; it does not bother the applicants but the parents know the kids so they decide whether or not to have the party. If it is threatening and there are tornado warnings or thunderstorm watches then the party is cancelled.

Mr. Shawver stated to answer the question about R-M zoning and private recreational facility. In looking at a rezoning you always have to look at the surrounding zoning, everything out there is A-1 or A-2, to advise the applicants to ask for R-M zoning which changes the density it becomes a spot zoning and staff tries not to recommend spot zoning. In the Schuerman rezoning request which was mentioned there is a pavilion that they were using, they called it a carriage house. If the Commission were to put a restriction on the party house to limit the use specifically to cake and ice cream or refreshments; almost all of the outdoor recreational facilities have shelter house of some kind.

Ms. Carlos stated that there is a restroom in there.

Commissioner Heitkamp stated that the Schuerman's have restrooms too. Commissioner Heitkamp stated that she wanted to be sure as a body we were acting fairly to all comers. Commissioner Heitkamp stated that she would suggest for the conditions that the condition of lighting directed downward, the boundary fences be in good repair, no amplified music, limit the use of the party house as a shelter in addition, the hours restricted to 9:00 p.m. weekdays; Commissioner Heitkamp stated that she believed the Schuerman's were restricted to 9:00 p.m. on weekends too.

Mr. Shawver stated that he believed they were restricted to daylight hours; that is done on a case by case basis.

Commissioner Caruthers stated that Gerzen was done as daylight hours.

Mr. Shawver stated that is correct.

Commissioner Heitkamp asked the applicants if they objected to daylight hours.

Ms. Carlos stated that the only time that this would pose a problem is like right now; the time slots are run from 10:00 a.m. to 12:00 p.m., 1:00 p.m. to 3:00 p.m. and 4:00 p.m. to 6:00 p.m. With 4:00 p.m. to 6:00 p.m. now you are falling right in to the darkness. In another month or so it won't be a problem.

Commissioner Heitkamp asked if the applicants would be okay with hours restricted to 9:00 p.m. on weekdays and 9:00 p.m. on weekends.

Ms. Carlos stated no.

Commissioner Sloan asked if the applicants had lighting out there.

Mr. Carlos stated no; the applicants don't use lighting.

Commissioner Sloan asked if people were out there now at 6:00 p.m. and it gets dark at 5:00 p.m. what kind of safety factor is there for people.

Ms. Carlos stated that there is a dusk to dawn light that is right in the middle of the two houses, it lights up the whole yard area. There is a light on the back side of the house that comes out to the tack house. There is a light on the back of the tack house that shines down to the barn, in front of the old barn there is a light that shines in to the parking lot and the hen house also has a light that shines to the entry. The gate entrance has two lights on it that are dusk to dawn that come on at night time. Basically the whole area is lit up, that is all switch controlled except for the gate and the dusk to dawn light.

Mr. Carlos stated that it is ordinary house lighting; porch lights.

Commissioner Sloan stated that this would be okay as far as lighting.

Mr. Yonke stated that generally the lighting requirements that staff puts on are the large pole lights that would light up an area for riding at night or an outdoor arena; like you would find for doing baseball at night that really light up the area. Standard dusk to dawn lights would not be considered.

Commissioner Sloan stated that if this were approved with the lighting and at some point if the applicants wanted to come back and install lighting they could.

Commissioner Caruthers stated they would have to change their conditional use permit.

Commissioner Sloan stated that if part of the conditional use permit was that the lighting be directed downward and they don't have lighting right now it really falls in to the category of commercial lighting. Either the Commission can say they can't have commercial lighting or it is assumed that they could have commercial lighting as long as it fit the requirements that has been put on the conditional use permit.

Mr. Yonke stated that if it was indicated as being lighting as restricted to be inward and downward; then the lighting could go in as long as it was inward and downward. If the Commission indicates that no lighting is allowed beyond dusk to dawn lights then they would not be able to put in additional lighting. It all depends on which way the Commission takes the angle on it.

Commissioner Caruthers stated that he noticed on the drawing that there is an outdoor arena. Commissioner Caruthers asked the applicants if they plan to put lights around it.

Mr. Carlos stated no.

Ms. Carlos stated that the applicants don't really have a use for that.

Commissioner Sloan asked why the Commission is considering different hours if daylight hours only were considered on the other two requests. Why is the Commission talking about different hours for this.

Commissioner Heitkamp stated that she believed the hours for the Schuermans was 9:00 p.m. specifically for the winter.

Mr. Yonke stated that some of them have been daylight but the other thing that we've got is that some of the daylight hour ones were purely animal training and boarding facilities. With the outdoor recreational facilities being involved too you've got a combination of things.

Commissioner Sloan asked what Schuermans were.

Mr. Yonke stated that he believed that one was 9:00 p.m.

Commissioner Heitkamp stated that she believed that the County Commission changed the conditions on the Schuerman after the Planning and Zoning Commission heard it.

Chairperson Smith stated that the County Commission did change the conditions.

Commissioner Heitkamp asked what they County Commission did.

Chairperson Smith stated that she believed they limited hours to 9:00 p.m.

Commissioner Sloan stated that if 9:00 p.m. was put on that request then the Commission should stay with that on this request too just to be consistent.

Commissioner Caruthers stated that the applicants also do out-take parties or away parties.  
Commissioner Caruthers asked what time those are done and what time to the applicants get back to their stables.

Ms. Carlos stated that it depends on what time the clients book.

Commissioner Caruthers asked what is the latest worst case scenario.

Mr. Carlos stated that the applicants travel to Mokane and all over the state of Missouri, it could be as late as 10:00 or 11:00 p.m. before the applicants return.

Ms. Carlos stated that it is just the applicants.

Mr. Yonke stated that if that was the only portion of the business then the applicants could do that under a home occupation.

Commissioner Mink stated that the applicants mentioned a gravel parking lot but were also talking about using the paved portion of the paved highway. Commissioner Mink asked staff if there was enough paved facilities to where it wouldn't trigger the need to chip and seal what is gravel now.

Mr. Yonke stated that this is what staff was leading to. Staff could work with the applicants to calculate how many parking spaces they would need and then access how much space we have along the roadway and then decrease the number that would be required from that. If that comes up to be adequate then that would be all the required parking; if not then staff would work with them to find out how much of the other there needs to be.

Commissioner Sloan stated that Commissioner Mink had mentioned that the applicants have expanded their parking lot not to long ago and put in gravel. We are asking for a dust free surface which is not gravel.

Mr. Carlos stated that the chip and seal is fine.

Ms. Carlos stated that the applicants have planned to do it anyway.

Commissioner Caruthers stated that what they were talking about is the State highway behind it; if it has enough if it doesn't then it has to be chip and sealed.

Mr. Carlos stated that he was going to chip and seal anyway.

Commissioner Heitkamp asked how the applicants dispose of the manure.

Ms. Carlos stated that the applicants have a manure spreader and it is spread over the pasture area and recycled.

Commissioner Heitkamp made a motion to approve the animal training and boarding facility with the conditions that the driveway and parking area have a dust free surface within 6 months of approval of the permit.

Commissioner Caruthers seconded the motion.

Commissioner Heitkamp made and Commissioner Caruthers seconded a motion to **approve with staff conditions** the request by David and Teresa Carlos for an animal boarding and training facility on 10.95 acres, located at 11403 W Hwy 40, Rocheport.

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

Motion to approve request carried unanimously.

Commissioner Heitkamp made a motion to approve the privately operated outdoor recreational facility with the following conditions; 1. Lighting directed inward and downward, 2. No amplified music, 3. boundary fences in good repair, 4. hours restricted to 9:00 p.m. weekdays and weekends, 5. Limit use of party house to a shelter house function.

Commissioner Heitkamp made and Commissioner Mink seconded a motion to **approve the request by David and Teresa Carlos for a privately operated outdoor recreational facility on 10.95 acres, located at 11403 W Hwy 40, Rocheport with the following conditions:**

- Lighting directed inward and downward.
- No amplified music
- Boundary fences in good repair.
- Hours restricted to 9:00 p.m. on weekdays, and 9:00 p.m. on weekends.
- Limit use of party house to a shelter house function only.

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

Motion to approve request carried unanimously.

Chairperson Smith informed the applicants that this matter would go before the County Commission at 7:00 p.m., December 30, 2002 in the Boone County Court House.

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## **REZONING REQUESTS**

1. Request by William and Linda Crane to rezone from A-1 (Agriculture) to A-2 on 11.64 acres, more or less, located at 11657 E Englewood Rd., Ashland.

Planner, Bill Florea gave the staff report stating that this tract is located 5 miles northeast of Ashland. The property is zoned A-1 (Agriculture), as is all of the surrounding property. This request is to rezone 11.64 acres to A-2 so that the applicants may create a family transfer of land to their son. There is a house, barn and shop on the property. 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. In 1989 the applicants received a conditional use permit for an agri-business to allow processing of a limited number of livestock and the processing of deer. The master plan designates this area as being suitable for agricultural and residential land uses. Staff notified 9 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. The applicant's intent is to create one lot through a family transfer which will have minimal impact on these utilities. The existing residence uses an individual on-site waste-water system. If approved, a similar system will be built for the new home.

Transportation: Access to the site is from Englewood Road, a county maintained road. One additional residence will have minimal impact on this 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 9 road miles from this site. This would be a concern for dense residential development, but one additional dwelling should be of minor concern from a public safety point of view.

There has been recent concern expressed by the Commission in regards to converting land from A-1 to A-2. While an individual rezoning may appear to have a limited impact on the overall area, the commission has noticed a tendency for additional requests once an initial rezoning is granted. The purpose of this request is so that a 2.5 acre tract can be created for a family transfer. However, once the land is rezoned, the entire property can be subdivided into as many as 4 lots. Staff also notes that the subject tract is 267' wide and 1330' deep, a configuration that would be problematic for development. Granting the rezoning may result in the Commission being presented with an ill designed subdivision at some future date. This tract has 27 points on the point rating scale.

Staff recommends that this request be denied.

Present: William Crane, 11657 E. Englewood Road, Ashland.  
Linda Crane, 11657 E. Englewood Road, Ashland.

Mr. Crane stated that the applicants have no plans to subdivide the land because it is not suitable for that. The land that the applicants want to give their son in on the northwest corner of the property; it is in the back on a bluff. As far as any other development on the land it is definitely not suitable.

Chairperson Smith asked if this was the only option.

Mr. Crane stated not unless that planning staff has come up with something that Mr. Crane doesn't know about. Mr. Crane stated that the land that he lives on is poor agriculture, it is more rock than agriculture. The applicants have done everything under the conditional use permit that has been required since 1989 and have done more than was requested.

Commissioner Freiling asked the applicants if they understood the Commissions concern.

Mr. Crane stated that he could understand the Commissions concern if he had 100 acres.

Commissioner Freiling stated that if they were to allow this rezoning then a neighbor may request rezoning too. Commissioner Freiling asked staff if there is a second option that was not terribly expensive.

Mr. Florea stated there is no other practical option.

Commissioner Freiling asked if a stem lot could be created back there.

Mr. Crane stated that the land the applicants are giving was land that they had bought; it is not part of the original land.

Commissioner Freiling asked if this had been a grandfathered lot.

Mr. Florea stated that he did not know.

Ms. Crane stated that it was a 20 acre lot that they had bought and sold off 16-acres to the neighbor's son and had this piece left over.

Mr. Crane stated that it is a separately surveyed land.

Commissioner Heitkamp asked what the possible easements from neighboring property owners are.

Ms. Crane stated that the neighbor to the west said she would give the applicants an easement off of Johnson Cemetery.

Commissioner Freiling asked how this tract would show in terms of creating a 2 ½ acre tract.

Mr. Florea stated that it would be done by family transfer, which is exempt from the subdivision regulations. We don't have to go so far as to verify that there is access to the tract.

Commissioner Freiling stated that there is no alternative for applying for A-2 zoning for the entire tract in order to create one additional tract off of 11 acres.

Mr. Florea stated that is correct; because if you create 2 ½ off of 11 acres then you are below 10-acres so the remainder is less than 10 acres and you can't create that in the A-1.

Commissioner Freiling asked when this piece created to the present 11 acres.

Ms. Crane stated about 8 to 10 years ago.

Commissioner Freiling stated that if the applicants had a grandfathered A-1 lot that was less than 10-acres.

Mr. Crane stated that 8.1 acres is the original deed.

Commissioner Freiling stated that the additional property was acquired as part of the property to the north. The applicants sold off the balance because it attached to the neighbors. Commissioner Freiling asked if this was a legal lot.

Mr. Shawver stated yes and no. It was created for adjoining property owners as a not for development lot.

Commissioner Freiling asked if that left the Commission with no other choice but A-2.

Mr. Shawver stated that the options are to rezone the property to A-2 or the other possibility would be A-2 as a PRD restricting it to two lots.

Ms. Crane asked if they could just rezone just the back part.

Commissioner Freiling stated that it has to be all or none. Having rezoned this tract to A-2 because of the nature is there any other way to create another lot except by a family transfer.

Mr. Florea stated that it was possible to create additional lots through a PRD or platting process.

Commissioner Freiling stated that the applicants couldn't come in as a consequence of this vote tonight with anything other than a family transfer as a means of creating lots off of this 11 acres.

Mr. Florea stated yes, they could. If the property is rezoned tonight it becomes 11.6 acres of A-2 land. It can be subdivided in any manner that meets the subdivision regulations.

Commissioner Freiling asked if it could be done in a practical manner.

Mr. Florea stated yes, with a PRD it could happen. Mr. Florea stated that he understands that this is not the applicants intent.

Commissioner Freiling stated that they would have to come back and get a PRD zoning.

Mr. Florea stated yes.

Mr. Crane asked what a PRD is.

Mr. Florea stated that it is a planned residential development; basically a subdivision, if the applicants use that tool you get more flexibility. With the shape of the applicants property it would be difficult to subdivide conventionally.

Ms. Crane stated that the applicants wouldn't do that anyway.

Mr. Florea stated that staff is not concerned about that but about future owners; the property won't be in the family forever.

Mr. Crane stated that the applicants could have two lots like the original property was.

Mr. Florea stated that he is not sure what the original land looked like. Essentially with a PRD you take the area of land you have and divide it by the minimum lot size which is 2 ½ acres and that would yield you approximately 4 lots. You could make 4 half acre lots, or 4 one acre lots; you get more flexibility in the size and configuration of those lots but you are constrained by the number of houses you could have on your property.

Commissioner Sloan asked if the Commission could rezone with conditions.

Mr. Florea stated no.

Commissioner Caruthers stated that the applicants would have to come back and ask for PRD.

Open to public hearing.

Present speaking in favor of the request:

John Crane, applicant's son, 2430 County Road 269, Columbia.

Applicant's son stated that if the property is rezoned 3.5 acres will be family transferred to him to build his house and to help operate the family business rather than driving all the way from Millersburg which is where he resides now. There is no other option because there is no one else around willing to sell any land. The lady to the east, Sandy Greener, has no intention of selling any property; she offered to give a right of way to get to the property if he couldn't get to it any other way. There is only one neighbor visible from back there and that is the person that the 16 acres was sold to. As far as future owners, it is a family business and it is going to be years before anything will come up for sale.

Commissioner Sloan asked the applicants who the 16 acres was sold to.

Applicant's son stated Walter Garrett Jr.

Commissioner Sloan asked if the applicants were aware that he has sent a letter objecting to this rezoning.

Applicant's son stated no.

Commissioner Sloan stated that in looking at the drawing and it says possible easement then the applicants alluded to that. Commissioner Sloan stated that she can't tell from the drawing but what it looks like is that the applicants have the easement running on to their property.

Ms. Crane stated yes, the applicants did that either way and was going to talk to Mr. Garrett too since they already got Ms. Greener's permission. Mr. Garrett already has a driveway on to the 16-acres.

Commissioner Sloan stated that Mr. Garrett is objecting to the rezoning so they may not be willing to give an easement.

Mr. Crane stated that Mr. Garrett doesn't own the land anyway where the road is.

Applicant's son stated that as he understands the applicants have to come back if someone in the future wanted to subdivide they would have to come back and ask for PRD.

Mr. Florea stated a PRD or a subdivision plat.

Applicant's son stated that the applicants would have to come back and ask for it and it could always be denied.

Mr. Florea stated that a PRD is discretionary; a subdivision plat isn't so if the applicants or a future property owner came in with a plat that complied with the subdivision regulations the Commission would have to approve it. The PRD is different and a plat would be difficult to do of the property because of the geometry.

Applicant's son stated that the applicants couldn't do it anyway.

Mr. Florea stated that it would be difficult.

Present in opposition to the request:

Curt Schierbecker, 11891 Englewood Rd, Ashland.

Mr. Schierbecker stated that he felt the same way the Commission does and have the same concerns. Rezoning the applicant's property would not help his property value and is two doors down.

Jeni Schierbecker, 11891 Englewood Rd, Ashland.

Ms. Schierbecker stated that she owns the property right next to where the applicants live, there is a piece of rental property on four acres with the house on 11 ½ acres. Ms. Schierbecker stated that she is going to stand with Mr. Schierbecker and a few of the other neighbors who are not looking to make that area a subdivision and don't want to see anymore homes because that is why you move to the country.

Commissioner Sloan stated that this is a family transfer; the applicants have a son and would like to give their son a piece of property for a variety of reasons. Ms. Schierbecker has a business. If Ms. Schierbecker had a son and wanted to give her son property to help run the business would she do it.

Ms. Schierbecker stated that there is a couple of things that go on in the area that you would like to see a little more control over and that is a personal thing. Ms. Schierbecker stated that she has three daughters; if she decides to give them the land crowding in another house, there are six houses in a small area. It is crowded enough with homes in there and isn't that why there is zoning.

Commissioner Sloan stated that if there are six houses already and Ms. Schierbecker has three daughters and would like to give each one property, hypothetically speaking, that would create more. There are six houses in that area but they are not all the Crane's houses; it is a variety of people. The applicants are

not responsible for the fact that there are six houses in a small group. Commissioner Sloan stated that she hates to penalize the applicants because other people got together.

Closed to public hearing.

Commissioner Caruthers asked if it would be more feasible if the applicants were to withdraw this request and come back with a PRD request with the specific condition that no more lots are to be created.

Mr. Florea stated that it still requires a rezoning in order to do that. The advantage from the County's side and from neighbors in opposition is to limit the number of tracts that is to be created if a rezoning is granted.

Commissioner Caruthers stated that in the Garrett letter it indicated that they were comfortable with five acres but not with 2 ½. In the Garrett's letter their primary opposition is density.

Mr. Florea stated that a PRD would be a way to guarantee that limits density.

Commissioner Sloan stated that in order to do that PRD the land would have to be surveyed.

Mr. Florea stated that the applicants would not necessarily have to be surveyed; a family transfer could be completed within a PRD without surveying the property. However, the applicants do have to have development plans prepared and that would require hiring a surveyor or engineer to prepare the final development plan. The applicants could prepare the review plan on their own. But it does not require a survey; the applicants would be looking at drafting costs.

Commissioner Sloan stated that in the zoning history it says that in 1989 a conditional use permit was issued for an agri business, dressing and processing a limited number of livestock and deer and one of the reasons given for the rezoning request is so the applicants son can be close to help with the business. Commissioner Sloan asked if the applicants have expanded the business.

Mr. Crane stated no, the applicants just do a lot more deer and a lot less cattle.

Ms. Crane stated that the applicants are in operation for five months out of the year with the deer.

Mr. Shawver stated that there was a limit on livestock; the applicants were limited to five head a month.

Ms. Crane stated that the applicants do about five a year now.

Applicant's son stated that it is hard for him to drive back and forth everyday because the applicants do operate 5 months out of the year.

Commissioner Freiling stated that if the applicants were to do a PRD it would force the applicants in to planning the site better and since the major expense is not going to be paying a draftsman to draw up the plan but building the house, the value of the house is going to have a lot to do with how the access is designed. The applicants may be doing themselves a favor to figure that out before those property lines are drawn. Commissioner Freiling stated that the Commission is caught on these because every instinct you have wants to say yes because it is a family tract. The Commission's experience is the opposite. What the Commission tries to do in a way to say yes is to do a family transfer that is specifically limited to one tract would help the Commission in that regard and the PRD would do that because with a planned

residential development you state what the reality is going to be. A PRD would limit the applicants to the plan.

Mr. Crane stated that it would also limit the future owners.

Chairperson Smith stated that it goes with the land.

Commissioner Freiling stated that maybe it would reduce Mr. Garretts concerns and the neighbors to the east. At least from the Commission's standpoint they would not have given a blanket rezoning. If the applicants withdraw and submit as a PRD there is no prejudice against the application. The applicants are not stuck with any time limits in waiting to resubmit where.

Mr. Shawver stated that there are two existing surveys; you can take that and take off the "not for development".

Ms. Crane stated that she already talked to Jim Brush about that.

Mr. Shawver stated that it would be a matter of changing the surveys in to a plan.

Chairperson Smith stated that is an option for the applicants to consider.

Mr. Shawver stated that he would suggest the Commission waive the application fee for the resubmission. That would help reduce some of the expense.

Commissioner Caruthers asked the applicants if they cared to withdraw their request.

Mr. Crane stated that the applicants would withdraw their request. Mr. Crane asked the Commission when the applicants could resubmit.

Chairperson Smith stated that is up to the applicants.

The Planning and Zoning Commission directed Mr. Shawver to waive the application fee.

**The applicants withdrew the request by William and Linda Crane to rezone from A-1 (Agriculture) to A-2 on 11.64 acres, more or less, located at 11657 E Englewood Rd., Ashland**

\* \* \* \* \*

2. Request by Benevolent Association Christian Church on behalf of GAP Properties LLC to rezone **Tract 1 - 3.80 acres**, and **Tract 2 - 3.84 acres**, from A-1 (Agriculture) to R-M / PRD (Moderate Density Residential / Planned Residential Development) of acres, and to rezone **Tract 3 - 9.08 acres**, from A-1 to C-GP (Planned Commercial) and to approve a Review Plan on property located at 4300 S Bear field Rd., Columbia.

Planner, Thad Yonke gave the staff report stating that this property is located on the east side of Bear field Road approximately 1400 feet south of the intersection of Nifong/Existing Route AC and Bear field Road. The site is adjacent to the municipal limits of the City of Columbia to the north. The property is

zoned A-1 (agriculture). Property to the north is in the City of Columbia, property to the west across Bear field Road is zoned A-2 (agriculture), to the south property is zoned A-1, to the east property is zoned R-M (moderate density residential). All the county zoning designations are all the original 1973 zonings. The property is currently the site multiple structures that were originally part of the institutional use of the property. This proposal is for three different planned districts. Two R-M/PRD planned residential districts, one comprising 3.80-acres and one comprising 3.84-acres and a C-GP planned commercial district comprising 9.08-acres. The requests are intended to legitimize the uses of the building now that the buildings are no longer part of a single institutional use. The approximately 17-acres encompassed by the requests is part of an overall 61.5-acre parent parcel. The remaining property will remain zoned A-1. On one of the proposed R-M/PRD requests there are 6 existing single-family/group homes that are proposed to be converted to duplexes or remodeled into more suitable single family units. The second R-M/PRD request contains a single large building that was constructed as a dormitory/assisted living unit that is proposed to be converted into an 18 unit apartment building. The C-GP request contains 3 large structures that are proposed to be limited to the permitted uses of a C-O (office commercial district) with the inclusion of a daycare as a private school. The internal circulation drive is to remain private. Wastewater service to the existing structures is from a connection to the City of Columbia and the City will remain the sewer service provider. It is our understanding that the property is not required to annex for service to remain for the existing buildings. Any new structures will likely trigger a requirement to annex. New structures are not allowed under the proposal without coming back for a new approval for a revised review and revised final plan. Building permits to remodel or restore buildings on the site are required but can't be issued until the final development plan is approved. Water service and fire hydrants will be required for this development. A combination of Consolidated Water District #1 and the City of Columbia provide water service and details will have to be worked out with each. The site is in a Boone Electric & City service area details will need to be worked out with each. The site is in the 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, and transportation and public safety services.

Utilities: All necessary utilities can be provided in an efficient manner. The details just have to be worked with the providers.

Transportation: The existing public road network in the area should be sufficient to handle the proposed traffic.

Public Safety Services: The property is in the Boone County Fire Protection District. There is a district fire station located within 5 road miles of this site.

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 68 points on the point rating system.

Staff recommends approval of the Rezoning Request and Review Plan with the Review Plan subject to the following 2 conditions:

1. That it is recognized that no additional structures are allowed on the site without going back through the process and receiving approval of a revised review and revised final plan.

2. That it is recognized that uses of the existing structures is limited to those uses proposed on the face of the review plan and that any modification of the uses will require going back through the process and receiving approval of a revised review and revised final plan.

Present: Bill Crocket, Engineer, 2608 N. Stadium Blvd., Columbia.  
George Pfenenger, GAP Properties, 810 Cherry St, Columbia.

Mr. Pfenenger stated that the staff report mentioned the conversion of the one building in to an 18 unit apartment building. The building actually is an 18 unit apartment building, the conversion in 1992 Reinhardt construction took a big building with multiple wings and broke it in to 18 individual units that already have 1 and 2 bedroom units with kitchens.

Open to public hearing.

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

Closed to public hearing.

Commissioner Caruthers stated that the staff conditions that were listed offsets any concerns he has.

Commissioner Neese asked if the apartment buildings have separate metering for all the units.

Mr. Pfenenger stated that is the one thing that has not completed.

Commissioner Neese stated that all utilities are together.

Mr. Pfenenger stated that it is off one panel. Sub panels are in each of the units.

Commissioner Neese asked about the heating and air conditioning units.

Mr. Pfenenger stated that it is kind of a combination; there is a unit that was installed in the added portion of each one of the 18 facilities that is the heating unit. It is a hybrid right now; it is a central system for the whole building, part of the plan is to go ahead and complete.

Mr. Yonke stated that the staffs understanding is that the building is in a relatively poor state at the moment; it is going to need some remodeling of some sort or repair and addition which will require a building permit is going to have to be overseen by a licensed architect because of the structure anyway. If the zoning goes in to place, all of the issues of HVAC, power and sprinkling will be worked out with the inspectors.

Commissioner Caruthers stated that the applicants are a limited liability company and those companies are limited to operation for 30 years. Commissioner Caruthers asked how long GAP properties have been in operation.

Mr. Pfenenger stated just over 3 years.

Commissioner Freiling made and Commissioner Heitkamp seconded a motion to **approve with staff recommendations** the request by Benevolent Association Christian Church on behalf of GAP Properties LLC to rezone **Tract 1 - 3.80 acres, and Tract 2 - 3.84 acres, from A-1 (Agriculture) to R-M / PRD (Moderate Density Residential / Planned Residential Development)**

of acres, and to rezone **Tract 3 - 9.08 acres**, from A-1 to C-GP (Planned Commercial) and to approve a Review Plan on property located at 4300 S Bearfield Rd., Columbia.

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

Motion to approve request carried unanimously.

Chairperson Smith informed the applicants that this matter would go before the County Commission at 7:00 p.m., December 30, 2002 in the Court House.

## **PLAT REVIEWS**

1. Big Timber Plat 1. S28-T48N-R12W. A-R. Gerard and Regina Morin, owners. J. Daniel Brush, surveyor.

The following staff report was entered in to the record:

This 2 lot minor plat is located on the north side of Big Timber Drive immediately north of Lot 22 of the Woodlands Subdivision Plat 2, and approximately 1000 feet north of the intersection of New Haven Road and Big Timber Drive. The site is adjacent to the municipal limits of the City of Columbia to the west. The area being subdivided contains 8.31-acres. The property is zoned A-R (agricultural-residential). Property to the west is in the City of Columbia, property to the north, east, and south is also zoned A-R (agricultural-residential). All the county zoning designations are all the original 1973 zonings. The property is currently the site of one house, garage, and on-site septic wastewater system which will be on proposed lot 2. Lot 22A of the Woodlands has received tentative approval for vacation so it can be incorporated into a lot within this plat. The site is in Water District #9. Fire hydrants are not required for minor plats containing less than 4 lots, as is the case here. The site is in the Columbia School District. Sewage treatment will be provided by connection to the BCRSD facility that serves the Woodlands. A waiver from traffic analysis has been requested. Staff concurs with the granting of this waiver. The site is in the Boone County Fire Protection District and Boone Electric Service areas. This plat has 81 points on the point rating scale.

Staff recommends approval along with the granting of the waiver requests subject to the recognition that both lots must connect to the BCRSD wastewater facility.

Commissioner Caruthers made and Commissioner Heitkamp seconded a motion to **approve** with staff recommendations the plat of Big Timber Plat 1. S28-T48N-R12W. A-R. Gerard and Regina Morin, owners. J. Daniel Brush, surveyor.

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

Motion to approve plat carries.                    7 Yes                    1 Abstain

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- 2. Country Farms Plat 12. S33-T48N-R13W. R-S. Rich and Gayla Miller, owners. Jay Gebhardt, surveyor.

The following staff report was entered in to the record:

This 3 lot minor plat is located at the immediate southeast corner of Old Field Road and Harvest Road and approximately 700 feet west of the intersection of Old Mill Creek Road and Old Field Road. The site is approximately 30 feet southwest of the municipal limits of the City of Columbia. The area being subdivided contains 10.62-acres. The property is zoned R-S (residential single family) as is all the surrounding property in the county. All the county zoning designations are all the original 1973 zonings. The property is currently the site of one house, garage, barn, silo and on-site septic wastewater system. The house, garage and silo are going to be removed to allow for new construction on proposed lot 1. The barn on proposed lot 2 will remain for now and has received a variance to have an accessory structure on a lot without a primary structure; however, before development of a house on this lot the barn must be removed. The site is in Consolidated Water District #1 but in a service agreement area for the City of Columbia. Consolidated #1 will continue to serve the property. The site is in the Columbia School District. Sewage treatment will be by on-site wastewater systems. A waiver from 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 Boone County Fire Protection District and Boone Electric Service areas. This plat has 57 points on the point rating scale.

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

Commissioner Caruthers made and Commissioner Heitkamp seconded a motion to **approve** with waiver requests the plat of Country Farms Plat 12. S33-T48N-R13W. R-S. Rich and Gayla Miller, owners. Jay Gebhardt, surveyor.

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

Motion to approve plat carries.                    7 Yes                    1 Abstain

\* \* \* \* \*

- 3. The Ridge at Hart Creek Plat 1. S28-T46N-R12W. A-R/PRD. Dana and Elizabeth Austin, owners. Neal R. Slattery, surveyor.

The following staff report was entered in to the record:

The 250-acre tract is located approximately 1 ½ miles southwest of Ashland. The property was rezoned from A-2 to AR-PRD and a review plan approved in May 2002. A preliminary plat and final plan was approved in June 2002. The request is for approval of two final plats.

Utilities: Consolidated Public Water District Number 1 will provide water service. The developer is funding the extension of an 8-inch water line to the property. The line will provide adequate water for domestic service and provide sufficient flow for fire protection.

A central wastewater collection and treatment system will be installed to provide sewer service to each lot within the development. Construction plans have been submitted and are under review. When construction is complete the Regional Sewer District will assume ownership and provide maintenance and operation services.

Boone Electric will provide electricity. Ameren U.E. will provide natural gas.

Primary access to the development will be via Christian School Road, which is a paved two-lane road and is classified as a collector road. There are three problematic curves between Old 63 and the project site. One of the curves is adjacent to the project site. The other two curves are between the project site and Old 63. The Developer has agreed to straighten the curve that is adjacent to the development as a required off site improvement. Construction plans for the offsite improvement and interior streets are under review.

The property is in the Southern Boone County Fire District. The Fire Chief has stated that with the construction of the 8-inch water main, the District can provide fire protection services.

The preliminary plat was approved subject to six conditions; compliance with the conditions is addressed as follows:

1. The improvements to Christian School Road shall be completed with the first phase of the development.  
Compliance: Road plans have been submitted showing this improvement.
2. The portion of Hart Ridge Boulevard that stubs to the adjacent property to the south must be built with or before the phase of the development that includes Prairie Sage Lane.  
Compliance: The stub is included on the road plans for Plat 1, which includes Prairie Astor Drive (formerly Prairie Sage Lane).
3. Each phase must be developed in a manner so that it can stand on its own or with a previously platted phase.  
Compliance: When the improvements to Christian School Road are complete, neither plat will be dependant upon the other.
4. A reference to Boone County Commission Orders 181-2002, 182-2002, 183-2002 and 184-2002.  
Compliance: The order numbers are referenced on the review plan and preliminary plat.
5. The developer shall determine a private entity to provide maintenance of the islands in the area of Lots 1-12.  
Compliance: A draft *Declaration of Restrictions* has been submitted, which provides for maintenance of all common areas.

- 6. A private access easement shall be provided for Lot 201.  
Compliance: Lot 201 is not being created by either plat; therefore the easement is not necessary.

Staff recommends approval of the plats with the following condition:

The developer shall record all offsite roadway and utility easements prior to recording Plat 1 and/or Plat 2.

Commissioner Caruthers made and Commissioner Heitkamp seconded a motion to **approve** with staff recommendations the plat of The Ridge at Hart Creek Plat 1. S28-T46N-R12W. A-R/PRD. Dana and Elizabeth Austin, owners. Neal R. Slattery, surveyor.

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

Motion to approve plat carries.	7 Yes	1 Abstain
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- 4. The Ridge at Hart Creek Plat 2. S28-T46N-R12W. A-R/PRD. Dana and Elizabeth Austin, owners. Neal R. Slattery, surveyor.

*(See staff report under The Ridge at Hart Creek Plat 1.)*

Commissioner Caruthers made and Commissioner Heitkamp seconded a motion to **approve** with staff recommendations the plat of The Ridge at Hart Creek Plat 2. S28-T46N-R12W. A-R/PRD. Dana and Elizabeth Austin, owners. Neal R. Slattery, surveyor.

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

Motion to approve plat carries.	7 Yes	1 Abstain
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**OLD BUSINESS**

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

The Cunningham conditional use permit and rezoning request was approved by the County Commission.

The Nahler rezoning request was approved by the County Commission.

The Peckham PRD request and review plan was modified the plan regarding the water lines the County Commission had stated that they were not concerned with the water district and they liked the buffering and the trees so the condition was put in.

The Straub rezoning request and PRD review plan was approved by the County Commission.

The rezoning request on Sontag road that was denied by the Planning and Zoning Commission the applicants appealed the decision to the County Commission. That request was represented by Harriet Frances before the Planning and Zoning Commission; Craig Van Matre took it to the County Commission and represented it and his argument was that the property is not suitable for anything other than commercial uses which applies to anything along I-70 throughout Boone County, ultimately the County Commission appeared to be split in their view. The Commission extended the opportunity to Mr. Van Matre to withdraw the request and he took that opportunity and said that this was just an exercise and the first step in educating the neighbors and his client.

### **NEW BUSINESS**

Mr. Shawver stated that staff is going to be mailing out the revisions to the rezoning regulations to the Commission and still plan on hearings in January.

### **ADJOURN**

Being no further business, the meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Mary Sloan,  
Secretary

Minutes approved on this 20th day of February, 2003.