

**BOONE COUNTY PLANNING & ZONING COMMISSION**  
BOONE COUNTY GOVERNMENT CENTER  
801 E. WALNUT ST., COLUMBIA, MO.  
Thursday, August 19, 2004

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

Present:	Mary Sloan, Vice-Chairperson Kristen Heitkamp, Secretary Michael Caruthers Mike Morgan Keith Neese Carl Freiling Larry Oetting Russell Duker Rob Brown David Mink	Rocky Fork Township Katy Township Centralia Township Bourbon Township Columbia Township Cedar Township Three Creeks Township Missouri Township Rock Bridge Township Public Works
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Absent:	Pat Smith, Chairperson	Perche Township
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Also present:	Stan Shawver, Director Paula Evans, Staff	Bill Florea, Staff
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The minutes of the July 17, 2004 meeting were approved with no corrections. Approved by acclamation.

Vice-Chairperson Sloan 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 two conditional use permits, one rezoning request, two planned developments, seven plat reviews, and one item under Old Business which was tabled from the July meeting.

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:

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 than yours the same respect and consideration you would like yourself.

After those opposed to the request have had a chance to speak, the applicant will have an opportunity 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 Tuesday, August 31, 2004. 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 this meeting and the County Commission hearing. The County Commission hearing scheduled for Tuesday, August 31, 2004 will begin at 7:00 p.m. and will convene in this same room.

The agenda was amended by the Planning and Zoning Commission moving Old Business as the first item on the agenda.

## **OLD BUSINESS**

1. Request by Sells Development Group LLC to rezone 17.12 acres REC (Recreation) and 19.82 acres A-R (Agriculture Residential) to R-SP (Planned Single-Family Residential), and to approve a Review Plan and preliminary plat for Lenway Estates, located at 9689 I-70 Dr. NE, Columbia (**tabled 7/15/04**).

Vice-Chairperson Sloan stated that since there have already been two public hearings regarding this request there will be no public hearing at tonight's meeting.

Mr. Florea reported that before the Commission continues their discussion of the project, staff would like to update the commission regarding several issues.

Staff has received a letter from Trent Brooks, Traffic Operations Engineer for MoDOT. The speed limit for I-70 Drive N.E. is 55 M.P.H. That is the speed limit that Mr. Brooks used in making his recommendation.

The applicant and the property owner to the west have agreed on a location for a road stub. The stub should be placed in the vicinity of Lots 32 or 33. As previously discussed, it is staff's recommendation to not require construction of road improvements within the stub until such time as the property to the west is developed. This will allow that strip of land to be used as a buffer.

To increase the effectiveness of the buffer, the applicant has agreed to increase the height of the berm from 3-feet to 5-feet.

The applicant's attorney has added language to the proposed restrictive covenants that will notify all persons who purchase property in the subdivision that there is a dog kennel being operated on adjacent property. Each of the Commissioners have been provided with a copy of that language. The language is in paragraph 28 of the Declaration of Restrictions for Lenway Estates. This item is entered in to the record.

Staff has received anecdotal information that there is an old cemetery on the property. Cemeteries are "Community Assets" under the county subdivision regulations. Community Assets must be shown on the plat and steps must be taken for their preservation.

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

1. The plat and plan shall be amended to show a road stub to the property adjacent to the west in the approximate location of Lot 32 or 33.
2. The plat and plan shall be revised to indicate that a 5-feet tall berm will be built in the buffer area.
3. The applicant shall provide documentation regarding the presence of a cemetery on the property. In providing such documentation developer may be required to engage the services of a Professional Archaeologist registered with the State of Missouri. If the presence of a cemetery is documented, steps must be taken for its preservation.

Mr. Florea stated that he discussed this briefly with Mr. Crockett tonight and one of the previous property owners is supposed to call Mr. Florea about the location of the cemetery. Mr. Florea stated that he will ask him to call Mr. Crockett and they can go out and field locate the cemetery.

Present: Tim Crockett, 2608 N. Stadium, Columbia.  
Leonard Gilpin, 3004 W. Truman Blvd., Jefferson City.

Mr. Crockett stated that the applicants concur with the staff report.

Commissioner Caruthers asked the applicants what steps they plan to take to preserve the cemetery.

Mr. Crockett stated to plat aside separate property and leave the cemetery undisturbed, left in its natural state and develop completely around it without disturbing any portion of the cemetery.

Commissioner Morgan asked the applicant if it will be set up so people can access the cemetery.

Mr. Crockett stated yes, there will be public access to the cemetery.

Commissioner Freiling asked the Commissioners if there is any feeling that should be expressed regarding the adequacy of paragraph 28 in addressing the issues surrounding the kennel. Does anyone feel this disclosure is not adequate?

Commissioner Caruthers stated that he believes the language in and of itself would be appropriate.

Commissioner Sloan stated that at the last meeting there was concern by the kennel owner and concern by members of the Commission that down the road there not be problems from people who buy homes in the area of the kennel. There are limited things we can say or do to ensure people.

Commissioner Caruthers stated that paragraph 28 basically indemnifies the developer and the owner of the kennel of any basic problems as far as complaints or nuisance.

Commissioner Brown stated that this was the language he was looking for.

Commissioner Neese stated that the lot stub was one of the concerns as well.

Commissioner Sloan stated that there was discussion on that and an agreement has been made between the owners.

Commissioner Neese made and Commissioner Caruthers seconded a motion to approve the request by Sells Development Group LLC to rezone 17.12 acres REC (Recreation) and 19.82 acres A-R (Agriculture Residential) to R-SP (Planned Single-Family Residential), located at 9689 I-70 Dr. NE, Columbia with staff recommendations:

Mary Sloan – NO	Mike Morgan - Yes
Mike Caruthers – Yes	Russell Duker – NO
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Yes	Larry Oetting - NO
David Mink – Yes	Rob Brown – Yes

Motion to approve request carries.      7 YES      3 NO

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Commissioner Neese made and Commissioner Caruthers seconded a motion to approve the request by Sells Development Group LLC to approve a Review Plan for Lenway Estates, located at 9689 I-70 Dr. NE, Columbia with the following conditions:

1. The plat and plan shall be amended to show a road stub to the property adjacent to the west in the approximate location of Lot 32 or 33.
2. The plat and plan shall be revised to indicate that a 5-feet tall berm will be built in the buffer area.
3. The applicant shall provide documentation regarding the presence of a cemetery on the property. In providing such documentation developer may be required to engage the services of a

Professional Archaeologist registered with the State of Missouri. If the presence of a cemetery is documented, steps must be taken for its preservation.

Mary Sloan – Yes	Mike Morgan - Yes
Mike Caruthers – Yes	Russell Duker – Yes
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Yes	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve request carries unanimously.

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Commissioner Neese made and Commissioner Caruthers seconded a motion to approve the request by Sells Development Group LLC approve a preliminary plat for Lenway Estates, located at 9689 I-70 Dr. NE, Columbia with the following conditions:

1. The plat and plan shall be amended to show a road stub to the property adjacent to the west in the approximate location of Lot 32 or 33.
2. The plat and plan shall be revised to indicate that a 5-feet tall berm will be built in the buffer area.
3. The applicant shall provide documentation regarding the presence of a cemetery on the property. In providing such documentation developer may be required to engage the services of a Professional Archaeologist registered with the State of Missouri. If the presence of a cemetery is documented, steps must be taken for its preservation.

Mary Sloan – Yes	Mike Morgan - Yes
Mike Caruthers – Yes	Russell Duker – Yes
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Yes	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve request carries unanimously.

Vice-Chairperson Sloan informed the applicants that this request would go before the County Commission on August 31, 2004.

## **CONDITIONAL USE PERMITS**

1. Request by Daniel Boone Land Co. on behalf of Knipp Farms LLC for a permit for an Equine Boarding Facility on 305 acres, located at 10600 S. Hardwick Ln., Columbia.

Planner, Bill Florea gave the staff report stating that this property is located near the Columbia Regional Airport between Ashland and Columbia. The property is zoned A-1, as is land to the north, east and south. Land to the west is zoned C-GP and A-1. This property is currently being used for agricultural purposes. The applicants propose using the property for an equine facility, and will breed, raise and train horses. The applicants intend to own all of the horses, but the possibility exists that they may train or board horses owned by others. This site is located in the within the Ashland R-1 school district and the Southern Boone Fire Protection District. Electric service is provided by the Boone Electric Cooperative. There is no central wastewater collector system available in the area, so an on-site wastewater system will be required. Water service is provided by Consolidated Public Water District No. 1. The master plan designates this area as being suitable for agriculture and rural residential land uses. The proposed use is consistent with the master plan. Staff notified 11 property owners about this request.

The zoning regulations list the criteria that the Commission is to consider before granting a conditional use permit. Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners.

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

If operated in conformance with existing county regulations, the use should comply with this criterion.

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

The primary activity in this area is agriculture and the proposed use will have little or no impact on the existing land uses.

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

Staff has no reason to believe that the proposed use will have a negative impact on property values in the area.

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

The site has access to public water, electricity and roads.

*(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.*

Staff believes that the proposed operation will not impede the orderly development of the area.

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

The proposed use should not hinder traffic or cause congestion on public streets.

*(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.*

The proposal conforms to other applicable regulations of the A-1 zoning district.

Staff recommends approval of the request.

Present: Anna Knipp, P.O. Box 685, Jefferson City.  
Jim Miller, 2445 Goodfellow Rd, Wentzville, MO.

Ms. Knipp stated that the applicants are relocating from western St. Charles County where the applicants raise, breed, and train American Saddlebred show horses and Hackney Ponies. Due to the urban sprawl of St. Louis the applicants have been forced to relocate and would like to go to a much larger site.

Commissioner Duker asked the applicants what type of development they plan to put on the property.

Ms. Knipp stated that it will be a stable, horse stalls with a training arena, an office, and there will be, at some point one or two homes.

Commissioner Duker stated that the property abuts highway 63 and asked how close the applicants will have the development from the highway.

Ms. Knipp stated that there is a service road, Old Highway 63, and it would probably be 400 to 500-feet at least.

Commissioner Freiling stated that he would like to use this opportunity to, part of the Planning and Zoning Commissions effort is to include an inner long-term plan, a set of intentions relative to development in the 63 corridor. The applicants coming from St. Charles County and I-70 they could understand what the Commission doesn't want. Since the topography and the applicants intentions are clearly to not build within what would be a buffer zone, if one were established. Commissioner Freiling asked the applicants if they would object to a condition of a setback for the construction of buildings.

Ms. Knipp stated that they applicants are in a gray area because she believes they may have applied for something they may not have actually needed. It is basically a home, mini-farm type private arrangement and it is setback as not a commercial enterprise but more of an estate.

Commissioner Freiling asked staff if it is appropriate to establish a condition for setbacks under a conditional use permit or is it beyond the scope of the discussion.

Mr. Florea stated that he thinks it is appropriate if there is a public policy basis for doing so.

Commissioner Freiling asked if anyone on the Commission has a desire to not bring this up at this time.

The Commission agreed that it is a good idea.

Mr. Miller asked how far back the Commission wanted it to sit back.

Commissioner Freiling stated that since the Commission has not had the opportunity to discuss this as a general policy he does not want to establish either too lenient or too stringent a setback because the intent is clearly to establish something of a precedent that the Commission would intend to use as a guideline.

Ms. Knipp asked if it would be in relation to the buildings that are already built on the road.

Commissioner Freiling stated that is probably what the Commission would like to avoid in the future. 200-feet is an adequate setback.

Mr. Miller stated that it is already more than 200-feet.

Commissioner Freiling stated that he is aware of that but to accommodate the Commission in establishing a precedent since it doesn't matter to the applicants because of their plans would the applicants have an objection to this.

Ms. Knipp stated that the only thing would be if there needed to be a shelter because the front is all pasture.

Commissioner Freiling stated that the Commission is only trying to deal with one of their issues on the tail of the applicant's issue. The Commission may get this request again whose goals are different and become more in conflict with the Commission's long term hopes.

Commissioner Duker asked if there was an existing outer road that goes down the length of the property or does it go to the property and stop.

Mr. Miller stated that it goes all the way from Highway H to Angel Lane, it is a connector road.

Commissioner Freiling stated that he would like to drop his discussion of the setbacks because without the Commission having discussed it.

Open to public hearing.

Present speaking in favor of the request:

Greg Renner, 10900 S. Hardwick Ln., Columbia.

Mr. Renner stated that he will be bordered by two sides of this property. Mr. Renner stated that he has not seen the plans but what he has seen so far everything seems to be done in an impeccable manner. It would do nothing but add value to the corridor. It is the perfect type of use for the property, it has been cleaned up and there seems to be a lot of potential there. Mr. Renner stated that he has no problem with this development whatsoever.

Ed Holt, 10601 Hardwick Ln., Columbia.

Mr. Holt stated that he lives directly across the property in question. Mr. Holt stated that he would like to reiterate what Mr. Renner said and welcomes the applicants to the neighborhood. Mr. Holt stated that he thinks this will be a great improvement; it is a great use for that property.

No one spoke in opposition to the request.

Closed to public hearing.

Commissioner Caruthers made and Commissioner Morgan seconded a motion to approve the request by Daniel Boone Land Co. on behalf of Knipp Farms LLC for a permit for an Equine Boarding Facility on 305 acres, located at 10600 S. Hardwick Ln., Columbia.

Mary Sloan – Yes	Mike Morgan - Yes
Mike Caruthers – Yes	Russell Duker – Yes
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Yes	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve request carries unanimously.

Vice-Chairperson Sloan informed the applicants that this request would go before the County Commission on August 31, 2004.

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2. Request by Teresa Fudge McGrath for a permit for a kennel on 5.0 acres, located at 4431 N. Liddell Ln., Columbia.

Planner, Thad Yonke gave the staff report stating that this property is located approximately 2 ½ miles east of Columbia. The property is zoned A-1, as is all of the surrounding property. There is a single family dwelling on the property. The applicants operate a kennel on the property and are requesting a conditional use permit to continue to do so. This site is located in the within the Columbia school district and the Boone County Fire Protection District. Electric service is provided by the Boone Electric Cooperative. The master plan designates this area as being suitable for agriculture and rural residential land uses. Staff notified 11 property owners about this request.

The zoning regulations list the criteria that the Commission is to consider before granting a conditional use permit. Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners. It should be noted that this facility has been operating for some time without the benefit of proper local, state or federal permits.

*(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.*

If operated in conformance with existing county regulations, the use should comply with this criterion.

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

The property is in close proximity to another residential property. This raises an issue of incompatibility between neighboring land uses. Staff has received complaints about the noise and odors emanating from this site. While odors may be mitigated by proper sanitation, the sanitation practices followed by the applicant to date have not been sufficient. The applicant has not submitted any information to indicate that they plan to modify their sanitation

practices. Noise can also be mitigated; however, the applicant has not submitted any information indicating that they intend to mitigate noise. Public testimony may be indicative as to whether this criterion is met.

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

Staff has no reason to believe that the proposed use will have a negative impact on property values in the area. However, public testimony may be indicative as to whether this criterion is met.

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

The site has access to public water, electricity and roads. An improved wastewater system will be required.

*(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.*

Noise and odors emanating from the site could discourage future residential development in the area. However, public testimony may be indicative as to whether this criterion is met.

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

The proposed use should not hinder traffic or cause congestion on public streets.

*(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.*

The proposal conforms to other applicable regulations of the A-1 zoning district. The applicant has not submitted any information to indicate that there is a public necessity for this conditional use permit.

County regulations require that a kennel of this type comply with the minimum standards of the United States Department of Agriculture. Staff observation is that this has not been the case. This facility will require significant changes in order to conform to USDA standards. This will cause a substantial financial outlay for the applicants. Staff does not support the approval of this permit.

If the Commission decides to approve the permit, staff suggests the following conditions:

- Facility to comply with USDA standards within 90 days.
- Provide proof of USDA license within 90 days.
- Install sight proof fence around facility within 90 days.

- Submit a noise mitigation plan for approval by the Director. Upon approval, the plan shall be binding upon the operator of the kennel.
- Install wastewater system for the kennel within 90 days.
- Pens/runs may not be stacked above other pens.
- Kennel building must be at least 100 feet from property lines.

Present: Teresa McGrath, 4431 N. Liddell Ln., Columbia  
Mark McGrath, 4431 N. Liddell Ln., Columbia.

Ms. McGrath stated that she has lived in the country all her life and has lived at the present address for the last 13 years and has run a daycare for a total of 21 years. The applicants have 6 children ages 23 to 11, one just graduated from college in May, two are still in college and there are three yet to go. As an attempt to have additional income it was the best interest in doing some research in to raising dogs the applicants decided to do dog kennels at their home. Ms. McGrath stated that she has worked closely with Matt Rowles who is the Missouri Agricultural Inspector. The applicant is pre-licensed; the only thing the applicant has to do to get her license with the agricultural department is to do the wastewater. Ms. McGrath stated that her husband has been dealing with that and he spoke with planning and zoning who referred the applicants to the Health Department who then referred the applicants to the Department of Natural Resources in Macon.

Mr. McGrath stated that no one can tell the applicants anything and that is why nothing has been done because the applicants don't know what to do.

Ms. McGrath stated that at the moment she is taking the waste, putting it in a trash bag and putting it in the dumpster. As far as the noise reduction, the applicants have part of a privacy fence there was one put up and the plan is to have the privacy fence in the front of the buildings and along the east side of the buildings. The dogs bark with the applicants go outside and they bark for possibly five minutes. The dogs are happy and excited to see the applicants and they bark until they realize that the applicants may or may not be coming to see the dogs then they quit barking. The other times the dogs bark is when the neighbor's dog stands on the hill and barks with makes the dogs in the kennels bark. The other morning the dogs were barking and when she looked outside to see why the neighbors black cat was walking around the kennels stirring up the dogs. Some people move from town to the country thinking they are going to have piece and quiet but there are country noises and country smells. The land around is all farmland, there are pesticides and University combines a couple times a year, there are always smells, there are always noises. The applicants did consider as a second income to raise pigs. It could be a pig smell instead of the dogs. Ms. McGrath stated that she can not believe that there is a smell from the dogs because the applicants can't smell them walking down there. The kennels are kept very clean. It has been said that the applicants may be running a puppy mill. This is not at all a puppy mill. Ms. McGrath stated that she has been to puppy mills down south when she was purchasing dogs. There is no way possible that this could be classified as a puppy mill. The applicants know everyone of their dog's names, they are not known by numbers. Ms. McGrath stated that she has a daycare and she has six kids, they all play with the dogs, all the dogs get to play in the fenced back yard to run, the dogs are brought in to the house, they are very well loved dogs. Friends come over and love the dogs; they will go out and play with certain ones. It is far from a puppy mill. The applicant loves animals, the applicants daughters show horses and the applicants are hands-on with everything, whether it is with children or animals. Ms. McGrath stated that it really upset her that she would be considered as a puppy mill because it is not a feasible thing.

Ms. McGrath stated that she is very surprised that the neighbors that would have objections because when they bought the 30 acres to the west of the applicants property the neighbors chose, out of 30 acres,

to come around to the southeast side of them and build with was right even with the applicants barns. There were horses there then, now the horses are at Ms. McGrath's mothers. The neighbors chose to build by the applicant's lean-to looking right in to the McGrath's back door. There was plenty of area for the neighbors to build that wouldn't have even been a concern of theirs as to what the applicants might be doing on their five acres. The applicants are willing to go through any regulations that might be required. One of the conditions of the staff report was that the kennels not be on top of one another, that is extremely out of the ordinary. If you were to go buy kennels, that is the way they are built, there is one row of runs above the other one. That building holds 48 runs, 24 on each side. The applicants have stopped the process of what they were doing down there besides taking care of the dogs just because they were trying to make sure they were going to get a permit and licensed. There are 24 runs on one side of the building at the moment but there are plans for the other 24 as soon as all the permits and licenses are acquired.

Mr. McGrath explained that the kennels that are on top of one another, the top ones have a wash down that completely guards the dogs below; it is not like there is any kind of waste going on to the dogs. They run to the building and to a gutter system that angles toward the back of the building in to another gutter system from top and bottom. The top run is shaded by requirement and they use the wash down on the bottom to provide shade for the bottom dogs.

Ms. McGrath stated that the applicants have complied with all the Missouri Agricultural rules and regulations and they don't have a problem with this at all; the vet has given the applicants 100-percent clear. The applicants have plans to rock all the buildings and repainting all the buildings to just clean it up and make it look nicer. All the process is going slow; the applicants have six kids and are a busy family. The applicants show horses and are gone almost every weekend. The time that the applicants are going family and friends come and take care of the dogs, they all love the dogs as much as the applicants. The applicants are only trying to have a second income and to be able to take care of their family at the same time.

Mr. McGrath stated that he has worked for Ameren UE for 27 years in construction and is more than capable of doing whatever is required for the wastewater system as soon as someone lets him know exactly what the applicants need to do.

Commissioner Sloan asked if there were an indoor facility for the dogs.

Ms. McGrath stated that inside there is a flap on the doors and the dogs can go in and are completely able to get out of the weather and that is where their food and drinks are. There is electricity in the building and ceiling fans and lights. The air conditioner is not in the building at this time, the regulations state that it can't be any hotter than 86 degrees and with the ceiling fan and the way the building is made it has never been over that. The air conditioner is not a problem either; there is a window there that the air conditioner can slide into. The applicants have not done it at this time because there has never been a need to.

Commissioner Sloan asked if the building was heated.

Ms. McGrath stated that there are space heaters in the building that are used in the winter time

Commissioner Sloan asked if that was dangerous.

Ms. McGrath stated that the Missouri Agricultural department had no problem with it.

Mr. McGrath stated that all the wire on the outside cages is rubber coated.

Ms. McGrath stated that everything is done by regulation. They gave the rules with it, Matt has come over three different times now and has told the applicants the next step to do and the applicants have done it. The only thing that is not done at this time is the waste and that the applicants have kept getting advised on to the next person and the applicants have done anything with it because they are not sure what they are supposed to do.

Commissioner Caruthers asked what breed of dogs the applicants have.

Ms. McGrath stated that the largest breed is a Shiba Inu, they have Chihuahua's, Poodles, Papillon's, Pugs, and Schipperke. Just getting started the applicants decided to get about 10 different breeds to see what the market is and to see what breeds and births easy but the applicants haven't got that far yet. But for now the applicants want to see what the market is and see who might deliver easier than others and who might have the larger litters or smaller litters. At that point the applicants will cut down to probably 3 to 4 breeds at the most.

Commissioner Caruthers stated that the applicant had mentioned there are 24 runs already and considering another 24 runs there would be 48. In this case the applicants would produce the runs and wouldn't expect any of them to be empty. If the applicants are down to three or four breeds they are still going to go ahead and fill each of the 48.

Ms. McGrath stated yes; the applicant would get additional dogs of the breeds they decide to go with.

Commissioner Caruthers asked the applicants if they have done any market research.

Ms. McGrath stated yes, through the internet.

Commissioner Caruthers asked what the applicants found out.

Ms. McGrath stated that it always changes. But anything mixed with a poodle sells quickly. Rare breeds sell very well, anything with a Yorkie sells good. The applicants have a couple of Labs but everyone else is raising labs and the applicants are trying to get away from what everyone else is doing. Chihuahuas have always been a good seller and will probably continue to be a good seller.

Commissioner Heitkamp stated that the applicants mentioned they have a daycare and asked if it was a home daycare.

Ms. McGrath stated that it is a home daycare and she has 3 nephews and 1 niece that she does daycare for, then there are 4 other children from the neighborhood. The applicants did a daycare when her children were growing up, stopped and went in to the workforce for two years.

Commissioner Heitkamp asked how many children the applicants have at the daycare.

Ms. McGrath stated eight.

Commissioner Heitkamp asked Ms. McGrath if she was licensed.

Ms. McGrath stated no; she does not need to be when she has no more than four that is not related to her.

Commissioner Heitkamp stated that there are 3 nephews, 1 niece, and four neighborhood children. So there are four family members who are not immediate family members and then there are four additional children so that is a total of eight who are not in the immediate family.

Ms. McGrath stated yes.

Commissioner Mink stated that it sounds as if the applicants own all the dogs that are at the kennel and there is no outside boarding. Commissioner Mink asked if any outside boarding was planned.

Ms. McGrath stated no.

Commissioner Mink stated that the staff report stated that this kennel has been in existence for a while and asked how long it has been in operation.

Ms. McGrath stated that she started acquiring the dogs about a year ago.

Commissioner Caruthers asked if the dogs were purebred.

Ms. McGrath stated that she has a house dog and with the state regulations she has to include her house dog in to the number of dogs kept at the kennel. Ms. McGrath stated that she has a dog that is not a pure bred and a two year old that is in the kennel that is not pure bred.

Commissioner Caruthers stated that pure breeds birth harder and there are more defects. Commissioner Caruthers asked the applicants if they had a contingency plans for those situations.

Ms. McGrath stated that at any time she thought she could save a puppy she would call the vet. If she were to lose a puppy she would bury it.

Commissioner Mink asked if people come to the kennel to purchase the puppies or are they wholesaled to the pet stores.

Ms. McGrath stated that she has not sold any puppies at this time.

Commissioner Mink asked what the applicants plan was.

Ms. McGrath stated that she has already had a couple of people contact her due to stories in the newspaper and from the television stations to see if she has any puppies for sale. The applicants are hoping to sell to individuals but she has had a couple of people who are distribute brokers who distribute puppies to the pet stores come talk to her about buying anything that she is not able to sell; anything that is left over from the litter. Ms. McGrath stated that she is considering that but is not sure how much she will use them but plans to just sell to the public.

Commissioner Mink asked if the puppies live in the cage with the mother after they are weaned.

Ms. McGrath stated yes; some people wean their puppies at six weeks; applicant's plans keep the puppies for eight weeks so they get to know their mother and get characteristics of the mother and they could also get their shots before they are taken home with an individual.

Commissioner Mink stated that if there were 48 pins they would be for the mother dog and if you have all these puppies that you want to sell to individuals 48 dogs could produce a lot of puppies.

Commissioner Mink asked the applicants what they plan to do with the puppies while they are waiting to be sold and how long would the applicants keep them before they would be wholesaled off to a pet store.

Ms. McGrath stated that the puppies will not be weaned until they are at least six weeks so they are really only away from their mother for a week to two weeks depending on when you would actually wean them. Depending on the size of the puppies and if they are nursing a lot; the mother will try to wean them herself.

Commissioner Mink stated that he wanted to know where the puppies will be after they are weaned and before they are sold; where is the holding area?

Ms. McGrath stated in her garage. The applicants have pens in their garage that they are able to go to that has a 4 x 2 -foot which is plenty big for the puppies we are talking about that are less than a pound sometimes. That way the applicants can be more hands-on with the puppies.

Commissioner Mink stated that he didn't know the birth rate with dogs but it seems that there could potentially be 100 puppies in the garage.

Ms. McGrath stated that the smaller breed dogs only have 3 or 4 puppies at one time; they don't have the huge litters of 13 dogs. The applicants are not anticipating on having that many puppies.

Commissioner Morgan asked how many puppies a year will the breeding dogs have total. Do the dogs breed two times a year?

Ms. McGrath stated yes.

Commissioner Morgan asked the applicants if they were going to have 48 females.

Ms. McGrath stated that right now the applicants only have 22 females that they would breed.

Commissioner Morgan asked the applicants if they planned on having 48.

Ms. McGrath stated yes; at some point.

Commissioner Morgan asked how many puppies we are talking about in a year.

Ms. McGrath stated that if she were to have 48 females breeding twice a year then there would be approximately 300 puppies total throughout the year.

Mr. McGrath stated that the cages the applicants purchased were certified cages, they are not rabbit cages but \$400 cages with slide in waste trays and self feeders and waterers with rubber wired bottoms; everything is up to standards.

Commissioner Oetting stated that the staff report referred to neighbor complaints and asked the applicants if they have had any meetings with the neighbors.

Ms. McGrath stated no.

Commissioner Oetting asked the applicants if they knew what the neighbors concerns were.

Ms. McGrath stated that all she knows is from what the paper has said when they interviewed the neighbor.

Mr. McGrath stated that it was stated that the dogs never see people and that the applicants are running an unlicensed puppy mill. Mr. Miller stated that the first thing he thinks of if the dogs never see people then who is feeding them? The applicants did not respond back with The Tribune when they contacted the applicants; they are going to print whatever they want to anyway. Apparently not responding back to The Tribune was a mistake on the applicant's part. When channel 13 came out they did a great job; they told the truth and showed the truth.

Ms. McGrath stated that the daycare kids play with the puppies almost everyday depending on the weather.

Mr. McGrath stated that the privacy fence is going to be in an "L" shape as soon as the applicants find out if everything is going to be okay. When you walk outside the dogs throw a fit, they think you are coming to feed them. The privacy fence that is on site now lying on the ground ready to be erected, it is already together it just needs to be put up; it will elevate 85 to 90 percent of that noise. When the dogs see other dogs or a cat or someone walking out of the house that is when they get excited.

Open to public hearing.

Present speaking in favor of the request:

Bondi Wood, 7801 Mexico Gravel Rd., Columbia.

Ms. Wood stated that she was one of the property owners that were contacted; they back up within 1000 yards of the applicants. Ms. Wood stated that she has known the applicants for several years and Ms. Wood and her husband are from an ag background and are truly country people. There are certain freedoms you get to enjoy outside the City limits but there are also drawbacks and inherent risks when you purchase property in the country. Ms. Wood stated that the ink hadn't dried on her first contract on her home in the county when the neighbor next door moved his hogs from the back lot to right next door to Ms. Wood. Ms. Wood stated that she lived 17 years next to a hog farm. However, he has every right to do that with his property, he had the facilities there when Ms. Wood moved in and years later he probably didn't like the roosters that Ms. Wood's children had that seemed to crow at all hours of the day and night. When people move out and buy small acreage and a home and they think there is some romantic, pristine solitude and for those who live in the country, they know that is not true. One of the things you get when you move to the country with small acreage you get to livestock of some sort, you get to have 4-H and FFA projects you can have burrows, you can have peacocks that make a lot of noise, you can have one or dogs that still might bark all night long. These are just inherent risks but people have rights to what they do on the land they own. Ms. Wood stated that as far as she knows there has only been one complaining neighbor who owns 30 acres and he built his home looking in the McGrath's door and looking at their lot where they have horses and sheds and overhangs really close to their property line. The neighbor also bought a piece of property that Ms. Wood owned that she has a right to put whatever she wants there within the zoning regulations. The neighbor could have went to the north end of his property and there could be other animals there or other things that he doesn't like; it is a risk he took and why he didn't situate his home in a more buffered position is unknown. Ms. Wood stated that Ms. McGrath has set a precedent in being able to apply for and achieving and maintaining state licensing with her daycare. Ms. McGrath is a high school graduate but has not a lot of other skills yet she is not on any type of assistance, she is successfully raising six children by being able to use the skills she has. Ms. McGrath is wonderful with children and animals, dogs in particular. This is a way for the applicants to make a living on their land that they own, which when many of us who do live in the

country we try and find some way to produce income off of land that is very expensive. As far as Ms. Wood knows the applicant's animals are well cared for. The plans may not be in place like they need to be but the applicants are holding off putting up the privacy fence and doing the wastewater to make sure they are going to get licensed; that should all occur within 90 days. The applicants are talking to Ms. Wood's husband about buying a pressure washer to help the applicants with cleaning the building.

Jane Fudge, 8931 E. St. Charles Rd., Columbia.

Ms. Fudge stated that she owned all the property around the applicants and it is going to stay agriculture; Ms. Fudge is not going to sell any of the property. Ms. Fudge has a grandson that has a doublewide trailer just around the corner on 10 acres. Ms. Fudge went with Ms. McGrath when she started buying puppies and Ms. Fudge saw a lot of kennels from really expensive establishments and at one place all they had was Chihuahuas, they had over 200 of them and it was very clean and it was surprising how they could do it. Ms. McGrath has always loved kids and animals and she enjoys it. Ms. McGrath keeps good records and gives the dogs their shots.

Ms. Fudge stated that she sold the people that are complaining their 30 acres and she doesn't know why they came around the corner to put their house on the back of the property. If they didn't want to be close to someone they could have built there house elsewhere.

Rebecca Carter, 4451 N. Liddell Ln., Columbia.

Ms. Carter stated that she is on of the closest neighbors and she has no problem with the dogs. Ms. Carter stated that she does hear them occasionally but it is just a small noise and there is no smell.

Present in opposition:

Marjorie Lewis, Law Firm of Brown, Willbrand, Simon, & Powell - Attorney for Mr. Yanos & Ms. Peterson - 601 E. Broadway, Suite 203, Columbia.

Ms. Lewis presented an aerial photograph of the property in question and several photographs of the applicant's kennels.

Ms. Lewis stated that the Mr. Yanos lives on a 37 acre tract, the applicants live on a 5 acre tract which is zoned as A-1 and a kennel is a conditional use in this zoning. The property owned by Mr. & Mrs. Yanos joins the applicants property and the dogs are only located about 300 feet from their house. By far Mr. & Mrs. Yanos are the closest neighbors to the applicant's property. The Yanos' property lies to the west of the dogs and there is not much separation between them. Ms. Lewis pointed out the location on the aerial photograph showing the applicants property and the Yanos' property as well as the location of the kennels.

Ms. Lewis stated that there has been a lot of talk about why the Yanos' located their home where it is. The Yanos' placed the home away from the road and tried to put it back out of the way. Testimony later will show that when the Yanos' built their house and moved on to the property there was no dog kennel.

Ms. Lewis stated that one of the people that spoke, Rebecca Carter, stated that she lives at 4451 Liddell Lane; Ms. Lewis pointed out Ms. Carter's house on the aerial photograph and stated that there are no other houses in the surrounding area. Ms. Lewis stated that Ms. Carter's house is located twice the distance from the applicants as the Yanos' house and the Yanos' house doesn't have nearly as much buffer whereas Ms. Carters house is located up hill and has a lot of trees to buffer her home.

Ms. Lewis stated that Ms. Fudge is believed to be Ms. McGrath's mother and she does own land that surrounds all the property being discussed but to Ms. Lewis' knowledge she does not reside anywhere close to this area. The Yanos' are here in opposition to the conditional use permit, additionally here on their behalf is Jack Blaylock, a local real estate appraiser, and Ron Shy, a local general civil engineer with experience in wastewater and environmental issues.

John Yanos, 4441 Liddell Ln., Columbia.

Julie Peterson, 4441 Liddell Ln., Columbia.

Mr. Yanos stated that he purchased the property from Mr. and Mrs. Fudge in December 2000. At the time there was no discussion of dog kennels or any eminent changes. Mr. Yanos proceeded to plan the house and build it in 2001, they moved in the house in July 2002. The location of his house was dictated by topography and a pond was put in when the house was built. When Mr. Yanos moved in to the house in 2002 the neighbors had, and still have, several dogs they use as house pets that are allowed to run loose which Mr. Yanos have no problem with. The applicants also had several horses that were kept on the property and there were no problems with that. About a year ago the applicants began to acquire large numbers of dogs; the dogs have been a problem for Mr. Yanos in multiple lengths. One is the noise. The distance from the kennel to Mr. Yanos' house is 300 feet, there is also a row of trees in between, there is a lot of noise from the dogs. There have been times when he has had picnics on the west side of the house that had to be moved because of noise from the dogs. At the same time, Mr. Yanos' house is effected by the noise if the windows are left open there are 40 or 50 barking dogs 300 feet from the open window and it is a remarkable annoyance. It also prohibits you from keeping the windows open at night because of the large number of dogs.

Mr. Yanos stated that about two weeks ago he took pictures of the dogs in the kennels. There are large numbers of these dogs in the runs that are exposed to the sun. When the dogs see a rabbit walking past, or anything else that disturbs them, this is 40 or 50 yapping dogs 300 feet from his house. It is an impressive noise. At the same time the lay of the land makes smell not be a problem continuously but 40 or 50 dogs, when the wind is right, is a fairly odorous situation and it is capable of traveling a distance. The other problem Mr. Yanos has is sewage runoff from the dogs. Mr. Yanos pointed out the entry way to his pond. The blue line on the aerial map represents Hominy Creek. The entire area drains in to the creek and at times dog feces collect in the holding pond just upstream. The holding pond doesn't work perfectly; it gets on the ground during large rains. This has a significant impact on the use of Mr. Yanos' property large numbers of barking dogs with significant, unpleasant odor inhibits what he can do on his property. At the same time it significantly diminishes the value of his property. The house was built to interact with the surrounding environment and it sort of makes the extended living space in the house less desirable, to put it mildly.

Ms. Peterson stated that when they purchased the property there was no indication that there would be a commercial business next to them. They did expect a rural situation with animals, farm animals were there when they purchased the property they expected the applicants to continue. The noise is very pervasive it is not something that you can simply walk in to your home and close the door; you are followed by this noise. It doesn't help to shut the window. We have a noise machine in each bedroom in an effort to try and cover up the noise that is disturbing at night. The noise isn't there all the time, it is there sometimes. It might be when you are trying to go to sleep at night and it can wake you up with the noise machine. We have had events that were planned in their yard that they had to move inside either because of the noise or the smell. Ms. Peterson stated that she doesn't allow her children to swim in the pond because at times the silt pond overflows in to the larger pond and she doesn't want her children swimming in feces. The pond collects water from many acres, not just next door but when you can see feces floating in the silt pond that tells Ms. Peterson that it is not from the farm down the street.

Mr. Yanos stated, pointing at the aerial photograph, this doesn't really involve anyone else. All of the surrounding property is farmland. This is 300-feet from Mr. Yanos' door and built right next to the property line.

Commissioner Duker asked Mr. Yanos to point out the applicant's property.

Mr. Yanos pointed out his property, house, and pond as well as the applicant's house and the location of the kennels.

Commissioner Duker asked if the kennels were built after Mr. Yanos built his home.

Mr. Yanos stated the applicants started about a year ago.

Ms. Peterson stated that as the number of dogs increased so has the noise and the smell. Apparently the applicants plan to increase the number of dogs.

Commissioner Duker asked if they would be willing to compromise if the applicants moved the kennel and limit the number of dogs.

Ms. Peterson asked where it would be moved to.

Commissioner Duker stated it could be moved away from their property line. It looks like the applicants built the kennels after Mr. and Mrs. Yanos house was built.

Mr. Yanos stated that is correct.

Commissioner Duker stated that the kennels were built on the edge of the property line.

Mr. Yanos stated that the suggestions laid out by staff would be a reasonable approach to a compromise. Mr. Yanos stated that he is not sure this is an appropriate use of this kind of property. The word commercial kennel may not be appropriate but is this the right place to put a commercial kennel. Will anyone with 5 acres going to be allowed to have 100 dogs. It seems like a less than appropriate use under the zoning ordinance.

Commissioner Mink stated that it was mentioned earlier about a few hogs on the property.

Mr. Yanos stated that he has never seen hogs.

Commissioner Mink asked the applicants if they stated that.

Ms. McGrath stated no; the applicants considered hogs.

Commissioner Mink stated that they are not there now.

Ms. McGrath stated no; the applicants opted to go with dogs instead.

Commissioner Duker asked Mr. Yanos if he would consider a compromise.

Mr. Yanos stated that he wouldn't want to endorse it. It doesn't seem totally appropriate and is not sure that he is the person to compromise. So the answer to that would probably be no because he doesn't

believe that is an appropriate use for that property and believes it would be difficult to be done and not influence the use and value of his property.

Commissioner Duker asked if it was moved to the other side of property and limited the number of animals.

Mr. Yanos stated that if you go through all of the stuff the staff recommended it would be a valiant effort at the same time that this is an ongoing operation this is in response to the County beginning to enforce the zoning ordinances. Mr. Yanos stated that he is less than optimistic that it would actually happen the way the staff recommends just based on the record.

Commissioner Mink stated that he believes the staff's recommendation was for the kennel to be at least 100-feet from the property line and Commissioner Mink stated that he can't tell from the aerial photo but it looks like it is pretty close. Technically the neighbors would only be gaining 100-feet plus fencing. Noise wise the only thing proposed to mitigate that is a site proof fence; Commissioner Mink stated that he doesn't know how much noise mitigation that would provide.

Commissioner Neese asked Mr. Yanos to point out where the silt pond is and also where the larger pond is located.

Mr. Yanos pointed out the pond locations.

Ron Shy, Allstate Consultants, 5600 S. Hwy KK, Columbia

Mr. Shy stated that he has been in the civil engineering business for a number of years. Mr. Shy stated that he would like to express an opinion with regard to the environmental situation at the request of Mr. and Mrs. Yanos. Mr. Shy stated that as Mr. Yanos depicted on their property, they had built a silt pond ahead of their lake around their house, given the drainage area that flows in to the silt pond, their lake would be the recipient of any very small rain. Anything that washed in to that would likely wash in to the bigger lake. Mr. Shy stated that he believes that anything that would wash off of the property next to it would almost immediately end up in their lake. Having said that, with the staff recommendations for, assuming this is subject to the animal waste regulations; this would probably alleviate that problem. That is the biggest environmental issue that Mr. Shy sees in regard to the operation that is going on.

Commissioner Freiling stated Mr. Shy knows the topography of the site and asked if there is topography on the applicant's property that is not within the drainage of the neighbor's lake.

Mr. Shy stated based on a rough calculation of the drainage area around the area that comes in to the Yanos' property it is in excess of 150 acres.

Commissioner Freiling stated on the applicants five acres, if they were to go to the southeast corner with a wastewater facility.

Mr. Shy stated he believes it would still drain across the property.

Commissioner Freiling stated it would go in to the water shed so there was not a site on that five acres that wasn't going to have the same problem that the current site does.

Mr. Shy stated he believes that to be true.

Commissioner Duker asked Mr. Shy if he knew what kind of regulation would be put on the wastewater treatment facility. Would it be an underground facility, would they have to drain the lagoon?

Mr. Shy stated that there would probably be some solutions to it but it would have to be an engineered solution and DNR would have to approve it.

Commissioner Duker asked Mr. Shy if he is familiar with what DNR's regulations are for that type of facility.

Mr. Shy stated that there are several.

Commissioner Duker asked if it would drain to the lagoon if they washed the kennels down.

Mr. Shy stated that he didn't know what practices they are using right now; the only thing Mr. Shy heard was that they are dumping the waste in a dumpster. Mr. Shy stated that he doesn't know how the wash down areas are handled but that should be treated within the whole plan when they do their waste facility.

Jack Blaylock, Real Estate Appraiser, 2100 E. Broadway, Suite 208, Columbia.

Mr. Blaylock stated that he has been asked by the attorneys representing Mr. and Mrs. Yanos to appear on their behalf to present evidence to the Commission as to whether there was an affect on the market value of their property as a result of the operation of a kennel on adjacent property, especially if it was going to be legally permitted under the Boone County ordinances through this permit system.

Mr. Blaylock stated that the use on the adjacent property was a use that was foreign or not in keeping with the characteristics of the neighborhood. This includes studies of avigation easements, sewer plants, junk yards, hog lots, turkey houses, chemical spills, chemical emissions, sewer back ups, overflowing sewer lagoons as examples of some of the studies that Mr. Blaylock has conducted. Some of these studies that have been conducted involved only temporary nuisances and some involved permanent nuisances. In the instance of a kennel in this particular neighborhood Mr. Blaylock viewed that as falling in the category of a permanent nuisance and that is based on the issues of noise, odor, drainage, and visual appearances. The Commission has a sketch of the layout and a copy of the aerial photograph and it has been explained that the Yanos' property is only 300 feet from the applicant's eastern property line and slightly farther than that to the further most kennel. It was suggested if there could be a movement of this kennel to another part of the property and Mr. Shy has addressed that, it would still remain in the drainage area draining toward the Yanos' lake and it would still be on a tract that was insufficient in size to eliminate the economic depreciation that flows to the Yanos' property by reason of the existence of the kennel. Any activity that is outside of the property boundaries of the property being appraised that flows to the property is a form of depreciation and it is measured mathematically by the results of the market studies. Typically you will find a reduction in value if you want to quantify it is going to range between 10 and 20 percent loss in value. It was discussed earlier in the meeting where you had a kennel owner who was objecting to a rezoning and a development plan of a subdivision that the Commission approved but on the condition that the property owners be notified that there was going to be a kennel in the neighborhood. Even that property owner when they objected to the development of that subdivision recognized that there would likely be a depreciating affect on the value of adjacent property because their kennel would make noise. It has now been solved by the Commission in that particular instance because the property owner has agreed that all buyers be notified that there is a kennel in the neighborhood. The Yanos' did not have that same protection that the Commission gave to the development heard earlier. It would be completely contradictory to approve this conditional use permit because the Commission is not

affording the Yanos' the same protection that was required in the last application that was approved by notifying because the Yanos' had no notice that there was going to be a kennel, therefore they suffered the damage. In the instance where the Commission approved the subdivision, those property owners will have a choice of either not buying or buying at a reduced price because they have knowledge of the kennel. They will have the ability to seek the advices of an appraiser before they buy their house so that they will know what the value of the property is and therefore they will be paying market value based on the fact that there is a kennel adjacent. In this instance, the Yanos' were not afforded that protection but the Commission is here tonight to protect them from suffering monetary loss by denying the application that is before the Commission. The Yanos' have earned the same protection.

Commissioner Sloan asked Mr. Blaylock the estimate of the depreciation.

Mr. Blaylock stated that from the market studies that he has made it has ranged from 10 to 20 percent loss in value. The Yanos' property is somewhere in excess of a half-million dollars so that would be a significant loss in value.

Ms. Lewis stated that there have been a lot of references to Missouri licensure and having met all the requirements for Missouri licensing but we have not seen any issuance of any licenses or any letter from the State indicating that such license is forthcoming. Furthermore, it is their belief that the kennel would require a license from the USDA under the federal animal welfare act. We don't believe that there is any evidence that such a license has been obtained; Ms. Lewis stated that she believes there is a reference to a lack of a license in the staff report. The conditional use permit requires that the use be not detrimental to or endanger the public health, safety, comfort, or general welfare. There has been testimony tonight regarding sewage leakage, feces, and substantial noise and odor. Additionally the staff report mentions that there is currently non-compliance with the County sewage regulations. The permit is not to be injurious to the use and enjoyment of other property in the immediate vicinity. The people that are most aware of the situation and in the immediate vicinity have stated that there is sewage, feces, and substantial noise and odor. We have had expert testimony as to the drainage and where anything from that property is likely to go. The staff acknowledges in its report that the applicant has not proposed a remedy. Mr. Blaylock has testified as has Mr. Yanos that this is going to diminish and impair property value and that is a contravention of the conditional use standards. Necessary facilities have to be available. There is no sewage system, no drainage system is adequate. The conditional use permit is not supposed to impede normal and orderly development for uses permitted in the zoning district. As Mr. Blaylock indicated this would cause a 10 to 20 percent decrease in property value of the Yanos' property and it seems that would negatively affect other residential development in that area. As far as hindering the flow of traffic and resulting in congestion, at this point Ms. Lewis can't comment on it, we don't know what the traffic flow will be. In all other respects it's to conform to the applicable regulations in the zoning district and the County Commission shall find there is a public necessity. The public necessity is a big issue and something we shouldn't forget about. There have been a lot of comments about living in the country and in being country people; it is not a City/Country issue. This is the fact that Boone County has zoning regulations and it says you have to find a public necessity for it. This is not raising livestock, it is not raising hogs or cattle; it is raising dogs. The Commission would have to find that there is a public necessity for a dog breeding operation. We appreciate the applicants desire to make a living, we are all in that situation, but the question is public necessity, not private necessity. Staff has pointed out that the USDA requirements have not been met and there was a lot of talk about State requirements having been met, but the staff report points out that there is a far distance before the USDA requirements can be met. Significant changes are required and the staff does not support approval and the closest neighbors, the Yanos', don't support approval.

Closed to public hearing.

Commissioner Caruthers asked Mr. Blaylock in noting the 10 to 20 percent depreciation rate would there be any sort of windfall coming back off of casualty or loss in tax forms or capital gains.

Mr. Blaylock stated that he is not a tax expert but he thinks it has to be a casualty loss as a sudden occurrence.

Mr. McGrath stated that there has been a lot of talk about the sewage and the drainage and something being in a silt pond. Apparently that is a big part of what the Yanos' based their case against the applicants on. Mr. McGrath stated that he is from Missouri and would really like someone to show him that. You can say anything you want to. If the ground will perc and pass a perc test then the applicants can come off that drainage with a septic tank and put a leach field out there, Mr. McGrath stated that he doesn't see where the drainage would have anything to do with his neighbors.

Ms. McGrath stated that it is unbelievable to her that there would be feces in the neighbor's pond. The cages are cleaned daily; it is taken directly to a garbage bag to the dumpster. Those dogs don't go to the bathroom that much. They go like a normal dog but there is no possible way that she can believe there is anything being washed down. Ms. McGrath stated that if she were them she would be checking to see what that is exactly because she doesn't see it whatsoever. As far as the noise; the applicant's house is closer to the dog kennels than the neighbor's house. The applicants don't hear them inside; very seldom do they hear them inside. It is not that the applicants are tuning them out or anything, she does hear them at times, she goes to the door to check and see what it might be. Usually it is the neighbor's dog standing up on the mound or a cat running around. The concern of property value, Ms. Fudge had stated that she is not selling the land around there, her father is the one who sold the property but her mom is not selling. She has guaranteed that to all of the children, that the land would stay in the family. Once the regulations are met with the Missouri Department of Agriculture to where the applicants get fully licensed she doesn't have to put a privacy fence up but the applicants are more than happy to put a privacy fence up to cut down on noises. The applicants are not required to put rock around it to make it look nicer, that is something the applicants have chosen to do along with upgrading the looks of the building by painting it. They said the buildings abutted the property line; it doesn't.

Mr. McGrath stated that there is a horse barn and another portable shed, there is 30 foot between the property line and horse shed lean-to and then another 12 by 24 building, then an 8 foot walk area then the dog kennel. That is what is making him wonder about this silt because he knows the Yanos' are not telling the truth about the building being directly on the property line. The smell, noise, and the sewage thing are the three things they are trying to fight this with and the applicants have answers for all of them.

Commissioner Mink asked what the solution was for the noise.

Mr. McGrath stated the privacy fence; it is on the site waiting to see if the applicants will be able to do everything.

Ms. McGrath stated that the reason it hasn't been set up yet is because the applicants were going to set it in concrete and there is no sense in the applicants doing that if for some reason the applicants don't get their permit.

Mr. McGrath stated that when the applicants go behind the privacy fence to feeding the dogs are going to bark some.

Ms. McGrath stated that the dogs will bark for maybe five minutes. It is not a continuous thing.

Mr. McGrath stated that there was testimony about the sewage drainage. Mr. McGrath would like to know what the problem with a septic tank and leach field would be.

Commissioner Caruthers stated that he believed that staff had already addressed that by stating as part of the conditions to install a waste water system for the kennel.

Mr. McGrath stated that is no problem as soon as the applicants find out what they need to do. The privacy fence will reduce the noise and the septic system will stop the waste drainage but the applicants have also stated that they are 300 feet to the west of the applicants that means you have to have an east wind for the neighbors to get any smell at all and everyone knows how often you get an east wind. The prevailing wind is out of the west and the south year round.

Commissioner Neese stated that the applicants stated earlier that the applicants went in to this business in 2003 and the Yanos' testified that they purchased the property from Ms. Fudge in December and started building their home in 2001, moved in to the house in 2002 and the applicants started their business in 2003, that is the main issue Commissioner Neese has with this request. Commissioner Neese stated that he appreciates all the other things that have been brought about but that is the key issue. Commissioner Neese asked the applicants if they went to Mr. and Mrs. Yanos to talk to them about the possibility of opening this business.

Ms. McGrath stated no and that her thought about this is that she has only spoken to Mr. Yanos one time maybe a month after he moved in he and his two children came over and introduced themselves and the first thing Mr. Yanos said to her was if she had any intentions of cleaning out the tree line. Ms. McGrath told him she would do it when she gets around to it. That was the gist of the conversation and has not spoken with him at any other time. Ms. McGrath stated that she has lived in the country for years, since she was a child and she has loved animals and never thought of someone moving out to the country that didn't love animals. Coyotes howling all night long is a natural noise to Ms. McGrath.

Commissioner Sloan stated that part of staffs suggestions were that it comply with USDA standard and have a USDA license; the applicants are talking about DNR and the staff is talking about USDA and asked staff if these were the same thing or there other licensing and standards that the applicants need to comply with that they may not be aware of.

Mr. Yonke stated that there are multiple levels of the standards. Boone County regulations require the applicants to comply with the USDA regulations without a condition. The condition says you will comply will all of those within 90 days. The regulation already requires it. The DNR would be in charge of the wastewater system because this is a commercial operation and commercial operations are regulated by DNR versus the Health Department in most locations. It would be incumbent upon the applicant to hire an engineer to design a wastewater system that is suitable, submit it to DNR and get approval from them for that system in order to be done just like any other commercial wastewater system. That is what would be required, the County doesn't tell them how to comply with that, it is the applicant's requirement to do that. Likewise, as a point of order, as a conditional use permit it is incumbent upon the applicant to show that they meet all of those criteria. It is not incumbent on the opposition to show that they don't. The burden of proof is on the applicant to show that they meet all the criteria. If they fail to meet even one of the criteria technically the conditional use permit should not be granted.

Commissioner Sloan stated that attached to the application is about 4 or 5 pages of housing facilities relating to kennel operation and it includes a lot of different things including indoor and outdoor housing,

ventilation, lighting, and so forth. Commissioner Sloan asked the applicants if they were familiar with all of those regulations. Commissioner Sloan stated it is from the Missouri Department of Agriculture.

Ms. McGrath stated that the rules and regulations that she has is through the Missouri Department of Agriculture.

Commissioner Sloan stated that according to the conditional use permit the applicants have to comply with the USDA standards which are attached to the application. If the applicants don't have these then they might want to get them because they might be different than what the applicants have. Looking at these and listening to some of the things the applicants have said Commissioner Sloan has concerns that there is a proper facility and that the applicants aren't going to have the proper facility to have as many dogs as they are talking about because of the type of facility. There are things in here about temperature, how it needs to be divided and maintained and so forth.

Ms. McGrath asked to look at it to see if it was the same thing she has.

Mr. McGrath stated that the applicants have been dealing directly with an inspector that has been there several times and he had said that everything is exactly as it is required to be.

Ms. McGrath stated that the inspector told her that this was all she had to do. All the applicants had to do is get the permit from him and get the permit from the County then she would be ready to go to breed and sell puppies.

Commissioner Sloan stated that he may have told the applicants that for his needs but if the applicants need to follow the USDA standards which are the ones referred to in the staff report.

Mr. Shawver informed the applicants that they are required to follow USDA standards according to the Boone County zoning regulations.

Mr. McGrath asked if the inspector that came out should have said something about that.

Mr. Shawver stated that by County regulations the applicants are required to follow the USDA regulations.

Mr. McGrath stated that if the applicants knew what they were then it wouldn't be a problem. The applicants are trying to do this by the book and will do anything they are told to do; but someone needs to tell the applicants what they have to do.

Commissioner Sloan asked staff when the applicants came in and made the application were the applicants made aware of these standards.

Mr. Yonke stated that the applicants filed the application in response to a zoning enforcement action.

Commissioner Sloan stated that they did not come in and ask for any advice on how to do this properly.

Mr. Yonke stated that the code enforcement officer probably instructed them that they were operating an illegal kennel and that if they did not seek or get a conditional use permit the County would have no other option but to prosecute.

Ms. McGrath stated that she called and asked for any paperwork that she might need and that she wanted to have a kennel on her land and would appreciate any paperwork any paper work being sent to her for the process that she needed to go through to get it done. Ms. McGrath stated that she was sent the conditional use permit application.

Mr. Yonke stated that is the application that is required.

Mr. McGrath stated that he spoke with Mr. Yonke and he referred the applicants to Gerry Worley.

Mr. Yonke stated yes, Gerry Worley with the Health Department to see if his department could handle it.

Mr. McGrath stated that he contacted Mr. Worley and he told him to talk to someone in Macon with the DNR. It is not like the applicants are not trying to do what they are supposed to do.

Ms. McGrath stated that she called and said she wanted to have kennels and staff informed her she needed a conditional use permit, why didn't they send the other information along with the application.

Mr. Yonke stated that it is incumbent upon the applicant to do his own research in terms of a business. Staff sent the applicants an application for the permit that is required. The information in the County zoning regulations and the other information is available online, it is available from the County office but it is incumbent on the applicant to go through the information and proceed to submit a proper application. Staff does not prep the applications for people.

Ms. McGrath stated that she understands that. The applicants called and asked what all she needed; the applicants were told they needed a conditional use permit. Staff did not tell anyone that they would also need to comply with the USDA regulations for a kennel.

Mr. Yonke stated no; if you read through the application and the information in the ordinance it states explicitly that the applicants are required to comply with the USDA requirements.

Commissioner Freiling stated that from the Commission's standpoint, the applicant's compliance with USDA standards, State standards are a matter for a different agency and not the County's. The only significance of those requirements would be if the applicants were given a conditional use permit. The applicants got the cart before the horse. The Commissions issue is to decide if they are permitted to grant a conditional use permit under our own guidelines. As Commissioners we have latitude in decision making on certain issues. On other issues we do not. Conditional use permits are an issue in which the Commission is required to decide simply on facts and are not permitted to decide what weight they give to those facts. In this case when you have eight standards that have to be considered for conditional use permits and they are really not supposed to approve them if there are any conditions not met. In this case half of them are not met. The difficulty is offsite impact of a use that is not automatically permitted under current zoning; the applicants can not contain the impact of a breeding operation on five acres, it can't be done. Commissioner Freiling stated that he doesn't think the Commission has the possibility of approving a conditional use permit when the offsite impact is injurious to neighboring properties with diminishing property values and will have an influence on future development in the area and there is no public necessity. Commissioner Freiling stated that if the Commission believes there is enough gray area where they think they can approve this permit how many applications for breeding operations are the Commission going to approve on five acres? Commissioner Freiling stated that he believes the Commissions hands are tied. In this matter the Commission has very precise instructions in the zoning ordinance about what the Commission can and can't do with conditional use permits.

Commissioner Caruthers stated that he is looking at the conditions that staff recommended and something the applicants might think about would be to withdraw their application at this time and get everything ready and resubmit because if it is denied tonight it will be a year before it can come back.

Mr. McGrath stated that when we talk about the septic system there is a lot of money involved; if he got everything ready to go and resubmitted his application and got turned down the applicants could be out thousands of dollars. If the applicants had thousands of dollars they wouldn't need the supplemental income from the kennel. Mr. McGrath asked if there was somewhere in the Boone County ordinances there is no where on his five acres that he would be allowed to put the kennel.

Commissioner Caruthers stated that is not the case.

Commissioner Freiling stated that is his understanding.

Mr. McGrath asked if that was written somewhere.

Commissioner Heitkamp stated that it is in the conditional use statement.

Commissioner Freiling stated that there are eight conditions and under the Boone County guidelines any conditional use has to conform within those eight conditions.

Mr. Yonke stated that a withdraw wouldn't work at this point in time because this is a pending zoning violation action so the County Commission needs a decision one way or the other.

Commissioner Sloan asked staff if this request is denied and there are a number of dogs on the property, what is the regulation regarding the number of dogs you can have on a piece of property.

Mr. Yonke stated that if you have two breedable females you are a kennel according to the zoning definition.

Commissioner Heitkamp stated that a friend of hers has two breeding females and makes \$20,000 a year on her two breeding females; 48 dogs is quite a lot. Commissioner Heitkamp advised the applicants to look in to regulations of a home daycare. County regulations for home daycare are available online. The cap on a home daycare is six children not eight. The applicants might want to come back and ask for a conditional use to run a daycare.

Commissioner Mink made and Commissioner Duker seconded a motion to deny the request by Teresa Fudge McGrath for a permit for a kennel on 5.0 acres, located at 4431 N. Liddell Ln., Columbia for failure to meet criteria A, B, C, E, and G:

Mary Sloan – Yes	Mike Morgan - Yes
Mike Caruthers – Yes	Russell Duker – Yes
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Yes	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve request carries unanimously.

Vice-Chairperson Sloan informed the applicants that if they wished to file an appeal to the County Commission it would need to be done in three working days.

\*Commissioner Heitkamp left the proceedings\*

## **REZONING REQUESTS**

1. Request by Godas Development to rezone from C-GP (Planned Commercial / restricted) to C-GP to allow for uses previously restricted and approve a revised Review Plan for Lakeview Mall Phase II on 1.4 acres, more or less, located at 5695 E. Clark Ln., Columbia.

Planner, Thad Yonke gave the staff report stating that this property is located just east of the principle Columbia City Limits at the intersection of Clark Lane, St. Charles Rd and Lakewood Dr. The site is zoned R-M (moderate density residential) with a pending C-GP (planned commercial) designation. This is the third review plan proposal for this property and is limited to the 1.14-acre portion of the development. The approved review plan in effect for this property is for a single building limited to the permitted uses of the neighborhood commercial districts excluding conditional uses. The current proposal is the same as the current approved review plan with the addition of a 9 ft by 12 ft drive up coffee shack. The C-GP designation will not go into effect until a Final Development Plan is approved for this portion of the property. Property to the immediate west is zoned C-GP. Property further to the west is zoned R-M as is property to the north. Property to the south is zoned C-G, (general commercial). Property to the east is zoned C-N, (neighborhood commercial). The site is currently vacant.

In 1973, this site was originally zoned C-N. In July 1974, a 0.152-acre parcel was rezoned to R-M. In December 1976 an additional 4.29-acre parcel was rezoned to R-M. Both requests indicated the zoning change was to utilize the land in conjunction with the developing Lakewood Estates Condominium Development. In April 1995, a rezoning request and Review Plan were submitted for a Planned Commercial Development. In approving the request, a number of development and use restrictions were placed on the review plan by the Planning and Zoning Commission and the County Commission. (See file for Certified Copy of Order).

The proposed Revised Review Plan shows the same uses and structures as the current approved plan with the exception of the addition of a 9'x12' coffee shack drive up establishment. It should be noted at this time that if approved here a separate conditional use permit must also be obtained since a "drive-in or walk-in, carry-out establishment, including restaurant" is listed as a conditional use in the C-G parent district. It should be noted at this time that the shown and approved drive thru canopy on the primary structure is only allowable if the intended use is allowable under the use restrictions in effect for the property, for example for a bank. It cannot be proposed as a canopy for gas pumps or as a drive thru for a restaurant, however, as these uses are prohibited. The wording of the permitted uses found on the proposed plan lists "restaurants and cafeterias including drive-in or walk-in carry-out establishments" which could be interpreted to apply to the already approved main structure on the plan. Staff has discussed this with the engineer on the project and the intent is supposed to be that the use described should only apply to the 9' by 12' coffee shack. This limitation will mitigate traffic impacts that could be caused if the use was allowed to apply to the larger structure. The plan indicates a single 30' driveway

connection to Lakewood Drive and a traffic connection into Lakeview Mall Phase 1. The plan shows 36 parking spaces that should be adequate; however, final parking requirements cannot be determined until a specific use is proposed. Sewer service will be from a connection into an existing BCRSD facility with ultimate treatment by the City of Columbia. Fire hydrants and commercial fire flows are required for this development. This development is in the Columbia School District and Boone Electric service areas. There have been erosion control and stormwater complaints and problems associated with this general development so the provided measures to deal with these situations shown on the plan will have to actually mitigate erosion and stormwater impacts from the site. If they are not functioning then they will have to be modified to actually mitigate the impacts or risk voiding the approval of the development for non-compliance. The sign for the entire complex may have to be moved as it does not appear to meet the setback of the approved plan. The master plan shows this area as being suitable for residential development but also indicates that where commercial development is proposed it should be of a planned nature. The plat has 88 points on the point rating scale. Staff notified 177 property owners were notified concerning this request.

Staff recommends approval of the revised review plan subject to the following 10 conditions:

1. That it be recognized that no building permits can be issued until an acceptable Final Development Plan and any plans required to be approved in conjunction with said Final Plan are approved.
2. Fire hydrants must be in place and operational prior to the issuance of building permits.
3. Uses on the site are limited to the permitted uses included in the neighborhood commercial (C-N) classification; excluding all conditional uses and the following permitted uses: veterinary offices, mortuaries, agricultural activities and private clubs with the inclusion of drive-in or walk-in, carry-out establishment, including restaurant only applying to the 9'x12' coffee shack.
4. Final Development Plan shall include an acceptable lighting plan showing type of fixture, location of fixture, direction of fixture; lighting shall be directed inward on the property.
5. That the note labeled permitted uses 2) be modified to show the limit on the drive-in or walk-in, carry-out establishment, including restaurant only applying to the 9'x12' coffee shack.
6. That it is recognized that a conditional use permit must also be applied for and approved for the drive-in or walk-in, carry-out establishment, including restaurant only applying to the 9'x12' coffee shack.
7. Appropriate Elevation views of the building be submitted with the Final Development Plan, including exterior building materials.
8. That an acceptable detailed layout plan of the area under the drive thru canopy be shown on the Final Development Plan along with the traffic flow and proposed lanes.
9. That the freestanding sign for the development be brought into compliance with the perimeter setback requirements.
10. That the erosion and stormwater plan component actually mitigate the impacts or they will have to be modified to measures that will actually be effective or risk voiding approval for the plan.

Present: Dan Brush, 506 Nichols St., Columbia.  
George Godas, 200 Business Loop 70 E, Columbia.

Mr. Brush presented a copy of the plan.

Mr. Brush stated that the staff report covers everything. The only change that the applicants have from the plan that was approved in 2001 is the addition of the 9 x 12 coffee shop and an increase in green space the applicants were able to go ahead and reduce part of the impervious area.

Commissioner Mink asked the applicant to point out the location of the coffee shop.

Mr. Brush pointed out the location.

Commissioner Neese stated that lot has cross easements on it.

Open to public hearing.

Present speaking in favor of the request:

Glenna Kilfoil, 310 Tiger Ln., Columbia.

Ms. Kilfoil stated that she represents the homeowners association, she is their manager. Ms. Kilfoil stated that she met with the board of directors, the president is here tonight. The association has met with Mr. Godas and his crew and talked this over and the association believes this will not impact in a negative way, the association or their lives there. The association talked with Mr. Godas about the hours of operation and buffering and have agreed that this will minimally affect them.

Present speaking in opposition to the request:

Robert Steinbach, President, Lake Wood Villa Homes Association, 5591 Pinehurst Ln., Columbia. Mr. Steinbach stated that Lake Wood Villa is at the opposite corner of the lake than the property in question. The association opposes the change for a couple of reasons. One of which that this stipulation was put in to effect previously about the drive-up window possibilities and it was felt that was too much of a negative impact on traffic problems. Where it would be located it would be very convenient for people to park right along the side of the road. It was mentioned that the parking lot hasn't been determined how much parking will be available. The association feels that is an issue. Another issue is the lighting that has been mentioned. There has already been an impact as far as the view from property owners across the lake. We get more light now than we had previously. Any light for this coffee shack and cars driving up to it would affect light shining in to people's homes. There are traffic issues, there are numerous kids playing around the neighborhood, a lot of pedestrian traffic. None of this has been discussed with our association at all. The association does understand that the other association is between the proposed development and Lake Wood Villa but Lake Wood Villa still falls within the guidelines of the area for this change. Mr. Steinbach stated that he represents 24 homeowners.

Commissioner Neese asked Mr. Steinbach to point out the location of Lake Wood Villa and where they would be affected.

Mr. Steinbach pointed out the location of Lake Wood Villa.

Sarah Bader, 5582 Pinehurst Ln., Columbia

Ms. Bader stated that she is with Lake Wood Villa and would like to second what Mr. Steinbach had stated and agree with him. Ms. Bader stated that she is also concerned about additional traffic in the community. There are a lot of children in the area and there are cut throughs that people go through, Pinehurst is one of them. If there is more traffic, a drive through could create more people cutting through the area. Another issue is if this coffee shack is put up and the business doesn't go well, what happens to the building, will it be left vacant?

Closed to public hearing.

Mr. Yonke stated that staff received 3 letters, one from each homeowners association, 1 in support, and 2 in opposition. Those letters are being circulated among the Commissioners.

Mr. Brush stated that the applicants already have adequate parking and infrastructure for the development. When this was originally improved that was a concern that was raised on the original approval. That is why at that time it was limited to one access off Lakeview that enters in to the neighborhood that is why also the applicants were required to improve that street to current standards for a commercial area. In addition there are two other access points for this development that accesses on to Clark Lane. The ability to park along the side of the road and then walk in doesn't really pertain to this kind of development because anyone that is coming is going to pull in and use the parking facilities available on the site. The drive up window aspect of the development indicates people will be coming in for that direct use and then leaving the area. There is really no reason why there would be any cut through traffic in to the residential area unless they live there. The hours of operation is not something that will run until late at night. There is no real need or draw for a drive up coffee, espresso type establishment. Mr. Godas indicates the hours of operation will be something like 7 a.m. to 7 p.m.

Commissioner Sloan asked what if the coffee shop doesn't work out, then what will the applicants do.

Mr. Godas stated that he would use it for parking.

Mr. Brush stated that the structure comes in on its own wheels, it is a pre-fab building. The axels are taken off and set it on a permanent type foundation, and then they make the necessary water and power hookups. At the point in time where it is no longer a viable item the building is removed and then what you have is a concrete area that can be used for additional parking.

Commissioner Sloan asked if the Commission approve the request and the review plan and the coffee business doesn't work five years down the road and the applicants want to turn it in to a hamburger joint because the building is there can the applicants do that.

Mr. Yonke stated yes; because it would be allowed to be a walk-in drive out carry out establishment. Whether it serves coffee or hamburgers is really irrelevant to staff. The use and traffic would be about the same. Staff's limitation is that it is only 9 by 12 foot and the applicants can't expand beyond that and that is going to be relatively self limiting if you want to put in kitchen facilities to actually serve that. It would be difficult to meet that and the health requirements for a significant operation.

Commissioner Freiling asked if there was a height limitation.

Mr. Yonke stated that there is no height limitation other than the height limitation of the district which is 35 foot tall.

Commissioner Sloan stated that one of the concerns brought up by the neighbors is that it not turn in to a fast food place.

Mr. Yonke stated that many of the conditions are not really related necessarily to the fact that this is changing but reemphasizing conditions that are already the existing review plan just so we don't drop any of them out. The main concern before was that the primary structure, which is of a reasonable size to be a fast food restaurant, not to be turn in to one that is catering towards drawing traffic from the interstate or from the surrounding roadway system. If it is a restaurant that it be a neighborhood oriented restaurant, a sit down place that most incidental carry out of taking a doggie bag home or you call in and go pick it up like any standard restaurant that doesn't provide a drive through lane. Staff felt that the 9 by 12 foot limitation on the building size was pretty well a self enforcing limit otherwise staff would have limited probably to only the coffee shack.

Commissioner Mink stated that Mr. Steinbach had stated something about the visual from the northwest and that there was a direct line of sight of these buildings. It looks like there is a green space on the plan but no buffer. Commissioner Mink asked if that was a requirement.

Mr. Brush stated that it is a requirement on the final development plan on the tract to the west.

Mr. Yonke stated that the applicants are not finished with construction on phase 1 which would be that building and the planning would go in.

Commissioner Mink stated that they pointed out the lake that shows on the drawing in the green space. Commissioner Mink asked if it was wooded or just grass.

Mr. Brush stated that at this time it is shown as a green space, it is not wooded. Mr. Brush stated that it is his understanding that upon completion of construction a landscape screen be planted along there also.

Commissioner Caruthers made a motion to deny the zoning request for Godas Development to rezone from C-GP (Planned Commercial / restricted) to C-GP due to the fact that it would take 10 more conditions to do this.

No one seconded the motion. Motion dies.

Commissioner Mink made and Commissioner Brown seconded a motion to approve the request by Godas Development to rezone from C-GP (Planned Commercial / restricted) to C-GP to allow for uses previously restricted for Lakeview Mall Phase II on 1.4 acres, more or less, located at 5695 E. Clark Ln., Columbia with the following conditions:

1. That it be recognized that no building permits can be issued until an acceptable Final Development Plan and any plans required to be approved in conjunction with said Final Plan are approved.
2. Fire hydrants must be in place and operational prior to the issuance of building permits.
3. Uses on the site are limited to the permitted uses included in the neighborhood commercial (C-N) classification; excluding all conditional uses and the following permitted uses: veterinary offices,

mortuaries, agricultural activities and private clubs with the inclusion of drive-in or walk-in, carry-out establishment, including restaurant only applying to the 9'x12' coffee shack.

4. Final Development Plan shall include an acceptable lighting plan showing type of fixture, location of fixture, direction of fixture; lighting shall be directed inward on the property.
5. That the note labeled permitted uses 2) be modified to show the limit on the drive-in or walk-in, carry-out establishment, including restaurant only applying to the 9'x12' coffee shack.
6. That it is recognized that a conditional use permit must also be applied for and approved for the drive-in or walk-in, carry-out establishment, including restaurant only applying to the 9'x12' coffee shack.
7. Appropriate Elevation views of the building be submitted with the Final Development Plan, including exterior building materials.
8. That an acceptable detailed layout plan of the area under the drive thru canopy be shown on the Final Development Plan along with the traffic flow and proposed lanes.
9. That the freestanding sign for the development be brought into compliance with the perimeter setback requirements.
10. That the erosion and stormwater plan component actually mitigate the impacts or they will have to be modified to measures that will actually be effective or risk voiding approval for the plan.

Mary Sloan – NO	Mike Morgan - Yes
Mike Caruthers – NO	Russell Duker – Yes
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Absent	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve request carries.      7 YES      2 NO

Commissioner Freiling made and Commissioner Mink seconded a motion to approve the request by Godas Development approve a revised Review Plan for Lakeview Mall Phase II on 1.4 acres, more or less, located at 5695 E. Clark Ln., Columbia with the same conditions as the related rezoning request:

Mary Sloan – Yes	Mike Morgan - Yes
Mike Caruthers – NO	Russell Duker – Yes
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Absent	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve request carries.      8 YES      1 NO      1 ABSENT

Vice-Chairperson Sloan informed the applicants that these requests would go before the County Commission on August 31, 2004.

## **PLANNED DEVELOPMENTS**

1. Request by Construction Investment Company on behalf of Fabick Companies to revise an approved Review Plan for M-LP zoning on 22.3 acres, located at 7841 E. ABC Ln., Columbia.

Planner, Thad Yonke gave the staff report stating that this property is located approximately 2 miles east of the Columbia municipal limits on ABC Lane. The subject tract is zoned M-LP (Planned Light Industrial) as two different previous Final Development Plans have been approved. The property was rezoned from A-2 (agriculture) effective in May of 2001 and a revised plan was approved in 2003. Land to the east, north, and, west of the subject tract is zoned A-2. These are all original 1973 zonings. Property to the south across I-70 is zoned R-S (residential single-family) with a small pocket of C-G (general commercial) zoning. The R-S is an original 1973 zoning with the small C-G property having been rezoned from the original R-S zoning in 1987. In July 2000 a request was made to rezone 4.89 acres to C-GP and 17.49 acres to M-LP. That request was denied. In September of 2000 the applicant requested that the property be rezoned to M-LP along with a review plan. The total property encompasses 22.38 acres. The current approved final plan is for a heavy equipment sales, rental and service business which is the same use proposed by this revision. This revision simply proposes a different building size and location as well as a reconfiguration of the site plan. The current approved plan did not modify tract B2, however, the current proposal will require the tracts to be combined into a single tract. Since no other uses are listed, approval will limit the use to that proposed and even the previous uses such as an auto auction are prohibited. There is a required perimeter setback along the property line of 25 feet that can not be waived. All structures including signs must be behind this setback. This property is located within the Boone Electric service area, the Columbia School District, and the Boone County Fire Protection District. Water service is provided by Public Water District No.9. The Master Plan designates this area as being suitable for residential land uses, but since the property has been rezoned to M-LP the only issue remaining is the specific uses and specific design of the current proposal. Access to the site is from ABC Lane which is a state road. MoDot has concerns on the proposed new drive locations. This plan has 74 points on the point rating scale. Staff notified 47 property owners about this request.

Staff recommends that the request be approved with the following 2 conditions:

1. The easements that are being created by other documents shall be recorded prior to or concurrently with the plan.
2. That the access connections to ABC Lane be worked out to the satisfaction of MoDot and County Planning and that the access circulation be modified on the plan to accurately represent what will be both acceptable and built.

Present: Dave Bennett, Engineering Surveys and Services, 1113 Fay Street, Columbia.

Mr. Bennett stated regarding the two conditions, with regard to the easements these are sanitary sewer easements for Boone County Regional Sewer District. Mr. Bennett stated that he has had discussions with Tom Ratermann and they are in agreement in the location of the easements. The applicants would

like to file it concurrently with the final plan as they prefer not to encumber the property unless the plan is approved. In regard to the driveways the applicants have been working since the submission of the plan with MoDOT. The original plan that was approved prior had two driveways and it wasn't an issue at that point but it has become an issue with the I-70 study that is going on and they have raised some issues with site distances. The applicants have agreed with MoDOT to go to one driveway and the developer has concurred with that. The applicants are in the process of modifying that plan to incorporate that. The general layout of the site will basically be the same the difference is that the applicants are going from two driveways to one driveway which will be located in the center of the site.

Open to public hearing.

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

Closed to public hearing.

Commissioner Neese stated that if the applicants go to one entrance then the applicants will only need one sign.

Mr. Bennett stated that is correct.

Commissioner Neese asked if the future rental store will be a 10 year plan.

Mr. Bennett stated that the applicants don't have it in their immediate plans. The applicants were going to leave it off but Mr. Bennett had suggested to them that it be put on the plan if there were any plans for it at all just so it would be on the plan then the applicants wouldn't have to come back through the Commission, they could just go through the staff to get it incorporated.

Commissioner Neese made and Commissioner Caruthers seconded a motion to approve the request by Construction Investment Company on behalf of Fabick Companies to revise an approved Review Plan for M-LP zoning on 22.3 acres, located at 7841 E. ABC Ln., Columbia with the following conditions:

1. The easements that are being created by other documents shall be recorded prior to or concurrently with the plan.
2. That the access connections to ABC Lane be worked out to the satisfaction of MoDot and County Planning and that the access circulation be modified on the plan to accurately represent what will be both acceptable and built.

Mary Sloan – Yes	Mike Morgan - Yes
Mike Caruthers – Yes	Russell Duker – Yes
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Absent	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve request carries.      9 YES      1 ABSENT

\* \* \* \* \*

2. Request by Rajiv Shah/Brentwoods Inc. to approve a Final Development Plan for Leatherwood Hills Planned Development on 1.65 acres, located at 1641 W Rte K, Columbia.

Planner Bill Florea gave the staff report stating that the property is located at 1641 W. Route K. The original zoning for this tract is R-S. It was rezoned to C-N and a conditional use permit for fuel sales was issued in 1975. The property is currently occupied by a convenience store with fuel pumps and a canopy. In May, 2004 the County Commission approved a request to rezone the property to ML-P with a Review Plan.

The review plan was approved with one condition as follows:

The developer shall submit a buffering plan for the north and east property lines. The buffer shall provide a solid, all season buffer so as to minimize visual intrusion to and from surrounding residentially zoned property. The final plan cannot be submitted until an adequate buffering plan has been approved by the Planning Department. The south 60-feet of the east property line can be excluded from the buffering requirement.

The Final Development Plan includes landscaping details that constitute a landscape plan that will provide a sufficient buffer. The buffer shall be installed prior to occupancy of buildings D, E or F.

An additional fire hydrant is required to be installed to meet fire protection requirements for at least buildings E and F. The applicant has proposed to install the new water line and hydrant, as shown on the plan, after construction of Building C but before buildings E and F. Staff is willing to agree to the proposed installation schedule subject to approval by the Boone County Fire Protection District.

The property scored 81 points on the rating system.

Staff recommends approval of the Final Development Plan.

Present: Rajiv Shah, 113 Coventry Ct., Columbia.

Mr. Shah stated that he had a meeting with Mr. Ken Hines, Boone County Fire Department, and Mr. Florea and based on that meeting the fire hydrants came about. The last two buildings needed the fire hydrants.

Open to public hearing.

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

Closed to public hearing.

Commissioner Caruthers made and Commissioner Morgan seconded a motion to approve the request by Rajiv Shah/Brentwoods Inc. to approve a Final Development Plan for Leatherwood Hills Planned Development on 1.65 acres, located at 1641 W Rte K, Columbia.

Mary Sloan – Yes  
Mike Caruthers – Yes  
Keith Neese - Yes

Mike Morgan - Yes  
Russell Duker – Yes  
Carl Freiling – Yes

Kristen Heitkamp – Absent	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve request carries.      9 YES      1 ABSENT

Vice-Chairperson Sloan informed the applicant that this request would go before the County Commission on August 31, 2004.

## **PLAT REVIEWS**

1. Kinkade Crossing Preliminary Plat. S12-T49N-R13W. A-R. Garth Coleman Builders, Inc., owner. Neal R. Slattery, surveyor.

Planner, Thad Yonke gave the staff report stating that this 40 lot preliminary plat is located between State Highway VV and US Highway 63 approximately 900 feet south of the intersection of Hinton Road and State Highway VV. The site is approximately 2 miles north of the municipal limits of the City of Columbia. The area being subdivided contains 29.46-acres. The property is zoned A-R (agriculture-residential) as is property to the south and southwest. Property to the west has some C-N (neighborhood commercial) along with A-R. Property to the north is zoned R-S (residential single family). Property to the northeast is zoned R-M (moderate density residential). Property to the east across Highway 63 is zoned A-2 (agriculture). All these zonings are the original 1973 zonings. The property is currently the site of a small structure that is indicated as to be removed. The road network proposed contains a roadway approximately 2400 feet long which is 1400 feet longer than normally allowed under the subdivision regulations. The road length has an approved variance from the County Commission for the length under the public works regulations but still requires P&Z approval as well. The plat becomes discretionary due to the length of road. Sewage treatment will be provided by a central BCRSD facility created for this development by the developer. The site is in Consolidated Public Water District #1. Fire hydrants and watermain extensions are required. The site is in the Columbia School District. The access to this property is from a MoDot controlled road so the new county road connection will have to be worked out with MoDot. The site is in the Boone County Fire Protection District and Boone Electric Service areas. This plat has 73 points on the point rating scale.

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

Present: Jay Gebhardt, A Civil Group, 1010 Fay St., Columbia.  
Garth Coleman, 1905 Thoreau Ct., Columbia

Mr. Gebhardt stated that the property is a long strip; it is about a  $\frac{1}{2}$  mile wide and about 400 feet long. To do a development on this the applicants didn't see anyway to do it without the road system that is before the Commission. The applicants have tried to be sensitive to this being the first true development of this type in this area knowing that the road system established would be there for a long time. The applicants have made 4 stubs to adjacent properties and that is 4 ways to eliminate this excess length and there is no true terminal or cul-de-sacs on this, everything stubs to the property. The property owned to the west is owned by Blue Acres and the property to the east is owned by the Nichols family so there are two large properties there that will probably someday be developed and will allow an extension of this road.

Commissioner Caruthers asked staff if the applicants were granted a variance.

Mr. Yonke stated that the way the regulations work if you want to propose a road longer than a non-through roadway at the time it is going to be developed it counts as a cul-de-sac, if it is over 1000-feet long you have to get two variances. You have to get a variance from the road and bridge regulations through the County Commission to have the excess length and you have to have it approved on the plat by Planning and Zoning. If you fail either one of those you are stuck. The fact that the applicants got the variance first from the County Commission means if the Planning and Zoning Commission denies the plat it can be appealed to the County Commission. Assuming that the County Commission granted the variance for the length in the first place staff assumes that the Commission would approve the plat if appealed.

Commissioner Neese asked about school bus turn arounds.

Mr. Yonke stated that there are temporary turn arounds at the end of each one.

Commissioner Neese stated that would cover fire trucks and garbage trucks as well.

Mr. Yonke stated yes.

Commissioner Freiling made and Commissioner Morgan seconded a motion to approve Garth Coleman Subdivision. S12-T49N-R13W. A-R. Garth Coleman Builders, Inc., owner. Neal R. Slattery, surveyor with waiver requests:

Mary Sloan – Yes	Mike Morgan - Yes
Mike Caruthers – Yes	Russell Duker – Yes
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Absent	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve plat with staff recommendations carries.    9 YES                  1 ABSENT

\* \* \* \* \*

2. Shadowridge, Replat. S8T46N-R12W. A-2. Kevin Nahler, owner. Steven R. Proctor, surveyor.

The following staff report was entered in to the record:

The property is located on the north side of Route M just east of the intersection with Route MM. Shadowridge was platted in July 2004. The original plat created an access strip to the remainder parcel. The location of the access strips intersection with Route M did not meet Missouri Department of Transportation sight distance standards. The purpose of this replat is to shift the location of that intersection to a compliant location.

All lots will have frontage on and direct access to Route M. Additional right of way, sufficient to provide a 33-feet half width is being dedicated by this plat. The requirement to provide a traffic analysis was waived at the time of the approval of Plat 1.

Consolidated Public Water District Number 1 provides water service to the property through an 8-inch waterline located on the north side of Route M. A fire hydrant was installed prior to recording Plat 1, so fire flow is available at the property.

On site wastewater systems will be used for sewage disposal. A plan showing a suitable location for an on-site wastewater system on has been submitted for each lot. Utility easements are being provided to enable connection to a central collection system if and when such a system is available. The requirement to provide a wastewater cost-benefit analysis was waived with the approval of Plat 1.

The property scored 66 points on the rating system.

Staff recommends approval of the plat.

Commissioner Neese made and Commissioner Caruthers seconded a motion to approve  
Shadowridge, Replat. S8T46N-R12W. A-2. Kevin Nahler, owner. Steven R. Proctor,  
surveyor:

Mary Sloan – Yes	Mike Morgan - Yes
Mike Caruthers – Yes	Russell Duker – Yes
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Absent	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve the plat with staff recommendations carries. 9 YES                  1 ABSENT

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3. Savannah Prairie. S2T50N-R12W. A-2. Phil Blom, owner. Brian David Dollar, surveyor.

The following staff report was entered in to the record:

The property is located on the east side of State Route U, approximately 1.5 miles north of Hallsville.

All three lots will have frontage on and access to Route U. There is a 35-feet wide half-width right of way adjacent to the plat. Therefore, no additional right of way is dedicated by this plat. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

Water District 4 provides water in this area.

On-site systems will be used for wastewater disposal. A plan showing a suitable location for a wastewater system on each lot 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 48 points on the rating system.

Staff recommends approval of the plat and waiver requests.

Commissioner Neese made and Commissioner Caruthers seconded a motion to approve  
Savannah Prairie. S2T50N-R12W. A-2. Phil Blom, owner. Brian David Dollar, surveyor with  
waiver requests:

Mary Sloan – Yes	Mike Morgan - Yes
Mike Caruthers – Yes	Russell Duker – Yes
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Absent	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve the plat with staff recommendations carries. 9 YES                1 ABSENT

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4. Bramley. S11T45N-R12W. A-2. Charles and Jean Ferguson / Diana and Larry Hall, owners.  
Keith M. Brickey, surveyor.

The following staff report was entered in to the record:

The property is located at the southeast corner of the intersection of Westbrook Drive and Dusenberry Drive. The purpose of the plat is to alter the lot line between two pre-existing tracts.

Both lots have frontage on and access to Westbrook Drive. No additional 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 to the property.

On-site systems will be used for wastewater disposal. There is an existing septic system on Lot 2. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

The property scored 36 points on the rating system.

Staff recommends approval of the plat and waiver requests.

Commissioner Neese made and Commissioner Caruthers seconded a motion to approve  
Bramley. S11T45N-R12W. A-2. Charles and Jean Ferguson / Diana and Larry Hall, owners.  
Keith M. Brickey, surveyor with waiver request:

Mary Sloan – Yes	Mike Morgan - Yes
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Mike Caruthers – Yes	Russell Duker – Yes
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Absent	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve the plat with staff recommendations carries. 9 YES      1 ABSENT

\* \* \* \* \*

5. Hinkson Heights. S29-T48N-R13W. Jeff and Stephanie Hemme, owners. Jay Gebhardt, surveyor.

The following staff report was entered in to the record:

This replat is a combination of ½ of lot 34 and all of lot 33 of Bellview Acres Block 2. The site is located between Bellview Drive on the north-northeast side and the Katy Trail on the south. The site is also approximately 1000 feet west of the intersection of Scott Blvd and Bellview Drive. The site is approximately 1000 feet west of the municipal limits of the City of Columbia. The area being subdivided contains 0.80-acres. The property is zoned R-M (moderate density residential) as is all the surrounding property except the property to the south which is zoned A-R (agriculture-residential). All these zonings are all the original 1973 zonings. The property is currently vacant. Sewage treatment will be provided by a central sewer system connection to the City of Columbia. The site is in Consolidated Public Water District #1 service area. As this is essentially a phase of a major plat fire hydrants are required. The site is in the Columbia School District. A waiver from traffic analysis 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 68 points on the point rating scale.

Staff recommends approval along with the granting of the waiver requests with recognition that both a pre-annexation agreement and fire hydrant/fire issues will have to be worked out prior to building permit issuance.

Commissioner Neese made and Commissioner Caruthers seconded a motion to approve Hinkson Heights. S29-T48N-R13W. Jeff and Stephanie Hemme, owners. Jay Gebhardt, surveyor with staff recommendations:

Mary Sloan – Yes	Mike Morgan - Yes
Mike Caruthers – Yes	Russell Duker – Yes
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Absent	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve the plat with staff recommendations carries. 9 YES      1 ABSENT

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6. Arrowhead Lake Estates Plat 2. S4-T47N-R13W. Arrowhead Lake Estates Homeowners Assoc., Michael Menser, Ronald and Mary Ebert and Richard and Dana Alexander, owners. Bill R. Crockett, surveyor.

The following staff report was entered in to the record:

This 4-lot replat is located within the Arrowhead Lake Estates Development. The plat is divided into 2 sections that are not adjoining. Both sections are along Arrowhead Lake Drive. The purpose of this replat is to eliminate 3 un-built ROW (Right-of-Way) road stubs that were created by the original plat. Each adjoining lot is being re-described by this plat to include ½ of the former ROW into the lot area of each lot. The County Commission has approved a tentative vacation of these ROW stubs that will not go into effect until the replat is recorded. Many aspects of the new lot configuration being created do not fit nicely into the current regulations but the existing lots don't fit either. The areas in the plat that are the most problematic are however unbuildable. The department recognizes the tentatively approved vacation. The site is adjoins the municipal limits of the City of Columbia. The area being subdivided contains 10.79-acres in one section and 8.46-acres in the other. The property is zoned A-2 (agriculture) which was rezoned from A-1 (agriculture) in 1990. The remaining surrounding unincorporated property is zoned A-1 which is the original 1973 zoning. Sewage treatment is provided by a BCRSD facility. The site is in Consolidated Public Water District #1. The site is in the Columbia School District. The site is in the Boone County Fire Protection District and Boone Electric Service areas. This plat has 71 points on the point rating scale.

Commissioner Neese made and Commissioner Caruthers seconded a motion to approve  
Arrowhead Lake Estates Plat 2. S4-T47N-R13W. Arrowhead Lake Estates Homeowners  
Assoc., Michael Menser, Ronald and Mary Ebert and Richard and Dana Alexander, owners. Bill  
R. Crockett, surveyor:

Mary Sloan – Yes	Mike Morgan - Yes
Mike Caruthers – Yes	Russell Duker – Yes
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Absent	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve the plat with staff recommendations carries. 9 YES                1 ABSENT

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7. Hall's Place Plat 1. S18-T47N-R12W. A-2. Kenneth F. & Pamela J. Hall, owners. David T. Butcher, surveyor.

The following staff report was entered in to the record:

This one lot plat is located on the east side of Barry Road and immediately across from the intersection of Nancy Court and Barry Road. The site is approximately 2&1/2 miles south of the municipal limits of the City of Columbia. The area being subdivided contains 2.51-acres. The property is zoned A-2 (agriculture) as is all the surrounding property. All these zonings are all the original 1973 zonings. The property is currently the site of a single family dwelling. Sewage treatment is currently provided by an on-site wastewater system. Any on-site wastewater system must meet all County Health Department

requirements. The site is in Consolidated Public Water District #1. 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. A waiver from traffic analysis and a waiver of cost-benefit analysis for central sewage have 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 48 points on the point rating scale.

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

Commissioner Neese made and Commissioner Caruthers seconded a motion to approve Hinkson Heights. S29-T48N-R13W. Jeff and Stephanie Hemme, owners. Jay Gebhardt, surveyor with waiver requests:

Mary Sloan – Yes	Mike Morgan - Yes
Mike Caruthers – Yes	Russell Duker – Yes
Keith Neese - Yes	Carl Freiling – Yes
Kristen Heitkamp – Absent	Larry Oetting - Yes
David Mink – Yes	Rob Brown – Yes

Motion to approve the plat with staff recommendations carries. 9 YES              1 ABSENT

## **OLD BUSINESS**

Mr. Shawver updated the Commission of the decisions made by the County Commission.

The Blom request was recommended denial by the Planning and Zoning Commission and that was not appealed to the County Commission.

All plats were approved by the County Commission as recommended.

## **NEW BUSINESS**

Mr. Shawver stated that next month is the work session with the County Commission on the second Thursday of September at 4:30 p.m.

## **ADJOURN**

Being no further business, the meeting was adjourned at 10:05 p.m.

Respectfully submitted,

Kristen Heitkamp,  
Secretary

Minutes approved on this 16th day of September, 2004.