

BOONE COUNTY PLANNING & ZONING COMMISSION

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, September 16, 2004

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

Present:	Pat Smith, Chairperson	Perche Township
	Mary Sloan, Vice-Chairperson	Rocky Fork Township
	Kristen Heitkamp, Secretary	Katy Township
	Michael Caruthers	Centralia Township
	Mike Morgan	Bourbon Township
	Carl Freiling	Cedar Township
	Russell Duker	Missouri Township

Absent:	Keith Neese	Columbia Township
	Larry Oetting	Three Creeks Township
	Rob Brown	Rock Bridge Township
	David Mink	Public Works

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

The minutes of the August 19, 2004 meeting were approved with no corrections. Approved by acclamation.

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

The Planning and Zoning Commission makes recommendations to the County Commission on matters dealing with land use. Tonight's agenda includes one conditional use permits, one rezoning request and three plat reviews.

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 may not be lengthy and while we wish to extend an opportunity to everyone that wishes to speak, we ask that you not be repetitious with your remarks. We also recognize that many issues can be quite emotional. In that regard we ask that you refrain from applause, cheers or other signs of support or displeasure. Please afford those with a different point of view 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, September 28, 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, September 28, 2004 will begin at 7:00 p.m. and will convene in this same room.

CONDITIONAL USE PERMITS

1. Request by Lakeview Mall LLC for a permit for a drive-in or walk-in / carryout establishment on 1.14 acres, 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. A review plan for this 1.14-acre portion of the development was approved last month. The 9 ft by 12 ft drive up coffee shack shown on the plan also requires a CUP. 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). Additionally conditions were placed upon the plan approved last month.

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. 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 concerning this request.

The proposed CUP is for a drive-in or walk-in, carry-out establishment, and is limited to the 9ft x 12ft structure shown on the approved revised review plan.

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 small size of the structure limits potential impacts. The area has significant commercial activities already 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 as no new point of access is allowed with this development.

(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 Commercial zoning districts.

Staff recommends approval of the CUP subject to 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. The CUP is limited to the coffee shack only.
4. The size of the coffee shack structure is limited to a structure of 500 square feet or less.
5. Only one coffee shack is allowed.

Present: Dan Brush, Brush and Associates, 506 Nichols St., Columbia.

Mr. Nichols stated that the applicants have no problem with staff's conditions.

Open to public hearing.

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

Mr. Yonke stated that staff received one letter regarding the revised review plan last month. The author of the letter phoned the Planning Department regarding the conditional use permit request to inform staff that they are still in opposition to the request. Mr. Yonke stated that the call came from one of the homeowners associations that spoke in opposition last month.

Closed to public hearing.

Commissioner Sloan stated that on the application it states drive-in or walk-in/carry-out establishment including restaurant or theater. Commissioner Sloan stated she didn't know why it was laid out that way.

Mr. Yonke stated that is why staff recommended the conditions.

Mr. Brush stated that the reason theater was put on the plan was just something that was taken out of the zoning regulations. Applicants have no intention of putting in a theater.

Commissioner Duker made and Commissioner Morgan seconded a motion to **approve** the request by Lakeview Mall LLC for a permit for a drive-in or walk-in / carryout establishment on 1.14 acres, 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. The CUP is limited to the coffee shack only.
4. The size of the coffee shack structure is limited to a structure of 500 square feet or less.
5. Only one coffee shack is allowed.

Pat Smith – Yes

Mike Caruthers – Yes

Carl Freiling – Yes

Kristen Heitkamp – Yes

Mike Morgan – Yes

Mary Sloan – Yes

Russ Duker – Yes

Motion to approve request carries unanimously.

Chairperson Smith informed the applicants that this request would go before the County Commission on September 28, 2004.

REZONING REQUESTS

1. Request by Kevin Pape and Wesley Bullard to rezone from A-2 (Agriculture) to M-L (Light Industrial) on 22.00 acres, more or less, located at 600 N. Rangeline Rd., Columbia.

Planner, Bill Florea gave the staff report stating that this property is located east of Columbia at the southeast corner of the I-70 / State Highway Z interchange. The property is currently zoned A-2. Property to the north is zoned C-G (General Commercial). Property to the east is zoned A-2. Land to the south and west is zoned M-L. This request is to rezone 22.004 acres to M-L (Light Industrial). This site is located within the Columbia Public School District. Electric service is provided by Boone Electric Cooperative. Ameren UE provides natural gas service to the area. Water service is provided by Public Water District No. 9.

The Master Plan designates this property as suitable for industrial and use but suggests the use of planned districts to establish new commercial and industrial areas. The Master Plan also identifies a “sufficiency

of resources” test for determining whether there are sufficient resources available for the needs of the proposal.

The resources typically used for this analysis can generally be broken down into three categories, Utilities, Transportation and Public Safety Services

Utilities: Public water is provided by Public Water District Number 9. The existing infrastructure is capable of providing domestic service and fire protection. Boone Electric can provide sufficient electric service to the site. There is a natural gas line owned by Ameren UE located adjacent to Rangeline Road. Boone County Regional Sewer District provides wastewater collection and treatment to a number of the facilities on Rangeline Road. However, capacity is currently limited and the developer may be required to provide for additional capacity at the time of development.

Transportation: The property has frontage on and access to Rangeline Road. The site is a very short distance to Interstate 70. The applicant has not indicated a specific proposed use, so it is difficult to access traffic impact from the site. However, this area is an industrial area and commercial area with a good basic road system in place.

Public Safety Services: There is no specific use proposed at this time, so it is difficult to project a need for public safety services. A manned fire station is located approximately 3 miles to the west near the Lake of the Woods interchange. The existing road network provides ready access to emergency service providers.

Conflicting Land Uses: The surrounding area has developed along a pattern of commercial and light industrial land uses. If approved, the proposed zoning should co-exist with the existing surrounding land uses. The requested zoning does not raise any issues of incompatibility.

Based upon the existing adjacent zoning and the suggestion of the master plan that this site is suitable for industrial land uses, staff recommends approval of this request.

Present: Kevin Pape, 800 W. Worley, Columbia.

Mr. Pape stated that his family has owned the property for three generations. The applicants are trying to do the best they can with the property and develop it the best they can and look to the future.

Chairperson Smith stated that the Commission tends to look for planned development; have the applicants considered coming in with a planned request.

Mr. Pape stated that he has no plan because they want to sell the property.

Chairperson Smith stated that the applicants can sell it as a planned development.

Mr. Pape stated that he has never looked in to that.

Open to public hearing.

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

Closed to public hearing.

Commissioner Duker asked if there was some way the applicants could have a tentative plan or to have a plan that is awaiting approval.

Commissioner Freiling stated that you can't have a planned development without a plan.

Mr. Yonke stated that it is no longer allowed. You could do a blank plan.

Commissioner Duker stated that you could have one with a pending plan.

Mr. Florea stated that the zoning doesn't change until the plan is approved. A planned district can't go forward without a plan because it doesn't get anywhere. The best the applicants could do would be to propose a plan with vacant land and propose it such and any purchaser would have to come in with a revised plan at some point in the future.

Commissioner Duker stated that it is an appropriate location for M-L.

Chairperson Smith stated that if the applicants came in with a plan the Commission could approve the rezoning but it wouldn't take place until whoever purchased it came in with a plan.

Mr. Florea stated no; in order to change the zoning the plan has to be approved. It doesn't necessarily have to show any buildings on the plan and there is a precedent for that; Settler's Ridge was approved for commercial ground that was blank because they hadn't chose yet what to do with the property but they wanted to plat it and needed the zoning change to plat it. Something similar could be done here.

Commissioner Duker stated that it seems like there is a significant amount of M-L out there already.

Chairperson Smith stated that it is probably an appropriate use but the Commission usually likes to see planned developments.

Commissioner Freiling informed the applicant that the dilemma is that the Commission have fundamentally ceased granted blank rezonings without a plan in place.

Commissioner Caruthers stated that he believes that in this particular instance the zoning request is appropriate. Commissioner Caruthers stated that he believes that rezoning to a planned district would hurt the applicant's prospects in this case.

Commissioner Duker asked the applicants if they would be willing to withdraw and return with a planned request.

Mr. Pape stated that he would need to discuss that with his brother.

Commissioner Freiling made and Commissioner Caruthers seconded a motion to **approve** the request by Kevin Pape and Wesley Bullard to rezone from A-2 (Agriculture) to M-L (Light Industrial) on 22.00 acres, more or less, located at 600 N. Rangeline Rd., Columbia:

Pat Smith – Yes

Mike Caruthers – Yes

Carl Freiling – Yes

Mike Morgan – NO

Mary Sloan – NO

Russ Duker – NO

Kristen Heitkamp – NO

Motion to approve request does not carry.

Commissioner Duker made and Commissioner Heitkamp seconded a motion to **deny** the request by Kevin Pape and Wesley Bullard to rezone from A-2 (Agriculture) to M-L (Light Industrial) on 22.00 acres, more or less, located at 600 N. Rangeline Rd., Columbia:

Pat Smith – Yes	Mike Morgan – Yes
Mike Caruthers – NO	Mary Sloan – Yes
Carl Freiling – Yes	Russ Duker – Yes
Kristen Heitkamp – Yes	

Motion to deny request carries.

Chairperson Smith informed the applicant that if they wished to appeal to the County Commission an appeal form would need to be filed in three working days.

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PLANNED DEVELOPMENTS

None.

PLAT REVIEWS

1. Vancourt Corner. S29-T50N-R11W. A-2. Homer L. Phillips, owner. C. Stephan Heying, surveyor.

The following staff report was entered in to the record:

The property is located at the northwest quadrant of the intersection of Vancourt Road and Route OO.

Lot 1 has frontage on Route OO, the Missouri Department of Transportation did not indicated that access to Route OO would be denied. Lot 2 has direct frontage on and access to Vancourt Road. Right of way sufficient to provide a 33-foot half-width right of way for Vancourt Road is dedicated by this plat. Route OO has an existing right of way width of 70-feet; therefore no additional right of way for Route OO is being dedicated. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

The property is in Public Water Supply District Number 4.

On site systems will be used for wastewater disposal. There is an existing lagoon on proposed Lot 2 that does not meet the 75-foot setback requirement. A plan, showing a suitable location for a wastewater system on each lot has been submitted. However, Lot 2 will have to be brought into compliance prior to plat approval. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

The property scored 38 points on the rating system.

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

1. Prior to approval of the plat, the applicant shall provide documentation from the Columbia/Boone County Health Dept. that the lagoon on Lot 2 is in compliance with all specifications for on-site wastewater systems.

Commissioner Sloan made and Commissioner Duker seconded a motion to **approve** Vancourt Corner. S29-T50N-R11W. A-2. Homer L. Phillips, owner. C. Stephan Heying, surveyor **with waiver requests and the following staff recommendation:**

1. Prior to approval of the plat, the applicant shall provide documentation from the Columbia/Boone County Health Dept. that the lagoon on Lot 2 is in compliance with all specifications for on-site wastewater systems.

Pat Smith – Yes	Mike Morgan – Yes
Mike Caruthers – Yes	Mary Sloan – Yes
Carl Freiling – Yes	Russ Duker – Yes
Kristen Heitkamp – Yes	

Motion to approve plat with staff recommendations carries unanimously.

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2. Hidden Oaks. S32-T47N-R12W. A-2. Rodney and Debra Nolan, owners. C. Stephan Heying, surveyor.

The following staff report was entered in to the record:

This 3-lot plat is located on a private easement approximately 600 feet west of the end of the cul-de-sac bulb on Blackhawk Trail. The site is also approximately 3000 feet southwest of the intersection of Blackhawk Trail and Nashville Church Road. The site is approximately 3 miles northwest of the municipal limits of the City of Ashland. The area being subdivided contains 15.00-acres out of a 27.34-acre parent parcel. The remainder of the parent property is being submitted as an administrative survey. 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 vacant. Sewage treatment will be provided by on-site wastewater systems. Any new on-site wastewater system must meet all County Health Department requirements. The site is in Consolidated Water District #1 service area. Fire hydrants are not required for minor plats containing less than 4 lots, as is the case here. The site is in the Southern Boone County

School District. A waiver from cost benefit for a central sewer system and traffic analysis has been requested. Staff concurs with the granting of these waivers. The site is in the Southern Boone County Fire Protection District and Boone Electric Service areas. This plat has 32 points on the point rating scale.

Staff recommends approval along with the granting of the waiver requests subject to the administrative survey being ready for concurrent recording.

Commissioner Sloan made and Commissioner Duker seconded a motion to **approve** Hidden Oaks. S32-T47N-R12W. A-2. Rodney and Debra Nolan, owners. C. Stephan Heying, surveyor with staff recommendations:

Pat Smith – Yes	Mike Morgan – Yes
Mike Caruthers – Yes	Mary Sloan – Yes
Carl Freiling – Yes	Russ Duker – Yes
Kristen Heitkamp – Yes	

Motion to approve the plat with staff recommendations carries unanimously.

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3. Harpers Pointe Block 3. S8-T47N-R13W. A-2. Scott and Jill Akers, owners. James V. Patchett, surveyor.

The following staff report was entered in to the record:

The property is located in Harper's Pointe Subdivision on the north side of Mt. Celestial Road. The purpose of the subdivision is to consolidate two platted lots. The Boone County Commission approved the vacation and replat of Lots 7 and 8 of Harper's Point Subdivision on August 31, 2004.

The lot will have frontage on and access to Mount Celestial Road. Since the right of way for Mount Celestial Road has been established by plat, no additional right of way will be dedicated. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

The property is in the service area of Consolidated Public Water District Number 1.

An on site wastewater system will be used for sewage disposal. A plan showing a suitable location for such a plan 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 45 points on the rating system.

Staff recommends approval of the plat and waiver requests.

Commissioner Sloan made and Commissioner Duker seconded a motion to **approve Harpers** Pointe Block 3. S8-T47N-R13W. A-2. Scott and Jill Akers, owners. James V. Patchett, surveyor **with waiver requests:**

Pat Smith – Yes	Mike Morgan – Yes
Mike Caruthers – Yes	Mary Sloan – Yes
Carl Freiling – Yes	Russ Duker – Yes
Kristen Heitkamp – Yes	

Motion to approve the plat with waiver requests carries unanimously.

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4. K and J Subdivision. S9-T51-R11W. A-2. James E. and Donna C. McManama, owners. Steven R. Proctor, surveyor.

The following staff report was entered in to the record:

The property is located east of and adjacent to the intersection of March Road and Hwy 22.

The lot has frontage on both Hwy 22 and Fountain Street and has an existing driveway access to Hwy 22. Right of way sufficient to provide a 33-foot half-width right of way is being dedicated by this plat. There is an existing half-width right of way for Hwy 22 of 60-feet therefore no additional right of way is being dedicated for Hwy 22. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

The property is in the service area of Water District 10.

There is a lagoon on the property that is being used for sewage disposal. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

There is a shed on the property that is in the setback area adjacent to Fountain Street. The shed will have to be moved or removed prior to the plat being recorded.

The property scored 55 points on the rating system.

Staff recommends approval of the plat and waiver requests subject to the following conditions:

1. The shed that is located in the setback area must be moved or removed prior plat approval.
2. The plat must be recorded concurrently with or subsequent to the deed and family transfer documents for the remainder tract to the west.

Commissioner Sloan made and Commissioner Duker seconded a motion to **approve K and J** Subdivision. S9-T51-R11W. A-2. James E. and Donna C. McManama, owners. Steven R. Proctor, surveyor **with waiver requests and the following staff recommendations:**

1. The shed that is located in the setback area must be moved or removed prior plat approval.
2. The plat must be recorded concurrently with or subsequent to the deed and family transfer documents for the remainder tract to the west.

Pat Smith – Yes	Mike Morgan – Yes
Mike Caruthers – Yes	Mary Sloan – Yes
Carl Freiling – Yes	Russ Duker – Yes
Kristen Heitkamp – Yes	

Motion to approve the plat with staff recommendations carries unanimously.

OLD BUSINESS

Mr. Shawver informed the Planning and Zoning Commission of the decisions of the County Commission.

The rezoning request and review plan for Sells Development was approved by the Planning and Zoning Commission. The County Commission denied the request.

The conditional use permit by Daniel Boone Land for Knipp Farms was approved by the County Commission as recommended.

The McGrath dog kennel was recommended denial by the Planning and Zoning Commission. The applicants did not appeal to the County Commission. Staff has had contact with the applicants and they are looking at relocating the kennel further away. Ms. McGrath's mother was present at last months meeting and she owns quite a bit of land in the area and the applicants are looking at locating the kennel much further from the neighbors.

The review plans for Godas, Fabick and Brentwoods were both approved by the County Commission as recommended.

NEW BUSINESS

Commissioner Freiling stated that October 20, 2004 in the Ashland City Council Chambers there will be an information gathering meeting in conjunction with the Ashland Planning and Zoning.

1. Sunshine law update.

Mr. Shawver presented a proposed policy from County Counselor, John Patton regarding open meeting and records law compliance policy.

This statement includes information regarding the revisions to the Sunshine Law.

Commissioner Caruthers made and Commissioner Heitkamp seconded a motion to approve the policy regarding the Sunshine Law by acclamation and that the Director of Planning will be the keeper of records for the Planning and Zoning Commission.

Motion approved by acclamation.

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2. By-laws.

Mr. Shawver stated that the Planning and Zoning Commission adopted by-laws originally in 1971 and have been periodically reviewed. There are no major revisions to the by-laws this time. Some of the proposed changes include the number of members required for a quorum due to the addition of townships in the County. The by-laws call for the Planning and Zoning Commission to review the by-laws in September of every year and vote on the changes at the following months meeting.

Mr. Shawver asked the Planning and Zoning Commission to review the by-laws and to contact Mr. Shawver with any questions or changes.

ADJOURN

Being no further business, the meeting was adjourned at 7:42 p.m.

Respectfully submitted,

Kristen Heitkamp,
Secretary

Minutes approved on this 21st day of October, 2004.