

**BOONE COUNTY PLANNING & ZONING COMMISSION**

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, October 21, 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
	Mike Morgan	Bourbon Township
	Keith Neese	Columbia Township
	Carl Freiling	Cedar Township
	Larry Oetting	Three Creeks Township
	Rob Brown	Rock Bridge Township (arrived 7:05 p.m.)
	David Mink	Public Works

Absent:	Michael Caruthers	Centralia Township
	Russell Duker	Missouri Township

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

The minutes of the September 16, 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 four rezoning requests, one planned development, 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 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 Wednesday, November 3, 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 Wednesday, November 3, 2004 will begin at 7:00 p.m. and will convene in this same room.

## **CONDITIONAL USE PERMITS**

None.

## **REZONING REQUESTS**

1. Request by Robert and Anita Beall to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 10.9 acres, located at 10800 E St. Charles Rd., Columbia.

Planner, Bill Florea gave the staff report stating that this site is located 4 miles east of Columbia on St. Charles Rd. The property is zoned A-1, as is all the surrounding property. This is the original zoning in the area. There is an existing house on the property. The applicants are requesting that their land be rezoned to A-2. If approved, the applicants propose to deed 2.5 acres to their son so that he may build a house. This site is within the Boone Electric service area and is in the Public Water District No. 9 service area. It is located in the Columbia School District.

The original zoning of this tract is A-1. An application to rezone the tract to A-2 was considered in May, however the application was withdrawn before the Commission made a recommendation.

The master plan designates this area as being suitable for agriculture and rural residential land uses. The request is consistent with the master plan.

The Master Plan calls for the use of a "Sufficiency of Resources Test" when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner.

The applicants own 10.9 acres of land and propose creating one additional tract of 2.5 acres. If approved, the maximum possible density would be four dwellings.

The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Splitting this tract will not result in a decrease of available utility services in the area.

Access to the site is St. Charles Rd., a county maintained road. The addition of one additional dwelling will have little impact on the road.

The nearest fire station is located at Lake of the Woods, approximately 3 1/2 miles away. The addition of one dwelling unit in the area should not result in an increased demand on other public safety services.

While the Commission has expressed concern in the past about changing the zoning of low density agricultural areas for purposes of allowing family transfer, the low impact of this request is such that staff recommends approval.

Present: Robert Beall, 10800 E. St. Charles Road, Columbia.  
Anita Beall, 10800 E. St. Charles Road, Columbia.

Mr. Beall stated that the request is the same as the one in May. The applicants had the man who surveyed the property originally draw up a paper showing the proposed placement of the house and that is where it stands now.

Chairperson Smith asked the applicants if they wanted the rezoning so they could sell their son some property.

Mr. Beall stated yes.

Chairperson Smith asked the applicants if they had any other comments at this time.

Mr. Beall stated yes. Last time the applicants were told that if a piece of property was cut off for their son it would be locked in and if it could be made that way it would be fine. To lock in to where the applicants couldn't subdivide the rest of the property.

Open to public hearing.

No one spoke in support of the request.

Present speaking in opposition to the request:

Buff Chance, 10750 E. St. Charles Road, Columbia.

Tom Schneider, Attorney representing Mr. Chance, 11 N. 7<sup>th</sup> Street, Columbia.

Mr. Schneider stated that Mr. Chance owns property consisting of 13.75 acres abutting to the southwest of the Beall property.

Mr. Schneider presented a diagram showing the location of Mr. Chance's property in relation to the applicant's property.

Mr. Schneider stated that Mr. Chance has a significant investment in his residence immediately abutting the Beall property and he is concerned about maintaining his property values in that area, specifically for 10 acre tracts. The applicants are good neighbors; there is no animosity here but Mr. Chance has a significant investment to protect and questions the precedent that the Commission will be creating should they approve this request, not only in that specific area where there are approximately 13 other nearby 10 acre tracts which could also be subdivided. It would also be a precedent for open zoning which clearly, the trend is against in Boone County. Primarily because this is spot zoning and would create precedent Mr. Chance opposes this request. If the applicants desire to proceed with the specific problem which is to have family nearby due to disability or old age, the correct way to do that is with a planned district, that is why the County has that and it would offer a significant number of advantages in this situation. One is obviously that the review plan could limit the use to two houses instead of four. That would be the most important reason for suggested it become a planned district. The second is that it is important to Mr. Chance that the development in this case be on the north half of the property as opposed to in the vicinity of his abutting property. Third, you have the ability to regulate various development aspects under the planned zoning which you don't have under open zoning. According to the minutes of the last meeting, Mr. Fay spoke at length as to the sewer problems in the area historically due to the A-2 development near the lake which is just south of this property.

Mr. Schneider stated that there are some junk cars being worked on at this property and under a planned district that could be regulated more effectively than under the general storage, junk car ordinances. For all those reasons Mr. Chance feels that a planned district would make the most sense by far if the Commission is inclined to rezone this property at all. There are some other options. One would be just to rezone the 2.6 acres in question which would result in only 2 houses being there and you would end up with a non-conforming 8.5 acre tract and that would prevent 4 houses from being there if open A-2 zoning is approved. Another way this could be addressed is through the Board of Adjustment. The Board has a procedure in hardship cases where a second home could be allowed under a 2 year review process to address family situations such as this. That is something the applicants could consider as well. Another possibility would be a no build restrictive covenant on the back half of the property but that adds nothing requiring a plan as the planned district does which has numerous advantages. If the Commission is going to consider the proposal that the members do so under a planned district.

Malinda Gee, 2171 N. McGuire, Columbia.

Ms. Gee stated that she lived directly behind the Bealls. Ms. Gee stated that she didn't have a problem with just two houses on the property. Ms. Gee stated that her problem is with the property being rezoned to where the property could possibly have 4 homes. Ms. Gee stated that she lived in a subdivision where all the owners have 10 acre lots and the fear is that at some point in time in the future when you take that first step there is going to be many other steps and that is why Ms. Gee is against the rezoning. If there was a way to give the applicants a variance just to allow the two houses and not rezone. Ms. Gee stated

that she had no problem with two houses on 10 acres. Ms. Gee stated that she has horses and her property abuts the Beall's. The fear is eventually there are going to be four houses and there will be kids and where there is a horse it is like a magnet to a kid and Ms. Gee fears for either her animals or the safety of the children. The horses are in the back far away from her house and that is the biggest concern. If there are four houses on these 10 acres she would be worried all the time.

Doug Westhoff, 10829 E. St. Charles Rd., Columbia.

Mr. Westhoff stated that he lived directly north of the property in question. The concerns that the neighbors have don't have anything to do with family and support, that is admirable. The concerns lie in the long term use of that land. We are all in that area for the same reason, to raise our families and in this particular case this property is just a little bit small for what the applicants intend to do. If there was some way to work this out so the landowners in the area have some assurance that this is a limited case then they could see it in a different light but at this point Mr. Westhoff stated he has to speak in opposition.

Jan McAdams, 10950 E. St. Charles Road, Columbia.

Ms. McAdams stated that her property is located on the east side of the applicants. Ms. McAdams stated that she agreed with the other neighbors. We would like to allow the Beall's to have their children close but we also don't want the precedent of the development. Ms. McAdams stated that she has 11 acres and she also has horses and that is a concern. Ms. McAdams stated that she would like to see a way the family could be together but not through rezoning.

Closed to public hearing.

Chairperson Smith stated that the applicants have heard the concerns of their neighbors. The opposition had to do with the fact that if the Commission grants this rezoning it opens it up to where the applicants could have more than two houses. The applicants could end up with four houses on the property and it would establish a precedent. Several suggestions were made as to how the applicants might accomplish that without this rezoning. Chairperson Smith asked the applicants if they considered any of the other options like a planned development.

Mr. Beall stated yes.

Mrs. Beall stated that is why the applicants have it on the map that was presented with 2.5 acres for their son on the side where it wouldn't be close to Mr. Chance and then the 8 acres for the applicant's house; that they would both be locked in. That is the way the applicants presented it the last time and that is the way the applicants presented it this time so the applicants don't understand why the neighbors are having a problem with it.

Chairperson Smith asked staff to address the locked-in verbiage and what that might mean.

Mr. Florea stated that the request is for an open A-2 zoning district. Regardless of the site plan the applicants presented there is no legal mechanism to hold the applicants to that site plan. Once the property is rezoned then the applicants can develop it in accordance with the County zoning and subdivision regulations which don't enforce the site plan the applicants submitted. The applicants are not locked in to that site plan. That is the concern the applicants are hearing tonight.

Chairperson Smith stated that once it is rezoned it stays with the land so even if the applicant's intentions are the best, whoever takes the land the next time could develop it because it is not enforceable. No one questions the applicant's intent but there is no way to guarantee that it would be that way.

Chairperson Smith asked about the family transfer notion and the variance and the other options.

Mr. Florea stated that the family transfer would require rezoning. The family transfer is a provision in the subdivision regulations to allow divisions of land but the resulting divisions have to conform with the zoning regulations. Under the A-1 the applicants can't do that because it would exceed the density and lot size minimums. There is no variance, it is not a non-conforming use because a non-conforming use has to be legal when it is established and there is no way for the applicants to establish a legal use now. The final option, Board of Adjustment, that is an option that is open to the applicants, that would require the second dwelling unit be a mobile home. That is something the applicants could apply for and it is frequently granted by the Board of Adjustment. It is granted for a two year period but it is extended as long as all the facts stay the same as when it was originally granted.

Chairperson Smith asked the applicants if it was their intention to place a mobile home on the property.

Mr. Beall stated no.

Commissioner Freiling asked if there was any option available as planned that would limit it to the two lots.

Mr. Florea stated yes, the applicants could request a planned zoning district and submit a site plan that would be binding.

Commissioner Freiling asked the applicants if they understood the difference.

Mr. Beall stated no.

Commissioner Freiling explained that when the Commission grants a rezoning on 10 acres then the applicants or any future owner could sell 2.5 acre lots, even though it is not the applicant's intention to. That is what that zoning district permits. As Mr. Schneider stated, because of the open-endedness of open rezoning this body has tended not to do that in recent years. The applicants second option is to come in with a plan for this division which locks-in the applicants intention which is the acreage for the applicants son is laid up, the acreage for the applicants house is laid up and it doesn't give a future owner the right to change that without coming back to the Commission again and making a second request. That would alleviate the concerns of the neighbors and make it possible for the Commission to approve the request. If the Commission starts approving open zoning again as was done in the past we will create circumstances all over the County that someone will wish we hadn't. The planned rezoning is a little more involved on the part of your surveyor and what the applicants submit because they will be submitting a plan and the plan itself is approved.

Mr. Beall stated that the difference is what the surveyor presents.

Commissioner Freiling stated that is correct, the surveyor has to create a plan that falls within the regulations within the County. When he does that and the plan is presented then you approve the rezoning request based on that particular plan only. It allows for a future owner to come in and change the deal.

Mrs. Beall stated that the plan that the applicants submitted wasn't good enough.

Commissioner Freiling stated that it would be good enough if the applicants were requesting a planned rezoning.

Chairperson Smith stated that the applicants have to request a different zoning.

Commissioner Freiling stated that the request the applicants have made for open rezoning is the problem.

Mrs. Beall stated that the applicants didn't request an open rezoning; they requested that plan with the 2 acres and 8 acres.

Mr. Florea stated that is not correct. Mr. Florea stated that he has talked to the Bealls on the phone and they specifically stated that they weren't applying for a planned district. Mr. Florea stated that he remembers Mr. Beall telling him that.

Mr. Beall stated that he didn't understand what Mr. Florea meant. Mr. Beall stated that he understands it now.

Mrs. Beall stated that is why the applicants had the map.

Mr. Florea asked Mr. Beall if he still had questions after they met in his office.

Mr. Beall stated yes; he didn't understand.

Mr. Florea stated that he thought the applicants had seen a surveyor about doing a planned district.

Mr. Beall stated that what the applicants presented tonight and what the Commission is requiring to bring in is about \$3900 difference.

Mr. Florea stated that is the difference between a straight rezoning request and a planned rezoning request. Mr. Florea stated that he doesn't know the cost, that is not something that staff deals with but the applicants may be able to shop around and find a better price than that.

Mrs. Beall stated that there would still be no guarantee that the Commission would approve it if the applicants spent all that money.

Mr. Florea stated that he is not in a position to guarantee that.

Chairperson Smith stated that the Commission can't guarantee that either because it goes to the County Commission. If you look at the history the applicants will see that they were much more likely to approve a planned development than for open zoning. If the applicants are gamblers it is a much better gamble. Chairperson Smith stated that the Commission doesn't approve open zoning very much anymore. The Commission is very planned oriented. Even if the Planning and Zoning Commission approves it the County Commission could deny it but the applicants have a much better chance with a planned district. That would solve everyone's concerns.

Mrs. Beall stated initially that is what the applicants wanted anyway.

Chairperson Smith stated that maybe it was just miscommunication. At this point the Commission could vote on it and if it were denied the applicants could file an appeal to the County Commission. The applicants could also withdraw their request.

Mr. Florea stated that the applicants could withdraw their request or go on to a vote.

Chairperson Smith stated that the applicants could withdraw their request and come back with a planned development. Chairperson Smith asked what the applicants advantages were to either.

Mr. Florea stated that it is probably more beneficial for them to go ahead and ask for a vote because that way if they are denied by the Planning and Zoning Commission they can still go to the County Commission and get a second hearing which they won't get if they withdraw.

Mr. Beall stated that he would like the Commission to vote on it.

Commissioner Heitkamp made and Commissioner Morgan seconded a motion to deny the request by Robert and Anita Beall to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 10.9 acres, located at 10800 E St. Charles Rd., Columbia:

Pat Smith - Yes	Kristen Heitkamp – Yes
Mary Sloan – Yes	Carl Freiling – Yes
Mike Morgan – Yes	Larry Oetting – Yes
Keith Neese – Yes	Rob Brown – Yes
David Mink – Yes	

Motion to deny request carries unanimously.

Chairperson Smith informed the applicant that if they wished to appeal to the County Commission they would need to file and appeal within three working days.

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2. Request by James and Melanie Abernathy on behalf of Hemme Construction LLC to rezone from R-S (Single Family Residential) to R-SP (Planned Single Family Residential) of 5.0 acres, more or less, and to approve a Review Plan and Preliminary Plat for Golf View Gardens PRD, located at 7400 E. St. Charles Rd., Columbia.
3. Request by Brenda K. Robison on behalf of Hemme Construction LLC to rezone from R-S (Single Family Residential) to R-SP (Planned Single Family Residential) of 9.1 acres, more or less, and to approve a Review Plan and Preliminary Plat for Golf View Gardens PRD located at 7400 E. St. Charles Rd., Columbia.

Planner, Thad Yonke stated that the Abernathy and Robison rezoning and review plan requests will be a combined staff report. Mr. Yonke gave the staff report stating that this proposal is for a rezoning and revised review plan/preliminary plat for a 34-lot planned residential development that is located on the south side of St. Charles Road immediately east of Stanton Subdivision. The site is located

approximately 1 mile northeast of the Columbia City Limits. The property is currently split zoned with the portion north of the creek zoned R-S (residential single family), the portion currently approved as Abernathy PRD zoned R-SP (planned residential) and the portion south of the creek zoned A-2 (agriculture). The R-S and A-2 are original 1973 zonings. The R-SP went into effect December of 1995 and was revised in March of 1997. The total development proposed is for approximately 14.1- acres. The surrounding zonings also follow the creek with the properties north of the creek being zoned R-S and those properties that are south zoned A-2. These are all original 1973 zonings. The currently approved final development plan for the property is for 11 dwelling units comprised of 7 single family dwellings and 4-dwelling units in 2 duplex buildings. The current proposal is for a 34-lot subdivision preliminary plat and review plan that is comprised of 2 proposed lots that will each contain a single family existing residence, 2 proposed lots that will each contain an existing duplex, 28 lots for a single duplex or single family residence proposed on each, and 2 common lots. It is within the Columbia School District. Public Water District #9 will provide water service. Fire hydrants will be required and will have to meet fire & water district approvals. The actual requirements will vary based upon the actual size, uses, and construction methods proposed for the structures. The site is in the Boone Electric service area and Boone County Fire Protection District. Sewer service is proposed to be from the BCRSD facility serving Stanton Subdivision. There is available capacity at this facility but it is limited and this capacity is on a first come first serve basis. It is a portion of this excess capacity that this development is proposing to secure and use. The location of the new public road connection to St. Charles Road will have to meet BCPW standards. There are a number of technical issues that still need to be worked out and are delineated by the proposed conditions. The proposal rates 80 points on the point rating scale.

If this commission feels this plan is appropriate for the area, then:  
Staff recommends approval subject to the following 7 conditions.

1. That a variance be granted by the BOA for the duplex on proposed lot 3 that is already inside the front setback area. If the variance is not granted then the structure will have to be removed prior to recording of any plats for this development.
2. That the existing sewer easements be indicated by their book and page reference.
3. That the temporary turn around at the end of Orié Drive that is not within the proposed development be shown to be secured or moved back within the property.
4. That the location of Arratt Court cul-de-sac bulb be worked out to the satisfaction of the Planning Director and BCPW.
5. The details and methods to create the 25 foot steam buffer on each side of the existing creek are to be worked out to the satisfaction of the Planning Director and BCPW.
6. That the stormwater pipes and the drainage-ways need to be worked out to the satisfaction of the Planning Director and BCPW.
7. Lot 15 needs to have a structure shown on it as well as a specific landscaping detail to be worked out to the satisfaction of the Planning Director.

Present: Tim Crockett, Crockett Engineering, 2608 N. Stadium, Columbia.

Mr. Crockett stated that he is here with Mr. Abernathy, Ms. Brenda Long, who are the owners of the property as well as representatives from Hemme Construction. Mr. Crockett stated that the applicants have looked at the staff report, and the applicants concur with the department recommendations. The applicants will address the seven items listed and make concessions. It is a 28 lot subdivision, several lots more than that for green space, preservation of the existing stream running through it. There are four additional lots that have existing structures on them.

Mr. Crockett stated that a couple of items he would like to address that have come up in conversation. One deals with the location of Arratt Court which is the cul-de-sac to the north. Regarding the location of the cul-de-sac bulb protruding to the west property line. Early on in the design stages on that we looked at pulling that cul-de-sac bulb back on to our property to have a typical section. There was a comment from Public Works that stated that they would like to possibly have a stub street go over to Frank Stanton Road. Frank Stanton is an unimproved drive, it is a gravel road and the applicants don't believe that it is in the best interest of this development to have that connection made at this time. We look at it as is it something that we feel should never be made? No, we don't know if that is the case or not so what we are proposing to do would be to build a cul-de-sac bulb and grant all the right of way all the way to the property line. That would allow, if a connection is desired in the future, everything in this development is in place and that can be made with very little improvements to this site.

Commissioner Freiling asked why it is not desirable to make the connection now instead of putting it off.

Mr. Crockett stated that being it is an unimproved County road that is narrow and gravel it is not going to be in the best interest of that subdivision to put additional traffic from this development on to that road. It is narrow and gravel.

Commissioner Freiling stated that in the future if the connection was going to be made that would be made at the County Public Works expense.

Mr. Crockett stated either that or if that property was redeveloped, yes.

Commissioner Freiling asked how many feet is involved between the proposed cul-de-sac and the proposed connection.

Mr. Crockett stated that he doesn't have that exact dimension but it is probably 130-feet in length. One item the applicants will do to mitigate the situation, the cul-de-sac extends to the property. The other alternative is to extend the right of way to the property line and grant a temporary turn around easement similar to what we are doing on the south property line. We feel that is a viable option since we have a strong feeling that property will develop in the future, it might be a year from now, it might be 20 years. It is a connection that will be made in the future, but it may never happen therefore the applicants would like to have a permanent cul-de-sac bulb on it to meet the County standards and that way if it is never made we don't have a gravel turnaround that public works is trying to maintain in and out of winter and is a continual maintenance problem. One thing to do to mitigate it is propose to plant some upright Junipers along the end of the cul-de-sac bulb to help shield the cars and noise and help block light in to those back yards. They are working to secure the easement for the temporary turn around; the applicants are working with the neighbors on that. If it doesn't happen and the applicants can't get the easement the applicants can drop back on lot 26 and put it on the applicant's property and make it work at that location, it is not a problem but if the easement is not secured then that is the route the applicants will take.

Mr. Crockett stated that on this proposal the NRCS requested that the applicants provide a 25-foot either side of the stream for a stream buffer. The applicants concur with that request and most of the stream in this location is located in a common lot. The location in which it doesn't the applicants provided a stream buffer easement. There is some terminology that some people are uncomfortable with when you talk about the word easement. Who has the rights to that and who doesn't have the right to that and what the purpose of it is. Mr. Crockett stated that he has spoken with Mr. Yonke in detail about that and they have decided to look for the best terminology before the final plan comes up. If it is not the word "easement" but possibly "buffer". The County is treading in new waters with the stream buffer. The

applicants want to work with the County and the Commission with those requirements. The applicants would like terminology that is a little more secured so they can have it on their plot plan and final plat so there will be something that can be enforced. If it is not a documented easement or a documented buffer of some nature the worst thing that could happen is a builder not know that it is there and encroach in to the buffer. The applicants want something they can have concrete that can be presented to the builders in the future. All the utilities are in place and the drive on St. Charles road is in accordance with Boone County Public Works.

Open to public hearing.

No one spoke in favor of the request.

Present speaking in opposition to the request:

Duane Thowe, 1900 Frank Stanton Drive, Columbia.

Mr. Thowe stated that he didn't necessarily want to speak in opposition but he did want to address some concerns. Mr. Thowe stated that his property is surrounded by this development. One of the issues he has is the creek that goes through the property crosses part of his property. The creek does flood when we get a good rain. The culvert that goes down Frank Stanton Drive was redone by the sewer district and all they did was put in a bunch of rocks around one edge of it to keep it from caving in when they put in the wastewater treatment plant. Across St. Charles on the other side the big farm was sold and it will have sewer that will probably feed in to here and right now they are feeding Copper Creek, Shaw and the rest of Route Z in to this waste water treatment plant. Mr. Thowe stated that he doesn't know how much capacity it has but one of the issue is that the creek floods, not all the time, but if we get a heavy rain it does back up and it comes up really close to Mr. Thowe's property. That is one if Mr. Thowe's concerns because he doesn't want a bunch of garbage from this development plugging the culvert and ending up on his property. Mr. Thowe stated that another issue is to leave a buffer of trees along his property. Mr. Thowe stated that is not that he is opposed to the development but would like the creek taken care of. Another issue is Frank Stanton Drive. It is not a County road; it is not maintained by the County. There are six homes on that street right now and when the wastewater treatment plant went in they chipped in with the owners for maintenance. Mr. Thowe stated that when he bought his property he had to sign a road agreement which means that the owners maintain the road on their own. If someone is going to develop down there and open that up, now or eventually, Mr. Thowe doesn't want to bear the burden of that cost to bring it up to County standards and neither do any of the other neighbors. In this case they are saying it is not going to impact that but they put the cul-de-sac so they can put the houses to the back side. If they put those houses in there, there wouldn't be a connection anyway because they are going to be right up against the waste water treatment plant.

Commissioner Heitkamp asked Mr. Thowe how he felt about the cul-de-sac bulb abutting his property.

Mr. Thowe stated that he was told it would be 9-feet away, that is fine. As long as the trees are left there for a buffer, it is fine.

Commissioner Freiling asked Mr. Shawver when a sewer agreement was worked out with Stanton Drive to become one of the users. They just became a participant in the private road use agreement. Stanton Drive has no public easement status other than the specific use of the access to the lagoon.

Mr. Shawver stated he believes that is correct. When the treatment plant was improved a little more than a year ago during the construction process the homeowners did go the sewer district and informed the

district that the owners maintained the road and during the construction the district will cause damage and will be down there more maintaining a treatment plant. The owners asked the sewer district to participate in the annual maintenance of the road.

Closed to public hearing.

Commissioner Neese asked the capacity of the culvert pipe on the private drive.

Mr. Crockett stated that the pipe is relatively small but doesn't have the hydraulics on that. Mr. Crockett stated that he believes it is probably undersized for the existing conditions. To address the previous speaker Frank Stanton is a private drive, however it is in a County right of way according to the previous plat. The drainage of the creek is a concern of the applicants. Before the final plan the applicants will do a complete hydraulic study of the watershed leading to the site. Every structure is going to be above the elevation of the 100-year flood elevation. There is no regulated 100-year flood plain on the site but the applicants are going to do a hydraulic study for the 100-year rainfall event and find out what the elevation of that water is. All structures will be above that elevation. With regard to the existing downstream structure, it is undersized.

Commissioner Freiling asked if that created the potential to raise water levels with the development; the rate of flow will be increased. With it being undersized does it look like it will pond itself to the point behind the small culvert.

Mr. Crockett stated that it has been the applicants experience in the past on a situation like this that this is a relatively large water shed. A lot of water drains to this site. With the increased impervious surface the concentration for the runoff of the site decreases meaning the water from this site now leaves the site much quicker. The peak discharge of the entire watershed hits this site at a much reduced time period after the rainfall event. The water takes time to accumulate in the stream and get down stream. In essence what studies have shown in the past the increased impervious surface in a development of this nature would decrease the amount of ponding effect on the back stream of that pipe? There will still be ponding but it will be addressed in the hydraulic analysis.

Commissioner Freiling asked what happens if the hydraulic analysis shows that if you get a sustained heavy rainfall that drops 5 inches in 4 hours and a substantial amount of ponding is shown. How will the applicants address that?

Mr. Crockett stated that it would be addressed one of two ways. Either the applicants will make sure that all of the structures on the site are above elevation or simply replace the culvert underneath.

Commissioner Freiling stated replacing the culvert seems to be a better solution.

Mr. Crockett stated that it is a better solution however with the size of it the applicants would like to go the first route to start with. It is an extremely expensive culvert on this location. If the applicants could go in with a 36 or 42 inch pipe that would be something the applicants could handle. The applicants have done some preliminary cost analysis on the other culvert and it is in the range of \$65,000 to \$85,000 to cross it. It is a substantial waterway.

Commissioner Freiling asked how many acres in the drainage.

Mr. Crockett stated that he doesn't know.

Commissioner Freiling asked if we are talking hundreds.

Mr. Crockett stated yes.

Commissioner Mink stated that this development is for duplexes. Recently the County had a plan where it had to be demonstrated that the driveways on the corner lots could be installed and not be in violation of the road regulations. Commissioner Mink stated that he doesn't believe that has been done on this plan.

Mr. Yonke stated that it is a requirement of the road regulations. This is a preliminary plat and a review plan so when the applicants get to the final platting stage or the final plan stage the applicants could do it then. The applicants have to meet that requirement regardless. The exception that was done was that there was a road and bridge variance granted in one instance where the developer was able to show the County and prove that they could meet that and therefore they didn't have to build those as part of the road plans. That is generally a final plat stage. If those issues do come in to play then it may limit the corner lots ending up being single family houses.

Commissioner Mink stated that Mr. Thowe had stated that it was 9-feet from the pavement to the property line which had a fence on it.

Mr. Crockett stated that the applicants are proposing 9-feet.

Commissioner Mink stated that he doesn't know much about Juniper trees but is 9-feet enough room for them to spread out.

Mr. Crockett stated yes; they typically use 8-foot for a mature upright Juniper.

Commissioner Mink stated that he can appreciate why the applicants want a permanent cul-de-sac there but if that is ever connected on through the cul-de-sac will remain and there will be a bulb out in the road.

Mr. Crockett stated that is correct.

Commissioner Freiling asked if it is within the Commission's prerogative if it turns out the downstream existing culvert is inadequate to require offsite improvements to the culvert.

Mr. Yonke stated that it is not the plan in this instance that is going to trigger it but the platting requirements because the platting requirements require the specific engineering of the plans for the roads that are going to be there. The calculations for the hydrology and all that will determine what technical problems are there and then we have the ability to require off site improvements just like we do if a turn lane is merited by a traffic study. If the water in this case is going to cause a problem the County could require an off site improvement to mitigate that as part of the subdivision.

Commissioner Freiling stated that when subsequent properties upstream of this development are developed.

Mr. Yonke stated that the applicant could be required to go in and fix it.

Commissioner Freiling stated that properties that were not calculated to be in danger under the present situation. Future development causes more rapid runoff and more rapid build up.

Mr. Yonke stated that the hydrology needs to be looked up both upstream and downstream and staff will work with the applicants on what needs to be done on that. Since the sewer district is involved in this from a practical point of view what is probably going to happen is the hydrology will be worked out and it is one of the reasons the condition is set up the way it is in dealing with the drainage and the stormwater to public works and to the planning director's satisfaction. We will determine what that impact is then determine what the current capacity is and at that point we will probably talk to the sewer district about what portion of that development is causing a problem and see if the sewer district wanted to participate to do anything that might fix it to a better standard for their plan. Staff works with those negotiations.

Commissioner Freiling stated that it is within the County's prerogative.

Mr. Yonke stated yes.

Commissioner Sloan made and Commissioner Neese seconded a motion to **approve** the request by James and Melanie Abernathy on behalf of Hemme Construction LLC to rezone from R-S (Single Family Residential) to R-SP (Planned Single Family Residential) of 5.0 acres, more or less, located at 7400 E. St. Charles Rd., Columbia:

Pat Smith - Yes	Kristen Heitkamp – Yes
Mary Sloan – Yes	Carl Freiling – Yes
Mike Morgan – Yes	Larry Oetting – Yes
Keith Neese – Yes	Rob Brown – Yes
David Mink – Yes	

Motion to approve request carries unanimously.

\* \* \* \* \*

Commissioner Sloan made and Commissioner Morgan seconded a motion to **approve** the request by Brenda K. Robison on behalf of Hemme Construction LLC to rezone from R-S (Single Family Residential) to R-SP (Planned Single Family Residential) of 9.1 acres, more or less for Golf View Gardens PRD located at 7400 E. St. Charles Rd., Columbia:

Pat Smith - Yes	Kristen Heitkamp – Yes
Mary Sloan – Yes	Carl Freiling – Yes
Mike Morgan – Yes	Larry Oetting – Yes
Keith Neese – Yes	Rob Brown – Yes
David Mink – Yes	

Motion to approve request carries unanimously.

\* \* \* \* \*

Commissioner Sloan made and Commissioner Freiling seconded a motion to **approve** the request to approve a Review Plan for Golf View Gardens PRD, located at 7400 E. St. Charles Rd., Columbia **with the following conditions:**

1. That a variance be granted by the BOA for the duplex on proposed lot 3 that is already inside the front setback area. If the variance is not granted then the structure will have to be removed prior to recording of any plats for this development.
2. That the existing sewer easements be indicated by their book and page reference.
3. That the temporary sewer turn around at the end of Orié Drive that is not within the proposed development be shown to be secured or moved back within the property.
4. That the location of Arratt Court cul-de-sac bulb be worked out to the satisfaction of the Planning Director and BCPW.
5. The details and methods to create the 25 foot stream buffer on each side of the existing creek are to be worked out to the satisfaction of the Planning Director and BCPW.
6. That the stormwater pipes and the drainage-ways need to be worked out to the satisfaction of the Planning Director and BCPW.
7. Lot 15 needs to have a structure shown on it as well as a specific landscaping detail to be worked out to the satisfaction of the Planning Director.

Pat Smith - Yes	Kristen Heitkamp – Yes
Mary Sloan – Yes	Carl Freiling – Yes
Mike Morgan – Yes	Larry Oetting – Yes
Keith Neese – Yes	Rob Brown – Yes
David Mink – Yes	

Motion to approve request carries unanimously.

\* \* \* \* \*

Commissioner Sloan made and Commissioner Mink seconded a motion to **approve** the request to approve a Preliminary Plat for Golf View Gardens PRD, located at 7400 E. St. Charles Rd., Columbia with staff recommendations:

Pat Smith - Yes	Kristen Heitkamp – Yes
Mary Sloan – Yes	Carl Freiling – Yes
Mike Morgan – Yes	Larry Oetting – Yes
Keith Neese – Yes	Rob Brown – Yes
David Mink – Yes	

Motion to approve request carries unanimously.

Chairperson Smith informed the applicant that these requests would go before the County Commission on November 3, 2004.

\* \* \* \* \*

4. Request by George Godas to rezone from R-S (Single Family Residential) to C-GP (Planned Commercial) of 5.6 acres, more or less, and to approve a *Review Plan* for Godas Leatherwood Center PCD located at 1601 W Rte. K, Columbia.

Planner, Thad Yonke gave the staff report stating this proposal is for a rezoning and revised review plan for a planned commercial development. Located immediately east of the intersection of Old Plank Road and State Route K just north of where Maple Meadows Drive comes off State Route K. The site is located approximately 2100' south of the Columbia City Limits. The property is currently zoned R-S (residential single family) which is the original 1973 zoning. A tentative rezoning to C-GP was approved in December of 1993 that would have not gone into effect until both a review and final development plan were approved for the property. No final development plans have ever been approved for the site. A previous review plan for the property was approved in December of 1993; however, this review plan expired in December of 1997. A revised review plan was approved in July of 1999; however, no final plan, or any physical improvements have been made and this plan is considered to have expired. The current proposal is the second revised review plan for the property and is virtually the same as the 1999 plan. Adjacent zoning to the north, northeast, east and south of the proposed development is zoned R-S and these are original 1973 zonings. Property to the southwest, which is Maple Meadows Subdivision is zoned R-SP This zoning went into effect with the approval of a final development plan in October of 1995. Property to the west is zoned R-M (residential moderate density) and is the location of Cedarbrook subdivision. This property was rezoned in December of 1976 from A-2 (agriculture). The property to the northwest is zoned M-LP (light industrial) effective August of this year. This rezoning replaced the previous C-N (neighborhood commercial) that was rezoned from R-S in July of 1975. The current proposed review plan contains 5.16 acres with a residual area of 3.7 acres of developed area. A multi-use plat will be required for this property. It is within the Columbia School District. Consolidated Public Water Service District #1 will provide water service. A 6" waterline exists along State Route K. The water district also has plans to extend a 12" line down towards this development from Bethel Road at some point. Fire hydrants will be required and will have to meet fire & water district approvals. The actual requirements will vary based upon the actual size, uses, and construction methods proposed for the structures. Sewer service is proposed to be from the BCRSD Cedarbrook/Leatherwood Hills facility. There is available capacity at this facility that must be secured and this capacity is on a first come first serve basis. It is a portion of this excess capacity that this development is proposing to secure and use. The driveway connections to State Route K will need to be approved by the Missouri Department of Transportation; at this point we do not know if the locations as shown will be acceptable to MODOT. Public Works will have to approve the connections to Old Plank Road and these will have to meet their regulations. The applicant has asked for 21 permitted uses and 5 conditional uses. It should be noted that conditional uses if approved here still must obtain specific Conditional Use Permits in addition to approval on the plan. Staff has concerns about some of the listed uses and recommends the elimination of 4- Medical, Dental, and Psychiatric offices and out patient clinics, 9-Private Club or Lodge, and 20- Laboratory, Research, Experimental or Testing, from the permitted uses and 4-Residential uses when on second floor or above, from the conditional uses. Permitted use 17 should be modified to be limited to a single neighborhood bar or tavern not to exceed 3000 square feet. The purpose of this commercial node is to provide services to those already in the area not to provide a draw for additional traffic to come to the area. The uses staff recommends eliminating are generally traffic generators and therefore are not compatible. The residential uses on the second floor or above does not work with the plan because the building shown are specific in size and are only single story. The small cluster of buildings in what will become ROW currently contains a lawnmower repair business that is a chronic zoning violation. These structures need to be removed within 1 year from the County Commission approval date of any review plan. The proposal rates 81 points on the point rating scale.

If this commission feels this plan is appropriate for the area, then:  
Staff recommends approval subject to the following 11 conditions.

1. That a multi-use plat be submitted with any final development plan.

2. That the sewer district approves the sewer proposal, and that a guarantee of capacity be secured by this development by the developer.
3. That the entrances onto Old Plank Road are acceptable to and approvable by Boone County Public Works and the Director of Planning and be designed and located to BCPW standards.
4. That some form of documented approval for the location of entrances onto State Route K is provided before, or at the latest with, the final development plan submission.
5. That a landscaping plan, erosion control/stormwater plan and a traffic analysis each acceptable to this commission be required to be submitted with any final plan and that issues generated by these studies are still open to conditions for mitigation even though they are being submitted as part of a Final Plan.
6. That it is recognized that those uses that are conditional uses are required to obtain conditional use permits.
7. That the existing structures on the site be removed within 1 year from County Commission approval of this Revised Review Planed or the approval for this plan is void.
8. That the Permitted uses section eliminate: 4- Medical, Dental, and Psychiatric offices and out patient clinics, 9-Private Club or Lodge, and 20-Laboratory, Research, Experimental or Testing, from the permitted uses.
9. That the Conditional Uses section eliminate: 4-Residential uses when on second floor or above, from the conditional uses.
10. Permitted use 17 should be modified to be limited to a single neighborhood bar or tavern not to exceed 3000 square feet.
11. As part of the required landscaping the west side, rear facing portion, of the 3600 square feet building be screened to provide a buffer the details of which will be worked out with the remainder of the landscaping plan with the final plan and must be acceptable to the Director of Planning.

Present: Tom Harrison, Attorney, 1103 E. Broadway, Columbia.  
George Godas, 200 Business Loop 70, Columbia.  
Tim Crockett, engineer, 2608 N. Stadium Blvd, Columbia.

Mr. Harrison stated that this property consists of 5.16 acres and if we successfully complete this process the applicants anticipate dedicating some right of way which will reduce the overall size of the project to 3.7 acres. What is contemplated is a 30,000 square foot building, a 3600 square foot store, a canopy with some fuel pumps and 125 parking spaces. The applicants are requesting C-GP zoning and approval of the review plan.

Mr. Harrison presented a copy of the previous review plan that was approved by the Commission and a copy of the proposed plan.

Mr. Harrison stated that it is important to stress the history of this property and the fact that it has come before the Commission a couple of times previously. In 1993 this Commission approved the rezoning of this property to C-GP and imposed certain conditions. At that time the County Commission also approved the rezoning but at that point there was never any review plan or any final plan.

Mr. Yonke stated that they did do a review plan because that is what the conditions were placed upon. But since no final plan was ever approved it never went in to effect.

Mr. Harrison stated that the rezoning was not finalized which is the reason the applicants came back in 1999. In 1999 essentially the same thing happened. This Commission approved the rezoning and approved the review plan but there was never a final plan that was seen through to completion. In 1999

there were 8 conditions that were recommended. Many of those conditions then are also among the 11 conditions proposed today. All of the 1999 conditions were acceptable. All of the proposed conditions tonight are acceptable. In 1999 there was no final plan approved so we are back before the Commission. This plan is virtually identical to the 1999 plan; there are some differences but not very many. The Commission has seen this plan before.

Mr. Harrison stated that with respect to sewer service; there will have to be sewer capacity reserved from the Boone County Regional Sewer District and that agreement is nearly finished. Mr. Harrison stated that he can represent to the Commission that this is almost done; it is just a matter of time to find the right people to sign the right documents. In connection with that the developer is going to pay a substantial amount for infrastructure and upgrading some pump stations and so forth. We are going to get that sewer capacity secured. With respect to the Route K driveway connections we understand that those are going to have to be approved by MoDot. The applicants believe they put those locations where MoDot has asked the applicants to. The applicants don't have written confirmation or approval from MoDot yet but the applicants believe they will get it.

Mr. Harrison stated that there are 21 uses permitted uses and 5 conditional uses. As the Commission heard in the report there has been the request that some modification be made to 3 or 4 of the permitted uses and one of the conditional uses; that is fine with the applicants. Mr. Harrison stated that the applicants believe it is reasonable to ask for the medical/dental office but the applicants won't argue about that. Otherwise the staff report recommendations are fine with the applicants. Mr. Harrison stated that there are two existing structures and it has been recommended that those be removed within a year. This is fine with the applicants and as far as the plan with MoDot, that is going to be done right a way anyway.

Mr. Harrison stated that the changes between proposed plan and the 1999 plan are not many. One of them is the main building is about 2900 square feet smaller on the new plan. The convenience store has been moved behind a setback; in 1999 there was some moderate controversy over that. There was a request that the store be moved back behind the setback. The pump islands for the convenience store have been moved and perhaps even made smaller. The applicants don't think, in light of the concessions made, that this is going to be a significant traffic generator. The applicants don't think it is going to have any negative impact on traffic. One of the conditions is that the applicants submit a traffic analysis with the final plan which the applicants intend to do. On the east side there are trees and some of them are going to have to go.

Mr. Harrison submitted a photograph showing the location of the trees.

Commissioner Neese stated that there is a structure almost on the right of way on the south side of the development. If the applicants were to place their driveway there they couldn't wait for a year to tear down that structure. It looks like that would be a traffic hazard for someone pulling in and out of the convenience store.

Mr. Harrison stated that would have to be the first one to go.

Commissioner Neese stated that there is no signage illustrated on the plan and asked if there was any signage along the highway for entrances and what the plan was.

Mr. Crockett stated that would come up at the final plan.

Mr. Yonke stated that it is probably something that should be addressed now because the applicants are required to show all structures and free standing signs are structures. If none are shown then none are allowed. It will require an amendment to put free standing signs on. This is probably a good time because if the applicants want to do any kind of a modification it is almost too late in that it wasn't shown. The Commission could theoretically place a condition that would allow the applicants to do something where they could add one to it. But once it is approved, if it is approved without any freestanding signs shown the applicants are not allowed to do any without coming all the way back through the process. On facade signs they are different because they are not treated the same way but a free standing sign is a structure and it must be shown.

Mr. Harrison stated that he is sure the applicants are going to want a free standing sign.

Mr. Yonke stated that if the applicants wish to do that the conditions are such that there are a number of things the applicants have to work out with staff from a technical point of view. If the Commission wishes they could add a condition that would allow the applicants one free standing sign of a certain size.

Commissioner Freiling stated that there could be an amendment that could state that one of the conditions of the approval is that the applicant and staff reach agreement about freestanding signs that would conform to the sign ordinance.

Mr. Yonke stated that there is no sign ordinance at the moment.

Commissioner Freiling asked the applicants what they wished to do.

Mr. Harrison stated that the applicants will want one free standing sign along Route K.

Commissioner Freiling asked if the purpose of that sign is to have the development name on it.

Mr. Harrison stated yes.

Commissioner Freiling asked if the intention was for a pedestal sign or a sign post with an elevated sign internally lit.

Mr. Yonke stated that he was just informed that the County Commission is supposedly going to adopt the sign regulation portion without any further modifications at the same meeting this would go to. The Commission is probably okay in saying in conformance with the proposed sign regulations.

Commissioner Neese stated that his concern about the building at the entrance would fall under condition number 3.

Mr. Yonke stated that in the multi-use plat process and the building permit process that structure can't really be there for that. The store can't be open and they can't even construct a lot of it without getting rid of that building.

Commissioner Heitkamp stated that the applicants need one accessible space for every ten parking spaces that should be shown on the plan.

Mr. Crockett stated that is not correct; it is 1 for 25, 2 for 50, and 3 for 100 it is not a constant ratio.

Mr. Yonke stated that staff requires that the applicants put it in depending on what the specific uses and the building plans are. Under the parking ordinance accessible parking spaces do count toward the total parking it is not in addition.

Commissioner Heitkamp asked about lights on the canopy. Commissioner Heitkamp stated that she understands the M-LP across the street closes at 10:00 p.m.

Mr. Yonke stated he didn't know.

Commissioner Freiling stated they close by choice not because they are required to.

Commissioner Heitkamp stated that the applicants are surrounded by residential area and wondered about the lights. Generally the Commission requires the lights be directed downward and inward. Commissioner Heitkamp asked the applicants how late they would stay open.

Mr. Godas stated probably about 10:00 p.m.; they will not stay open all night. The applicants other store stays open until 11:00 p.m.

Commissioner Heitkamp asked if lights are shown on the canopy on the plan.

Mr. Crockett stated that the lights are on the bottom of the canopy. All the lights will be in and down.

Mr. Yonke stated that this is the site lighting. We don't have any differences on how they standardly do the lights for the parking lot and site lighting. Commissioner Heitkamp is talking about lighting on the buildings more so.

Commissioner Heitkamp stated that the convenience store by her house closes at 10:00 p.m. The lights go off except for the security lighting. Commissioner Heitkamp asked if that is what is going to happen with this development.

Mr. Godas stated he believes so. The applicants are not planning on a 24 hour store.

Commissioner Heitkamp asked if the Commission could specify that.

Commissioner Sloan stated that if there is a bar there they will want to stay open after 10:00 p.m.

Mr. Yonke stated that hours of operation are within the Commission's purview; staff didn't recommend any because there aren't any limitations on the other planned ones in this immediate area for that same effect so staff went consistent. The Commission can place conditions for hours of operation, lighting, signage even beyond the sign regulations.

Commissioner Heitkamp stated that if the Commission hasn't made those requirements to the people across the road at Newtown then it wouldn't be fair to require Mr. Godas to do it.

Mr. Yonke stated that is why staff didn't recommend any.

Open to public hearing.

No one spoke in favor of the request.

Present speaking in opposition to the request:

Tammy Swanson, 1601 W. Old Plank Road, Columbia.

Ms. Swanson stated that from her understanding this has been brought to the Commission three times and the development company has not been able to comply with the conditions set forth by the Commission. Ms. Swanson asked why this is going to be any different. The proposed property has been able to be rezoned commercial in the past because there was no commercial property available. There is commercial property available just up the street that is vacant. Obviously the area doesn't have the demand for commercial property in the area. The proposed property wants to be rezoned for a gas station, restaurant and convenience store, things that the area already has and things that the other commercial property has already been zoned for. Ms. Swanson stated that when she moved in to the area 10 years ago there was a neighborhood behind her, a tennis court beside her, and a house in front of her property. Now the neighborhood is gone, the tennis court is gone and the house is gone. When discussing this proposal with planning and zoning staff Ms. Swanson was advised that her home would no longer have value as a residential home. The only value would be when someone wants to bulldoze it down. All the property bordering the proposed area is zoned residential including the property directly across Route K. The land owner has indicated that he wanted to build high end homes within 10 years. What motivation will there be to these undeveloped areas to build neighborhoods when they will be looking at the back of a commercial property. Ms. Swanson urged the Commission to deny the request.

Closed to public hearing.

Mr. Harrison stated that the reason the applicants did not complete the process the last time was not due to non compliance but ignorance to the requirements. Mr. Godas thought he was done with the rezoning and done with the planning process. It is not a question of not complying. The project has not been built it is a question of not following through.

Commissioner Sloan asked why the applicants didn't follow through.

Mr. Harrison stated that Mr. Godas was mistaken; he thought the process was done. He didn't realize that a final plan had to be approved. He assumed that when the review plan was approved he was done.

Commissioner Sloan stated that the applicant hasn't done anything.

Mr. Harrison stated that is correct; the applicants haven't built the project.

Commissioner Sloan stated that he gets it approved and lets it sit.

Mr. Harrison stated that the applicants haven't built the project but the criticism was that the applicants haven't complied which is not true, he just hasn't built the project yet.

Chairperson Smith stated that other concerns was that it would change the character of the neighborhood, there is residential around it and there is already commercial available.

Commissioner Freiling stated that since the zoning has been granted conditional final plan.

Commissioner Freiling made and Commissioner Neese seconded a motion to **approve** the request by George Godas to rezone from R-S (Single Family Residential) to C-GP (Planned

Commercial) of 5.6 acres, more or less, for Godas Leatherwood Center PCD located at 1601 W Rte. K, Columbia:

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

Motion to approve request carries. 6 YES 3 NO

Commissioner Freiling made and Commissioner Neese seconded a motion to **approve** the request by George Godas to approve a *Review Plan* for Godas Leatherwood Center PCD located at 1601 W Rte. K, Columbia **with staff recommendations plus two additional conditions:**

1. That a multi-use plat be submitted with any final development plan.
2. That the sewer district approves the sewer proposal, and that a guarantee of capacity be secured by this development by the developer.
3. That the entrances onto Old Plank Road are acceptable to and approvable by Boone County Public Works and the Director of Planning and be designed and located to BCPW standards.
4. That some form of documented approval for the location of entrances onto State Route K is provided before, or at the latest with, the final development plan submission.
5. That a landscaping plan, erosion control/stormwater plan and a traffic analysis each acceptable to this commission be required to be submitted with any final plan and that issues generated by these studies are still open to conditions for mitigation even though they are being submitted as part of a Final Plan.
6. That it is recognized that those uses that are conditional uses are required to obtain conditional use permits.
7. That the existing structures on the site be removed within 1 year from County Commission approval of this Revised Review Planed or the approval for this plan is void.
8. That the Permitted uses section eliminate: 4- Medical, Dental, and Psychiatric offices and out patient clinics, 9-Private Club or Lodge, and 20-Laboratory, Research, Experimental or Testing, from the permitted uses.
9. That the Conditional Uses section eliminate: 4-Residential uses when on second floor or above, from the conditional uses.
10. Permitted use 17 should be modified to be limited to a single neighborhood bar or tavern not to exceed 3000 square feet.
11. As part of the required landscaping the west side, rear facing portion, of the 3600 square feet building be screened to provide a buffer the details of which will be worked out with the remainder of the landscaping plan with the final plan and must be acceptable to the Director of Planning.
12. That free standing signage fall within the guidelines of any established sign ordinance. In the event a sign ordinance has not been established then signage fall within the guidelines established by this body and the proposed sign ordinance.
13. Exterior lighting be subject to review by staff with an intent to minimize offsite impact.

Pat Smith - Yes	Kristen Heitkamp – Yes
Mary Sloan – Yes	Carl Freiling – Yes
Mike Morgan – Yes	Larry Oetting – Yes

Keith Neese – Yes  
David Mink – Yes

Rob Brown – Yes

Motion to approve request carries unanimously.

Chairperson Smith informed the applicant that these requests would go before the County Commission on November 3, 2004.

## **PLANNED DEVELOPMENTS**

1. Request by T-Vine Enterprises, Inc. to approve a Final Development Plan for Settlers Ridge PCD on 5.01 acres, located at 4401 E. Highway HH.

Planner, Bill Florea gave the staff report stating that this property is located north of Columbia on State Highways B and HH. The property within the boundaries of the plan is part of a 117.02 acre parcel for which a Review Plan and Preliminary Plat was approved in 1999. A Final Development Plan for the first phase of the development that includes 61 lots for single family dwellings and 17 lots for two-family dwellings was approved in June 2002.

The subject tract is zoned A-2 (Agriculture) with CG-P and RM-P zoning pending approval of the final development plan. Land to the east is zoned R-S, to the north is R-D, to the west is A-2 with CG-P pending final development plan approval, to the south is CG-P.

A final plat for Plat 2 of Settlers Ridge is pending. The property is under a pre-annexation agreement with the City of Columbia for the purpose of obtaining sewer service. A condition of the agreement requires the developer to obtain plat approval from the City of Columbia prior to approval by Boone County. This restriction applies only to the plat, not to the Final Development Plan. The final plat will be brought forward after approval by the Columbia City Council.

The property is located within the Boone Electric service area. The proposed development lies within the Hallsville R-4 School District.

The purpose of this final plan is to finalize the change in zoning from A-2 to CG-P and RM-P. No structures are shown therefore no construction can occur on either lot until a Revised Review Plan and Final Plan are approved. A note to this effect appears on the Final Plan. In addition, no allowed uses are proposed which means there can be no land uses allowed until a revised review and final plan are approved.

Water District Number 4 provides water service to the property.

Sewer service will be provided by the City of Columbia.

Staff recommends approval of the plan.

Present: Jeff McCann, Allstate Consultants, 3312 Lemone Industrial Blvd., Columbia.

Mr. McCann stated that he doesn't have anything to add to the staff report other than the final plat we hope to have on the City Council agenda for approval at their November 1, 2004 meeting. Due to the

timing of their process with the County's schedule the applicants weren't able to get that prior to this meeting.

Commissioner Morgan asked if this area is on the west side of the tree line on the property.

Mr. McCann stated yes; it is on the west side.

Open to public hearing.

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

Closed to public hearing.

Commissioner Sloan made and Commissioner Neese seconded a motion to **approve** the request by T-Vine Enterprises, Inc. to approve a Final Development Plan for Settlers Ridge PCD on 5.01 acres, located at 4401 E. Highway HH:

Pat Smith - Yes	Kristen Heitkamp – Yes
Mary Sloan – Yes	Carl Freiling – Yes
Mike Morgan – Yes	Larry Oetting – Yes
Keith Neese – Yes	Rob Brown – Yes
David Mink – Yes	

Motion to approve request carries unanimously.

Chairperson Smith informed the applicant that this request would go before the County Commission on November 3, 2004.

## **PLAT REVIEWS**

1. Harmon Estates. S32-T50N-R11W. A-2. Larry and Judy Harmon, owners. J. Daniel Brush, surveyor.

Planner Bill Florea gave the staff report stating that the property is located on the south side of State Route OO just west of the intersection with State Route Z.

The lot will have frontage on and access to Route OO. The existing right of way half width is 35-feet therefore; no additional right of way will be dedicated by this plat. The applicant has submitted a request to waive the requirement to provide a traffic analysis. A permit from MoDOT will be required in order to access Route OO.

Water District Number 4 provides water service in this area.

An on-site wastewater system will be used for sewage disposal. The developer has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

The property scored 28 points on the rating system.

Staff recommends approval of the plat and waiver requests.

Commissioner Freiling made and Commissioner Neese seconded a motion to **approve** Harmon Estates. S32-T50N-R11W. A-2. Larry and Judy Harmon, owners. J. Daniel Brush, surveyor **with waiver requests:**

- |                   |                        |
|-------------------|------------------------|
| Pat Smith - Yes   | Kristen Heitkamp – Yes |
| Mary Sloan – Yes  | Carl Freiling – Yes    |
| Mike Morgan – Yes | Larry Oetting – Yes    |
| Keith Neese – Yes | Rob Brown – Yes        |
| David Mink – Yes  |                        |

Motion to approve plat with staff recommendations carries unanimously.

\* \* \* \* \*

2. Malone Meadows. S22-T49N-R13W. A-R. Otis, Wanda and Jerry Malone, owners. Curtis E. Basinger, surveyor.

Planner Bill Florea gave the staff report stating that the property is located at the northeast quadrant of the intersection of Fenton Road and O’Neal Road. The parent tract is approximately 27.5 acres in area. The tract is being divided into two lots and one administrative survey tract.

Lot 1 will have access to a publicly maintained road by a private access easement. The easement will be recorded prior to the plat and the book and page will be referenced on the plat. Lot 2 will have direct access to and frontage on Fenton Road. Right of way sufficient to provide a 33-foot half width right of way for Fenton Road will be 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. They have requested a separate waterline easement in order to provide water to Lot 1. The easement has not been provided and is not shown on the plat. The subdivision regulations require the developer to provide easements as requested by utility providers.

On-site systems will be used to treat wastewater. A lagoon is under construction on Lot 1 and its location is shown on the plat. A plan showing a suitable location for a lagoon on Lot 2 is on file. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

The plat leaves a remainder tract of approximately 5-acres, which would result in a violation of the subdivision regulations. The developer has proposed to consolidate that tract with an existing 10-acre tract by administrative survey. The survey will have to be completed and recorded concurrently with the subdivision plat.

The property scored 44 points on the rating system.

Staff recommends approval of the plat subject to the following conditions:

1. The developer shall dedicate a waterline easement to Consolidated Public Water District Number 1. Said easement shall be at a location and of a width approved by the water district. The easement shall be recorded and the recorded Book and Page shall be noted on the plat prior to recording the plat.
2. The developer shall submit an administrative survey combining the remainder tract with the tract identified by survey recorded in Book 1265 Page 820. The survey shall be recorded simultaneously with the plat.

Commissioner Freiling stated with regard to the water line easement it is much easier to describe an easement based on a recorded plat. Can staff make the requirement that the easement be shown on the plat and the easement be signed and recorded concurrent with the recording of the plat. Otherwise we are going to end up a legal description of an easement without it being able to be referenced to a survey specifically because the survey will not have been recorded. Speaking from a practical standpoint if the survey shows the survey on it and the easement can show the book and page of the survey for future references that is much easier to figure out. So that if the requirement could be that the plat be recorded and the easement be provided so that the book and page of the plat recording could be put on the easement and the easement then recorded. From a future reference standpoint that is a lot easier to figure out.

Mr. Florea stated that staff should probably figure out how they want to do this. Typically staff requires that the document be referenced on the plat rather than the plat be referenced on the other documents. It is a requirement of code.

Commissioner Neese stated that there is not only an electrical easement going northeast to southwest but it appears to be another overhead electric line. Commissioner Neese asked if that was Boone Electrics line.

Mr. Florea stated that it is but staff didn't get a comment from Boone Electric wanting an easement there. Mr. Florea stated that he didn't know if there was an easement there, sometimes Boone Electric will install lines without easements; this may be one of them. Fairly often they will ask for an easement dedicated for their existing lines but in this case staff didn't receive such a comment.

Commissioner Heitkamp stated that what we will end up with is a wrap around 10 acres.

Mr. Florea stated that it will be about 15 acres. The tract to the north that is identified survey recorded in book 1265 page 820 is a ten acre tract. Then there is a dashed line showing another tract; that defines about 4.9 acres that would be a remainder left off of this property after the subdivision is recorded. Those two tracts will be required to be consolidated.

Commissioner Heitkamp stated that the applicants could create two more lots and still remain A-1.

Mr. Florea stated that it is an A-R zoning district. The applicants will be limited because they are using a private easement to access one of the lots. They will be limited to 5 acre tracts on any portion of this tract. This 15 acre remainder could be divided in the future in to 5 acre tracts but no smaller than 5 acres unless they provide public road frontage for each of the lots.

Commissioner Brown made and Commissioner Morgan seconded a motion to **approve** Malone Meadows. S22-T49N-R13W. A-R. Otis, Wanda and Jerry Malone, owners. Curtis E. Basinger, surveyor **with staff recommendations**:

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

Motion to approve the plat with staff recommendations carries 8 YES 1 NO

\* \* \* \* \*

3. Albright. S28-T50N-R13W. A-2. Joe and Michele Albright, owners. Steven Proctor, surveyor.

The following staff report was entered in to the record:

This 2-lot minor plat is located on the south side of Dripping Springs Road approximately 200 feet east of the intersection of Red Rock Road and Dripping Springs Road. The site is approximately 5 miles southeast of the municipal limits of the City of Harrisburg. The area being subdivided contains 20.83-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 house, on-site wastewater system and a couple of out-buildings on proposed lot 2. 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 Harrisburg 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 Boone County Fire Protection District and Boone Electric Service areas. This plat has 33 points on the point rating scale.

Staff recommends approval along with the granting of the waiver requests

Commissioner Freiling made and Commissioner Mink seconded a motion to **approve Settlers Albright. S28-T50N-R13W. A-2. Joe and Michele Albright, owners. Steven Proctor, surveyor with waiver requests.**

Pat Smith - Yes	Kristen Heitkamp – Yes
Mary Sloan – Yes	Carl Freiling – Yes
Mike Morgan – Yes	Larry Oetting – Yes
Keith Neese – Yes	Rob Brown – Yes
David Mink – Yes	

Motion to approve the plat with staff recommendations carries unanimously.

\* \* \* \* \*

**OLD BUSINESS**

Mr. Shawver updated the Commission on the decisions of the County Commission.  
CUP for the coffee shack – The County Commission approved the request as recommended.  
Rezoning request by Pape and Bullard – The County Commission overturned the Planning and Zoning Commissions recommendation and approved the request.

Mr. Shawver stated that the sign ordinance is on the November 3, 2004 County Commission agenda for a second reading which will be the adoption. The Commission had their first reading a week and a half ago.

\* \* \* \* \*

1. Update by-laws.

Mr. Shawver stated that the by-laws were passed out last month for review. The by-laws state that they are to be reviewed in September every year. If there are any changes to be made they are made the following meeting. Two suggested changes were made. One was the location of the meeting should be specified as the Roger B. Wilson Boone County Government Center. Even though Robert’s Rules of Order are number for a quorum change when the additional Townships were made more Commissioners were added and that change needed to be made. Mr. Shawver stated that he did not hear from any of the Commission Members regarding any other changes.

Commissioner Heitkamp stated that Article 3, Section 2 under elections it states that they ballots are counted by the County Commissioner present.

The Commission suggested that be changed to ballots being counted by the County Engineer.

Commissioner Freiling made and Commissioner Morgan seconded a motion to approve the by-laws as amended.

Motion approved by acclamation.

**NEW BUSINESS**

Mr. Shawver stated that staff puts in a lot of time getting ready for these meetings and following up for the meetings. There is nothing more embarrassing than to have the public show up for a meeting and you don’t have a quorum. Mr. Shawver reminded the Commission that it is necessary to reply to County staff and let them know whether or not you will attend the Commission meeting.

Commissioner Mink informed the Commission that Mr. Shawver was nominated for Boone County Employee of the Quarter and was recognized at the County Commission meeting.

**ADJOURN**

Being no further business, the meeting was adjourned at 9:05 p.m.

Respectfully submitted,

Kristen Heitkamp,  
Secretary

Minutes approved on this 18th day of November, 2004.