

**BOONE COUNTY PLANNING & ZONING COMMISSION**

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, November 18, 2004

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

Present: Pat Smith, Chairperson Perche Township  
Mary Sloan, Vice-Chairperson Rocky Fork Township  
Mike Morgan Bourbon Township  
Russell Duker Missouri Township  
Rob Brown Rock Bridge Township  
David Mink Public Works

Absent: Kristen Heitkamp, Secretary Katy Township  
Michael Caruthers Centralia Township  
Keith Neese Columbia Township  
Carl Freiling Cedar Township  
Larry Oetting Three Creeks Township

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

The minutes of the October 21, 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 permit, 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 any 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, November 30, 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, November 30, 2004 will begin at 7:00 p.m. and will convene in this same room.

## **CONDITIONAL USE PERMITS**

1. Request by Jane L. Fudge on behalf of Teresa Fudge-McGrath for a permit for a kennel on 2.75 acres, located at 4370 N. Liddell Ln., Columbia.

Planner, Bill Florea gave the staff report stating that this property is located approximately 3 miles east of Columbia. The property is zoned A-1, as is all of the surrounding property. A legal description for the site was provided by the applicants which describes 2.75 acres that includes a barn. There is no dwelling on the site described by the applicants. The co-applicants have been operating a kennel without a permit on property located approximately 1200 feet to the west. They are requesting a conditional use permit that will allow them to re-locate the kennel to the subject site. This site is located within the Columbia school district and the Boone County Fire Protection District. Electric service is provided by the Boone Electric Cooperative. The master plan designates this area as being suitable for agriculture and rural residential land uses. Staff notified 15 property owners about this request.

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

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

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

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

The subject site is some distance away from residential properties in the area. Staff has received complaints about the noise and odors emanating from the site that is currently being used for the kennel. Staff believes that through proper wastewater disposal and screening, these issues can be more readily solved at the proposed location than at the previous site. Public testimony may be indicative as to whether this criterion can be met.

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

Staff has no reason to believe that the proposed use will have a negative impact on property values in the area. The proposed site is separated from residential land uses by some distance. However, public testimony may be indicative as to whether this criterion is met.

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

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

- (e) The establishment of a conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.

This area is zoned A-1, with residential uses limited to 10 acre tracts or larger. Future development of the area will be accomplished through the existing zoning, or will require rezoning to achieve a higher density of development. Noise and odors emanating from the site, unless adequately controlled, could discourage future residential development at a higher density. However, public testimony may be indicative as to whether this criterion is met.

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

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

- (g) The conditional use permit shall in all other respects conform to the applicable regulations of the zoning district in which it is located. The County Commission shall find that there is a public necessity for the conditional use permit.

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

County regulations require that a kennel of this type comply with the minimum standards of the United States Department of Agriculture. The applicants have indicated that their intent is to comply with these standards.

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

- Facility to comply with USDA standards within 90 days.
- Provide proof of USDA license within 90 days.
- Install sight proof fence around facility within 90 days.
- Install wastewater system for the kennel within 90 days.
- Pens/runs may not be stacked above other pens.
- Kennel building must be at least 100 feet from property lines.
- Provide a survey of the subject site.

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

Ms. McGrath stated that her mother is Jane Fudge who is the property owner. The 2.75 acres is a portion of 160 acre family farm and it is just a quarter mile up the road from Ms. McGrath's property. There are plans for a privacy fence to go all the way around the kennels. It is the applicants understanding that a lagoon is permissible for the kennels. The only question the applicants have is that one of the conditions is that there is not to be runs stacked above another run. That is the way kennels are made no matter where you buy a kennel that is the way they are made. Ms. McGrath stated that there are no regulations in the USDA or the Missouri Department of Agriculture that says that you can't do that. That is the way they are made and there are tons of kennels throughout Missouri that are built that way. Ms. McGrath stated that she is not sure what the concern is there.

Mr. Shawver stated that this condition was recommended due to ease in cleaning the kennels.

Ms. McGrath stated that the way they are made there are wash downs that run at an angle underneath each set of runs. When you spray them out it runs down.

Mr. McGrath stated that where the cage comes out away from the building you use fiberglass and it makes a gutter. When the waste hits that it goes in to the drain in to the pipe then to the lagoon. You can take a power washer with a sprayer and spray it down in to the pipe then it hits the pipe and goes out to the lagoon. There is no way anything from above can get to the dog below.

Commissioner Sloan asked what the floor of the kennel was made of.

Mr. McGrath stated rubber coated wire.

Ms. McGrath stated that the outside runs are wire, the inside is wood.

Chairperson Smith stated that the Commission has to make sure that any of these requests meet the seven criteria. Chairperson Smith stated that she has looked in to this request. The Commission recognizes that kennels are a billion dollar business in Missouri and there are two to three thousand licensed kennels in the State of Missouri. One only has to visit the internet to see the millions of puppies for sale.

Chairperson Smith stated that she is really concerned about the criteria that states that the County Commission shall find that there is a public necessity for this conditional use permit. Chairperson Smith stated that her question is what is the public necessity to have more puppies.

Ms. McGrath stated that she has people calling her now telling her that they are interested in small breed dogs.

Chairperson Smith stated that the applicants stated they would have 26 breeding females, that is a lot of dogs that will be produced.

Ms. McGrath stated that the market is there. The applicants have waiting lists of people wanting dogs. The applicants have done research themselves and there is a waiting list for puppies. The supply and demand is there.

Chairperson Smith stated that it is hard for her to change the use of the land and it will always stay changed based on the applicants business decisions. Chairperson Smith stated that she tried to research this to make sure that she didn't think the applicants were making a bad business decision. Chairperson Smith stated that she is going to be making a decision that the people of Boone County is going to have to live with for a long time. The applicants may be reputable and then move and people may be waiting in line for the puppies but the next people that come in might not. The Commission has to think about what is going to stay with the land.

Ms. McGrath stated that the veterinarian has approved everything and the applicants are licensed by the State of Missouri

Chairperson Smith stated that she made several calls to veterinarians she knows and to the State and they all seem to say that we don't need any more puppies. There are a lot of puppies out there for anybody who wants a puppy. Chairperson Smith stated that she finds it interesting that the applicants have a waiting list.

Commissioner Mink stated that he doesn't recall from last time that the applicants were only talking about small breeds. At the last meeting the applicants were leaving it a little more open. Commissioner Mink asked the applicants if they were talking about small breeds like shih tzu's and yorkshire terriers; what are the applicants calling a small breed.

Ms. McGrath stated papillon, poodles, chihuahuas, and the other breed of dog whose weight is usually a maximum 20 pounds is a shiba inu.

Commissioner Mink stated that that not being a condition there is nothing binding if the applicants say it is going to be all small dogs.

Mr. Florea stated it would not be binding unless there was a condition to that effect.

Ms. McGrath stated that she would be setup for small dogs so it wouldn't be to the applicants benefit to have a large dog because she would have to change the USDA rules and the Missouri Department of Agricultural rules because she would have to have bigger runs and a larger set up all together. It wouldn't be to the applicants benefit to switch to a larger breed.

Commissioner Duker asked the size of runs are required by USDA.

Ms. McGrath stated that it depends on the size of the dog.

Commissioner Duker asked what size of runs the applicants intend to have.

Ms. McGrath stated that the ones the applicants have now are the smaller 2 by 6 foot on the outside.

Commissioner Duker asked how many animals fit in that.

Ms. McGrath stated one. On the inside the pins are 2 x 2 foot.

Commissioner Duker asked how many animals fit in to that area.

Ms. McGrath stated it is all connected.

Mr. McGrath stated that each dog has its own aluminum door.

Commissioner Duker asked how high they are stacked.

Ms. McGrath stated that the building is 10-feet high.

Commissioner Duker asked how many pens are put on top of each other.

Mr. McGrath stated they are two high.

Commissioner Mink stated that there are guidelines about indoor facilities and sheltered housing and also outdoor facilities. Commissioner Mink asked how the applicants would be classified it sounds like something in between. It sounds like the dogs can choose to go inside or outside.

Ms. McGrath stated yes. There is a tarp over the top set of runs and it has been approved for shade. The top runs shade the bottom run.

Commissioner Mink asked if the dogs were inside all the time or are they outside all the time.

Ms. McGrath stated that the dogs can choose where they want to be.

Chairperson Smith stated that each one of these runs would have the mother dog and her puppies.

Ms. McGrath stated that was correct.

Commissioner Mink stated that the applicants stated that when the dog comes outside they can't go and intermingle with the other dogs. They are confined to their own space.

Ms. McGrath stated that there is wire in between but they can't go on to the other run.

Commissioner Brown asked where the puppies go when they are weaned from the mother.

Ms. McGrath stated they would go in to another run.

Commissioner Duker stated that they would go in to the run with the mother so there would be the mother and five or six puppies.

Ms. McGrath stated that we are talking about puppies that are very small; sometimes they will go in the house depending on the weather.

Commissioner Sloan asked how the facility was heated and cooled.

Ms. McGrath stated that there is a window air conditioner and portable space heaters. Ms. McGrath stated that she is within the regulations of the USDA.

Commissioner Sloan asked if the applicants were going to have more than one building.

Ms. McGrath stated no.

Commissioner Morgan asked how close the applicants were to the closest neighbor.

Mr. McGrath stated that he could only guess about 500 to 1000 feet.

Commissioner Duker asked if the applicants kept male dogs in addition to the females.

Ms. McGrath stated yes.

Commissioner Mink asked how far this site is from the previous site.

Mr. McGrath stated it is about 400 yards.

Commissioner Mink stated that it is 400 yards further away from any other residence.

Ms. McGrath stated that is correct.

Commissioner Duker stated that if you have 26 breeding females requested that means the applicants have about 36 cages.

Ms. McGrath stated that it is capable of having 48 cages.

Mr. McGrath stated that until we find out where everything is going to go the one side is all that is set up. When the building is set up and complete the other side will be set up.

Chairperson Smith asked if the applicants were going to be doing all the work themselves.

Ms. McGrath stated that the family would help.

Commissioner Mink stated that the conditional use permit goes with the property.

Mr. Florea stated that is correct, it runs with the land, not the owner.

Commissioner Mink asked if a condition could be put on the permit that the conditional use permit is not transferable.

Mr. Florea stated he believed so.

Open to public hearing.

No one spoke in favor of the request.

Present speaking in opposition to the request:

Julie Peterson, 4441 N. Liddell Lane, Columbia.

Ms. Peterson stated that she would be pleased to see the applicants move their kennels down the road but she still has reservations. She hopes that the facility would have a sound proof fence around it as high as the kennel. Ms. Peterson stated that she has reservations because this kennel has been in operation, the dogs have been there for over 18 months. With the conditions tonight the applicants have to comply within 90 days. Based on history she worries about that actually happening. The other ethical issue is the quantity of dogs and them being housed in Boone County.

Ms. Peterson presented pictures of the kennel in question.

Ms. Peterson stated that you can see that there are multiple dogs in each cage.

Chairperson Smith stated that she is not sure you can make a sound proof fence.

John Yanos, 4441 N. Liddell Lane, Columbia.

Mr. Yanos stated that the proposed site is further away from his residence. Mr. Yanos would like the applicants to have a fence that is solid and as high as the top of the kennel. If the Commission decides to approve the request it would be reasonable to require the fence. This has been going on for 18 months and it hasn't been in compliance. Mr. Yanos stated that the staff report was obviously cut and pasted and those issues have not been addressed. When the applicants were here two months ago there was a requirement that there be an engineer to design the waste water system. None of these issues have been addressed. Mr. Yanos stated that he has doubts about whether this facility will ever be in compliance. The dogs have been where they are illegally for the last 18 months. Mr. Yanos wonders if their problem will ever be solved. At the same time Mr. Yanos has the same concerns the Commission has about public necessity. The County kills hundreds of dogs per year; why do we need to breed hundreds more. Mr. Yanos stated that he doesn't see how anyone can see this as a public necessity.

Commissioner Brown asked staff if the applicants do not comply within 90 days what will happen.

Mr. Shawver stated that 90 days is just a suggestion. If the applicants don't comply with the regulations the County can take action and have the conditional use permit revoked by a public hearing with the County Commission.

Mr. Florea stated that the applicants are now under an order to cease and desist the operation of the kennel which was stayed pending the outcome of this hearing. The 90 days is to comply at the new site but the immediately need to move the new kennel to the new site. The 90 days was not intended to move, it is 90 days to comply at the new site.

Commissioner Brown stated that his question was what kind of enforcement power does the County have if the applicants don't comply, is it something that is administratively taken care of or is it turned over to the sheriff to enforce.

Mr. Florea stated that it would be forwarded to the County Attorney for action.

Chairperson Smith asked the applicants if they have been doing this for 18 months.

Ms. McGrath stated that she didn't believe it has been that long. The applicants haven't done anything with it yet. The dogs were bought as puppies.

Chairperson Smith asked the applicants if they have sold any puppies.

Ms. McGrath stated that she had a house dog that she sold puppies from.

Chairperson Smith asked if they wanted this business and that is why the applicants came in for a conditional use permit.

Ms. McGrath stated yes.

Chairperson Smith asked if there were any complaints.

Mr. McGrath asked staff how many letters were sent to neighboring property owners.

Mr. Florea stated 15.

Mr. McGrath asked if it seemed funny that out of 15 people only one person is in opposition. DNR called the applicants since the last meeting and set up an appointment to come to the applicants place and looked at everything and said that there is nothing wrong. The DNR representative said it would be filed as a dispute between neighbors.

Ms. McGrath stated that the representative from DNR walked around the pond that is behind the kennels and there is a stream that runs down there and she came back and said she couldn't find anything and it is filed with DNR.

Mr. McGrath stated that out of the 15 neighbors Mr. Yanos' house is the fourth or fifth farthest one.

Commissioner Mink asked the applicants if they would object if the Commission had a condition limiting the size of the dog. Commissioner Mink asked the applicants if there was a weight limit on a small breed dog; 20 pounds or less.

Mr. McGrath asked if there are other kennels in Boone County.

Chairperson Smith stated yes.

Mr. McGrath asked if they are required to do something like that.

Chairperson Smith stated that the Commission has granted other conditional use permits and depending on what they are doing with their kennels, yes. Chairperson Smith stated that the Commission has never had anyone that wanted 26 breeding females. There are 25 other kennels registered in the County with the USDA. The Commission has granted 4 conditional use permits and conditions were put on all of them depending on what their use was.

Mr. McGrath stated that he wondered if it was just the applicants or is it everybody.

Commissioner Mink stated that the applicants are the ones who stated that there would only be small dogs and that is not binding unless a condition is made to that effect. Commissioner Mink stated that he is just asking what the applicants definition of a small dog is so that could become a binding condition.

Ms. McGrath stated that her only hesitation with that is if she has a shiba inu whose parents are 20 pounds. If the applicants decide to keep a female for breeding purposes and she grows to be 22 pounds will the applicants have to sell her because she is overweight?

Commissioner Mink stated that he is only asking the applicants their definition of a small dog.

Ms. McGrath stated that is her hesitation with that. If it is a good breeding female she would hate to say that she agree to a 20 pound limitation.

Mr. McGrath asked Commissioner Mink what weight he was thinking.

Commissioner Mink stated that he is not the one who said small dogs; the applicants did.

Commissioner Duker stated that Commissioner Mink is only asking the applicants to clarify what they mean when they say small dogs.

Commissioner Brown asked if any of the dogs would be over 40 pounds.

Mr. McGrath stated no.

Ms. McGrath stated that when she says small dogs the way they do the size of the runs depends on how tall the dogs are and how long bodied they are. It has nothing to do with weight. The roof has to be 6-inches above their heads.

Commissioner Mink stated that the applicants report stated small dogs. Commissioner Mink stated that he was asking the applicants, not trying to limit them, only to what the applicants said but Commissioner Mink stated that he doesn't know how to define that. Commissioner Mink stated that he doesn't know how the applicants define small dog.

Ms. McGrath stated that everyone has their own definition of a small dog.

Commissioner Mink stated that if we start seeing 80 pound dogs in here then that is a whole different ball game.

Ms. McGrath stated that she wouldn't be able to have those size dogs in her kennel.

Commissioner Mink stated that the applicants are not restricted to that size of a kennel. Once the applicants get their conditional use permit they could sell this kennel and get something to accommodate large dogs if the condition isn't there; there is nothing binding.

Mr. McGrath stated that it is hard to agree to something like that when later on the applicants may find out that English bulldogs are bringing \$2500 a piece. Mr. McGrath stated that he would hate to sign a paper saying that the applicants can't meet all criteria for building for raising English bulldogs. The applicants plan to raise smaller dogs.

Commissioner Morgan asked staff if this is considered agriculture activity.

Mr. Florea stated no; not under the County's ordinances.

Chairperson Smith stated that it is commercial activity.

Commissioner Sloan stated that she had questions regarding the photographs submitted by the neighbors. The applicants had stated that only one dog would be placed in each run. According to the photographs clearly there is more than one dog in each run.

Ms. McGrath stated that if the female is in heat she will put a male in with her. If it is a Chihuahua and it is 8-inches high you can have two dogs in there. It all depends on the length of the body and the height of the body.

Mr. McGrath stated that there are 24 more runs on the other side of the building that the applicants do not want to spend more money on until the applicants find out if they are approved for the permit.

Commissioner Sloan stated that the applicants stated the inside runs were going to be 2 x 2 feet. That is not very big.

Commissioner Duker asked if the applicants were going to use the same building on the new site.

Ms. McGrath stated yes.

Commissioner Duker asked if the applicants were just going to move the building to the new site.

Mr. McGrath stated yes.

Commissioner Sloan stated that the applicants are saying that the runs outside are 6-foot long, the space inside for the dogs are 2 x 2 foot. An 8-inch Chihuahua can live in a 2 x 2 foot space but now we are talking about 20 pound dogs maybe 25 pound dogs, it was suggested maybe up to a 40 pound dog. Commissioner Sloan stated that she can't see a 40 pound or 20 pound dog living in a 2 x 2 foot square. That is not livable.

Ms. McGrath stated that the 20 pound dog that was referred to is a shiba inu. There is one shiba inu in a run.

Commissioner Sloan stated that she is talking about the inside.

Ms. McGrath stated that the dog can lay down in a 2 x 2 foot space. Ms. McGrath stated that the veterinarian has to approve it. The Missouri Department of Agriculture has to approve it.

Commissioner Sloan stated that there is nothing in these regulations that she sees that specifies size.

Ms. McGrath stated that she has a book that specifies this information. Ms. McGrath asked Commissioner Sloan if she would like to see it.

Commissioner Sloan stated no she was only asking. Commissioner Sloan stated that she is thinking of the size of kennels in veterinary facilities. 2 x 2 foot is a very small space and there is concern for the conditions for the dog.

Ms. McGrath asked what is Planning and Zoning's concern if the applicants are licensed, if the applicants have written approval from the veterinarian that the pets are healthy and well taken care of and licensed by the Missouri Department of Agriculture. If they have approved everything why is it being questioned by Planning and Zoning when the applicants already have the veterinarian and the Department of Agriculture saying that everything is okay. The only reason the applicants haven't applied for the USDA yet, the applicants have the papers and they are filled out, the applicants haven't applied yet because they haven't moved the kennel and don't need their approval unless the applicants want to sell to a broker.

Chairperson Smith asked how the applicants plan to sell these puppies.

Ms. McGrath stated that she plans on selling to the public.

Chairperson Smith asked if the applicants are going to sell through pet stores, the internet, or are the buyers going to come to the applicants house.

Ms. McGrath stated that the applicants will use the newspaper and word of mouth. Right now word of mouth is working better than anything.

Chairperson Smith stated that her concern is the conditions the Commission will have to live with whether the applicants come in with a conditional use permit request or whether someone else does. Chairperson Smith stated that she is very concerned about being fair to everybody that comes in. Chairperson Smith stated that her concern is the criteria of public necessity.

Mr. Florea stated that there was a question asked earlier about where the puppies will go after they are weaned. The applicants had stated that the puppies would be taken to their house.

Ms. McGrath stated yes.

Mr. Florea stated that the house is not licensed. If this conditional use permit is granted the applicants can not take the puppies to their home because that is not part of the premises on which the kennel can be operated.

Mr. Yonke stated that the applicants indicated that the building is heated by space heaters. Mr. Yonke asked if those are currently in the facility.

Ms. McGrath stated yes.

Mr. Yonke asked how the building is powered.

Mr. McGrath stated Boone Electric.

Mr. Yonke stated that power was ran to the building. Mr. Yonke asked if a building permit was obtained for that electrical connection.

Mr. McGrath stated no.

Mr. Yonke stated that no building permit was obtained for the building itself or for the power.

Mr. McGrath stated that he hooked it up. It was ran from his current breaker box. Mr. McGrath asked if a building permit was required for that.

Mr. Yonke stated that you have to obtain a building permit for any electrical connection. Mr. Yonke stated that Boone Electric would not have turned on the power without a permit.

Mr. Yonke asked the applicant if the building was anchored to the ground.

Mr. McGrath stated no; the building is very heavy.

Mr. Yonke stated that the applicants ran electrical power to a building that is not permanently anchored to the ground.

Mr. McGrath stated that he ran electric to a pole.

Mr. Yonke asked how the power is run to the pole.

Mr. McGrath stated that it is run to the side of the building in conduit.

Commissioner Mink stated that his assumption was that the applicants were wholesalers and that they would be taking these puppies and someone else would be marketing them. If the applicants are actually setting up a retail business to sell the puppies on the premises the applicants aren't going to do it out of that building most likely. Commissioner Mink asked the applicants where the applicants were planning to show the puppies to the families that come in to pick a puppy out. Commissioner Mink stated that he has been to some kennels where they have had the puppies in a separate building and had a viewing room so you could go in and look at all the puppies. Commissioner Mink asked the applicants where they were going to have that kind of activities going on.

Ms. McGrath stated that would happen at the kennels themselves. Ms. McGrath stated that she bought the puppies at the kennels.

Commissioner Mink asked if that was the plan. Are the applicants going to bring the puppies in to the house and have a place for viewing there.

Mr. McGrath stated that the applicants are not going to put anymore money in to another building.

Chairperson Smith asked how many puppies the applicants think they will have every year with 26 breeding females. In the newspaper there are puppies after puppies.

Ms. McGrath stated that it all depends on the breed of dog. Some breeds have two puppies a litter and some have four puppies a litter.

Commissioner Mink stated that the applicants stated last time about bringing puppies in to their garage. Is that still part of the applicants plan?

Mr. McGrath stated not according to staff.

Mr. Florea stated that if the permit is granted the applicants are not licensed to operate any portion of the kennel at their home. This will have to be on the 2.75 acre site that has been designated.

Commissioner Sloan stated that in speaking with other kennel owners who have a large number of breeding animals about how many puppies a year do they sell.

Ms. McGrath stated that she has been to places that have 100 breeding dogs plus and she has been to places that have 20 breeding dogs.

Commissioner Sloan asked about the one that has 20 breeding dogs.

Ms. McGrath stated that she doesn't recall. If you talk to someone who is breeding dogs they are not going to give you numbers and dollars that they are going to make.

Commissioner Sloan stated that if you are getting in to this business Commissioner Sloan is sure the applicants have asked. Commissioner Sloan asked the applicants if they have asked other kennel owners about being in this business.

Ms. McGrath stated that she asked if there is a market for dogs.

Commissioner Sloan asked the applicants if they asked how many puppies. Commissioner Sloan asked what the market is.

Ms. McGrath stated that there is a large market for the small breed dogs. You can sell them over the internet, you can sell to people in New Jersey.

Mr. McGrath stated that if the applicants get the USDA permit they can sell commercially to brokers. There are ads for those in the ad finder every week.

Commissioner Duker asked what made the applicants bring this request before planning and zoning.

Chairperson Smith stated because the applicants wanted to go commercial and in order to do commercial they have to get a conditional use permit.

Mr. Florea stated that it was in response to a violation. Staff was pursuing a violation.

Commissioner Duker asked the applicants if that was the case. The applicants brought this request forward was because of a violation.

Commissioner Brown stated that the applicants were notified that they were not in compliance.

Mr. McGrath stated that part of the problem was ignorance to the law. As soon as someone will tell the applicants what they are supposed to do, they will do it.

Commissioner Duker asked the applicant to answer the question. Did the applicants bring the request forward because they were in violation?

Ms. McGrath stated that it was a combination of a violation and wanting to sell puppies commercially.

Commissioner Duker asked the applicants to look at the photographs that were submitted. The applicants had stated that the USDA was out at the site and found that everything was okay. Commissioner Duker asked the applicants if they were in compliance in the lower picture.

Ms. McGrath asked compliance with what?

Commissioner Duker stated with the size of the animals and the number of animals that the applicants can have. Those dogs aren't too big for those runs and there aren't too many in there.

Ms. McGrath stated that Matt Rold who is with the Missouri Department of Agriculture is here.

Matt Rold, 9101 E. Mt. Hope Road, Columbia.

Chairperson Smith stated that there was a question about the regulations.

Commissioner Duker asked where the air conditioner was in the picture.

Ms. McGrath stated that the air conditioner is in the back of the building, it is not shown on the picture.

Commissioner Duker asked if there was an air conditioner in the building.

Ms. McGrath stated that there is not one in it right now.

Commissioner Duker asked if there was an air conditioner in the building when the inspector looked at the site because it looks like the picture was taken during the summer.

Ms. McGrath stated that is right.

Mr. Rold stated that the rules require that the temperature not exceed 85 degrees for more than 4 hours at a time.

Chairperson Smith stated that the dogs can be in 85 degrees for 4 hours.

Mr. Rold stated yes.

Commissioner Duker asked when the air conditioner was put in because it got over 85 degrees this summer.

Ms. McGrath stated that there was a ceiling fan in there and the applicants went down there periodically throughout the day and it never got over 85 degrees.

Commissioner Duker stated that it must be the coolest spot in Boone County.

Ms. McGrath stated that there are trees that shade the building.

Chairperson Smith asked Mr. Rold how many kennels he checks in Boone County.

Mr. Rold stated that there are probably 25 licensed kennels in Boone County that are licensed by the Missouri Department of Agriculture.

Chairperson Smith asked if this is pretty typical for the kennels Mr. Rold looks at.

Mr. Rold stated no; most of the kennels in Boone County involve animal shelters and boarding facilities.

For a commercial breeding kennel such as sundowner, Wharton, or innovative kennel design this is a typical design.

Chairperson Smith stated going back to her concern of public necessity. We were talking about pure bred dogs and there is a need and a demand, Chairperson Smith stated that a lot of that is who you talk to and also knows that the humane society just last weekend took in 72 dogs that were pure breeds that were from a breeding kennel similar to what the applicants are proposing. Chairperson Smith stated that she is not trying to draw any parallels to any other activity. But there are a lot of breeding dogs out there. Chairperson Smith asked Mr. Rold if he believes there is a public necessity for more dogs in Boone County.

Mr. Rold stated that he doesn't believe that is the criteria that he is here to examine. Mr. Rold stated that he would take any questions on animal care issues or compliance with the Missouri Department of Agriculture. Mr. Rold stated that he is neighbors to the applicants as well but he is not here in support of or in opposition to any venture that they may have. Mr. Rold stated that he would take any questions regarding the compliance.

Chairperson Smith stated that Mr. Rold has no reason to believe that this kennel wouldn't be in compliance.

Mr. Rold stated that it was in compliance when the license was issued in September.

Chairperson Smith asked if the license was issued today would it be in compliance. Chairperson Smith asked if Mr. Rold has been out there recently.

Mr. Rold stated that he was at the site one week ago today.

Chairperson Smith asked if it was in compliance.

Mr. Rold stated that there are some drainage and waste disposal issues that will need to be dealt with.

Chairperson Smith asked if what the applicants proposed would address those issues.

Mr. Rold stated that is correct; in fact the materials have been bought. That was one of the concerns when Mr. Rold met with the applicants last week and Mr. McGrath took him to the storage shed to show him that the materials have been bought for improving the kennel.

Commissioner Duker asked the applicants that when they stated that they were in compliance with USDA standards it was almost completely true.

Ms. McGrath stated that the waste water was the only issue and that is only because when the applicants spoke with planning and zoning three months ago she couldn't get a definite answer on what kind of sewage to use.

Mr. Yonke asked Mr. Rold if it was a licensing requirement by the Missouri Department of Agriculture that the applicants meet local requirements.

Mr. Rold stated no.

Mr. Yonke stated that the Missouri Department of Agriculture has no requirement that the applicants meet local requirements.

Mr. Rold stated no.

Chairperson Smith stated that the only reason the applicants would have to comply with the Missouri Department of Agriculture is if they want to become brokers.

Mr. Rold stated no that is involved with USDA. The USDA is going to regulate the research facilities. There is an animals care facilities act, which is the program that Mr. Rold works in and they are involved in any entity that enters dogs in to commerce whether that be the Central Missouri Humane Society or whether it is a commercial breeding operation or animal rescue, or a boarding facility.

Commissioner Brown asked if the State has a definition of a small dog or a dog that would be permitted for these kennels.

Mr. Rold stated no. They don't differentiate on size of dogs; they differentiate on the number of intact females; males don't count. Just like here, Mr. Rold understands that you can have as many male dogs as you want.

Chairperson Smith stated she didn't believe that was correct, it depends on which ordinance.

Mr. Rold stated that in order to get involved with the Missouri Department of Agriculture as far as a commercial breeder is any facility that harbors over 3 intact females.

Commissioner Brown asked that when the license was issued in September was the waste water in compliance at that time.

Mr. Rold stated yes.

Commissioner Brown stated that when Mr. Rold went back it was out of compliance.

Mr. Rold stated that the facilities that he goes to and inspects it is like the health inspector type of issue. We have a compliance rate of about half so when we go to a facility we have a half a chance of them being cited for problems.

Commissioner Brown asked if they had so much time to comply.

Mr. Rold stated yes and then he follows up. If it is a matter that directly affects the health or welfare of the animal they will be followed up on a more timely manner. If it is something that does not directly affect the health or welfare of the animal the applicants will be given more time. The situation as it is does not require that he comes back out today.

Commissioner Brown asked if they receive an inspection yearly.

Mr. Rold stated that they are required by statue to inspect annually or upon complaint.

Commissioner Sloan asked if someone is found not to be in compliance what is the penalty or the procedure after that.

Mr. Rold stated that it would depend on the severity of the issue. The State will assess fines most of the time but there have been cases that were a little more serious in nature where we have had to settle either through an administrative hearing process or through a stipulated settlement agreement. There is counsel with the Attorney Generals Office that assists in those kind of matters.

Commissioner Sloan stated that often times in Boone County there are places that are not in compliance with regulations and even though the County is very diligent about trying to tell people they are not in compliance and bring them in to compliance a lot of times they just don't do it and it is very hard to get them to that. Commissioner Sloan asked Mr. Rold if he was in the same situation.

Mr. Rold stated yes and work load contributes to that. Mr. Rold stated that he covers 14 counties in Central Missouri, it is a daunting task to keep everybody juggled.

Chairperson Smith asked how many kennels are in 14 counties.

Mr. Rold stated there are about 225, roughly.

Chairperson Smith stated that would be the Mid-Missouri Counties.

Mr. Rold stated yes.

Commissioner Sloan stated that this kennel has been in operation for at least a year or maybe longer without being in compliance and Mr. Rold is one of the neighbors. Mr. Rold must have been aware.

Mr. Rold stated that the applicants can have as many dogs as she wants. The State gets complaints about places that have 50, 60, 70 dogs, until they sell a dog there is no penalty under State law.

Commissioner Sloan asked if that was the same in the County.

Mr. Yonke stated that Mr. Rold is stating that his jurisdiction only falls if a dog is sold.

Mr. Florea stated that the County's kennel definition addresses commercial scale operations; not necessarily commercial. It is irregardless of whether they are actually selling animals; the County's kennel regulations still comply.

Commissioner Mink stated that the proposed use is for a 12 by 24 foot building containing approximately 26 breeding females; Commissioner Mink asked if that was binding or would a condition have to be placed limiting the number of breeding females.

Mr. Florea stated that it could be construed to be binding the way it is because that is what the applicants applied for but a condition would make it much more solid.

Commissioner Mink stated that he would like to make some comments. Some conditions need to be added and one removed. Commissioner Mink stated that he is convinced that the runs can be stacked two pens high and suggests that the condition about not stacking be removed. Commissioner Mink stated that the dog weight be limited to 40 pounds and the number of breeding females should be restricted to 26 or less. Commissioner Mink stated that there was some comment about the fence around the facility it looks like the height of the top dog pen is about 8 feet. It should be defined what size the fence should be. A 6-foot fence will not be adequate.

Commissioner Brown stated that one of the recommendations was for a sight proof fence.

Commissioner Mink stated that he didn't know what staff had in mind when they recommended a sight proof fence.

Mr. Florea stated that it would be a solid fence, whether it is wood or masonry.

Commissioner Brown asked if that meant it should completely block the building.

Mr. Florea stated that the intent was to block the kennels not necessarily the peak of the building but to block the kennels from view. One of the effects is that it was mentioned that the dogs get excited when they see people around or other animals walking by and the fence is to screen them from other activities that might help with noise.

Commissioner Mink asked the height to the awning.

Mr. McGrath stated he believes it is 8 feet high.

Commissioner Mink stated that he would like to add to the condition that the fence be a minimum of 8 feet.

Commissioner Mink stated that if the property changes hands this conditional use permit would cease.

Commissioner Mink made and Commissioner Morgan seconded a motion to **approve** the request by Jane L. Fudge on behalf of Teresa Fudge-McGrath for a permit for a kennel on 2.75 acres, located at 4370 N. Liddell Ln., Columbia **with the following conditions:**

- Facility to comply with USDA standards within 90 days.
- Provide proof of USDA license within 90 days.
- Install sight proof fence (a minimum of 8-feet high) around facility within 90 days.
- Install wastewater system for the kennel within 90 days.
- Kennel building must be at least 100 feet from property lines.
- Provide a survey of the subject site.
- Kennels can be stacked a maximum of two runs high.
- The kennel be limited to no more than 26 breeding females.
- The conditional use permit is non-transferrable.
- Weight of dogs are limited to no more than 40 pounds.

Pat Smith – NO

Mike Morgan – Yes

Mary Sloan – NO

Rob Brown – Yes

David Mink – Yes

Russ Duker – NO

Motion to approve request does not carry.

3 YES

3 NO

Commissioner Smith made and Commissioner Duker seconded a motion to **deny** the request by Jane L. Fudge on behalf of Teresa Fudge-McGrath for a permit for a kennel on 2.75 acres, located at 4370 N. Liddell Ln., Columbia:

Pat Smith – Yes  
Mary Sloan – Yes  
David Mink – Yes

Mike Morgan – NO  
Rob Brown – NO  
Russ Duker – Yes

Motion to deny request carries.                      4 YES                      2 NO

Chairperson Smith informed the applicants that if they wished to appeal this decision to the County Commission they would need to file an appeal form within 3 working days.

## **REZONING REQUESTS**

1. Request by Terry Farrar on behalf of Duffield Construction, Inc., to rezone from R-S (Single Family Residential) to R-DP (Planned Two-Family Residential) and to approve a Review Plan for Old Plank Meadows Planned Development on 11.72 acres, more or less, located at 1400 W. Old Plank Road, Columbia.

Planner, Thad Yonke gave the staff report stating that this proposal is for a rezoning and review plan for a planned residential development. The site is located approximately 900 feet east of the intersection of Old Plank Road and State Route K. The site adjoins the Columbia City Limits on the east and north. The property is currently zoned R-S (residential single family) which is the original 1973 zoning. Adjacent zoning to the north and east is inside the city limits and is zoned R-1. Property to the south of the proposed development is zoned R-S. All the R-S zoning is the original 1973 zoning. Property to the west is zoned R-S with a pending C-GP (planned commercial) designation which will not go into effect until a final development plan is approved. The current proposed review plan contains 11.72 acres with 11.32 acres used for density calculations and is also a preliminary plat for the development. The development is comprised of 33 lots with 32 of these lots designated for a single duplex and 1 lot as not for development-common-area with a single picnic structure. Therefore, the total number of dwelling units proposed is 64 units in 32 buildings and the development is limited to this number. The proposal 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 along with internal 6" minimum sized mains within the development. 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. A looping public road is proposed for this development with both connections off the south side of Old Plank Road. The traffic report indicates that the existing traffic count is 707 ADT and the post development count is predicted to be 1164 ADT, approximately 1/3 of the total trip volume post development. This is a significant percentage and increase but a relatively low total volume. In light of the traffic report the developer should provide improvement to the ½ width of the ROW frontage of Old Plank Road consisting of improved shoulder or a deceleration lane. The exact

nature of the improvement should be worked out with and be acceptable to County Public Works and County Planning. Public Works will have to approve the connections to Old Plank Road and these will have to meet their regulations. All existing structures on the property are proposed to be eliminated. There is significant floodplain on the property. The Floodway portion of the floodplain is contained within the common area lot and is not for development. This area is required to be maintained by the homeowners association and provisions for the financial mechanism must be in place as part of the approval process. The stream bank itself shows significant signs of degradation. The stream bank and flood area should be required to be restored with acceptable plantings and management practices. A stream bank protection/restoration plan for the common lot is needed. The proposal rates 68 points on the point rating scale.

Staff recommends approval of the rezoning request, review plan, & preliminary plat subject to the following 5 conditions.

1. That an agreement with the BCRSD for sewer service be completed to guarantee sewer service for the development or the development approval is void.
2. That the developer is required to create and implement a stream bank restoration plan for the common lot area that is acceptable to NRCS, Boone County Public Works, and the Director of Planning. The plan must be approved by the Director of Planning prior to submission of a Final Development Plan and the specific provisions will be placed upon the final plan.
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 the developer install an improved shoulder or deceleration lane along the development frontage on the south side of Old Plank Road the details for the specific improvement to be worked out and in a plan acceptable to and approvable by Boone County Public Works and the Director of Planning and the improvements be designed and located to BCPW standards.
5. That the covenants be provided and acceptable to the Director of Planning prior to the submission of the Final Development Plan. The covenants must include mechanisms for providing for the maintenance of the stream bank restoration and care for the common area.

Present: Dan Brush, Civil Engineer, 3107 Ballanger Lane, Columbia.  
Craig Van Matre, Attorney, 1103 E. Broadway, Columbia.  
Brian Duffield, Developer, 502 Parkwood Ct., Columbia

Mr. Van Matre presented a power point presentation.

Mr. Van Matre stated that the applicants are applying for rezoning and approval of a review plan. The site is between Route K and Old Plank Road west of the city limits of Columbia.

Mr. Van Matre presented a map of the site showing the location of the proposed development. The city limits are along the east boundary. Also presented where photos of the site looking east, west, south. A photo of a small tributary to the Bonne Femme Creek that is in the southeast corner of the site was also presented. Mr. Van Matre stated that this tributary needs to be protected.

Mr. Van Matre stated that the applicants are proposing in 32 separate structures. It will be a condominium development so that the condominium homeowners association will maintain the common

lot which will include a riparian buffer area. The units themselves will be designed to have between 1500 and 2800 square feet of living area and the declaration will preserve the uniform architectural appearance and controlled environment and make this a good development.

A copy of the review plan was presented as well as a site plan detail.

Mr. Van Matre stated that the applicants submit this as ideal transitional zoning between the commercial tract immediately to the west (Godas Tract) and the single family development to the east (Victoria South). There are duplexes immediately south of Route K, the Maple Meadows duplexes and this area is consistent with that and at a density that is less than its theoretically maximum density given its present zoning.

Mr. Brush stated that the existing traffic study of the site shows 291 average daily vehicles going northbound at its peak and 416 average daily vehicles going southbound. This development will generate somewhere around 457 trip ends after construction. The assumed traffic after construction of this new development will be about 630 per day northbound and 530 per day southbound. County staff has reviewed and approved this.

Mr. Brush stated that after development Old Plank Road will function at a level of service of "C" without any improvements and staff has requested the applicants will go ahead and improve Old Plank with some sort of shoulder or turn lane. That will be worked out with staff. In looking at the storm water at the site; during the 25 year storm we are looking at about 40 cubic feet per second. After development stage we are looking at somewhere between 48 and 55 cubic feet per second due to the limited amount of impervious surface that the site has.

Mr. Brush stated that the stream bank restoration and preservation as part of the stream buffer. The developer will work with NRCS and staff on planning on a Savannah type stream buffer which consists of bottom land hard woods planted 35 to 50 feet apart or in groups. The riparian buffer is going to fall along that area and will include that savannah type area and it is going to be about 80 to 90 feet wide on the north side of the creek. There will be one necessary utility line installed in that and that will be the sanitary sewer. The buffer area is going to be part of the common area (Lot 9).

A photo was presented of the riparian buffer detail which was highlighted.

Mr. Brush stated in addition the developers are going to put a landscape buffer along the north line of the tract. That landscape buffer will be along the north boundary lines of lots 1 and 2. It will consist of a staggered line of conifer trees and vegetation designed to provide 80 percent opacity within 4 growing seasons. The density of the tract is 7705 square feet per unit. Theoretically as the current R-S zoning there would be room for 70 units; the applicants are only requesting 64. The current R-S zoning would allow a density one single family residence per 7000 square feet or and R-D zoning would allow a density of one unit per 5000 square feet (one duplex per 10,000 square feet). The applicants are looking at a 35 percent impervious surface area over the entire site and that will include the public streets, sidewalks, driveways, and buildings.

Mr. Van Matre stated that the developer has been in negotiations with the Boone County Regional Sewer District and are very close to having an agreement which would be binding on both the developer and the sewer district to provide sanitary sewer to the site and allocate the capacity to it. The applicants understand it will be presented to the district for the directors approval sometime in December and it will require a significant contribution by the developer towards the districts standard charge to upgrade two pump stations.

Mr. Van Matre stated that the conditions recommended by staff are acceptable to the developer. There will be a condominium declaration which will be an extensive and lengthy document which will create in the association the power to enforce each of the covenants designed to protect the development. They will be designed to make sure there is a financial mechanism so that assessments can be collected and can be used to maintain the common area to ensure the enforcement of the condominium declaration and assure the maintenance of both the landscape buffer on lots 1 and 2 as well as the riparian corridor along the creek. The applicants ask for a recommendation to approve this request.

Commissioner Brown asked if the applicants knew the square footage of the houses in Victoria South.

Mr. Duffield stated that he believes the homes in Victoria South are slab homes and believes them to be about 1700 square foot homes.

Commissioner Brown stated that this development would be comparable in size.

Open to public hearing.

No one spoke in support of the request.

Present speaking in opposition to the request:

Jeanne McCarty, 1253 W. Route K, Columbia.

Ms. McCarty stated that she lives in Briar Subdivision on the opposite side of the creek from the proposed development. Ms. McCarty stated that she is not opposed to development but this development concerns her because it would be bad for the water shed. The new development will divert more water in the direction of her property because of the streets and the high density. Ms. McCarty stated that she has lived at this location since 1992 and she has seen the creek spill out many times in her yard when flash flooding occurs or even from heavy rains. A lot of tree limbs and branches come down there especially when there is a lot of rain in a short period of time. The bridge gets backed up because it can't handle the water let alone the branches that come down the creek. The creek backs up in to her yard; part of her yard is in the flood plain and she knew that when she bought the property. But the high density of this product and the streets, it is going to divert more water on to her property. Ms. McCarty stated that she is very concerned about that.

Chairperson Smith asked what the name of the creek is that Ms. McCarty is talking about.

Ms. McCarty stated it is the creek that the applicants were talking about.

John Gordon, 1025 W. Azoros Dr., Columbia.

Mr. Gordon stated that he resides in the Victoria South subdivision. Mr. Gordon thanked the applicants for their presentation; they answered a lot of questions ahead of time. Mr. Gordon stated he didn't have a lot of concerns but would like to express a couple. Mr. Gordon asked that there be covenants in place for the proposed development and that the condominiums are owner occupied. Mr. Gordon stated that it does have an affect on his property when we see these condominiums get turned over to renters and there are 5 or 6 people living in these. Some of these condos that quickly become rental property and the next thing you know you have 8 college students living next to you and things get out of control.

Mr. Gordon stated that he would like it to become part of the agreement that the applicants have to hook in to the 12-inch main that is going to be brought down Old Plank Road. A 6-inch main was being used

on Route K now, the current water pressure in Victoria South subdivision is pitiful and it needs to be addressed. It is a concern that the area is developing so quickly and there is not adequate water supply and would like to have it specified that there be a 12-inch line. The developer has no control over when the line will be brought in but once it is brought in the applicants should be required to hook in to it.

Mr. Gordon stated that his last concern was the intersection of Old Plank and Route K. This has repetitively become a bad intersection for that area. The number of crashes are increasing in that area and that is going to need to be addressed. If the Commission allows this development to occur there will be traffic going that way. That intersection is something that the County Commission and MoDOT is going to have to address. Mr. Gordon asked for his concerns to be considered.

Susan Hart, 6251 South West Way, Columbia.

Ms. Hart stated that she is not in opposition to the request but does have concerns. Some of the property is in the 100-year flood plain and the sanitary sewer goes through the flood plain. There should be a shoulder on Old Plank Road for safety. Ms. Hart stated that she hopes the Commission takes the road issue under consideration when making a recommendation. Ms. Hart repeated that she is not in opposition to this development.

Aaron Silva, 1175 Azoros, Columbia.

Mr. Silva stated that some of his property is in the flood plain and he has concerns about increased water. He also had concerns regarding privacy but the trees that are proposed should do well in helping to maintain his privacy. Mr. Silva asked that there be a restriction on the hours of usage in the common area in the proposed covenants.

Closed to public hearing

Mr. Yonke informed the Commission that staff received 6 calls in opposition to the request; the reason stated for the opposition was traffic. Staff also received one call in support of the request.

Mr. Van Matre stated that this is a condominium community where the people who live there will have control over that neighborhood which is the best way to ensure compliance both from an architectural standards, noise standards and to ensure that no environmental damage is not being done to the tributary. There are two aspects to the traffic. The Godas plan will call for the repair of the intersection of Old Plank Road to Route K, it will bring it around to a "T" so it will be a 90 degree intersection further to the east than it presently exists and that should improve the safety of that intersection. Right now one of the problems with this intersection is that it joins at about a 45 degree angle and it is more difficult for a driver to make a turn to the right out of that intersection; most likely they will pull out in front of someone they don't see. A 90 degree intersection when the Godas development is completed should adequately address that issue. In terms of the width of Old Plank, it will be widened in front of the property on the south side of the road and that will also be determined in both terms of dimension and character. Mr. Van Matre stated that he believes the applicants will address, in some manner, each and every one of the concerns of the people that spoke here.

Mr. Van Matre stated that he thinks that with the way of the world and the other developments that is going to go on further upstream that there will be greater problems associated with floodways all over Boone County and that is a regional problem, it is not one that should be imposed upon this particular development to fix, but it is likely that someone is going to have to try to do some kind of regional stormwater detention in this area to help with that problem. But the applicants are not going to be significantly contributing to that problem.

Commissioner Mink stated that Mr. Gordon mentioned about he 12-inch main coming through. Commissioner Mink asked if there were plans to switch over.

Mr. Brush stated that right now the applicants are coming off a 6 inch line off Route K and will provide an inner connection up to the existing 4 inch on Old Plank so that when ever the 12 inch line is brought in it can tie right in to the 6 inch and feed off that. Mr. Brush stated that he spoke with Mr. Lee at the water district they informed Mr. Brush that there was enough pressure for fire flows.

Commissioner Mink stated that someone else brought up lot 9 and the hours of operation. Looking at the drawing you can't tell what that is on lot 9; it looks like a pavilion.

Mr. Van Matre stated that it is a shelter house. How that is ultimately developed will depend upon the needs of the neighborhood and whether there is enough room for recreational or a picnic house. There is a parking lot adjacent to it. The plans are not far enough along; it is intended to be a common lot.

Chairperson Smith stated that the hours of operation and when it is available would depend on the covenants.

Mr. Van Matre stated that is correct.

Chairperson Smith stated that according to this they will have to be acceptable prior to the submission of the final development plan.

Mr. Van Matre stated that is correct.

Chairperson Smith stated that the Commission would get a chance to look at the covenants.

Commissioner Sloan asked if there was some measure in the covenants that could prohibit someone from renting their unit to several college students.

Mr. Van Matre stated that there is nothing in the neighborhood that is immediately to the east in their covenants that prohibits them from renting their house. The Boone County ordinances state that you can have up to 4 unrelated people living in a single family residence which should be applicable to the applicants that this would be the maximum amount of unrelated people who could live in one dwelling.

Mr. Duffield stated that there is a lot of rental property in the area.

Commissioner Sloan stated that we do not want to add to it.

Mr. Duffield stated that it would be tough to say that someone couldn't rent their house. If someone wants to buy one as an investment and rent it it would be a hard situation to control.

Mr. Van Matre stated that we can control the fact that it will not be a boarding house and it won't have more than 4 unrelated people. The applicants don't think it is reasonable to restrict people from renting.

Commissioner Duker asked how often the floodplain is backfilled.

Mr. Yonke stated that the floodplain gets backfilled quite a bit. The flood way is really the area that you are supposed to stay out of. Even technically if you are willing to go through the expense of engineering there are ways to manipulate that and deal with the floodway itself. But the flood plain itself can be

filled, that is the distinction between the flood plain and the flood way. It can be filled in and built upon it is just a more involved process.

Commissioner Duker asked how often that was done.

Mr. Yonke stated that happens relatively often in places that has a significant portion of the property in the flood plain. If it is not, you stay away from it. Victoria South has areas in the flood plain that they had to fill.

Commissioner Brown made and Commissioner Morgan seconded a motion to **approve** the request by Terry Farrar on behalf of Duffield Construction, Inc., to rezone from R-S (Single Family Residential) to R-DP (Planned Two-Family Residential) for Old Plank Meadows Planned Development on 11.72 acres, more or less, located at 1400 W. Old Plank Road, Columbia:

Pat Smith – Yes	Mike Morgan – Yes
Mary Sloan – Yes	Rob Brown – Yes
David Mink – Yes	Russ Duker – Yes

Motion to approve request carries unanimously.

\* \* \* \* \*

Commissioner Brown made and Commissioner Mink seconded a motion to **approve** the request by Terry Farrar on behalf of Duffield Construction, Inc., to approve a Review Plan for Old Plank Meadows Planned Development on 11.72 acres, more or less, located at 1400 W. Old Plank Road, Columbia **with the following conditions:**

1. That an agreement with the BCRSD for sewer service be completed to guarantee sewer service for the development or the development approval is void.
2. That the developer is required to create and implement a stream bank restoration plan for the common lot area that is acceptable to NRCS, Boone County Public Works, and the Director of Planning. The plan must be approved by the Director of Planning prior to submission of a Final Development Plan and the specific provisions will be placed upon the final plan.
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 the developer install an improved shoulder or deceleration lane along the development frontage on the south side of Old Plank Road the details for the specific improvement to be worked out and in a plan acceptable to and approvable by Boone County Public Works and the Director of Planning and the improvements be designed and located to BCPW standards.
5. That the covenants be provided and acceptable to the Director of Planning prior to the submission of the Final Development Plan. The covenants must include mechanisms for providing for the maintenance of the stream bank restoration and care for the common area.

Pat Smith – Yes	Mike Morgan – Yes
Mary Sloan – Yes	Rob Brown – Yes
David Mink – Yes	Russ Duker – Yes

Motion to approve request carries unanimously.

\* \* \* \* \*

Commissioner Brown made and Commissioner Mink seconded a motion to **approve** the request by Terry Farrar on behalf of Duffield Construction, Inc., to approve a Preliminary Plat for Old Plank Meadows Planned Development on 11.72 acres, more or less, located at 1400 W. Old Plank Road, Columbia **with the following conditions:**

1. That an agreement with the BCRSD for sewer service be completed to guarantee sewer service for the development or the development approval is void.
2. That the developer is required to create and implement a stream bank restoration plan for the common lot area that is acceptable to NRCS, Boone County Public Works, and the Director of Planning. The plan must be approved by the Director of Planning prior to submission of a Final Development Plan and the specific provisions will be placed upon the final plan.
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 the developer install an improved shoulder or deceleration lane along the development frontage on the south side of Old Plank Road the details for the specific improvement to be worked out and in a plan acceptable to and approvable by Boone County Public Works and the Director of Planning and the improvements be designed and located to BCPW standards.
5. That the covenants be provided and acceptable to the Director of Planning prior to the submission of the Final Development Plan. The covenants must include mechanisms for providing for the maintenance of the stream bank restoration and care for the common area.

Pat Smith – Yes	Mike Morgan – Yes
Mary Sloan – Yes	Rob Brown – Yes
David Mink – Yes	Russ Duker – Yes

Motion to approve request carries unanimously.

Chairperson Smith informed the applicant that these requests would go before the County Commission on November 30, 2004.

**PLANNED DEVELOPMENTS**

None.

**PLAT REVIEWS**

1. Old Ways Estates. S3-T49N-R12W. A-2. David R. Strodtman Trust, owner. James R. Jeffries, surveyor.

The following staff report was entered in to the record:

The property is located on the east side of Route B, north of Spiva Crossing Road.

Both lots in the plat will have access to Route B by a private easement. No additional right of way is being dedicated by this plat. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

The property is in the service area of Water District Number 4.

Both lots will use on-site wastewater systems for sewage disposal. A plan, showing a suitable location for a lagoon on each lot is on file. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

The property scored 42 points on the rating system.

Staff recommends approval of the plat and waiver requests.

Commissioner Mink made and Commissioner Morgan seconded a motion to **approve** Old Ways Estates. S3-T49N-R12W. A-2. David R. Strodtman Trust, owner. James R. Jeffries, surveyor with waiver requests:

Pat Smith – Yes	Mike Morgan – Yes
Mary Sloan – Yes	Rob Brown – Yes
David Mink – Yes	Russ Duker – Yes

Motion to approve request carries unanimously.

\* \* \* \* \*

2. Harper Road Estates plat 2. S11-T51N-R13W. A-2. Edward and Virginia Pollock, owners. J. Daniel Brush, surveyor.

The following staff report was entered in to the record:

This 2-lot replat is located at the immediate southwest corner of the intersection of Roy Barnes Road and Harper Road. The site is approximately 2&1/4 miles west of the municipal limits of the City of Sturgeon. The area being subdivided contains 8.84-acres which comprises the area of the 3 lots created by Harper Road Estates. 20.44-acres to the south of the proposed plat is also owned by the applicants and does not have to be included as a division of land under the Boone County Subdivision Regulations. The property

is zoned A-2 (agriculture) as is all the surrounding property. All surrounding zonings are the original 1973 zonings. The property contained within the area of the proposed plat is vacant. Sewage treatment will be provided by an on-site wastewater systems and an appropriate wastewater plan is in the file. Any on-site wastewater system must meet all County Health Department requirements. The site is in Public Water District #10. Fire hydrants are not required for minor plats containing less than 4 lots, as is the case here. The site is in the Sturgeon School District. A waiver from traffic analysis and a waiver of cost-benefit analysis for central sewage have been requested. Staff concurs with the granting of these waivers. The site is in the Boone County Fire Protection District and Boone Electric Service areas. This plat has 43 points on the point rating scale.

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

Commissioner Mink made and Commissioner Morgan seconded a motion to **approve Harper Road Estates plat 2. S11-T51N-R13W. A-2. Edward and Virginia Pollock, owners. J. Daniel Brush, surveyor with waiver requests:**

Pat Smith – Yes	Mike Morgan – Yes
Mary Sloan – Yes	Rob Brown – Yes
David Mink – Yes	Russ Duker – Yes

Motion to approve request carries unanimously.

\* \* \* \* \*

3. Settler’s Ridge Plat 2. S9-T49N-R12W. C-GP. T-Vine Enterprises, Inc., owner. James R. Jeffries, surveyor.

The following staff report was entered in to the record:

This property is located north of Columbia on State Highways B and HH. A final development plan for a portion of this property was approved in October, 2004.

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. The City Council approved the plat November 1, 2004.

This plat is out of phase with the phasing plan approved with the Preliminary Plat. Therefore, the resulting lots are being labeled “Not For Development” until such time as the property is replatted or otherwise brought into compliance with the approved phasing plan.

Access to the property will be via roads built by the developer and dedicated to Boone County.

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 plat.

Commissioner Mink made and Commissioner Morgan seconded a motion to **approve** Settler's Ridge Plat 2. S9-T49N-R12W. C-GP. T-Vine Enterprises, Inc., owner. James R. Jeffries, surveyor:

Pat Smith – Yes	Mike Morgan – Yes
Mary Sloan – Yes	Rob Brown – Yes
David Mink – Yes	Russ Duker – Yes

Motion to approve request carries unanimously.

\* \* \* \* \*

### **OLD BUSINESS**

Mr. Shawver updated the Commission of the decisions made by the County Commission. The rezoning request for Beall was recommended denial by the Planning and Zoning Commission. The applicants appealed the decision to the County Commission and they upheld the recommendation for denial.

The rezoning request for Abernathy and Robeson for Hemme Construction was approved by the County Commission as recommended.

The rezoning request for Godas was approved by the County Commission as recommended.

Mr. Shawver informed the Commission that the Planning Department has received a copy of the environmental assessment for I-70 improvements from State Route 5 to Highway BB exit and it is available for viewing in the Planning office.

### **NEW BUSINESS**

None.

### **ADJOURN**

Being no further business, the meeting was adjourned at 9:06 p.m.

Respectfully submitted,

Mary Sloan,  
Vice-Chairperson

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