

**BOONE COUNTY PLANNING & ZONING COMMISSION**

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, June 15, 2006

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

|               |                                 |                       |
|---------------|---------------------------------|-----------------------|
| Present:      | Russell Duker, Vice Chairperson | Missouri Township     |
|               | Kristen Heitkamp, Secretary     | Katy Township         |
|               | Carl Freiling                   | Cedar Township        |
|               | Larry Oetting                   | Three Creeks Township |
|               | Boyd Harris                     | Centralia Township    |
|               | John Schloot                    | Rocky Fork Township   |
|               | David Mink                      | Public Works          |
| Absent:       | Pat Smith, Chairperson          | Perche Township       |
|               | Mike Morgan                     | Bourbon Township      |
|               | Michael Morrison                | Columbia Township     |
|               | Paul Zullo                      | Rock Bridge Township  |
| Also present: | Stan Shawver, Director          | Uriah Mach, Staff     |
|               | Thad Yonke, Staff               | Bill Florea, Staff    |
|               | Paula Evans, Staff              |                       |

The minutes of the May 18, 2006 meeting were approved with no corrections. Approved by acclamation.

Vice-Chairperson Duker read the procedural statement which stated that the Boone County Planning and Zoning Commission is an advisory Commission to the County Commission. The Commission is made up of individuals representing each township of the County and the County Engineer.

The Planning and Zoning Commission makes recommendations to the County Commission on matters dealing with land use. Tonight's agenda includes two conditional use permit requests, one rezoning request, and seven subdivision plats.

In general, the Planning and Zoning Commission tries to follow Robert's Rules of Order, however, it is authorized by the Missouri State Statues to follow its 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 the applicant's 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 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 who wishes to speak, we ask that you not be repetitious with your remarks. We also recognize that some 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, June 28<sup>th</sup>. Interested parties will again have the opportunity to comment on the requests at that time. The County Commission generally follows the recommendations of the Planning and Zoning Commission; however, they are not obligated to uphold any recommendation. Requests that are denied will not proceed to the County Commission unless the applicant files an appeal form within 3 working days. Please contact the Planning Office to see if a request that has been denied has filed an appeal as there will be no further public notification due to the short time between the hearing tonight and the County Commission Hearing. The County Commission hearing scheduled for Wednesday, June 28<sup>th</sup>, will begin at 7:00 p.m. and will convene in this same room.

Vice-Chairperson Duker asked if there were any questions about how the meeting will be conducted.

## **CONDITIONAL USE PERMITS**

1. Request by Thomas Griffin on behalf of Verizon Wireless for a transmission facility including a 138' tower on 25.6 acres located at 6200 E Gilmore Ln., Ashland.

Planner, Uriah Mach gave the staff report stating that the property is approximately 1 and ½ miles to the south of the City of Ashland. The property is zoned A-2 (Agricultural). This property has A-2 zoning to the north, south, east, with A-R (Agricultural-Residential) zoning across Highway 63 to the west. The zoning of the subject property and the surrounding tracts are all original 1973 zonings.

A description of the lease area site has been submitted by the applicant as Exhibit F in the application materials. The lease area for the tower is approximately 10,000 square feet out of the 25.6 acre parent tract. No proposal has been submitted to subdivide the property. Given the proposed tower location, subdivision would be possible. The parent parcel has a single-family dwelling and seven accessory structures present. A 138' monopole tower and small ground facilities are proposed inside a fenced compound.

The property is located inside the Southern Boone County R-1 school district and the Southern Boone County Fire Protection District. The Master Plan describes this area as being suitable for agricultural and rural residential land use. Staff notified 14 property owners about this request.

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.

While the surrounding zoning will allow for a significant number of residential units, there is a lack of an adequate public road network to the surrounding properties to support the densities allowable under the current zoning. 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.

The application meets this criterion as per the zoning ordinance Section 15B section 4, subsection (e). However, this is a purely technical analysis as constructed by the regulations. Public testimony may better reflect any impacts on property values.

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

The use has limited needs with respect to utility infrastructure and so the site has adequate facilities to support the proposal.

(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-2, with residential uses limited to 2-½ 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. The nature of the site and its location with respect to road infrastructure will

likely have a greater negative impact on the area development than the proposal. 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 is a minimal traffic generator and 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-2 zoning district, particularly since no land division is proposed. Public necessity will be best determined by public testimony before the Planning & Zoning Commission and the County Commission.

Staff recommends approval of this conditional use permit.

Present: Curtis Holland, Attorney for Verizon, 6201 College Blvd. # 500, Overland Park, KS.

Mr. Holland stated the applicants submitted a significant application in terms of the materials. The applicants have been through this a number of times. Verizon is a new entrant in the Boone County/Columbia market. They have obtained an F license to operate at 1900 MHz pcs license in the County. They are trying to build their network in the County and wherever possibly they are utilizing existing communication tower structures so they can collocate their antennas on existing structures. When that is not able to be accomplished they propose a new communication tower structure. Fortunately in Boone County we have kept those types of applications to a minimum. Of the 46 sites that are in the Boone County are over 60-percent of those are collocation sites, 28 sites. The applicants are not flooding the County with 46 new tower sites. Of those collocations there are 10 that are in the City and 8 that are in the County. We have been before this board twice with two applications, there are two applications tonight and there will be four more before the Commission.

Mr. Holland stated the applicants were at the City of Ashland last week for a communication tower that was proposed and it looks like the applicants are going to get approval. That is important because that particular communication tower is the communication tower that is immediately north of this particular site. The property is Thomas Griffin. It is approximately a 25 acre tract of land right on highway 63 and Gilmore Lane.

Mr. Holland presented an aerial photograph and stated a smaller version is included in the application.

Mr. Holland identified the site on the photograph as well as the locations of the City of Ashland, Jefferson City, Gilmore Lane and the proposed tower location.

Mr. Holland stated when the applicants have a need to build a new cellular tower they have tried to locate them in areas which will cause the least amount of impact to the adjoining property owners. For instance they have tried to locate these closer to the highway and on larger tracts of ground where there are fewer residential properties around. It is hard to avoid properties where there aren't residences in the County but the applicants have done their best to do that in all of their applications.

Mr. Holland stated there are some isolated residential properties to the west; there is a house to the north of Gilmore. The property immediately to the north appears to be used as a commercial used car lot; there are about 10 or 15 cars up on the hill for sale. The road drops off dramatically; there is a significant elevation change from 63 highway down to this portion of the road. Fortunately there are a lot of trees in the area. Mr. Holland doesn't believe a good majority of these people are going to have a direct view, or even an indirect view of the communication tower. One of the neighbors will have a view of the tower across the road; the other neighbor that may have a view of the tower is the commercial car sales operation. There are some residences across the highway and they shouldn't have a good view of it either.

Mr. Holland stated he appreciates staffs support of the application it does appear to meet with Boone County regulations.

Open to public hearing.

No one spoke in favor of the request.

Present speaking in opposition to the request:

Dana Schauer, 6151 E. Gilmore Ln., Ashland.

Mr. Schauer stated he is a little to the east of the car dealer and he recently purchased the property. Mr. Schauer stated he is concerned in three areas. The health issue, the aesthetics, and property values. Mr. Schauer stated he just moved there is not planning on selling in the near future but if he was to consider property in view of a water tower for example, that would probably take him out of being interested in that property. The same would be true of the cellular tower. Mr. Schauer stated he had a couple of exhibits.

Mr. Schauer stated the first exhibit is by B. Blake Levitt and it was in a presentation. It is a little dated in that it was 1996 however; some of the issues raised have not been studied or resolved since then. One of the issues is their research that indicates that there are some frequencies which may be unsafe at any intensity no matter how low the power is turned down. It is stated in the article the work of William Bise found severe alterations in human brain waves at a radio frequency at a power levels that are now common in many urban areas. One thing to mention is there is no clear understanding of the implications and Mr. Holland mentioned tower sharing. Mr. Schauer asked if the applicants are allowed to share towers with their competitors.

Vice-Chairperson Duker informed Mr. Schauer that the applicants already looked at tower sharing in the area. If there was a place to share the applicants wouldn't be allowed to build a new tower.

Commissioner Heitkamp stated they collocate their antennas on existing towers. Boone County requires that the applicant collocate on existing towers when available. When they find that a tower can't hold any more antennas that is when they apply for a new tower.

Vice-Chairperson Duker stated different companies can go on the same tower.

Mr. Schauer stated the second exhibit is also by B. Blake Levitt. There is a quote that says aesthetics area smoke screen obscuring the heart of the issue which is medical and that in the case of non thermal hazards from RF's is substantial, decades of research have found an alarming effects, numerous cancers,

immune system suppression, birth defects among others. Some research has found detrimental effects based on frequency alone, not on power density. They refer to that as nonlinear effects which indicate that the most profound bio-reactions occur at the lowest exposure. This body of research argues for fewer towers. Mr. Schauer stated he found it interesting that Verizon alone has 46 locations in Boone County. That sounds like a lot. Mr. Schauer stated he would question the need for one more.

Closed to public hearing.

Commissioner Freiling asked staff to explain the last sentence of criteria G. The definition of public necessity; it says the County Commission; it doesn't say the Planning and Zoning Commission. Does it mean the County Commission or does it mean the Planning and Zoning Commission

Mr. Shawver stated it means the County Commission.

Commissioner Freiling stated criteria G doesn't apply to the Planning and Zoning Commission.

Mr. Shawver stated that is correct.

Mr. Mach stated he has no evidence to weigh one way or the other for public necessity.

Mr. Yonke stated the regulations are structured such that if it can be shown that the need that is being addressed in some other fashion other than the applicants request for a tower in the past, staff has taken the position that there is no necessity for that tower because it can be addressed in some other way. Regardless of whether that other way is more expensive, inconvenient, or what the applicant wants. If the application materials show to where staff can make some kind of argument that there is another way to handle it other than a tower staff feels the regulations then bar the tower from being approved. That is how it has been dealt with in the past. Consequently when staff gets to the point in an application where there does not appear to be an impediment at that level then there isn't any indication one way or another and it is given to the Planning and Zoning Commission to see how they can make a recommendation to the County Commission but ultimately it is the County Commission's opinion that counts.

Commissioner Freiling stated his view is we must be treating cellular tower applications for conditional use permits under a different light than we would treat a car wash.

Mr. Yonke stated somewhat in that you have 10 pages of additional criteria for conditional use permits for transmission facilities.

Commissioner Freiling stated the business need for a cellular tower, if there is already ample cell service in the area to Commissioner Freiling is not a public necessity, it is a business necessity for a particular business. If there were no cell service then it could be considered a public necessity.

Mr. Yonke stated that staff has always been uncomfortable with taking that kind of an argument as being the primary focus for using in their analysis. The Telecommunications Act pretty clearly states you can't discriminate between one provider and another. By extension of that the fact that the FCC issues licenses has been found in certain cases to be almost a pre-emption of they've determined that this is okay. If they can prove they need it you've almost been pre-empted in that the FCC issued the license therefore they have the right to have cell phone service. This is why staff doesn't hang a lot on that they try to focus on more of the county's regulatory structure. Similarly, the stuff about medical, whether it is compelling or believable it is also pretty clear that can't be a reason for denial.

Mr. Holland stated it is virtually impossible to site a tower that doesn't affect someone in someone's perception. What the applicants have done is to try to put them where they affect the least amount of people as possible. It is true what staff has stated that there is a different level of review in these cases because of the Federal Telecommunications Act. One of those had to do with one of the questions from Mr. Schauer in regard to health. Mr. Holland stated he didn't intend to address that particular issue in any depth principally because Mr. Holland is not a health expert. It is inappropriate to consider under the Act. Mr. Holland suggested Mr. Schauer re-read the studies and he might be more comfortable with the cell tower because in most of these cases what they are talking about is the phone. Holding the phone and the battery up against your head has been the focus of a lot of those studies. The cell tower itself the energy that comes off the tower usually the antennas are above the ground at 100 to 150-feet, it dissipates when it is 10 feet away from the tower so by the time it gets to the ground there is no problem with them. In terms of property values; that has been an issue and it has always been in these cases. As mentioned before we have various studies across the county which have looked at this, these are studies prepared by MAI appraisers and the consensus is in this issue is that notwithstanding what people might seem to be the logical conclusion, these do not really cause a negative impact on property values.

Mr. Holland submitted studies to the Commission.

Mr. Holland stated the last issue is aesthetics. This is an issue the applicants try to address by locating the towers in areas where there isn't a lot of residential and next to highways. In this particular case the tower we are talking about is relatively short for a typical tower; it is only 130-feet tall. If you drive down 63 highway you will see some guyed towers that are 500 to 700 feet tall and lighted in those cases. Because this proposed tower is so short it does not require lighting and the applicants aren't going to put lights on it. Mr. Holland stated he can't guarantee Mr. Schauer won't see the tower because he probably will if he is across the street but over time it will blend in to the scenery and he probably won't even pay attention to it which tends to happen. The applicants try to have collocations when they can, unfortunately in this particular part of the county there isn't any tower in the nearby vicinity.

Commissioner Heitkamp stated Mr. Holland had stated the applicants received permission from Ashland to build a tower just north of this proposed site.

Mr. Holland stated the applicants have been through the public hearings and have had the first hearing and the second reading is next week.

Commissioner Freiling asked if this is the one that is going on the water tower in Ashland.

Mr. Holland stated yes.

Commissioner Freiling stated they are allowing them to construct a cell tower which will be placed on the water tower when the water tower is built.

Vice-Chairperson Duker asked if staff considered that in the propagation maps.

Mr. Mach stated that was indicated on the propagation maps on the application.

Commissioner Heitkamp stated the applicants indicate the tower will be built right off of Gilmore Road and asked Mr. Holland to point out on the map where exactly it will be located on the property.

Mr. Holland stated it is located in the application in exhibit F.

Commissioner Heitkamp asked Mr. Holland to point to the map and show her where it is going to be located.

Mr. Holland pointed the location on the map and stated there are a lot of trees surrounding the site. It is going in the open field.

Commissioner Heitkamp asked how many feet the tower will be from Mr. Schauer's property.

Mr. Holland stated he has not measured it but would guess it is several hundred feet. The tower must be a minimum of the height of the tower from the property lines and it sits in to the site well over that.

Commissioner Schloot made and Commissioner Mink seconded a motion to **approve** the request by Thomas Griffin on behalf of Verizon Wireless for a transmission facility including a 138' tower on 25.6 acres located at 6200 E Gilmore Ln., Ashland:

|                     |                       |
|---------------------|-----------------------|
| Russ Duker – Yes    | Kristen Heitkamp – NO |
| Larry Oetting – Yes | Carl Freiling – Yes   |
| Boyd Harris – NO    | John Schloot – Yes    |
| David Mink – Yes    |                       |

Motion to approve request carries      5 YES      2 NO

Vice-Chairperson Duker informed the applicants that this request would go before the County Commission on June 28, 2006 and the applicants need to be present for the hearing.

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2. Request by Harold and Clara Sontag on behalf of Verizon Wireless for a transmission facility including a 180' tower on 17 acres located at 8270 W Sugar Creek Rd., Columbia.

Planner, Uriah Mach gave the staff report stating that the property is approximately 3 miles to the east of the City of Columbia. The property is zoned A-2 (Agricultural). This property has A-2 zoning to the south, east, and west, with R-S (Residential-Single Family) zoning across I-70 to the north. The zoning of the subject property and the surrounding tracts are all original 1973 zonings.

A description of the lease area site has been submitted by the applicant as Exhibit F in the application materials. The lease area for the tower is approximately 10,000 square feet out of the 17 acre parent tract. No proposal has been submitted to subdivide the property. Given the proposed tower location, subdivision would be possible, but current conditions at the site would make things difficult. The parent parcel has a single-family dwelling and four accessory structures present. A 180' monopole tower and small ground facilities are proposed inside a fenced compound.

The property is located inside the Columbia C-1 school district and the Boone County Fire Protection District. The Master Plan describes this area as being suitable for residential land use. Staff notified 9 property owners about this request.

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.

While the surrounding zoning will allow for a significant number of residential units, there is a lack of an adequate public road network to the surrounding properties to support the densities allowable under the current zoning. 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.

The application meets this criterion as per the zoning ordinance Section 15B section 4, subsection (e). However, this is a purely technical analysis as constructed by the regulations. Public testimony may better reflect any impacts on property values.

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

The use has limited needs with respect to utility infrastructure and so the site has adequate facilities to support the proposal.

(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-2, with residential uses limited to 2-½ 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. The nature of the site and its location with respect to road infrastructure will likely have a greater negative impact on the area development than the proposal. 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 is a minimal traffic generator and 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-2 zoning district, particularly since no land division is proposed. Public necessity will be best determined by public testimony before the Planning & Zoning Commission and the County Commission.

Staff recommends approval of this conditional use permit.

Curtis Holland, Attorney for Verizon Wireless, 6201 College Blvd # 500, Overland Park, KS.

Mr. Holland stated the application submitted contained a lot of information and staff has gone through that information and they have recommended approval of the request. Relative to the collocation issue, again this is a situation where there is not an existing tower in the near vicinity that will suit this site but the applicants have collocated. This site is the leg from Rocheport to Columbia and the first two sites on that leg are collocation sites. Like the previous application the applicants have sited the facility on a tract of ground near a highway with minimal residences in the area and probably in this case it is even better in that regard than the last site was. There were aerial photographs that were part of the application.

Mr. Holland presented a larger version of the aerial photograph which was included in the application.

Mr. Holland pointed out the location of the property and the proposed tower site.

Mr. Holland stated this site is buried with trees; it is a forest. From anywhere else it is going to be hard to see the tower because of the trees and the terrain. It is a large tract of ground, 17 acres. This tower is located deep within the property so the applicants believe they have gotten it out of the way. It has been through FAA and there aren't going to be any lights on the tower. Mr. Holland stated he has propagation maps if the Commission would like to go through them.

Commissioner Heitkamp stated she assumes the proposed site takes in to account the I-70 widening plans and the I-70 outer road.

Mr. Holland stated he didn't know if the applicants intentionally did that but it is 400 or 500 feet in to the property.

Mr. Mach stated the proposed tower is setback a significant distance from the I-70 plans. The home on the property is setback from the I-70 plan and the tower will be located even further back.

Commissioner Heitkamp asked about the other tower in the area and asked the applicants if they could collocate on that one.

Mr. Holland stated there is a tower to the east about 1 mile. You have to have towers every couple of miles depending on terrain and foliage. As you head to the east the applicants will have another application a couple of miles to the east.

Mr. Mach stated he did converse with US Cellular regarding the cellular tower to the east of this site. US Cellular indicated that structurally that tower could not support an additional antenna and they have provided documentation to that regard.

Open to public hearing.

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

Closed to public hearing.

Commissioner Mink made and Commissioner Schloot seconded a motion to **approve** the request by Harold and Clara Sontag on behalf of Verizon Wireless for a transmission facility including a 180' tower on 17 acres located at 8270 W Sugar Creek Rd., Columbia:

|                     |                        |
|---------------------|------------------------|
| Russ Duker – Yes    | Kristen Heitkamp – Yes |
| Larry Oetting – Yes | Carl Freiling – Yes    |
| Boyd Harris – NO    | John Schloot – Yes     |
| David Mink – Yes    |                        |

Motion to approve request carries.      6 YES      1 NO

Vice-Chairperson Duker informed the applicants that this request would go before the County Commission on June 28, 2006 and the applicants need to be present for the hearing.

## **REZONING REQUESTS**

1. Request by Dean Hathman to rezone from R-S and A-2 to M-LP (Planned Industrial) and to approve a review plan of 1.77 acres, more or less, located at 7170 E. St. Charles Rd., Columbia.

Planner, Mach gave the staff report stating that this site is located approximately 1 mile east of Columbia, north of I-70 on St. Charles Road. The parent tract is 11.02 acres, currently zoned R-S and A-2, with the A-2 being south of the creek cutting through the property and the area north of the creek being R-S. It has similar R-S and A-2 zoning to the east and west, A-2 to the south, and R-S to the north. This is original 1973 zoning. Currently, there is a storage building on the property. If rezoned to M-LP, this structure will need a variance for the 25' perimeter setback required by the zoning change to be permitted to remain in its current location. Otherwise it will need to be moved or removed in compliance with the regulations. This site is located in the Boone Electric service area, and is in the Public Water District #9 service area. It is located in the Columbia School District. It scored 68 points in our point rating system.

The applicants are requesting a rezoning to M-LP. This rezoning is being sought to resolve a zoning violation. The violation stems from the large quantity of masonry materials and contractor's supplies on the site. If the rezoning is approved, the applicants intend to operate a contractor's storage yard from this site. Staff notified 8 property owners about this request.

The Master Plan designates this property as suitable for residential land use. The Master Plan also identifies a "sufficiency of resources" test for determining whether there are sufficient resources available for the needs of the proposal.

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

Utilities: Public water is provided by Public Water District Number 9. The existing infrastructure is capable of providing domestic service and fire protection. The Boone County Fire Protection requires fire hydrants every 300' and that the existing structure be brought into compliance with the commercial building code. Boone Electric can provide sufficient electric service to the site. The storage yard use will not require any wastewater infrastructure, and so that utility need will not be assessed.

Transportation: Access to the site is by St. Charles Road, which gives close access to I-70 at the Lake of the Woods exit. This area is a developing residential area, with a good basic road system in place.

Public Safety: The nearest fire station is in Columbia, approximately one mile away. The existing road network provides ready access for emergency service providers. In rezoning from A-2 to M-LP, the presence of properly located fire suppression equipment on the property would be appropriate for this change.

Based upon the existing adjacent zoning, current land use of surrounding property, and the suggestion of the master plan that this site is suitable for residential land uses, staff recommends denial of this request.

Present: Jay Gebhardt, A Civil Group, 1010 Fay Street, Columbia.

Dean Hathman, 7500 Richland Road, Columbia.

Mr. Gebhardt presented a copy of the plan.

Mr. Gebhardt identified St. Charles Road, the City golf course, the owner's property, and Grindstone Creek. Of this 20 acres probably 15 of it is flood plain. There is really not a whole lot of area to work with. If the Commission looked at this property today and saw the site they would think it a black sheep. The reason we are here tonight is because Mr. Hathman has owned the property for 12 years and he has had this use on this property for 12 years. There was a complaint filed in January 2006 with the Boone County Planning Department and that was the first time Mr. Hathman realized that what he was doing was not allowed. It was the first complaint that was ever filed against him. Mr. Hathman didn't know what to do he met with Mr. Gebhardt and he met with staff and he was given two choices. He can cease and desist and move the block, brick, and equipment off his property, dismantle the building and move it somewhere else or he could rezone it to some type of industrial usage. For the people here tonight to speak against this request the applicants aren't here to say this isn't an eyesore. It is a pretty big hardship for Mr. Hathman, who has been on the property for 12 years and been laying brick in Boone County for more years than that. Mr. Hathman knows he has a problem here and he is trying to solve it. Planned industrial sounds awful. The focus of this rezoning is exactly what he has always been doing on the property except it will be screened.

Mr. Gebhardt stated he asked Mr. Hathman to step off the least amount of property that he needed to run his business; basically it is this 280 by 280 tract. Instead of rezoning the whole piece the applicants have asked for the rezoning of this small tract. The applicants fenced the entire piece with an 8 foot fence on all four sides and to break up the fence they have planted trees on the outside of the fence even on the back side. Mr. Gebhardt stated he has heard a lot of negative things about this, he has heard that it is spot zoning. It is what it is; and it is a guy who is doing something out there that he didn't know was illegal, he has found out it is and he is trying to do the right thing.

If you look at some of the issues you look at on a rezoning Mr. Hathman's business fluctuates; he is a brick layer. When he has a lot of jobs his equipment and his bricks are on the job. When his jobs slow down or he is between jobs they end up on the site. Some days you drive by and there is a whole bunch of stuff there, the next month you drive by and there may be even more stuff there, then when you drive by again there is hardly anything there. It is not a traffic issue because this isn't where his men meet and congregate to go to jobs; this is where stuff that has no place to go ends up, his trucks, his forklifts and block and brick that is extra. There is no safety issue with brick or block that Mr. Gebhardt is aware of. The applicants are going to fence the property so the aesthetics part of this should be addressed. Traffic is not an issue. There is no sewer out there so this is the perfect use because the applicants don't need sewer.

Mr. Gebhardt stated as an appeal from a planning point of view and from a master planning point of view this probably doesn't have any business being zoned industrial but I think you have to take in the real conditions and the real people that live here and the people that own the land and use the land. There needs to be exceptions for this. Mr. Gebhardt wishes there was a conditional use that this could fall under or some other way to accomplish this but there were only two options; either get off or rezone. The applicants are trying to bring a human element in to this; they have tried to narrow it down so that they can allow Mr. Hathman to do what he has been doing and try to find a compromise.

Open to public hearing.

No one spoke in favor of the request.

Present speaking in opposition to the request:

James Abernathy, 7400 St. Charles Rd., Columbia.

Mr. Abernathy stated his property is ½ mile east of the site in question and has lived there for 12 to 13 years and hasn't complained about the site as it is for the 12 or 13 years. That being said, Mr. Abernathy has some investments there now where he is developing some rental properties and duplexes and condos. The site in question will have a detrimental effect on Mr. Abernathy's business. It is an inappropriate use for the land. The land is probably going to become a residential area within the very near future. Mr. Abernathy stated he has a great deal of respect for what Mr. Hathman has accomplished as a business man and appreciates the problem that he is facing but this particular site is inappropriate and it has been an eyesore for the 12 or 13 years Mr. Abernathy has been there and it has been a problem for that amount of time and even putting a fence around probably wouldn't improve the condition a considerable amount.

Jeff Hemme, 2208 Oak Harbor Ct., Columbia.

Mr. Hemme stated he owns Hemme construction and Knor Holdings and is building a 56 unit luxury condominium complex about ½ mile east of the subject property. Everyone in this room is well aware of the upcoming residential developments in the area there is probably going to be another 1000 residential homes in the area within the next 5 years. City sewer is being planned right now to the area for the residential growth. Mr. Hemme stated he also respects Mr. Hathman for his business and that is where Mr. Hemme buys all of his brick material so it is not a personal thing at all. He also respects Mr. Gebhardt and it is not personal with him either. For two years Mr. Hemme lived in Copper Creek which is about one mile east of the subject tract which is 32 upper scale homes. Mr. Hemme drove by this property almost daily for 3 years and with regard to the eyesore that has already been explained there is a large number of materials on this property that has not moved in the 3 years that Mr. Hemme has been driving by this site. Not that this may impact this meeting one way or another but there is activity in and out of this lot that happens daily but there is a large number of material that just haven't moved, it is just sitting there. Mr. Hemme stated it is a nice area with a lot of existing improvements under construction and there is a great deal much bigger being planned for the area right now. This site is very undesirable for the area and it is directly across from the golf course.

Mr. Hemme stated he also represents a homeowner that he is building a \$400,000 home for in Copper Creek right now, they are in Minnesota right now but they as well do not enjoy driving by this major commercial, industrial site.

Vice-Chairperson Duker stated Mr. Hemme noted that the city is planning the sewer and asked if he knew when they are planning that.

Mr. Hemme stated he doesn't have specifics on that, he just knows that there are developers planning to extend city sewer to the area.

Patrick McClung, 8021E. Payette Dr., Columbia.

Mr. McClung stated he is here on behalf of Copper Creek Association. Mr. McClung was contacted, not by all the residents, but by enough residents that had questions concerning this and he is attending this meeting to express their concerns. Mr. McClung stated he represents 32 lots, acreage lots, with home values ranging from \$200,000 to \$400,000 residences. There are three vacant lots right now and the other 29 already have homes and are occupied with the majority of the residences being families. Mr. McClung stated he also respects Mr. Hathman's business accomplishments and he is and has been a contractor and understand Mr. Hathman's dilemma. Although Mr. McClung has been driving by the property for approximately 6 to 7 years and has noticed that the average amount of material has increased significantly within the last 2 to 3 years. Mr. McClung lives in Copper Creek and has a family of his own and noticed that a lot of people walk clear from Copper Creek to the golf course on a daily basis both morning, whether biking or walking, as well as in the evening. The road is a two lane asphalt road with no shoulder and ditches and people still brave the traffic hazard to do so as well as walk to the Copper Creek subdivision to walk within the subdivision to keep off the highway. Mr. McClung stated he is basically here to say the same thing that has been discussed in opposition.

Closed to public hearing.

Mr. Gebhardt stated he has an uphill battle and wants to appeal to the Commission's sense of fairness. That is not just on both sides. The fairness for Mr. Hathman is that he is not asking to do anything that he hasn't been doing and in fairness to the homeowners it seems like the biggest objection is the eyesore. With this plan the applicants have tried to meet them halfway. If the fence is objectionable or they want more landscaping the applicants can work with them. If they want a taller fence the applicants can work with that also. The applicants are looking for a compromise; they are caught between a rock and a hard spot. From a master plan point of view this may not make sense but on a human scale the applicants are trying to appeal to that sense. If the Commission has any suggestions on the screening to make this more palatable the applicants are open to suggestions. Mr. Hathman is relying on Mr. Gebhardt to help him accomplish this. It would be a big business expense to move all this material and find a new place in Boone County that is zoned light industrial. The reality of it is that it will probably push him in to Callaway County or somewhere else where there is no zoning and land is less expensive. On a basic planning point of view is that really what we want to do with our contractors? Everybody needs a place to park trucks and store material while they are not working; it is expensive to do that in Boone County.

Vice-Chairperson Duker asked the procedure for the applicant moving his stuff; how long does he have?

Mr. Mach stated the applicant will discuss this with staff. Typically you have 30 days to resolve a zoning violation.

Vice-Chairperson Duker asked if that is something the Commission could discuss or make a recommendation on.

Mr. Shawver stated no. Staff would negotiate a reasonable schedule.

Mr. Yonke stated the reality is the last thing the County does for anybody is send them to the Prosecuting Attorney for enforcement action; it is a criminal offense. That being said staff works very hard to set a compliance schedule that can actually be met.

Vice-Chairperson Duker asked if staff was aware of any discussions with the applicant previously about this situation.

Mr. Mach stated this is the first complaint of this type.

Vice-Chairperson Duker asked if there have been any discussions.

Mr. Mach stated to his knowledge no one has said anything to staff.

Mr. Yonke stated the notice for violation originally occurred over 6 months ago.

Mr. Mach stated the applicant has had sufficient time to consider his options; staff has met with Mr. Gebhardt for a concept review.

Mr. Yonke stated at that meeting it was made pretty clear to the applicants that this request was not likely to be approved.

Vice-Chairperson Duker stated it seems a little difficult for Mr. Hathman having been there for such a long time even though he is in violation of an ordinance.

Mr. Yonke stated to use a piece of property that is not zoned for commercial use for 12 years is a bonus that you get over someone who has to pay the commercial value of the property for 12 years to keep his stuff on.

Commissioner Freiling stated he didn't want to set a precedent that we are going to see again because some people, even innocently, have been in violation of the zoning ordinances. The Commission shouldn't bless the use.

Vice-Chairperson Duker stated he doesn't want to bless the use but is wondering about negotiating a period of time to come into compliance. It seems like the problem has been that development has come to the applicant and the development isn't completely there yet. Vice-Chairperson Duker doesn't know why they can't send a recommendation to the County Commission giving the applicant a reasonable amount of time to move off; maybe tie it to the proposed sewer coming in.

Mr. Shawver informed Vice-Chairperson Duker that the Planning and Zoning Commission doesn't have the authority to negotiate compliance schedules.

Vice-Chairperson Duker stated he is not suggesting that.

Mr. Shawver informed the Commission that staff would work with the applicant to establish a reasonable compliance schedule. He pointed out that Mr. Hathman has been aware of the violation since November 2005.

Mr. Gebhardt stated part of the reason it has taken so long is because Mr. Gebhardt was contacted in January 2006 and his schedule is why it has been six months. It was due to come before the Commission

in May and Mr. Gebhardt asked for it to be tabled and would ask that Mr. Hathman not be penalized because of Mr. Gebhardt's busy schedule.

Mr. Yonke stated that is accurate; Mr. Gebhardt has been working to get this on the agenda. The only thing staff is pointing out is that it hasn't been unknown that this was an unlikely rezoning request. It was one of the options along with moving the stuff. Staff made it pretty clear to the applicant that this rezoning was an uphill battle and unlikely to be approved.

Vice-Chairperson Duker stated what he is hearing is that 30 days is unreasonable; what would be reasonable?

Mr. Yonke stated the 30 days is typically for the owner of the property to make contact with staff. If they don't make contact to set a schedule that is actually the first letter.

Vice-Chairperson Duker asked what the process was.

Mr. Shawver stated he didn't believe this is an appropriate discussion for this meeting. Enforcement action is the responsibility of the Planning Department, through the Prosecuting Attorney's office and the Circuit Court. Mr. Shawver stated that he did not believe that it is appropriate for the Planning and Zoning Commission to negotiate this. An application is before the Commission and the Commission's charge is to recommend either approval or denial of this request. Enforcing regulations is up to the Planning Department as directed by the County Commission.

Mr. Gebhardt stated Commissioner Freiling mentioned precedent and that has been brought up to the applicants before. The Commission deals with it from a different perspective but if Bob Lemone was across the street and had a brick yard over there then I think you are setting a precedent for him to get ML-P on that too; but he is not.

Commissioner Freiling stated uses that have been in violation for many years and gone unchallenged exist all over the County. Just saying because you have been doing it you should be able to keep doing it - we have opened the doors.

Mr. Gebhardt stated out of fairness to those people that have been using their property that way shouldn't there be some method by conditional use or something rather than coming in and doing an industrial rezoning? It would be another tool to use.

Commissioner Freiling stated there are vehicles for different circumstances. The zoning ordinances were in place when this use began and failure to learn the legal uses of your property is negligent especially as rapidly as this community is changing. If you err you have to err on the side of the enforcement of the regulations.

Mr. Gebhardt stated he sees it as basic fairness.

Commissioner Freiling stated it is very hard for contractors to find places; it is a real issue but that is a business issue.

Mr. Gebhardt asked if there was a compromise that can be reached with screening.

Vice-Chairperson Duker stated he didn't see how.

Commissioner Schloot stated he is a contractor too and he worked with the County to get a site cleaned up in his area. He thought the staff did a good job of applying pressure to the property owner yet at the same time allowing adequate time to comply.

Commissioner Heitkamp stated she is sympathetic with Mr. Hathman's problem however the Commission doesn't look at the individuals involved when considering rezoning requests; they look at the property and if it is an appropriate use for the land. The Commission can not take their personal feelings in to account.

Mr. Gebhardt stated with the planned zoning and the restricted use; it is just a contractor's yard. That is all anyone can ever use it for. You would need to get permission from the Commission to change anything on the plan. Having a fenced in area that is landscaped solves the problem of the aesthetics and allows Mr. Hathman to continue what he is doing. Mr. Gebhardt stated he doesn't see it as a harm with having fenced in bricks and trucks in a residential area.

Commissioner Freiling stated he is concerned with having a nonconforming use to become the reason for granting a major rezoning; you can't do it.

Commissioner Mink stated he would have a hard time with this proposed zoning even if it was a proposed use. It is inappropriate for the area. It may be that it is getting worse as development moves out and makes it more acute.

Commissioner Freiling made and Commissioner Mink seconded a motion to **deny** the request by Dean Hathman to rezone from R-S and A-2 to M-LP (Planned Industrial) of 1.77 acres, more or less, located at 7170 E. St. Charles Rd., Columbia:

|                     |                        |
|---------------------|------------------------|
| Russ Duker – Yes    | Kristen Heitkamp – Yes |
| Larry Oetting – Yes | Carl Freiling – Yes    |
| Boyd Harris – Yes   | John Schloot – Yes     |
| David Mink – Yes    |                        |

Motion to deny request carries unanimously.

Commissioner Freiling made and Commissioner Schloot seconded a motion to **deny** the request by Dean Hathman to approve a review plan of 1.77 acres, more or less, located at 7170 E. St. Charles Rd., Columbia:

|                     |                        |
|---------------------|------------------------|
| Russ Duker – Yes    | Kristen Heitkamp – Yes |
| Larry Oetting – Yes | Carl Freiling – Yes    |
| Boyd Harris – Yes   | John Schloot – Yes     |
| David Mink – Yes    |                        |

Motion to deny request carries unanimously.

Vice-Chairperson Duker informed the applicants that this request has been denied. If they wish to appeal to the County Commission the applicants would need to file an appeal form within three working days.

## **PLANNED DEVELOPMENTS**

None.

## **PLAT REVIEWS**

1. Street Estates Plat 1. S12-T49N-R13W. A-R. Blue Acres, Inc., owner. Neal R. Slattery, surveyor.

The following staff report was entered in to the record:

This final plat consists of 3 proposed lots. The development is located between State Highway VV and US Highway 63 approximately 400 feet south of the intersection of Hinton Road and State Highway VV. The site is approximately 2 miles north of the municipal limits of the City of Columbia. The area being subdivided contains 8.53-acres. The property is zoned A-R (agriculture-residential) as is property to the south and southwest. Property to the west has some C-N (neighborhood commercial) along with A-R. Property to the north is zoned R-S (residential single family). Property to the east is zoned A-R (agriculture-residential). All these zonings are the original 1973 zonings. The property is currently the site of an existing single family dwelling, a couple of outbuildings, and a convenience store/gas station on proposed lot 101. Proposed lots 102 & 103 are vacant except for a wastewater lagoon. Access to proposed lot 102 will be from Daniel St. to the east that is being constructed as part of Kincade Crossings subdivision. As such, this plat is somewhat dependent upon the infrastructure of other plats. No building permits can be issued for the area contained within this plat until all necessary infrastructure has been provided. The road network proposed contains a roadway that is an extension of Daniel St. which will at least temporarily not connect back to Highway VV. MoDot has concerns with respect to the location of the proposed public road connection. The road length has an approved variance from the County Commission for the length under the public works regulations. Sewage treatment will be provided by a central BCRSD facility created for the area by Kincade Crossings. Because there are existing uses that will remain within the plat area, no additional building permits can be allowed until the full infrastructure required for all components of the plat is installed appropriately. The site is in Consolidated Public Water District #1. Fire hydrants and watermain extensions are required. The site is in the Columbia School District. The eventual public road connection is desired but will ultimately fall to MoDot. The site is in the Boone County Fire Protection District and Boone Electric Service areas. This plat has 73 points on the point rating scale.

Staff recommends approval along with the granting of a waiver for traffic analysis subject to the following conditions.

1. No building permits can be issued for the area contained within the plat until all required infrastructure is installed, inspected, and approved.
2. The surveyor must work with the BCRSD to provide any additional easements needed by the sewer district.
3. The surveyor can work with the county PW and Planning Departments to resolve any issues related to extending Daniel St. with respect to providing a transition to the potential commercial area along Highway VV.

Commissioner Freiling stated the note states these lots may be further subdivided in the future. Is this an indication that they automatically can be but they can be if it falls under the zoning regulations?

Mr. Yonke stated that is correct. Basically, the subdivision regulations have a provision in it that if you do not provide a mechanism that will allow you to replat then by default it falls back to a procedure where the applicant must come back to the County Commission and request a vacation hearing before they can even submit the application to replat ground that has been previously platted. The regulations say that if you establish a procedure for example a note on the plat, staff has always considered there to be notification but if you buy a lot in a plat that has the note on it that says these lots can be re-divided as long as they are in compliance with the regulations without the need for that hearing then that was good enough.

Mr. Yonke stated Street Estates plat 3 will also be heard tonight. Plat 2 was withdrawn by the applicants because MoDot, at the eleventh hour, has had some reservations about where the road can connect. That is something that will be revisited along with the convenience store. Staff does not have any issues with that. Plat 1 is a holding creating larger tracts so that parts of the property can be redeveloped. Should the convenience store tract be redeveloped we will be revisiting this whole issue with a new plat. Streets plat 1 and 3 are going forward, plat 2 is not.

Commissioner Harris made and Commissioner Heitkamp seconded a motion to **approve** Street Estates Plat 1. S12-T49N-R13W. A-R. Blue Acres, Inc., owner. Neal R. Slattery, surveyor **with waiver requests and the following conditions:**

1. No building permits can be issued for the area contained within the plat until all required infrastructure is installed, inspected, and approved.
2. The surveyor must work with the BCRSD to provide any additional easements needed by the sewer district.
3. The surveyor can work with the county PW and Planning Departments to resolve any issues related to extending Daniel St. with respect to providing a transition to the potential commercial area along Highway VV.

|                     |                        |
|---------------------|------------------------|
| Russ Duker – Yes    | Kristen Heitkamp – Yes |
| Larry Oetting – Yes | Carl Freiling – Yes    |
| Boyd Harris – Yes   | John Schloot – Yes     |
| David Mink – Yes    |                        |

Motion to approve request carries unanimously.

\* \* \* \* \*

2. Street Estates Plat 3. S12-T49N-R13W. A-R. Blue Acres, Inc., owner. Neal R. Slattery, surveyor.

The following staff report was entered in to the record:

This final re-plat contains a portion of the overall development of the subdivision. This plat consists of 9 proposed lots. The development is located between State Highway VV and US Highway 63 approximately 400 feet south of the intersection of Hinton Road and State Highway VV. The site is approximately 2 miles north of the municipal limits of the City of Columbia. The area being subdivided contains 5.37-acres. The property is zoned A-R (agriculture-residential) as is property to the south and southwest. Property to the immediate west is part of the same development and is also zoned A-R as is the property to the east. Property to the north is zoned R-S (residential single family). All these zonings

are the original 1973 zonings. The property is currently vacant. This plat is actually a re-plat of lot 102 of Street Estates Plat 1. Access to proposed lot 102 will be from Daniel St. to the east that is being constructed as part of Kincade Crossings subdivision. As such, this plat is somewhat dependent upon the infrastructure of other plats. No building permits can be issued for the area contained within this plat until all necessary infrastructure has been provided. The road network proposed contains a roadway that is an extension of Daniel St. which will at least temporarily not connect back to Highway VV. MoDot has concerns with respect to the location of the proposed public road connection. The road length has an approved variance from the County Commission for the length under the public works regulations. Sewage treatment will be provided by a central BCRSD facility created for the area by Kincade Crossings. Because there are existing uses that will remain within the plat area, no additional building permits can be allowed until the full infrastructure required for all components of the plat is installed appropriately. The site is in Consolidated Public Water District #1. Fire hydrants and watermain extensions are required. The site is in the Columbia School District. The eventual public road connection is desired but will ultimately fall to MoDot. The site is in the Boone County Fire Protection District and Boone Electric Service areas. This plat has 73 points on the point rating scale.

Staff recommends approval along with the granting of a waiver for traffic analysis subject to the following conditions.

1. No building permits can be issued for the area contained within the plat until all required infrastructure is installed, inspected, and approved.
2. The surveyor must work with the BCRSD to provide any additional easements needed by the sewer district.
3. The surveyor can work with the county PW and Planning Departments to resolve any issues related to extending Daniel St. with respect to providing a transition to the potential commercial area along Highway VV.

(See discussion under Streets Estates Plat 1.)

Commissioner Harris made and Commissioner Heitkamp seconded a motion to **approve** Street Estates Plat 3. S12-T49N-R13W. A-R. Blue Acres, Inc., owner. Neal R. Slattery, surveyor **with waiver requests and the following conditions:**

1. No building permits can be issued for the area contained within the plat until all required infrastructure is installed, inspected, and approved.
2. The surveyor must work with the BCRSD to provide any additional easements needed by the sewer district.
3. The surveyor can work with the county PW and Planning Departments to resolve any issues related to extending Daniel St. with respect to providing a transition to the potential commercial area along Highway VV.

|                     |                        |
|---------------------|------------------------|
| Russ Duker – Yes    | Kristen Heitkamp – Yes |
| Larry Oetting – Yes | Carl Freiling – Yes    |
| Boyd Harris – Yes   | John Schloot – Yes     |
| David Mink – Yes    |                        |

Motion to approve request carries unanimously.

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3. Monticello Acres. S22-T46N-R12W. A-2. Reba Earl Kraus, owner. James V. Patchett, surveyor.

The following staff report was entered in to the record:

The access point to the 23.21 acre tract is located on the west side of Old 63 approximately 700 feet south of the intersection of Old 63 and Dee Woods Road.

The tract is accessed by private drive. All lots within the subdivision will be accessed by private drive. There is no road right of way dedicated by this plat.

The property is in the service area of Consolidated Public Water Supply District Number 1. The Water District has sufficient water to supply the required fire flow to the subdivision. Six-inch mains and fire hydrants will be installed at the developer's expense to meet, County, Water District and Fire District Standards prior to recording the plat.

On site wastewater systems will be used for sewage disposal. A plan showing a suitable location for an onsite system for each lot has been submitted for review by the Health Department.

Two remnants from the parent parcel have been left out of this plat. It is the developer's intention to attach those remnants to a larger parcel to the south. This will have to be done concurrently with the recording of this plat.

The property scored 63 points on the rating system.

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

1. The developer shall obtain approval for the wastewater plan from the Health Department prior to acceptance of the plat by the County Commission.

Commissioner Harris made and Commissioner Heitkamp seconded a motion to **approve** Monticello Acres. S22-T46N-R12W. A-2. Reba Earl Kraus, owner. James V. Patchett, surveyor **with the following condition:**

1. The developer shall obtain approval for the wastewater plan from the Health Department prior to acceptance of the plat by the County Commission.

|                     |                        |
|---------------------|------------------------|
| Russ Duker – Yes    | Kristen Heitkamp – Yes |
| Larry Oetting – Yes | Carl Freiling – Yes    |
| Boyd Harris – Yes   | John Schloot – Yes     |
| David Mink – Yes    |                        |

Motion to approve request carries unanimously.

\* \* \* \* \*

4. Little Horse Acres Plat 2. S34-T50N-R12W. A-2. Kristina Metcalf, owner. Michael L. Klassing, surveyor.

The following staff report was entered in to the record:

The property is located on Mount Zion Church Road, west of State Route B, approximately 3 miles north of the city limits of Columbia. This is a replat of Little Horse Acres Lot 2, creating a fourth lot where there were previously three. The division of lot 2 into lots 2A and 2B creates a 4.08 acre tract and a 2.5 acre tract. The property is zoned A-2 (Agriculture) and is surrounded by A-2 zoning.

Both lots have direct access onto Mount Zion Church Road. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

Water service to these lots will be provided by Consolidated Public Water Service District #1. Fire protection will be provided by the Boone County Fire Protection District. To meet the fire protection requirements, a fire hydrant will be installed on the north side of Mount Zion Church Road to serve the Little Horse Acres property. Electrical service will be provided by Boone Electric Cooperative.

On-site systems will provide wastewater disposal. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

There is a non-compliant structure on the property inside the front setback and the utility easement. It is to go before the Board of Adjustment on June 22<sup>nd</sup> to determine whether or not it will be allowed to stay in that location.

The property scored 45 points on the rating system.

Staff recommends approval of the plat and the requested waivers subject to the following conditions:

1. That the question of the non-compliant structure be answered by the Board of Adjustment before the plat is recorded.
2. If the decision of the Board of Adjustment requires the removal of the structure that the structure be removed before the plat is recorded.

Commissioner Harris made and Commissioner Heitkamp seconded a motion to **approve** Little Horse Acres Plat 2. S34-T50N-R12W. A-2. Kristina Metcalf, owner. Michael L. Klassing, surveyor **with waiver requests and the following conditions:**

1. That the question of the non-compliant structure be answered by the Board of Adjustment before the plat is recorded.
2. If the decision of the Board of Adjustment requires the removal of the structure that the structure be removed before the plat is recorded.

Russ Duker – Yes  
Larry Oetting – Yes  
Boyd Harris – Yes  
David Mink – Yes

Kristen Heitkamp – Yes  
Carl Freiling – Yes  
John Schloot – Yes

Motion to approve request carries unanimously.

\* \* \* \* \*

5. Lenway Estates Plat 1. S7-T48N-R11W. C-GP. EKD Properties V LLC, owner. Bill R. Crockett, surveyor.

The following staff report was entered in to the record:

The property is located at 6989 I-70 Drive N.E., approximately 4 miles east of Columbia. The 36.94 acre tract was originally zoned A-R. In 1994 17.12 acres was rezoned to Recreation REC, the remaining 19.82 acres retained the original A-R zoning. A golf driving range was allowed by conditional use permit in 1989. In January 2005 the north 29.44 acres of the property was rezoned to RS-P and the south 7.5 acres was rezoned to CG-P. A final development plan and preliminary plat was also approved showing 88-residential lots and 2-commercial lots. In October 2005 a revised review plan and preliminary plat was approved rezone an additional 4-acres on the west side of Lenway Drive to CG-P in order to create a 7.96 acre tract for the construction of a maximum 30,000 square foot building.

The proposed plat will create Lot 1 and a portion of Lenway Drive. Right of way for Lenway Drive will be dedicated by this plat. Construction of Lenway Drive will have to be completed prior to recording the plat. A temporary turnaround easement is shown exterior to the plat. The easement will have to be recorded and referenced on the plat prior to recording the plat. The developer proposed construction of a left turn lane into the development from I-70 Drive NE. Plans for the turn lane have been submitted to MoDOT. Construction will have to be complete and accepted by MoDOT prior to recording the plat.

Public Water District Number 9 provides water service to the property. There is a sufficient water source located to the west of this property that could be extended to this property at the developers cost. The Water District recommends approval of the plat.

There is no central sewer currently available to the site. One of the conditions of approval of the Review Plan and Preliminary Plat is for the developer to coordinate planning and construction of the wastewater facilities with the Boone County Regional Sewer District. That discussion is currently underway; resolution of this issue is required prior to recording the plat.

The property scored 56 points on the rating system.

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

1. The temporary turnaround easement, as approved by the Public Works Department, shall be recorded and referenced on the face of the plat.
2. It should be noted that construction of Lenway Drive, to the satisfaction of the Public Works Department shall be complete prior to plat recording
3. It should be noted that construction of the left turn lane on I-70 Drive NE to the satisfaction of MoDOT prior to plat recording.
4. The developer shall coordinate planning and construction of wastewater treatment facilities with the Boone County Regional Sewer District.

Commissioner Mink made and Commissioner Duker seconded a motion to **approve** Lenway Estates Plat 1. S7-T48N-R11W. C-GP. EKD Properties V LLC, owner. Bill R. Crockett, surveyor **with the following conditions:**

1. The temporary turnaround easement, as approved by the Public Works Department, shall be recorded and referenced on the face of the plat.
2. It should be noted that construction of Lenway Drive, to the satisfaction of the Public Works Department shall be complete prior to plat recording
3. It should be noted that construction of the left turn lane on I-70 Drive NE to the satisfaction of MoDOT prior to plat recording.
4. The developer shall coordinate planning and construction of wastewater treatment facilities with the Boone County Regional Sewer District.

|                     |                        |
|---------------------|------------------------|
| Russ Duker – Yes    | Kristen Heitkamp – Yes |
| Larry Oetting – Yes | Carl Freiling – Yes    |
| Boyd Harris – Yes   | John Schloot – Yes     |
| David Mink – Yes    |                        |

Motion to approve request carries unanimously.

\* \* \* \* \*

6. Tobacco Ridge Plat 2. S26-T48N-R14W. A-2. Henry and Lee Raye Lamm, owners. Ronald G. Lueck, surveyor.

The following staff report was entered in to the record:

The property is located approximately 3 ½ miles to the southwest of the City of Columbia. The parent parcel is a 54 acre tract which had one lot platted out of it under current regulations as Tobacco Ridge Subdivision. It has had one family transfer lot split out of it in 1996, and two 1 acre tracts divided out by survey before that. This plat is creating a 3.09 acre lot. The property is zoned A-2 (Agriculture), and is surrounded by A-2 zoning.

The property has direct access onto State Route O. MoDOT has done a sight distance check for this property and identified a potential location for a residential driveway. A permit will be required with MoDOT to set the driveway, but a location does exist. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

Domestic water and electrical services will be provided by Consolidated Public Water Service District #1 and Boone Electric. Fire protection will be provided by the Boone County Fire Protection District.

On-site systems will provide wastewater disposal. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

The property scored 38 points on the rating system.

Staff recommends approval of the plat and the requested waivers.

Commissioner Harris made and Commissioner Heitkamp seconded a motion to **approve** Tobacco Ridge Plat 2. S26-T48N-R14W. A-2. Henry and Lee Raye Lamm, owners. Ronald G. Lueck, surveyor **with waiver requests**:

Russ Duker – Yes  
Larry Oetting – Yes  
Boyd Harris – Yes  
David Mink – Yes  
Kristen Heitkamp – Yes  
Carl Freiling – Yes  
John Schloot – Yes

Motion to approve request carries unanimously.

\* \* \* \* \*

7. Fields For Kids. S20-T49N-R12W. A-2. Boone County and City of Columbia, owners. Jay Gebhardt, surveyor.

The following staff report was entered in to the record:

The property is a portion of the Boone County Fairgrounds. The purpose of the plat is to establish the right of way corridor for Waco Road.

The plat includes two lots. Each lot will have frontage on and access to Waco Road, which will be connected to extensions of Waco Road to the east and west. A 100-foot right of way corridor will be dedicated for Waco Road. Columbia Public Works has recommended that the design for Waco Road should give consideration to planning for left turn lanes at access points and providing a median refuge for pedestrians.

The property is in the service area of Columbia Water and Light. Water mains will be extended as necessary at the time of road construction.

A sewer main is shown on the plat that will connect with the City of Columbia sewer system.

The property scored 75 points on the rating system.

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

1. The design for Waco Road should give consideration to planning for left turn lanes at access points and providing a median refuge for pedestrians.

Commissioner Harris asked what the utility is; is it a development tract?

Mr. Florea stated the purpose of the plat is to establish the right of way for Waco Road which is being built across that property. We wanted to get that right of way dedicated and locked in. It will result in two tracts because the road is splitting the property in to two tracts. There are no proposed uses on that now; there is a master plan for that property that is available on the web site; there are a number of different site plans laid out.

Commissioner Harris made and Commissioner Heitkamp seconded a motion to **approve** Fields For Kids. S20-T49N-R12W. A-2. Boone County and City of Columbia, owners. Jay Gebhardt, surveyor **with the following condition:**

- 1 The design for Waco Road should give consideration to planning for left turn lanes at access points and providing a median refuge for pedestrians.

|                     |                        |
|---------------------|------------------------|
| Russ Duker – Yes    | Kristen Heitkamp – Yes |
| Larry Oetting – Yes | Carl Freiling – Yes    |
| Boyd Harris – Yes   | John Schloot – Yes     |
| David Mink – Yes    |                        |

Motion to approve request carries unanimously.

\* \* \* \* \*

### **OLD BUSINESS**

Mr. Shawver updated the Planning and Zoning Commission of the decisions made by the County Commission as follows:

The conditional use permit by Verizon Wireless/BCFPD was approved as recommended.

The rezoning request by Ronnebaum was approved as recommended.

Only one plat went before the County Commission and was approved as recommended.

### **NEW BUSINESS**

None.

### **ADJOURN**

Being no further business, the meeting was adjourned at 8:42 p.m.

Respectfully submitted,

Kristen Heitkamp,  
Secretary

Minutes approved on this 20th day of July, 2006.