

**BOONE COUNTY PLANNING & ZONING COMMISSION**

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, July 20, 2006

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

Present:	Pat Smith, Chairperson	Perche Township
	Russell Duker, Vice Chairperson	Missouri Township
	Kristen Heitkamp, Secretary	Katy Township
	Mike Morgan	Bourbon Township
	Carl Freiling (left 10:00)	Cedar Township
	Larry Oetting	Three Creeks Township
	Boyd Harris	Centralia Township
	Michael Morrison	Columbia Township
	Paul Zullo	Rock Bridge Township
	David Mink	Public Works

Absent:	John Schloot	Rocky Fork Township
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Also present:	Stan Shawver, Director	Uriah Mach, Staff
	Thad Yonke, Staff	Bill Florea, Staff
	Paula Evans, Staff	

The minutes of the June 15, 2006 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 two conditional use permit requests, two rezoning requests, a revised review plan for a planned development, and two 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 Statutes 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 public 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. We ask that you please 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 Monday, July 31<sup>st</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 Monday, June 31<sup>st</sup>, will begin at 7:00 p.m. and will convene in this same room.

Chairperson Smith asked if there were any questions about how the meeting will be conducted.

There were none.

## **CONDITIONAL USE PERMITS**

1. Request by Pendurthi PropertiesLLC for a permit to allow self-storage units on .65 acres, located at 5954 N. Wagon Trail Rd., Columbia.

Planner, Uriah Mach gave the staff report stating that the property is located just north of the city of Columbia on Wagon Trail Road. The property was rezoned from R-M (Residential-Moderate Density) to C-G (General Commercial) in 1984 to allow for the current use as a car wash. There is C-G zoning to the east, south, and west, and R-M zoning to the north. The adjacent zonings are original 1973 zonings.

The proposal is to convert the existing car wash stalls into self-storage units. The property is located inside the Columbia Public School District. Domestic water service is not required for the proposed use. Electric service is provided by Columbia Water & Light. The Master Plan identifies this area as being suitable for residential land uses. Staff notified 41 property owners about this request.

As a conditional use permit, the proposal must meet the following criteria from the zoning ordinance to be eligible for approval:

- 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 change of use from the carwash to the self-storage units is a transition to a lower intensity use. The proposed use is in scale with the activity on the surrounding properties, and should not have an impact on the use and enjoyment of those properties. 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.

The proposed use will not impede the development of the surrounding properties.

- 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 flow in the area.

- 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 C-G zoning district, particularly since no land division is proposed. The County Commission will make the determination of public necessity for this site.

Staff recommends approval of this request with the following conditions:

1. Only the self-storage units created by the conversion from the carwash stalls are permitted by this request. Any expansion will require an additional conditional use permit.
2. All driveway, loading, and parking areas are to be dust free (minimum chip and seal). This is already a standard for the property.
3. Lighting is oriented inward and downward so as to minimize light leaving the site.
4. Comply with all site requirements of the Boone County Fire Protection District.
5. Comply with all requirements of the building code.

Present: Chalapachi Pendurthi, 5950 N. Wagon Trail Rd, Columbia.

Mr. Pendurthi stated there is an existing car wash at the site and he wants to turn it in to storage units.

Chairperson Smith asked if the Commissioner's had any questions at this time.

Hearing no initial questions from the Commission the public hearing was opened.

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

Closed to public hearing.

Commissioner Mink made and Commissioner Morgan seconded a motion to **approve** the request by Pendurthi Properties LLC for a permit to allow self-storage units on .65 acres, located at 5954 N. Wagon Trail Rd., Columbia with the following conditions:

1. Only the self-storage units created by the conversion from the carwash stalls are permitted by this request. Any expansion will require an additional conditional use permit.
2. All driveway, loading, and parking areas are to be dust free (minimum chip and seal). This is already a standard for the property.
3. Lighting is oriented inward and downward so as to minimize light leaving the site.
4. Comply with all site requirements of the Boone County Fire Protection District.
5. Comply with all requirements of the building code.

Pat Smith - Yes	Kristen Heitkamp – Yes
Mike Morgan – Yes	Carl Freiling – Yes
Russ Duker – Yes	Paul Zullo – Yes
Larry Oetting – Yes	Michael Morrison – Yes
Boyd Harris – Yes	David Mink – Yes

Motion to approve request carries	10 YES	0 NO
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Chairperson Smith informed the applicants that this request would go before the County Commission on July 31, 2006 and the applicants need to be present for the hearing.

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2. Request by Helen Quinn on behalf of Verizon Wireless to allow a transmission facility on 84.33 acres, located at 23500 S. Hwy 63 South, Hartsburg

Planner Uriah Mach gave the staff report stating that the property is approximately 8 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, and west, and Callaway County is to the east. 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 5,000 square feet out of the 84.33 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 no structures present, and a pond to the northeast. A 154' monopole tower and small ground facilities are proposed inside a fenced compound.

The property is located inside the South Boone County R-1 school district and the Southern Boone County Fire Protection District. The Master Plan describes this area as being suitable for agriculture and rural residential land use. Staff notified 10 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. As a conditional use permit, the proposal must meet the following criteria from the zoning ordinance to be eligible for approval:

- (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 has been discussed by the Federal Telecommunications Act of 1997 to allow for widest dissemination of wireless communication services. The Planning & Zoning Commission and the County Commission will make the determination of public necessity for this site.

Staff recommends approval of this conditional use permit.

Present: Curtis Holland, Attorney representing Verizon Wireless, 6201 College Blvd, # 500, Overland Park, KS 66211

Mr. Holland stated as staff has indicated the application would allow for Verizon Wireless to construct a 150 foot tall monopole communications tower for Verizon Wireless' network needs in the County. The property owner is Helen Quinn. Verizon has been through a number of these different applications over the last several months and the Commission has heard Mr. Holland's presentation before on these types of applications and understand that Verizon Wireless is a new entrant in to the wireless service market in Boone County. What we have with this particular application is a proposal to construct a monopole tower to allow for their antennas to be attached at the top and to provide coverage for Verizon services in the southern part of the county. Heretofore we have had applications along I-70 and along highway 63 and with respect to this application this is the furthest south application still in Boone County. Like the other applications the applicants have attempted to collocate on existing communication towers or any tall structures in the near vicinity and there simply aren't any with respect to this particular target area. To the north of this proposed site is a collocation site at Mt. Pleasant. It is an ATC tower a little over a mile to the north of this particular site. The county, as the Commission knows, the terrain is very hilly and one of the impacts of having such terrain to the south is that the communication structures must be relatively closer together. Whereas we might have along a flat stretch of highway like I-70 or north highway 63 the towers might be 2 – 2 ½ miles apart. In the southern part of the county they may have to be as close as a mile apart which is about what the case is in this instance.

Relative to the sighting issues the applicants have done probably the best job that they have done so far. The reason is because where this site is it's next to a very large rock quarry.

Mr. Holland presented an aerial photograph. A smaller version was included in the application.

Mr. Holland indicated the location of the proposed tower site as well as the location of the rock quarry. The site was purposely chosen because of the industrial nature of the particular area along the highway and the fact that the applicants believe that in those types of instances they are probably going to minimize any impacts that might be caused by having these types of structures on properties. There really are no residences in the area whatsoever. The owner of the property also happens to own all of the property the quarry sits on and the quarry leases the ground. When we talk about land use and we have had those types of issues on these types of applications. Mr. Holland believes the applicants have done an excellent job relative to the siting of this particular tower and have it located essentially right next to a very large rock quarry. The applicants submitted a fairly thick application on this as required by the county regulations. Many documents were submitted including the colored propagation maps. Mr. Holland stated he brought those maps as well if the Commission wishes to see it.

Chairperson Smith asked if the Commissioner's had any questions at this time.

Hearing no initial questions from the Commission the public hearing was opened.

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

Closed to public hearing.

Commissioner Harris made and Commissioner Mink seconded a motion to **approve** the request by Helen Quinn on behalf of Verizon Wireless to allow a transmission facility on 84.33 acres, located at 23500 S. Hwy 63 South, Hartsburg:

Pat Smith - Yes	Kristen Heitkamp – Yes
Mike Morgan – Yes	Carl Freiling – Yes
Russ Duker – Yes	Paul Zullo – Yes
Larry Oetting – Yes	Michael Morrison – Yes
Boyd Harris – Yes	David Mink – Yes

Motion to approve request carries.      10 YES                      0 NO

Chairperson Smith informed the applicants that this request would go before the County Commission on July 31, 2006 and the applicants need to be present for the hearing.

## **REZONING REQUESTS**

1. Request by David and Daniel Finke to rezone from A-2 (Agriculture) to A-RP (Planned Agriculture Residential) and to approve a review plan and preliminary plat for Providence Heights Planned Development on 52.79 acres, more or less, located at 7700 S. High Point Ln., Columbia.

Planner Thad Yonke gave the staff report stating that Rezoning/Review Plan/Preliminary Plat: This property is located approximately 2000 feet south of the municipal limits of Columbia on the east side of High Point Lane approximately 3200 feet south of the intersection of State Route K and High Point Lane. The 52.79 acres are zoned A-2 (Agriculture) as is all the surrounding property and these are all original 1973 zonings. The property is currently the site of an existing house with septic tank

wastewater system and a barn. The existing home is proposed to remain and will be connected into the proposed central wastewater system for the development. The maximum theoretical density under the existing zoning would allow 21 units to be developed, although, the practical number would likely be a few less due to the standard design requirements and topography of the site. The proposed rezoning is to A-RP (planned agriculture-residential) which yields a maximum theoretical density of 105 units. This proposal is to create one common lot and 45 residential lots, a public road, four gated private road cul-de-sac's varying in length from 200 ft to 450 ft, and three drainage structures in drainage-utility easements. There is no significant common open space created by this development proposal. There is no regulated floodplain on the property; however, High Point Lane crosses through the 100 year floodplain in both directions from the site. High Point Lane is a chip seal county maintained road. This site is located within the Columbia School District. Electric service is provided by Boone Electric Cooperative. Water service is provided by Consolidated Public Water District No. 1 and fire hydrants will be required for the development. The site is in the BCFPD. There have been no previous requests to rezone this property. There may be cultural or archaeological resources on the property and efforts must be taken to deal with any such assets found. The master plan designates this area as being suitable for agricultural and residential land uses. The proposal scored 65 on the point rating system. Staff notified 26 property owners concerning this request. The Master Plan calls for the use of a "Sufficiency of Resources Test" when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: This site is served by Boone Electric Cooperative and Consolidated Public Water District No. 1. A central waste-water system is proposed for this development with either a treatment plant within the development or by connection to a regional system operated by the BCRSD.

Transportation: Access to the site is from High Point Lane, a chip seal, county maintained road. The amount of traffic generated by the development should be able to be supported by the road, however, it needs to be recognized that High Point Lane, both directions from the development, goes through regulated floodplain and the road may be subject to flooding. The proposed public road, which is currently the only access to the site, is approximately 3000 ft in length which is 3 times the 1000 ft allowed length for a road that is not constructed as a through road. A variance has been recommended by the Road & Bridge Advisory Committee for the road length; however, it is important to recognize that the charge of the Road & Bridge Committee is to look at road construction and road standard variances not subdivision design, emergency services, or other issues. The Planning Commission must also approve of the length variance for the proposal to get a positive recommendation. Four gated private roads are proposed within the development serving 25 of the 45 residential lots. The covenants appear to adequately address maintenance of the roads; however, this is not the only issue. The county has had a recurrent problem in the past with private roads and only allows the creation of private roads under a planned development and the current subdivision and zoning regulations strongly discourage the creation of private roads within new developments. Since the county policy discourages private roads in general, the use of access restricting gates is a further stretch from the desired access under the regulations which is that lots front on a public road.

Public Safety: The property is in the Boone County Fire Protection District. A district fire station is located along the west side of State Route K approximately 3.0 miles from this site. There will only be one access point to the development, unless and until the adjoining properties develop and develop at the appropriate density to require road construction. Because of the access limitations of the site in general the fire district has requested and required the public road throughout the development be a 36 ft wide paved roadway.

The development of this property as part of a larger development might better suit the County development policies in general, especially those reflected in the ordinances, and therefore possibly gain support for a rezoning to allow a higher density development. However, due to the number of issues that either require variances or run counter to the general development policy of the County, staff recommends that this request be denied.

Should the Commission feel the request is an appropriate land use then staff recommends one of the following three options:

- 1: That the request be tabled for staff to work out specific conditions to mitigate impacts, for example how the drainage structures will impact neighboring properties, what type of standard will be created for the 36 ft road since the county does not have one, etc.
2. If not tabled then any recommendation for approval request the County Commission direct the applicant to work with staff so staff can recommend a complete set of conditions.
3. Or, that in addition to any conditions the Commission deem appropriate that the following 3 conditions be required.
  1. The privacy gates restricting access to the private roads must be removed from the plan and the notes modified appropriately to reflect the prohibition of gates or access limiting features at the four private road locations.
  2. The developer shall coordinate planning and construction of wastewater treatment facilities with the Boone County Regional Sewer District and the planning department and make any needed revisions based upon the specifics of the requirements for the central wastewater system.
  3. Any cultural assets or archaeological assets must be appropriately protected by a plan to be worked out to the satisfaction of the Planning Director.

Present: Jay Gebhardt, Professional Engineer, A Civil Group, 1010 Fay Street, Columbia.  
Robert Hollis, Attorney, Van Matre, Harrison, and Volkert, 1103 E. Broadway, Columbia.  
Daniel Finke, 3610 Buttonwood Dr., Columbia.

Mr. Gebhardt stated the Finke's came to him in November 2005 and they have worked through different scenarios during this time. Staff has been really good to work with.

The applicants presented a power point presentation.

(Overview)

Mr. Gebhardt explained that the applicants are asking for an AR-P review plan because first of all the applicants realize they need to do this as a planned district. This is a sensitive drainage area; the topography is rough, there is lot of different things going on here.

(Site Location Map)

The dark heavy line indicates the city limits. The importance of that is to show the proximity of the property to the city limits. There is another subdivision on the fringe of the city.

(Aerial Photo – Surrounding Property)

The aerial shows High Point Lane on the left, it comes up and there is a house and a field in the front. The bare spots are basically the ridge tops.

The plan before the commission shows the plan utilizing those ridge tops.

(General Information)

When the applicants first started on this in order to solve the sewer problem the applicants thought they would need to go to the City of Columbia. The city has a sewer in Williamson Place up there; it is a pump station and the applicants thought they would be able to utilize that pump station and connect to city sewer. Of course you have to annex in order to do that. When you are close to the city that is the process because if you have to get sewer you have to go to the city and you have to annex to get their sewer. The applicants ran in to a unique issue. This ground drains in many directions, there is a creek that drains both directions through this; it drains to the east and west. To serve this property by conventional gravity sewer wasn't economically feasible unless you did a whole bunch of lots. The applicants didn't want to do that. From the very beginning the developer has wanted to have something that went with the land a little bit better than just coming in and doing a typical city-type subdivision. The applicants proposed a pressure sewer system which is pretty common in the county; actually it is fairly common in the city as well. The applicants were told by the city that if they were going to do a pressure sewer the city didn't want the development. The city doesn't want to have pressure sewers. Mr. Gebhardt stated this was kind of strange and he spoke with the County sewer district and they have them; there is a policy in place to maintain them, there is a surcharge each month to those people but they don't have a problem with them. They have several subdivisions that are in place, the Woodlands and some others that have these pressure sewer systems and they don't really have any issues with them.

Mr. Gebhardt stated he met with Commissioner Miller and explained the situation to her because he thought it was strange. Everyone should expect this development to go in to the City and the City is saying no for once. The applicants got a letter back from the City Public Works Department saying that they didn't want the development. The applicants can afford to do the type of sewer that the City is requiring. It would be about 4 pump stations which cost roughly \$150,000 to \$200,000 apiece so you have around \$800,000 in pump stations before they put the gravity system in. It is cost prohibitive because of the terrain. The fork in the road changed and the applicants have come to the County and met with staff.

The zoning mirrors the city and that means the applicants are proposing the same development in the county that they were going to propose in the city, the applicants weren't trying to do anything different in the city, it is the same thing. The city rejected the development because of the sewers.

(Entrance Looking West – Photo)

The trees are one of the draws to the creek.

(Entrance Looking East – Photo)

This is looking at the property going up from the road.

(Reasons For This Rezoning Request)

The applicants have 45 lots on 53 acres. The reason the applicants propose that is mainly because of the terrain, they type of lots that the developer wanted to create, and because of the sensitive drainage area. The applicants are trying not to do too much with what they have.

(Topography)

The best way to describe the site in what the applicants are trying to do is Hill Creek Subdivision which has large lots and small roads. There are some steep grades in there and they retain the trees.

(View of Topography)

*Skipped slide.*

(Top Looking East)

The photo shows a little disturbance on the property. That is where a furrow was plowed for the archeologist to do his thing. This pasture is what we are talking about developing; not very many of the trees are going to be moved for the development.

(Storm Water is Not an Issue)

Storm water is an issue but the applicants feel that they've addressed it adequately in the plan. The key to this is the layout of the plan. Mr. Gebhardt stated he has done a lot of storm water quality design in the past and it all begins with the layout of the development. If you take the layout and you do it right and you don't try to do too much with what you have you are miles ahead of a typical development where you go in and do a bunch of grading to make the lots fit and then try to put in detention. A lot of people dismiss that as the applicants aren't doing anything to handle the storm water but the applicants are. They are putting 45 lots on 53 acres and are developing the ridge tops and staying off the steep slopes. The applicants are not trying to do too much with the land. Seventy percent of the trees are going to stay on the site. By reverse of that thirty percent are going to be removed. The thirty percent is mainly to get the public road up to the top of the hill which is a requirement and a balance of public need and public safety versus doing a small narrow road. The applicants investigated that option in trying to do something a little different with a private road but it became very clear the applicants needed to bring a public road through the neighborhood that would tie in future for the neighbors. By covenant, development within 50 feet of the streams has been restricted. The NCRS recommended 25 feet so the applicants doubled it. The grading that is being done is basically only for the roadways. The developers are going to build the road in and then each lot is large enough and has its own site for a house on it so that the applicants can come in and do very little disturbance to build the house. The private drives require a lot less grading. Public road standards require an entire right of way to be graded and utility easements to be graded level from there.

The applicants are very low in total drainage basin of Little Bonne Femme. If a big storm comes through it is described as a peak of a wave of water coming through. If you detain in the lower 1/3 of a drainage basin there is a very good chance and very likely that you are actually increasing the likelihood of flooding because what you have done is you've got this peak traveling on the large detention and you are on the lower end; if you are letting it go it is hitting the creek before the big peak comes and it is going on downstream. If you are holding it back and releasing it slower it is being released at the time that the peak is starting to come through and adding to the peak. Detention has a place and purpose but it is not necessarily something that should be done all the time. This is a really good design; the design is the mechanism for the stormwater.

The applicants have some public street systems and have chosen to do curb and gutter and have inlets and pipes rather than ditches. The applicants are putting more weight on the maintenance of that ditch, the maintenance of that driveway culvert and all the little things that go along with a public road with the road ditch versus a public road with curb and gutter. You have several balls in the air and you have to decide which one you are going to catch. The applicants decided to catch on the side of the maintenance of public road. If it was important enough to build a public road here then it is important enough to do it in a way that the storm water is handled in a safe and efficient way, that way it won't obstruct traffic and won't cause problems with driveways and cause the public works department to be out there maintaining ditches and manicured front lawns.

(Private Driveways)

The plan has four driveways. There has been a lot of discussion about doing private driveways in open zonings, and you can, no one disputes that.

(Location of Private Driveways)

The blue areas are the private drives. Lombard Street is a public street the applicants are being required to build 36 feet wide and a 50 foot right of way. That is the public street; it goes up and stubs to the north and there is a 99 percent chance it is not going to go anywhere because that is a ridge that basically stops right there. There may be a cul-de-sac on it someday but the applicants are building it as a public road. There is another connection about half-way. That is a future connection to the property to the south. If you come back around there is another connection to the south. The property to the south is the only way that this property will ever have another entrance. There is developed property to the east that is Country Aire subdivision. The property to the north, the terrain is very steep. The only way to get rid of the single access is to come back down.

As you come up the street there is really only four lots on that private street that depend on the private street for access. The way the ground lays everyone is going to take access off the private street. It is the same with the next one. The first two as you come in off the public street they technically have public access; there are three that don't. The lots to the south have public access. A private drive is being built to bring access in to those lots so they don't have to come off the public street. The next one to the right is probably the most controversial. This is a ridge top that runs up and just dies out. There are lots that don't have access to a public road.

(Similar Private Driveway in Boone County)

This is a private driveway built to County standards. The importance here is that it doesn't look like a public street and the applicants don't want it to look like a public street. If it looks like a public street it should be a public street. The applicants want the people that live on it to know that it is private. There are additional pictures of similar drives and you can see there are no curb and gutter on private driveways. That is very similar to what the applicants are proposing.

(Private Driveways)

It may be policy by the County but planned districts don't require public street frontage; the County's own regulations don't require it. Technically, all 45 of these lots could float out in the land with no public access and it would meet regulations. The applicants are not proposing that; the staff report stated there are 25 lots that have private access, technically there are 13, the other 12 come from the ones that have public access that probably won't use it, they will use the private drive. The reason the applicants are proposing the private drives are safety, aesthetics, and storm water benefits. The applicants have the fire districts approval and there is no maintenance by the County. These driveways will be built to the County's thickness standards but they are going to be maintained by the City's standards. Technically in open zoning you could come up with a layout with 16 lots. This is really just a technicality but you could do it. When the owners came to Mr. Gebhardt he asked the owners why they wanted to do this; and what is the benefit was to the private drives. The owners said safety. The owners explained to Mr. Gebhardt that they live in Thornbrook and people drive very fast down the street and their kids can't go out in the front yard without watching them. People come to the owner's homes wanting to sell something or ask where they got shutters on their house. They have a lot of unwanted traffic to their homes. Mr. Gebhardt stated these are the reasons; they want to be able to take back their front yards and utilize them and that is important in this neighborhood because the front yard is going to really be the only flat spot they have because of the terrain.

The covenants prohibit parking on all the streets, public or private. People in neighborhoods have a hard time prohibiting parking on public streets versus a private street. If a visitor parks in front of a home on a

public street and someone tells you to move your car they are going to say it is a public street and anyone can park there. If you are on a private drive and a neighbor asks you to move your car in to the driveway it is easier done.

The aesthetics are consistent with the theme of the development. The theme here is based on Hill Creek Subdivision; it is a country setting with large lots and a lot of trees. The applicants are trying to maintain as much of the natural state as they can. The private drives help storm water because they are only 24 feet wide. The applicants originally wanted to do 20 feet wide streets which is the minimum requirement for the fire district for a fire lane. The applicants worked with staff and compromised on a 24 foot wide street. There will be no curb and gutter on this because it is at the top of a hill with all these streets. It will be crowned and it will run off the crown and drain off as sheet flow off the street and through the front yard being filtered and slowed down by the grass; no concentration of flows and by the time it hits the woods and the natural litter it shouldn't cause any kind of erosion to the ground. That is part of the design. It also allows less grading because if you are building a private street on top of the ridge he can come in a put it in and sheet flow off of it; the utilities can be put in without any fear that the driveway is going to require it to be lowered in the future. If a public street is put in you've got grades and lifts and a 50-foot right of way needs to be graded level. The utility easement needs to be leveled as well. That ends up being a much larger disturbance. Where a public road is needed and required that is what should be done. But where we can put in a private street and remove the curb and gutter and the amount of grading that has to be done on the sides it is a better situation for the storm water.

Private driveways are common in Boone County and they are. We all can drive around and see a driveway to a house that is 2000-feet off the street. A lot of those have gates too. It is a pretty common occurrence. The applicants have worked with the fire district. Gale Blomenkamp has worked with the applicants extensively and he has talked to his chief. One of the first things they did was, because of one entrance in there and the private driveways was to increase the amount of fire flow to the fire hydrants. From the county standard of 250 gallons per minute to 800 gallons per minute so they are tripling the fire flow to all the fire hydrants in this development. The applicants had a water analysis done with the water district and it is possible to do this a couple of different ways; it has already been analyzed and shown that it can be done.

The applicants met with the County Commissioners to answer some questions because these private drives always raise questions and it is the same kind of questions that the Planning and Zoning Commissioners would probably have. How does a property owner know they live on a private drive and why is that important? One of the things that happens is if a road is not properly maintained it starts to fall apart and they either call Public Works or they call the Commissioners and wonder why the road is not being maintained. The applicants need something that says this is not a public road; that is being done with a sign and the sign on all the entrances of all the private drives is going to say "private drive", "Boone County maintenance ends". It will be put in plaque form on there and it is going to say that Boone County maintenance ends; that is pretty clear. The gate itself is another signal that says this is a private driveway not a public road and people should not expect Boone County to plow the private drives.

When you go in with a new subdivision with a new road with new curb and gutter there is going to be a big difference between a 36 foot curb and gutter and a 24 foot private drive. The applicants are trying to delineate that something else is going on. It is going to be shown on the plat and on the approved plan which are recorded documents; it is going to say private drive, not maintained by the County or whatever is worked out with staff to clearly state that. It is in the covenants; so when you read the covenants to find out what kind of house you can build, when you are reading through there for your house you are going to bump in to this. It is also going to say that you live on a private drive and you will have to pay

more than everyone else who live on public streets and that is what the covenants do. For people who read their title commitments, it will be in there also.

The County will not take over the private driveways; the reason for that is there is no mechanism in the County for them to accept these. The applicants are going to build these to the County thickness for residential streets which is the 6 inch concrete on 4 inches of rock, the only thing different is the width. They will be maintained to a more stringent City standard there was something brought out by the Madison, Wisconsin University and it is called Pavement Surface Evaluation and Rating or PASER. They studied a bunch of asphalt and concrete roads and they created a maintenance schedule. The City of Columbia maintains their roads by this schedule. Mr. Gebhardt stated he asked the Public Works Department if they had anything similar and was told they were working on something but they don't have anything; that is why the applicants went to the City of Columbia to try to develop a proven way of doing this. We have a way of stating how these roads will be maintained; when it needs to be done and what needs to be done. For example: Crack-seal and minor patch every 5 years, seal coat every 10 years, overlay every 20 years, completely replace after 40 years. That doesn't really happen in real life but the money is in place to do that. Based on the City's annual budget for street maintenance and the number of miles of road that they have it comes out to \$2.75 per lineal foot of road for the maintenance. That also includes the snow plows, snow plow maintenance, the trucks and gasoline and everything. The applicants are confident that is a pretty good number. So if there is 1000 feet of paved roads out there they will collect \$2750.00 every year. The applicants assure perpetual maintenance of private driveways, they are going to create funding for it and have a way to analyze it and make sure it gets done by the homeowners association and by the people that live on it. People knowing that they live on a private road and choosing to live on a private road with a gate is going to be the mechanism that prevents the complaints that the County is used to. A lot of the complaints come from Country Aire Subdivision; it is a public right of way that is dedicated to the public but the road was never accepted. It was never built to any standard. The road falls apart and they call the County and say it looks like a public road.

(Gates)

The plan includes a gate at the entrance of each of the 4 driveways. The hours of operation when they are opened and closed has been discussed quite a bit and it all revolves around the children and when they get home from school. They want to keep the gates open during the day; whether that is from 8:00 a.m. to 3:00 p.m. or 4:00 p.m. is unknown, they are going to be open during the day which will allow normal services like the mailman to come in. The gates will be automatically open in the morning and automatically closed at some point after the children's busses arrive after school.

How will the gates function? There are knock-down variety gates or knock-box on all gates. The knock-box is a mechanism that safety professionals have on all commercial buildings. It is a box that they have a key to and your keys to your business are in it. If your sprinkler goes off they can come up and open the box and get the key to the business and open it up and check the fire alarm. When they leave they put the keys back in the box and lock it. That is similar to what we are talking about here. It would be a box to open with the key to open the gate. Knock-down variety gates are just what they sound like. This is an evolving thing; today, talking to a gate manufacturer in Kansas City and they are going to choose a gate you can actually go up to and push and it will electronically open and about two minutes later it automatically closes. It is a deterrent to people who don't know that. What is the purpose of the gate if you can just push it and it opens? You aren't going to keep out anyone that have a purpose to get in there but the people that are just driving by or just driving around aren't going to go up to it and go down the street. That is the purpose of it; to stop that unwanted traffic.

Gates are numerous in Boone County the Fire District approves them. It helps send the message that these people are living on a private road and the Boone County regulations do not prohibit gates. They

don't specifically say much about them at all but they don't prohibit them. It is also a fundamental property right. It controls the speed on the roads; the whole private drive and gate thing is about the children. How many times have you been at a rezoning where Mr. Gebhardt is doing a development and someone says their kids are playing out there and the traffic will be increased? This is what the applicants are trying to address. The gates provide a neighborhood feel; it separates the streetscape and adds architectural character. The Sheriff's Department has approved it. It ensures they live in a private drive; there is nothing that prohibits 45 of these lots to have 45 gates. You can put a gate on the driveway to your house, nothing prohibits that. The applicants are saying they want to put one gate for 5 or 6 or 8 homes instead of 8 gates for 8 homes that don't necessarily have the approval of the fire department, don't have a knock-box or have the feature to push open. The applicants think it is superior to plan this and come forward with it and state this is what they want to do. There are numerous gates in Boone County; there is a depiction showing 20 of them. Mr. Gebhardt showed an example of the location of gates in Boone County.

It is your constitutional right to have a gate; rejecting the plan because of the gates would be a derogation of everyone's property rights. If you had a decision to reject based on the gates it would have to be based on public health, safety, or welfare. There are no negative effects because the applicants have the Sheriff Department's approval and the Fire Department's approval. The applicants have satisfied those requirements. The applicants think there are benefits to the people that live on the street.

(Accessibility)

This goes toward the variance request. The applicants have one entrance off of High Point Lane. The street that comes off of High Point Lanes has to go up a big hill. There is a maximum percent grade of 10-percent grade to get up the hill. Mr. Gebhardt stated you could not get up the hill in a straight line without bulldozing too much so the curves were put in. Those curves all meet County standards. When the fire department saw this they said there could be a super bowl party and all the guests are parked along the street how is the fire department going to get up there for an emergency because they are parked in the street. The applicants went back and forth trying to solve this. The fire department asked that they have a 36 foot wide street. This would allow two 8 foot wide parking spaces on both sides and give a 20 foot clear space to get up the street. The applicants agreed to do that for the whole length of the street; because of the curves and the steep grade it made sense to do that. The staff report stated there is no standard for 36 foot but Mr. Gebhardt disagrees in that the standard is the 32 foot minimum. It doesn't say it can't be 36 foot but it can easily be worked out on the street plans. The thickness would be the same, the required base would be the same and the same curb and gutter section; it is just 4 feet wider. It is important for the Commission to know that their own regulations, if this was a straight A-R zoning the applicants could have 105 lots. The Boone County subdivision regulations say you only have to have one access for 100 lots. The Fire Department doesn't like that very much but that is what the subdivision regulations say. The applicants have 45 lots with one access; the applicants can't solve that problem without bringing another access in or emergency access in, the terrain is too difficult everything has been developed around us so we have gone back to doing the 36 foot along the road. The answer to this problem is there are stubs and either one of those can come back to High Point Lane through the 40 acre tract. Of course that may not happen for 20 years and this needs to stand alone on its own. The applicants went to road and bridge and got a variance; they approved the variance but there was a condition on that variance that there is notification in the covenants that these stub streets be spelled out that they will be extended in the future and if you live in one of those houses you don't live on a dead end street, you live on a street that is going to go back out to the road again.

(Archeological Studies)

About two weeks ago there was a call from one of the neighbors who was concerned about the archeological cultural assets on the property. The applicants hired ANEC, the Commission has a report

from them, to come out and they did a study and it is a pretty detailed summary that the Commission has. This site had been previously investigated in the 1930's and the regulations say that the applicants must preserve any cultural assets that they find. The archeologist's idea of preservation is the significance of the site is that it has the potential to add to the knowledge of the people that were using the stone tools. It has a potential to do that. Once they've investigated the site they date it if they can then that potential is no longer there and the documentation of what they do and what they've found and where they found it is the preservation of the material. This is quite common with the Missouri highway department. They see if it adds to the knowledge base and it goes on. ANEC is very professional; they worked the site last week to try to get this done before the meeting tonight. The applicants plowed strips for them, fortunately it rained last week and it helped them identify some of the things they found. Mostly what they found was the remaining chips from the making of stone tools, not necessarily the tools themselves but they determined that it was probably a camp site and someone made stone tools. The site had been farmed and the soil had been mixed up so they weren't able to do any dating on any of the material they found. They are satisfied that the site is preserved and everything that can be done has been done. The applicants tried to show and do everything they could to answer that question.

(Community Involvement)

The developers met with the neighbors and there are quite a few individuals here tonight. Mr. Gebhardt asked for those in the audience that are in support of this request to stand. (Approximately 25 to 30 people stood). Mr. Gebhardt asked those who stood to remain standing if they were in support of the gates. (The same people remained standing). That is important because a lot of times personal issues get brought up and there is a want and a desire for this type of development. It is not for everybody; some people may not understand why you want to live on a private drive with a private gate but there are people who want that. They can get it other places and they want it in Boone County. That is the reason behind the plan.

(Summary)

The applicants request the Commission to recommend approval to the County Commission for AR-P zoning, the review plan, preliminary plat, and the variance for the excess length cul-de-sac.

End of power point presentation.

Mr. Gebhardt stated if the Commission believes the request is worthy of a positive vote staff has given three options. The applicants prefer the Commission didn't table this request tonight; the applicants don't think that anymore time is going to help the applicants resolve any more issues because they feel they've resolved everything they can. The applicants have answered every problem the fire department has had and have tried to plug every hole they can so when they came here tonight they could talk about private drives and private gates. Mr. Gebhardt stated he didn't want to be here talking about the access issue or the variance for the cul-de-sac. Mr. Gebhardt stated he wanted to make sure the Commission know the Sheriff and the fire district are happy with this; quite a bit of time was spent on it. The second option is to not table it but to recommend approval and request the County Commission to direct the applicant to work with staff so staff can recommend a complete set of conditions. Mr. Gebhardt stated he didn't know what those conditions were and it seems kind of open ended. Without knowing what those conditions are Mr. Gebhardt can not say it is fair to the applicants to say they would do that. The third option the applicants don't have an issue with; the applicants want the gates and they would like the Commission to vote as if the gates are in place so that when the applicants go to the County Commission they will know how this Commission feels about that and the applicants can go forward with that. The applicants would like the gates included in the recommendation.

Mr. Gebhardt stated the applicants are already working with the sewer district and the applicants are either going to build their own waste water treatment plan. Mr. Rattermann feels that there is extra capacity in the south Route K lagoon treatment system behind New Town and he feels the applicants can get in to that by pumping over there to it. Mr. Rattermann is on vacation and hasn't had time to sit down and crunch the numbers but the applicants are fairly certain that is the answer. If the Commission wants to put that condition on there that is fine but the applicants aren't going to move forward until they have the sewer figured out one way or another.

Mr. Gebhardt stated the cultural assets; there is nothing else to do. The archeologists have recommended that what the applicants have done is what they should have done and the archeologist made a report. That report was forwarded to staff earlier today and it was given to the Commission tonight. That issue has been resolved.

Chairperson Smith stated she has never known the City of Columbia to meet a development they didn't like and she is surprised they didn't like this development. For them not to like this development just based on the sewer is surprising as well. Particularly if the applicants say the City has other pressure sewers. Chairperson Smith asked if there were any other issues. These are big lots but also big lots indicate there isn't density and if you can't have density then you have sprawl. She is looking at the development as if this is appropriate use for the land in this particular part of the County which is on the urban fringe. Chairperson Smith asked staff to address the sewer issue.

Mr. Yonke stated in this case Mr. Gebhardt is correct. The City doesn't want this system as a pressure sewer system.

Chairperson Smith asked if the County wanted that system.

Mr. Yonke stated the sewer district allows pressure sewer systems. The City wants this to be brought in to the City and for the sewer to be a gravity sewer. This is why staff and the applicants believe the City has taken the position of not wanting a pressure sewer because the district wouldn't allow it. As far as the development goes, if this was annexed in to the City it would be given an R-1 zoning district by City default policy which means they could do the roads and everything without any special requirements because the City doesn't have the same regulations the County does. They let road stuff that may never get connected as a through road. They have a 700 foot cul-de-sac length so that is sometimes an issue but they regularly vary it. Mr. Yonke stated he has seen numerous developments proposed recently in the City, around the City; that have an excess of a 10 percent slope and single ways in to it. Mr. Gebhardt is correct that the City would allow that; staff doesn't believe those are good development standards and the regulations don't support those. As far as the issue of the City goes staff understands the same thing that Mr. Gebhardt does in that they did not want this development if it was a pressure sewer.

Mr. Gebhardt stated the Commission routinely sees country farms annexed in to the City off of Route KK and Vawter School; when they get annexed in to the City they put a pressure sewer system in. It is very contradictory and the applicants didn't understand. It is very double standard.

Chairperson Smith asked why the City didn't want the pressure sewer.

Mr. Gebhardt stated the County sewer district back when the Woodlands first came in they wanted to do a pressure sewer system and Bob Alderson was receptive to the idea and they initiated a policy that allows a homeowner to buy a house with a pressure sewer system and there is a \$7.00 a month surcharge to that owner and then the sewer district comes out and they maintain the pump and the lines back to it. It is pretty much like having a gravity sewer system. The City doesn't have anything in place for that so if

you have a pressure sewer system in the City if the pump goes out it is your problem, you call a plumber and get it fixed. They don't have any kind of policy like the sewer district does. The sewer district has been proactive in knowing that in these large lot developments that it is not economical to run gravity sewers; you can't afford to do that. In order to get people to do that rather than lagoons they've put in policy to do that, people pay extra for it but it works well. The City doesn't have a policy like that. Mr. Gebhardt stated if this is annexed to the City it would come in as R-1 and none of these streets would qualify as excess length because they stub to the property, they are not cul-de-sacs. The City measures the cul-de-sac from the intersection back to the bulb. None of the cul-de-sacs in this development exceeds the 750-foot length so there would be no variances on this, it would meet all the subdivision regulations and it would be approved.

Commissioner Mink asked if the middle patch is to be built now.

Mr. Gebhardt stated it is not shown to be built now due to grade reasons. When this development is done they can come in and grade that down and build it because they are dedicating right of way. The applicants can't get the pavement to the property line due to grades. There is about a 6 or 8 foot elevation difference there that will need to be graded out.

Commissioner Mink asked if that was a problem with the future if that was connected requiring the developer to the south to make that final connection or do we end up as a public expense to finish that gap.

Mr. Yonke stated if the Commission approves this request that is a variance that is required from Public Works to get that road to the property. We figured as part of the issue either it is going to be approved or not. If the property to the south develops under County regulation and it develops in a way that requires public road then that road will have to be connected up by the developer to the south and staff doesn't believe it isn't an unreasonable amount to have that little piece connected. Staff would require it; the only way it would not is if the property to the south develops in a way that does not require roads to be public roads.

Commissioner Mink asked what if it was in the City.

Mr. Yonke stated the City requires connections to public roads as well.

Commissioner Mink asked if the City requires them to finish that final stuff.

Mr. Gebhardt stated yes.

Commissioner Mink asked if the fees for the maintenance is charged to all 45 homes or is it charged only to the homes on the private cul-de-sacs.

Mr. Gebhardt stated only to the homes on the cul-de-sacs.

Commissioner Mink stated the picture showed concrete streets but the maintenance plan calls for asphalt streets.

Mr. Gebhardt stated the applicants will do whatever the Commission recommends on that; the applicants have no preference.

Commissioner Mink stated the maintenance schedule calls for asphalt.

Mr. Gebhardt stated it also has concrete in it if for some reason the Commission only got part of that then the applicants will get the rest of it.

Commissioner Mink stated whatever the public street is the private streets would they be the same construction or would they be possibly different if the public street was asphalt would it be possible that the public streets might be concrete.

Mr. Gebhardt stated sure; it is possible. If the Commission tells the applicants the private streets need to be concrete then they will be concrete.

Commissioner Duker asked how snow removal worked on private drives.

Mr. Gebhardt stated in the condominium associations there is a homeowners association and there is someone in charge of that and there is funding put in place. When it snows they call a private contractor who comes out and clears the snow.

Commissioner Duker asked where the school busses and the fire trucks will turn around.

Mr. Gebhardt stated there is a bulb to the side; it is a temporary turnaround for that. It meets the County's requirements for public cul-de-sac bulb. Originally the applicants were going to build it as a permanent part of the pavement so that it would always be there so it would be a permanent place people could turn around but the fear of that is that it would send a signal that the street is going to stop there and never be extended. The applicants felt it was more important to build an asphalt round bulb on the end of it and when the street is extended that could be ripped out and removed.

Commissioner Harris stated on the end it shows the turn around bulb on the applicant's property. But the one off of the end of Lombard the drawing shows the turn around on the neighbor to the north.

Mr. Gebhardt stated the neighbor agreed to give the applicants a temporary turn around easement so the applicants can build it on his property. Mr. Leipard has been a very good neighbor to work with; he is in favor of the request and he sees the value in having the street stubbed to him and water and utilities brought to his property. In reality the bus is going to turn around in the intersection if the bus even comes up there.

Commissioner Harris stated in reality that bus has got to be able to go all the way up and turn around without any obstruction.

Mr. Gebhardt stated it can.

Commissioner Duker asked how many people in the audience who are supporting this request live on High Point lane.

(One person)

Commissioner Freiling asked how many people in the audience who are supporting this request live adjacent to the property.

(Four people)

Commissioner Duker asked if the rest of the supporters wanted to buy property there.

Mr. Gebhardt stated pretty much, yes; they like the idea.

Chairperson Smith asked what the idea was.

Mr. Gebhardt stated to live in a gated community.

Commissioner Heitkamp asked if you could put a gate on a public road.

Mr. Gebhardt stated he didn't think so.

Commissioner Morgan asked how many of the supporters in the audience wanted to live in this community.

(20 to 25 people)

Commissioner Heitkamp stated the applicants mentioned the climax forest and wondered if there were any covenants on the trees once there were individual property owners.

Mr. Gebhardt stated no; the applicants haven't thought of that. The applicants could entertain that if the Commission wishes.

Open to public hearing.

Present speaking in support of the request.

Maria Lopez, 3213 Gazelle Dr., Columbia.

Ms. Lopez stated she lives in a cul-de-sac right now. The idea of having a gated community in a cul-de-sac would be great. Ms. Lopez stated she lived in a community in California where everybody knew each other on the block, where all the kids went out and played with each other. Here it is really hard for the kids to go outside and play because you don't know who comes down your block. Currently on the cul-de-sac she lives in now there have been instances where people who don't belong in the area that are just driving down the cul-de-sac and looking. Having a gated community and being able to leave your kids outside and let them play with other kids that they know from the block would be a great idea. You basically get to know all your neighbors. Ms. Lopez has been here for six months and she has met one of her neighbors but hasn't met anyone else from her block. In a gated community you would be able to communicate with all the neighbors.

Mike Leipard, 165 E. Hoe Down Dr., Columbia.

Mr. Leipard stated he owns property to the north. This development is going to affect Mr. Leipard's property immensely. The owners came to him right at the beginning and informed him what they were doing. Development seems to be inevitable in the area. The biggest concern Mr. Leipard has and the applicants are accomplishing and they will be good neighbors. Mr. Leipard believes the applicants will do what they say and they will make a good subdivision. As far as the gates; the applicants are trying to make a very upscale subdivision. Bonne Femme is on one side and you've got a lot of stuff going in there. The drainages and stuff like that; Mr. Leipard has been all over that and it looks like they took some time planning it out. The applicants know that Mr. Leipard is going to be right there so he will be looking at what is going on. The applicants are going to do an upscale subdivision and that is what is needed out there.

John Williamson, 4903 S, Coats Ln., Columbia.

Mr. Williamson owns the land diagonally to the northwest from this. Mr. Williamson is in favor of this development and the applicants have done an awful lot of work and they are asking for a lot of variances with the street widths. Mr. Williamson understands what the applicants are saying; he has been involved in some development in the City and the City probably wouldn't bat its eye at that. With this being a cul-de-sac, it is not a cul-de-sac because it could be continued later. The applicants have done all their homework and agree with the applicants that they have been to the fire district and to all of the other agencies that are involved here and tried to get their opinion and work with them and try to meet all their concerns and needs. This is a good plan. Mr. Leipard is right; it is inevitable that this land is going to develop, it is on the fringe. It is a big change for the neighborhood but we know it is going to happen. This is a good plan there are a lot of details here but the applicants have done enough homework that they are willing to meet whatever requirements the Commission has. Mr. Williamson stated he is in favor of the development.

Commissioner Heitkamp asked Mr. Williamson if he knew of any Indian mounds on that property.

Mr. Williamson stated no. The applicants aren't going to disturb much land where the crooked road goes through there and they are following the ridges so there will be minimal disturbance whereas some other developments in the City they completely change the topography.

Brad Cooper, 3709 Churchill Drive, Columbia.

Mr. Cooper stated he is in favor of the development from the standpoint of property rights. The developer has a right to develop their land within the guidelines and the precedent is already set from the standpoint of gates. There are plenty of gates within the city limits and within Boone County. Mr. Cooper stated he is in favor of the development.

Commissioner Heitkamp asked Mr. Cooper to identify a gated community in Columbia.

Mr. Cooper stated private drives with gates; not necessarily a community.

Commissioner Heitkamp asked which private drive has a gate.

Mr. Cooper stated the Laurie's and the Kronke's.

Commissioner Heitkamp asked if those go to individual houses.

Mr. Cooper stated it is a private drive with a gate on it.

Commissioner Heitkamp asked if it went to the Kronke home.

Mr. Cooper stated yes.

Commissioner Heitkamp asked if it went to other people's homes as well.

Mr. Cooper stated not that he is aware of.

Commissioner Heitkamp stated that is correct. The Laurie's have a gate and they have different homes on their property.

Jon Fetterhoff, 803 Medina Dr., Columbia.

Mr. Fetterhoff stated he is in favor of this development. As a potential buyer he and his wife were looking for a new residential area to build a home. Mr. Fetterhoff stated he works very close to this property; this would cut his commute time by 15 minutes and get him close to everything that he normally participates with; church and also with other family members that live close by. Mr. Fetterhoff is in favor of this development and the gated community.

Chad Westbay, 5511 Thornbrook Parkway, Columbia.

Mr. Westbay stated he is in favor of this development because he has property that is very close to this property as well. One thing he has seen other developers do is remove a lot of the trees. One of the things the applicants have allowed him to do is look at the plot plan. It looks as though the applicants are going to leave 70-percent of the trees and that is something that should happen more in Columbia.

Commissioner Heitkamp stated the trees that are being taken away for the roads but the individual property owners can remove as many trees as they like to put in their homes. Commissioner Heitkamp asked Mr. Gebhardt if that was true.

Mr. Gebhardt stated yes. The applicants are not going to take any trees down except for roads. There may be a few additional trees taken down for the home construction.

Commissioner Heitkamp asked if Mr. Finke is the only developer or are these lots going to be sold to different construction companies for different homes.

Mr. Gebhardt stated the owners would like to sell these to individuals who want to build their custom homes. The idea is not to sell it to a builder who will build a spec home. They try to market these to people who want to build their home there and they would hire their own builder.

Commissioner Heitkamp stated unlike other subdivisions in that area that were built by one developer this would be individuals building homes.

Mr. Gebhardt stated typically in the City of Columbia the majority of the lots are sold to builders who build spec built homes and then they are sold. Unlike that, the goal here is to market these to homeowners to buy lots so they can build their custom dream home.

Osama Yanis, 8050 High Point Lane, Columbia.

Mr. Yanis stated he is the neighbor on the south side. The applicants were showing a stub on the property that joins his property. Is that going to be an emergency way out through Mr. Yanis' land?

Chairperson Smith stated the stub will end there. It is a stub for future development. If Mr. Yanis ever develops his property.

David Finke, 4903 Steeple Chase Dr., Columbia.

Mr. Finke stated he wanted to clarify Commissioner Heitkamp. The applicants are also custom home builders so a lot of these homes the applicants will be building. That is why the applicants are trying to attract individuals to come in. The applicants build about 15 to 20 homes per year. Most of them are in this price range.

Commissioner Heitkamp asked what the price range was.

Mr. Finke stated it will vary a great deal depending on what home is there but given the lot size and the covenants that are put forth it does force a certain price range.

Commissioner Heitkamp asked what the square footage was.

Mr. Finke stated roughly from 2800 square foot for a ranch and on up if it is going to be a two-story home; similar to Thornbrook. Basically the same as Thornbrook; the applicants kind of mirrored their covenants.

Commissioner Heitkamp asked if the applicants were going to live there.

Mr. Finke stated yes.

Daniel Finke, 4710 Winding Wood Court, Columbia.

Mr. Finke stated Mr. Leipard mentioned earlier that it was going to be an upscale neighborhood. Mr. Finke stated he has heard that from various people and when the applicants put this property under contract in November 2005 at that time he and his brother started speaking with people in Boone County. The applicants weren't quite sure how they were going to handle this. They initially tried to take this property in to the city and the city told the applicants and County Commissioner Miller that they disagreed with the County and didn't believe it was a viable system so they weren't going to let the development in the City. The applicants tried again and were told the same thing. The applicant's initial intention was to do this in the City of Columbia. In the mean time they had talked to different homeowners in the County and in the City in what they would like to see in a development. The number one thing he heard was traffic control. Of everyone the applicants talked to there was not one person opposed to the idea of having the gates. The applicants talked to well over 1000 people and not one opposed it.

Chairperson Smith asked who these 1000 people were and how the applicants met them. Did the applicants just stop people on the street?

Mr. Finke stated yes. The applicants have a financing company and they talked to their existing customers and friends and family in the area. The applicants talked to Mr. Gebhardt about the possibility about doing a gated community. Mr. Finke stated this is his first time doing this, he is not a developer. Staff brought up some great points. Number one was the maintenance issue; how are the private streets going to be maintained. He and Mr. Coffman with A Civil Group met with Gale Blomenkamp at the fire district. Mr. Blomenkamp asked how the fire department was going to get in the development with the gates. The applicants spoke with the gate manufacturer and informed them that he didn't want to deal with Knox-boxes and knock down gates. If there is a situation where there is an emergency the applicants want the fire department to just be able to get in without having to knock the gates down. Not only are the gates going to be open from 7:00 a.m. to 5:00 p.m. the gate manufacturer basically stated that a four year old child has enough strength to give enough pressure to this gate for it to automatically open.

Chairperson Smith asked how the kids will be kept in.

Mr. Finke stated to open in.

Commissioner Heitkamp asked if the gates are battery operated.

Mr. Finke stated no; they are electric.

Commissioner Heitkamp stated if there is a tornado and Boone County loses electricity and there is a fire back there.

Mr. Finke stated they have solar back up. They charge during the day as well as having a battery.

Commissioner Heitkamp stated they are battery operated.

Mr. Finke stated they are both; they have a back up for situations like that. The applicants addressed the safety concerns for the safety access for the gate as far as the fire district and sheriff's department were concerned. With the knock-boxes and the knock down style gates. The applicants haven't told them that they aren't going to have to do that anymore they can open at will. But from talking with them the applicants are sure they will be alright with that as well, it is a lot easier for them. The other concern was the maintenance. Mr. Finke talked with these guys and the Commissioners and apparently there are some issues existing with privately maintained streets in the County. From Mr. Finke's understanding there has never been anyone address it the way the applicants have in the covenants of living in that development to take care of the maintenance of the streets. In the staff report it says the covenants appear to address maintenance of the roads.

Chairperson Smith stated Mr. Finke's testimony may be better served if the public hearing is finished then the applicants can address these concerns.

Present speaking in opposition to the request.

Mary Ellen Degnan, 1605 W. High Point Lane, Columbia.

Ms. Degnan stated she received a notification of this meeting because her property is within 1000 feet of the proposed development. In looking at the plan the applicants are due south of this development with one property in between. Ms. Degnan stated she was assured by the Planning Department that it is so steep that they wouldn't choose to put a road through her property. Ms. Degnan's concern is that this development would change the character of the neighborhood. This is a country road and the properties that have been annexed in to the city are all along Route K to the south. The subdivisions that have been proposed and approved along her road include Frog's Leap, which is within 100 yards of Route K and was turned down by this Commission for a denser development. It was zoned at 2.5 acres. Country Aire subdivision which is east of Ms. Degnan's property was zoned for 2.5 acres which is probably the most recent development but it is in fact 5 to 10 acre plots. Hill Creek development which is older is 2 acre lots and the Bonne Femme development which has access to Route K and also on Hill Creek road was zoned 2.5 acre but is mostly 10 to 20 acre lots that people have built homes on and some are 30 acre lots. Further on Hill Creek there is Turtle Creek road subdivision zoned for 2.5 acres and those homes are built on 5 to 7 acre lots, none less than 5 acres. This proposition, although Ms. Degnan is in favor of developing it, is much less than that. The presentation said it is an average of 1.18 acres and in looking at the plot it went from .75 up to 1.8 acres. Ms. Degnan has lived there for 16 years and moved there because it was a country road and wanted to live in that type of neighborhood and in speaking with her neighbors that is why they moved there too. Ms. Degnan is not in favor of changing this to a development with less than 2.5 acres.

Commissioner Heitkamp asked Ms. Degnan if she would be in favor of this development if instead of 45 houses there were 25.

Ms. Degnan stated if they were 2.5 acre lots.

Closed to public hearing.

Mr. Gebhardt stated it is always a delicate balance to look at the density. It is always a sensitive issue to the people that are already on large tracts. The applicants don't want to try to diminish what Ms. Degnan has come to say but Mr. Gebhardt looks at this land as a planner and asks what the appropriate density is for this. Because it is so close to the City of Columbia and it does have infrastructure for sewer, water, and electric. Is it really appropriate to do it lightly dense with those types of facilities available and then you have to look at only having one street frontage and it is in a sensitive drainage area? It is not appropriate for 105 lots which would be the maximum in A-R zoning. It is probably not appropriate for 80 lots but it is very appropriate for 45 lots. A-2 zoning is a sprawl zoning, 2.5 acre lots this close to the City of Columbia is a holding zoning. It is a zoning that forces the applicants to come to the Commission with a planned district to show how this is going to be done; that is what it is for. Many of the subdivisions that are out there now Turtle Creek, Roy Findley did that, he did it back before there were subdivision regulations that prohibited creating 2.5 acre lots by survey. It has private roads, it has all the things that were changed in a sweeping change in 1995 and eliminated as an option to do. Mr. Gebhardt stated he doesn't doubt Ms. Degnan's sincerity and he doesn't doubt her feelings of wanting to live in the country but the hard facts are is the City is coming. The gates, if you look at the map, the applicants are doing a 100 acre subdivision and if he threw really hard he could hit it. It is the same problem the Commission always has with development coming out.

This has been a lot of work for Mr. Gebhardt, for the owners, and for the planning staff. They all worked together very well and what the Commission has in front of them is a very good compromise of all the desires and parameters and guidelines.

Commissioner Freiling asked if the applicants had a topographical map that shows more than just the subject tract.

Mr. Gebhardt stated he doesn't have one here.

Commissioner Freiling stated the applicants stated the stub to the north would remain a stub. What about the southeast stub.

Mr. Gebhardt stated Mr. Yanis is here and he can describe his land. It is basically a big ridge that drops off to the south toward Ms. Degnan's land and there is a big valley between his land and hers. It is a flat top ridge.

Commissioner Freiling asked where it goes.

Mr. Gebhardt stated it goes in to Country Aire and goes back to High Point back that way.

Commissioner Freiling stated that the fundamental issue is always precedent. In this case the central issue is the length of the dead end road. A 1000 foot cul-de-sac standard was created by the County; what we have here is 4 times that amount of roadway with one access. All other issues aside, that single issue if you start down that path of approving nearly a mile of privately owned roadways with only access, how do you ever say no now?

Mr. Gebhardt stated he believes using a length for a cul-de-sac is a flawed approach. You really should look at the number of homes that are accessed on that. If he had a straight zoning here with R-S and a preliminary plat with a 1000-foot cul-de-sac and on that cul-de-sac there were 56 homes. Mr. Gebhardt stated he is not asking for any variances and the Commission would be obligated to approve it. That is why it is flawed to look at just lengths; that is part of the design of it. The applicants are building a 36-

foot street, it is 3 times longer than what is allowed but they are building that to help alleviate that. The applicants have explored every possible option of trying to get another street in there. Country Aire was done the way it was done and the applicants can't get access over to that; that would be ideal is to run back and connect to that but there may as well be a wall there because of the platted lots there. This idea is a good idea because development needs to occur in a fashion and it doesn't occur like this block then this block. It doesn't occur as staff suggests that if the applicants bought Mr. Osama's land they could have this access. These things are beyond the applicants control but it should not limit the development of this property. The argument that it will be 20 years before Mr. Osama's property is developed; Mr. Osama stated he may get up here and tell you he is going to live there until he dies but the applicants have put in place the mechanism for that to be extended in the future. He won't live there forever.

Commissioner Freiling stated distance does matter because there are more things that can happen in 4000 feet there is more stretched out space for something to happen so it is not just an issue of the number of homes using the street. It doesn't address the fundamental problem which is we have regulations in place that has a very precise number. When you start down the path you have weight for next time.

Mr. Gebhardt stated he didn't think that was a bad thing because that is what the variance process is for. What are the reasons we need the variance; we have a 2500 foot long street, that is the shape of the property. Why do we need that? Because of the terrain, because of what the applicants are trying to do with the drainage plan, because of the density. All of these things are factors and that is why the variance process exists. If you say it is 1000 feet and if the Commission gives it to the applicants then they have to give it to everybody. Mr. Gebhardt stated he disagrees because there are good reasons and there are bad reasons. If the applicants came in and said they just don't want to do it and they just didn't have a good reason for it then they shouldn't receive the variance. But if there is topography issues or Hinkson Creek between the applicants and the other side and if there are good reasons then they try to find reasons to mitigate those issues. The applicants did that in going to the fire district and going to road and bridge.

Commissioner Mink stated he appreciates what the applicants have done as far as stating that this would have curves, it is a nice thing that is being proposed. The applicants have done extra things to comply with some requests by Public Works regarding the storm water infrastructure. There was a comment about traffic control and that the gates are going to somehow make that problem go away and the kids can play in the street; that is a false sense of security. The gates are going to be open and typically the cul-de-sacs aren't where people speed; it is the main road. Since we have talked about this road earlier it has now become wider and it is going to look more like a commercial drive. There could be problems with speeding anyway; the curvature might help but with a 36-foot wide street people are going to want to go 45 – 50 miles per hour so Public Works is going to get the calls from the homes. Cul-de-sacs typically aren't the problem anyway. A wider street is going to increase public maintenance cost; there will be extra width to seal and overlay. Commissioner Mink stated he understands the parking concerns but it is going to contribute to more public cost. The curvature and the grade of the road which is the only way in and out; snow removal is going to become very urgent in this neighborhood and will generate a lot of calls because it is a bad situation. Commissioner Mink stated he is very concerned about the snow removal requirements that are going to become a public outcry from the neighbors that end up living there. They don't have any other choice they are going to have to negotiate that hill and it is not going to be a top priority for snow removal; it is going to be a problem when there is a storm.

Mr. Gebhardt stated he agrees with most of what Commissioner Mink stated. The applicant's problem is they've got two balls up in the air, the Public Works Department and the Fire District and the applicants have to catch one. The applicants can't make both departments happy. The fire district wants a 36-foot wide street; there is cost and implications to this that doesn't affect the fire district. That is the problem

with planned districts. The fire department gets to say whatever they want and whatever they want the applicants have to do. The fire district doesn't have to worry about the global problem of that; they don't have to worry about it costing someone else money to maintain it. All that burden falls to the Commission. As far as the snow removal; the applicants are going to be plowing private streets and they will probably at least plow that hill. Mr. Gebhardt stated he doesn't that to be quite as big as issue but there are no guarantees here.

Commissioner Mink stated he understands these issues were brought forward by the fire district and they have different points of view than public works might have. Commissioner Mink stated he wanted to state on behalf of the public works department what they see as potential problems.

Mr. Gebhardt stated as a way to maybe find compromise here if there is a way to put some traffic calming in here that they can get the Fire Chief to sign off on that might slow traffic down; but then it is an obstacle for the snow plows to hit.

Commissioner Mink stated that may be something to consider to promote this is a traffic calmed area when in fact it isn't. Cul-de-sacs aren't really a problem anyway whether there is a gate or not. Commissioner Mink believes the gate is going to be a nuisance after a while and they will probably go away. Typically people don't race up and down a short cul-de-sac; they go faster down the main road especially when it is 36 feet wide. The perception of a driver is going to be that it is safe to drive faster and they are going to do that. The applicants might want to try some other traffic calming in the public road that might be acceptable.

Mr. Gebhardt stated he would be glad to work with Public Works when they do the street plans.

Commissioner Mink stated he thinks the gates miss the point; they are not really going to provide what people are thinking they will provide.

Mr. Gebhardt stated they will keep most people from coming down the street.

Commissioner Mink stated there are many homes that face the public street and they are probably going to feel that they got the short end of the deal because people are going to go past there and it is going to be their neighbors that live in the private cul-de-sacs that are going to be speeding up and down the main drag.

Mr. Finke stated his goal with this development is that the environment is very important. The area is beautiful; it is ridge tops and rolling hills. Mr. Finke stated he grew up in a small town; when he was growing up he could play outside and have fun and it wasn't a concern. If someone were to want to live in an area with the rolling hills and the views with privacy they are going to have to go and buy a 20 acre farm and a lot of people can't afford to do that. The objections that were brought up were the maintenance on the streets and also the concern with the entrance of the gate. Mr. Finke stated he has also heard some people say things about inflating property values. That can be addressed by saying that they are selling these lots for less than comparable sized properties in the city limits are selling for. The applicants aren't doubling the price just because there is a gate there. The other concern is elitism; Mr. Finke stated he is offended by that because that is not what the applicants are going for, that has nothing to do with this. Mr. Finke stated when he says he is putting those gates up there to slow down traffic that is the applicants honest intention; that is why they are open during the day and that is why they are closed when the kids are going home. The applicants are not trying to tell the Commission they want to do something and that is not the intention. As soon as the applicants decided what they were going to do with this property the applicants talked to all the neighbors. Living in this development will make you

feel that you are in a rural area but you are close to town; they can get to work in 10 minutes and they don't have to buy 20 acres and spend \$500,000.

Commissioner Duker stated on the plan it says onsite septic but the applicants say they are going to have a collector system.

Mr. Gebhardt stated when the plan was first drawn and submitted the applicants pursued with DNR to get a discharge permit. When they started to do that Mr. Rattermann said there was probably room on Route K but he had to crunch some numbers to make sure. The applicants are very much interested in going to Route K and that is what the applicants are going to pursue first.

Commissioner Duker asked what they would do if there was not space there.

Mr. Gebhardt stated they would build a treatment plant on site. There will be a pressure collector system regardless. None of these lots will have individual on site systems; they will all be pressure collector systems it is just whether it goes to a treatment plant on site or a treatment plant off site.

Commissioner Duker asked where it would be placed on site.

Mr. Gebhardt stated lot 124 which is near the middle stub street.

Mr. Yonke stated there are a number of issues that need to be addressed. The only right the applicant has as far as developing this property is to develop it under the A-2 zoning in compliance with the zoning and subdivision regulations; anything beyond that is a request to change something which is purely a legislative act and it is a decision that is affected by policy and a decision the Commission gets to recommend to the County Commission and it is totally discretionary on their part. That being said the first part of this that comes in to play is being developed in conformance with the regulations. The regulations have a number of things in them; the first would be 2.5 acre lot sizes but you can only do 2.5 acre lot sizes along a public road; you are not allowed to propose anything other than that under the existing zoning. To propose anything different requires you to come in with a planned development with subjects you to a lot of other things. But it doesn't mean it is appropriate; what it means is you can propose it so there is no inherent endorsement of any idea presented under a planned development because it is not specifically prohibited under the regulations as a matter of fact you've got just the opposite in two cases. The first would be that you can't sever one portion of the regulations out and look at it and say I want to vary this part and don't look at anything else because it is like pick up sticks, you pull one out and you are likely to knock the rest of them around. The 1000-foot length is integrally related to the 100 lots with no second way out so it kind of gets to what Commissioner Freiling was talking about in that it is a matter of length but it is a matter of length along with the number of lots. If you've got 1000 foot length you can have up to 100 lots in a traditional subdivision if you haven't violated that 1000 foot and you've got 100 lots in there then under standard regulations those two work together and you are allowed to do that. You vary either one of those and you are outside what the regulations normally allow.

Likewise the private driveways there is an indication that says in open zoning this could have had 16 lots without public street frontage; that is not correct. It is 52 acres therefore 10 lots is the absolute maximum you could get out of this because the subdivision regulations say you cannot propose using any form of a private driveway unless every single piece of property cut out of the parent parcel is 5 acres or larger. Consequently with 52 acres you only get 10, that means some of them are going to have road frontage to begin with so you've cut down the number that will be served by a private driveway and there are other stipulations in there that say of those 5 acre pieces that you could serve by private driveways you are

limited to 4. The interpretation of that has been stretched for development so that we haven't run in to lawsuits earlier to allow for really 6 because the front two that you run the easement between don't count so the 4 in the back are the only ones that exclusive. Even with that you are looking at 6 lots total; all of which are 5 acres or larger. That is an inherent thing to that private road issue is that this is the only way you can have those and they are limited to 4 which is why we call them driveways at that point rather than roads. That was a specific thing put in the regulations to limit how many houses were served by driveways. The reason these issues came up is because we have a number of places where historically we had problems with publicly dedicated roads like Country Aire that weren't built to the standards so we didn't take them. That is one type of public road that is not really a public road, it is a private road. We had other ones where they'd say they don't want to do it but want it all to be private, it would get done and later on the county would be pressured to take the roads.

Similarly the next thing that needs to be looked at is there is a difference between a cattle gate on a farm for a quarter-mile driveway that goes back to the barns and the house and a gate on a private road in an urban or sub-urban setting. The County doesn't prohibit a farm property from putting a gate across its front drive; the County doesn't even prohibit you in your subdivision. If you want to build a regular fence and put a cattle gate across there that requires you a building permit then you can do that. But it is not the same thing and it would be silly for anyone to try to argue that it is the same thing. The regulations say pretty clearly that private roads are prohibited because you are only allowed to propose them as part of a planned development. But planned developments are also supposed to be proposed to provide some form of variety or other unique uses of the site not to make a site that is otherwise not really developable because now it can be proposed and vary the standards. The concept is not to take a piece of ground that in and of itself, like this piece, is not terribly suited for development by itself alone, this piece doesn't meet the regulations under standard development. It has to come in under planned development to make it work. While consequently it may be more appropriate to say no this is isn't the right time to do this even if you think potentially in the future the zoning might be appropriate. Maybe when the rest of the area or additional property gets put with it and some of these issues go away then it might be appropriate but that doesn't mean this has to be approved now to set things up for the future; that is a false argument. That is assuming that there is a right to have what they are asking for under the zoning when they only have a right to what is already there under the existing regulations. They are asking for the other and that is a discretionary act.

With respect to the road standards there is a two step process. Public works has to say that is okay through road and bridge with the County Commission endorses and the Planning Commission has to approve it if a road is going to be longer than that 1000 feet. It is done in two steps on purpose; to show that it really should be an exception because if either one of those fails it doesn't matter if the other one said it is okay. It has to get both of those exceptions.

Staff has no information from the Sheriff's department; staff doesn't doubt that Mr. Gebhardt talked to the Sheriff's department but staff has received no documentation or information from the Sheriff's department. But with respect to the fire district staff sees it a little different. Staff understands why they want to say they have got the issues worked out with the fire district and staff would say they have worked the issues out; the fire district will accept those issues; but approved this is implying something different. It implies that it is what the fire district would prefer. The fire district doesn't take that position; they don't want to be seen as killing development in and of themselves so they deal with things. Just like they deal with the fact that if they have to cross a little low water crossing and drive three miles down your driveway to get to your rural farm on 100 acres they will do that to get to it. It is not their preference but they will do it if they have to. Similarly in this case what they want is a second entry. The County's regulations are designed to help promote good development at the time it goes in and if it is not being done that way right of way it doesn't necessarily mean you build this piece and have to deal with it

until you get there; it may mean you say no to this and wait until the rest of it comes and then it can be built at once. The fire district said they will deal with it by 36 foot road. The Commission can either approve the 36 foot road and the fire district will say yes. If the Commission doesn't approve the 36 foot road the fire district was clear, this development gets killed by them at the end of the process. They will lobby the County Commission to kill the development. What that comes down to is you either decide the 36 foot road with all its problems is something that is just going to get dealt with or you decide whether or not there are other ways to solve this problem and whether they can do it now or not is not really the issue for the Commission. The Commission's decision is they did do a valiant effort to try but that doesn't mean the Commission has to take the 32 or 36 foot road; the Commission can say no; that is an option and it may even be a more appropriate option under the regulations.

With regard to the gates every argument that was made to justify the gates was undone by the arguments of how they are going to address the comments for them which gets back to it is a totally artificial commodity, it is a gimmick for all intents and purposes that is something different that you don't have here so it will allow lots to sell faster because it is not something that is out there everywhere. The City doesn't allow them; the County doesn't allow them traditionally as a gated development. The County doesn't allow them because it doesn't serve any of those purposes. If you are going to leave the gates open they don't provide the security. If they are on cul-de-sacs they aren't doing anything more than the cul-de-sac is doing to begin with. The design nature of a private road, if you design it to look different will have the same design aesthetic to intimidate people from going down there that the gate would have under the circumstances they are proposing to gain. The gate really doesn't serve any of those functions.

Staff doesn't see the private roads as being something that is necessary in a development like this; it is practically a public road all throughout anyway. It again comes back to something that is desired for different usage. Staff proposes for planned developments that the applicants give something else other than just not being able to meet the regulations fit the design so they choose to use a planned development so they don't have to follow all the regulations. Staff proposal for the trees for example, if this had been done and designed so that most of it was common area with small areas around the lots with private roads because they didn't front on the road, actually something different. But that might be something that could be proposed because the covenants would have a much stronger chance of preventing people from cutting trees because it would be on a common area, not on someone's lot. If you put covenants on there that say you can't cut trees on your own lot those are basically meaningless covenants. There is very little that anybody is going to be able to do and once it is cut you can't put the tree back anyway so the remedy is not very good and it doesn't solve what you want to have happen anyway.

There really isn't much different in this than a regular subdivision that doesn't meet the regulations. The applicants have worked with staff to try to get this down to a minimum of issues but in many cases it is going to come down to whether the Commission thinks it is appropriate or not. The concept behind a gated community is a misnomer a gate does not promote community it promotes the opposite. Whether or not it was intended to be an exclusivity thing; why there is a perception that people shouldn't be able to go down public streets in front of your house and that they don't belong there is counter to community to begin with. If it is a public road people have the right to go down it but suddenly making it a private road now they don't have the right to be here. What difference does that make? It really shouldn't; if you are in an A-2 zoning which the property is zoned currently, there is plenty of room in the front yard along the front yard to play and be in the front yard. We are not talking about the same kind of thing. The other thing is this is not a rural density. The privacy aspect; the one acre lots, when you go down Broadway in Columbia on the two lane section the majority of the lots are one acre. There is no privacy, they are large lots but it is still an urban suburb and style so trying to mix the privacy with that lot size

and infrastructure has some inherent problems. These are not rural lots. Some of that may not be able to be reconciled with the public policy issue.

Commissioner Oetting stated he agreed with Mr. Gebhardt to a certain point the applicants did a good job of addressing these issues. Commissioner Oetting stated he does have a problem with the gates and the private road situation. The length of the cul-de-sac isn't really a problem. Otherwise this is an appropriate development.

Mr. Gebhardt stated on these private roads there would be a lot more grading that would have to be done to put them in but they could be put in as public roads. The applicants aren't asking for private roads to enable them to get more lots; it is just that the site would be more disturbed if public roads are done. It is not a situation where the applicants are proposing private roads in order to gain more lots; they are being proposed to try to do something that is more sensitive to the site. Mr. Gebhardt stated he believes that is what planned districts are for; to allow you to have the flexibility to propose those types of things.

Commissioner Freiling stated his personal opinion here is that the applicants are to change what he sees as a very specific and fundamental criteria in the County's development standards. That should be done through the public hearing process and with the approval of the Planning Commission and the County Commission. Extending the cul-de-sac limitation by a factor of four is not a minor change.

Mr. Gebhardt stated it is 2 ½ times; it is 2500 feet if you drive the road to the back.

Commissioner Freiling stated even if it is 2 ½ it is still too much. Based on that standard it should be done through a public hearing process and Planning Commission and County Commission approval as was done when the standard was created. If we change it then it should be changed there.

Commissioner Freiling made a motion to deny the rezoning request.

Commissioner Duker asked where the variance process would fit in through this.

Commissioner Freiling stated he didn't know. It is Commissioner Freiling's belief that these standards are in place for a reason.

Mr. Gebhardt asked what the variance had to do with the zoning. Is A-2 zoning the most appropriate zoning for this site? Isn't a planned district better?

Commissioner Freiling stated maybe but the issue Commissioner Freiling is addressing here is specifically to the Commissioners, the issue of overturning the established development standards. We are not going from 1000 feet to 1200 feet; this is a big change and if we do this lets just admit that we've changed the regulations. Commissioner Freiling stated he doesn't feel this is the appropriate way to address this significant of a difference between published regulations that have been adopted and the proposed development.

Commissioner Freiling made and Commissioner Morgan seconded a motion to **deny** the request by David and Daniel Finke to rezone from A-2 (Agriculture) to A-RP (Planned Agriculture Residential) on 52.79 acres, more or less, located at 7700 S. High Point Ln., Columbia:

Pat Smith - Yes  
Mike Morgan – Yes  
Russ Duker – NO

Kristen Heitkamp – Yes  
Carl Freiling – Yes  
Paul Zullo – Yes

Larry Oetting – NO	Michael Morrison – NO
Boyd Harris – Yes	David Mink – Yes

Motion to deny request carries                      7 YES                      3 NO

Commissioner Harris made and Commissioner Mink seconded a motion to deny the request by David and Daniel Finke to approve a review plan Providence Heights Planned Development on 52.79 acres, more or less, located at 7700 S. High Point Ln., Columbia:

Pat Smith - Yes	Kristen Heitkamp – Yes
Mike Morgan – Yes	Carl Freiling – Yes
Russ Duker – Yes	Paul Zullo – Yes
Larry Oetting – Yes	Michael Morrison – Yes
Boyd Harris – Yes	David Mink – Yes

Motion to deny request carries unanimously.

Commissioner Harris made and Commissioner Mink seconded a motion to deny the request by David and Daniel Finke to approve a preliminary plat for Providence Heights Planned Development on 52.79 acres, more or less, located at 7700 S. High Point Ln., Columbia:

Pat Smith - Yes	Kristen Heitkamp – Yes
Mike Morgan – Yes	Carl Freiling – Yes
Russ Duker – Yes	Paul Zullo – Yes
Larry Oetting – Yes	Michael Morrison – Yes
Boyd Harris – Yes	David Mink – Yes

Motion to deny request carries unanimously.

Chairperson Smith 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.

Chairperson Smith informed interested parties to check with the Planning Department to see if this request is appealed.

\* \* \* \* \*

Commissioner Freiling left the meeting.

- Request by Robert Kinkead on behalf of Anthony Holmes to rezone from R-M (Moderate Density Residential) to C-GP (Planned Commercial) and to approve a Review Plan for Maximum Media Planned Commercial Development on 5.27 acres, more or less, located at 4700 W. Gibbs Rd, Columbia.

Planner, Bill Florea gave the staff report stating the property is located on Gibbs Road approximately 500-feet north of the intersection with I-70 Drive NW. It is currently occupied by a structure that was built as a single family dwelling but is currently being used as a duplex. The purchaser proposes a rezoning to CG-P with a review plan that would allow conversion of the basement to office space. Their intent is to operate a graphic design company. The upper floor would remain residential, which would

require a conditional use permit after the rezoning is granted. The current zoning of the property is Moderate Density Residential, R-M. Adjacent zoning to the north is A-R and R-M, to the east, south and west is R-M. There have been no previous zoning requests on behalf of this property.

The Master Plan designates this property as suitable for residential land use. The Plan also identifies the use of planned districts to establish new commercial and industrial areas. The Master Plan also identifies a “sufficiency of resources” test for determining whether there are sufficient resources available for the needs of the proposal.

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

Utilities: The property is located in the City of Columbia water service area but Consolidated Public Water District Number 1 provides water service to the property through an existing 2-inch water line. The existing water line is capable of providing domestic service but cannot provide fire flow.

The existing home uses and on-site wastewater system for sewage disposal. The system will need to be upgraded in order to provide the sewage disposal needs of the proposed use. There is no central sewer currently available to the site. A note on the plan indicates that a wastewater design by a licensed professional engineer will be submitted to the Health Department for review and approval.

Transportation: The property has frontage on and direct access to Gibbs Road. Traffic impact of the proposed development should be minimal due to the low intensity of the proposed commercial use. However, other office uses could be more intensive in which case impact to the road system could be significant.

Public Safety Services: There is no indication that public safety services are not readily available to the property. The Boone County Fire Protection District has submitted comments indicating approval subject to the condition that fire flow requirements for the use group are met. The District has verbally commented that this means that the addition of any additional structures or enlargement of the existing structure will require fire flow, but the proposed use in the existing building does not.

#### Zoning Analysis:

There is adequate land in the vicinity of the subject property that is currently zoned to allow the requested uses. There is over 100-acres of vacant commercial property at Midway, which is less than 2-miles west of this site; adequate office space should be able to be found at several locations in the City of Columbia. There does not appear to be any characteristics, unique to this property or use that requires the business to be located at this property.

The impact of the rezoning request, combined with a low impact office use, to the immediate neighborhood could be positive. When adequate utilities are provided the current zoning would allow 94 multiple family dwelling units. The proposed Planned General Commercial would allow the County greater oversight over the type and intensity of development that could occur on the property. However, if a more intensive office use were to move into the building after the rezoning is granted the impact to utilities and the neighborhood could be substantial

#### Review Plan:

The proposed uses are required to be titled ALLOWED USES. The plan will need to be amended to reflect this.

The property scored 73 points on the rating system. 30 property owners were notified of this request.

The sufficiency of resources test supports the requested rezoning for the proposed use. However, staff has concerns that other commercial office uses could be of such a high intensity that there would be significant impact on the public infrastructure and the residential uses in the neighborhood.

Staff recommends denial of the rezoning and review plan. If the Commission chooses to approve the request, staff recommends the following conditions:

1. The upper floors of the structure shall remain in residential use.
2. The proposed uses shall be relabeled as ALLOWED USES on the review plan.
3. No additional structures can be built on the site and the current structure cannot be enlarged until fire flow is available to the property.
4. Since the applicant did not propose any freestanding signs, no such signs are allowed.

Dan Haid, Brush and Associates, 3703 Coral Drive, Columbia.

Anthony Holmes, 3105 Bray Ave., Columbia.

Lesha Hagaman, 3105 Bray Ave., Columbia.

Mr. Haid stated the applicants are changing from R-M to CG-P to accommodate the use for the office in the basement of this house. The CG part will accommodate, the planned district will protect the neighborhood from the applicants bringing in just any commercial business because the plan is limited to this request. As far as the plan as mentioned, this is a two-story house, the top two floors are going to be used as a single family residence and the bottom floor is going to be the office part. The new building construction that is shown on the plan is for a future garage strictly for residential use. Wastewater will be provided to county standards and everything else like landscaping and lighting it will all be very consistent with what would happen at a residential setting. In regard to staff conditions; condition one: the plan states that the upper floors remain as residential use; the basement is for the commercial operation. Condition two: the applicants can take care of the note on the plan to re-label the allowed uses; that can be taken care of on the final plan. Condition three: stated the future building is going to be strictly for residential use. There might have been a conversation with the fire district and Mr. Haid stated he believes the fire district was okay with this.

Mr. Florea stated he had no documentation from the fire district.

Mr. Haid stated in regard to condition four: the applicants don't propose to have any signs.

Mr. Holmes stated he owns Maximum Media which is pretty much the free publications that are out there to include wheels and deals, the auto guide, the real estate book, the apartment finder, the Columbia visitors guide done in conjunction with the CBB. The applicants have outside sales people that go around and sell ads to the businesses and very rarely have customers visit on site. It is a business to business sell. Mr. Holmes stated he wished they did come to the site but this is not how this business works. The outside sales people turn in their ads; some of them are located in Springfield, Branson, and quite a few in Columbia. They don't really use office use per se, all they are doing is turning in the ads to the graphic designers and the designers design; it is sent off to printing presses in Sedalia and out to Atlanta, and up to Iowa. They print it the applicants get the publications back and then distribution drivers distribute the publications throughout Mid-Missouri. The applicants don't own printing presses it is all done by other businesses. It would not be a heavy usage; the applicants are going to move their family in to the upper floors; it is a 5600 square foot building. It is a huge building for the applicants

personal needs so the upper floors, 1 ½ stories is 3400 square feet, the bottom floor is 2200 square feet the walkout portion of it. It fits the applicant's needs very well for what they are looking at as a combination of residential use and office space that the applicants have aspired to.

Chairperson Smith asked how many employees will be there.

Mr. Holmes stated seven.

Chairperson Smith asked if they would be there everyday.

Mr. Holmes stated Monday through Friday and the hours are 8:00 a.m. to 5:00 p.m.

Commissioner Duker asked if this would fit in to conditional use permit criteria.

Mr. Florea stated no; R-M zoning does not allow for commercial business other than a home based business.

Chairperson Smith asked why it was not a home based business.

Mr. Florea stated because they have outside employees.

Commissioner Heitkamp asked if this lot was subdivided a couple of years ago for a family transfer.

Mr. Yonke stated he didn't know if there was a family transfer but there was a subdivision plat in 1996.

Open to public hearing.

Present speaking in support of the request:

George Garner, 4701 W. Gibbs, Columbia.

Mr. Garner stated he doesn't see any impact with this business. Mr. Garner stated his setback is far enough; he has lived at this location for a long time and they haven't had any problems with their neighbors.

Bob Kinkead, 13931 N. Route J, Harrisburg.

Mr. Kinkead stated the applicants have decided to buy the property whether he gets this rezoning or not so Mr. Kinkead is not biased in this. Currently the basement is rented; there is a husband, wife and two children, if you have seven employees, there are four people living there now there are a lot less than a family. One of the neighboring structures is a four-plex and this land connects with land that has a kitchen cabinet business, Chapman heating and air, a satellite company. There are several businesses in that area. Originally that was platted as 2 ½ acres and about 10 years ago Mr. Kinkead bought another 2 ½ acres from George Chapman and that is why it is 5 acres now. If the Commission is worried about impact Mr. Kinkead didn't realize that all these years he could have put four four-plexes or 12 duplexes on the property. Mr. Kinkead stated he didn't know if he would have done that but he might have.

Present speaking in opposition to the request:

Michael Smith, 4301 Gibbs Rd., Columbia.

Mr. Smith stated he is not here to begrudge a private business but is concerned that 7 employees could grow in to 70 employees. The applicants have a good business and he could grow that real easily. Mr. Smith asked if there is anything in the zoning that puts a ceiling on the size.

Mr. Florea stated only the square footage can determine that; however many employees they can cram in that 2200 square feet. The regulations have no control over that. That was the basis for staffs concerns as well.

Mr. Smith stated Mr. Garner spoke of property that is on the frontage road to I-70 that is commercial. When you cross over to Gibbs road it goes completely opposite. Mr. Smith stated he has 40 acres and that is what it is there; it is all just residential. Mr. Smith stated he is not against the whole idea but he just doesn't see a stop for it. Mr. Smith asked staff to address that.

Chairperson Smith stated under rezoning staff cannot address that issue.

Mr. Florea stated there is really no mechanism to do that; it is a land use issue.

Commissioner Mink asked how many square feet are available for use in the existing structure.

Mr. Florea stated 2200 square feet.

Commissioner Mink stated there is kind of a self limiting detour because of how many people you can cram in to that amount of space.

Mr. Florea stated depending on what the operation is you can get quite a few. Staff ran a bunch of scenarios in the office and one was a call center. Call centers have tables ran up and down and people elbow to elbow making phone calls. That is not what the applicants intend to do but there is no control that the applicants will continue to own this property and operate their business there.

Commissioner Mink stated based on the scenarios staff ran what would be the maximum number of employees.

Mr. Florea stated staff didn't go that specific.

Commissioner Mink asked if there could be 20 employees.

Mr. Florea stated he would say more than 20.

Commissioner Mink stated 20 employees would be about 100 square foot per employee; a 10 by 10 foot office.

Mr. Florea stated that would be more of a professional office setting. If you were to consider a call center they don't necessarily have 10 by 10 cubicles, they may have a long table with everyone sitting there with a headset and phone; you could get a lot more than 20 people under that scenario.

Mr. Kinkead stated there is not the square footage for that in the basement but there is a utility room with a furnace, air conditioner, and water softener in it. If you wanted to spend a lot of money you could move all that upstairs. The area was built as a mother-in-laws apartment and at the very beginning George Chapman ran a business out of the basement for a while but that was before planning and zoning.

There are a lot of things that would limit the use of that area; there is about 1100 to 1200 square foot of usable space.

Chairperson Smith stated the concern is that this is spot zoning. There isn't any other zoning like it around and this would set precedent. Because it is a zoning request the Commission can't put any limits on it. The zoning stays with the land. If the applicants move out there then they decide they don't like it and leave in five years the next person that comes in has the zoning to do whatever they want to do within the zoning regulations and they might not be near as friendly as the applicants.

Mr. Florea stated the applicants have limited it to office use which does limit the commercial aspect.

Chairperson Smith stated the question is whether this is an appropriate area for office use.

Closed to public hearing.

Commissioner Mink asked if there was a walk out entrance or something that is separate.

Mr. Holmes stated there is an entrance through the walk out basement. To address the call center issue; which would be the most intense use of an office; that is not the applicants goal. If you take a common sense look at it and in today's environment we just lost a call center and 200 jobs at Parkade Center where the applicants currently have an office at. It is not economical to do it in this country anymore. Aside from that there are no windows on the side of it Mr. Holmes doesn't think that anyone would want to work in such an environment. You are in a basement essentially you would want to put the employees near windows and have a little more open feel to it. If you are going to squish them in there are too many jobs in Boone County that prevents that from happening.

Commissioner Mink asked how many parking spaces are proposed.

Mr. Haid stated there will be 9 spaces.

Mr. Holmes stated the way the house is structured you have the walk out basement a patio, a two car garage downstairs with a concrete slab then you have an asphalt drive.

Commissioner Mink asked if there would be any on street parking.

Mr. Holmes stated no and the personal cars would be parked upstairs in an existing two car garage.

Commissioner Heitkamp asked if there were two garages why would the applicants need a future building with a footprint as big as the house.

Mr. Holmes stated they were keeping the flexibility in there. It will be used for residential purposes.

Commissioner Heitkamp stated the footprint has easily as big as the house which has 3400 square footage upstairs and the future building area is about that big.

Commissioner Heitkamp stated this is very much a residential area; it is in her township and drives by it nearly everyday. That is an extremely difficult curve to maneuver with the limited amount of traffic that is on that road now. It is almost a 90 degree angle.

Mr. Kinkead stated when he bought the property from George Chapman it is like a private drive that comes in to Chapman heating and air. It goes around and goes by the four-plex and ends at the house.

Commissioner Heitkamp stated she was describing Gibbs road.

Mr. Kinkead stated when you live out there you wouldn't use Gibbs road because it is quite a bit further.

Commissioner Heitkamp stated she takes Gibbs road because it is the fastest way to get to the south part of town from Route E. The 90 degree turn on Gibbs road is very dangerous. It is basically an A-1 area; it may be zoned A-2 but there are big places on it. There are a couple of farms up the road from it; true it is close to I-70 but it is not the best spot for commercial.

Chairperson Smith stated her concern is just spot zoning and establishing precedent.

Mr. Haid stated he believes a lot of the concerns he is hearing can be addressed by the fact that they applicants are going for a planned zoning. Anytime a situation comes in when you talk about how big this could actually get with commercial; anytime that happens you are going to have to have a new plan come in and that would be a good time to address all the concerns about where the traffic is going to go. The applicants are limited to the 7 employees; you can't get any bigger than that without going through this whole review process again.

Commissioner Heitkamp stated that is not correct. You can have as many employees that you can fit in to 2200 square feet.

Commissioner Mink stated it is limited to the plan by not adding more office space without coming back.

Mr. Florea stated that is correct; it would be false to say that there is a limit on the number of employees allowed in there other than what the space would hold.

Commissioner Mink stated with this kind of zoning the applicants can't knock down the house and build something else.

Chairperson Smith stated that is correct but it does change the zoning of this particular spot.

Commissioner Mink stated the space is restricted to office so they can't decide to put a printing press in there.

Commissioner Harris stated it comes down to whether or not this is an appropriate use for the land.

Commissioner Harris made and Commissioner Heitkamp seconded a motion to **deny** the request by Robert Kinkead on behalf of Anthony Holmes to rezone from R-M (Moderate Density Residential) to C-GP (Planned Commercial) on 5.27 acres, more or less, located at 4700 W. Gibbs Rd, Columbia:

Pat Smith - Yes  
Mike Morgan – Yes  
Russ Duker – Yes  
Larry Oetting – Yes  
Boyd Harris – Yes

Kristen Heitkamp – Yes  
Paul Zullo – Yes  
Michael Morrison – Yes  
David Mink – Yes

Motion to deny request carries unanimously.

Commissioner Mink made and Commissioner Harris seconded a motion to **deny** the request by Robert Kinkead on behalf of Anthony Holmes to approve a Review Plan for Maximum Media Planned Commercial Development on 5.27 acres, more or less, located at 4700 W. Gibbs Rd, Columbia:

Pat Smith - Yes	Kristen Heitkamp – Yes
Mike Morgan – Yes	Paul Zullo – Yes
Russ Duker – Yes	Michael Morrison – Yes
Larry Oetting – Yes	David Mink – Yes
Boyd Harris – Yes	

Motion to deny request carries unanimously.

Chairperson Smith 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.

Chairperson Smith informed interested parties to check with the Planning Department to see if this request is appealed to the County Commission.

## **PLANNED DEVELOPMENTS**

1. Request by Boone County Fire Protection District on behalf of Verizon Wireless to revise an approved Review Plan on 2.4 acres located at 5881 S. Highway 63, Columbia.

Planner, Uriah Mach gave the staff report stating this site is located approximately ¼ mile south of the city of Columbia on Highway 63. It consists of 2.40 acres currently zoned M-LP (Planned Light Industrial). The site has C-G (General Commercial) to the east and south, with and R-M (Residential-Moderate Density) to the north and west. There is a Boone County Fire Protection District station currently on the property. In 1998, this property was rezoned from C-G to M-LP. The surrounding properties are all original 1973 zonings. This proposal scored 63 points on the point rating system.

The applicants are requesting approval of a revised review plan. The review plan updates the previous plan to include the location of a transmission facility for Verizon Wireless. This facility was granted a conditional use permit for its height of 166' in May of 2006. Construction cannot commence until a revised final plan is approved by the County Commission and recorded. Staff notified 15 property owners about this request.

The Master Plan designates this property as suitable for agricultural and rural 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 Consolidated Public Water District Number 1. The existing infrastructure is capable of supporting the proposed and existing uses. Boone Electric can provide sufficient electric service to the site.

Transportation: Access to the site is by Highway 63. This location provides easy access to an effective road system that will not be affected by this rezoning.

Public Safety: The nearest fire station is on this property. The existing road network provides ready access for other emergency service providers.

This site is located in a primarily commercial and industrial area. The revision of the review plan should not conflict with any current uses on the subject property or the surrounding properties.

Based upon the existing adjacent zoning, staff recommends approval of this request.

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

Mr. Holland stated the applicants were here with a conditional use permit for the height of the tower and now the plan needed to be revised. The plan is before the Commission, it was reviewed by staff. Mr. Holland believes the plan meets the regulations. It is consistent with the use that was recently approved.

Open to public hearing.

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

Closed to public hearing.

Commissioner Harris made and Commissioner Mink seconded a motion to **approve** the request by Boone County Fire Protection District on behalf of Verizon Wireless to revise an approved Review Plan on 2.4 acres located at 5881 S. Highway 63, Columbia:

Pat Smith - Yes	Kristen Heitkamp – Yes
Mike Morgan – Yes	Paul Zullo – Yes
Russ Duker – Yes	Michael Morrison – Yes
Larry Oetting – Yes	David Mink – Yes
Boyd Harris – Yes	

Motion to approve request carries unanimously.

Chairperson Smith informed the applicants that this request will go before the County Commission on July 31, 2006 and the applicants need to be present.

## **PLAT REVIEWS**

1. Midway Crossing Plat 1. S1-T48N-R14W. R-S. Developments Far West Boone, LLC, owner. James V. Patchett, surveyor.

The following staff report was entered in to the record:

The property is located on the west side of Rollingwood Boulevard approximately 530-feet south of US-40. The 37-acre tract is zone R-S Single Family Residential as is most of the surrounding land. There is a small R-M district adjacent to the northeast corner of the property. This plat is the first phase of the development authorized by the preliminary plat approved in November 2005.

Rollingwood will be the primary access point from US-40; it is a 22-foot wide hard surfaced road. The subdivision will have two access points to Rollingwood Boulevard. There are two existing rights of way that stub to the property through previously platted subdivisions from the north. Ely Drive is an unimproved two-lane gravel road that connects to the northwest quadrant of the property. Hawthorne Drive is a privately maintained two-lane hard surfaced road that connects to the northeast quadrant of the property.

A Traffic Impact Study was completed for this development by Charles Schwinger, PE of Bucher Willis Ratliff Corporation. The study analyzed the impact of the development to existing roadways and rights of way in the vicinity. The recommendations include the following:

- All streets internal to the development must comply with Boone County standards and regulations for local streets.
- Ely Drive and Hawthorne Drive between the Midway Crossings north property line and US-40 must be brought up to Boone County local street standards.
- Post a side road warning sign, with a 25-mph speed advisory, 300-feet in advance of Red Cedar Drive for southbound Rollingwood Boulevard traffic.
- Construct a westbound left turn lane of 200-foot length plus taper on US-40 and Rollingwood Boulevard and Hawthorne Drive.

Staff is recommending that all of the recommendations be required as conditions of approval except for the turn lane for Hawthorne Drive. Staff is also recommending that the streets interior to the development not be required to connect to Hawthorne for the following reasons:

- The distance between Rollingwood Boulevard and Hawthorne Drive and between Hawthorne Drive and Ely Drive does not meet the separation requirement of ¼ mile.
- Connection to Hawthorne would have little to no benefit in dispersing traffic in and out of Midway Crossings.
- Hawthorne would have to be rebuilt to current County Standards which would result in disruption to the neighborhood.

Bucher, Willis Ratliff was consulted regarding the impact of not connecting to Hawthorne Drive. The response was that the level of service at Rollingwood/US 40 intersection was unchanged; the warrant for the left turn lane at Hawthorne Drive disappeared.

Consolidated Public Water District Number 1 provides water service to this property. There is not a sufficient water supply to provide domestic service and fire flow. The District has identified several offsite improvements that can be made in order to provide the necessary service.

There is no available capacity in any of the existing central sewer systems in the vicinity. The developer has entered into an agreement with the Boone County Regional Sewer District to construct a new treatment plant on an adjacent tract. Most of the lots in the subdivision will drain to the new plant by gravity. Sewage from Lots 45-57, 64-66 and 70 would drain to the wastewater treatment plant for

Rollingwood Plat 1, which does not have enough capacity to serve the additional lots from this development. The Rollingwood Plat 1 WWTP should be replaced with a pump station that pumps to the new plant being constructed by the developer. A cost-share agreement between BCRSD and the developer needs to be negotiated and implemented prior to recording the final plat for Midway Crossings.

The property scored 88 points on the rating system.

Staff recommends approval of the plat subject to the conditions that were established by the preliminary plat approval, which are as follows:

1. Final Plat phasing must be in accordance with the phasing plan outlined on the preliminary plat.
2. Prior to recording Phase 1, all offsite improvements necessary to provide domestic water service and fire flow to the property must be made.
3. Prior to recording Phase 1 the developer must construct a west bound left turn lane of 200-foot length plus taper on US-40 at Rollingwood Boulevard and post a side road warning sign with a 25-mph speed advisory 300-feet in advance of Red Cedar Drive for southbound Rollingwood Boulevard traffic.
4. Prior to recording Phase 4 the developer shall improve Ely Drive from Red Cedar Drive to US-40 to Boone County local street standards and construct a 5-foot wide sidewalk connecting Red Cedar Drive to Hawthorne Drive.
5. Prior to recording Phase 4 the developer shall enter into a cost-share agreement with Boone County Regional Sewer District to construct the pump station that is necessary to provide sewer service to Lots 45-57, 64-66 and 70.
6. Prior to any land disturbance the developer must provide Boone County with an erosion control plan to be reviewed and approved. The developer shall also demonstrate that they have obtained a land disturbance permit from Missouri Department of Natural Resources. The erosion control plan shall include stormwater runoff element that addresses to what extent stormwater retention or detention is required in order to protect downstream properties and the downstream lake.

Commissioner Morrison made and Commissioner Harris seconded a motion to **approve** Midway Crossing Plat 1. S1-T48N-R14W. R-S. Developments Far West Boone, LLC, owner. James V. Patchett, surveyor **subject to the following conditions:**

1. Final Plat phasing must be in accordance with the phasing plan outlined on the preliminary plat.
2. Prior to recording Phase 1, all offsite improvements necessary to provide domestic water service and fire flow to the property must be made.
3. Prior to recording Phase 1 the developer must construct a west bound left turn lane of 200-foot length plus taper on US-40 at Rollingwood Boulevard and post a side road warning sign with a 25-mph speed advisory 300-feet in advance of Red Cedar Drive for southbound Rollingwood Boulevard traffic.
4. Prior to recording Phase 4 the developer shall improve Ely Drive from Red Cedar Drive to US-40 to Boone County local street standards and construct a 5-foot wide sidewalk connecting Red Cedar Drive to Hawthorne Drive.
5. Prior to recording Phase 4 the developer shall enter into a cost-share agreement with Boone County Regional Sewer District to construct the pump station that is necessary to provide sewer service to Lots 45-57, 64-66 and 70.

- 6. Prior to any land disturbance the developer must provide Boone County with an erosion control plan to be reviewed and approved. The developer shall also demonstrate that they have obtained a land disturbance permit from Missouri Department of Natural Resources. The erosion control plan shall include stormwater runoff element that addresses to what extent stormwater retention or detention is required in order to protect downstream properties and the downstream lake.

Pat Smith - Yes	Kristen Heitkamp – Yes
Mike Morgan – Yes	Paul Zullo – Yes
Russ Duker – Yes	Michael Morrison – Yes
Larry Oetting – Yes	David Mink – Yes
Boyd Harris – Yes	

Motion to approve request carries unanimously.

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- 2. Newton’s Glen. S10-T48N-R14W. A-2. James Miller and Erika Griesemer, owners. Curtis E. Basinger, owner.

The following staff report was entered in to the record:

The property is located off Dometrorch Road, south of I-70, approximately 3 and ½ miles to the west of the City of Columbia. The plat creates one 6.36 acre lot from a 115 acre parent parcel. The property is zoned A-2 (Agriculture) and is surrounded by A-2 zoning. These are original 1973 zonings.

The lot has access to Dometrorch Road by a 50’ Roadway and Utility easement. 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. Electrical service will be provided by Boone Electric Cooperative.

On-site systems will provide wastewater disposal. The City/County Health Department has requested a more detailed wastewater plan for this site in order to approve this subdivision. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

The property scored 26 points on the rating system.

Staff recommends approval of the plat and the requested waivers 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.

Commissioner Morrison made and Commissioner Harris seconded a motion to **approve** Newton’s Glen. S10-T48N-R14W. A-2. James Miller and Erika Griesemer, owners. Curtis E. Basinger, owner **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.

Pat Smith - Yes	Kristen Heitkamp – Yes
Mike Morgan – Yes	Paul Zullo – Yes
Russ Duker – Yes	Michael Morrison – Yes
Larry Oetting – Yes	David Mink – Yes
Boyd Harris – 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 permits for Verizon were approved as recommended.

The rezoning request for Hathman which was denied by the Planning and Zoning Commission did not appeal the decision to the County Commission.

### **NEW BUSINESS**

1. Annual election of officers.

Commissioner Pat Smith was re-elected as Chairperson.

Commissioner Russ Duker was re-elected as Vice-Chairperson.

Commissioner Boyd Harris was elected Secretary.

### **ADJOURN**

Being no further business, the meeting was adjourned at 10:50 p.m.

Respectfully submitted,

Kristen Heitkamp,  
Secretary

Minutes approved on this 17th day of August, 2006.