

**BOONE COUNTY PLANNING & ZONING COMMISSION**  
BOONE COUNTY GOVERNMENT CENTER, COMMISSION CHAMBERS  
801 E. WALNUT ST., COLUMBIA, MO.  
(573) 886-4330

**Minutes**

**7:00 P.M.**

**Thursday, March 20, 2008**

I. Chairperson Smith called the meeting to order at 7:00 p.m., with a quorum present.

II. Roll Call:

a. Members Present:

Pat Smith, Chairperson	Perche Township
Carl Freiling, Vice-Chairperson	Cedar Township
Mike Morgan	Bourbon Township
Larry Oetting	Three Creeks Township
John Schloot	Rocky Fork Township
Gregory Martin	Katy Township
Patricia Fowler	Missouri Township

b. Members Absent:

Boyd Harris, Secretary	Centralia Township
Michael Morrison	Columbia Township
Paul Zullo	Rock Bridge Township
David Mink	Public Works

c. Staff Present:

Stan Shawver, Director	Uriah Mach, Planner
Thad Yonke, Senior Planner	Bill Florea, Senior Planner
Paula Evans, Staff	

III. Approval of Minutes:

Minutes from the December 20, 2007 meeting were approved with one correction by acclamation.

IV. Chairperson Statement:

Chairperson Smith read the following procedural statement:

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, and four 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 their representative may make a presentation to the Commission. The Commission may request additional information at that time or later following the hearing. After the applicant's presentation, the floor will be opened for anyone wishing to speak in support of the request. We ask that any presentation made to the Commission be to the point.

Please give your name and mailing address when you address the Commission. We also request that you sign the sheet on the 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 Tuesday, April 1, 2008. Interested parties will again have the opportunity to comment on the request 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 are been denied will not proceed to the County Commission unless the applicant files an appeal form within three 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 Tuesday, April 1, 2008 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.

#### V. Conditional Use Permits

#### **Request by Payne Enterprises, Inc. on behalf of United Community Cathedral for a child development center on 22 acres located at 5210 S Cowan Rd., Columbia.**

Planner, Uriah Mach gave the staff report as follows:

The subject property is 22 acres located approximately ½ mile south of Columbia, on South Cowen Road. The property is zoned R-S (Residential Single-Family). There is R-S zoning to the north, south and west, with R-M (Residential Moderate Density) zoning to the east. This is all original 1973 zoning. The existing structure pre-dates county land-use regulations and was originally used as a nursing home. In 1976, a permit was granted to allow expansion of the facility.

The applicants are requesting a conditional use permit to operate a child development center within the existing structure, which is currently used as a church. Their proposal identifies two spaces for use as day-care rooms in the eastern wing of the structure. They are planning to initially serve approximately 20 children, building up over time to the 49 child limit they are certified for by the Missouri Department of Health & Senior Citizens.

The property is located inside the Columbia school district and the Boone County Fire Protection District. The Master Plan describes this area as being suitable for residential land use. Staff notified 79 property owners about this request.

The following criteria are the standards for approval of a conditional use permit, followed by staff analysis of how this application may meet those standards. Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners.

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

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

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

Currently, the church has a gravel parking area behind the west wing of the building. The driveway access that serves this parking area is a shared driveway with the house to the west. There is an active dispute regarding the status of this driveway that limits its use. This has caused the members of the church to use the street for parking. The on-street parking situation has caused considerable discontent and traffic congestion in the neighborhood. With this use, there is also the possibility of increased traffic congestion due to the dropping off and picking up of children. The flow of traffic needs to be organized with sufficient space for loading/unloading of children at the property. Improving the access to the parking area, expanding the parking area, and designing an improved path for traffic to flow around the building for loading/unloading would likely improve the ability of this site to support the proposed conditional use. If issues with parking and traffic congestion are resolved, the granting of 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. Public testimony may be more indicative on whether or not 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 proposed use would not appear to have a negative impact on property values in the area if operated in compliance with county regulations. The church building predates most of the surrounding structures. Its deterioration due to disuse may be reversed by the presence of the church and the proposed child development center. This could conceivably lead to increased property values based on the improvement

of a previously vacant and deteriorating structure. However, public testimony may be indicative as to whether this criterion is met.

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

Electric service and water services are currently available. This property has 5000 gallons per day of wastewater capacity reserved with the Boone County Regional Sewer District to meet its needs. This property has direct access onto South Cowan Road, a public road maintained by Boone County Public Works. There is an existing gravel parking area behind the west wing of the church for on-site parking.

(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.

Much of the surrounding property has already developed as single-family residential lots. The acreage owned by Payne Enterprises is largely undeveloped, with the exception of the church and a pair of accessory structures, but is limited by the location of existing infrastructure. Future development of this property will likely require the installation of additional infrastructure, particularly public roads, for use as residential property.

(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 circle driveway serving the church building is a dust-free surface and can serve as a loading/unloading area. Making this circle driveway one-way, identifying the entrance and exit, and the possible installation of a gravel shoulder to allow two lanes of traffic for loading/unloading at the front entrance to the church building would improve traffic circulation for this use. To prevent traffic congestion, additional access to the gravel parking lot behind the church should also be constructed.

(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.

A minimum of twenty parking spaces on a dust-free parking surface would be required for the proposed conditional use. The church use would also require a dust-free surface, and should be moving towards that level of surfacing on the existing parking area.

Staff recommends approval of this conditional use permit with the following conditions:

1. That a plan for improving access and parking around the church be developed and completed to the satisfaction of the Director of Boone County Planning & Building Inspection. The plan should be submitted within 60 days of approval of this conditional use permit by the County Commission, and a schedule for completion will be included in the plan.
2. That entrance and exit signs be placed at the western and eastern ends of the circle drive to clearly mark the direction that traffic should move through the drive.

Present: Damian Dean, Associate Pastor, 5210 S. Cowan Rd., Columbia  
John Payne, property owner, 10951 I-70 Drive NE, Columbia.

Mr. Dean presented pictures of the signs that have been installed on the east and west side of the circle driveway. As the daycare begins to produce financially, six months from that they will be breaking ground to install a new parking lot.

Chairperson Smith asked if the applicants had any problems with the conditions.

Mr. Dean stated no.

Commissioner Schloot stated the staff report indicated the applicants would need to have a plan for parking.



Mr. Mach stated the applicants would need to have a plan acceptable by the Director of Planning. They would implement a timeline to put in the plan.

Commissioner Fowler stated they would need to submit a plan in 60 days and then within 6 months is when they plan to build those parking spaces. Will that be 20 spaces as mentioned by the staff report?

Mr. Dean stated there is a parking lot at the church now but they will put in a dust free surface.

Commissioner Fowler asked if the 20 parking spaces meets the requirements.

Mr. Mach stated a dust free surface is the minimum requirement.

Mr. Payne stated this building was originally built by Jack Durk as a nursing home. It went through some financial problems and it was closed down. There was a certificate of deed in Boone County when he purchased the property and the church has been in control of it; there have been hundreds of thousands of dollars spent to improve the property; the roof, plumbing, and electrical. There is a large parking lot now that wasn't there previous to the nursing home. This is a natural expansion of the church facility. When the applicants got their building permit for the improvements on the building the county gave the applicants a little leeway in putting dust free parking in so they could get a good compaction over time. It has always been the applicant's intent to put a dust free surface there anyway. The applicants have added quite a bit of parking to the back of the building that was not there previously. There has been quite a bit of improvement to the property since the church has been involved in it.

Open to public hearing.

No one spoke in support of the request.

Present, speaking in opposition:

Rebecca Jackson, 5000 S. Cowan Rd., Columbia

Ms. Jackson stated she lives right next door to the facility and has lived there for 14 years. Ms. Jackson stated she lived there since the time the building was a nursing home, since the time Jack Durk had all of his rodeo equipment there with cattle, horses, sheep and during the time it was vacant. The most difficult time has been the years the current residents have been there. The reason being the fact that they are next door neighbors and have experienced issues of safety around their own home.

Chairperson Smith asked what the safety issues were.

Ms. Jackson stated it had to do with neighborhood; there are children and people that walk, there are animals that are owned in the neighborhood that are larger than standard dogs and cats; there are large animals out there. Increased traffic has recently caused increased issues. There is too much traffic on the road when they are walking or taking their children walking. There are several ponds in the neighborhood and one of the church member's children got in to a neighbor's pond and some of the church members had to come and get him out. The pond is directly across the street from the facility. There are also issues because of the fact that the concrete driveway that was put in that Ms. Jackson has a joint easement on has made serious puddles in Ms. Jackson's yard. There is standing water in the driveway right now and it is because of the way the concrete was laid; there was no drainage system put in. There are problems with the lawn and the maintenance on the building itself. The back side of the building has old air conditioning units, paint is peeling off the building, there is rebar sitting at the end where we drive in to our driveway and if we back up too far we run over it with our car plus the rebar is standing up in the yard where it just bends up and it is just out in the yard. The lawn mowing is an issue every year; they have high weeds, they try their best but they don't have a regular service that does it, volunteers mow it. When you have 2 feet of grass or more we have lots of snakes out in that neighborhood just because we are out in the country.

Ms. Jackson stated there are problems with light and noise pollution, just because of the fact that it is in the country. Ms. Jackson stated she enjoyed living out in the country and because of the increased volume of traffic and people she has had to worry about those issues. Ms. Jackson stated she and her husband have had to deal with sewer issues three times. The applicants broke the sewer main and even though they were repaired, they weren't repaired until the Jackson's contacted someone. The church has dealt with Ms. Jackson very unprofessionally to the point where it is really difficult to talk about it. This has been a long standing issue, Ms. Jackson has left messages for the applicants and has talked to some of the members but has never seen the people in charge, they have never come and talked to her. The applicants never came and talked when there were serious issues like the Jackson's not being able to get in to their driveway for eight months because they were working on the concrete. If you went out there you would see that the concrete was not laid properly; it was laid in segments one month at a time because it was being done by volunteers. Because of the current situation Ms. Jackson is dealing with now she does not support this facility and something more they will have to maintain.

Chairperson Smith stated the Planning and Zoning Commission can't do anything about Ms. Jackson's current problems. What the Commission is concerned with is how this request is going to change Ms. Jackson's current situation. Perhaps an additional source of revenue and additional activities there might improve the applicant's ability to do some of this. Chairperson Smith asked Ms. Jackson if she had talked to anyone from the church

Ms. Jackson stated she has left messages but no one has contacted her.

Chairperson Smith stated that Ms. Jackson's testimony indicates that the applicants shouldn't be rewarded because they haven't been good neighbors, Ms. Jackson is afraid this will make the situation worse.

Ms. Jackson stated that is correct. It is difficult for the applicants to handle now and Ms. Jackson doesn't see it being much easier to handle later.

Joan Smith, 5211 S. Cowan Rd., Columbia.

Ms. Smith stated she thinks that someone who hasn't been a good neighbor in the past and now they are asking for an additional request that is going to cause more traffic. Ms. Smith stated she has lived at her home for approximately 13 years. She was there when the residential care facility was there. Ms. Smith stated there was very little traffic then. Since the church has come in one of the first weeks they had

moved in and started having church there, there was a big poster that was up on one of the trees on the corner of the church. The sign said "Patterson, if you do not shut up and (vulgarity) I am going to shoot you" and there is a picture of a gun. Ms. Smith stated she called someone at the church and told them about it and suggested they come and take it down. One end of the church has been dilapidated, paint is coming down. A few months ago they painted over that. As far as enjoyment of the property, Ms. Smith lived on Route PP for 17 years and it became quite busy so she moved to a quiet neighborhood on Cowan Road. It is no longer quiet and no longer enjoyable. There are cars up and down the street almost every night of the week. That is great if you are a church member but if you are in the neighborhood it is annoying; there is talking and it is loud. The pond is right next to Ms. Smith's house and a child ran out of the church and jumped in to the pond. Women with dresses on had to go get him out. Every time Ms. Smith hears children outside she is looking outside worried that someone is going to run in to the pond. The noise goes on at night and in the morning. Ms. Smith stated she has pictures of cars up and down the street. Someone has come out and put a sign in her yard that says "no parking anytime". On one hand that sounds great because the church members might not be parking there but now her own family can no longer park in front of her house so it does have an impact.

Ms. Smith stated she was formally a state representative for day care licensing. Ms. Smith stated she believes they don't have to follow state licensing regulations because they are in a church; will someone be monitoring that?

Mr. Mach stated the applicants have a permit from Health and Senior Services.

Ms. Smith asked if the applicants have met all the requirements for that.

Mr. Mach stated yes.

Ms. Smith asked if the State will be monitoring it. Will it just be daytime hours? Will it be evening or overnight? Will it be around the clock so she won't be able to sleep at night because of car doors all night long?

Mr. Mach told Ms. Smith that she was probably more versed in state daycare licensing than Mr. Mach is.

Ms. Smith stated if they keep kids in the evening they will have to have more lights, a fenced in structure and they will not be able to have standing water. There is an overflowing dumpster, one dumpster, and it is like this most of the week. How many dumpsters are going to have to sit out in front when you add up to 49 children in diapers? Ms. Smith stated she would not have put an addition on to her house had she known that there would be a daycare next door. Ms. Smith disputes what Mr. Payne says about increasing the property values; it will not improve property values. Ms. Smith stated she believes she would have a much harder time selling her home with all the congestion, cars, and kids running in and out. This church has not improved Ms. Smith's enjoyment in the neighborhood. The church has not been good neighbors in the past and it is indicative of what will happen in the future.

Teresa Desmit, 5008 S. Cowan Loop, Columbia.

Ms. Desmit presented photos of the drainage. Ms. Desmit stated she is on the other side of the circle and would like to talk about the applicants comment about compaction of their gravel. If they wanted to do compaction of the gravel why don't they use their parking lot? 90 to 95% of these church members park up front on the street, they don't park in back where the gravel is so that statement is incorrect. The applicants have had three years and there are no improvements and they might have added hundreds of thousands of dollars, like Mr. Payne said, on the inside but the neighbors haven't seen that. The neighbors have seen an increase in water and everything else that the other speakers mentioned. Ms. Desmit stated

she home schools, she has three children and her children can not walk on that part mainly because of the sign; that was very disruptive. Another reason is the traffic. This is a city business in a country atmosphere, there are no sidewalks or lighting on the streets. Who is going to protect Ms. Desmit's children because the applicants aren't going to? What kind of people are coming to this neighborhood when you are letting in 50 cars for the daycare are you going to guarantee the kind of people that are coming in? Ms. Desmit stated she bought this property specifically to get out of the city, specifically for her children to enjoy the country and now the city is coming to us, that is an infringement on the rights of the neighbors. When Ms. Desmit heard a church was going to move in she were thrilled, everyone was. It is too bad they don't exactly live up to what a church is represented when the government decided that churches could go anywhere they want. A church could go in any zoning because churches were supposed to be good neighbors. Ms. Desmit stated she hasn't seen any of that and that is disturbing and now you are going to add 50 children. This circle is improved gravel, it is a lot worse on the back of that circle, there are pot holes. When these people drop off these children they are going to go around the circle and they are going to go look. Who is going to help the road? We all know that with that much traffic it is going to be a problem.

Phillip Jackson, 5000 S. Cowan Rd., Columbia

Mr. Jackson stated one of the requirements in granting this rezoning is that it not hinder traffic. Mr. Jackson finds this ironic that no one posed this question to the neighborhood before. Mr. Jackson's job requires that he is available 24 hours a day as well as five other residents in the subdivision. When he is called, he has to be on-site within one hour of the call, this includes his work truck and necessary equipment. These requirements are mandated by the PSC for the protection of life and property. Prior to purchasing his house he had to verify that it was within 10 miles of headquarters; he also visited the neighborhood at different times of the day and night to verify traffic accessibility. Since this organization has taken possession of this location he has had to on at least a half dozen times interrupt their services to be able to exit his driveway due to traffic. This can be verified because on several occasions he called the Sheriff's department to lodge a complaint. Mr. Jackson stated there are elders in his home that he is caring for and they sometimes need medical assistance. He has found that emergency vehicles have also been hindered from entering the neighborhood due to traffic congestion. In conclusion, this subdivision has one way in and one way out and now the neighbors are being asked to endure even more traffic than they can handle now. Mr. Jackson stated his job is a highly stressful job and the only thing he wants to do is come home to a tranquil and peaceful surrounding; that is not happening anymore. Mr. Jackson stated he has more stress when he gets home. The other day someone was giving him a ride home and he stopped in the middle of the street wondering if he could get through. Mr. Jackson stated he has had to ask people to move so he could get out of his driveway. It is not hard to see that the driveway shouldn't be blocked with the traffic. Mr. Jackson has had to ask them to move so he could get out of the back driveway where his boat is and he has asked them to move so he could get out of his front driveway. Mr. Jackson stated he has explained to a representative of the church of his job status and he has to be onsite within an hour and has to have access to get out of his driveway and he can't get out. Now the neighbors are being asked to endure more traffic. Mr. Jackson stated his property is torn up, he wouldn't buy the house he lives in now because of the way they came and tore up the road and the land. There is a traffic issue and Mr. Jackson has to verify before he buys a house that he can get to work on time and he is not able to do that.

Lorrie Ney, 5015 S. Cowan Loop, Columbia.

Ms. Ney stated she was pleased to hear that a church was moving in. Being a church member herself she understands that church is run on volunteer labor and has had sympathy with them and how they have struggled to improve their property. However, it has taken a long time and she is concerned that a daycare will only add to their problems and to the despair of the property not improve it in spite of whatever income it may generate. Ms. Ney stated she is one of the people in the neighborhood who has a dying

mother in her home. She has had to have an ambulance three times in the last six months to her home because of her mother's condition; she is now in hospice care. Before she was put in hospice care one Sunday in January Ms. Ney went to church that morning and as a lady was parking on the street in front of the Jackson's home she was trying to get through the mob of cars so she could get out of her subdivision and go to her own place of worship and the lady walked in front of Ms. Ney's vehicle. Ms. Ney stated she drives slowly on the street but it is the first time she came close to hitting anyone. The road is narrow, it is an old, gravel country road in a subdivision that used to be a farm. It was broken in to small pieces and turned in to little country estates. The smallest piece of property that has a single family dwelling in the neighborhood is 2.6 acres. It is a little chunk of country with each house. The entrance to the subdivision at any given time, Monday through Sunday, especially in the evenings because the church is very active and has many things going on, lots of people are there and they are all parked in front of the building. They have gravel parking in the back that they do not use. What makes it difficult on this road is if you are coming to visit her on the western side of the subdivision and we meet driving side by side our road is just barely big enough for two cars to pass, you have to swerve a little bit toward the grass on each side for two cars to go through. There have been real issues with cars being able to get through at all and it is still there. The way it stands now, the members continue to park in front of their church building up and down the side of the road. If a fire truck comes through and if you call 911 and need an ambulance you know you get a Boone County fire truck along with that ambulance they will have to drive on somebody's yard to get past that church building and make it to wherever they are going and that messes up the grass because there are no sidewalks. There is a little bit of asphalt and a little bit of chip and seal gravel road that is not sealed. It is primarily gravel that makes a lot of dust. The safety is also an issue; Ms. Ney is also a home schooling mom. We have retirees, young families with children, couples, we all own pets, we have little farms were people have chickens, cows, pigs, horses, etc., it is a neighborhood that is in the country and the entrance to it now is extremely congested. There is no guttering on this building which also adds to the water issue. It is an eyesore, it was an eyesore before they got it and it still is. Ms. Ney stated she doesn't believe in six months time that with their elbow grease, even with their income from a daycare, that they will able to bring that building up to standards to have it not be an eyesore in our community nor can they provide it so that it is a safe place for children. There are too many bodies of water in the neighborhood, large fishing ponds, little mini lakes not to mention the fact that many years ago the pond that is directly in front of the church has already had someone drown in it. That is how deep it is when it is full.

John Ney, 5015 S. Cowan Road, Columbia.

Mr. Ney stated he is looking at this from the well being of the neighborhood and the fact that his wife almost ran over someone. Mr. Ney works at home and if he has to leave he has to be really careful that he doesn't run over some kid playing in the middle of the street. We don't have 50 children in the neighborhood but if we did have that many all in a concentrated area it is making it onerous on the neighbors to make sure they don't kill anybody when they leave their neighborhood. When Mr. Ney walks his dog in the neighborhood he has to make sure that none of the dogs bite the kids that might be playing in the yard if one of them accidentally got away from the leash. What this whole thing is doing is adding a whole level of onerous responsibility on to the neighborhood when they are just supposed to be residents enjoying their neighborhood. They won't enjoy it anymore because there will be a business that operates 24/7 right in the neighborhood. Mr. Ney is concerned about the issue of giving them six months to put a parking lot in. What if they don't? Will the Planning and Zoning Commission shut them down or are the neighbors going to have to take legal action against either the County or the church which is again putting the onus on the neighbors to take care of the situation. It is not fair to put a business in and make the neighbors be responsible to make sure that the business operates in accordance with the rules. What else is going to be on this 22 acres if this conditional use permit is allowed? What other business is going to be brought in to the neighborhood which is going to make the property value go down even further? Mr. Ney stated he is concerned about the financial well being of the neighbors; the property values are

going to deteriorate if this action is allowed. Mr. Ney is also concerned about the comfort the neighbors will have to give up to put up with this business.

Closed to public hearing.

Chairperson Smith informed the applicants that it appears that the neighbors believe the applicants have been a bad neighbor and shouldn't be allowed to expand the business.

Mr. Dean stated he would like to address the sixteen issues that came up. The first would be hours of operation. Sundays will be the heaviest traffic day. When the applicants first moved in to the neighborhood they didn't have a back parking lot so in the process of getting the excavators and things of that nature there was a lot of hassle and noise. Once the applicants got the excavators and all of the equipment moved out and they got the rock down and spread there really isn't that much issue with noise. Monday night there is a bible study at the church; it is usually from 6:30 to 8:00. Tuesday is the choir rehearsal, there are 10 members and about three or four cars. Other than that, unless the church has a special event there is really no one there Wednesday through Saturday. During the daytime there will be three cars there, Mr. Dean's, the church secretary, and the contractor is there during the daytime hours. There is a serious issue with traffic flow, on Sunday's Mr. Dean understands that but the fact of the matter is that if you have common sense then you would be able to easily get down that road. The no parking signs that the County put up on the property across from the church were removed by the County. Mr. Dean stated that church members have been told not to park on that side of the street. That has nothing to do with the applicants, that has to do with the County.

Mr. Dean stated in regard to the pond he didn't know that someone had went over there and lost their life or was in danger of jumping in the water with some children. The issue with the one individual of a person on the back of the property; that individual is a doctor and works for Nature Conservation for the State of Missouri and he was doing some research on some flowers on the back of the church property. Given the fact that he is a graduate of the University of Louisiana Mr. Dean hoped he would be competent enough to do his job. In the process the neighbors thought that someone was doing something illegal because he parked on the back of the property but he was attempting to look at the property and at some of the issues with the plants back there that he wanted to do for a report.

Mr. Dean stated there are probably five or six acres of land that is to the east of the church that the church does not own so the applicants don't mow that. With regard to the rebar in the driveway; there is rebar and it can be moved. The neighbor would have to back up about 25 to 30 feet of concrete to get to the curb where the rebar is at. There might be a couple of pieces close to the opposite end of the driveway on the gravel parking lot but the applicants can move that. The applicants are in the process of getting some more things paved so that material can be moved so it is not a hazard to their vehicles. Mr. Dean stated he understands that concern.

Mr. Dean stated with regard to the sewer issue, there were two times that he can remember that the sewer line was broken. The first time was when the excavators came and Mr. Jackson came and told the applicants. Two of the members personally went out and made sure there wasn't a problem backed up in to their house. There is another issue on the table that does not really deal with us here but the applicants have been removed from their lagoon system which is attached to their house and the applicants have given them an easement to use the lagoons but the county has come in and said that they have to hook in to the County Sewer District so that is out of the applicant's hands. Those lagoons are no longer being used but that is not the applicant's fault. Mr. Payne has tried on several occasions to work out a financial deal with them that benefits both parties but there have been some complications with that and he will let Mr. Payne address that.

Mr. Dean stated the issue with the eight months of not being able to access the driveway. Mr. Dean stated he is concerned with that because of the fact that the Jackson's have a circle driveway in the front of their home. That gives them access to their home. There was a problem for about two or three months that the applicants were slowly putting together the concrete driveway so they could have access. Mr. Dean stated he made sure of it personally that would not curve over and get in to their driveway. Mr. Dean stated he thought that was a good neighborly gesture but it has not been taken that way. It could not have been eight months because that would have been physically impossible for the applicants to have as much traffic that they do on Sunday's to keep it that way. Mr. Dean tells people not to park in front but sometimes they still do. The applicants will truly make an effort to tell people not to park on the front side of the property since there is adequate space on the back side.

Mr. Dean stated he is concerned about the comment made about not contacting the neighbors. Several of the individuals that spoke tonight have come in and disrupted the services suggesting strongly that the people should move. That was when the applicants first came to the property so not everyone was familiar with where to park and where not to park. The applicants have done an excellent job of keeping people from out in front of the driveway that they are speaking of which is technically on the applicants property. In order for the applicants to be able to proceed with this process they had to do a mailing as required by Planning and Zoning with their information and phone numbers. The biggest issue here is not actually dealing with the applicants. Some have misread the docket; they thought the applicants were rezoning the neighborhood but all the applicants are asking for is the opportunity to use part of the facility differently. The concern was that if the church has a daycare that will open up the door for a bar and a strip club to come to the church or in the area. Mr. Dean stated if he didn't hear that concern himself he wouldn't have believed it. Mr. Dean stated the applicants put out a new letter stating that the applicants thought they were rezoning but after talking with Mr. Mach and Boone County Public Works the applicants have discovered is that all they need to ask for is to use the building differently.

Mr. Dean stated there is a lot of traffic on Sundays but the applicants can fix that. This is something that is fixable and given the fact that the applicants have put up traffic signs on their own property to help explain the counter clockwise flow of traffic that situation can be worked out. There was an issue with a neighbor who passed away that was across the street from the church. When the applicants first moved people were parking on his side of the road but once the neighbor addressed the applicants and told them it is an issue and contacted Boone County Planning and Zoning they gave the applicants information saying there would be signs put up that says no parking along the north side of the neighbors property. After that neighbor passed away the County came back and removed the signs but the applicants still tell their members not to park on that side of the street. The street is wide enough that even if two vehicles were parked slightly on the grass a fire engine could get through because they have been out there for some of the functions the church has had dealing with the back to school program. The whole reason the applicants are asking for this daycare is because Mr. Dean drove through the neighborhood and saw a whole bunch of children that were young, under the age of five that were just out in the neighborhood; not just necessarily in the church's neighborhood, but the subdivision to the south. The church is also surrounded by five trailer courts and Mr. Dean saw that there was a need for child care. If nothing else a free summer camp that the church offers would be able to help these children in the neighborhood and that is what Mr. Dean desired to do. Unfortunately, the applicant's intentions have been misinterpreted and seen in a dark manner.

Mr. Dean stated there was an individual who came back from Iraq and he had some pressure from being over in Iraq and got upset with a member of the church. The individual posted a negative sign on one of the trees on the church property. The moment Mr. Dean found out several of the associate pastors came out to the church and filed a report with the police department and the applicants removed that sign as

soon as they found it. People have to be mindful, the applicants can't remove something that they are not there to see so if it was there for a period of time it is because of the fact that no one was there to see it. Mr. Dean apologized to the neighbors who walked by and saw the sign. Since then the individual that posted the sign has received help as well as the member that was dealing with him. They have reconciled their relationship which means that there will no longer be an issue like that.

Mr. Dean stated the reason there is standing water in the front lawn is because when Boone County hooked the church up to the sewer district they dug out the front lawn as well as the property adjacent to the church to remove an old water tower that sat in the front lawn. In the process of removing the water tower they did not excavate or level out that piece of land so it holds about two or three inches of water. However, when they came out today for the meter they informed the applicant that they would make sure that they come back and fix that because that is what they did wrong. The issue with the standing water is actually an issue with Boone County and not the applicants because it is on the county easement.

Mr. Dean stated the dumpster was full because the applicants were throwing away all of the trash that they had inside the church that was in different rooms; the applicants have 32 classrooms. The applicants decided to throw away every extra thing they didn't need; extra pieces of furniture and trash. Mr. Dean stated southern hospitality teaches you that when a new person moves in the neighborhood, the neighborhood comes to the new person, not the new person to the neighborhood. There have been opportunities to go out and meet some of the people and there have been opportunities for the neighbors to come in but Mr. Dean doesn't want to present someone a broken project. Mr. Dean stated he wants to make sure it is fine tuned and well dealt with before he invites the public in. As Mr. Mach's office can explain the work the applicants have done with that building on the inside and the outside has been tremendous given the fact that it was run down. When the person that bought the property bought it, it had been after it was shut down by the State. It had flooded in the building for almost two months before they came in and when the applicants did get it there were still food trays on the tables and things of that nature. Clothes were there from the clients that stayed there. It was one of the worst senior citizens homes in the State and especially the County. That was a lot of love and elbow grease that the applicants have put in the building to get it to where it is now. If you were to come out today, you can see the scars of all that hurt that went on there before hand. You will see a place that is beginning to have life and is beginning to be vibrant and is exciting again.

Mr. Dean stated his hope is not to exclude the neighborhood but to include the neighborhood by taking care of the property; and through the daycare be able to finance things of this nature. Even though this is not information that is public when the applicants decided to move to this location they lost over 150 members because they thought they were moving too far. Obviously that is going to put a strain on their financial situation but the church has been very successful with elbow grease and volunteers and donations to get it to the state it is now that they could be approved for 49 children and everything will get up to standards. In order for you to have a daycare, even if it is license exempt, the State still wants to put its seal of approval so people from the State are constantly coming by and making sure that everything is on task in the program.

Mr. Dean stated he understands elderly parents needing medical attention. Whenever ambulances have been called, if the applicants were truly blocking the road they would come in and shut the applicants down and the Sheriff would come and make sure those vehicles were moved. There have been times when the applicants have had to call the ambulance because of different members or even individuals who came to the church and they got in and out freely. Mr. Dean stated he understands the concern but the issue with the traffic is actually on the other side of the church. Everyone keeps mentioning a small circle road; all the traffic that flows to the church building is on a blacktop which is maintained by the County. If there was an issue it wouldn't be with the applicants it would be with the County because they would

need to make the road wider. There is more than enough room for cars, even with cars on both sides, for a fire engine to drive through because there have been times when major equipment has been moved in and out and there were cars parking along the way but they were still able to get in and out.

Mr. Dean stated he takes issue with the comment that there are no gutters on the building. If anyone would walk up to the front of the building you can see the guttering; you can see where the applicants moved the roof of the church. When the applicants first got the building they had to completely re-shingle the roof and lay plywood. Two semi loads of shingles were put on the building so if there is anything you might see a couple pieces of shingles in the guttering but for the most part the building is guttered. The playground is going to be in the back of the property that is why they never notice where the children are. That is going to be the most effective for the safety of the children as well as the church's use on Sunday. The applicants don't want everyone having access to the children. There will be a fenced in playground on the back of the property.

Mr. Dean stated the way the road is set up, there are no sidewalks, but that is not the applicants fault because it is a county road. Mr. Dean stated a comment made by one of the neighbors was that the neighbor had a dog and what if the dog gets loose and goes and attacks a child at the daycare. Mr. Dean stated he can't help that; especially given the fact that the playground is on the back of the building that means that the neighbor would have to walk around on the applicant's property in order to have the dog next to the playground. Mr. Dean stated he is not making this personal but is merely addressing all of the issues that were brought up by the neighbors. Mr. Dean stated there are several members of the church present here tonight that can stand in favor of this and speak if necessary but Mr. Dean didn't think it was necessary because the applicants didn't hear from some of the neighbors. On the letter the church sent to neighbors it stated if they had any questions or concerns to contact Mr. Dean and he would try to address the issues. Mr. Dean stated he sent out 79 letters. Mr. Dean stated he didn't think he could personally go to every person and talk to them and then be able to meet their concerns if it is something that doesn't really deal with the applicants.

Mr. Dean stated he hoped he has addressed everything that was a major concern. Mr. Dean apologized if he or the church seemed offensive to the neighbors by not reaching out but he wants and desires it to make sure this property becomes something the neighbors can be proud of having in their neighborhood.

Mr. Payne stated he appreciated the Commission's patience in hearing all of the emotion that has come up here. This is a prime example of what the Commission hears all the time of "not in my back yard". There is 22 acres here. Mr. Payne stated if he hadn't bought the property and Mr. LeMone had he would have had a second entrance for his industrial park that this Commission required of him. If you figure 3 to 4 houses per acre, it is already zoned residential, that is 66 to 88 houses that could be put on this 22 acres. Mr. Payne stated he never mentioned that the property value would increase but said the applicants added hundreds of thousands of dollars to the church property; the neighbor's property wasn't mentioned. There was a business there before, there is a business there now if you want to call a church or daycare a business. The issues of ponds, the width of the road, sidewalks, and street lights; that was a long time ago when this subdivision was developed by someone else. Things are different in the county; it is not a rural county anymore. Those issues are going to come up regardless of what anyone does; the applicants can't do anything about that. Mr. Payne stated he understands the emotions involved but the Commission has to look past those emotions and look at the real issues. This property is at the start of the subdivision; people aren't going to drive through the subdivision, they might do it one time but they aren't going to do it on a daily basis. There will be no traffic past this building. It is a hard surfaced county road. Mr. Payne stated he would be happy to answer any questions.

Commissioner Oetting asked the hours of operation of the daycare.

Mr. Dean stated the daycare will be from 6:30 a.m. to 6:00 p.m. The traffic flow would be in the morning to drop off children and at 6:00 p.m. That would be normal business traffic going through there. Other than that, through the course of the day you might have four cars for staff and the circle driveway is large enough. Given the fact that the applicants have been requested to park in the back side in the parking lot as the applicants begin to get a bigger budget that issue will be fixed.

Commissioner Oetting asked if there are any consequences for people that don't pick up their kids by 6:00 p.m.

DRAFT

Mr. Dean stated yes; it will be in the hand book.

Commissioner Oetting asked staff if there is anyway to make it illegal to park on the road and be ticketed for parking illegally.

Mr. Mach stated that would be a question for the sheriff's department. Mr. Mach stated he is surprised the "no parking" signs were removed; that might have been due to the property owner's request. If there aren't any "no parking" signs the sheriff's department has been reluctant to tow vehicles in residential neighborhoods parked along a public road.

Commissioner Oetting asked if there was anything the Commission could do.

Mr. Mach stated no.

Commissioner Oetting stated the applicants have been there for three years.

Mr. Dean stated yes.

Commissioner Oetting stated one of the neighbors commented about the dumpster but Commissioner Oetting stated he can see the dumpster being full when the applicants moved in and started cleaning out the building. The neighbors comment was that the dumpster was full all week.

Mr. Dean stated the dumpster is dumped on Thursday so in between Sunday service and Thursday it is going to be full. A lot of the things that is there is because the applicants are renovating inside. They are tearing down some of the old paper off the wall and things of that nature.

Commissioner Oetting stated the neighbors indicated they tried to contact the applicants prior to this request. Have the applicants had communication with the neighbors?

Mr. Dean stated there have been several attempts to answer the neighbor's questions. Usually the individuals Mr. Dean spoke to have been very kind but a lot of the things being brought up now; those individuals never did respond back. The only one that did was the Jackson's because they've had several different things come up like the sewer. Mr. Dean stated he is familiar with the Jackson's but most of the others present tonight he has never seen before. The letter was sent out and indicated that if the neighbors had any questions or concerns to call. There also have been several voices from the community and Mr. Dean has either tried to contact or address those issues.

Commissioner Schloot stated he sees this as being 90 percent a parking problem. If the parking issue were taken care of we wouldn't have a large audience today. Commissioner Schloot stated he wished the

applicants would just jump up and say they will put people in a lot. That would resolve a lot of the problems right away. Commissioner Schloot asked how many people attend church on Sunday.

Mr. Dean stated about 100 people.

Commissioner Schloot stated there are only 20 parking spots.

Mr. Dean stated that is the misconception; the 20 spots are for the daycare. There is a large enough gravel parking lot that all of those cars can be located. The applicants just have to keep reinforcing to the members. Mr. Dean stated he didn't know it was such a concern to the community.

Commissioner Schloot stated the applicants have a large enough lot but people aren't using it.

Mr. Dean stated that is correct.

Commissioner Freiling stated this is one of the most difficult circumstances that we face; it doesn't matter if it is a horse facility or other things; that change has an impact on the neighborhood. On the other hand we have this process because there are public uses that are public benefits that are needed in a community. Obviously daycare is one of those issues. Commissioner Freiling stated he has not yet decided how he is going to vote but he won't be very happy either way because there is not a resolution that is going to satisfy both legitimate points. Commissioner Freiling encouraged all parties, regardless of the decision, to try to work it out a little better on a daily basis no matter what happens.

Commissioner Fowler asked staff if the Commission denied this request would the applicants be able to bring the request back after they've addressed all of the issues with the community; are the applicants barred for a year?

Mr. Mach stated if the Commission denied this request the applicants have three business days to file an appeal to the County Commission; if the applicants are denied by the County Commission they are barred for one year to ask for the same request.

Commissioner Freiling stated the critical issue for a conditional use permit in this case is clearly traffic. All of the other issues are annoyances and aren't relevant from the Commission's standpoint. The ability to safely get in and out of you own home and access for public safety vehicles, that is a serious issue. Commissioner Freiling stated he also understands the church's position.

Commissioner Oetting stated he has reservations about the approval if there is nothing that makes it mandatory for them not to park along the road. Until they get their situation with their neighbors resolved Commissioner Oetting has reservations.

Commissioner Freiling asked if the applicants can ask to table this request and see if these issues can be resolved to the satisfaction of both the neighborhood and the church.

Mr. Mach stated yes; the applicants can request this be tabled.

Chairperson Smith stated the Commission is entitled to put conditions on any approval beyond the conditions recommended by staff.

Commissioner Freiling stated except for the parking issue.

Chairperson Smith stated they can limit the hours of operation, number of vehicles and things like that. Chairperson Smith asked the applicants if they would consider tabling this request to next month so they can try to work out some of the issues with the neighbors.

Mr. Payne stated the applicants lost last month because of the weather. The applicants will take their chances tonight. The issues the neighbors brought up are not going to change from this month to next month.

Chairperson Smith stated the Commission would hope the issues change but their concerns might not change.



Mr. Dean stated if you drove down the road you can see that the concern about the traffic flow is not as major as it has been made to be. All of the traffic that Mr. Dean sees is going in to the neighborhood some of the ones here tonight are the ones that drive by and honk and wave their hand and never once have they come in. Mr. Dean stated he can't believe how it has been perpetuated that it is a bigger problem. Mr. Dean wished the Commission could come by on a Sunday and see that the traffic is not as bad as it is being presented.

Commissioner Freiling stated if the residents who live past the applicant's property were to approach the sheriff's department and make a request for the section of county road through there to be "no parking" area would the applicants oppose that.

Mr. Dean stated no. It wouldn't really affect them because of the way the road comes around not many people, unless you are there on business, go past that corner. Mr. Dean stated the applicants would not oppose "no parking" signs because the applicants would still be able to park on their circle driveway.

Mr. Payne stated if the neighbors wanted to take the initiative to do something like that; that is their business and their privilege.

Commissioner Freiling asked Commissioner Oetting if that soothed any of his concerns.

Commissioner Oetting asked what would happen if the sheriffs department didn't respond to the request.

Commissioner Freiling stated if there was an issue they would respond.

Commissioner Morgan stated that is when the neighbors approach the County Commission.

Chairperson Smith made and Commissioner Morgan seconded a motion to **approve** the request by Payne Enterprises, Inc. on behalf of United Community Cathedral for a child development center on 22 acres located at 5210 S Cowan Rd., Columbia **with the following conditions:**

1. That a plan for improving access and parking around the church be developed and completed to the satisfaction of the Director of Boone County Planning & Building Inspection. The plan should be submitted within 60 days of approval of this conditional use permit by the County Commission, and a schedule for completion will be included in the plan.
2. That entrance and exit signs be placed at the western and eastern ends of the circle driveway to clearly mark the direction that traffic should move through the driveway.

Pat Smith - Yes	Carl Freiling – Yes
Larry Oetting – NO	Mike Morgan – Yes
Gregory Martin – Yes	Patricia Fowler – NO
John Schloot – NO	

Motion to approve the request carries. 4 YES 3 NO

Chairperson Smith informed the applicants that this request would be heard by the County Commission on April 1, 2008 at 7:00 p.m. and the applicants need to be present for the hearing.

**Request by Tracey Fritchey on behalf of David Sullivan and Deborah Withrow for a permit for a dog kennel on 4.05 acres, located at 7350 E. Highway AB, Columbia.**

Planner, Uriah Mach gave the staff report as follows:

The subject property is 4.05 acres located approximately 2 1/4 miles south of Columbia, on Highway AB. The property is zoned A-1 (Agriculture), which is original 1973 zoning. This property is surrounded by original A-1 zoning.

The applicants are requesting a conditional use permit to operate a breeding kennel for dogs. They have identified two breeds, Brussels Griffons and Affenpinschers, which they will be breeding. These breeds are classified by the American Kennel Club as toy breeds and the applicant has indicated that the largest dog in the facility will weigh approximately 18 pounds. Currently, there is a single-family dwelling and shed on the property. If approved, the applicants plan to have 12 indoor/outdoor kennel runs in a new 704 sq. ft. structure built for that purpose. Their state license permits them to have 48 dogs, their current plan is to have 35, 29 breeding females and 6 males. The structure that they have proposed will be approximately 60' from the western property line, and the runs will be screened from the north by a privacy fence. The east and west sides of the structure will show chain-link fencing for the runs, while the structure itself is will have metal siding.

The property is located inside the Columbia public school district and the Southern Boone County Fire Protection District. The Master Plan describes this area as being suitable for agricultural and rural residential land use. Staff notified 5 property owners about this request.

The following criteria are the standards for approval of a conditional use permit, followed by staff analysis of how this application may meet those standards. Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners.

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

Given the number of animals that the applicant will be keeping in the proposed structure, despite their small size, some form of wastewater system should be installed for health reasons. If this is done, this criterion can be met.

(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 requested use has the potential to be injurious to the use and enjoyment of other property in the immediate vicinity. The nearest dwelling, located on the property to the west, lies approximately 200 feet away. There is screening in the form of an existing treeline and a privacy fence between the properties. Noise and odor impacts from this conditional use permit may be mitigated by that screening. However, given the number of animals intended, the effectiveness of that screening is questionable. Additionally, the owners of that property operate a home day-care in an accessory structure on their property. The location of a kennel in such close proximity may have a negative effect on the operation of that day-care. Public testimony may be more indicative as to whether this criterion is met.

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

The proposed use may have a negative impact on property values in the area. Typically, kennels generate significant noise and odor impacts on the surrounding properties. There may be some mitigation on those impacts as described in the previous criterion for the nearest dwelling. Public testimony may be indicative as to whether this criterion is met.

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

The site has access to all necessary facilities. However, some form of wastewater management would be appropriate to this facility given the number of animals involved.

(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 property is zoned A-1 (Agriculture), with residential uses limited to 10 acre lots. Future development of the area will be accomplished through the existing zoning, or will require rezoning to achieve a higher density of development. Noise and odors emanating from the site, unless adequately controlled, could discourage future residential development.

(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 site has direct access to State Highway AB. The proposed use should not hinder traffic or cause congestion on public streets.

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

The proposal conforms to other applicable regulations of the A-1 zoning district. Given the legal non-conforming status of the property based on its size, land division would not be possible without a rezoning.

While this use is available as a conditional use in the agricultural districts, operations of this type should generally be located on larger tracts to allow for sufficient buffering of the operation from nearby properties and sufficient space for the animals to be exercised and socialized. This is an extremely small piece of property for this zoning district, and proximity of the proposed kennel structure would place it

within 200 feet of the nearest dwelling. Given that the adjoining property is being used for a day-care facility, this property is rendered even more questionable for a kennel operation. A conditional use permit runs with the land, not with the applicant. While the current owners have indicated that they will be breeding small dogs, the granting of this permit could allow the breeding of larger dogs just as easily.

Staff recommends denial of this conditional use permit.

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

1. That the total number of dogs be limited.
2. That the number of breeding females be limited.
3. That no breeds that have a weight in excess of 20 pounds are bred at this location.
4. That a DNR approved wastewater system be installed to serve the proposed building and kennel use.

Present: Tracey Fritchey, 7380 S. Rangeline, Columbia.  
David Sullivan, 1826 Calvin Dr., Columbia.  
Deb Withrow, 1826 E. Calvin Dr., Columbia.

Chairperson Smith stated based on the applicant's address they don't live at the location but are proposing to purchase the property. Do the applicants have experience raising dogs?

Ms. Withrow stated yes. Ms. Withrow's degree and background is in the medical field but for the last couple of years she has been raising the dogs full time; she has been breeding dogs for about 17 years total.

Chairperson Smith stated the applicants have probably decided how many dogs they need to breed to do this. What kind of market is it out there and how would the applicants attract people to buy the dogs?

Ms. Withrow stated she has rare dogs. There are only about a couple hundred Affenpinschers registered in the United States every year. There are a couple thousand Brussels Griffons registered yearly in the United States. They were the dogs Ms. Withrow fell in love with and those are the only two breeds she wants, she has no desire to have more dogs or larger dogs. If anything it is going down in size. There isn't a lot of traffic that comes to the applicant's house because they are rare dogs, they are shipped throughout the United States.

Chairperson Smith asked the applicant if she uses the internet.

Ms. Withrow stated yes and she gets a lot of sales from referrals. That is about the only way to reach people looking for this type of dog.

Chairperson Smith stated one of the things she is curious about is the public need for this business. As someone who pays attention and reads the paper Chairperson Smith just found that there were three breeding kennels that took a bunch of puppies to the Humane Society; do we need more puppies in Boone County?

Ms. Withrow stated she doesn't know about Boone County; the puppies aren't sold locally. Sometimes someone comes from St. Louis or right across the line in Illinois. The majority of the puppies go to New York and California. There are a lot of unwanted puppies but that is why the applicant's dogs have spay and neuter contracts; it is to make sure they don't go to irresponsible breeders. It may not be what some people consider a profession but she finds that she makes a lot of people happy.

Chairperson Smith asked how big of litters these dogs have.

Ms. Withrow stated it varies; there may be one to five puppies. The average is probably three and the average size of the dogs when grown is 6 pounds. Ms. Withrow does have one large Affenpinscher that is 17 pounds but most of them average 6 to 7 pounds.

Commissioner Oetting stated that ~~he would be abstaining~~ from this hearing.

Commissioner Fowler asked where the dogs are currently housed. The papers say the applicants have 29 breeding females currently.

Ms. Withrow stated she has 33 dogs right now; 6 will be retiring next year and won't be replaced.

Commissioner Fowler asked if the dogs are currently in Hartsburg.

Ms. Withrow stated yes.

Commissioner Fowler asked if the applicants had any problems in Hartsburg in particular as being the reason the applicants are relocating.

Ms. Withrow stated no; anywhere she has lived she has been great with her neighbors because she doesn't want to listen to someone's dog barking while she is trying to sleep so the applicants show the same consideration to their neighbors. Ms. Withrow stated her current neighbors are great, they come over and see the dogs; people stop and see their dogs when they are outside. There hasn't been a neighborhood issue in the past.

Chairperson Smith asked where the dogs go when they retire.

Ms. Withrow stated they will go to family or friends. Ms. Withrow stated she gets a lot of calls from people that have had one in the past that has passed away and they get on a waiting list for a retired one.

Commissioner Martin asked how many puppies does a litter generally consist of.

Ms. Withrow stated it varies; sometimes one, sometimes five. These breeds are very difficult to raise because they are snub nosed dogs so the survival rate is low. They have a very pushed in face so they don't enjoy being outside. They go out to play and the puppies love to go out but in the extreme temperatures they want to be in because they can't handle the heat.

Chairperson Smith asked the applicants if they knew there was a daycare next to the property they were looking at.

Ms. Withrow stated no. At the time the applicants didn't. Mr. Sullivan went out and talked to everyone and asked them if they had any concerns. At night the doggie doors that are installed are double flap but they also have a door that can be put down. Normally the dogs are not let out before 8:00 a.m. or past 9:00 p.m. That is usually when people want their quiet time. So with these type doors, the applicants can manually close them. As far as kids playing, if the dogs hear a lot of kids playing, until they get used to that noise they are probably going to bark.

Mr. Sullivan asked the Commission if they would say yes if the applicants had a limited number of dogs.

Mr. Mach stated that was one of the suggested conditions if the request is approved. A limit was not specified but there needs to be a limit.

Mr. Sullivan stated the applicants would be happy to agree to that as long as they could come up with a number that will work financially for the applicants. There has to be a certain amount of puppies to pay just for the kennel to work. The applicants would have no problem with a condition limiting the size of the dogs.

Chairperson Smith stated if the Commission were to approve the request there would be conditions placed on it and the conditions would be ones that stay with the land. That is one of the reasons we would have restrictions on the number of dogs and the size of the animals so that if the applicants were to move and someone else moved in and wanted to have a kennel for a large breed of dog they wouldn't be able to.

Mr. Sullivan stated the applicants have no problem with that whatsoever.

Chairperson Smith stated the Commission follows the conditional use permit test pretty closely.

Mr. Sullivan stated he doesn't know what the arguments are going to be. The building will be new and will be close to 180-feet off the road. The building is going to be 2 by 6 inch walls; there will be an insulation, sound board and metal. The interior is going to be an R-19 soundproofed insulation; there will be R-30 to R-38 insulation in the ceiling. The puppy doors that the applicant uses are double flapped so if one is open the other is shut. This is a sound proof building. Every exterior door is an insulated, steel, sound proof door and everything is going to be brand new. All of the windows are double pane insulated glass. Mr. Sullivan stated the only thing he doesn't understand is the waste control. The applicants follow the state guidelines. This is not a new business, the applicants are just moving to a different place. The applicants already follow all of the state guidelines.

Ms. Withrow stated that odor is not an issue. These dogs are the applicant's pets, not many people have that many pets but the applicants love their dogs and they also care about cleanliness. On the applicant's last AKC inspection the applicants were voted in to the top 15% of the United States for cleanliness and exceptional quality. Ms. Withrow stated she probably cleans more often than the Commission cleans after their animals; if the animals go to the bathroom she scoops it up immediately and it is put in a big construction bag so there is nothing that falls out on the ground; there is no odor. It goes in to a dumpster in these big bags. People that come in to the applicant's home to look at a puppy are amazed that their house doesn't smell like dogs. Ms. Withrow stated she has been to some of those places where you walk in and there is feces piled high. The Commission is welcome to come to the applicant's house.

Mr. Sullivan stated the other issue with the smell and odor is that there are cows, horses, and other animals in the neighborhood. The neighbors have dogs and Mr. Sullivan stated he doesn't notice a smell.

Open to public hearing.

Chairperson Smith stated she has been receiving a lot of emails about this request from people in the daycare center.

Chairperson Smith presented copies of the emails to the Commission.

Chairperson Smith stated the main concerns, according to the emails, was basically that 4 acres is too small of a spot and there wasn't going to be enough of a sound barrier. People were worried about the

dogs getting out and harassing the daycare children. They were afraid that people would no longer bring their children to the daycare and the woman would go out of business and that would be an economic hardship. Chairperson Smith stated the Commission will look at it based on whether it is an appropriate use of the land. The emails received state that it is not an appropriate use and it was going to endanger the public health, safety, comfort, or general welfare.

No one spoke in support of the request.

Present, speaking in opposition to the request:

Mark Brockman, 7220 E. Highway AB, Columbia.



Mr. Brockman presented a sketch of his property.

Mr. Brockman stated he has lived at his residence for 9 years. Mr. Brockman stated he is opposed to this dog kennel, some of the things have been addressed the noise, barking, and odor. The Commission has said they would put a limit on the property in case someone else did buy the property. Property value will go down. Mr. Brockman stated he and his wife have a preschool. The safety of the kids and the property is an issue as well as whether their business will survive. Not too many people will want to bring their children to a close proximity of a dog kennel. Mr. Brockman stated he was told by Mr. Sullivan that there would be about 40 dogs; this looks like it is very commercialized; this isn't just for fun, it is to make money. This ground is very flat the noise will travel. The size of the property is small, it is only 4 acres. The sketch is not to scale but the measurements are within 6 to 12 inches. The play area next to the fence is directly on the fence; there is a chain link play area for the children; the game room used for graduation is only 29 feet away. There is a privacy fence but it does not go the entire length of the property from the road to the south. Mr. Brockman stated he is worried about the dogs being close to the daycare. The parents are also concerned. Mr. Brockman asked the Commission to oppose this request for the Brockman's property, for the preschool, and for the neighbors. The property is just too small. The people that lived at the property before had four horses. Everyone out there now has horses or cows and they get out, fences go down but that isn't as big a concern as someone getting hurt by a dog.

Teresa Brockman, 7220 E. Highway AB, Columbia.

Ms. Brockman stated she is the owner of the preschool. The daycares hours of operation is 7:00 a.m. to 5:15 p.m. Ms. Brockman takes care of local children. The play area is directly adjacent to the property where the dogs would be. Ms. Withrow indicated she would let the dogs out from 8:00 a.m. to 9:00 p.m. which would encompass the entire that the preschool is open. A lot of curriculum is done outside as well as inside. It would impede on naptime if the dogs are barking; it would definitely be a distraction when the children are outside. The parents bring the kids to Ms. Brockman because they like the agricultural, outdoor environment she can provide. If this kennel is allowed Ms. Brockman will have to move inside which is unfortunate for the kids and for all the other neighbors. Tracey Fritchey is the owner of the property and he has not lived in that house; for him it is a business deal. For the Brockman's it is her home and her way of life. Ms. Brockman hopes the Commission does not grant this request. There are a lot of parents of the daycare children here and they are here in support of the daycare; they don't want to see this happen. There aren't enough good quality childcare homes in this County and it would be a shame to force the daycare in to a position of feeling like she has to sell her property and move; the parents of the daycare children would be very sad.

Chairperson Smith asked everyone who was here in opposition to raise their hands.

Approximately 5 people raised their hands.

Tara Baro, 502 B. Henry Clay, Ashland.

Ms. Baro stated her daughter attends the daycare and feels blessed that she found this daycare. If Ms. Baro knew when she brought her daughter to the daycare that there was going to be a kennel next door, she would not have brought her daughter there. If you have kids Ms. Baro doesn't believe the Commissioners would put their kids in a school that has a dog kennel next door. The kids won't be able to play outside and Ms. Baro doesn't want to worry every day.

Kristina Stephens, 8053 E. Highway AB, Columbia.

Ms. Stephens stated lives 0.7 miles down the road. The applicants didn't come to Ms. Stephens and ask if they could put the kennel there. Ms. Stephens' son also goes to the daycare and she doesn't want the kennel; it is a safety issue. It is a safety issue for her son at the daycare and a safety issue for Ms. Stephens living down the road. Ms. Stephens is not a dog lover and she is really scared of all dogs. She can live with some but not 35 to 40; this terrifies Ms. Stephens and she opposes it.

Closed to public hearing.

Commissioner Fowler stated she drove out to the property and the applicants proposed kennel is right on top of the Brockman's. If this were a larger parcel and the kennel could be placed further out it may be okay but the applicants are very close to the neighbors and they are speaking strongly in opposition to the request and Commissioner Fowler finds that very persuasive.

Ms. Withrow stated the Brockman's didn't have a problem with it when the applicants first talked to them.

Mr. Sullivan stated he spoke with the neighbors and he was doing that out of courtesy; the applicants didn't have to talk to anyone. Mr. Sullivan stated he is just over 6 foot tall and the fence is taller than him. The puppies are only a foot tall.

Ms. Withrow stated all of the dogs can fit in a little area and they will never get out.

Mr. Sullivan stated when we say the dogs never get out that shouldn't be misinterpreted as they don't go outside and get fresh air and be able to play because they do. But they are never in an unfenced area. One reason is financial; these dogs sell for \$1000 apiece, some sell for more. The applicants don't want these dogs to run free.

Chairperson Smith asked why the applicants are moving.

Mr. Sullivan stated it is a bigger place; it has another barn that can be Mr. Sullivan's workshop and it is bigger than what he has now. Mr. Sullivan stated he builds dog houses and play houses for kids.

Chairperson Smith stated the applicants aren't moving as a business decision.

Mr. Sullivan stated no. It seems like a good deal for the applicants; it is going to be a brand new building. As far as the Brockman's the applicants are pretty close but the Brockman's have bigger dogs than the applicants have. They already have bigger dogs; even their smallest dog is bigger. If it would help the applicants can build another privacy fence. The applicants are already going to put a privacy fence up front only because the applicants don't want a lot of people to stop by and see the dogs because the applicants don't want them stolen. The applicants are not opposed to putting in another privacy fence if the neighbors have a fear of noise or the puppies getting out. The other thing is the dogs just don't get out.

Chairperson Smith stated that there are conditions that have to be met in order to be approved.

Commissioner Freiling stated on conditional use permits we don't have much prerogative that is what made the last request so difficult because it either fits within the required categories. If any one of them doesn't fit the Commission doesn't have the prerogative to decide it doesn't matter. The three things that are issues here are will clearly have an impact. As convincing as the applicants are about the quality of operation if the neighbors sell a house with a kennel next door they will have a problem. The neighbors have an established use that the kennel will interfere with. The Commission doesn't have the prerogative to grant this on the proposed site and it is not because of how the applicants run their business; it is about the nature of the site and the nature of the conditional use permit test.

Mr. Sullivan asked Commissioner Fowler if she walked around the property.

Commissioner Fowler stated no; she didn't enter anyone's land. But she stopped on the road and looked.

Mr. Sullivan asked Commissioner Fowler what she thought of the condition of the property.

Commissioner Fowler stated that is not what the Commission is looking for. The Commission commends the applicants for how they would run this business but that is not the point.

Mr. Sullivan stated he is just trying to get to the property value issue.

Commissioner Fowler stated it is not about the applicants property value; it is about the neighbors property value.

Chairperson Smith stated the Brockman's business is established; if the applicants come in it will alter the Brockman's business and their property value. Given the guidelines the Commission has to follow makes it very difficult for the Commission to approve this request.

Ms. Withrow stated it would have been nice to know the neighbors had a problem with it before the applicants spent \$100. It is not commercialized; the applicants do not sell to pet stores and some of the dogs are spayed and neutered. Everyone is entitled to their opinions; if you have seen one kennel you think you have seen them all and that is not the case. Ms. Withrow stated she can see where this is headed with the daycare.

Commissioner Freiling stated even if there wasn't a daycare next door this is still a difficult proposal on a 4 acre tract. The applicants clearly manage their business well because they are currently on a small tract. From the Commission's standpoint; dogs bark. To start down the track of approving dog kennels on small acreage doesn't fit within the guidelines for a conditional use permit.

Ms. Withrow asked the Commission if there is anywhere in Boone County that the applicants would be allowed to live if there is no where in Boone County where a dog kennel is acceptable.

Commissioner Freiling stated there have been kennels allowed by this Commission in recent times; they were on bigger tracts where the neighbors weren't sitting right next the kennel. This permit doesn't expire if the applicants move, it stays with the land. Even if the dog size is limited to 15 pound dogs and the applicants move to California where the buyers are the next person who comes in can have Beagles. The size of the tract is a real issue. It is a commercial use that is not a traditional agricultural use; that is why it

is required to have a conditional use permit. It really does matter how it is going to impact what is around it. That is one of the things the Commission is required to consider.

Mr. Sullivan stated he is a little surprised that it would have that much of an impact as far as the safety issues and property values.

Commissioner Morgan stated on the last conditional use permit requirement it says the County Commission shall find that there is a public necessity. Commissioner Morgan does not see this as a public necessity whereas a daycare center is. We need a lot more daycare centers in Boone County. The Commission is following the law.



Mr. Sullivan stated he understands that; there are probably some people out there that have pets that are closer to them than some family members that will argue that point.

Commissioner Martin stated he owns a five acre tract in the county. Commissioner Martin stated he would be hard pressed to approve this if it were on the 20 acres next door to him just because being adjacent to it. A larger tract doesn't necessarily mean that you need 20 or 100 acres; there shouldn't be anyone within close proximity. Being next door if it is 100 or 200 feet away Commissioner Martin would be opposed to that as a homeowner simply because of the noise not how the applicants run their business. When Commissioner Martin's dogs bark he shuts them up; you can't do that with that many dogs, you can't keep those dogs in the kennel 6 or 7 hours because that is not fair to the dogs and it is not fair to the neighbors to have them outside that long.

Commissioner Martin made and Commissioner Morgan seconded a motion to **deny** the request by Tracey Fritchey on behalf of David Sullivan and Deborah Withrow for a permit for a dog kennel on 4.05 acres, located at 7350 E. Highway AB, Columbia

Pat Smith - Yes	Carl Freiling – Yes
Larry Oetting – Abstain	Mike Morgan – Yes
Gregory Martin – Yes	Patricia Fowler – Yes
John Schloot – Yes	

Motion to deny the request carries.      6 YES      0 NO      1 ABSTAIN

Chairperson Smith informed the applicants if they wished to appeal to the County Commission they would need to file an appeal form with the Planning Department within three business days.

## VI. Rezoning Requests

**Request by George E. James to rezone from A-2 (Agriculture) to A-RP (Planned Agriculture-Residential) and approve a review plan for Shady Brook Estates Planned Development on 75.57 acres, more or less, located at 5601 E. Mt. Zion Church Rd., Hallsville.**

Planner Bill Florea gave the following staff report:

The property is located on the north side of Mt. Zion Church Road at the intersection with Route B. The Colt Railroad separates a small portion of the property from the rest. Shady Brook Estates Plat 1 was approved in June 2007, which created three 3.0-acre lots. Shady Brook Estates Plat 2 was approved in

November 2007, which created two 2.5-acre lots. There are three homes under construction on lots created by Plat 1.

The current proposal is to rezone 75.57 acres from A-2 to AR-P. The accompanying review plan proposes 39 lots including one lot for a wastewater treatment plan and one common area. As currently zoned the maximum density for the tract is 24 dwelling units under the A-2 zoning which is a density of one dwelling unit per 3.1 gross acres, 30 dwelling units could be allowed under an A-2P, which is a density of one dwelling unit per 2.5 gross acres. The Review Plan proposes 37 lots which would result in a density of one dwelling unit per 2 gross acres.

DRAFT

Density Table

Zoning District	Acres	Dwelling Units	Dwelling Units/ Gross Acre
A-2	75.57	24*	3.1
A2-P	75.57	30	2.5
AR-P	75.57	37	2.0

\*Based on 20% loss of developable property due to infrastructure requirements.

The Master Plan designates this property as suitable for agriculture 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 test serves a gate keeping function: if it is determined that there are insufficient resources then the request should be denied, if there are adequate resources then further analysis should be conducted.

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

*Utilities*

The property is in the service area of Water District Number 4. Fire hydrants were installed along Mt. Zion Church Road as required for approval of Shady Brook Estates Plat 2. The Boone County Fire Protection District has stated that the needed fire flow for the development will be 500-gallons per minute; hydrant spacing cannot exceed 500-feet and there must be hydrants located at the neck or bulb of all cul-de-sacs. Water District Number 4 reports that the new fire hydrants have been flow tested by their staff. The results indicate available flow of 1,000 gallons per minute.

The developer has proposed to build a wastewater treatment plant to provide sewage disposal. County regulations require the developer to transfer ownership of the completed plant to Boone County Regional Sewer District. Only minimal details regarding the proposed plant have been disclosed; there is no agreement with the Sewer District.

*Transportation*

Two new public roads, Antrim Drive and Wicklow Drive, will provide connections to Mt. Zion Church Road. There is a new public road stubbed to property to the west, three short cul-de-sacs provide internal circulation. Sixty six-foot wide rights of way are proposed for the Antrim Drive and Wicklow Drive; both roads stub to adjacent property owned by the developer to the north. A request was submitted to waive the traffic analysis for this request. Staff supports the waiver request however; development of property to the north may trigger the need for an engineered traffic study in the future.

Traffic from this development is not expected to create a significant impact to the transportation network. However, it should be noted that this is a keystone property for development of several large tracts to the north and lying east of the Colt Railroad totaling approximately 200-acres. Traffic from those tracts will be restricted from direct access to Route B by the Railroad and will therefore use Antrim and Wicklow Drive to access Mt. Zion Church Road. This will likely result in significant impacts to Mt. Zion Church Road and its intersection with Route B especially during morning peak hours.

New home sites on ditched roads create the need for driveway access usually requiring the installation of a culvert by permit from Boone County Public Works. Conditions of the driveway permit require grading and installation in conformance with Boone County Road Regulations. Correct installation requires 3:1 slopes from the edge of the pavement. This is difficult to achieve on a lot by lot basis. Subdivision density can result in close spacing of driveway access points compounding the difficulty of achieving proper drainage. Plat development shall include properly constructed roadside drainage features as an offsite improvement leaving only pipe installation for the home builder.

#### *Public Safety Services*

Physical infrastructure is in place or would be provided by the developer to provide fire protection for residents of the subdivision. However, it should be noted that increased density in a location that is distant from existing urbanized areas will result in increased calls for public safety services and will create impacts to the soft infrastructure necessary to provide those services. Again, the position of this property as a “keystone” property must be taken into consideration when evaluating this request regarding its impact to public safety services.

#### *Zoning Analysis*

Zoning of all properties within a one-mile radius of the property is A-2. With the exception of one or two non-conformities, all lots within that radius meet the minimum lots size of 2.5 acres. But, since there has been very little development pressure in this vicinity the development pattern is residential and agricultural uses on large to very large tracts. This proposal is a significant change from the existing development pattern but the restriction on density based on the Review Plan creates only a minimal change in the potential density.

Creation of infrastructure in this area will increase development pressure and will likely lead to additional rezoning request for properties to the north. Approval of this request will have an impact larger than the request itself. It must be evaluated based on its nature as a “keystone” to development of an additional 200-acres. Considering the “keystone” nature of this proposal with its distance of three miles from either Columbia or Hallsville this proposal is premature. It would be more appropriate if it was in closer proximity to an established urban area. For these reasons staff recommends denial of the rezoning, review plan and preliminary plat.

The property scored 51 points on the rating system.

Staff notified 14 property owners of this request.

Staff recommends denial of this request.

If the Commission should choose to approve the request, the following condition is recommended:

1. Prior to final plat approval the developer shall provide plans to re-grade the ditch along the north side of Mt. Zion Church Road in accordance with Boone County Road Regulations and approved by the Public Works Director to correct drainage problems that will result from the platting of lots that

directly access Mt. Zion Church Road. Re-grading and construction of shoulders along the north side of Mt. Zion Church road shall be completed prior to recording the first final plat

Present: Jim Patchett, 1206 Business Loop 70 W., Columbia  
George James, 720 N. Grace Ln., Columbia.

Mr. Patchett stated he has been working on this for quite some time. It is at the intersection of Route B and Mt. Zion Church Road. Over at Richardson Acres there are 30 or so lots and gravel roads. Unfortunately for the applicants the ordinance has changed since that development so now paved roads are required which is a very major expense in a subdivision. To help defray those costs the only way to do that is to make more lots; the way you make more lots is to get different zoning. The plan is also a review plan to show that there are 37 lots if you count the one for the treatment plant and park area, that makes 39 lots. The applicants used less than 25% of the allowed density under this zoning. The zoning that the applicants are asking for allows 151 lots in there but the review plan limits the number of lots. The extra lots would help pay for the amenities that the applicants want to put in.

Mr. Patchett stated the development will have a central treatment facility that is just for this subdivision; it can be expanded but there are no plans to increase the size of it. There will be a neighborhood park, covenants and restrictions, and paved streets. It will have everything that a subdivision in Hallsville or Columbia would have. The applicants are just trying to create a neighborhood. It looks like the staff report pretty well addresses things such as transportation; it doesn't seem to be a problem. There is fire protection and new water lines have been put in. That also gives people on the south side of Mt. Zion Church Road some fire protection. Mr. Patchett stated he checked with the Fire Department and it is almost exactly 3 miles from the fire station in Hallsville. Mr. Blomenkamp doesn't believe it will have much of an impact on their services in that area.

Mr. Patchett stated as far as it being keystone property; that might be so. But who knows what is going to happen with the tracts to the north. Mr. James owns the immediate 65 acres to the north and he has expressed that he has no immediate plans for that property at all. Mr. Patchett stated he spoke with Mr. Darby who owns the land to the north of that and he just sold his house and 10 acres so that limits the area and there is also a large pond. If he did ever develop it would be the area to the south of that 10 acre pond. So he realizes that not all of his property is developable.

Mr. Patchett stated this is a tract of ground and there aren't many out in that direction that have good access to a major road like Route B and a half a mile of frontage on Mt. Zion Church Road which is a very good road. No matter what happens to those other tracts they have to come before this board to get approval. It would seem that this proposal should stand on its own because they have got to do the same thing. This tract should stand on its own just as it is submitted. Who knows what will happen with the other property; at this point no one has any plans.

Mr. Patchett stated as far as improvements on Mt. Zion Church Road some emails were brought up and it looks like Public Works has some internal problems if they can't enforce their driveway construction. Now they want Mr. James to build the whole thing for a half a mile. It seems like that is quite a burden. Mr. Patchett stated in his experience in dealing with the Public Works department, grading that ditch and building a shoulder, submitting the plans and getting it approved will probably take most of the summer. Mr. Patchett stated he has turned in plans that have sat down there for a month before anyone even looks at them. It is a long delay and a pretty big expense.

Mr. Patchett stated he contacted most of the people on the list but was not able to get a hold of everyone. The most adverse comment was from a gentleman that lived on the west side of Route B and his comment

was how fast the traffic was in the morning. Issues ranged from people being concerned about lagoons and trailers, but most of the people didn't care.

Mr. Patchett stated the applicants would like the Commission to approve the rezoning, review plan, and plat excluding the requirement that the applicants rebuild the north side of Mt. Zion Church Road. Those other tracts will probably take a traffic study. The traffic study was waived on this tract which usually determines off site improvements. The county already has right of way on both sides of the road.

Commissioner Schloot asked how the applicants proposed getting the sewer from lot 37 all the way to the treatment plant area.



Mr. Patchett stated the applicants would bore underneath the railroad. The applicants were informed that for \$300 they could do it.

Commissioner Schloot stated the applicant is talking about financial responsibility and how much more expensive it is. This lot was bought within the last year or so. Did the applicants not know the zoning at that time?

Mr. James stated he knew the zoning.

Commissioner Schloot asked why he didn't buy in on contingency; why buy it then try to rezone.

Mr. Patchett stated he probably didn't realize the expense of the paved road. They are the most expensive thing in a subdivision.

Commissioner Freiling asked the present density with A-2 zoning.

Mr. Florea stated about 24 lots; that is taking about 80% of the gross acreage and 20% accounting for infrastructure.

Commissioner Freiling stated this request is for 37 residential lots. So this is roughly a 40% increase in density. Commissioner Freiling asked staff what the issue is with the road ditch.

Mr. Florea stated public works asked for that and they wrote that section of the staff report. Mr. Florea stated his understanding is it boils down to when you are grading a ditch and doing 150 or 200 feet at a time makes it difficult to get positive drainage. You have low spots and high spots and things don't match up because you have different property owners doing it at different points in time. It is more efficient and easier to get positive drainage on the ditch if you do the entire frontage of the subdivision at one time.

Commissioner Freiling stated this work, because it is being done on county right of way, has to have a plan submitted and have inspections. Do we know if there is an unusual requirement such as rip-rap?

Mr. Florea stated he didn't know.

Commissioner Freiling asked if there was a present problem. Is it holding water now? Is that part of the issue?

Mr. Florea stated he believes that is how the issue came up was that they are having some trouble with some of the drainage out there.

Commissioner Schloot stated the applicants are building five houses now and they all have lagoons. Will those be tied in to the waste water treatment?

Mr. James stated probably not.

Open to public hearing.

No one spoke in support of the request.

Present, speaking in opposition:

DRAFT

Mary Sloan, 10851 N. Hecht Rd., Hallsville.

Ms. Sloan stated that she lives at the very end of Hecht Road which meets with Mt. Zion Church Road. Route B was a gravel road until about 10 years ago when it was chipped and sealed and then it was blacktopped. Ms. Sloan doesn't know if the County got the right of way on this road. There are many places along Mt. Zion Church Road where the property owners would not give the right of way so they still own to the middle of the road. It may be cut and dry along here but it isn't that way all along Mt. Zion Church Road. When it was blacktopped there were very deep ditches along both sides of the road and the County had to come back and put massive amounts of rock in the ditches. That is why it's the way it is now. Since this road has been blacktopped and improved there weren't drainage problems along this particular section of the road; there are some places where it is not very good. But along this particular section of the road there haven't been any major problems until the applicants started this subdivision. There is a lot of mud and gravel and not because of the rain in the last few days but it has been a constant thing since this subdivision was started.

Ms. Sloan stated her concern is the density of the subdivision which is going to go directly on to Mt. Zion Church Road. Ms. Sloan stated she doesn't believe the COLT Railroad is going to let the applicants go across the tracks to the west so everything is going to have to come on to Mt. Zion Church Road. Right now they are saying there are 24 maybe 37 lots. Once this is started to be developed the applicants are going to ask to have the property to the north of that to be added in and then there will be other property. There is potential for a lot more development and if all of that traffic is going on to Mt. Zion Church Road it will be an enormous headache. Ms. Sloan stated she lives out there and drives that road. Right now on Mt. Zion Church Road between 7:15 and 8:00 there can be as many as 6 cars waiting to get on to Route B. If anyone has lived along Highway HH or in that area before they put the light at the corner of Broad Building it was almost impossible to get on to Route B from Highway HH because of the amount of traffic that was backed up. There were numerous accidents and there will be numerous accidents with this; not only from people trying to get on to Route B but also when they come off of Route B if there is a line of cars at a particular time of day. You will be sitting at a railroad track which has the crossing signs but the trains are there and they do come early in the morning about 7:30 or 8:00. Ms. Sloan has had to sit and wait for them. There is a safety concern from that standpoint. Mt. Zion Church Road, since it has been blacktopped, is a very nice road but it has also turned in to a speedway. The speed limit on Mt. Zion is 35 mph, people say that is too slow but that is the speed limit and right now most people drive 45 or 50 mph or faster. Coming from the east to the west if you have a lot of traffic trying to get out of that subdivision on to Mt. Zion Church Road and you have traffic coming down that road it could be very dangerous. There are several driveways along Mt. Zion where people pull in and out; there is a daycare there at the top of a hill where there have been numerous accidents.

Ms. Sloan stated the applicants don't live there. Mr. James bought this property and now he wants to develop it. Ms. Sloan has lived out there since 1975 and she is not against development but we don't need

to put 37 houses with probably 2 cars per household then another whole group to the north probably within the next two or three years.

John Sloan, 11195 Varnon School Rd., Hallsville.

Mr. Sloan stated he has property that he has lived on for 25 years that adjoins the Shady Brook property; the only thing separates the properties is a fence row. Mr. Sloan stated he never paid too much attention to the property that they were developing it has been farmed for a long time. The applicants are building houses and they look like they are too close together. Mr. Sloan's property is surveyed for 10 acre tracts, not two or half or three acres. Now the applicants want to put in more houses. Mr. Sloan stated he is opposed to the request and doesn't think the water supply will be adequate. This is out in the country. The water pressure is already not very good. The sewers can spit anywhere on that property and eventually it is going to run on to his property; everything drains on to his property off of that land. Mr. Sloan stated he had a 16 foot deep pond built for his cattle and there is nothing to stop the dirt coming through. Seven or eight more houses in there doesn't make any sense. Traffic is heavy on Mt. Zion Church Road; there are trains that stop traffic. Mr. Sloan stated he is opposed to this request for the reason of more houses in that tract of land. Mr. Sloan's land is surveyed for 10 acre tracts; it is far too dense the way it is let alone adding seven more houses.

Helen Pelousky, 6220 Mt. Zion Church Road, Hallsville.

Ms. Pelousky stated she agrees with the other speakers and she is concerned about the value of her home. There are about 4 homes across the road worth \$500,000 or more.

Chairperson Smith read a letter from Michelle Militzer-Redding in opposition to this request.

The letter read as follows:

I apologize for my inability to attend tonight's Planning and Zoning Commission meeting and hope you will accept my letter of opinion on the following matter.

I am in receipt of a notice from you of a rezoning request, made by Mr. George James, requesting a change from the current A-2 zoning to A-RP and for approval of a plat located at 5601 E. Mt. Zion Church Road. This land is adjacent to my family property of 124 acres, of which I am the trustee and upon which I maintain residence.

For many years my family has enjoyed this area and this rezoning request now confronts us with a major change in the landscape to which I am in opposition. This land being proposed for rezoning can, in my understanding, currently be used for home sites which measure as small as 2 ½ acres. This size lot is quite small in wide open areas such as this and I do not feel making them even smaller would be a very good idea. In fact, it's just poor planning. Granting this request would greatly increase population, noise, traffic, and problems in general and this area is simply not prepared to handle those types of problems.

This property is located halfway between Columbia city limits and Hallsville city limits and has no chance of ever becoming a part of either city in the foreseeable future. I see this request as damaging to the value of my land. This plan simply makes no sense (except for the developer) and I hope and ask that this request be denied.

John Kabrick, 3351 E. Doe Brook Ln., Columbia.

Mr. Kabrick stated he lives in the Hallsville school district and is concerned about these kinds of high density developments that occur in rural areas of Boone County. As the survey mentioned, this is a nice plan and it a nice kind of development you might find in a residential area in Columbia or Hallsville. That is the problem; it is not in Hallsville or Columbia. If it was in Hallsville it could have a real benefit to the

community; they would be paying city taxes instead of county rural taxes. They would be providing infrastructure for not only the roads but fire and police protection. It would be very attractive to commercial businesses that would locate in Hallsville. As mentioned it is a keystone property so it really sets a precedent in this rural part of the county. Mr. James owns the property to the north and the roads in this plan stub to the north. This is just the beginning of a number of properties that will quickly be rezoned because of the attractiveness of money they will bring the developers. The developer knew about the zoning of the property when he purchased it. This is not something that was imposed on him. Mr. James is familiar with planning and zoning and is familiar with the regulations of the county. It is not something imposed on the applicant that has made a hardship for the development. Mr. Kabrick asked the Commission to deny the request and let the developer work with the planning staff to find the best situation.

Linda Sloan, 11195 Varnon School Road, Hallsville.

Ms. Sloan stated her property backs up to the applicants. Ms. Sloan stated her concern is she has 50 acres and when she wanted to move equipment on to the property to maintain the fields she had to put in a culvert. All of a sudden Mr. James came along and started putting in houses and there are no culverts. Ms. Sloan stated she doesn't understand why she had to put in a culvert and Mr. James did not. Ms. Sloan is concerned about traffic on Mt. Zion Church; she leaves at 6:50 in order to get out on Route B. It is treacherous to get out and adding more houses is going to be a detriment for that intersection, it will be very dangerous. Another concern is the applicants plan for the sewer, the applicants have put up five houses and there are two houses right together and it looks like they are using the same driveway. How can two houses in a rural setting use the same driveway? With the applicant knowing what he got in to when he purchased the property and the way it was zoned that is fine. Now down the road the applicant has decided he wants to do something different and he may come back later and do something in addition.

Closed to public hearing.

Chairperson Smith asked staff if they were able to answer the question about the culverts.

Mr. Florea stated he believed culverts are required for the driveways. Mr. Florea can't answer why they aren't there now.

Mr. Patchett stated there are two houses that are close together and that is because of trying to double up driveways to cut down on the number of driveways coming out of Mt. Zion Church Road. When you double up on driveways the houses get built a little closer together so you don't have to build big long driveways to get back to the house. The two lots on the end have a similar situation. As far as coming back and doing something different; this is a review plan, if the applicants want to change it they will have to go through this whole process again. Mr. James has no control over how fast people drive up and down Mt. Zion Church Road. Mr. Sloan has a survey off of a 10 acre tract; he doesn't have to have paved streets but there will probably be a lagoon off of every one of those. Here, the applicants are proposing a treatment plant that will also meet the new requirements that are going to go in to effect in August or September because it requires ultraviolet to kill bacteria. Ms. Sloan stated she doesn't like 2 ½ acre tracts but her land is zoned for 2 ½ acre tracts also. It looks like the neighbors are just against this proposal; they don't want anything different in their neighborhood. If someone comes in to do something with the tract to the north the Commission can turn it down.

Chairperson Smith stated it is much harder to turn them down if this proposed tract is done. Once a precedent is established it is much harder to say no the next time.

Commissioner Fowler stated she is concerned about the capability of Mt. Zion Church road to handle the traffic even if the applicants go with what they currently are zoned for which is 24 dwelling units. Staff indicated that the next parcel would cause problems on Mt. Zion Church road but this parcel will cause problems as well. Not only along the road itself but also when you try to exit on to Route B because a lot of that traffic will probably exit south to Columbia.

Commissioner Oetting stated with A-2 zoning the applicants can build up to 24 lots. Commissioner Oetting likes the plan because if the applicants put in 24 lots you will have 24 lagoons out there that will go down to the creek. The project should stand on its own; it may be a little harder to turn down after precedent is set but the Commission still has the ability to turn it down. There isn't anything that makes it mandatory to approve the project. Yes, there is a little more density than what is legally available now but you get rid of a lot of problems you would have if it remained A-2.

Commissioner Freiling stated the current regulations would still require the applicant to have a treatment facility with 24 lots.

Mr. Florea stated he didn't know if that is the case. Staff would require a cost benefit analysis; it would depend on the outcome of the analysis.

Commissioner Freiling stated this takes us back to the issue that we face which is to encourage dense development by approving planned zoning; but do we approve dense developments outside of the urban service zones of the city and Boone County? Commissioner Freiling stated he likes planned developments and the fact that it gives more control to staff in terms of decision making. Commissioner Freiling doesn't want to go back to creating large residential developments in the county outside of a city governmental structure. 37 lots is big but it is not colossal but then again what do you do when the next 70 acres wants to rezone. The Commission has gotten out of the process of these kinds of requests because we haven't been very kind to them. Do we make a property developable by granting a rezoning when public structures aren't adequate?

Commissioner Schloot stated he has to listen to the people who testified that it is too dense and it is going to affect land values in the area. 2 ½ acres is the rule; it is what is there and it is what these people were expecting it to be.

Commissioner Schloot made and Commissioner Fowler seconded a motion to **deny** the request by George E. James to rezone from A-2 (Agriculture) to A-RP (Planned Agriculture-Residential) for Shady Brook Estates Planned Development on 75.57 acres, more or less, located at 5601 E. Mt. Zion Church Rd., Hallsville

Pat Smith - Yes	Carl Freiling – Yes
Larry Oetting – NO	Mike Morgan – Yes
Gregory Martin – Yes	Patricia Fowler – Yes
John Schloot – Yes	

Motion to deny the request carries.      6 YES      1 NO

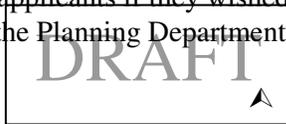
Commissioner Martin made and Commissioner Morgan seconded a motion to **deny** the request by George E. James to approve a review plan for Shady Brook Estates Planned Development on 75.57 acres, more or less, located at 5601 E. Mt. Zion Church Rd., Hallsville

Pat Smith - Yes  
Larry Oetting – Yes  
Gregory Martin – Yes  
John Schloot – Yes

Carl Freiling – Yes  
Mike Morgan – Yes  
Patricia Fowler – Yes

Motion to deny the request carries.      7 YES      0 NO

Chairperson Smith informed the applicants if they wished to appeal to the County Commission they would need to file an appeal form with the Planning Department within three business days.



**Request by Leonard E, McDonald Estate, Linda Sutter Personal Representative, to rezone from R-S (Single Family Residential) to C-G (General Commercial) of 1.07 acres, more or less, located at 5103 N. Highway 763, Columbia.**

Planner, Thad Yonke gave the following staff report:

This property is located on the west side of Highway 763 approximately 1000 ft north of the intersection of Brown School Road and Highway 763. The site is immediately across from the municipal limits of the City of Columbia. The subject property is approximately 1.07 acres. The current zoning of this property is R-S (single family residential) as is the adjoining property to the south and west. Adjoining property to the north is zoned C-G (general commercial). Property across 763 to the east is inside the City Limits of Columbia and is zoned C-P (planned business district). The residential zonings are original 1973 zonings and the C-G to the north was rezoned in 1975. The subject property has a residential structure and outbuilding on it currently. For this property to be developed commercially a connection to a public sewer system would likely be required. Historically the planning department has had zoning violation problems with some of the residential properties along 763 that have been rezoned to C-G in the past. These problems have occurred when there was an existing residential structure on the rezoned property and the property adjoined other existing residential properties. Additionally, the master plan indicates that planned commercial type requests would be the appropriate commercial zoning category to seek if one wanted to change the zoning from the current R-S. It can be argued that there are significant changes happening in the area since the original zoning was set in 1973 and such changes can be one of the factors that justify rezonings. Highway 763 is in the process of being expanded into a 4 to 5 lane facility through this area. The previously residentially zoned property across 763 has been annexed into the city and given a C-P planned business zoning. Highway 763 is developing into a continuous commercial corridor. However, under a C-G zoning it is difficult to mitigate impacts from the commercial development to existing residential areas and for these reasons it would seem that if a commercial zoning is deemed appropriate for this site the C-GP (planned commercial) would seem more appropriate. While staff does recognize the significant changes to the area and feels some form of a rezoning may be appropriate we can not support a rezoning to C-G for the previously stated reasons. Staff recommends denial of the request.

Present: Rod Stevens, Attorney for applicant, 11 N. 7<sup>th</sup> Street, Columbia.  
Linda Sutter, daughter of Mr. McDonald, 2801 W. Broadway, Condo T-4, Columbia.

Mr. Stevens stated that Mr. McDonald bought the property in 1986 and lived on the property until he died in November 2007. After he died a probate estate was opened and the court appointed Ms. Sutter as the personal representative. The applicants are in the process of liquidating the assets of the estate which

includes the subject property. The applicants have spoken to several real estate agents and they have advised Ms. Sutter that it would be most beneficial if she could rezone the property first to C-G and then put the property on the market for sale. The applicants believe that the rezoning request is reasonable for several reasons. This property is adjacent to Highway 763 and the zoning for the six properties that are north of this property which are also adjacent to 763 is also C-G. The applicants are asking for what many of the neighbors to the north already have. The property that is to the other side of 763 is located in the City of Columbia and it is a 50 acre commercial development; there is going to be a Moser's grocery store on this tract which is supposed to be open in the spring of 2009. The property to the immediate south is owned by Stan Sadich. Mr. Stevens stated he spoke with Mr. Sadich earlier this week and he said he supported this request and he would like to have his own property rezoned as commercial. The property that is immediately west of this property is owned by Mr. and Mrs. Kaseel; Ms. Sutter spoke with them earlier this week and they said they had no opposition to this request.

Mr. Stevens stated there is a large tract that is currently zoned R-S that is a little further to the south than the Sadich property but there are for sale signs up noting the Plaza Real Estate Commercial Division. Mr. Stevens guesses that eventually this land will be commercial property. This is a commercial area and the applicants would like to sell the property and it would be most advantageous if were to be rezoned as C-G.

Chairperson Smith asked the applicants if they had thought about planned commercial.

Mr. Stevens stated that was discussed with the real estate agent and the agent thinks the applicants would get a better price if it is zoned C-G in advance. If the applicants are unsuccessful here then they would put the property on the market and it would probably be sold contingent on the plan being approved. The real estate agent said it would be financially beneficial to have the zoning in place before the property was put on the market.

Commissioner Freiling stated the Commission very consistently, for a long time now, has shied away from blanket open rezonings. A request for planned zoning requires a plan and the Commission can judge its impact and its appropriateness. With open zoning there is a list of things you can do and the Commission doesn't have much control over a variety of issues that have an impact on the area even though the area is currently commercial.

Commissioner Fowler stated she lives in this neighborhood and has watched what has happened in the last 6 years and this is clearly a commercial corridor now. Every property owner that can put their property on the market has done so in the hopes of turning it in to a commercial property. Commissioner Fowler stated she is persuaded by the fact that it has open commercial zoning right down the line. Commissioner Fowler stated she is concerned about such a small parcel being planned commercial in the midst of open commercial zoning. The city has already taken over one of the parcels; they are moving their way above Brown School Road now.

Commissioner Oetting stated about a year and a half ago there was a request on I-70 and Rangeline on the other side of Trade Winds commercial development. That was zoned C-G without a plan.

Mr. Shawver explained that the property Mr. Oetting mentioned was zoned A-2. These applicants asked for light industrial, which the Planning and Zoning Commission denied. However, the County Commission approved it.

Commissioner Schloot stated he agrees with Commissioner Fowler; this is a small piece of land, it will be more tedious and time consuming for whoever wants to purchase the property.

Open to public hearing.

No one spoke in favor or opposition.

Closed to public hearing.

Mr. Yonke stated staff took two phone calls in opposition.

Commissioner Freiling stated that this is open zoning and the house can become the commercial structure.

Mr. Yonke stated a permit would be required to remodel the home to commercial code.

Commissioner Schloot made and Commissioner Oetting seconded a motion to **approve** the request by Payne Enterprises, Inc. on behalf of United Community Cathedral for a child development center on 22 acres located at 5210 S Cowan Rd., Columbia

Pat Smith - Yes  
Larry Oetting – Yes  
Gregory Martin – Yes  
John Schloot – Yes

Carl Freiling – Yes  
Mike Morgan – Yes  
Patricia Fowler – Yes

Motion to approve the request carries unanimously.

Chairperson Smith informed the applicants that this request would go before the County Commission on April 1, 2008 and the applicants need to be present for the hearing.

## VII. Planned Developments

None.

## VIII. Plats

**Shady Brook Estates (Preliminary Plat). S34-T50N-R12W. George E. James, owner. James V. Patchett, surveyor.**

See staff report under rezoning requests.

Commissioner Schloot made and Commissioner Martin seconded a motion to **deny** Shady Brook Estates:

Pat Smith - Yes  
Larry Oetting – Yes  
Gregory Martin – Yes  
John Schloot – Yes

Carl Freiling – Yes  
Mike Morgan – Yes  
Patricia Fowler – Yes

Motion to deny the plat carries unanimously.



**Martha's Grove Plat 2. S3-T47N-R12W. R-SP. Martha L. Straub Trust, owner. Mathew P. Thomas, surveyor.**



The following staff report was entered in to the record:

This property is located one mile south of the general Columbia municipal limits to the north. The site is situated on the north side of Bonne Femme Church Road approximately 3000 feet southwest of the intersection of Highway 63 South and Bonne Femme Church Road. The site is immediately west of Bonne Femme Mobile Home Park. The site of the proposal comprises 20-acres. The current zoning of this plat is R-SP (planned residential) which was rezoned from A-1 in 2003. However, the density set under the approved plan is equivalent to an A-R zoning with ½ acre per unit density. Property to the south, west, and north of the requested site is zoned A-1. Property to the east is zoned A-1 with a small pocket of R-M (moderate density residential) upon which the existing MHP is located and which was rezoned from A-1 in 1983. The other zonings are all the original 1973 zonings. The proposed plat creates 22 lots; 20 lots for the residential single family attached units and 1 lot of common ground, and 1 large lot for future development of the second phase of the plan. This plat is a re-plat of Plat 1 and is being conducted to match the approved revised plan for the development. The revised plan was undertaken to correct an error on the first plan. Hummingbird Lane is a private drive located on the common lot and would be treated similarly to an apartment complex parking lot. The vehicular circulation as proposed can not be made into public roads. There is some 100-year Floodplain on the property near the proposed entry drive and the property is in the watershed of environmentally sensitive streams. The design for the development is proposing storm water detention and several best management practices for stormwater and erosion control. Two emergency-only improved grass lanes are required for emergency vehicle access. A centralized sewer collector system serving the plat is operated by the BCRSD. Water service and fire hydrants are required for this development. Consolidated Water District #1 provides water to the site and the site is in the Boone County Fire Protection District. The development will be within the Columbia Public School District. The *master plan* designates this area as being suitable for residential land uses. This site has **56** points on the point rating system.

1. Staff recommends approval of the plat subject to the recognition that the conditions of the revised review and revised final plans are still in effect for the development.

No one present to represent the plat.

Commissioner Morgan made and Commissioner Freiling seconded a motion to **approve Martha's Grove Plat 2 with the following condition:**

1. Staff recommends approval of the plat subject to the recognition that the conditions of the revised review and revised final plans are still in effect for the development.

Pat Smith - Yes  
Larry Oetting – Yes

Carl Freiling – Yes  
Mike Morgan – Yes

Gregory Martin – Yes  
John Schloot – Yes

Patricia Fowler – Yes

Motion to approve the plat carries unanimously.



**Windy Knob Estates Plat 2. S14-T45N-R12W. Thomas R. Walsh, owner. Curtis E. Basinger, surveyor.**



The following staff report was entered in to the record.

The property is located on Westbrook Drive, approximately 2 miles west of the county line. This plat creates one 5.67 acre lot. The property is zoned A-2 (Agriculture) and has A-2 zoning surrounding it. This is original 1973 zoning.

This lot has direct access on to Westbrook Drive to the south. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

Water service to this lot will be provided by Consolidated Public Water Supply District #1. Fire protection will be provided by the Southern Boone County Fire Protection District. Electrical service is provided to the existing house by Boone Electric.

On-site systems will be providing wastewater disposal. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis. A wastewater plan was submitted with the plat, but was commented upon by the Health Department. They commented that the proposed wastewater plan was insufficient for the property, given the topography of the site and they had questions about the soil morphology of the site for its viability with a septic system.

The property scored 45 points on the rating system.

Given that the plat has been submitted to allow for the construction of an accessory structure, staff recommends approval of this plat.

No one present to represent the plat.

Commissioner Morgan made and Commissioner Freiling seconded a motion to **approve** Windy Knob Estates Plat 2:

Pat Smith - Yes  
Larry Oetting – Yes  
Gregory Martin – Yes  
John Schloot – Yes

Carl Freiling – Yes  
Mike Morgan – Yes  
Patricia Fowler – Yes

Motion to approve the plat carries unanimously.



**Smithview Hills Plat 1. S-24-T49N-R13W. R-M. Smithview Development LLC, owner. Ronald G. Lueck, surveyor.**

The following staff report was entered in to the record.

The property is located on the west side of Clearview Drive approximately 130 feet north of Hackberry Boulevard. The 5.21 acre parcel is currently unplatted and is zoned Moderate Density Residential, R-M. Single family dwellings are proposed to be built on the lots.

As proposed, Lots 1-6 will frontage on and direct access to Clearview Drive. Lot 7 will have frontage on and direct access to Harold Court. A portion of the property, identified as Tract 2, was deeded to the County as right of way in 2005. Tract 2 prevents proposed Lots 5 and 6 from having frontage on Clearview Drive. The developer has submitted a petition to the County Commission for vacation of Tract 2. If the vacation is granted then the developer will re-dedicate a portion of Tract 2 as shown on the plat. Following the vacation and re-dedication Lots 5 and 6 will both have the required frontage and there will be adequate right of way for Clearview Drive. If the vacation is not granted the plat cannot be approved as submitted.

Water service is provided by Columbia Water and Light.

Sewer will be provided by Boone County Regional Sewer District subject to a pending agreement with the district. The developer will be required to install a main connecting to the existing BCRSD facility. Engineered plans for the new main have been submitted to the Sewer District for review

The property scored 83 points on the rating system.

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

1. The developer must obtain title to the portion of Tract 2, as shown on the proposed plat, in order to provide frontage on Clearview Road for Lots 5 and 6. And, the developer must provide right of way, as shown on the proposed plat, for Clearview Drive.
2. The provide documentation to Boone County Planning and Building Inspection that the required sewer facilities are installed and have been accepted by Boone County Regional Sewer District.

No one present to represent the plat.

Commissioner Morgan made and Commissioner Freiling seconded a motion to **approve** Smithview Hills Plat 1 with the following conditions:

1. The developer must obtain title to the portion of Tract 2, as shown on the proposed plat, in order to provide frontage on Clearview Road for Lots 5 and 6. And, the developer must provide right of way, as shown on the proposed plat, for Clearview Drive.
2. The provide documentation to Boone County Planning and Building Inspection that the required sewer facilities are installed and have been accepted by Boone County Regional Sewer District.

Pat Smith - Yes  
Larry Oetting - Yes  
Gregory Martin - Yes  
John Schloot - Yes

Carl Freiling - Yes  
Mike Morgan - Yes  
Patricia Fowler - Yes

Motion to approve the plat carries unanimously.

2. Old Business

None.

DRAFT

3. New Business

Proposed Stream Buffer Ordinance

Commissioner Freiling stated he believed the proposed ordinance to be straight forward.

Commissioner Schloot agreed that it was palatable.

The Commission decided to ask any questions at the next worksession. Staff will advertise that the next Planning and Zoning Commission meeting will be used as a public hearing for the proposed ordinance.

Two more public meetings are required; one in the northern part of the county and one in the south.

4. Adjourn

Being no further business the meeting was adjourned at 10:40 p.m.

Respectfully submitted,

Patricia Fowler  
Acting-Secretary

Minutes approved on this 1<sup>st</sup> day of April, 2008