

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, June 19, 2008

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

II. Roll Call:

a. Members Present:

Carl Freiling, Vice-Chairperson	Cedar Township
Boyd Harris, Secretary	Centralia Township
Larry Oetting	Three Creeks Township
John Schloot	Rocky Fork Township
Gregory Martin	Katy Township
Michael Morrison	Columbia Township
Patricia Fowler	Missouri Township
David Mink	Public Works

b. Members Absent:

Pat Smith, Chairperson	Perche Township
Mike Morgan	Bourbon Township
Paul Zullo	Rock Bridge Township

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 May 15, 2008 meeting were approved by acclamation.

IV. Chairperson Statement:

Vice-Chairperson Freiling 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 permits, two rezoning requests, one planned development, and three 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, July 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 that have 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, July 1, 2008 will begin at 7:00 p.m. and will convene in this same room.

Commissioner Freiling asked if there were any questions on how the meeting will be conducted.

V. Conditional Use Permits

1. Request by Nancy Bass for a permit for a dog kennel on 10.15 acres, located at 13841 S. Rangeline Rd., Ashland.

Planner, Uriah Mach gave the following staff report:

The subject property is 10.15 acres located approximately 1 ½ miles east of Ashland. The property is zoned A-2 (Agriculture), which is original 1973 zoning. This property has A-2 zoning to the north, south and west, with A-1 (Agriculture) zoning to the east. This is all original 1973 zoning.

The applicants are requesting a conditional use permit to operate a boarding kennel and doggy day-care. They are proposing a 24' x 36' structure for the kennel use. This structure will be approximately 750 feet from the east property line, and 75 feet from the northern property line. There will also be a fenced grassy area with shade trees for the dogs. Those dogs boarded at this kennel have passed an interview process where they prove that they can socialize with other dogs, not constantly bark at other dogs, are non-aggressive, free of parasites, and have been spayed or neutered. This kennel will serve a maximum of ten dogs at one time.

The property is located inside the South Boone County R-1 public school district, Consolidated Public Water Service District #1 service area, 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 15 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.

The requested use has the potential to be injurious to the use and enjoyment of other property in the immediate vicinity. However, the proposed structure is approximately 800 feet from the nearest dwelling, and is placed at the rear of the property. That distance may be sufficient to provide some buffering to the adjacent property owners. 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 can generate significant noise and odor impacts on the surrounding properties. 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.

(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-2 (Agriculture), with residential uses limited to 2.5 acre lots. Development of this area may be restricted due to the presence of the kennel. Some of the surrounding tracts have the potential to be divided at a higher density than their present status. The location of the kennel structure in relation to the location of utilities and current roads is such that the kennel alone will not impede the development of the surrounding property. While larger tracts would be preferable to provide a buffer between the kennel and new residences, the availability of road frontage and utilities may be a greater limitation to developing this area.

(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 Rangeline Road, a county-maintained public road. The proposed use should not hinder traffic or cause congestion on public streets. While a boarding kennel may increase the amount of traffic to this site, the long drive on this property would allow those who are dropping off or picking up dogs to pull off of Rangeline without blocking the road.

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

The proposal conforms to other applicable regulations of the A-2 zoning district.

The level of activity on the property as described by the application and the applicant would appear consistent with the criteria for approval of this conditional use permit.

Staff recommends approval of this conditional use permit.

Present: Nancy Bass, 13841 S. Rangeline, Ashland.
Darin Chandler, Bilt-Rite Buildings, 3513 Hialeah Dr., Columbia.

Ms. Bass stated the dogs will be inside at night and there will be a secure fence.

Mr. Chandler stated if the Commission had any questions about the building he would try to answer them.

Commissioner Oetting asked the applicant how many dogs there will be on average.

Ms. Bass stated ten.

Commissioner Fowler stated there is a dog retriever training center across the street asked if that caused any concern in the neighborhood from the barking aspect.

Ms. Bass stated that facility has quite a few dogs; Ms. Bass only hears them in the morning or at night.

Commissioner Fowler stated she was concerned it may already be a sore spot in the neighborhood and the Commission does not want to create a second sore spot. Commissioner Fowler asked if the building will be parallel to the house.

Ms. Bass stated yes; it will be close to the house. There will be a schedule; playtime in the mornings, nap time, and wind down time to go home.

Commissioner Fowler asked if Ms. Bass would be on the premises all day.

Ms. Bass stated yes.

Commissioner Freiling asked if the building will be heated and cooled.

Mr. Chandler stated yes; and it will be insulated.

Ms. Bass stated there will be some dog beds, a few kennels for dogs that can't get along, and a bathtub.

Mr. Chandler stated there will be adequate ventilation.

Open to public hearing.

Present, speaking in support:

Faye Nowell, 5550 W. Gillespie Bridge Rd., Columbia.

Ms. Nowell stated in 2001 the Commission approved her request for a dog daycare and kennel facility. That business is called Southpaw Acres Boarding and Daycare. Ms. Nowell stated she is here to attest to the greatness of that business, it has been a wonderful business and she believes she has done a good job keeping the neighbors happy with the minimal barking. Ms. Nowell is longtime friends with the applicant. Ms. Bass has helped run the business on occasion; she knows how it operates and it sounds like she is going to run her business in a similar fashion as Ms. Nowell's business. Ms. Nowell can not house all of the clients that want to board with her; there is an over abundance of dogs that want daycare and boarding. Currently Ms. Nowell's daycare is the only facility in the Columbia area and she has to turn away a lot of people because she doesn't have the space. Ms. Nowell encouraged the Commission to approve this request because Ms. Bass can help other dogs get the care and attention that they need during the day. This helps the entire neighborhood with animals who get attention during the day and they go home and won't bark. They have had their exercise and they are happier dogs at home. Ms. Bass' business would be an asset to the community.

Commissioner Oetting asked if the Commission limited the number of dogs Ms. Nowell could have.

Ms. Nowell stated yes; it was limited to 10 dogs and it has worked out fine.

Commissioner Schloot asked if the Commission approved this request is the limitation of dogs 8 to 15 dogs. Would that be the limitation?

Mr. Shawver stated the applicants are bound by their application but it is best to go ahead and specify. That way there is no question.

Present, speaking in opposition:

Kari Schaller, 13585 S. Rangeline Rd., Ashland.

Ms. Schaller stated she is within 1000 feet of where the dog daycare would be. Ms. Schaller stated her questions are what are the hours of operation. The main concern is the safety of the property owners in the area. The previous owners of the home had three dogs and they got out and killed some livestock across the road. There was a llama killed and three sheep. Ms. Schaller stated she has three small cows right now and two small miniature schnauzers. Ms. Schaller bought her property three years ago and built a home she wanted to raise a family in. Her children are 4 and 6 years old so there are concerns with the dogs if

they were to get out. It will be different types of dogs; it wouldn't be the same dogs there all the time so they could get used to them. Ms. Bass indicated she would be operating the business herself; what would happen if there was an aggressive dog, what kind of training does she have. Another concern is the traffic. It is kind of a busy road from regular traffic just from the people living out there; Ms. Schaller's children ride the school bus. What are the operations if people are dropping off and picking up? There is already the retrieval training and on Sunday afternoons it is extremely noisy. Ms. Schaller moved to the country so she could have quiet and relax. People who purchase land should be able to do what they would like to but she is not in favor of a commercial business out there; neither a dog daycare nor a kennel. Ms. Schaller stated she is all for someone having cattle or a horse or something more agricultural which is how it is zoned but there are concerns about safety issues, traffic, and noise in regard to this request. Ms. Schaller stated she spoke with a couple of the other neighbors and no one was really sure what the request was for; we were thinking it was for a dog kennel. If some of the other neighbors knew it was for a dog daycare and boarding they may be more opposed.

Commissioner Fowler asked Ms. Schaller if she was on the same side of Rangeline as the applicants.

Ms. Schaller stated yes; two properties down. The retrieval training is diagonal to Ms. Schaller's property.

Closed to public hearing.

Commissioner Oetting asked the hours of operation.

Ms. Bass stated from 7:00 a.m. to 6:00 p.m.

Commissioner Freiling stated the applicants will be boarding.

Ms. Bass stated yes.

Ms. Bass stated she will not have aggressive dogs. They will have to go through an interview, be socialized, and be used to being around other dogs. There will be crates if there is a problem with an aggressive dog. Ms. Bass stated she is a nurse.

Commissioner Freiling asked if Ms. Bass had some sort of backup.

Ms. Bass stated yes. She already has a dog that gets in a lot of trouble.

Commissioner Freiling asked if there will be someone else that can be at the site if the applicant can't be there.

Ms. Bass stated yes.

Commissioner Freiling asked what kind of fencing will be used.

Ms. Bass stated there will be secure fencing that will extend underground so they can't dig out.

Commissioner Oetting asked how tall the fence would be.

Ms. Bass stated at least 6 foot high.

Commissioner Schloot asked the absolute maximum number of dogs.

Ms. Bass stated 10 is the maximum she can take care of herself. If she has 10 boarded at night then the dog daycare will be closed.

Commissioner Freiling stated 15 is the maximum under any circumstance; 10 boarded.

Ms. Bass stated she can not board 15.

Commissioner Oetting stated he has the same reservations with this request. This is a commercial business in a rural area. A rural setting is not the right setting for this type of business. The lady that spoke in opposition gave a list of the reasons why. Commissioner Oetting's concerns are along those lines. It will devalue the neighboring property; the noise is also a factor.

Commissioner Mink stated he recalled when Ms. Nowell's request was before the Commission. Commissioner Mink stated he is glad to hear the business has worked out. The Commission had the same concerns about the Nowell request.

Commissioner Fowler made a motion to approve the request; limited to 10 dogs.

Commissioner Freiling asked if that was 10 boarded dogs; two numbers were discussed.

Commissioner Fowler asked that the numbers be repeated.

Commissioner Freiling stated the applicant indicated that there would be no more than 15 in the facility at any one time but no more than 10 that were boarded; meaning that 5 would be day visitors only.

Commissioner Fowler stated she would let the other Commissioners set the conditions. Commissioner Fowler stated she visited the site. This site is setback substantially from the road and given that it is in the rural neighborhood it is positioned well.

Commissioner Mink seconded the motion.

Commissioner Fowler proposed an amendment to the motion. Outside hours of operation are restricted between the hours of 7:00 a.m. and 6:00 p.m. At no time should there be more than 15 dogs present including the owners personal pets. At no time should there be more than 10 dogs being boarded.

Commissioner Freiling made and Commissioner Morrison seconded a motion to **approve the amendment** to the motion made by Commissioner Fowler to add **the following conditions**:

1. Outside hours of operation limited to 7:00 a.m. to 6:00 p.m.
2. No more than 15 dogs onsite at any time, including the owner's dogs.
3. No more than 10 dogs being boarded at any one time.

Carl Freiling – Yes

Boyd Harris – Yes

Larry Oetting – Yes

Patricia Fowler – Yes

Gregory Martin – Yes

Michael Morrison – Yes

John Schloot – Yes

David Mink – Yes

Motion to approve the amendment carries unanimously.

Commissioner Fowler made and Commissioner Mink seconded a motion to **approve** the request by Nancy Bass for a permit for a dog kennel on 10.15 acres, located at 13841 S. Rangeline Rd., Ashland with the following conditions:

1. Outside hours of operation limited to 7:00 a.m. to 6:00 p.m.
2. No more than 15 dogs onsite at any time, including the owner's dogs.
3. No more than 10 dogs being boarded at any one time.

Carl Freiling – Yes

Boyd Harris – NO

Larry Oetting – NO

Patricia Fowler – Yes

Gregory Martin – Yes

Michael Morrison – Yes

John Schloot – NO

David Mink – Yes

Motion to approve the request carries 5 YES 3 NO.

Commissioner Freiling informed the applicants that this request would go before the County Commission on July 1, 2008 and the applicants need to be present for the hearing.



2. Request by Mark and Kristi Farrell for a permit for a dog kennel on 10.0 acres, more or less, located at 15585 S. Hagans Rd., Ashland.

Planner, Uriah Mach gave the following staff report:

The subject property is 10 acres located approximately ¼ mile to the east of Ashland, on Hagan's Road. The property is zoned A-2 (Agriculture), which is original 1973 zoning. This property is surrounded by original A-2 zoning.

The applicants are requesting a conditional use permit to operate a breeding kennel for Miniature Australian Shepherds. The applicants have recently moved to Boone County and wish to continue breeding these dogs as they had prior to their move. The applicants will be using an existing 30' x 72' accessory building on their property for this purpose. It is located approximately 90 feet from the northern property line and approximately 450 feet from the eastern property line. The structure will be insulated to control temperatures inside the structure and limit sound from escaping. Wastewater from this use will be handled by a new lagoon for the breeding structure. According to the applicants, the dogs will stay inside the breeding structure at all times, except for cleaning purposes and exercise. There will be two 10' x 60' runs that they will be allowed to exercise in. For exercise, three to four dogs will be released into the runs to control the noise level. This is done between 8:00 am and 8:00 pm. Trees surround the breeding structure on three sides, so shade is present for them while they are outside. This may also serve to help limit the noise of the dogs while they are outside.

The applicants have indicated in a letter describing their operation that they sell via the internet and to local individuals, not to pet stores or brokers. This breed has litters ranging from three to eleven pups, however the applicants indicate that five to eight pups is the norm. They state that they would have at most five dogs having pups and breeding at one time. That indicates a worst case of fifty-five pups and an average of forty pups with eighteen adults.

The property is located inside the South Boone County R-1 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 18 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.

The requested use has the potential to be injurious to the use and enjoyment of other property in the immediate vicinity. The structure used in the kennel operation is to be insulated for sound and that may help in limiting impacts on the use and enjoyment of the surrounding properties. 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 can generate significant noise and odor impacts on the surrounding properties. Some of those impacts can be mitigated by actions by the applicant as described previously. 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.

(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-2 (Agriculture), with residential uses limited to 2.5 acre lots. This property is served by a private drive easement off of the end of Hagan's Road. That will limit the ability of the surrounding properties to develop at maximum density more than the approval of this conditional use permit.

(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.

This use will not result in traffic congestion on public streets. This use, as described by the applicants, will not result in substantial additional traffic to this site.

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

The proposal conforms to other applicable regulations of the A-2 zoning district.

Based on the information presented in the application and the letter describing the breeding operation from the applicant, staff recommends approval of this conditional use permit with the following conditions:

1. That the number of breeding females will not exceed 16.
2. That the hours during which the dogs are exercised be restricted to 8:00am to 6:00pm.

Present: Mark Farrell, 15585 S. Hagans Rd., Ashland.
Kristi Farrell, 15585 S. Hagans Rd., Ashland.

Commissioner Freiling stated that due to the fact that his daughter and son-in-law live in the affected area he will neither participate in the discussion nor vote on the matter. Commissioner Freiling will continue to run the Chair during this hearing.

Mr. Farrell stated the applicants have been in the dog business raising Australian Shepherds for approximately 1 ½ years. The kennel is licensed and the applicants currently live near Nevada, Missouri. The applicants are interested in maintaining this business because they have four children and this business is considered to be a part of what they use to raise their children and teach them some work ethics. There is also monetary value involved but the largest thing is to teach the children work ethics. The neighbors that live closest to the applicants, Charlie and Barbara Calvin had gotten quite a few calls from other neighbors and they wanted to have a meeting last Wednesday. The meeting was set up and the applicants went. It was a very good meeting and it was a good thing to be able to talk about the request. Anyone that wanted to was welcome to come to the barn and see where the dogs would be kept. The barn will be insulated to help keep down the noise level. The dogs will be outside in the pins at limited times. Issues that came up were noise and smell but the applicants explained they were going to build a new lagoon. So now the only other issue they can come up with is noise.

Commissioner Martin asked if the applicants were going to have an open space for the dogs to run in.

Mr. Farrell stated there are pens inside the barn; they don't just run freely inside the barn.

Commissioner Martin asked about outside area.

Mr. Farrell stated there will be runs. They are 10 feet wide and 60 feet long. There will be two 60 foot runs. They are 6 feet tall, steel pins. Currently the dogs live outside at the applicant's current location.

Commissioner Martin asked if there was a large area for the dogs to run other than just the kennels themselves.

Mrs. Farrell stated where the applicants are at now they are turned loose. At the proposed location when the dogs are turned loose it will just be in the designated area.

Commissioner Mink asked what kind of breed the dogs were.

Mr. Farrell stated Australian Shepherds. The applicants have the lower end; some registrations will acknowledge miniatures. That is what the applicants breed is the 12 to 18 inch breed. Australian Shepherds can get bigger but the applicants breed the smaller ones. AKC does not recognize miniatures but most other registries do.

Commissioner Mink asked if they were a non-barking dog. Do they bark a lot?

Mr. Farrell stated it is a dog; it is going to bark some. But they are not a barking kind of dog. The applicants have been around these dogs for two years and if something comes up they will bark at it but they will return to their casual self. That is why the applicants decided to put them inside the barn so if a rabbit comes up the dogs won't see it.

Commissioner Mink asked if the applicants are raising these dogs to sell wholesale or will customers come to the site.

Mr. Farrell stated the applicants just sell the puppies. Once a dog reaches 7 or 8 years old they will be sold and the applicants will keep another dog as a replacement. There are a lot of people that will contact the applicants and ask for one of the adult dogs.

Mrs. Farrell stated the applicants do not sell wholesale.

Commissioner Mink asked the applicants if they were expecting a lot of traffic.

Mr. Farrell stated no. In the two years the applicants have been doing this there have only been three people come to the house. If you pay \$800 or \$900 for a puppy sometimes you want to come and see it before you buy it and see the temperament of the dog.

Commissioner Schloot asked if the building was already erected.

Mr. Farrell stated yes.

Commissioner Schloot asked how close it was to the property line.

Mr. Farrell stated the building is 90 feet to the north edge. The closest house is 400 to 450 feet.

Commissioner Martin stated the applicants are talking about 16 breeding dogs; how many puppies will this be?

Mrs. Farrell stated the most the applicants have is 5 females that have puppies.

Mr. Farrell stated each dog may have 5 to 8 puppies. There have been some dogs that have larger litters but some have smaller litters. Even if they have a larger litter a lot of times the mother can't keep up with them because they can't produce enough milk and the puppy doesn't make it. That usually happens in the first day. Normally to raise them up you will raise 5 to 8 puppies per litter.

Mrs. Farrell stated when there are that many dogs at that young of an age you don't hear a lot of noise unless someone walks in to the kennel then the dogs will get excited. Other than that they are quiet inside the building.

Mr. Farrell stated the puppies can not be sold until they are 8 weeks old. The applicants have almost never had a puppy stay with them past their first 13 weeks. There is a four or five week window when a puppy gets sold. It is rare that the applicants can't sell one. There are a lot of people that want one at a lower cost or they are just given to a friend.

Commissioner Fowler asked how many breeding females the applicants have now.

Mrs. Farrell stated 16. Currently there are 14 and there are 2 young ones that will be replacements.

Mr. Farrell stated most of the dogs are fairly young and you end up watching their temperament to see how good of a mother they are.

Commissioner Fowler asked how often the dogs are bred.

Mrs. Farrell stated they come in about every 8 months.

Mr. Farrell stated each dog will vary but that is normal.

Commissioner Fowler stated the applicant's house is fairly new and the barn is an outbuilding that is metal sided. How many square feet is the barn?

Mr. Farrell stated 2100 square feet.

Commissioner Fowler stated the driveway runs up the right side; how far is it on the right side.

Mr. Farrell stated the house is right beside the applicants; maybe 400 to 450 feet.

Commissioner Fowler stated that is right by the street.

Mr. Farrell stated yes.

Commissioner Fowler asked if there is a house straight back.

Mr. Farrell stated no. The property is not very wide but it is pretty long; about ¼ mile.

Commissioner Mink asked if it was 400 feet of timber.

Mr. Farrell stated yes.

Commissioner Oetting asked if there was a limitation on the number of dogs.

Commissioner Harris stated it was in the staff condition.

Open to public hearing.

Mr. Mach stated there are letters from the neighbors in the Commissioners packets

Present speaking in support of the request:

Benjamin Capps, 15600 S. Hagans Rd., Ashland.

Nancy Capps, 15600 S. Hagans Rd., Ashland

Mr. Capps stated he lives directly across from the applicants. Mr. Capps discussed this request the other night and he doesn't have a problem with it the request. The applicants seem to be pretty good people; they both spent a lot of time in the Army. One of them has done a tour in Iraq and one has been in Kosovo. They've supported us, why shouldn't we support them? Mr. Capps stated he took off work to be here tonight.

Mrs. Capps stated from what the applicants have indicated it seems they really want to run a moral dog operation. It is very important that when you raise a dog you do it in a moral fashion. It seems the applicants have a very solid plan. The applicants aren't doing this willy-nilly but they actually have a solid plan. It sounds like the dogs will be kept clean and well taken care of. The applicants are taking a lot of steps to insure that.

Thomas Forck, 15516 S. Hagans Rd., Ashland

Mr. Forck stated he lives right across the road from the applicants. Mr. Forck stated he knows the retrieval training people on Rangeline. They also have several dogs around; they do not have a smell problem. If the applicants are putting in another lagoon they shouldn't have a problem with the smell either. Mr. Forck stated he attended the neighborhood meeting the other night and as a whole they all gave verbal agreement and don't have a problem with it. Everyone seemed to be fine with it since they are doing all of the heating and air inside.

Present speaking in opposition:

Randy Peterson, 15483 Hagans Rd., Ashland.

Sarah Peterson, 15483 Hagans Rd., Ashland.

Mr. Peterson asked what the best job is. Running your own business; it is a lot of work. More people should do it in today's world, it is tough. You can have the best game plan, the best business, but the number one thing is location. As the Commission said, within 1000 feet 18 letters were sent. 18 houses, families, and kids. Mr. Peterson stated he used to raise Aussie's; they have a keen sense of smell. Mr. Peterson had 20 acres that wraps around in an "L" shape. The draw runs up his property with the trees. Coyotes are unbelievable and Mr. Peterson can't keep raccoons out of his barn. Aussies have an awesome smell. They were voted the smartest dog on the market. You take coyotes and raccoons running up there, 80 to 100 dogs in one location isn't going to know? 80 to 100 dogs barking; families with babies, 18 households within 1000 feet? The staff report indicated that this would devalue surrounding property. We are having a hard enough time in today's market with property values. If you put 80 to 100 dogs in there running outside, it is a little different situation than the one the Commission just voted on. There is no way that this small neighborhood can tolerate this kind of thing and have 18 properties devaluated because of this. Mr. Peterson stated he has 20 acres; what is that going to do with his property? It can be the best business plan but with a lousy location it doesn't work. This doesn't work with 80 to 100 dogs.

Mrs. Peterson stated Hagans Road is a gravel road; it is not a paved road. Once you have 15 females having litters there will be people coming down that road. It is a dusty road already; it is a crowded road already. It is a dead end and there is a lot of traffic on that road. Mrs. Peterson stated she has three horses and they are valuable. The applicants stated they are used to their dogs running around. What is to say that once they are there the dogs are not going to run? Mrs. Peterson's horses are not going to be running through a fence. Mrs. Peterson stated her property is right behind the applicants. She is right behind the proposed lagoon location. It doesn't matter how large you build the lagoon, dog feces smells and it is

going to go in the lagoon. It is not right; it is not right to put that lagoon next to Mrs. Peterson's property with that kind of stink. There is no way they are taking that smell away. What happens when they lose the puppies? There is a draw down there; are those little puppies going to end up in that draw? What are the applicants going to do with all of this waste? People were contacted, Mrs. Peterson was never contacted; she never received a letter from her neighbors, no one knocked on her door, nothing was said. You can say all you want about the applicants contacting everyone and everyone came over. Maybe it was the people they got to agree to come over. Mrs. Peterson was not contacted and it is her property that is brushing up with them. Mrs. Peterson stated she paid a lot of money for her property and she doesn't want to sit out on her deck and listen to dogs bark all day. Mrs. Peterson stated her dogs don't bark all day. We are not talking about the lady with 10 dogs we are talking about 15 females; that is a lot of puppies. Mrs. Peterson stated she has cats and for some reason they have 7 kittens all the time. Mrs. Peterson stated she raised Aussies and they have a lot of puppies and she knows how loud they can be. To let that kind of business to come in, that is a big business. We aren't set up out there for that. It is not right and it is not right for the Commission to vote that way when Mrs. Peterson paid good money for her property and has been there a long time. To take the money you want to spend and put in a paved road. There are people out there that don't want it; they are not here tonight.

Mr. Peterson stated this is a small community. Neighbors have even graded the road; they were out there with all of the blades filling in. During the winter when it is snowing the neighbors are out there on their tractors breaking the snow drifts so the whole group can get through. 18 households in 1000 feet of the property.

Mrs. Peterson stated the applicant's house isn't close to the Peterson's but their property is right on top of them. How would the Commissioners like it for a kennel like that to come up on you? Would you like it? Would you like the noise? Mrs. Peterson doubts it.

Commissioner Oetting asked the Petersons if they own the property to the south.

Mr. Peterson stated the property to the west.

Commissioner Oetting asked how many acres the Petersons have.

Mr. Peterson stated 20 acres.

Commissioner Harris stated looking at the parcel map it appears that the Petersons property line is not contiguous or adjacent to the applicant's property line. There looks to be a parcel between the two properties.

Mr. Peterson indicated on the map where the properties were located.

Commissioner Harris stated the Peterson's property does not adjoin the applicants.

Mr. Peterson stated that is correct.

Commissioner Martin asked if the retrieval training was already zoned for a dog kennel.

Mr. Shawver stated they do not have a conditional use permit.

Catherine Sherrer 25 S. First St., Hartsburg.

Ms. Sherrer stated she was not at the neighborhood meeting and only heard about it two days ago from staff. Ms. Sherrer made calls to neighbors to find out what happened. The meeting was instigated by the neighbors, not by the applicants. Charlie and Barb Calvin apparently called everyone and Ms. Sherrer spoke with Charlie at length last night and he stated he was worried about resale value of his property. It is a small community and people don't like to make waves and that is why there probably aren't very many negative comments. Several people indicated they were going to write letters. Ms. Sherrer stated that her renter informed her that she will look for a new place to live if a kennel goes in. A lot of dogs are proposed and they will bark and smell. It is going to impact the neighborhood. Enjoyment of her property is a concern. If this conditional use permit is approved anyone can buy this property and continue a dog kennel.

Mr. Mach stated with a conditional use permit if the activity on the property, the kennel, ceases for a time period in excess of a year the conditional use permit ceases to exist. If the Farrell's move and the property sits vacant or a kennel is not operated for a period greater than one year the permit expires. Anyone who wishes to operate one after that will have to go through this entire process again.

Ms. Sherrer stated the Farrell's could sell to someone who ran a puppy mill.

Mr. Mach stated they could sell the property but the new owners would still be restricted by any conditions placed on this permit.

Ms. Sherrer asked who enforces these conditions.

Mr. Mach stated the Planning Department. It is operated on a complaint basis. If the neighbors make complaints the Planning Department would investigate and that can result in prosecution.

Ms. Sherrer stated with regard to public need; there is not a need for more puppies in this county. You can go on to Columbia Second Chance on the internet or Pet Finder and there are hundreds of Australian Shepherds that need a home. It is also a concern that these 16 females will be inside all the time except for a few minutes when they are not out. For 6 to 7 years it doesn't sound like a happy life for a dog who enjoys people and interacting.

Closed to public hearing.

Mrs. Farrell stated the applicants plan on putting a septic tank in. A septic tank normally gets cleaned out once to twice a year. The waste would go to a septic tank before it goes to the lagoon. As far as running a business, Mrs. Farrell has run a business for 20 years and knows what it is like to work many hours. If the applicants have to sell the dogs to move up here then who knows what Mrs. Farrell will do when she moves up here. The applicants aren't going to run the dog kennel for 20 years. The applicant's kids are learning from this. This is not a puppy mill. The applicants have to comply with the State. A State inspector comes in twice a year and inspects and the applicants have to comply with rules. Those rules are worse than any other kind of regulations; regulations for day cares for children are not this strict. Mrs. Farrell stated she talked to the neighbors and they indicated that they had talked to everyone on the neighborhood.

Commissioner Martin stated there was a question brought up about the disposal of dead animals.

Mr. Farrell stated in the past the applicants take the animal to their veterinarian and they take care of disposal.

Commissioner Fowler stated she always goes to the site of a proposed dog kennel. The applicant's property is substantially different in how close they are to their neighbors. While the applicants have 10 acres it is configured different in that they are on top of their neighbors as compared to other kennels that the Commission has approved. Commissioner Fowler stated she shares the concerns of the neighbors in close proximity.

Mr. Farrell asked if the applicants went with less dogs, this is a project for the kids; if the applicants have to go with 12 females the applicants are willing to do that in order to keep their business. The applicants have 16 females now and that is what they are comfortable with taking care of. If the Commission believes that to be too many and the applicants could have a few less and the applicants can decide if it is a worthwhile thing. If not then the applicants will have to sell all of their dogs.

Commissioner Fowler asked where the applicants currently live.

Mr. Farrell stated El Dorado Springs.

Commissioner Fowler asked if the applicants live at that site with their dogs.

Mr. Farrell stated they just moved here. Mrs. Farrell and their daughter will stay in El Dorado Springs with the dogs until this can be approved. The applicants aren't out to do the wrong thing. The applicants have to be certified by the State before they can move the dogs

Mrs. Farrell stated the applicants are not trying to cause a problem with the neighbors.

Commissioner Oetting asked the applicants if the State required the applicants to have liability insurance.

Mr. Farrell stated yes. The applicants have \$1,000,000 worth of liability already. With regard to traffic, only three times in the past year and a half has someone come to the house so it is not going to cause a traffic problem.

Mrs. Farrell stated the applicants don't like for people to come out to the house because puppies are just like babies, they can get sick.

Commissioner Harris asked the applicants if they were aware at the time they purchased the property that they would be subject to this process if they desired to move their kennel.

Mr. Farrell stated yes; it was a decision the applicants decided to make. It is an excellent school district. Mr. Farrell works in Jefferson City and that is where the applicants wanted to move. If the applicants get to keep the dogs, great; if they don't get to keep the dogs the applicants will still love the property.

Commissioner Harris stated that the applicants were aware prior to the purchase that this could be an up or down situation.

Mr. Farrell stated yes.

Commissioner Morrison asked the applicants if their business would be viable with half as many dogs, 8 breeding females.

Mrs. Farrell stated with spending the money on the building to make it quieter and the septic, then probably not.

Mr. Farrell stated it is a large building because you don't want to squeeze all the dogs in to a small area. They have to have a fair amount of room. The applicants prefer 12 dogs minimum.

Commissioner Martin stated he is having a hard time seeing a public need for this. It is hard to meet that criteria.

Commissioner Schloot stated there is also the concern of the property value. The applicants probably run a great kennel but there have been some neighbors who have voiced their concerns that it is going to affect their property values. It is a rather small piece of property for that many dogs.

Commissioner Schloot made and Commissioner Harris seconded a motion to **deny** the request by Mark and Kristi Farrell for a permit for a dog kennel on 10.0 acres, more or less, located at 15585 S. Hagans Rd., Ashland:

Carl Freiling – Abstain	Boyd Harris – Yes
Larry Oetting – Yes	Patricia Fowler – Yes
Gregory Martin – Yes	Michael Morrison – NO
John Schloot – Yes	David Mink – Yes

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

Commissioner Freiling informed the applicants that if they wished to appeal this decision to the County Commission an appeal form would need to be filed with the Planning Department within three working days.



VI. Rezoning Requests

1. Request by David L. Sallee to rezone from A-2 (Agriculture) to R-M (Moderate Density Residential) on 5.0 acres, more or less, located at 11251 N. Hecht Rd., Hallsville.

Planner Thad Yonke gave the following staff report:

This property is located on the west side of Hecht Road approximately 3000 ft north of the intersection of Mount Zion Church Road and Hecht Road. The site is approximately 2 miles south of the nearest municipal limits of the City of Hallsville. The subject property for the rezoning is 5 acres. The current zoning of this property is A-2 (agriculture) as is all the surrounding property and these are all original 1973 zonings. The nearest R-M zoning district is 3.8 miles away. The subject property contains one singlewide mobile home and a wastewater lagoon. Under an R-M zoning, the theoretical maximum number of dwelling units allowable would be 87 units; under the A-2 zoning, the theoretical maximum number of dwelling units is 2 and as a single 5 acre parcel the actual number of allowable dwelling units is 1. The property is located in Public Water District #4. The district currently has a 2&½ inch water main serving the site that provides at best 100 gpm. The standards for any fire protection start at a minimum of 500 gpm. The closest large water main is 3 miles away. The water district 5 year plan includes running a large line down Low Crossing Road, but even then, the line will be approximately 1 mile from the site. In order to use the requested zoning, fire hydrants will be required. The large sewage lagoon on the site is now an on-site wastewater system, since the lagoon only serves the dwelling unit located on the property.

To utilize the R-M zoning, a collector wastewater system would be required. The current lagoon has a DNR No-Discharge permit, however, this permit is not adequate for the lagoon to serve as a collector system under county regulations. To use the existing lagoon as a collector wastewater system would require a CUP for a collector wastewater system not approved under the county subdivision regulations, or the system would have to be brought up to current standards and be turned over to the BCRSD. The site is in the Boone Electric service area and Boone County Fire Protection District service area. The portion of Hecht Road most likely to serve the site is a chip-seal roadway with no shoulders and several blind turns. The road is not adequate to handle the potential traffic that would be generated by the request. The site is within the Hallsville School District. The proposal rates 36 points on the point rating scale. The master plan designates this area as being suitable for agriculture and rural residential land uses. The request is not consistent with the master plan, is not in keeping with the existing character of the area, and would constitute a spot zoning. There have not been any significant changes to the area within which this request falls to justify a change of zoning from the existing A-2 zoning set in 1973. Staff notified 12 property owners concerning this request.

The Master Plan calls for the use of a “Sufficiency of Resources Test” when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: This site is served by Boone Electric Cooperative and Public Water District 4. There is not sufficient water or fire flow from the existing waterlines nor will there be sufficient water to support the request in the foreseeable future. The wastewater lagoon is deficient to meet county standards for a collector wastewater system. CenturyTel informed us at the concept review that the property can only support one phone line.

Transportation: Access to the site is from Hecht Road. In its current configuration Hecht Road is not adequate to support the potential volume of traffic generated by the rezoning. The last traffic count showed 203 ADT for the section of road most directly used. The proposed rezoning could increase the ADT by 870 for a total of 1073, a four fold increase.

Public Safety: The nearest fire station is in Hallsville and is over 3 road miles from the station. Lack of ability to provide fire hydrants makes the possible density of the request inappropriate.

The request fails the sufficiency of resources test under all three categories. The degree to which the deficiencies in adequate infrastructure exist make it impossible for staff to recommend anything other than denial of the rezoning request to R-M zoning. Therefore, staff strongly recommends denial of the request.

David Sallee, 3300 E. Mt. Zion Church Rd., Hallsville.

Mr. Sallee stated he has heard that same song and dance from day one. Mr. Sallee disagrees with the staff report because staff is looking at absolutes. Absolutes are this is what will happen and this is what will not happen. Those are staff’s concerns; that we don’t have sufficient water out there to put fires out, that we don’t have sufficient roads to carry the increase in traffic; we don’t have sufficient safety out there. Mr. Sallee stated he disagrees with all of those. The roads out there are chip and seal and have adequate space and traffic density to carry the small amount of what the increase will be. In the event that a mobile home park is reopened; the mobile home park was in existence for 40 years and there was an existing mobile home out there until about four years ago. Since that time there have been several fires out there and none of which were put out in a timely manner by the fire department anyway. They come out there

and put the embers out and that was it. The issue at hand is not just putting fires out, the issue is public safety. The people that Mr. Sallee intends to have out there are his contemporaries, veterans, in group homes. They will be in a mobile home, three bedrooms with three people per mobile home. These mobile homes will have every conceivable smoke detection, fire protection, alarms, notification of the fire department, notification of Mr. Sallee himself and getting those people out in the event of a fire. Living out there in those conditions would be far more humane than the conditions that some of these men are living in now. Some of these men are being treated at Harry S. Truman Hospital and they are coming out of the viaducts, out of the woods, and out on the trails.

Mr. Sallee stated there is a 2 ½ inch water line coming out there to supply any need out there other than fire. Gale Blomenkamp with the Boone County Fire Department indicated the applicants couldn't have anything out there less than 10 inch. Mr. Sallee spoke with the Public Water Supply District out there and they are going to bring a 10 or 12 inch out there in the next four or five years. All of this has been going on out there for the past 35 to 40 years. This mobile home park has been out there. The County has slowly strangled Mr. Sallee out of business. Mr. Sallee stated he is trying to provide homes for handicapped veterans in Missouri. They will be able to live in homes with a supervisor in each mobile home to watch over them and make sure they are safe and make sure all of the fire alarm systems work. They will have clothes and baths and community. They will have a sense of purpose out there. They will have availability to Harry S. Truman Veterans Hospital. Mr. Sallee stated he has every possible alert system out there; a burglar alarm, fire alarm, and police emergency. These things are already installed or in the process of being installed. This is for one veteran out there now, a 71 year old with a wife and grandson.

Mr. Sallee stated his immediate supervision of the area is very continuous. Mr. Sallee stated he lives down the road on Mt. Zion Church Road and will be at the site constantly. Mr. Sallee stated he has been working on the site for the past three years and has it looking very nice and it is a good environment for these disabled veterans to live. During the concept review he passed everything out there accordingly at the time. Mr. Sallee told Century Tel about the service lines out there and they jumped at the opportunity to increase the phone density out there; Century Tel wants to invest in it too.

Mr. Sallee stated John Watkins with the Public Works department had indicated that the roads are adequate for the proposed increase in traffic. The increased traffic will consist of group transportation from Harry S. Truman hospital to pick these veterans up for their appointments. Mr. Sallee will also transport them to their appointments and to town for groceries and activities. There will be a small increase in traffic. All of these things are in place to take care of these men. At the concept review the only complaint they had at the time was the Boone County Fire District, public safety. Mr. Sallee stated the Harry S. Truman Hospital is very adamant about safety out there. Mr. Sallee stated he has a letter of intent from the hospital administration. Stephen Gather is the public affairs officer there; the Commission should have a letter from him. Mr. Gather and Diane Heat, who works for the homeless, will post a notice in the hospital to let the veterans know that this benefit is available.

Mr. Sallee stated he spoke with Gale Blomenkamp and he says it requires a 10-inch water line out there. Mr. Sallee also spoke with Ken Wise with water district number 4 and he indicated that the water district was going to bring that size line to that direction in a few years. If we wait until the water district brings the line out there these veterans will remain homeless.

Mr. Sallee stated there was a concern voiced about the impact on the neighboring land. Mr. Sallee spoke with the owners of the adjacent land with the exception of one but he spoke with him on the phone and he didn't have a problem with the request. Mr. Sallee stated he has letters from four property owners and all of them agreed to a conditional use out there.

Mr. Sallee proceeded to read letters from the neighbors.

Commissioner Freiling stated agreements with property owners are not part of this request. The only thing the Commission is here to consider is the rezoning request.

Mr. Sallee stated he was only trying to show that this request will not be detrimental to the neighborhood.

Commissioner Freiling stated he understands what Mr. Sallee is saying but the County government will have no way of enforcing that agreement. The rezoning request the applicant has made runs with the land. If this request was approved and Mr. Sallee died next week that property would remain moderate density zoning. All of staff's concerns can become fact because it might not have anything to do with veterans or mobile homes. It has the potential to be a small city. This request is for a high density zoning with no conditions.

Mr. Sallee stated he thought the zoning came with the conditional use permit.

Mr. Yonke stated no; it was explained that it was a separate process. Staff talked to Mr. Sallee about the fact that it is standard rezoning versus a planned rezoning. All of this was explained multiple times to the applicant.

Mr. Sallee stated the conditional use, as Mr. Sallee understood, is that the applicant is restricted to the lagoon capacity that was there.

Commissioner Freiling stated the blanket rezoning, the request that Mr. Sallee has made, someone can come in and completely abandon that lagoon and put in a county standard lagoon and county standard infrastructure if there was sufficient water. The applicant has applied for a blanket rezoning to moderate density residential. The only restraints on there are the development standards that you would have to utilize with that zoning. There is no plan in place and no other restraints.

Mr. Sallee stated a conditional use permit can limit the number of mobile homes.

Mr. Yonke stated the applicant can not apply for the conditional use permit until after the zoning is granted. There is no conditional use permit issued.

Commissioner Freiling stated the Commission can't limit the number of mobile homes under a rezoning request. The only way for the applicant to accomplish what he wants to do where safeguards can be put in place about the intended use is a planned rezoning where the applicant states, when he comes in, the specific plan. It doesn't leave it open to be changed in the future without someone coming back and asking for a change.

Mr. Sallee stated this is the point he is having trouble with from all of the people in the planning department. Mr. Sallee stated he asked 20 questions to get one answer and sometimes it is the right answer. Then he asks another 20 questions and gets a different answer. If what is required is a set plan Mr. Sallee stated he has Marshall Engineering who has drawn up exactly what will be on that 5 acres. What is out there now, what has been out there for four years. This is what has been presented to the Commission. That is the applicant's intent.

Commissioner Freiling stated that is not what the applicant has applied for.

Mr. Sallee stated if he applied for planned rezoning it would be the same thing wouldn't it. You would have to have several thousand dollars worth of confirmation from him that this is what it is. It has been there for 40 years and it is exactly what he wants. Mr. Sallee stated he doesn't want to extend it until he has enough water out there.

Commissioner Freiling stated the problem the Commission has is the applicant knows what he wants to do and knows what he intends to do but is not what the applicant has applied for. What the Commission has to vote on is what was applied for; not what the applicant intends to do.

Mr. Sallee stated what is out there now is what he wants.

Commissioner Freiling stated that is not what the Commission is required to vote on.

Mr. Sallee stated to get that planned rezoning what the Commission needs is verification of the location of the structures, sewer lines, and lagoon. The Commission needs confirmation of all of that, is that correct?

Commissioner Freiling stated his recommendation on that is to work with staff to find out what specific criteria needs to be met.

Mr. Sallee stated he has already worked with staff and has been told he can not do this.

Mr. Yonke stated the applicant can not do it himself. The applicant needs to submit a complete application which requires a plan prepared by a registered land surveyor or engineer that meets all of the submittal requirements.

Commissioner Freiling stated that is where the applicants cost runs in. Commissioner Freiling stated he didn't want to make any implication that because the applicant applies for planned rezoning that it would lead to approval because Commissioner Freiling doesn't have that knowledge. What has been applied for is a blanket rezoning that would allow the applicant or a future owner the potential to put a small city out there. Commissioner Freiling stated he could never vote for that although he understands what the applicant is trying to do. When the Commission approves the rezoning requests the zoning stays with the land, not with the owner. We are mortal, Mr. Sallee will not be around forever and that zoning is going to stay in place. Staff's strong recommendation for denial is because this request is inappropriate for the site. The applicant's intention may not be as inappropriate as the request.

Mr. Sallee asked what planning and zoning is doing outside the city limits of Columbia. These lands out here are public use and we are being stifled in everything we try to do to meet regulations set by someone that has no interest whatsoever in our business.

Commissioner Freiling stated it is outside the city limits because the people of Boone County voted to have it.

Mr. Sallee stated he apologizes for taking up the Commission's time but he thinks this is a good plan.

Commissioner Freiling stated there is an option for the applicant to withdraw the application which would allow the applicant to resubmit.

Mr. Sallee asked how he would apply for the planned rezoning.

Commissioner Freiling stated the applicant has been working with Marshall Engineering and suggests the applicant contact them. Commissioner Freiling stated that both the staff and the Commission have responsibilities not just to the immediate request but to the fact that they face future requests. It is very difficult to say no in the future when you have said yes in the past to the same kind of request. Precedence really does matter in this issue of land use. Staff has a very reasonable idea of what will pass and what won't. Even if staff is telling the applicant what he doesn't want to hear Commissioner Freiling urges the applicant to consider working with staff.

Mr. Sallee asked what it would take for this property to be grandfathered.

Mr. Yonke stated there is no way to get grandfather rights because this property has never been a legal mobile home park.

Mr. Sallee stated it has been a mobile home park for 40 years.

Mr. Yonke stated it was not a mobile home park in 1973 when the original zoning maps and the land use maps designated all of the mobile home parks that were existing at the time. There isn't one here; it has never had a license. The previous owner never applied for any form of grandfather rights while he owned it. That sun-setted before he even purchased the property. Mr. Sallee cleaned it up as a zoning violation because of junk and zoning violation complaints. Even if it had grandfather rights it lost them as soon as it came in to compliance with the zoning. It wouldn't have mattered anyway. This is not a legal mobile home park, it never has been. If the applicant wants to do what he is asking to do there are more appropriate pieces of land.

Mr. Sallee stated but they would have to be outside of Boone County. That is the best advice he has ever received from planning and zoning, to take his business to another county.

Open to public hearing.

No one spoke in support of the request.

Present, speaking in opposition:

Betty LaRoe, 11211 N. Hecht Rd., Hallsville.

Ms. LaRoe stated this property joins her property more or less in her backyard. If this property is rezoned it would lower the value of her property. If several years down the road Ms. LaRoe wanted to sell her property no one would want to buy it with the mobile home park. Ms. LaRoe stated Mr. Sallee indicated he would put 8 to 10 trailers back there and that there wouldn't be noise. How could you not have any noise with that many mobile homes? Ms. LaRoe doesn't want the extra traffic

Gale Blumenkamp, Division Chief, Boone County Fire District, 2201 I-70 Drive NW, Columbia.

Mr. Blumenkamp stated that his name was brought up and was here to answer any questions from the Commission.

Commissioner Harris stated he understood the frustration and we have had deals fall apart because of fire flow issues. For where the property is located a 2 ½ inch water line, even if it is moved in from both directions is not going to supply any kind of fire flow.

Mr. Blomenkamp stated that is correct.

Commissioner Harris stated the water district, while all intentions are admirable, are at the mercy of public funding so while they project a 4 or 5 year plan to increase the main size to what would be adequate for fire flow, the reality of it is it could be 8 to 10 years.

Mr. Blomenkamp stated it could be never; their plans could change very easily.

Commissioner Harris stated that has happened. At the moment, if the Commission were to approve the zoning tonight the reality is under the subdivision regulations there is no way that fire flow could be met within the foreseeable future.

Mr. Blomenkamp stated it could be met at the applicants cost by running water lines in excess of three miles. At 1000 gallons a minute, not necessarily a 10-inch line, but at 1000 gallons a minute.

Commissioner Harris stated we are looking at three mile of water line at private construction cost.

Mr. Blomenkamp stated that is correct, and that is an option for the applicant.

Closed to public hearing.

Mr. Sallee asked what would happen if there were some kind of provisions set in order for him to have any more than one mobile home per 5 acre tract.

Mr. Yonke stated under A-2 zoning, not under the R-M zoning.

Mr. Sallee asked what kind of zoning would the applicant have to have to have more than one mobile home out there.

Mr. Yonke stated it could be an R-S with a conditional use permit or an R-M with a conditional use permit or a planned zoning of either two of those districts.

Mr. Sallee stated the plan would have to be done by an engineer.

Mr. Yonke stated all planned districts have to have a plan; all of them have the same requirements. In order to apply for a planned district, the plan, whether it is planned commercial, planned recreational, or planned multi-family, planned single family, all of them have the same requirements as far as submittal requirements and preparations by the licensed engineer or surveyor.

Commissioner Martin made and Commissioner Morrison seconded a motion to **deny** the request by David L. Sallee to rezone from A-2 (Agriculture) to R-M (Moderate Density Residential) on 5.0 acres, more or less, located at 11251 N. Hecht Rd., Hallsville.

Carl Freiling – Yes

Boyd Harris – Yes

Larry Oetting – Yes

Patricia Fowler – Yes

Gregory Martin – Yes

Michael Morrison – Yes

John Schloot – Yes

David Mink – Yes

Motion to deny the request carries unanimously.

Commissioner Freiling informed the applicant that if he wished to appeal this decision to the County Commission an appeal form would need to be filed with the Planning Department within three working days.



2. Request by Karen L. Sapp to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 108.82 acres, more or less, located at 9100 E. Highway AB, Columbia.

Planner Bill Florea presented maps to the Commission for review.

Mr. Florea gave the following staff report:

The property is located about 3-miles southeast of Columbia. It is accessed from US-63 via State Route AB. The current zoning is A-1, which is the original zoning. The property is currently used for pasture. The applicant has stated that the purpose of the rezoning is to enable transfer of a 5-acre tract to her son. There have been no previous zoning requests for this tract.

Land uses in the area can be categorized as rural and residential and are in character with the A-1 zoning designation. The County GIS system was used to analyze the size of tracts within a one-mile radius of the property. Map Number 1 indicates tracts greater than ten acres, tracts that are nominal 10-acres and tracts that are less than 10-acres. Map Number 2 shows tracts that are nominally 10-acres or greater and tracts that are less than 10 acres. There are 13 tracts less than 10-acres, two of which are the result of a PRD and are zoned A1-P.

The Master Plan identifies a sufficiency of resources test for determining whether there are sufficient resources available for the needs of the proposal. The sufficiency of resource test provides a “gate-keeping” function. Failure to pass the test should result in denial of a request. Success in passing the test should result in further analysis. The resources used in the test can generally be broken down into three categories: utilities, transportation and public safety services.

Utilities:

- Water: The property is located within Consolidated Public Water District Number 1. The Water District reports that water is available in the area at a flow rate of 300-340 gallons per minute. The minimum rate necessary for residential development is 500-gallons per minute. Therefore, water service sufficient to supply the needs of the proposal is not currently available.
- Sewer: There is no public sewer available in the area. Development of the property at A-2 density would probably require construction of a central wastewater treatment plant.
- Electricity: There is no indication that there is a lack of electric system capacity for a residential subdivision of the property.

Transportation: The property has frontage on 3 public roads: 1900-feet along Highway AB, 1000-feet along Rangeline Road and 2000-feet along Logan Road. Highway AB is the primary route to US 63. The property is well served by the transportation network, which appears to be adequate to serve development at the existing density. Rezoning to A-2 could result in nearly four times the amount of traffic generation, which may necessitate improvements to the transportation system. A traffic study was not completed for

this proposal however; anecdotal information received from neighboring property owners indicates concern about existing traffic on AB and Rangeline.

Public Safety Services: The nearest fire station is located near Columbia Regional Airport, within three miles of the property. Law enforcement is provided by the Boone County Sheriff. The nearest emergency medical services are in Columbia approximately 9-miles away.

Zoning Analysis:

- The proposed rezoning is out of character with the pattern of development in the area. Development in the area that has occurred since zoning was first implemented has been consistent with the A-1 requirements. There have been no changes in available infrastructure, development patterns or zoning in the area that support the rezoning request.
- Granting the rezoning could have a detrimental impact to the area due to lack of services necessary to support the rezoning. There is no apparent gain to the public health safety and welfare compared to hardship to the proponent. There is a sufficient inventory of A-2 zoned land in Boone County.
- The property is well suited for use within the current zoning regulations. Several Administrative Surveys have been approved in the area that have created 10-acre lots. Large lot residential development is viable in this area as evidenced by the current pattern of development.
- There are other options open to the land owner to achieve her stated goal. A rezoning to A1-P with a review plan showing a 5-acre lot is a viable option that would not disrupt the integrity of the area.

The property scored 38 points on the rating system. Staff notified 12 property owners about this request.

Staff recommends that the request be denied due to lack of resources to support the rezoning and other reasons previously cited in this report.

Present: Gene Basinger, surveyor, 300 St. James St., Columbia.
Karen Sapp, 6601 County Road 333, Fulton.

Ms. Sapp stated she would like her property rezoned to A-2 because she would like to make lots available for her kids. One of her children would like a tract of land now and in a couple of years her two other children would like tracts of land. Five acre lots seem like the feasible thing.

Mr. Basinger stated he looked at this situation and at what kinds of options are available. Basically the option to do what the applicant would like to do in giving the smaller tracts to her children. The A-2 zoning that the applicant is asking for or you could go to the A1-P but anytime you go to planned zoning it leads to a larger expense and more time. The applicants discussed the situation and considered what was in the area and A-2 is not an inappropriate request. Yes it is in the middle of A-1 zoning and there are a number of larger farms around the area that may someday want to be developed. If they are rezoned to that they can get that if they have infrastructure. There are single family homes in the area, some are smaller, some are 12 to 15 acre tracts. You can drive around and see that some of the 10 acre tracts aren't really kept up because they have too much acreage to maintain. Ms. Sapp, at this point in time wants to give three tracts of land to her three kids. Yes, the rest of the property would be subject to development either by herself or some future purchaser of her property.

Open to public hearing.

Present speaking in support:

Charline Brittain, 9701 E. Highway AB, Columbia.

Ms. Brittain stated she would like to address her neighbors who are in opposition because they have every right to oppose it. Mrs. Brown informed Ms. Brittain what was going on with Ms. Sapp pursuing the change from A-1 to A-2. There was going to be a meeting two evenings ago at the Fox residence on Rangeline. We have all been a good community, there is not one thing that her neighbors would not do for her and there is absolutely nothing she would not do for them. This is the community that we live in. Whenever Ms. Brittain heard about the meeting she asked Mrs. Fox if Ms. Sapp was going to be present because if there was opposition and questions why not have her there to ask her and she could hear what the neighbors have to say directly instead of going behind her back. But Ms. Sapp was not present and the neighbors voiced their opinion. Ms. Brittain stated Ms. Sapp had the right. Ms. Brittain has been living on Rangeline since it was a gravel, muddy, dusty, dirty road. She has been there 51 years and 3 months. And Mr. Oetting knows Ms. Brittain. She has been a full partner with her husband in farming of almost 1000 acres when they were young. Ms. Brittain had her own combine. We worked all of these years and about two years ago she decided that she must stop farming because of her age. The Brittains asked their neighbor if they would like to farm their land but they couldn't agree on a program for it so they asked another neighbor who is a commercial farmer and he was more than happy to come and farm the land and Ms. Brittain has been very pleased.

Ms. Brittain stated there are parcels in the neighborhood and although it is none of her business but the planning and zoning is 10 acres and some will build their house not in the middle of 10 acres but on the front and therefore you have 5 or 6 acres in the back that are totally land locked. They have to mow it with a big tractor or it grows up in trees and vegetation. Ms. Brittain has photos of 20 acres that joins her property on Highway AB and the photos will illustrate what can happen to 10 and 20 acres that can not be mowed or cultivated.

Ms. Brittain presented the photos.

Ms. Brittain stated sometimes you can be so caught up in your own world of making a living and providing for your family that perhaps we aren't as good as neighbors that we should be. Ms. Brittain stated she should have gone over and brought her tractor and mower and mowed their 20 acres. The community should have done something like that but we didn't and it kept growing. If the Commission has a 2003 plat book on page 46 they will see that Ms. Sapp's land is a lazy, squared off, piece of property. Ms. Brittain stated she has 240 acres on Highway AB and 160 acres directly across from Ms. Sapp's property. This ground is 160 acres and is in wheat. The reason that Ms. Brittain feels adamant about this is that a person should have the right to pursue, within the legal realm of the County, what they would like done with their property. The neighborhood meeting the other night there were those that said "what if". What if she sells her land to a developer and what if he puts 40 houses on that 108 acres. Ms. Brittain stated she knows that you have to have infrastructure and a plat before the Planning Commission to be approved.

Commissioner Oetting stated it is open zoning.

Ms. Brittain stated there is part of Ms. Sapp's property that is in the flood plain area so that would raise questions. As far as the community is concerned and the traffic on Highway AB; the highway goes down about a ½ mile beyond Ms. Brittain is a gravel road and it ends. We are so pleased in the community that the sculptor Larry Dunn lives there, Dr. Asher the neurologist lives there, we have two accountants, Larry Winfrey lives there and another that lives down there and these beautiful woods. Mr. Montgomery lives

there so we have traffic down there but it is those that live down there and their friends and relatives. As far as Rangeline traffic Ms. Brittain is happy that they finally decided to pave Rangeline because the neighbors that live on their 10 acres that are in the water, they get a lot of dust because it was not paved for so many years. Now the traffic is coming from the Auto Auction on Route Z and I-70 that come down there and cut up and go out to Highway 63 on Highway AB or they will go down and come up Highway H from the airport. When you have been out there 51 years there is a lot of changes and Ms. Brittain is very proud that the community has developed the way it is with lovely homes. We have got to be a community to look out for one another, to care for one another. Ms. Brittain stated her husband, in 1976, was the first in Boone County to start the Neighborhood Watch Association and that has been a very good thing. The neighbors were taught to look as they are driving. Is there is a different kind of automobile there that shouldn't be? This is why we feel like that our neighborhood is a growing neighborhood and it is planned in a proper way that we can all be proud of. Ms. Brittain thanked the Commission for letting her come and speak in support of Ms. Sapp.

Present speaking in opposition:

Commissioner Freiling passed a letter to the Commission. There is a petition of 29 signatures endorsing the letter.

Kim Ponder, 8800 S. Rangeline, Columbia.

Ms. Ponder stated she was a part of the neighborhood meeting that Ms. Brittain referred to. It was a meeting of the members of the neighborhood that live within a radius of the property that borders on Highway AB and Rangeline. The neighborhood had put together the following letter:

Dear Commission Members,

On behalf of the property owners listed below, we come before you today to oppose the following rezoning request:

More specifically, we oppose the rezoning request on the following grounds:

Pattern and development history: The entire area except for one small tract is zoned A-1 and has been for a number of years. Many of the families represented here today are long time land owners who continue to farm the land adjacent to said tract. The aerial map shows that 95% of the land in this part of the county is A-1 and east of our tracts is a large amount of conservation land. The current and best use of this land is farm land.

Density: The area itself is not a high density area. To date, we show less than 30 families representing a considerable amount of acreage within one mile of said tract. The area is used for agricultural purposes and even the small tracts of land still hold the A-1 designation.

Appropriateness: The request to change from A-1 zoning to A-2 zoning for the sole purpose to transfer/sell property to family members can be handled through other avenues that does not change the entire tract of land or burdens surrounding property owners. Changing the zoning from A-1 to A-2 only opens the door for additional developments and the opportunity for others to follow suit at some point in their rezoning requests. We oppose the rezoning based on the appropriateness of the request and believe that there are other avenues to accomplish their goal without affecting property owners in the vicinity.

Traffic Flow: Potential developments arising from the new A-2 designation would create increased traffic flow and speed on an already highly traveled road. From bicyclist to automobiles the average speed is higher than it should be. Not to mention the traffic that feeds into Highway 63 from Route AB and Route H is already a dangerous situation with no overpasses or acceleration/deceleration lanes.

Infrastructure: Finally, the infrastructure is not in place to accommodate a development or planned development in this area. If said tract were developed into forty lots, that would mean 40 lagoons in a high density development. This is not the quality that brought many of us to the area.

In closing, we ask that you consider our opposition and comments regarding the request from Karen L. Sapp to rezone her 108 acre tract of land based on our concerns stated above. Thank you for your consideration.

Ms. Ponder asked that the neighbors who signed the petition to stand.

Jerry Barnes, 9525 E. Logan Rd., Columbia.

Mr. Barnes stated he met with Bud Hallman who has a large majority of the land across the road from the Sapp property. Mr. Barnes also met with his father and brother which also own and operate Triple B Farms Inc. This is a family farm operation; a farm which is next to the Sapp property. The farm has been there since 1921 when Mr. Barnes' grandfather started farming. We have row crop, hay, pasture, and 100 head of cows with calves, and a number of hogs. Since this is a large farming operation he is on the road a lot. The operation has three semi trucks, three tanning trucks, large tractors, tillage, and harvest equipment. Combines are wide without the headers and it is hard enough to move up and down the roads today. During planting and harvest time they may run until 1:00 a.m. to 2:00 a.m. just trying to stay ahead because of weather changes. The grain bin fans can be heard from miles away. When the grain needs to be dried they must run constantly for four to five weeks at a time depending on the grain moisture. Dust from the fields is bad at times and blow in every direction. Cows and hogs can, and do, get out once in a while. The feed lots can create an odor and smell a lot of people could complain about it. It is part of living on a farm and being on in the country Mr. Barnes enjoys his way of life even though it is hard work and long hours. The neighbors like a rural setting and the peace and quiet. Mr. Barnes would like to see the property remain A-1 zoning; we need land for farming and for the local economy. Mr. Barnes is not objecting to giving the children 5 acres or even less land for her kids to live on but the neighbors are concerned with the 108 acres being rezoned to A-2 open zoning.

Stephanie Smith, 8351 Rangeline Rd., Columbia.

Ms. Smith stated she is concerned about the potential that would be out there if the rezoning was to be successful because it will be very open and it seems like a very unusual way to sell land to your son to try and rezone an entire tract of land when you are talking about selling a five acre tract. It seems to be an unusual method to accomplish that when there are other viable options to accomplish that. This would not be the first time that a family has requested a change in order to either sell or give land to their children. There are other appropriate ways to do that. Ms. Smith stated she is concerned about this open ended change from A-1 to A-2.

Closed to public hearing.

Mr. Basinger stated he is surprised by the opposition from Mr. Barnes being that they have three tracts of land that are smaller than ten acres. He also lives on a piece of land that is a four acre tract. Mr. Barnes is concerned about his farming operation and there is not a lot of opposition from the neighbors. This is

farming area and it is still compatible with single family homes. We have shown that by looking at the map there are about 30 homes within a mile radius. Mr. Basinger stated he can count 40 homes in a half a mile radius. There are a lot of smaller tracts of land that people are living on. There was a lot of talk about what ifs here and when you look at the situation the applicant has 108 acres and the applicants want to rezone it to A-2 which allows you to go down to 2 ½ acres and everyone seems to have the misconception that if you take 108 acres and divide it by 2.5 you will have 40 tracts of land that can be put on this property. In order to do 2.5 acre tracts if you had the zoning in place of A-2 you are going to have to come before the Commission and the County Commission with subdivision plats. Then the applicants will have to put in streets. You will have to give up right of way on Highway AB and on Rangeline road so the reality of it is you would be looking at a maximum of maybe 25 lots. Today that is not a possibility because there is no sewer in this area that would accommodate this development so the only way to do that development is to build a sewer treatment plant. That is not much of a possibility; you would never get a permit to put a plant in there and if you could that will take up part of the land. Mr. Barnes talked about his farming business being a noisy operation a sewer treatment plant is a noisy operation. You may have odors that go along with it, it is not slightly it would be very detrimental to the land to have that treatment plant there. The reality of actually coming in here and doing a major subdivision is not a real reality. It is not economically feasible to do this when you have to put in streets, sewers, treatment plant, water lines, and you will be dealing with stormwater. What happens is the price of the lots would be such that you will never be able to sell those lots. It is not economically feasible to do what everyone is thinking. The reality is if this were zoned to A-2 what Ms. Sapp is talking about doing, she has three kids and each one of them is going to be given a tract of land. Then a subdivision plat can be done of three lots before you have to get in to sewers and water lines. You could actually come up with six pieces of land; the rest of it is still going to have to be in 10 acre tracts. The density that everyone is thinking here is a misconception; it is not real.

Mr. Basinger stated he lives in an area that has A-2 zoning and he likes A-2 zoning better than A-1 because A-2 zoning does have a certain amount of protection that A-1 does not have. What if the applicant sells the property to someone who comes in here and divides the property in to 10 acre tracts? What if they put mobile homes on all of these tracts? They could be rental property or section 8 housing. Those are what ifs. Are they real what ifs? No. We all know that is not going to happen; Ms. Sapp is not going to do it, no one else is going to do it. This piece of property is a very valuable asset and it is not going to be destroyed by something that is going to drop the value of the property. Mr. Basinger doesn't believe the concerns are realistic. Someone spoke about spot zoning; there isn't anything that is called spot zoning. Zoning is nothing more than is this a reasonable zoning for where we are at and what we are doing. What if we go down in to the Hartsburg bottoms and rezone 80 acres for recreation and put in ball fields. Mr. Basinger doesn't think spot zoning is wrong. The Commission shouldn't look at whether it is a spot zoning just because it is different you look at it as whether it is a feasible zoning. Mr. Basinger stated he doesn't believe this to be an unreasonable zoning. Ms. Sapp's intent at this time is for her kids; we all know it could be her or someone else that develops this property. Mr. Basinger stated he can guarantee that at some point in time every tract of land around this place is going to be developed. We are living in a county that is very progressively developed. Farms will disappear over time. Mr. Basinger stated he doesn't feel this is an unreasonable request, that is why he is here.

Ms. Sapp stated she spoke with Bud and Geraldine and they said they wanted to stay neutral; they are unopposed. Ms. Sapp stated she has a letter from Winston Norton who owns the property to the east of Ms. Sapp's on Highway AB.

Commissioner Oetting stated he received a couple of calls from the neighbors. This isn't about the Barnes' having a 5 acre lot. There isn't a member out here who stated they were against Ms. Sapp giving 5 acres to her children. What it comes down to is the size of the property. It is not planned. There are

other alternatives to get the 5 acres to Ms. Sapp's children besides rezoning 108 acres. That is where most of the opposition is coming from. Commissioner Oetting stated he is not in favor of this request; he is not opposed to A-2 zoning out there it just needs to be planned and well thought out and not 108 acres of it. The neighbors are not opposed to giving 5 acres to the kids.

Ms. Sapp stated when she first bought the property Mr. Haynes lives on Rangeline, he just built that house. That location was Ms. Sapp's favorite spot on that whole entire property. Ms. Sapp kept one spot to build a house on and that would have been it until he built on the fence line. Now it is on the other end of the property; they can do the same thing. Ms. Sapp stated she has one child who needs the property now, she will have another child that will need property a year from now, then she will probably have another one a year down the road. The children are not going to want to be next door neighbors. If you rezone one spot nothing says that is going to be the right spot two years down the road.

Commissioner Oetting stated his opposition to the request is that it is not planned. It is not planned under the definitions of planning and zoning. It is not planned in what the applicants have thought out. Ms. Sapp has not thought on how this should be developed.

Ms. Sapp stated the kids won't be next to each other.

Commissioner Oetting stated if he was giving acreage to his children he would have a thought in mind of where those spots might be. The applicants should have some idea of where those spots might be and just rezone those spots.

Ms. Sapp stated they are going to be on opposite sides; one will be on the Rangeline side and the other will be on the Highway AB side. We are talking about two different tracts; even though we keep saying 108 it is more like 50 and 60.

Commissioner Oetting stated the zoning covers the whole 108 acres.

Ms. Sapp stated that is correct.

Commissioner Freiling stated the difficulty for the Commission is precedent and it is no small issue. If the Commission says yes to rezoning the applicants 108 acres and someone comes in 6 months from now with another 108 acres and says they want to do it so they can get a couple of spots to their kids. All of a sudden the zoning map has become relatively meaningless. Another issue, given the applicants stated intentions and even though it is expensive there is a more clear cut and concise way to address what the applicant wishes to do and that is to apply for A-1P which just takes the existing zoning and submit a plan. It doesn't force the Commission in to establishing precedence of rezoning 108 acres that is not well situated for that. Commissioner Freiling stated he understands the applicant's intent but from a practical standpoint it would be very difficult to develop that tract as any density as A-2, doesn't mean it couldn't happen 10 years from now but it wouldn't be very practical. From the Commission's responsibility as Commissioners whose first obligation is to protect the integrity of the zoning that was established in 1973 unless there is a real reason to change it the reason to change it is not very strong; at least not this method.

Ms. Sapp stated she doesn't agree with that because all the houses across the street from Rangeline are on 10 acres but you only see 5.

Commissioner Harris stated to give the property to the kids is wonderful but there are means to do it. The reality of it is to open zone 108 acres between Columbia and Ashland, there are people in this county with pockets deep enough to put in the sewage treatment plants, put in the streets, and develop it. All of a

sudden instead of three houses you are looking at 25 or 30. Whether it is 40 or 20; that is a marked increase very quickly in volume and density to be just an open, blanket change without any sort of plan at this point. Commissioner Harris stated he doesn't understand why the applicant is asking for a blanket A-2 zoning.

Mr. Basinger stated if you took this piece of land today if Ms. Sapp had the A-2 zoning in place and she came to Mr. Basinger to develop the property and she wanted to give each one of the kids a tract the reality is Mr. Basinger could probably only get 12 tracts out of this whole piece of property. The area was zoned agricultural to protect the farmers, this is not farmland and it is never going to be farmland. This is residential property and it is going to become residential property one way or the other. Whether we do ten, ten acre tracts today or whether we take it apart with A-2 zoning we reality haven't changed that much. Mr. Basinger stated we need to look at each tract of land and see if the zoning is appropriate. If a neighbor down the road wants to rezone their property to A-2 and it is appropriate then they should be rezoned to A-2. If it is not appropriate then don't rezone it. As far as the density with this tract of land, if the precedent is the big thing that is going to kill this Mr. Basinger knows where the Commission is coming from. As far as the density in going to A-2 zoning we don't have a difference here. Smaller tracts are better because you don't have tracts of land where people use a couple of acres and the rest grows up in to brush. From the standpoint of A-2 zoning versus A-1 when A-2 zoning is in place you have a lot more control as far as County Commission to say no. Today you can go out there and put 10 acre tracts in and put 10 mobile homes in there.

Commissioner Mink stated what he is hearing from Mr. Basinger is that this isn't something that can be developed densely anyway so that negates the whole reason for doing this. If you are right back to where you started from because of the nature of the land why would this rezoning need to be done?

Mr. Basinger stated the real reason for this is if this is zoned to A-2 theoretically speaking, because Mr. Basinger doesn't know where Ms. Sapp's kids are going to build. You can't plan because the kids could change their minds. If this were A-2 zoning Mr. Basinger could write three legal descriptions on this property for a few hundred dollars and not have to survey it. With planned zoning each one of those small tracts, if we do it as a small piece one at a time it would cost a lot more.

Commissioner Schloot made and Commissioner Morrison seconded a motion to **deny** the request by Karen L. Sapp to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 108.82 acres, more or less, located at 9100 E. Highway AB, Columbia.

Carl Freiling – Yes

Boyd Harris – Yes

Larry Oetting – Yes

Patricia Fowler – Yes

Gregory Martin – Yes

Michael Morrison – Yes

John Schloot – Yes

David Mink – Yes

Motion to deny the request carries unanimously.

Commissioner Freiling informed the applicant that if he wished to appeal this decision to the County Commission an appeal form would need to be filed with the Planning Department within three working days.



VII. Planned Developments

1. Request by Robert M. Lemone Revocable Trust to approve a Final Development Plan for Concorde South Phase 2 on 9.75 acres, more or less, located at 5801 S. Highway 63 South, Columbia.

Mr. Yonke stated there is no report on this one because Concorde South Final Development plan meets all the requirements of the review plan. The only reason it is on the agenda is that it has to be signed by the Chairperson and Secretary in order for it to go in to effect. Mr. Yonke stated he needed an explanation as to why it is going to be signed by the Vice-Chairperson.



VIII. Plats

1. The Woodlands Plat 5A, replat of Lots 135 and 136. S27-T48N-R12W. A-R. Rhodes-Payne Properties, Inc., owner. Ronald G. Lueck, surveyor.

The following staff report was entered in to the record:

The property is located on Turkey Trail Drive, approximately ½ mile east of the city limits of Columbia, north of New Haven Road. This plat creates one 3.10 acre lot from two lots at 1.57 & 1.53 acres. The property is zoned A-R (Agriculture-Residential) and is surrounded by A-R zoning. The A-R to the west is original 1973 zoning; the other A-R zoning was rezoned in 1994 from A-1 (Agriculture).

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

Water service to this lot will be provided by Public Water Supply District #9. Fire protection will be provided by the Boone County Fire Protection District. Electrical service is provided by Boone Electric.

Wastewater service to this lot will be provided by the Boone County Regional Sewer District.

The property scored 78 points on the rating system.

Staff recommends approval of this plat.

No one present to represent the plat.

Commissioner Mink made and Commissioner Schloot seconded a motion to **approve** The Woodlands Plat 5A, replat of Lots 135 and 136:

Carl Freiling – Yes

Boyd Harris – Yes

Larry Oetting – Yes

Patricia Fowler – Yes

Gregory Martin – Yes

Michael Morrison – Yes

John Schloot – Yes

David Mink – Yes

Motion to approve the plat carries unanimously.



2. Concorde South Plat 1. S3-T47N-R12W. C-G/M-LP. Robert M. Lemone Revocable Trust, owner. James R. Jeffries, surveyor

The following staff report was entered in to the record:

This property is located on the west side of Highway 63 west of Ponderosa Street approximately 1500 ft north of the intersection of Bonne Femme Church Road and Ponderosa Street. The site is approximately 1000 ft south of the nearest municipal limits of the City of Columbia. The acreage of the proposed plat is 16.35 acres. The subject area for this plat has approval for 9.75 acres of A-1 (agriculture) land to change to M-LP (planned industrial) zoning that will go into effect upon the signing of the Final Development Plan. The remainder of the property contained within the plat is zoned C-G (general commercial). The zoning to the west of the request, but still within the parent parcel, is also A-1 with R-S (residential single family) once the section line between sections 3 & 4 is crossed when continuing to the west. The property to the north of the request is zoned C-G and A-1. The property to the east across Highway 63 is zoned R-M (residential moderate density) and property to the south of the proposal but still contained within the parent parcel is A-1. These are all original 1973 zonings. The subject property is vacant. The site is within the Columbia School District. Consolidated Water District #1 will provide water service. Fire hydrants will be required and will have to meet fire & water district approvals. The actual requirements will vary based upon the actual size, uses, and construction methods proposed for the structures. The site is in the Boone Electric service area and Boone County Fire Protection District service area. Sewer service is proposed to be from the BCRSD facility serving Prairie Meadows. There is available capacity at this facility and the developer has secured a portion of the available capacity. This plat will create Meyer Industrial Drive, a public commercial roadway, which will provide access to the proposed lots. The proposal rates 81 points on the point rating scale.

The master plan designates this area as being suitable for industrial land uses, while the larger property under the same ownership has more designated area for residential land uses.

Staff recommends approval of the plat subject to the recognition that the exact placement of the temporary turn around at the end of Meyer Industrial Drive be worked out to the satisfaction of the Planning Director and with County Public Works.

No one present to represent the plat.

Commissioner Mink made and Commissioner Schloot seconded a motion to **approve** Concorde South Plat 1 **with the following condition:**

- The exact placement of the temporary turn around at the end of Meyer Industrial Drive be worked out to the satisfaction of the Planning Director and with County Public Works.

Carl Freiling – Yes

Boyd Harris – Yes

Larry Oetting – Yes

Patricia Fowler – Yes

Gregory Martin – Yes

Michael Morrison – Yes

John Schloot – Yes

David Mink – Yes

Motion to approve the plat carries unanimously.



3. Boothe Lane. S 27-T49N-R14W. A-1. Charles and Leann Martin, owners. J. Daniel Brush, surveyor

The following staff report was entered in to the record:

The property is located on the east side of Boothe Lane approximately 1.75 miles north of Route 40. The applicants also own a larger adjacent tract. The purpose of the subdivision is to reduce the size of the subject tract in order to allow better access to the barn that is on the adjacent tract.

The lot has frontage on and direct access to Boothe Lane. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

The property is in the service area of Consolidated Public Water Supply District Number 1, but utilizes a private well for its water source.

The home on the lot is served by an existing wastewater lagoon.

The Boone County Board of Adjustment granted a variance to the minimum lot size (Case Number 2008-001). The subdivision is in accordance with the Board of Adjustment's decision.

The property scored 22 points on the rating system.

Staff recommends approval of the plat and waiver requests with the following condition:

The plat shall be recorded concurrently with the accompanying survey that consolidates the 1.3 acre remainder with the adjoining property owned by the subdivider.

No one present to represent the plat.

Commissioner Mink made and Commissioner Schloot seconded a motion to approve Boothe Lane with waivers and the following condition:

- The plat shall be recorded concurrently with the accompanying survey that consolidates the 1.3 acre remainder with the adjoining property owned by the subdivider

Carl Freiling – Yes

Boyd Harris – Yes

Larry Oetting – Yes

Patricia Fowler – Yes

Gregory Martin – Yes

Michael Morrison – Yes

John Schloot – Yes

David Mink – Yes

Motion to approve the plat carries unanimously.



IX. Old Business

Update on County Commission Decisions

Mr. Shawver stated the conditional use permit request by Westhoelter was approved by the County Commission as recommended.



X. New Business

Mr. Shawver stated the Commission has a Joint Planning meeting Saturday at the library in room A.

Next month is the annual elections of officers.

Commissioner Fowler stated she senses this is going to turn in to a City dominated process Commissioner Fowler is trying to fight that a little bit so there is a City/County balance.

Commissioner Freiling stated Commissioners Fowler and Smith have done a large portion of all of our joint contribution to the joint planning effort. Commissioner Freiling stated his only interest in this is he believes this first step in the joint effort is critical to the long term ability to have rational land use planning in Boone County as a whole because the City and County are going to have to work together. This is very important and goes way beyond this individual instance. Commissioner Freiling encouraged each Commissioner who plans to stay on the Planning and Zoning Commission a while to show up to at least one, hopefully two meetings, and meet some people from the City side and get a sense of their sense of direction. Hopefully within the next decade we will be able to have a land use plan in Boone County that involves more than sensible growth until it is all gone. To do that it is going to take cooperation between the city and county.

XI. Adjourn

Being no further business the meeting was adjourned at 10:15 p.m.

Respectfully submitted,

Boyd Harris
Secretary

Minutes approved on this 17th day of July, 2008