

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

**Minutes**

**7:00 P.M.**

**Thursday, February 18, 2010**

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

II. Roll Call:

a. Members Present:

Boyd Harris, Chairperson	Centralia Township
Carl Freiling, Vice-Chairperson	Cedar Township
Eric Kurzejewski	Missouri Township
Brian Dollar	Bourbon Township
Paul Prevo	Rocky Fork Township
Larry Oetting	Three Creeks Township
Mike Morrison	Columbia Township, Acting-Secretary
Gregory Martin	Katy Township
Derin Campbell	Public Works

b. Members Absent:

Paul Zullo	Rock Bridge Township
Vacant Seat	Perche Township

c. Staff Present:

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

III. Approval of Minutes:

Minutes from the December 17, 2009 meeting were approved by acclamation.

IV. Chairperson Statement

Chairperson Harris 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 requests for a conditional use permit, two rezoning requests, and two 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 short and 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 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. Also, we ask that you please turn off your cell phones.

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, March 2, 2010. 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, March 2, 2010 will begin at 7:00 p.m. and will convene in this same room.

## V. Conditional Use Permits

1. Request by Debra Diller for a permit for Riding School and Equine Boarding Facility on 13.1 acres, located at 5950 N. Boothe Ln., Rocheport.

The following staff report was given by Planner, Uriah Mach:

The subject property is located on a private drive off of Boothe Lane, approximately 6 miles northeast of Rocheport. It is 13.1 acres in size, and has a house, covered riding arena, outdoor riding arena, corral, and a stable on-site. The property is zoned A-1 (Agriculture) and is surrounded by A-1 zoning. This is original 1973 zoning. The master plan designates this area as being suitable for agriculture and rural residential land uses.

The applicant is requesting a conditional use permit for a riding school and an equine boarding facility. There have been no prior requests submitted on this site. In 2002, a conditional use permit was granted for a similar facility approximately 800' south of this site. Staff notified 11 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.

Hours of operation, number of horses, and the number of students will determine if the use is injurious to the use and enjoyment of other property in the immediate vicinity. The applicant has indicated that the number of students and their schedules, as well as her schedule as teacher, will be a limiting factor in the intensity of the use. Public testimony may be 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.

If operated in conformance with existing county regulations, the use should comply with this criterion. 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 issue of roads and road access is of note for this use. The subject property does not have direct frontage on to Boothe Lane. It has access to public roads via a private driveway that extends across the tract immediate adjacent to the north and one that lies to the northwest.

(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 has already developed in compliance with the present zoning of the area (A-1). The establishment of this conditional use permit will not impede the further development of this area unless a rezoning to a higher density is sought for the surrounding properties.

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

The previously identified private drive easement that serves three of the five tracts in the immediate vicinity (including the applicant's tract), is identified as being 100' in width, yet the actual graveled surface does not appear to be that wide. Space exists for the expansion of the private drive, so improvement or widening of the driving surface would be simple.

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

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

Staff recommends approval of the request with the following conditions:

1. That the structures utilized by this use be brought into compliance with Boone County's building code and the fire code to the satisfaction of the Director of Planning & Building Inspection and the Boone County Fire Protection District.
2. That the number of horses that can be boarded be limited to 15.

Present, representing request:

Debra Diller, 5950 N. Boothe Ln., Rocheport

Debra Diller presented a power point presentation.

Debra Diller: The facility is called "Horsin Around: Natural Horsemanship". We offer riding lessons and natural horsemanship clinics and it is a rental facility, anyone can come in and use it. The idea behind this was to offer Missourians a centrally located place specifically for natural horsemanship. It is a premier environment. The items with an asterisk are differences between her facility and others. Other facilities offer different things than hers and the asterisk items are things she offers that the others don't. These items are: an outdoor grass arena, a round corral, 6 acre playground, 4 turnout pastures, grooming/vet/farrier area, classroom/lounges, tack room/tack lockers, and refrigerator/microwave. Instructors are invited to come to the clinic to teach natural horsemanship because there isn't a place in Missouri that does that right now. We offer a country summer camp for kids, lots of kids don't have access to a country environment. We ride horses and fish; it is a very unique summer camp. We offer foundation based natural horsemanship riding lessons to adults and children and we also offer underprivileged youth riding classes

Debra Diller: A typical monthly schedule is an evening during the week or a couple hours on the weekend. People will come out to ride and maybe a workshop here and there on the weekend. It has been like this for a year and a half, it is picking up a little bit. This is a retirement plan; I am starting out slow, I wanted a facility I could use and build for my retirement and I am just now getting started with it. We give lessons sporadically throughout the month. The access road leads to all of our driveways. All of the neighbors have deliveries and trailers as well as visitors that go up and down the driveway. There is a very slight increase in traffic for the people that come up and down the driveway for these few lessons. The applicants are willing to discuss upgrading or changing that by paying for their share of the improvements depending on what the neighbors want to talk about. There will be a sign at the driveway, we will have set hours, and exterior lighting will shine inward and downward. The electric fence will be maintained and remain on.

Open to public hearing.

Present speaking in support:

Mike McMillen, 5800 N. Boothe Ln., Rocheport

Mike McMillen: I have a similar riding facility on the south side of my property so now I have two facilities on both sides. I have spoken with them and as long as Ms. Diller keeps her hours reasonable and keeps the number of total people down I don't foresee a problem. I haven't had a problem with the other property. Was the limit of the number of horses to include the applicant's horses or other peoples horses?

Uriah Mach: That is the total number of horses.

Mike McMillen: Would that include her horses?

Uriah Mach: Yes.

Mike McMillen: I have no reservations about what she is doing. The applicant agreed to the hours of 9:00 and keeping the lights in and down. I don't have a problem if she occasionally has a large group out there or if she wants to bring the 4-H group out some weekend, I just don't want to see it on a regular basis because I don't think the area can handle a large amount of people on a regular basis.

Tatha Todd, 905 W. Old Plank Rd., Columbia

Tatha Todd: My daughter, Tatiana, has attended several of the summer camps and has went on to take riding lessons, the experience that she gains from the camp and lessons are tremendous. It gives the kids a chance to get out and experience the country life that so few kids get to experience in today's world. It gives them a chance to get in to nature. Deb is wonderful with the kids and they all love her. It is a great thing that she is doing.

Tatiana, Ms. Todd's daughter, stated she goes to the summer camp because before that she was nervous around horses. Miss Diller has taught her that if you go around the horses, they are not scary. She wakes up a few hours early because she is anxious to attend camp. Tatiana stated she trusts Miss Diller when she is on the horse because Miss Diller would never do anything that will hurt her.

Debbie Karwoski, 6261 Schuster Rd., Columbia

Debbie Karwoski: I am an adult student of the applicant. I appreciate that she not only teaches kids but adults as well. The applicant is responsible as a teacher I don't think you can find a better person to run an operation such as this with the applicant's attention to detail and safety and the fun aspects of it as well.

Craig Jennings, fiancé of applicant, 5950 N. Boothe Ln., Rocheport

Craig Jennings: I am a deputy sheriff and a DARE instructor since 1996. I am quite aware of underprivileged children and I see the work that the applicant has done teaching the kids. The facility is going to be a well run, professional, and well maintained facility once we get it done; it is still under construction.

Sheldon Toepke, 5980 N. Boothe Ln., Rocheport

Sheldon Toepke: I support this activity, it is a rural activity. Our only concern is the driveway, there are two hills on it and it is hard to see a car coming. If we have trailers someone will have to back up, there is no way to pull off to the side. That needs to be addressed whether we do that as neighbors that share it or whether you do it as a Commission. Other than the driveway, we are very supportive.

Present speaking in opposition:

Jay Barta, 5966 N. Boothe Ln., Rocheport

Jay Barta: I don't disagree with the applicant running the horse training facility but I have some issues that I feel should be addressed. The facility can be seen from all directions; it doesn't blend in with the community well. It is probably hurting my property value as much as it is helping it. I would like to see some trees planted or some type of camouflaging done in order to try to blend this back in with the landscaping. It is a rather large building for 13 acres. The staff report states there are only 15 horses allowed; I want to make sure it is stated that it is horses to be boarded, horses owned, and horses participating in the training class. I would like to know how many students can be at the facility at one time and who will monitor this? Is one person adequate? What is the applicant's requirement for how many students per adult? How long does the permit last? We live on a community road which this facility will be a part of, how is the road going to be maintained? What is going to be done to the road to accommodate this extra traffic? What does Boone County dictate as far as road access to and from the business? The road is not currently set up for large living quarter size horse trailers and it can be an issue for people trying to get in and out.

Closed to public hearing.

Debra Diller: Does the facility meet the criteria for a conditional use permit as it is?

Uriah Mach: The facility was constructed under a legitimate building permit; the building permit process did not require any sort of vegetative screening. The issue of screening, as far as staff is concerned, wasn't considered given there is a substantial horse facility to the southwest. It wasn't felt it was an issue at that time. The topography is comparatively flat in this part of the county so any structure would disrupt the silhouette of the terrain.

Commissioner Harris: There was a question about how many students would be there at one time and the student to adult ratio.

Debra Diller: It depends on what type of course or clinic is being offered. My classes can be private or semi-private so it would be one or two people at once per instructor. The horsemanship clinics often have anywhere from a couple to six or ten; many of them drive in without a horse and we use horses to demonstrate things, you don't have to bring your own horse. Some people ride in those clinics so they might bring their horse but most of the people are auditing and just watch so most of the traffic wouldn't be large trailers. I have no way of knowing right now because some people are coming from Kansas City, St. Louis, or Iowa because the natural horsemanship that is being offered is rare.

Commissioner Harris: What is the biggest crowd of students the applicant has ever had?

Debra Diller: Thirteen.

Commissioner Harris: But not all of them had a horse.

Debra Diller: Only two rode.

Commissioner Oetting: If there was a limit of thirteen or fifteen participants would the applicant be agreeable?

Debra Diller: I would rather see a limit to the riders than the people that want to come and watch only because it is such a rare opportunity.

Commissioner Oetting: If you had a child come to ride and they had two or three family members that came along the applicant doesn't want them included in that limitation of thirteen or fifteen?

Commissioner Freiling: The concern we face in these circumstances is the horsemanship is traditional agricultural activity. The concern you face is when you bring the public to the site it changes the nature. I see the level of activity being discussed as one issue. I see the road, as a private road where the maintenance is shared; you are going to have a disproportion impact. I would have been more comfortable if that had been resolved before we addressed this. I can see that becoming a troublesome issue.

Commissioner Campbell: How is it addressed now?

Debra Diller: One person mows one side and someone else mows the other. Out of the four of the neighbors, three of us take care of it.

Commissioner Campbell: Who pays for the rock?

Debra Diller: It is split four ways.

Commissioner Kurzejeski: Is there a legal road maintenance agreement that is drawn up by the owners?

Debra Diller: It is in our covenants to share maintenance.

Commissioner Martin: Are there going to be any parking spaces on the facility?

Debra Diller: I have a parking area; they aren't lined out.

Commissioner Martin: Is it gravel?

Debra Diller: Yes.

Commissioner Martin: How many horse trailers can it accommodate?

Debra Diller: Probably four on one side and one can park next to mine.

Commissioner Martin: The concern does become how many people come. If the clinic does well then you could draw several people from a lot of places. I think you could see 50 to 60 people there unless there is some kind of limits imposed on it and that is going to intrude on everyone out there.

Commissioner Harris: So four parcels are all party to a written covenant or shared maintenance agreement.

Debra Diller: Yes.

Commissioner Kurzejeski: The applicant is open one evening a week and on weekends but they are looking to grow the business. Would the applicant be comfortable with limitations on how many evenings they could operate?

Debra Diller: I am happy with one; it is plenty right now.

Commissioner Freiling: This conditional use permit will carry forward so if the applicant gets to a point where they want more; these conditions will continue.

Commissioner Harris: (to Mr. McMillen) You have a similar facility but that is for personal use, it is not a public facility like Ms. Diller is requesting?

Mr. McMillen: The one I was referring to is directly to the south and is owned by the Gerzen's. It was rezoned probably seven or eight years ago, probably for the same purpose.

Commissioner Martin: Does the applicant have adequate parking that everyone will be off the roadway and in to the facility.

Debra Diller: Yes. I understand what you were saying about limitations. If it hits, it could be big. On the other hand it interferes with the agricultural and rural aspect. We had thirteen out there very easily. I would like to not see it limited to less than twenty.

Commissioner Harris: Is the applicant's residence on this property?

Debra Diller: Yes.

Commissioner Martin: The number of people for me is not a great decider as long as there are places for everyone to get off the road. It is back to this condition where you can't have a direct impact on your neighbors.

Debra Diller: The evening time during the week would never be more than one of my riders. It would be on the weekend where people are off work anyway.

Commissioner Martin: There are no plans for any kind of shows; just clinics only?

Debra Diller: No, no plans.

Commissioner Freiling: The language in the subdivision covenants road maintenance agreement is standard. If your individual use damages the roadway you are individually responsible for repair. That does relieve a considerable amount of concern.

Commissioner Harris: Someone had asked how long this would last. It is a conditional use permit rather than a rezoning change so the conditional use permit would stay with the land as long as this use was being utilized.

Jay Bartha: How many adults per children?

Commissioner Harris: The lessons are either private or semi-private so probably just one or two children per adult.

Debra Diller: In the summer camps I have a limit of 10, but I am a teacher and I have taught as many as 30 in a classroom.

Commissioner Prevo: Do you have a minimum age for riders?

Debra Diller: First grade. The minimum age for the camp is 7 years old.

Commissioner Harris: Is the building close to being completed?

Uriah Mach: One of them is still going through the construction process; construction has been halted pending the outcome of this request. If the permit is approved that may change things so far as the nature of the building code. If approved there will likely be remodeling on the other structures. All structures involved have to be constructed to the satisfaction of the Director of Planning and Building Inspections and the Fire District.

Commissioner Freiling: One thing we have discussed but not resolved is the level of human presence. My first take on this is that it's difficult to monitor and difficult to enforce. My second take on it is if there is not a limit it does open the door to the point where it could become overwhelming.

Commissioner Martin: I am finding a hard time coming up with a number. If you have ten children come out and two parents with each one; you have thirty people.

Commissioner Freiling: I don't mind the number of people as much as the level of activity. If you only have fifteen horses present you can't have more than fifteen riders.

Commissioner Kurzejeski: You could have thirty people and their parents.

Stan Shawver: The limit on the horses is probably the best way to control that. If you have fifteen horses in the arena at the same time that is problematic by itself.

Commissioner Kurzejeski: I think the thing to do is change the total number of horses on the premises at any one time. The other issue is the hours of operation; limiting to one weekday evening from 7 to 9 p.m. and weekend daylight hours will help limit any future growth that might be problematic.

Commissioner Freiling made a motion to approve the request by Debra Diller for a riding school and equine boarding facility with staff recommendations with paragraph two being changed to the total number of horses on the property at any time be limited to 15. Another condition showing hours of operation in all events be restricted to daylight hours. No more than one session after 5:00 p.m. on weekdays and only one evening session on weekends; both to be within daylight hours.

Commissioner Freiling: Is that something the applicants can live with?

Debra Diller: With the number of horses the lessons are with me and it is one or two kids. The clinics are with a professional instructor who will come in with their own horses, maybe a couple, and then other people might bring their horses. None of these might be a stalled horse on my facility; none of my horses may even be involved in a clinic. I might have fifteen horses there, none of them involved in the clinic, but just the regular day to day boarding of a horse. But then people want to come in on Saturday or Sunday, to be in the clinic and then go home. I will be at fifteen horses if I fill my stalls.

Commissioner Freiling: What is the most amount that is acceptable to the applicant?

Debra Diller: Eight riders plus instructor horses, maybe eight to ten extra horses.

Commissioner Freiling: So we can limit that to the number of horses boarded with an additional limitation on the number of horses visiting.

The Commissioners discussed the number of horses to be boarded.

Commissioner Prevo: How many trailers can the parking lot accommodate? If you are looking at eight or nine more horses you are looking at eight or nine more trailers.

Debra Diller: The trailers would fit on the parking lot and we would use the field for parking.

Commissioner Dollar: The applicant is going to board horses there and people from town are probably going to come out and ride. There is an indoor facility where they can ride at night. The hours of operation shouldn't apply to boarded horses.

Commissioner Freiling: So the indoor hours should not be limited.

Commissioner Dollar: In general, these riding schools and horse boarding facilities are a good use. There is one next door; what kind of restrictions does it have?

Commissioner Freiling: Pretty much the same.

Stan Shawver: It has very similar restrictions. A restriction on the number of horses and lighting restrictions.

Uriah Mach: They are limited to 22 horses, they have inward/downward lighting and other restrictions that were site specific.

Commissioner Prevo: What were the plans for the tight access for the road and making it so if you have these eight trailers plus your neighbors that need to use the road? Is there a plan in mind?

Debra Diller: That has been an issue; we haven't all sat down to talk about it together.

Merrilee Barta, 5966N. Boothe Ln., Rocheport, MO 65279

Merrilee Barta: This barn is completely open on the east side. When there is light on at night it glows toward our side. I do have an issue with the boarded horses riding after 9:00 p.m. because it makes it so bright. I also have a question about the number of horses; if you have 15 horses boarded, then if you have more horses staying over for a weekend clinic that is a lot of noise. We are living out in the country for peace and quiet.

Commissioner Freiling withdrew his motion.

Commissioner Oetting: I am not opposed to this request but there is the factor of the driveway to work out. I would like to see more thought given to the hours of operation, the number of horses, the number of participants, and the number of people showing up before we make a judgment tonight.

Jay Barta: How do you determine on a community road how it is maintained?

Commissioner Freiling: That is in the covenants.

Commissioner Harris: Those covenants are probably pretty strictly written as to your recourse.

Commissioner Dollar: I don't think it should be the County's responsibility to enforce whatever private agreement the private landowners have to maintenance of the private road. There is not much we can do. If one of the neighbors tears up the road; you have to go to the neighbor and ask them to fix it; if they don't then you have recourse.

Commissioner Dollar made a motion to approve the request by Debra Diller subject to staff conditions.

Commissioner Freiling seconded the motion and asked that it be amended to add the following:

- Any horse present on the property for more than three continuous days shall be deemed a boarded horse.
- The number of non-boarded horses that can be brought to the property at any one time is limited to ten.
- The outdoor hours of operation are limited to daylight hours with not more than one weekday evening per week.
- Operation of the covered riding arena end before 9:00 p.m., year-round.

Commissioner Dollar accepted the amendments to the motion.

Commissioner Dollar made and Commissioner Freiling seconded a motion to **approve** the request by Debra Diller for a permit for Riding School and Equine Boarding Facility on 13.1 acres, located at 5950 N. Boothe Ln., Rocheport **with the following conditions:**

1. That the structures utilized by this use be brought into compliance with Boone County's building code and the fire code to the satisfaction of the Director of Planning & Building Inspection and the Boone County Fire Protection District.
2. That the number of horses that can be boarded be limited to 15.
3. Any horse present on the property for more than three continuous days shall be deemed a boarded horse.
4. The number of non-boarded horses that can be brought to the property at any one time is limited to ten.
5. The outdoor hours of operation are limited to daylight hours with not more than one weekday evening per week.
6. Operation of the covered riding arena end before 9:00 p.m. year-round.

Boyd Harris – Yes

Gregory Martin – Yes

Brian Dollar – Yes

Paul Prevo – NO

Eric Kurzejeski – Yes

Carl Freiling – Yes

Michael Morrison – Yes

Larry Oetting – Yes

Derin Campbell – NO

Motion to approve the request carries 7 YES 2 NO.

Chairperson Harris informed the applicants that this request would go before the County Commission on March 2, 2010 and the applicants need to be present for the hearing.



2. Request by Barry and Sherri Homan to amend a permit for an Outdoor Recreational Facility on 10.97 acres, located at 14341 N. Proctor Rd., Columbia.

The following staff report was given by Planner, Uriah Mach:

This property is located 4 miles east of Harrisburg, 10 ½ miles north of Columbia and 2 miles west of Highway 63. The site is located about ½ mile south of Highway 124 on Proctor Road, which is a gravel, county maintained road. This property is zoned A-2 (Agriculture), as is all of the surrounding property. The applicants live on the property and operate a private outdoor recreation facility for use for outdoor parties, weddings, reunions and other similar private functions. The private outdoor recreation facility was approved as a conditional use on 10.97 acres of the property owned by the applicant in 1999. In October of 2000, the conditional use permit for the private outdoor recreation facility was suspended pending compliance with the conditions set in 1999. The suspension ended when the applicants met the conditions set in 1999. The applicants submitted a rezoning request to REC in 2000 and were denied at that time.

This property is within the Harrisburg R-8 School District. Electric service is provided by Boone Electric Co-operative. Information provided by Consolidated Public Water Service District No. 1 indicates that there is no public water at this end of Proctor Road. The master plan designates this area as being suitable for agriculture and rural residential land uses. Staff notified 20 property owners concerning this request.

The current request is to amend the original permit's conditions of approval. In 1999, the County Commission approved the conditional use permit for a private outdoor recreation facility with the following conditions:

- That the facility may be open only on Saturdays and Sundays from April through October
- The hours of operation be restricted to daylight hours
- No overnight camping is permitted
- Parking area to be provided on site for a minimum of 60 vehicles
- Driveway and parking area to have a dust-free surface within six months of approval of the permit

The applicants are requesting the conditions be changed to allow for the following:

- That the facility may be open year-round
- That the hours be as follows:
  - Monday through Thursday – 8:00 AM – 7:00 PM
  - Friday through Saturday – 8:00 AM – 12:00 AM
  - Sunday – 10:00 AM – 7:00 PM

The criteria for approval of a conditional use permit are as follows:

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

- 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.
- c. The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.
- d. All necessary facilities will be available, including, but not limited to, utilities, roads, road access, and drainage.
- e. The establishment of the conditional use permit will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district.
- f. The establishment of the 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.
- 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.

In 1999, the staff analysis of the request recommended denial based on failure to meet criteria b)(injurious to use and enjoyment of other properties), d)(all necessary facilities will be available, including but not limited to utilities, roads, road access & drainage), f)(will not hinder the flow of traffic or result in traffic congestion), and g)(conform to applicable regulations and that there is public necessity). Staff also suggested the current set of conditions if approval was to be granted.

As a conditional use, a private outdoor recreation facility has the propensity to be problematic. Nighttime activities and traffic in a rural area can create undesirable noise and traffic impacts to nearby property owners, limiting their ability to enjoy their property. Increased activity would result in increased demands for utility services. Current available utility service is limited, with water and wastewater being served by on-site wells and an on-site wastewater system. Increased activity on this site would also result in higher traffic counts on Proctor Road, a two lane county-maintained gravel road.

The October 2000 suspension of the conditional use permit indicates how nighttime activities can be disruptive to the use and enjoyment of surrounding properties. Specifically, there was a Sheriff's department call for peace disturbance on the property, the parking and drive had not been completed with a dust-free surface, and the County Commission had received letters and video tapes of non-compliance with the hours of operation condition. In response to this information, the County Commission suspended the permit with the option to revoke it if the conditions were not met and abided by. It was later reinstated by the County Commission once the conditions for approval were met.

Additionally, the conditions on the current conditional use permit are more consistent with available facilities, such as utilities, roads, road access & drainage and prevent traffic congestion, than the requested changes. The current conditions are necessary to mitigate the impacts associated with the operation of this conditional use permit at this location. Without the current conditions, the use is not compatible with the surrounding land uses. The site currently lacks public water, access to a central sewer, and road infrastructure able to support activity beyond rural residential land uses.

Returning to the conditional use permit approval criteria:

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

If operated in compliance with the codes and regulations of Boone County, this criterion will be met

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

The applicant's proposed changes in conditions may prevent this condition from being met

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

The applicant's current conditional use may not substantially impact property values in the neighborhood; however the applicant's proposed conditions are likely to do so due to the increased use.

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

The lack of public water for fire protection, of public sewer, and existing road infrastructure are not sufficient to meet the level of use proposed by the applicant

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

The previously mentioned lack of infrastructure to support increased development in this area will have greater impact on impeding the development of the surrounding property than the establishment of this conditional use permit

- f. The establishment of the 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 current conditional use permit on the property allows this criterion to be met. The expansion of activity under the applicant's proposed conditions would not allow this criterion to be met.

- 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 current state of the property conforms to the applicable regulations of the zoning ordinance

After the suspension of the conditional use permit in 2000 and its later reinstatement, staff has had few complaints about activity related to the approved permit. That indicates that the current conditions are appropriate to this location and use. Conditional use permits are not to be used as a means to avoid the requirement of commercial zoning for a particular use. This request seeks to modify the conditions in a manner that would make the use comparable with commercial reception facilities, which under the zoning ordinance would need to be located in commercial or recreational zoning. This is not the purpose of a conditional use permit. Conditional use permits exist to allow activities that may be in the character of a given zoning district, but are more intense or may generate negative off-site impacts. An increase in the intensity of this use must be weighed against the conditional use criteria. As described above, criteria b), c), d), and f) are unable to be met with the changes in conditions desired by the applicant.

Staff recommends denial of this request.

If the commission approves the request, staff recommends the following conditions:

- That the facility may be open only on Saturdays and Sundays from April through October
- The hours of operation be restricted to daylight hours (6:00 AM to 9:00 PM Central Daylight Time)
- No overnight camping is permitted
- Parking area to be provided on site for a minimum of 60 vehicles
- Driveway and parking area to have a dust-free surface

Present, representing request:

Barry Homan, 14341 N. Proctor Rd., Columbia.

Sherri Homan, 14341 N. Proctor Rd., Columbia.

Barry Homan: The information in the staff report is historically correct but most of it was from a ten year old report. Staff has no current information today. When we started this project the applicants got married on the property in 1994. About that same time the master plan indicated there was a need for an appreciation of community activity that offered diversity and culture on green space in the county. There was a lack of parks and recreational activity. With our marriage we had to come to town to have the reception; we felt it was more appropriate that we could do something in the county more along the lines of who we are. That blossomed in to a couple more weddings, then and we got in to the conditional use permit and the recreation activity that was mentioned in the staff report. We had a bumpy road for a couple of years. Since then we have upgraded most of the infrastructure, Dennis Seivert created our wetlands for our waste disposal system at the site which far exceeds our capacity at the moment. We are operating at about 30 percent due to the fact that we technically only operate on the weekends and right now, mostly on Saturdays. The system is designed to go year round, twice a day with groups of 200 people. We aren't even close to hitting capacity on the waste system.

We have two water systems and one is a well head which is a commercial well that isn't in use right now. The capacity level on that is to be able to pump water to 26 houses. The fire-hydrant, which was recommended by ex Fire Marshal Ken Hines is a dry hydrant system. The need for public water is negated by the fact that we are self sufficient. That also helps in the fact that not running a water line down Proctor Road negates any development that would come in behind us that would be able to just tie in for the cost to hook up. We would have to build it and they would just hook up and that wasn't going to work. We have a 60 car dust free parking lot. Most of the suspension and reinstatement was over that parking lot. We had an asphalt parking lot but we had it extended in to a dust free surface with the chip and seal. We now have parking that accommodates another 40 or 50 cars. Traffic doesn't sit on the road, it has the ability to be completely off the road. We have been working quite feverously with MoDot and Boone County Public Works in bringing Proctor Road up to proper road width, proper culverts, and proper drainage. It is therefore a much better road than when we started 10 years ago. I don't see how we can sit here and see how the road could have diminished capacity or hinder traffic. We have been doing this for 10 years and MoDot has to be commended for the fact that they've bettered the road because of the things out there.

Regarding property values; that a place like ours could maybe diminish the value of the property surrounding us is pretty much a fabrication. Our place, Sherri bought at \$300 per acre; we bought land at \$2000 an acre and the land adjacent to ours went for \$3700 an acre. Land is not going to diminish in value when you have an establishment such as ours next to it.

The applicants presented a power point presentation.

Shown were photos of the property as well as wedding pictures.

Sherri Homan: This is a botanical park setting with amenities for hosting weddings and receptions. When we got married 16 years ago our wedding was on a farm but we had to come to town for the reception. If we had to do it over again we would have stayed on the farm. The only alternative at that time was Shelter Gardens for an outdoor wedding ceremony and it lacked the proper amenities for hosting the event which led us to this niche. With my management skills and Barry's landscaping background we utilized our resources to create an outdoor site with amenities to hold such events. Early on there were bumps in the road and definitely a learning curve but we have persevered and now strategically placed the park to compete with the global market place.

Alpine Park consists of several features such as Conard's Falls. It is a man made waterfall and it circulates quite a bit of water, there is a lake further on down. This is part of the water reclamation program. There are also century old oak trees there.

Barry Homan: This was built due to the fact that when we had to put in the asphalt parking lot impervious road surface created runoff. It created enough runoff that we were able to create this feature plus Mirror Lake and retained all the water that runs off Proctor Road through water reclamation. It re-circulates and creates a water feature.

Sherri Homan: Houston Hedge Garden is where people congregate and walk through the park. A lot of photographs are taken in this area.

Barry Homan: This used to be the vegetable garden of the original home site.

Sherri Homan: The koi pond has the dry hydrant.

Barry Homan: This is also a feature we were able to create with a deck over it and people can come down and feed the fish

Sherri Homan: The amphitheater is where the majority of the weddings take place.

Barry Homan: This used to be a cattle pond; we took the pond out because it was a mosquito pit. We turned it in to our amphitheater where it is shaded and backed up to the tree line. It is to the west of the pavilion is primarily our number one spot for doing weddings. The pavilion is a timber frame structure; we logged the timber, cut it, milled it, and put it together by hand. The original structure is all white oak. It is 2400 square feet; we can sit about 200 people inside. It has a concrete floor and is very user friendly. The east side is partially walled in but there is no door on it. We are a seasonable operation. There is lighting, there is also lighting out in the trees; they are on dimmers which we can turn up and down

Sherri Homan: There are a number of other features throughout the park. There is a wildlife preserve that sits behind the pavilion; we have a lot of animals come through such as deer, quail, and turkey. Because we are a botanical park we do mass plantings in the summer and have flowers and shrubs.

Sherri Homan: We are here today to revise our operating permit so we can slowly phase in to the next level of the Alpine Park and Garden strategic plan. Having been in operation for 16 years with 10 years being under the purview of a conditional use permit Alpine Park has met and exceeded the expectations of the Boone County Commission. We are considered a market leader for the wedding industry and outdoor hosting of such events in Mid-Missouri. Although others have a free hand in directing their level of

participation in this field we are summarily limited by the conditions which were placed on us 10 years ago mainly operating only April through October, daylight hours and weekends only.

Barry Homan: Another footnote to these conditions. When we started we were novices at this. We didn't know what we were facing when we came in to this room. We have to commend the Planning and Zoning staff, they steered us in the right direction. They got us contained so we weren't all over the map. Now that we are focused we are very good at what we do and that is why we are here today to revisit those conditions.

Sherri Homan: There are no other similarly functioning facilities operating under these narrowly construed conditions in Boone County today. In the meanwhile not-for-profits, local governments, private entrepreneurs have all entered in to the market place without any conditions that they don't direct themselves. The playing field has changed over the course of the 10 years that now warrants this request. As a market leader we have been able to obtain this position by projecting an environmentally friendly emphasis on these festive occasions with a proactive, positive mandate to provide a facility that elicits respect, acknowledgement, and credible representation of what Boone County has to offer to the thousands who have been a guest at Alpine. Our strategic planning and marketing plan regarding services have exceeded our expectations by which over one half of the demographics of our clients are from out of town and or out of state. By their nature, weddings generate revenue of some significance because out of town clients greatly increase the stream as they rely more on local vendors and goods to meet the needs of the day. Brides have come from all over the United States and as far away as Alaska and China.

We are allowed only 62 days out of 365 to operate. This results in only 17% of the time in a given a year in which we can be open and be profitable. Of these approximately eight allowable working days are unusable as our agricultural zone doesn't green up until the end of April leaving us with about 15% of a given year to meet our financial obligations for the year. Presently we are reserved 95% of our allowed and doable Saturdays and about 30% of our Sundays. We met this level of reserves last year and plan to exceed that level this year and are already ahead of that rate of reservations for 2011. A continuation of this rate would either get us in to multiple weddings per day based on an A.M., P.M., schedule which would only increase the wear and tear of the park, staff issues, traffic, and really create logistical issues but would be doable if needed because there are several venues in St. Louis and Kansas City that operate in this manner. We don't feel that this is a sound policy to change our basic fundamental plan that we have established over the years which is to host one event per day.

This brings us to a program that we are developing to do ceremonies that fit the profile of today's marketplace, the economy weddings. Presently the court house is the only place that these weddings are occurring. In today's marketplace there are several scenarios that we have encountered in which couples need to get married either because of deployment in the armed services, pregnancy, second marriages, or just economic considerations. With a policy change to allow marriages the same day you pick up a license the judicial system is having a difficult time meeting the demand. There is presently a 60 day wait for these at the Boone County Court House alone. Their policy is to perform only 3 of these on Friday's and only over the Judge's noon hour. One program we would like to implement is geared towards small intimate weddings that we would like to keep under a dozen or so participants per ceremony for the weekday activities and only on a given day. For marketing and advertising purposes and the ability to do such openly we are requesting a change in the conditions set forth in the application shown on the slide. (The slide shows: Year round, 7 days per week, hours of operation Sunday 10:00 a.m. to 7:00 p.m., Monday through Thursday 8:00 a.m. to 7:00 p.m., and Friday and Saturday 8:00 a.m. to 12:00 a.m.)

What we propose is realistic, acceptable conditions to be able to compete in today's marketplace and be able to meet this growing demand and meet our financial commitments under what has proven to be a positive, thriving facility for the central Missouri region.

Barry Homan: What we have discovered with the economy weddings is at the court house they have done 123 of those weddings last year alone. They have done them only in 45 days according to the secretary over there. We have begun getting calls for things like this but we felt like we better come here and change the hours we operate and openly market this program. We've talked to several people and it seems like a very doable thing and some of the conditions we are looking to put on this is to keep the group size very small. Since most of these are court house weddings you won't see more than 4 to 6 people tops anyway. One day there will be a limited window just like the court house; the range of time changes. The court house is only able to do noon hour; we found out that people have to leave work to go do this whereas we think there is a range for morning, noon, and night with an appointment schedule set up. An open window we are looking at is 10:00 a.m. to 2:00 p.m. where it is an open format. That is the daytime hours during the week. To go year round and have four or five people come out is not going to have any infrastructure needs whatsoever at the facility. That is no different than people coming out to visit the park for senior pictures or looking to book the park for a bigger wedding; that is just common day to day traffic for us. The focus for the hours of operation for Friday and Saturday night is more conducive to the time frame in which those events are occurring. As we get older, we actually see the need to scale that back ourselves. We still have to stay up, clean the place up, and turn the lights off.

A couple of things we have done to negate the noise issue is to put in our own sound system. We don't have a bass box. We still occasionally get the big boys but we are starting to wean those out. I don't think lighting and things like that will create light pollution. If any of you have been to Alpine it is a very heavily treed area. Once springs comes you can't see that we are even back there. Another program we've implemented is Ricks Taxi. It is a shuttle service that started last year; we hooked up with them pretty quickly and they are the sole shuttle service for us. We are now pushing the fact that people should take the shuttle and drive less which will help with any road issues and negates the need to have as much traffic on the road. Another reason we are looking at the economy weddings is that our Saturday's are full. Our Sunday's are heading that way quickly and we think if we can diffuse out some of that and move in to the economy weddings it will cover some financial logistics so we don't have to take on as many Sunday weddings. The way the permit reads now I can pack Saturday and Sunday to the gills and that would be a logistical traffic and staff nightmare. We think we can soften the nature of all that by taking some of that away and moving it more in to the economy weddings. Instead of doing one big wedding we can do ten small ones; it still equates to the same money but you don't have the same personnel needs to supply for 200 people versus 3 or 4. From a marketing logistics standpoint it is a win-win situation. Some of the details haven't been worked out but we do have a person here tonight that is our preacher that is assisting in this matter. We are working out how that will work out with her and us but the idea is to keep it small.

Open to public hearing.

Mr. Shawver presented a letter in support of the request from Henry Fisher which was received by staff.

Present speaking in support of the request.

Reverend Julie D'Auteuil, 300 Central, Rocheport.

Julie D'Auteuil: I met Barry a little over a year ago and went to Alpine Park. It is an incredible property, it is beautiful. It adds a lot of personal value to myself for the fact that Barry is very much in to honoring people that have passed amongst us and he has some memorial places out there. It is an extremely

gorgeous property and I really do feel strongly that this property needs to be allowed to have the capacity to work throughout the week as well as additional time on the weekends. We are very limited on the number of days and hours of operation at this time. I perform non-denominational weddings and there is a larger and larger need for these weddings at this time. People tend to want to be married outside for the simple fact that we are seeing a tendency for people to not be so established within a church and want to have the feeling of having their church outside in nature. This is something that I wholeheartedly support. I would be working closely with the applicants in getting the need addressed that this county has for economic weddings. That is one of the things that really entices me for the fact that there is a huge backlog in Boone County right now. We aren't saying that we are giving our services away however we feel like there is a huge need for economical weddings. There is a lot of deployment continuing to go on. I was part of the military so I am very well in tuned with the needs of people needing to be married before someone ships out. I hope you look and see that it is a hugely self contained capacity. One big thing to remember is that these are not big, huge public events. The most amount of people we are looking at showing up for two people getting married is 200 people. That is very easily taken care of with the infrastructure that the applicants have. It is self contained, it is not hooked up to the Boone County water but that is also a good thing because it doesn't allow for other big commercial venues to come in afterwards to plug in to it. This is a very wonderful service that the applicants have put together; it is very much needed. We are the only area between here and Kansas City and brides are looking; placement is critical.

Present speaking in opposition:

Ken Darwent, 14351 N. Proctor Rd., Columbia.

Mr. Darwent presented a packet of information he found on the internet regarding the site.

Ken Darwent: The information on the internet gives options of what the applicants offer at their facility and the various things they will do. They offer weddings, private parties, and who knows what that can entail. The main issue is noise; I know what will happen if this is approved, we are going to have a lot of noise. The business already runs past its hours that were approved in the conditional use permit. There have been nights that it will go until midnight or eleven or ten. There are fireworks at the end; that is a celebration of the ceremony but between 10:33, 11:18, and 11:26 is a little late. The applicant said that he has a box stereo but in the packet it says he has at least ten DJ's they are all experienced and will show you how it is done. The weddings that he is proposing is fine but there is no way to say that the hours that he wants is going to be strictly weddings because he is in the business of offering private parties. A private party could be a sorority or fraternity; we know Columbia is starting to crack down and they are pushing them out to the county. There have been some pickups with them, other vendors, usually on the fourth weekend of every April there is a flamingo flock that is held at their grounds. Two years ago I called and apologized to the police for their having to come quiet them down. I have even had to recall them again. There is no detriment for the business not to run past its hours. It needs validation. Also on the website there are 22 different weddings and receptions. With the noise, where I am at, I call it ground zero. Its got crowd noise, doors slamming, and loud cars. As the night goes by the music gets a little louder or the clear night lets it get louder. It is a business to make money and if you have the money, they will offer their business. The way it has been where the weddings in the daytime is fine but when you give them a blank check they are going to cash it. The applicant has not shown in the past to go by the conditions, I don't look for them to do any different now. I couldn't figure out why the applicants are even asking for this; I think it is for businesses that want to come out and party. If you have a legal opening and your hours are legal then that way they don't have to tell people that they are supposed to close.

There is still the ordinance of noise. If I am out cutting wood the applicants, on a couple of occasions, have come over and asked me to stop for a few minutes while the wedding takes place. The weddings I have no problem with; it is the receptions. Everybody wants to have the biggest, loudest reception that you can remember. You may go to a wedding once or twice a year; I hear it every weekend. I don't know where the fireworks came from and why they would even offer it. They sell peace and quiet for the ceremony but they turn around and take the money for noise. If I wanted to show my property it is like having your apartment by the subway. If you come out on a Saturday night you are going to hear the receptions outside and inside. The bass is loud; if they turn the bass down you still have the music, you still have the crowd noise, and there are always one or two yelpers in the group. I have been going through it for years. The economy is getting worse, things are slowing down and people aren't putting out the money for the weddings. But there is probably another opportunity for things that aren't covered by what the applicants are asking for. The applicants are asking for a blank check; I can see this opening the door for the applicants to have parties on Friday and Saturday nights. It has been going on for years, I am not going anywhere. I will have to talk to the county sheriff if I hear the noise to validate it. The permit was obtained by an unusual method because every public meeting I have been to, it failed. They received their permit through unusual means, but they've got it. The applicants have shown that they will not follow it. It is a business to make money and that is what they want.

Lori Lampe, 14351 N. Proctor Rd., Columbia.

Lori Lampe: I am a nurse and occasionally work weekends. If the applicants go until midnight and I have to get up and be at the hospital do you want me taking care of your wife or granddaughter?

Commissioner Harris reminded the audience to stay to the point and to not cross any lines of decorum as far as character.

Jerry Thompson, 3400 W. Highway 124, Harrisburg

Jerry Thompson: I was at the zoning commission meeting in 1999 and I said then that I had no problem with this unless there is noise. I have a problem still because there is noise. I like the applicants but I don't like noise. My house is over ¼ mile from the applicants and I hear the fireworks between 11:00 and 12:00 at night. We can be in our living room listening to the TV and hear fireworks. We can be in our bed and hear fireworks. These are fireworks that are cannon type fireworks. They aren't just bright; we can see the fireworks from our living room while we are watching TV, we look to the right and there are fireworks up over the hill. That is ok, I don't mind seeing fireworks, I just don't want to hear them. I just go along with Mr. Darwent in that regard and I feel sorry for him because he lives so close. We live further away and don't enjoy it. I think the sound of the music has gone down as the applicant said because I don't hear it as much as I used to. That would be my concern. I hate to think that this is going to happen all year long. I have called Sherri and talked to her on the phone at 11:00 p.m. asking them to turn the music down. She says they will and then the fireworks go up until midnight.

Barb Payne, 14333 N. Proctor Rd., Columbia.

Barb Payne: I like what the applicants have done with their property; it looks very nice. I don't understand where they are going with a recreational facility. What is the recreation? Partying, dancing, drinking, and eating? Or is there going to be something that is recreational? Is there going to be a pool table somewhere or somewhere where someone can throw horseshoes or anything at all like that which deems it recreational? I was against this last time; I didn't move out in to the country to live next door to a bar. The first part of the year they had phased down pretty good, it wasn't too bad. Barry was shooting fireworks off at 9:00 at night and that was okay. When he started shooting them off at 11:00, 11:30, and 12:00, I

wasn't too happy. As the summer continued on I started hearing music; I suffer from anxiety and have a really hard time with the bass. The applicants past conditional use permit says he can operate from sunrise to sunset. 2:00 a.m. is a little past sunset. If I don't sell my property this year I am going to raise a bunch of hogs.

Closed to public hearing.

Commissioner Harris: I understand that differences of opinion and personalities have been expressed and I want to keep focused on the application.

Commissioner Prevo: It sounds like the primary concern seems to be hours of operation after 10:00 p.m. and the noise. What is the current noise ordinance in the county?

Stan Shawver: There is not a noise ordinance like the city of Columbia has. If someone is bothered by noise they contact the sheriff's department and file a complaint. You have the right to go the Prosecuting Attorney's office and ask that a nuisance complaint be filed. Typically what happens is the sheriff's department sends a deputy out and they ask people to eliminate the source of noise.

Commissioner Prevo: (to applicants) How many times has a noise complaint been made in the past 3 or 4 years?

Barry Homan: We got one last year that we had a visit from the sheriff. It was more towards the end of the night. We are well aware of the bass; we have to stay on top of that. We have put in a system that is significantly smaller.

Sherri Homan: When the DJ shows up we tell them to turn the bass off. Even if it is still a little loud we have him turn it down during the night. We have tried to block it but when it is quiet that is when you still hear the noise.

Barry Homan: Music changes from song to song. The minute you think it is turned down they play a song that brings it right back up. It is a song to song basis; it is not an overall volume. It has been a constant headache from day one and we think we have gotten better at it. It is just a matter if there is the occasional one or two that get out of control. But we have gotten a better grip on it. The fireworks is a new thing; we got carried away on July 4<sup>th</sup> and we try to carry it over. We are trying to do that at 9:00 p.m., right at dark; it is not a closer, we don't want the last thing we do to be blowing off a lot of fireworks. The only reason we are in the county is because we can do it. That is a big draw for people in the things they can't do inside the city limits; they are going to come out. Some of this hype about having parties during the week; we directed what we are talking about during the daylight. We are not looking to pack big events in there during the day. We don't want to hire a bunch of staff to have to deal with a bunch of issues in regards to staffing to accommodate big crowds during the day. Scaling back to a more type of dusk atmosphere; I don't know how you can do fireworks without hearing them. I don't think it is over the top when I do 10 to 15 minutes worth of fireworks.

Commissioner Harris: The applicants mentioned a commercial well, what are the specifications on that?

Barry Homan: It is a commercial well, it is totally grouted. We don't have it running because we don't need it yet. When we put it in, we did it under an SBA loan and at the time it was a lot cheaper to do it 10 years ago than to set it today. We are prepared to set the pump now and are looking to do it this year; it is a fairly large pump and it has a five horsepower motor on it.

Commissioner Harris: My concern is that on a small property a well like that you are willing to invest the expense to put in the filtration and treatment to have that produce a water quality, will that meet the health department standards?

Barry Homan: Yes.

Commissioner Freiling: Our conditional use permit says that we don't have latitude about deciding that it is okay if it only meets 5 of the 6 criteria. On conditional use permits, under state law, we are obligated to certify that the conditional use permit will meet all of the statutory requirements. Paragraph B states the conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity. We clearly can't meet that criteria, it is injurious to the neighbors. It is not a comment on the quality of the product the applicants are offering; it is residential zoning, not commercial. A conditional use permit is not designed to create commercial zoning. The present use is more of an impact on the neighborhood than we would grant today. I cannot recommend increasing that impact.

Commissioner Freiling made and Commissioner Martin seconded a motion to **deny** the request by Barry and Sherri Homan to amend a permit for an Outdoor Recreational Facility on 10.97 acres, located at 14341 N. Proctor Rd., Columbia.

Boyd Harris – Yes

Carl Freiling – Yes

Gregory Martin – Yes

Michael Morrison – Yes

Brian Dollar – Yes

Larry Oetting – Yes

Paul Prevo – NO

Derin Campbell – Yes

Eric Kurzejeski – Yes

Motion to deny the request carries.      8 YES      1 NO

Chairperson Harris informed the applicants that if they wished to appeal the decision to the County Commission an appeal form would need to be filed with the Planning Department within three business days.

## VI. Rezoning Requests

1. Request by T-Vine Development Corp. to rezone from R-D (Two-Family Residential) to R-DP (Planned Two-Family Residential) on 6.04 acres, more or less, and to approve a Review Plan located at 4625 E. Hwy HH, Columbia.

The following staff report was given by Planner, Bill Florea.

This property is located north of Columbia in the northeast quadrant of the intersection of State Highways B and HH. The original zoning for this tract is A-2. In 2000 the property was rezoned to R-D, Two Family Residential as part of a larger development plan. In 2005 the land was platted as Settlers Ridge Plat 1 and was composed of 17 lots suitable for two-family dwelling construction. All of the infrastructure necessary to support Settlers Ridge Plat 1 was installed at that time.

The current proposal is to rezone the property to RD-P, Planned-Two Family Residential and replat into 34 lots suitable for single family dwellings or two-family attached dwellings utilizing zero lot line construction. The planned zoning designation is necessary in order to allow the zero setback on internal lot lines. If the rezoning is granted there will be no change in the density of the development.

The Master Plan designates this area as being suitable for agricultural and rural residential land uses. The Master Plan identifies a "sufficiency of resources" test for determining whether there are sufficient resources available for the needs of a proposed rezoning. The resources typically used for this analysis can generally be broken down into three categories, Utilities, Transportation and Public Safety Services.

Utilities:

Water is provided by Public Water District No. 4. The water district has adequate infrastructure in place to provide potable water and fire flow.

The City of Columbia provides sewer service. Two short sewer main extensions will be required in order to provide sewer service to proposed Lots 101A and 117B. A pre-annexation agreement with the City of Columbia was required in 2000 as a condition of receiving sewer service.

The property is located within the Boone Electric service area.

Natural gas is provided by Ameren UE.

Transportation: The property is served by an internal road network that was designed to accommodate the density of this development. The original development plan for Settlers Ridge included required improvements to existing roads. Those improvements are tied to various phases of the development. All of the offsite improvements for Plat 1, which includes proposed Plat 1A, were completed in 2005.

Public Safety Services: Since there will be no net increase in the number of dwelling units that result from this proposal there will be no net impact on public safety services.

A Type II Stream crosses the west end of the property. The stream buffer limits have been shown on the Plan/Plat.

Since there is no change in density compared to the existing plat for the property, approval of this Rezoning, Review Plan and Preliminary Plat will have no net impact on infrastructure, public roadways or storm drainage systems.

Staff notified 63 property owners regarding this request.

The property scored 79 points on the rating system.

Staff recommends approval of the request.

Present, representing request:

Jamie Jeffries, Allstate Consultants, 3312 Lemone Industrial Blvd., Columbia.

Rhonda Carlson, owner, 1110 Willow Creek Ln., Columbia

Jamie Jeffries: We've been working with the Carlson's, the owners of the property, they have owned the property for about 10 years and have been in the process of developing it. It is zoned for duplexes and they could go in and build duplexes but they care what they put in; they want to do a quality development.

They are looking at doing owner occupied; they could sell the lots to developers now and have a lot of duplexes with renters but they like the idea of owner occupied. All of the utilities and streets are in; they could be developed and start building tomorrow.

Open to public hearing.

No one spoke in favor or opposition.

Closed to public hearing.

Commissioner Harris: What is the minimum home size?

Rhonda Carlson: I don't know what the minimum size is; I think it is based on architectural control, our plan is 3 bedroom, 3 bath, and a single, rear entry the garage.

Commissioner Harris: So they are still going to have to be in the 1200 to 1300 square foot minimum.

Rhonda Carlson: Yes; the plan is to do a patio home. The plan shows the street as attached single family. I cannot find plans that don't look like duplexes.

Commissioner Harris: We aren't going to end up with a 700 or 800 foot cabin.

Rhonda Carlson: I would hope not; it would be a little hard to get 3 bedrooms in that.

Commissioner Dollar made and Commissioner Prevo seconded a motion to **approve** the request T-Vine Development Corp. to rezone from R-D (Two-Family Residential) to R-DP (Planned Two-Family Residential) on 6.04 acres, more or less at 4625 E. Hwy HH, Columbia.

Boyd Harris – Yes	Carl Freiling – Yes
Gregory Martin – Yes	Michael Morrison – Yes
Brian Dollar – Yes	Larry Oetting – Yes
Paul Prevo – Yes	Derin Campbell – Yes
Eric Kurzejeski – Yes	

Motion to approve the request carries unanimously

Commissioner Martin made and Commissioner Dollar seconded a motion to **approve** the request T-Vine Development Corp. to approve a Review Plan located at 4625 E. Hwy HH, Columbia.

Boyd Harris – Yes	Carl Freiling – Yes
Gregory Martin – Yes	Michael Morrison – Yes
Brian Dollar – Yes	Larry Oetting – Yes
Paul Prevo – Yes	Derin Campbell – Yes
Eric Kurzejeski – Yes	

Motion to approve the request carries unanimously

Chairperson Harris informed the applicants that this request would go before the County Commission on March 2, 2010 and the applicants need to be present for the hearing



2. Request by Greenwing Development LLC to rezone from C-GP (Planned Commercial) to C-G (General Commercial) on 8.19 acres, more or less, located at 6301 W. Cunningham Dr., Columbia.

The following staff report was given by Planner, Uriah Mach.

The subject tract is located on Cunningham Drive, at the northeastern quarter of the Highway 40/Interstate 70 interchange, approximately 1.5 miles from the city limits of Columbia. The applicants are seeking a rezoning of 8.19 acres of C-GP(Planned General Commercial) zoning to C-G(General Commercial) to match the surrounding C-G zoning. Currently, the property is zoned C-GP, that was rezoned in 1981 as part of a set of conditions on a conditional use permit for a lumberyard. The property is surrounded by original 1973 C-G zoning.

Currently, the property is vacant, and the conditional use permit for a lumberyard was never acted upon. If approved, this rezoning will return the property's zoning to its original 1973 zoning. Staff notified 12 property owners about this request.

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

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

**Utilities:** Public water is provided by Consolidated Public Water District #1. Electrical service is provided by Boone Electric Cooperative. Natural gas is provided by Ameren UE. Fire protection is provided by the Boone County Fire Protection District. This rezoning will increase demand on available public utilities, due to the delimitation of uses inherent in an open rezoning. However, the present C-G zoning around this property currently has the same requirements for development. So, while there will be an increase, resources should exist or be sufficiently close to meet the needs of the subject tract.

**Transportation:** The property has direct access onto Cunningham Road, which is an access road for Interstate 70 and Highway 40. This rezoning will not increase demand on the transportation network

**Public Safety:** The property is approximately 1 mile from the nearest fire station, located at Henderson Road. This rezoning will not increase demand on public safety services.

**Zoning Analysis:** This request meets the requirements of the Boone County Master Plan's sufficiency of resources test. While the preference of staff is typically to oppose rezonings that move from more restrictive to less restrictive zoning districts, the advantages that usually exist in such situations do not exist here. The Midway area has developed as a commercial/industrial node in the county. Returning this property to its original C-G zoning will have limited impact on the surrounding properties.

Staff recommends approval of this request.

Present, representing request:

Jay Gebhardt, A Civil Group, 711 W. Ash, Columbia  
Scott Atkins, P.O. Box 756, Columbia.

Jay Gebhardt: The applicants grandfather purchased this prior to I-70 being installed so it has been in his family since the 1950's. It has been zoned some form of commercial since zoning existed in this county. We are here tonight trying to bring this property back to what it is surrounded by. I usually wouldn't come here and try to ask for a planned district to be changed in to an open district. There is essentially 53 acres around us that is zoned open commercial now which is larger than the Columbia Mall. We feel that being limited to C-GP really doesn't do anything for the applicants or for the citizens of Boone County. Because we are in the county and the way the county's regulations are, the traffic impact has to be dealt with and the stormwater ordinance has just been passed. Just about everything that we would have in a planned district has to be addressed anyway through the county process. It makes us even and fair with what is around this property. The outer road is a MoDot maintained road. We have limited access in front of the property that grants us one, possibly two entrances. From that point of view the planned district is already being controlled because the access rights have already been purchased by MoDot. If not here then where would you have open zoning? There are no neighbors here in opposition to this request. Everyone expects this to be a commercial property. Having the uses limited in this location doesn't serve a purpose. The Atkins family is here tonight to ask that this property be returned back to its original C-G zoning.

Uriah Mach: Staff received a letter from Gordon Thompson in opposition to the request.

Commissioner Harris: In general this is not a request that we would typically be inclined to approve. Mr. Thompson does make some valid points in his letter.

Commissioner Freiling: There is no value that I see to have one piece of planned commercial in the midst of open commercial.

Scott Atkins: Jay and I went to high school together and he is an engineer for us. Jay asked why the property is zoned planned commercial. It was when I was in high school when it was rezoned, at that point it was my grandfathers property. I think they had outside storage issues that they had to deal with. That event never happened and the down zoning stayed; it does make it a tricky situation.

Commissioner Martin made and Commissioner Kurzejeski seconded a motion to **approve** the request by Greenwing Development LLC to rezone from C-GP (Planned Commercial) to C-G (General Commercial) on 8.19 acres, more or less, located at 6301 W. Cunningham Dr., Columbia.

Boyd Harris – Yes

Gregory Martin – Yes

Brian Dollar – Yes

Paul Prevo – Yes

Eric Kurzejeski – Yes

Carl Freiling – Yes

Michael Morrison – Yes

Larry Oetting – Yes

Derin Campbell – Yes

Motion to approve the request carries unanimously.

Chairperson Harris informed the applicants that this request would go before the County Commission on March 2, 2010 and the applicants need to be present for the hearing.

VII. Planned Developments

None.

VIII. Plats

1. Buckman. S 11-T50N-R12W. A-R. Buckman Properties LLC, owner. J. Daniel Brush, surveyor.

The following staff report was entered in to the record:

The subject tract is located a on the north side of Schooler Road, east of State Route U, north of Hallsville. This plat splits off three 5 acre lots from a 40 acre parent parcel. The property is zoned A-R (Agriculture-Residential), and has A-R zoning to the east, west and south, with A-2 (Agriculture) zoning to the north. This is all original 1973 zoning.

The three lots have direct access onto Schooler Road. The applicant has requested a waiver to the traffic study requirement.

Public Water Service District #4 will be providing water service to these lots from a main on the south side of Schooler Road. Electrical service will be provided by Boone Electric Cooperative. Fire protection will be provided by the Boone County Fire Protection District.

The applicant has submitted a cost-benefit analysis for the use of on-site wastewater to these lots. Given that information and the distance to reach available central sewer, on-site systems will be used for this development.

The property scored 55 points on the rating system.

Staff recommends approval of the plat and the requested waiver.

No one present to represent plat.

Commissioner Harris: Is there a way that it can be specified or constrained that in the interior lots be accessed off the road that is on this plat and not have anymore access off of Schooler for the back lots?

Uriah Mach: I am not aware of any way. It meets the County subdivision regulations.

**Commissioner Freiling made and Commissioner Dollar seconded a motion to approve Buckman with waiver request:**

Boyd Harris – Yes  
Gregory Martin – Yes  
Brian Dollar – Yes

Carl Freiling – Yes  
Michael Morrison – Yes  
Larry Oetting – Yes

Paul Prevo – Yes  
Eric Kurzejeski – Yes

Derin Campbell – Yes

Motion to approve the plat carries unanimously.



2. Settlers Ridge preliminary plat. S 9-T49N-R12W. T-Vine Development Corp., owner. James R. Jeffries, surveyor.

See related staff report under rezoning.

Commissioner Harris made and Commissioner Dollar seconded a motion to **approve** Settlers Ridge preliminary plat.

Boyd Harris – Yes  
Gregory Martin – Yes  
Brian Dollar – Yes  
Paul Prevo – Yes  
Eric Kurzejeski – Yes

Carl Freiling – Yes  
Michael Morrison – Yes  
Larry Oetting – Yes  
Derin Campbell – Yes

Motion to approve the request carries unanimously

## IX. Old Business

1. Update on County Commission Action

Mr. Shawver updated the Commission of the decisions of the County Commission.

The Lewis rezoning request was approved as recommended.



2. Northeast Area Plan

The County Commission will have a public hearing on the Northeast Area Plan on March 2, 2010.



3. East Area Plan

Thad Yonke stated there was a work session this evening and have been having work sessions on this almost every Thursday. Commissioner Kurzejeski came to the meeting so we have had some representation from the County Planning and Zoning Commission; that is going to be very critical as we go forward. The city's website has the new text, if you look there the new text for the infrastructure

chapter and the environment chapter is there. That is the text that is going before the public input hearing which will be held at the Elk's Lodge next Tuesday. We need to make sure that we have those of you who would like to hear what the public is going to say at the meeting. We do need a couple of Commissioners at each work session.

X. New Business

None

XI. Adjourn

Being no further business the meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Secretary  
Michael Morrison, Acting-Secretary

Minutes approved on this 18<sup>th</sup> day of March, 2010