

TERM OF COMMISSION: April Session of the February Adjourned Term

PLACE OF MEETING: Boone County Government Center Commission Chambers

PRESENT WERE: Presiding Commissioner Don Stamper
District I Commissioner Karen M. Miller
District II Commissioner Linda Vogt
Deputy County Clerk Ashley Williams
Planning and Building Inspection Director Stan Shawver
County Counselor John Patton

The regular meeting of the County Commission was called to order at 7:05 p.m.

SUBJECT: Request by Columbia Green Valley Rifle and Pistol Club for a Privately Operated Outdoor Recreational Facility on 6.69 acres located at 4900 N. Wyatt Ln., Columbia. The applicant also requests a one-time, temporary permit to allow discharge of firearms on the site during the period 5/1/97 to 5/30/97.

Director of the Boone County Planning and Zoning Stan Shawver reported that this property is located 350 feet from the intersection of Wyatt Lane and Roger Road. The city limits of Columbia are 400 feet to the north. The site is currently zoned A-2 (Agriculture), as is all of the land to the north, east and south. Land to the west is zoned R-S (Single Family Residential). This property was acquired by the rifle club in 1989. The applicants are requesting two things: a permit for a Privately Operated Outdoor Recreational Facility and a temporary, one-time permit allowing the discharge of firearms. The Outdoor Facility will be used for incidental uses to the non-conforming rifle and pistol ranges on the adjoining property; including parking, camping, vending and archery. The one-time permit was originally requested from May 1, 1997 to May 30, 1997. This is the period during which the Bianchi Cup/NRA Action Pistol National Championship is conducted by the applicant. The property has been used for firing ranges in conflict with the zoning. Such activity ceased at the request of the staff in 1996 as a result of complaints by property owners in the vicinity. There have been no previous requests submitted on behalf of this property. The Master Plan designates this area as being suitable for residential land uses. The proposed use is inconsistent with the Master Plan. Staff notified 19 property owners about this request.

On March 20 the Planning and Zoning Commission convened during regular session and held a public hearing and listened to testimony supporting and in opposition to the request. They made a motion to recommend the approval of the request in a modified fashion.

The first motion was made to grant the temporary firearms discharge permit, limited to pistols only from 8 a.m. until dark from May 10 to May 24 only. It was approved unanimously, all six members present.

The second motion was made to recommend approval of the permit for a privately operated outdoor recreational facility. It was also approved unanimously.

Commissioner Vogt asked if the privately operated outdoor facility was an ongoing request to continue to use the property that way and the other request is to use the property for practice during a temporary time frame.

Representing the Green Valley Rifle and Pistol Club was Tom Schneider, legal counsel from Jones, Schneider and Bartlett, 11 North Seventh Street, Columbia. Mr. Schneider outlined the history of the club and asked any club members present in the audience to stand. About 40 of the club's members stood. The purpose of the club, he said, was to provide a safe and secure venue for serious sportsmen and to sponsor pistol and rifle competitions, most specifically the Bianchi Cup, the world's most prestigious pistol competition that Boone County has hosted for 18 consecutive years.

The club has two sites, the Hallsville site, where most of the Bianchi Cup activities occur and the Columbia Site which consists of 55 acres that were grandfathered and were acquired in 1955. That is where most of the firing ranges are located. There is also a 6.69 acre tract immediately

east of the 55 acres that was acquired in 1989. Until 1996, the club was not aware there was a land use issue in connection with the 6.69 acres to the east.

It is the intention of the club to phase out the Columbia facility and to move the activities to the Hallsville facility. The club is willing to forever forego any shooting activities on the 6.69 acres after this year's Bianchi Cup. The arrangements were made on the belief that the 6.69 acres were available and it would be a considerable hardship to the competitors and the club if that acreage was unavailable this year. The permanent conditional use permit being sought for the 6.69 acres is for parking, camping, assembling for educational and recreational purposes, vending, archery, reenactments, things that are accessory uses to a firing range that does not require the use of discharging firearms. The one-time temporary conditional use permit was the firing of pistols during May of 1997 on the 6.69 acre tract has been pared back to May 10 to May 25, 1997 from 8 a.m. until dark. The usage between May 10 and May 17 would be 10 to 20 individuals, by May 20 through May 24, roughly the dates of the competition, there would be approximately 100 individuals using the Columbia site. They would be using ranges on both the east 55 acres that are grandfathered and the 6.69 acres. It is not a question of whether there will be any use of the Columbia facility. There will on the 55 grandfathered acres. In a sense, we're talking about an incremental increase.

The competition this year will have competitors from 10 countries, more than 225 competitors from Australia, New Zealand, Japan, South Africa, Canada, Mexico, England, Finland, Norway and Germany.

The permanent conditional use permit for the accessory non shooting uses we feel are not at all intrusive in the neighborhood and the real issue in May for the temporary use permit in May is for the incremental increase in the use. There will be no increase of substance in noise, traffic, as compared to the use of the 55 grandfathered acres.

The conditional use permit request requires the applicant to offer competent and substantial evidence in support and Mr. Schneider said it would take five to seven minutes of formal testimony to cover the elements set forth in the ordinance.

Mr. Schneider presented eight items as evidence, circulated them to the Commissioners and left them at the end table for public viewing:

Exhibit 1 was the Certificate of Corporate Good Standing,
Exhibit 2 was the Range Safety and Operating Rules,
Exhibits 3-4 were aerial photographs obtained from the Assessor and prepared in 1995 or 1996,
Exhibit 5 was the current version of the Boone County Zoning Ordinances,
Exhibit 6 was the relevant portion of the zoning map,
Exhibits 7-8 were photographs of the Columbia site.

Mr. Schneider, as a notary public, swore in his first witness, Mr. John Skaggs.

Director of Range Operations John Skaggs responded to Mr. Schneider's questions saying he had been employed there since September 1994 and that his responsibilities were to conduct the advanced training program of the Green Valley Rifle and Pistol Club, to coordinate and work with the NRA in the Bianchi Cup.

Mr. Skaggs said that the Range Operating and Safety Rules provides for disciplinary provisions in the event that a member isn't conducting themselves in a safe manner and the club has zero tolerance for horseplay. He said that to his knowledge there had never been an accident or an injury in connection with the operation of the Columbia facility - off or on the premises. He also stated that no off-site projectiles had ever been reported.

Mr. Skaggs then described the layout of the Columbia facility and explained that it was improbable that projectiles could leave the facility because on the south side of Hinkson Creek, running through the property, were the remnants of old strip mines that varied in height from 60 to 80 feet. Mr. Skaggs said that in order to shoot over those berms, a weapon would have to be discharged at an extreme and deliberate angle.

Mr. Skaggs said the berms varied in thickness from 80 to 100 feet and said that all shooting was directed south, towards the berms. The shooting on the east range he said was also to the south towards similar 60 to 80 foot berms.

He explained that during day-to-day operation there was no traffic congestion and during the Bianchi Cup there is an increase in traffic, but there is ample parking on the grounds. The traffic pattern is constant, rather than a mass entrance. Mr. Skaggs had never witnessed any off site parking. He also said there were permanent on-site sewage facilities and additional units were brought in during the Bianchi Cup competition.

The noise from the east 6.69 acres, he said, was no louder than the noise generated on the grandfathered 55 acres to the west. Mr. Skaggs said that the ranges were 30 to 40 feet apart so that the easternmost range on the west side was 30-40 feet from the closest range on the east side.

If the club was unable to use the east 6.69 acres during the Bianchi Cup would reduce their ability to provide a location for the competitors to practice. Mr. Skaggs said that the competitors needed a place to check their equipment properly so it would be ready to shoot in a championship event. In the future, he said, alterations would be made to the Hallsville facility and the practice range would be moved there. This year, he said, they were caught off-guard.

Mr. Schneider stated again that the west 55 acres is used for pistol practice during the Bianchi Cup and the issue was whether or not the competition would be restricted to the grandfathered property. Mr. Skaggs agreed with Mr. Schneider's assessment that during the May 10 through 17, usage of the range would be about 10 to 20 people and would increase to about 100 during the four days of competition on both the west, 55 grandfathered acres and the 6.69 acres to the east.

Commissioner Stamper asked for a description the number of rounds fired on the premises on an annual basis.

Mr. Skaggs replied that on the Columbia facility, he guessed that a competitor would shoot maybe 200 rounds per competitor per day and that past history indicated that 100 competitors would practice per day.

Commissioner Stamper asked for a description of the non-Bianchi use of the facility.

Mr. Skaggs said that it would be an excellent area for picnics or for archery use.

Commissioner Stamper clarified that he wanted to know how many people, this time of year, would be using the facility as a firing range during a week.

Mr. Skaggs said that the eastern range was not used and said they were shut down when members discovered they were in violation of the zoning ordinance.

Commissioner Miller asked in the grandfathered area, how many rounds were fired.

Mr. Skaggs said it was difficult to determine because that was where club members went to practice. They might fire five rounds or they might fire 50. Mr. Skaggs said use was heaviest on the weekends, but there were recreational shooters there during the week.

Commissioner Miller asked if the facility was used for law enforcement practice.

On occasion, Mr. Skaggs said. And Commissioner Stamper replied that the city has its own firing range near the land fill.

Mr. Schneider asked Mr. Skaggs, as a point of clarification, if during Bianchi, based on past observations, what percent of the people practicing pistol shooting were on the west 55 grandfathered acres. Mr. Skaggs replied that 75% of the competitors practiced there because that area housed a duplicate firing range to the competitive one at Hallsville.

Brian Connell, a lifetime member of the Green Valley Rifle and Pistol club, was called as the second witness.

Mr. Connell identified two aerial photographs and showed the Commissioners where the facility was located on those maps.

He pointed out the original 55 grandfathered acres to the west and then the east branch or 6.69 acres in question and that ranges had been developed there until they were notified of the improper use of the property. He explained again that all of the firing is directed to the south, toward the 60 to 80 foot high earthen berms.

Mr. Connell responded to Mr. Schneider's questions that west of the Columbia facility the land use would be characterized as farm land, generally wooded with some pasture. Several hundred yards to the west, he said there was some sparse housing, but it was essentially an agricultural area. Immediately north was an auto salvage operation that covered several acres. Mr. Connell stated it was approximately 3/10 of a mile to the nearest residence and that Palmer Rd. was .35 miles from the gated entrance of the facility. Mr. Connell pointed out that distance was to the gate and not the firing ranges. The distance between the gate and the firing ranges were probably another 50 to 75 yards, he said. The firing, he said, without exception, was always to the south, away from the nearest residential area. To the east, he said, the land was agricultural with some housing and estimated the closest house was several hundred yards and that the owner of the nearest property to the east purchased some of the real estate from the rifle club. Mr. Connell said that the easternmost boundary of the east 6.69 acres was another large berm.

Mr. Connell stated that from Wyatt Lane there is an improved gravel driveway to the gate leading to the facility. Upon entering the locked gate, for members use only, once inside, there are gravel parking places and drives taking members to the various firing facilities. He also said that the only utilities available on the site are electrical.

Mr. Schneider called for John McGee, who was not present at the hearing.

Mr. Schneider then noted that there was a similar conditional use permit application granted to the Cedar Creek Rod and Gun Club and stated it had been mentioned by Mr. Kirkpatrick in the March 20 Planning and Zoning commission meeting.

Commissioner Stamper said that Mr. Kirkpatrick had referred to a national sporting clays competition for shotguns and then convened to a public hearing for a request by the Green Valley Rifle and Pistol Club for a privately operated outdoor recreational facility permit on 6.69 acres located at 4900 N. Wyatt Ln., Columbia, Mo. and in addition would take testimony on a temporary permit to allow discharge of firearms on that site for a period of 5/10/97 to 5/25/97.

William Campbell, 6236 E. Palmer Rd., Columbia stated that his house and property is due north of the 6.69 acres in question. His house was less than a thousand feet from the actual berms. He said he had lived in the area for approximately 20 years, as had several other neighbors south of Palmer Road. He said there had been problems over the years with the firing range and had called the sheriff's department several times. Mr. Campbell said there were problems with the noise and with firing early in the morning and late at night. He said as the club had gotten more members, they had used the west side, formerly parking area, was now a range.

Mr. Campbell said he disagreed with the term berms. He said they were shooting across Thompson and not Hinkson Creek and that the berms were not as high as had been stated. Some of the area had not been disturbed and when they shot across the creek, they were shooting into an area with rocks and that over the years there had been numerous complaints regarding projectiles. He stated he had found them on his property.

Mr. Campbell questioned the grandfathered 55 acres. He said he was having a hard time finding more than ten acres that were grandfathered. Ten acres were purchased in 1991, which has restrictions and cannot be used for firing purposes and serves only as a buffer. Another L-shaped area, around the ten grandfathered acres was purchased in 1979 and Mr. Campbell said that after spending several hours with zoning he could not find a conditional use permit for that area.

Commissioner Stamper asked that factual evidence supporting Mr. Campbell's statements be submitted for the record. He said that submitted for the record was a warranty deed dated

September 4, 1991 for a transaction between the pistol club and the Shears. Commissioner Stamper asked for clarification and if the land was not being used the way it is intended.

Mr. Campbell stated that he wasn't sure since he hadn't been on the property, he was just wondering if this was the grandfathered area, and where were the 55 acres that were grandfathered. He also asked why the additional 6.69 acres, which was further east and would create more noise would be utilized when existing grandfathered property was only used for a driving area. He said that over the years the noise level is greater on the 6.69 acres than it is on the western side because it was closer to the residential areas. Mr. Campbell said he didn't understand why the club needed a permanent conditional use permit when the plans were to move the facility to the Hallsville site. He also wanted some clarification regarding the definition of vending.

Mr. Campbell wanted to know what happened to the conditional use permit if the club moved or was sold - would it stay with the club or with the property.

Commissioner Stamper said that the permit was for the use of the property.

Mr. Campbell asked for clarification of camping and picnicking and wanted to know if the conditional use permit would allow the club to start a flea market on the site.

Commissioner Stamper asked for those opposed to the request to please stand. Six people responded stood.

Blanche Campbell, 6236 Palmer Rd., Columbia, Mo. asked if there was a way to have the noise level checked. She said that people couldn't stand on their back porch and have a conversation, and not just during the Bianchi Cup. She said she had personally called the sheriff's department, but had had a hard time getting the sheriff's department to acknowledge the calls. Mrs. Campbell said she had been in her house, with the air conditioning running, and on the phone with a dispatcher who kept asking her what the noise in the background was. Mrs. Campbell said it was the sounds coming from the firing range. Mrs. Campbell also wanted to know how many people in support of the club lived in the neighborhood of Wyatt Lane, Palmer Road and Thompson Road.

Commissioner Stamper noted the request.

Mrs. Campbell said she hoped the Commission would consider that dark is not until 9 p.m. and that their normal lives would be completely disrupted from the time folks get home from work. Mrs. Campbell said they would have been represented by an attorney, but had found there were so many people involved with the gun club that they would have to go outside of Columbia to find representation they wanted to use. She also said she would be happy to have anyone who belongs to the gun club to come to their backyard and listen to the noise generated during the Bianchi Cup.

Commissioner Stamper honored Mrs. Campbell's request by asking members of the audience, in support of the gun club's request, to please stand if they live in the Wyatt Lane, Palmer Road and Thompson Road neighborhood.

One individual stood.

Randy Ball, corner of PP Hwy. and Palmer Road, Columbia, Mo. said that he had moved to the country for the peace and quiet and because of his job had to get to bed earlier than most folks. Mr. Ball said he was a hunter and didn't mind a little target practice, but the practice seemed to go on endlessly and he lost a lot of sleep. Some of the ammunition travels long distances, he said and asked the Commissioners how long would it be before someone got killed out there.

Ted McSheehy, 4701 PP Hwy., Columbia, Mo. added that they could hear guns going off before light in the morning and after dark at night. He said he was aware the gun club was there when he purchased his property and had learned to live with it, but when shooting was going on at those hours, it was very hard to.

Pam McSheehy, 4701 PP Hwy., Columbia, Mo. said they lived adjacent to the Campbell's and that the noise level is bad and that she was also concerned about safety. She cited an incident five or six years ago, a woman who was killed at a tree nursery on I-70 by a hunter's stray bullet. She also asked the Commissioners if the aerial photographs showed how many homes live around the gun club. Her concerns she said, were as a mother and with the noise level.

Steve McGee, 119 Fairview, Hallsville, spoke in favor of the request and said that the club had been around for a lot of years and had become a growing concern. It is one of the few places, he said, where a private citizen could take a formal, standardized course in gun safety in the Central Missouri area.

He said they taught the hunter safety program for the Department of Conservation, at no cost to the public; the NRA basic marksmanship program to Columbia Adult Education; Boy Scout rifle and shot gun merit program, at no charge to the scouts; and the 4-H basic firearm safety program, at no charge to the area 4-H groups. He said the club was a not-for-profit entity that served the public by providing qualified training in marksmanship and safe places to shoot.

Mr. McGee said that they work with a number of public agencies, law enforcement agencies, the Department of Conservation and military groups.

He said he lives north of the Hallsville facility and while the higher volume, competition shooting facilities were being moved to the Hallsville site, he didn't expect to see the shooting at the Columbia range cease. He said he didn't think it should, but was glad to see it diminishing because he felt there were better facilities in Hallsville. But, he said, the club provided a public service that, as he understood it, no one else was providing.

Mr. McGee said he was speaking in support of the conditional use permit because the ability to use the adjoining land for adjunct activities in cooperation with the shooting activities would better provide for standardized high quality competent training for both youth and adults in the shooting sports, including hunting.

Neil Quakenbush, 4201 Clark Lane, Columbia, Mo. stated he was a master's student in electrical engineering at the University of Missouri-Columbia. He said before he was married and had joined the rifle club, he had lived with a group of guys right off of Broadway 200 yards outside the city limits and they shot out there. In terms of noise and safety, he said there were concerns and the sheriff came out maybe ten times during the two and a half years he lived there. Mr. Quakenbush said they were valid complaints, but that they were well within their rights. The gun club, he said, provides a safe and economical place to shoot and provided a service.

Mr. Quakenbush said there was a responsibility to the local citizens and asked if a compromise to the problem could be found. He acknowledged the fact that there were folks who lived in that area, while club members were there for entertainment.

The second issue he discussed was in terms of safety. The two ranges, he said, were for handgun use and stated that there was a difference in the energy and power of high powered rifles and handguns. Having been familiar with hand loading, shooting and having been in the military, and having taken classes in engineering, friction, physics and gravity, Mr. Quakenbush said he understood how objects move in the universe and laws of the universe. Mr. Quakenbush said that handguns are no threat, that rifles are more of a problem but those areas are more safely set up, and that the handguns aren't as loud.

Commissioner Stamper said he thought Mr. Quakenbush was going to start in on the comet and thanked him for his comments.

Judy Johnson, 1516 McKee, Columbia, Mo. said that her husband was a member of the club and that she and her daughter had attended a home safety course offered by the club. Because they had handguns in their home she felt it was necessary for them to be familiar with the operation and safety of firearms. One of the things offered in the course was information on personal safety. Participants in the course were offered other avenues and tools of self-defense that didn't involve firearms. She said that the club was educationally oriented, though she felt for the local neighbors

and the noise problems they faced. Some people move in next door to sewer plants and it is the buyers responsibility to be aware of existing problems.

Mrs. Johnson said that she has visited the firing range and compared the site to being in a fish bowl and that the shooting was directly into a berm and she didn't see it as a safety hazard.

Don Rose, 50 S. Hwy. UU, Columbia, Mo. said he is currently the treasurer of the Green Valley Rifle and Pistol Club and had been associated with the gun club since 1980 and was an avid rabbit and squirrel hunter. Mr. Rose said that the Shear Property lies behind the current rifle range and is zoned A-1 (Agriculture). He said the club members had never driven back there or used those ten acres, the land was purchased to serve as a buffer zone because it offered further protection from projectiles leaving the property. Mr. Rose clarified that the 55 acres referred to by Mr. Schneider as having grandfather status was inaccurate. He estimated there was 19 acres affected by the grandfather clause and the balance of the acreage was A-2 zoned and A-2 used. Those acres were not in use by the club, but the club was requesting the conditional use permit on the 6.69 acres.

Commissioner Stamper closed the public hearing.

Mr. Schneider pointed out that the permanent conditional use permit involves no firearms and that the temporary request had been pared back to 15 days in May of 1997 and stated again that the issue was an incremental increase in shooting during the 15 day period and not whether there would be shooting during that period at the Columbia site.

Commissioner Miller asked Mr. Rose if he would identify the grandfathered area and the area that is not. Mr. Collen accompanied him and they identified those areas for the Commissioners.

Mr. Shawver presented a 1976 aerial photograph of the area because it showed the development in the area. Although there had been houses added, growth had not been substantial.

Mr. Schneider marked the 1976 aerial photograph as Exhibit 9.

Commissioner Vogt asked Mr. Campbell for an estimation of how many projectiles he'd found on his property.

Mr. Campbell responded he'd found one or two over the years, but you could hear them ricocheting, but you couldn't find them. He said that the high powered rifles were shot at metal targets and the targets deflected the projectiles and increased the noise level. He said people on Thompson Road has holes in their houses.

Commissioner Miller asked what were the proposed uses for the site after the Bianchi Cup. Would the camping be for a fee, would the use be sporadic, was the vending a machine in the building and could he clarify those issues.

Mr. Schneider said it was his understanding that the vending would be incidental sales of accessories and that parking was the proposed primary use of the 6.69 acres. He was not aware of an intention of fees for camping.

Mr. Connell responded that the camping issue would involve Civil War historical reenactments, not camping for profit.

Commissioner Stamper asked if the club has restrictive hours of operation that are self-enforced.

Mr. Skaggs replied that the Range Safety Rules stated that no one could shoot before 8 a.m. and all shooting had to cease at sunset. In years past, there had been problems with the policy, but there had been no recent problems. In response to a question from Commissioner Stamper, Mr. Skaggs said that there is signage on the property outlining those rules.

Commissioner Stamper clarified with Mr. Shawver that grandfathered use with buffered land described as 19 acres and a section of land of 6.69 acres that had been used in a nonconforming capacity and tonight's proposal was to bring that property into conformance.

Mr. Shawver rephrased the statement as alleged illegal capacity. The property was acquired in 1989 and was used not in compliance with the zoning regulations and the club is now asking for a conditional use permit for short-term discharge of firearms and the Planning and Zoning Commission limited that use to pistols. The other issue, Mr. Shawver said, was the conditional use permit for the privately operated outdoor recreational facility in the A-2 zoning district.

Commissioner Stamper asked Mr. Schneider if there would be flea markets on the site.

Mr. Schneider replied that was not the intention of the club, the intention was for incidental sales of related equipment. It would be, he said, a poor location for a flea market.

Mr. McGee, called upon by Mr. Schneider, said that the concessions/vending was typically soft drinks in a cooler and brats and hot dogs.

Commissioner Miller asked if they were selling food did they get a health permit.

Mr. McGee couldn't answer that question.

Mr. Rose said that the vending was done on the honor system and that many times the competitors ended up cooking their own food.

Commissioner Miller said, then, it's not a business, it's a service.

Commissioner Vogt asked Mr. Skaggs about the lighting of the course.

Mr. Skaggs replied that the range was not lit.

Commissioner Stamper addressed the audience and said that many times the Commissioners find themselves caught between once tolerated uses that have developed a degree of intolerance over the years. The only proliferation of shooting would be for the one time temporary use permit. No matter what the Commission decides, he said, the rifle club is not going to go away and there will still be shooting at the Green Valley Rifle and Gun Club and the grandfathered land would be used the way it's always been used. He said he hoped that the rifle club would do that in a safe, conscious and caring capacity, respecting the rights of those who live in the area and whose quality of life is affected.

He did not find the request for the temporary use to be unreasonable, nor did he find the request for the 6.69 acres to be unreasonable as he looked at the overall use of the land.

He expressed to the neighbors who testified that he understood their concerns, but no matter what action was taken tonight, the shooting range would be there tomorrow, because it has the authorization to be used.

Commissioner Vogt agreed with Commissioner Stamper and said from the testimony she'd heard it seemed that the rifle club was attempting to be a good neighbor by creating some buffer. The 19 acres is legally permitted to be used and she said she was confused as to how people could shoot on the range before daylight and after dark with no lighting.

She agreed that it was a reasonable request.

Commissioner Miller stated that she too had no problem with the request.

Commissioner Stamper moved that the County Commission of the County of Boone authorize a request by the Columbia Green Valley Rifle and Pistol Club for a privately operated outdoor recreational facility on 6.69 acres located at 4900 N. Wyatt Ln., Columbia.

Commissioner Vogt seconded. Motion passed unanimously. **Order 117-97.**

Commissioner Stamper moved that the County Commission of the County of Boone to approve the one-time, temporary permit to allow the discharge of firearms on the site of the Columbia Green Valley Rifle and Pistol Club during the period of 5/10/97 to 5/25/97.

Commissioner Miller seconded. Motion passed unanimously. **Order 118-97.**

SUBJECT: Request by James Abernathy to amend a Final Development Plan for Abernathy Planned Residential Development located at 7460 E. St. Charles Rd. (originally approved December 1995).

Mr. Shawver reported that this development is located approximately 1 1/2 miles east of the City Limits of Columbia on the south side of St. Charles Road and contains 4.23 acres. This property is zoned R-S, which is the original 1973 zoning.

This is a REVISED final plan for a PRD. The original plan was approved by this Commission in December of 1995. That plan approved a proposed duplex and a proposed duplex and a proposed SFD on the property in addition to the existing duplex for a total of 5 dwelling units. The property is zoned R-S and the maximum density allowable on this property is 26 units. At the time of the original plan the BCRSD operated central sewer system only had capacity for those five units. However, the sewer capacity has been increased since that time and now there is capacity for an additional eight units. This revised plan is proposing six additional SFD units for a total of 11 dwelling units on the property.

The Planning and Zoning Commission reviewed this request and approved the amended final development plan contingent upon the following:

That alterations to the fire hydrant location be shown, alterations to the specifications on the asphalt pavement be shown, the notation of a private road access be added until such time it becomes a public access with the installation of sign, at the owners choosing, at the entrance that it is a private road and easements be provided to the satisfaction of the utilities.

Those changes have been made.

The developer does propose that the road be privately maintained asphalt surface street with ditches; however the asphalt surface will not be in place until after construction of the fourth structure or three years from the approval of the plan.

The Public Works Department is still concerned about the installation of the asphalt surface being delayed until a later time.

This is a planned Residential Development and is planned as one lot. If at such time Mr. Abernathy decides to sell off a house or several houses it will have to be platted. At that time, the street will have to be brought up to County standards. The property will come back as a plat and the street will have to be approved at that time, so there is no opportunity for the street to be grandfathered in.

This property has 70 points on the Point Rating Scale. The Planning and Zoning Commission voted unanimously to approve the amended final development plan.

James Abernathy, 7500 St. Charles Road, Columbia, addressed the Commissioners to clarify his request to amend the PRD. His intention was to develop the property and found that the available sewage system was a limiting factor. Paperwork on the system was changed from a non-discharge system to a discharge system and created more available lots in the area. Mr. Abernathy said he had done what he had appeared before the Commissioners to do by creating a duplex and a home that he occupies. The original duplex has been removed from the original septic system and tied in with the County's, using two other lots, he said, could have been developed. The sewer system adjoins a private road and when he did that, he added rock and upgraded the road. Mr. Abernathy lives on the property and intends to maintain it himself. It is being developed so that it could be platted, but it his intention to own, maintain and keep the property in good standing.

Bill Crockett, said that the project was started with one intent and that was for Mr. Abernathy to retain the ownership and supplement his income with rental units that he was directly involved with.

The site originally consisted, in 1969, of five acres. The size decreased when an easement was provided along St. Charles. The density is capable of handling 26 units, but Mr. Crockett said they would be hard pressed to exceed 20 units. The proposal is for 11 units at 17,000 square feet per unit, two and a half times of what is required.

The sewage system has adequate capacity even with the proposed additional units and the treatment center will be loaded at slightly less than 90% of its capacity. The sewer will need to be extended since it is not a public splitting of tracts, but Mr. Crockett said they desired to see the sewer extended to better serve the area. The plans will be approved by the Boone County Sewer District and permitted by the Department of Natural Resources.

The waterlines will be extended. They have talked to Water District No. 9 and asked for their suggestions in the placement of the fire hydrant. The easements required by any of the utility companies will be granted to that utility company. This is different, he said, from a subdivision utility where the easements would be dedicated to the County and then reassigned.

Commissioner Stamper said he was comfortable with the proposal because it offered the Commission the ultimate level of control.

Mr. Crockett said if they wanted to change their plans, they understood and agreed that a subdivision plat was the only thing that would be accepted. He addressed the concerns of Road and Bridge about the paving work being done three years from by saying the money being spent on the project was private money and it wasn't going to be a public road. They didn't want a new road torn up by heavy construction vehicles and by delaying the asphalt project would have a better finished project.

Commissioner Vogt moved that the County Commission of the County of Boone approve the request by James Abernathy to amend a Final Development Plan for Abernathy Planned Residential Development located at 7460 E. St. Charles Road (originally approved Dec. 1995) contingent upon the following: easements to be provided to the satisfaction of the utilities; notation of a private road access until such time it becomes a public access with the installation of a sign of the owner's choosing at the entrance stating it is a "private road; improvements to the road contingent to the fourth building permit or three years from the date of approval; and authorized the Presiding Commissioner to sign the plan.

Commissioner Miller seconded. Motion passed unanimously. **Order 119-97.**

SUBJECT: Request by Godas Development, Inc. to approve a Review Plan for Valley Creek Planned Residential development (this property previously platted as Valley Creek Subdivision, Plat 8), a 20 lot planned development located at the corner of Trikalla Drive and Villa Drive.

Godas Development, Corporation is the owner and James Padgett is the surveyor. The development is located east of the city limits of Columbia and contains 7.12 acres. This property is zoned R-M, which is the original 1973 zoning.

The request is to take Valley Creek Subdivision Plat 8, which was approved by the Planning & Zoning Commission in October of 1996 and includes 20 R-M zoned lots, and allows each lot and building unit to be split into two separate ownership's, thus creating a zero setback from the property line. This will not be a duplex at that point, it will be a single family attached dwelling and there are structural requirements for separation between the two units. The County Commission has not seen the final plat, pending improvements. This will not in any way change the allowable density of development on the property. The building units have been shown on the plan. If this is approved, a replat for each lot or group of lots is required to be submitted that will locate the common property line running through the center wall of the unit. This will take place after construction of the unit has begun to ensure that the common property line is accurately located. The engineer details of the street, water, fire hydrants, and other utilities have already been addressed with the Final Plat for Plat 8.

An engineered Erosion Control Plan was submitted with the Final Plat for Plat 8 that addresses some of the concerns of erosion during construction of the road and installation of the utilities.

This Commission approved Plat 8 with the condition that the erosion control plan be acceptable to Natural Resource Conservation Service staff before County Commission approval. This plan was reviewed by NRCS staff and will meet requirements with the following additions: Cut a drainage ditch through the ridge between lots 84 and 85, put in a small berm across the natural drainage way in lot 84, and direct the runoff into the existing watercourse that flows out of the northeast corner of lot 85. Use silt fences on each lot at the point of runoff discharge during construction of the units. Grade the north side of the lots so the runoff flows into the existing storm drains under Waterfront Drive. Sediment fences or sanitation areas are necessary on site. Since that time Planning staff has inspected the area and found that additional attention needs to be given to the existing erosion taking place at the western end of this property where fill dirt has been added along the north property line. The fill soil has been eroded and sediment has been deposited on the pavement on the western end of the Waterfront Drive cul-de-sac.

Another consequence of developing a zero lot line development is a more stringent building code. These units are required to be built to a single family attached building code that requires a higher fire separation between units, separate utility entrances, no plumbing in the common wall, and so on; more so than that of a regular duplex.

This area is within the Urban Service Area of Columbia and has 80 points on the point rating scale.

The Planning & Zoning Commission approved the plan with the condition that all staff recommendations about the erosion control plan be met and that it incorporate the additional requirements as stated by the NRCS or alternate measures approved by the NRCS staff or Planning and Building Inspections staff and that sediment on Waterfront Drive be removed by the developer and the area where erosion is occurring be stabilized so sediment will not continue to leave the property. If at any time erosion control measures are not being met, the Planning & Building Inspections office can withhold the issuance of building permits and/or the issuance of Occupancy Permits until measures are taken to bring the development into compliance with the erosion control plan. The units will have to meet the building code for single family attached housing and no more than two single family units per lot be admitted and the developer to cease vegetation and tree disturbance except for erosion control.

Planning & Zoning Commission approved the plan unanimously and during the public hearing, several citizens expressed concerns with erosion that has taken place

Tom Schneider, legal counsel, Jones, Schneider and Bartlett, 11 North Seventh Street, Columbia, addressed the commission on behalf of Godas Development, Inc. He said the only change between this request and the Preliminary Plat was that this will allow the units to be sold like condominiums to separate ownership. Another difference is the request would come under more stringent building codes. It does not increase density or traffic and the erosion conditions are acceptable to Godas Development, Inc.

Dorn Schuffman, 5541 Water Front Drive South, said a number of people from his neighborhood had spoken at the Planning & Zoning meeting in response to two major issues. Mr. Schuffman cited the loss of vegetation, further down the street, because of the development.. When it rained, he said, the mud went into the street. They wanted to be assured that would not be allowed to happen with further expansion and that the developers wouldn't be allowed to unnecessarily remove trees that served as a buffer. He was concerned with the Planning and Zoning's response because it was late and he wanted to clarify their decision regarding the removal of trees. He wanted to make sure that some type of buffer remained, rather than all of the vegetation being bulldozed. It would help with erosion and deal with the privacy issues.

Mr. Shawver responded that the Planning and Zoning did not feel it was necessary to clear cut the lot, but at the same time understood that some trees would need to be removed during the construction phase.

Commissioner Stamper said that explanation was a bit gray.

Mr. Shawver replied that P&Z didn't want to see any more tree disturbance than what was necessary for development.

Mr. Schneider said there was some vagueness in the definition.

Dawn Kenny, 1800D Water Front Drive North, lives on the west cul-de-sac across from the development. The area, she said, during the second phase of construction, was completely bulldozed. Originally it had been a wooded lot and every tree was removed clear up to the property line. Where they used to see trees, they now see the backside of the duplexes. All of the electrical utilities in the Edgewater Condominiums, where she lives, are underground. Power lines have been installed for the new development. In that process, they also took down some old growth trees and they lost their greenbelt area on the west side as well as the south side.

She requested that the Commission have a buffer area put back into areas that have been cleared, as well as to not allow the practice to continue.

Commissioner Stamper responded that it would be very difficult to backtrack on the issue, although he understood Ms. Kenny and Mr. Schuffman's concerns. He clarified that they had the power to require those conditions prior to approval, but could not now require that trees be replanted behind the existing duplexes.

Mr. Shawver also said that the original plat was for a subdivision and currently the County does not have landscaping requirements for a subdivision plat. As a planned development, they will gain that authority on this section alone.

Ms. Kenny said they were just asking for the buffer between the duplexes and herself. She wanted 10' of coniferous vegetation that would be maintained and replanted if it died.

Commissioner Miller said that once it becomes the landowners, they could not require the landowner to continue to keep trees on it.

Mr. Shawver said that as long as the property is in single ownership, the County has that authority, but as subsequent property owners come along it becomes more difficult to enforce. He also said there is no tree ordinance in the County.

Commissioner Miller clarified the area in question by looking at the plat map with Mr. Shawver and Ms. Kenny.

Ms. Kenny asked why they were notified of this development, but they were never notified regarding the earlier development.

Mr. Shawver replied that this is a planned residential development and County regulations requires it to be treated like a rezoning request and all property owners within a 1,000 feet are notified and there is a notice placed in the newspaper. If it is platted without going through a planned development, as it was originally, there is no notification requirement.

Ms. Kenny asked about the current erosion damage and if it was to be corrected.

Commissioner Stamper said they were only addressing the proposed lots and could not put a condition on repairing previous damage.

Mr. Shawver said that Water District No. 2 had done some installation out there and not repaired the damage they had done and he expected there would be some changes when they went in and repaired that damage.

Commissioner Stamper concluded the public hearing.

Commissioner Vogt said she had grave reservations about requiring any kind of buffering on planned residential land for the simple reason that there was no tree or landscaping ordinance in place. She also said she could not recall having made the requirement for buffers in the past. It was her opinion that people would plant trees and maintain lawns, though she understood the construction damage and erosion problems that resulted from that process.

Commissioner Vogt moved that the County Commission of the County of Boone approve a review plan for Valley Creek Planned Residential Development (this property previous platted as Valley Creek Subdivision, Plat 8), a 20 lot planned development located at the corner of Trikalla Drive and Villa Drive with the following conditions: all staff recommendations dealing with erosion control be followed, no more than two single family units per original lot and authorized the Presiding Commissioner to sign the necessary documents.

Commissioner Stamper seconded.

Commissioner Miller asked if Mr. Godas had a problem with leaving the tree vegetation based on the Planning & Zoning's recommendation.

Mr. Schneider replied that the concern was that what Mr. Godas had in mind, might not be what someone else would have in mind.

Commissioner Miller said she agreed with Commissioner Vogt and said it was better not to have vague landscaping requirements as a condition if something more definitive was not in place. She asked that Mr. Schneider understand that the vegetation was desirable.

Motion passed unanimously. **Order 120-97.**

SUBJECT: R&D Subdivision, S35-T51N-R14, A-2, Eugene Hayes, owner, Donald E. Bormann, surveyor.

Mr. Shawver reported that this one lot plat is located on the east side of Ridge Road, about 1300 feet north and 500 feet west of the intersection of Coyote Hill Road and Ridge Road. The site is 1 1/2 miles north of the Harrisburg municipal limits. The area being subdivided contains 5.66 acres out of a parent tract of 37.6 acres. The property is currently zoned A-2, which is the original 1973 zoning. The remaining portion of the parent property is also zoned A-2, as is all the surrounding property. These zonings are also the original 1973 zonings. The site falls within the Public Water District #10 service area, however, the nearest district water line is a 3" line located about 1 1/2 to 2 miles to the north along Carr Lane. This information was obtained by phone conversation with water district personnel. It is unclear as to how water service is to be provided for this lot, our assumption is that it will be served by a private well. Sewage treatments will be on site, the appropriate area is designated on a separate document in the file. The owner has requested a waiver of the requirement for traffic analysis and cost benefit analysis for sewage treatment. This plat has 12 points on the point rating scale.

The staff recommends approval along with granting of the waivers for cost benefit analysis for sewage treatment and traffic analysis. The Planning & Zoning concurred with those recommendations and approved the plat.

Commissioner Miller moved that the County Commission of the County of Boone receive, accept and authorize the Presiding Commissioner to sign the minor plat R&D Subdivision, S35-T51N-R14W, A-2.

Commissioner Miller seconded.

Motion passed unanimously. **Order 121-97.**

SUBJECT: Request to revoke a conditional use permit.

In 1996 a Conditional Use Permit was granted to Ricky Knight, 759 Cedar Tree Lane, Hartsburg, Missouri, permitting him to attach two single wide mobile homes. One of the conditions of approval required that siding be installed by November 1, 1996.

Other conditions placed on the approval was that the applicant obtain the required building permits; the structure would be covered by a single, shingle roof, the exterior surface of the dwelling would be covered by siding; the wastewater system for the dwelling be inspected by and

meet the approval of the City/County Health Department; the property remain free of zoning violations and all vehicles would be contained on the property possessed by the applicants.

A letter was sent to Mr. Knight on January 28, 1997, allowing him until February 15, 1997, to complete the installation of the siding. As of March 31, siding had only been installed on one side of the dwelling.

Section 15A.4. of the Boone County Zoning Regulations provides that the County Commission may revoke the Conditional Use Permit following a complaint being filed with the Commission. The Commission must hold a public hearing to consider evidence that the use of the Conditional Use Permit is in violation of the conditions of approval. If the Commission finds that the use of the permit is in violation, they have the right to revoke the permit and refer the matter for civil or criminal legal action.

The memo Mr. Shawver referred to constitutes a complaint under Section 15A.4. and is a request to schedule a public hearing on this matter in 45 days. At that time, evidence will be presented to the Commission showing that a violation of the Conditional Use Permit has taken place. In the event that this property is in compliance with all the conditions of approval period to the public hearing, this complaint will be dismissed.

Commissioner Miller said she had had phone calls from neighbors complaining that the project had not been completed during the allotted time frame. The family, she said, had held the community hostage on a lot of issues.

Commissioner Miller moved that the County Commission of the County of Boone send a letter to Ricky Knight, 759 Cedar Tree Lane, Hartsburg, that at 9:30 a.m. on May 20, 1997, the County Commission will conduct a public hearing to revoke the conditional use permit he had been granted in 1996.

Commissioner Vogt seconded. Motion passed unanimously. **Order 122-97.**

SUBJECT: Appointments to Boone County Group Homes

Commissioner Stamper said the candidates had been discussed in the staff meeting, but he was advised today by the chair that by making the appointments they would be removing all three members of the executive committee.

Commissioner Vogt suggested there be more discussion.

SUBJECT: Vote to Hold a Closed Meeting, pursuant RSMo. 610.0211

Commissioner Miller moved that the County Commission of the County of Boone authorize a closed meeting immediately following the April 3, 1997 meeting held in the Commission Chambers as authorized by RSMo. 610.0211 RSMo. to discuss legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communication between a public governmental body or its representatives and its attorneys.

Commissioner Vogt seconded. Motion passed unanimously. **Order 123-97.**

SUBJECT: Reports from Commissioners

Commissioner Vogt reported that she had heard from a constituent interested in being appointed to the Mental Health Board of Trustees.

The meeting adjourned at 9:18 p.m.

Attest:

Don Stamper
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Linda Vogt
District II Commissioner