

TERM OF COMMISSION: March 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  
County Counselor John Patton  
Deputy County Clerk Ashley Williams

The regular meeting of the County Commission was called to order at 7:00 p.m.

**SUBJECT: Request by Heart of Missouri Girl Scout Council to rezone from A-2 (Agriculture) to REC (Recreation) of 133 acres, more or less, located at Silver Meadows Girl Scout Camp on Pinnacles Road.**

Planning and Building Inspections Director Stan Shawver reported this property is located approximately 12 miles north of Columbia on Pinnacles Road. The property is zoned A-2 (Agriculture), as is all of the surrounding land. The property is unimproved, except for two open shelter houses and three latrine facilities. The property has been used for primitive camping by the Girl Scouts. This property is owned by a non-profit organization and has no impact on the public school system. The site falls on the boundary between water districts 4, 7 and 10. It should be noted that potable water is available, however, inadequate flows exist to provide service for fire hydrants or sprinkler systems at this time. The A-2 zoning is the original zoning for this site. There have been no previous requests to rezone this parcel of land. The master plan designated this area as being suitable for agricultural and open space uses. The proposed use is consistent with the master plan. Staff notified eleven property owners concerning this request.

Mary Roberts, 7550 New Haven Road, Columbia; and Mike McMillan, 3510 South Gorman Oak Drive, Columbia represented the Heart of Missouri Girl Scout Council.

Ms. Roberts said they were requesting the property to be rezoned Recreational because at this time, the property was used for recreational purposes at this time. The council's master plan, she said, indicates a building on the site and the rezoning would be the first step in making the property suitable for a building site. The building would be for recreational purposes, she said.

Mr. McMillan said this property was donated in 1973 and is the largest property owned by the council. The Heart of Missouri Girl Scout Council serves 18 counties in the central Missouri area, he said, and this property is one of their premier sites. He said they wanted to develop the property as time and money permitted.

Commissioner Stamper convened a public hearing; no one testified and the hearing was closed.

Commissioner Vogt moved that the County Commission of the County of Boone approve a request by the Heart of Missouri Girl Scout Council to rezone from A-2 (Agriculture) to REC (Recreation) of 133 acres, more or less, located at Silver Meadows Girl Scout Camp on Pinnacles Road.

Commissioner Miller seconded. Motion passed unanimously. **Order 82-98.**

**SUBJECT: Request by Triple SSS Development LLC to rezone from A-1 (Agriculture) to A-R/PRD (Agriculture Residential Planned Residential development) and to approve a review plan on 199.4 acres, more or less, located at 5800 S. Scott's Blvd., Columbia.**

Mr. Shawver reported that this property is located approximately 1 1/5 miles southwest of Columbia on Scott's Boulevard. The property is currently zoned A-1 (Agriculture), as is all of the property located to the south, east and west. Property to the north is zoned A-2. This property has been used for agricultural purposes. The applicants are requesting that this property be rezoned to A-R/PRD (Agriculture Residential/ Planned Residential development.) This site is within the Columbia School District. The applicants have requested utility service from the city of Columbia. This will include water service, sewer service and electric service. The master plan

designates this area as being suitable for residential land uses; the proposed use is consistent with the master plan. A previous request to rezone this tract to A-2 was denied in 1977. In 1993, a conditional use permit was issued for a transmission facility having an 84' tower. Staff notified 46 property owners concerning this request.

William Mays, 200 E. Walnut, Columbia, attorney representing the proposed development approached the Commission with managing member of the Triple SSS Development, Elvin Sapp. He pointed in the audience to owners Marvin and Robert Sapp. Mr. Mays also introduced Bill Crockett, 1414 Range Line, Columbia, of Crockett Engineering.

Mr. Crockett explained there were a number of issues addressed in the previous Planning & Zoning Commission meeting that he would not be addressing this evening in order to save time. The proposed development, he said, is 274 lots on 260 acres of land owned by Triple SSS. The actual tract is only a portion of those acres, close to a 200-acre tract. Pointing to a map, Mr. Crockett showed the actual tract to be developed, the areas where there was written support for the project, tracts presently owned by the owners of Triple SSS, but under a different business name and an area that showed voiced opposition at the Planning & Zoning Commission meeting. He explained that one individual represented the homeowners in the Southfork Subdivision, but all the names were not available and therefore were not represented on the map.

Mr. Crockett said that all of the lots would be single family lots ranging in size from 1/4 to 2 acres. Two of the lots, he said, are currently assigned as common lots to the development. One, is a 7 acre lake in the middle of the development and the other will contain the amenities. All of the streets will be curb and gutter and superior, he said, to other roads in the area. Parkway, shown on the map as the main drive, will be classified as a collector street. Mr. Crockett said the street has the capability, not shown on this current plan, but with future platting, to extend from Highway KK all the way to Howard Orchard Road, and so would act as a true collector. All other streets, he said, would be normal residential streets. All streets, he said, will be constructed in accordance with current County subdivision regulations as well as the City of Columbia. The development, he said, would be done in phases varying from 30-50 lots. He said the home price was anticipated to run from \$200,000 to \$500,000.

The common area, he said includes a tennis court, volleyball courts, concession area, pool and also includes islands in the cul-de-sacs. Ultimately, he said, those areas would become the responsibility of the homeowner's association. The responsibilities of the association will be outlined by the deed restrictions and covenants.

Mr. Crockett showed that the development lies 600 feet from Route KK and 1,000 feet from Scott's Boulevard. The development is bordered by property owners, including the current owners Robert and Marvin Sapp, that are 100% in concurrence with the development.

Mr. Crockett showed that the center portion of the development is more dense, but continues to be surrounded by their own property.

Mr. Crockett said the area is currently serviced by Consolidated Public Water District #1, Boone Electric and GTE. The developer is currently negotiating with the city, and Boone Electric so that the entire area will be served by the City of Columbia. The city, he said, has a half voltage three phase power line to the water treatment plant at McBaine. The initial water service may not come from the water district, he said, but water will be purchased by the city and sold to the homeowners.

Mr. Crockett said that the soil conditions on the development are a river hill wind blown material classified as wind fill silty clay loam overlying glacier till. There is a lot of clay out there, he said. The soil does not promote the use of individual absorption fields under any circumstance. Individual surface lagoons are unsightly, dangerous and unwanted, he said. The possibility of a centralized on site sewage system is not really an alternative, he said, because it would result in discharge possibly through developed areas in the city. It is also highly unlikely, he said that the DNR would approve it.

Mr. Crockett read the subdivision ordinance stating where adequate governmentally owned sewer system is reasonably accessible, the developer shall provide a collection system and connect to

such available system. He said the quote was backed up last August when the city of Columbia adopted a policy indicating they had a strong interest in extending sewage services to outlying areas, adjacent to the city limits or not, under certain circumstances. He said they were planning to service the development with an extension from the city on the Mill Creek city trunk line, 5,000 feet from the site. An agreement with the city, he said, still needs to be approved by the city, but is near finalization.

Mr. Crockett said they had addressed stormwater runoff in the Planning & Zoning Commission meeting and that it was not a real question. He also said that a traffic study would be done and become part of the preliminary plat and final PRD. A 1996 traffic count on Scott's Boulevard measured 221 vehicles.

Mr. Crockett said there was one omission on the map. There is a single grave site not shown on the map. He said that would be properly addressed and taken care of and that Mr. Powell indicated it was his grandfather who settled in the area in the 1800s. There are several ways to address that issue, he said, and they would work that out with the heir to be sure it was properly addressed.

At the Planning & Zoning Commission meeting, Mr. Crockett said, it was suggested that the developer was not paying his share for infrastructure and other services. This tract, he said, is classified and assessed as agricultural land. The first house built and assessed, he said, will more than double the taxes on the property. Assuming the houses range in the price range they project, he said, when fifty homes are completed, that will result in 1,000 times the current taxes. The majority of this tax, he said, goes to the school system, over 1/2 million will go to the schools and \$150,000 will go to Boone County.

Mr. Crockett said that the city has long expressed a concern about substandard development in areas adjacent to the city limits. A new subdivision ordinance, he said, to be adopted this coming July is more strict and closely related to the city's regulations. Their proposed plan will not only reduce this concern, he said, it totally eliminates it. No longer will the County have to form expensive sewer districts to update facilities. The city has also required that sidewalks be adjacent to all streets.

Mr. Mays said there was a cooperative agreement between the city and developer relating to the extension of 5,000 feet of sewer which will be paid for entirely by the developer, not by taxpayers, or grants from the County. It will be part of the development costs and then dedicated for public use as the development matures. The development, he said, is 1 1/2 miles from the city and will undoubtedly be on the map for annexation in the very near future. State law currently is such that cities are achieving annexation by voluntary methods, and private developers developing tracts close to cities can agree to annexation with prior consent when the city finds the appropriate time to make its move, as long as the land becomes contiguous. Mr. Mays said the city has taken an aggressive position regarding the annexation of this proposed development.

Commissioner Stamper said he was very familiar with the city's position.

Mr. Mays said they were taking advantage of the opportunity to extend to the city sewers, but clarified that the developer would be paying the bill. The streets envisioned, he said, will be built to city standards, paid for by the developer and then dedicated to the public. This is part of the development burden, he said. Fire hydrants will be to city standards and paid for by the city. The street lights will also meet city standards. He said the development was in an obvious situation where in a short time the property will be in range of the city's annexation plans.

Commissioner Stamper asked if other developers between this development and the city limits would be able to connect to the trunk line as well.

Mr. Crockett said they would be subject to the same agreement and conditions and could negotiate with the city as they had.

Commissioner Stamper said that most of the concerns they had heard were in regards to density.

Mr. Mays said the issue of density is a question of acceptable density to the government agency involved. He said the density is similar to that of the Bluff Creek Subdivision. The development averages 1/2 acre per lot overall. Some lots are 2 acres and very few are 1/4 acre and those lots are packed in the center, he said. The first phase, he said, averages lot of 3/4 to one acre. The issue of density is relative, he said. When the Sapp brothers owned this property density was one house per 40 to 50 acres. Densities have increased as people have moved out of town. Town is now catching up with this property.

Commissioner Stamper asked if the developer could reach the proposed level of density without the provision of the trunk line sewer access.

Mr. Crockett said that part of the density requirement is the fact that they have so many off site expenses to address the development properly. In order to address the sewer, gas expense, water and street improvements requires density in order to cover those expenses. He said they estimate it would cost \$10,000 per lot to develop the utilities.

Commissioner Stamper asked what the development scored according to the County's rating system.

Mr. Shawver said it scored 58 points.

Commissioner Stamper asked for comments regarding the potential impact on schools.

Elvin Sapp said that there is one central school system here and the development would not do anything different to the school system. He said the district equalizes itself every year and that people won't be coming out of town all at one time.

Mr. Mays said that when a development has homes worth \$200,000 to \$300,000, that a big part goes to the schools and that will inject funds to deal with more desks, although the development, he said, may not completely pay its own way, it is not set up to bleed the school system.

Commissioner Stamper asked for clarification regarding the city's agreement to purchase water and then resell it.

Mr. Crockett said on the development site is a water tower and a well owned by Consolidated Public Water District #1. He said the city will have their water main extended to the Scott Blvd. and Vawter School Road intersection and will in the near future be extending that line down Scott Blvd. Until that time, he said, the city will buy and resell water from Consolidated #1 to the development. At the time when the city's facilities are available, the connection will be eliminated and directly accessed.

Commissioner Vogt asked if they had a written agreement for that kind of activity, like they had with the sewer hook up.

Mr. Crockett said that the city and the developer are in the final stages of negotiating the service area. This area, he said, is included within the city's service area and the agreement should be consummated within the next few weeks.

Commissioner Stamper asked about the anticipation of the impact of traffic to Scott Blvd, which, he said, the Commission is scheduled to pave this year.

Mr. Crockett said they intentionally discharged the two main entryways onto Scott Blvd, and not Route KK. He said he didn't like KK any more than anyone else, knowing full well for the plans to improve Scott Blvd. and of the contract that is nearing finalization to improve Vawter School Road to Scott Blvd.

Commissioner Miller asked how they could adequately predict the value of the homes and how would the developer guarantee the homes will sell at the level predicted.

Elvin Sapp said they would take precautions to get as close to their predictions as possible. He said they would set covenants on the property and plan to build model homes to establish a

precedent. He said they would set architectural controls to approve plans. This will be a high quality subdivision, he said. Elvin Sapp estimated the lots would sell for \$30,000.

Commissioner Miller asked when the amenities would be built.

Elvin Sapp said the lake was already there and would be designed for water control. He said they had showed the open ground with the pool and tennis courts and that it was his intention to put those amenities in first.

Commissioner Miller asked about the street lights.

Elvin Sapp said that the pre-annexation agreement with the city was not 100% final, but to the best of his knowledge they would be city street lights.

Commissioner Miller asked about the islands in the cul-de-sacs.

Mr. Shawver said those issues would be worked out during the final plat stage.

Commissioner Miller asked about the required right-of-way adjacent to Scott's Blvd.

Mr. Crockett said they had shown a 50 foot half right-of-way.

Commissioner Vogt asked about sidewalks.

Mr. Crockett said there would be sidewalks on both sides of the street, as required by the city.

Commissioner Vogt asked about erosion control and what other areas, beside the lake, would collect drainage.

Mr. Crockett showed a number of shaded areas on the map and said there would be check dams similar to those in Eagle Knoll that would be maintained throughout the development process.

Commissioner Stamper convened a public hearing.

Mr. Mays presented a letter with attached petitions in support of the proposed development.

Commissioner Stamper submitted a letter from Marjorie McGrath in support of the development.

David Rogers, 813 E. Walnut, Columbia, an attorney representing 75 individuals in opposition to the development said those in opposition, including himself, live in the immediate area of the development. Mr. Rogers said they were not questioning the obvious and that the Sapps have done quality work before. The developers, he said, have addressed the basic engineering problems inherent in any subdivision: stormwater, sewer, water and other utilities. These issues, he said, are satisfactorily addressed. He said he was not ready to lead the applause for the developer's comment that they will comply with County street standards. He said they'd have a hard time not complying. The only question before the Commission, he said, is this the appropriate density for this area. There are a number of subdivisions in the immediate proximity with nice homes, nicely developed, where the lots are 1/5 and 1/10 larger than what is proposed. Mr. Rogers said that was not to say the Sapps have to comprise and develop their subdivision to exactly the same size and standards. He said he agreed that there would not be all small lots south of town and large lots outside of town. Mr. Rogers suggested the Commission phase these developments in and a planned residential development is precisely the way to do it. He said that the request may be for the appropriate zoning, and if so, then this was not the appropriate plan. He said that 90% of the people he represented would like to see the minimum lot size be increased to 2 1/2 acres, a size prevalent in the existing subdivisions. Mr. Rogers said that while that might be desirable, it may not be a realistically achievable goal in 1998. Mr. Rogers asked the Commission to defeat this proposal tonight and to ask the developer to come back with a planned residential development requiring a minimum lot size of an acre.

Bruce Hanson, 6390 South Sabine, Columbia, president of the of the affected homeowner's associations, said that Triple SSS never contacted the surrounding subdivisions. He said he

attended the Planning & Zoning Commission meeting two weeks ago and had said it was too dense then and that it's too dense today. Mr. Hanson said opponents of the development from River Hills, Vantage Point, Sundance Lake, Southfork Lake, Arrowhead Lake, Scott Boulevard, Route KK, Applewood Creek and Old Mill Creek Road has signed petitions. He said these people live in the surrounding area and would be affected by the development.

Mr. Hanson asked those in opposition to the development to stand.

Mike Gill, 5251 W. Route K, said he is unanimously opposed to the density of the development. Leap frogging from the city in the County will eventually happen, he said, but this sets a precedent for everything between the city and the County.

Annabelle Simmons, 5285 Brazos Drive, said she opposed the request to change the zoning and emphasized the points made by the attorney: conformity to the surrounding area, density, leap frogging and infrastructure.

Ms. Simmons said that the requested zoning A-R PRD does not conform to the existing zoning of A-2 in the surrounding subdivisions. She said this proposal would change the character of the area and that during the Planning & Zoning Commission, one of the commissioners agreed that the development just doesn't fit. The Planning & Zoning Commission agreed that the density is too tight. She quoted Mr. Abart who said the development would be like putting a square peg into a circle hole. She cited traffic on surrounding streets as a concern. Ms. Simmons said that two weeks ago the Planning & Zoning Commission recognized this proposal did not fit in the area and that it still does not fit.

Kathy Stobie, 5906 South Spring Court, read a letter she had written in opposition to the Triple SSS development. She said the taxpayers were concerned with the intense density, lack of off-site improvements and storm water runoff. She said she had lived in the area for 20 years and that their subdivision, Spring Park was developed in 1971 before zoning or governances existed. Since then, she said, all the surrounding area has been zoned A-1 or A-2 and has remained that way. Their subdivision, she said, encounters a lot of runoff water problems and that after a long, hard rain, two or three of their neighbors are flooded. She said Mr. Crockett has stated the proposed tract lies within five drainable areas and that the area to the south totals over 20 acres. Their subdivision, she said, lies directly to the south/southwest of the proposed development. The proposed development, she said, is just too dense and will create too much run off. Ms. Stobie said that at the Planning & Zoning Commission meeting, Mr. Crockett had said that the problem area would be the smaller lots where runoff would increase by 20%. If this is true, she said, then their neighborhood would be flooded. She asked for a guarantee that any runoff problems be eliminated and an engineering study be conducted.

Steve Bonwich, 3906 Woodrail on the Green, a real estate broker with Gaslight, said he has bought and sold real estate in Columbia and Boone County for the past 25 years. Mr. Bonwich said he has represented two of the Triple SSS partners in various real estate transactions. In 1992, he said, they bought a 142-acre tract off of Howard Orchard Road one mile from the area to be developed. They divided that tract in 19 lots, put in streets and named it Vantage Point. Those lots, he said, were sold to professional families who built substantial homes. The Sapps, he said, have been upright, honest and fair in these transactions. One compelling reason to approve the development, said Mr. Bonwich, is that there are many people who would like to enjoy the pleasure of country living who are not able to maintain 10 or even 2 acres. All they want, he said, is a home with a lot large enough and a setting designed to provide a country atmosphere. Mr. Bonwich said that the development proposed by the Sapps would meet this need and is a natural progression of normal growth as envisioned by the County's master plan.

Joseph Kurzejeski, 4651 South Scott's Blvd., said that it was obvious that those in favor of the development don't live on Scott's Blvd. He said he represented 16 individuals on Scott's Blvd. south of Vawter School Road. He said they were in objection to the proposal for the same reasons mentioned before: density, dangerous roads and intersections, increased traffic and other safety concerns. Some of the property, he said, is adjacent to Mill Creek which floods frequently and over and into the city's sewer line. He said he did not want the sewage from 274 homes on his property. He also said that not all landowners in the area wanted to be annexed into the city and if this development is approved it might force some property owners to become annexed.

Mr. Kerzejeski said he was also concerned with the current speed limit on Scott's Blvd. of 35 mph. He said cars often exceed 50 mph on what is now a chip and seal road. Once it is upgraded, he said, there will be an increase in traffic and speed on that road. He said that eight years ago voters passed a bond issue to allow the Boone County Fire Department to build several stations throughout the County. One of those was to be built on Scott Blvd., near the Katy Trail. He said that eight years had come and gone and there was still no station in the area and that the current fire protection available would not be sufficient to protect an additional 274 homes. As homeowners and taxpayers, he said, they are paying more for insurance than they would if there was fire protection in the vicinity.

Mr. Kerzejeski said that he currently purchases his water from Consolidated Public Water District #1 and that the service has been satisfactory. Several years ago, he said, they increased their fees to put fire hydrants in the areas they serve. He said that Scott's Blvd. was an area where those hydrants were to be placed and he was still looking for them after five years. He said he didn't think Consolidated Public Water District #1 could provide sufficient water to the development until the city brought their lines down. He said if the Commission was concerned about the people in Boone County and who elected to represent them, then they would send this plan back to the developers for a realistic proposal and not one that would put millions of dollars in a few people's hands.

Debbie Walther, 4352 Creasy Springs Road, said she lived on land that the Sapps had owned for about 20 years and that the development would be very good and the city would be proud of it. Life is all about change and growth and development and she said with her business they had constant change. She said she thought the people opposed could adjust in time.

Commissioner Stamper called for a recess at 8:40 p.m. and reconvened at 8:45 p.m.

John Samuel, 6400 South Scott's Blvd., said there have been complaints about the road ever since he's been there. He said he was all for the Triple SSS development if it would raise revenue to improve roads and control erosion. He said the Sapps would be super guys to take care of that.

Tracy Airy, 1805 Blueridge, said she was in favor and they owned property within one mile of the proposed development. She said Elvin Sapp was a proven developer and she believed he would do a good job. The layout is great, she said, and that you couldn't ask for much more than 17 acres of green belt. The improvement will bring the school dollars and with the city improvements it would not devalue property, but would enhance it, she said.

Tim Ross, 2450 Trails West, said he does landscaping for Elvin Sapp and other developers and could attest to the quality of Mr. Sapps subdivisions. He said that Mr. Sapp was concerned with erosion control more so than any other developer. Mr. Ross said he worked in the area in question in the early 1980s and knew a lot of people out there before Southfork and Harpers Point with their densities of 10 to 12 acre lot. He said he was hearing an "I've got mine and nobody else is going to get theirs," attitude and knew that several people in those earlier subdivisions didn't want the 2 1/2 acre lots that were there now.

Russell Chambers, 2314 Tulip Court, said he lives in one of the original Sapp developments and is in favor of this subdivision. He said it was the type of place where he would like to raise a family. Mr. Chambers said he has lived in Columbia all of his life and would like to try a piece of the country himself. In some subdivisions, he said, after he bought a lot he wouldn't have any money left to build a house. He said the development would be good for young families and young professionals trying to get started and who wanted a place in the country. He said he would like to be neighbors with all of the people here.

Linda Dains, 6100 Steadman Road, asked why traffic would dump out onto Scott's Blvd. if the collector road connected to Route KK. The main road in the subdivision would be coming out onto KK and that would bring a lot of traffic down that road, she said.

Valerie Barnes, 2317 Deer Creek Court, said she has been a realtor for five years and when she brings people to Columbia to relocate, she takes them through all of Columbia. She said they are always amazed at how the city is growing in a rapid and controlled rate and the wonderful developments available all over the County. This development meets that standard, she said. Ms.

Barnes said that there were rumblings in the audience when it was mentioned that the petitions for the development had been signed by people in the city. This development, she said, affects people who live in the city and will provide jobs for lumberyards, electricians, appliance stores and not just the people who live in the surrounding area. She said she empathized, but change is inevitable. As long as it's controlled, she said, she could see no problem with change. She said there was no reason their property values would go down, they will still live on 2 1/2 acres and see their lakes. There will be no major difference, she said. Ms. Barnes said that more cars bring more tax dollars and that this development should be supported.

Marjorie McGrath, 4705 Scott Blvd., said that the pink area outlined on the map represented her property. She said she was not opposed to the subdivision and that it was a good thing. The Sapps, she said, are reputable and old neighbors and will do right by their neighbors. Ms. McGrath said she had lived in the area for more than 70 years and that she was the one who would take the runoff and she was not worried about it. Ms. McGrath said that the Sapps had assured her that they would take care of it for her and she believes them.

Aimee Sapp, 1609 Woodmoor Court, said that she was representing Elvin Sapp and the owners and developers of Triple SSS. She said the primary opposition falls in five areas: road conditions, county services, the developer, facilities for children and density.

Ms. Sapp said the primary concern for Route KK and Scott Blvd. are the fact that there are no shoulders and biking and accidents will increase and the road will be more dangerous. It is clear from the map, she said, that Route KK is not a logical route. Thornbrook residents will use Scott Blvd. Scott Blvd., she said, is not paved and already beginning to deteriorate, but in fact there are improvements scheduled to be completed this calendar year on Scott Blvd., to make it an asphalt road. It is closer to town and there is no reason residents would need to pass through each other's communities, she said. Thornbrook Parkway is the collector street and the developer will incur all costs to make sure the road complies with regulations and not one red cent of taxpayer money will be spent. In regards to county services, she said the fire district has been seeking a new location and are in negotiations to get a station build.

One speaker, she said, had the audacity to state that once the developer has the blessing to begin the development they will sell the lots and be out of there and that all the developer is interested in is making money. Elvin Sapp, she said, has been involved in numerous developments, has lived here his whole life and has always made it a top priority to be proud and an asset to the community. Thornbrook, she said, is no exception to this.

Ms. Sapp said that the development would not increase school attendance by one single student. It is all one system, she said, and accommodates all students regardless of where they live. Students can relocate at any time, but they still count as one student, she said, and the district is always reevaluating attendance lines.

In regards to density, said Ms. Sapp, people moved because they wanted in the country. The Sapp family, she said, has owned the land for 42 years and have always been a good neighbor. 94% of the neighbors have signed letters in support and the vast majority of those people have lived there over 40 years. The opponents live in Southfork and the developers called to meet with the homeowner's association there and were told if there was to be no reduction in the density then there was no reason to meet. Development began out there 12 years ago and the most current resident moved two years ago. Those in favor of the development have lived two to 40 times longer in the area than those in opposition. The densest part of the development, she said, is located in the middle of the property. That property, she said, is one of the highest points in Boone County and runoff will have to be controlled. Ms. Sapp said there would be no more runoff when the development is completed than there is today.

In 1977, said Ms. Sapp, the Sapps requested rezoning the land to A-2 and to develop as lots were sold. They were turned down and told it needed to be rezoned to A-R to better utilize the land. A-R zoning is what we are here requesting and that request, she said, boils down to three facts: it fits with the master land use plan which calls for the area to be residential; it meets all subdivision regulations for the County; and the property exceeds the county's point system by eight points; it fits the Columbia city council ordinance recently passed establishing a policy for an extension of city sewer services. Ms. Sapp said the development has been carefully thought out and in

planning for over a year. She said she could see no justifiable reason that this request should not be approved and that Thornbrook will be an asset to the County.

Jim Givens, 6000 Scott Blvd., said he lived in the southeast corner of Scott Blvd. and Route KK. He said he was a close neighbor to the proposed development. Mr. Givens said his main concern was looking at a map at the southwest corner of the County you would see that it's residential all the way to McBaine. He asked the Commission if they wanted the whole southwest corner fitting into Scott Blvd. and Nifong.

Commissioner Stamper asked Mr. Givens to realize the area was a drainage basin and that is why it was zoned residential.

Annette McDaniel, 4025 W. Apple Creek Road, said she lives right behind the area to be developed. They bought the property, she said, three years ago and moved because they did not want to live in the city with its density. Their son, she said, was in the first class in Mill Creek, which is now full. Smithton just opened, she said, and now they have trailers. With the density proposed, said Ms. McDaniel, there is no way that Smithton and Mill Creek could hold all those children. She said they had wanted to move to the country and to live in a neighborhood so their children would attend a school in that neighborhood, not to have their children bussed somewhere else. Ms. McDaniel said this was a nice development, but mostly real estate people seemed to be in favor of it. The whole issue of living in the country, she said, is to enjoy and appreciate a quality of life you can't get in the city. Once this development moves in you lose a part of that, she said.

Don Emery, 2013 Valley View Drive, said his youngest daughter got married this summer and it would have been nice to have not let her grow. Boone County, he said, is destined to grow. As the former ASCS director in Boone County, Mr. Emery said he dealt with agriculture all his life. He understand that people want to keep things the way they were, but to remember Broadway was once a dirt road and cattle were driven to Katy station. We have to keep up with the times, he said, and this developer is one of the best there is.

Commissioner Stamper closed the public hearing.

Mr. Mays said that sometimes things can get a little too personal and they wanted to avoid that in terms of their rebuttal. This is a development by Triple SSS, he said, Sapp, Sapp and Sapp. The Sapp's, he said, have owned this property for 42 years. Elvin Sapp has lived in Columbia his entire life and the people most affected are Marvin and Robert Sapp as the development is in the heart of their 250 acre property. Mr. Mays said that he has lived in this area for 33 years. He said he has seen developments like Indian Hills and other places people aren't too proud of and have problems with sewers, lagoons and runoff. The Sapps, he said, are local people who have been in the County a long time and are not coming in with a development so they can make a quick buck and steal out into the night. Elvin Sapp, he said, lives in Bluff Creek. The Sapps, he said, live where they work and develop properties they will be proud of and a part of. It is a pleasure and honor to represent them, said Mr. Mays. He said he wrote the covenants for Bluff Creek and have clients who have subdivided in the area. He said he was always amazed by the covenants and restrictions the Sapps use. They are successful, he said, because people who buy their property and live in their homes can trust them to protect their property values. This project, he said, is a local development between the developer, Boone County and the city, whose time has come. The Commission, he said, has the same pledge on behalf of the Sapps, that they have had in times past.

Mr. Crockett said that the roads shown on the map are related to the subject area only. The other roads are merely a scheme that could work and is available, but is not part of the proposed rezoning or proposed plan. That includes, he said, the street shown as Parkway that goes diagonally across the property. Concerning runoff, he said, he had done runoff calculations and in reality the runoff in that watershed will be decreased by the development. The area is currently used for row cropping and with the development, will be seeded. As far as the ISO ratings, Mr. Crockett said it was his impression that the ISO ratings for fire districts were the same in the area served by the fire district.

Mr. Crockett said that Consolidated Water District #1 has advised him that the well has a capacity of 900 gallons a minute and the tower has a 55,000 gallon capacity. The minimum requirements

for a fire flow by the city's design, he said, is 750 gallons per minute. The current line that feeds from the tower now, to the south is a four inch line. The city is talking about a 12 inch line with 8-10 inches serving the rest of the subdivision.

Mr. Crockett also said they should discuss the rate of runoff and said that rate would not increase with development. Runoff, he said, may increase in certain areas, but the rate will not.

Commissioner Stamper said there seemed to be some discomfort with the density. He asked what density people would feel is a good level of density.

Mr. Rogers said they were looking for A-2 zoning, but realistically were looking for something in-between what was proposed and what existed and to enforce it through the PRD zoning. He asked the Commission to reject the plan before them and make known to the developer that they should come back with a plan with a minimum lot size of one acre. That would then be approximately halfway between the A-2 density and the density proposed for this subdivision, which is basically at urban levels, he said.

Commissioner Vogt asked Mr. Rogers about the sewer situation.

Mr. Rogers said there was nothing as good as this one. This proposal, he said, would bring urban sewers to the area and most are on-site.

In response to a question from Commissioner Stamper, Ms. McGrath said that her property was a mile from the city limits.

Commissioner Miller asked about a time frame for finishing the entire development, understanding it has been planned in phases.

Elvin Sapp said that if they could move 20-30 lots a year they'd be doing real well. It was not something that would happen over night and that there was really no way to predict a time frame when you don't know what the market might bear.

Commissioner Miller asked for clarification on the sewer system.

Mr. Crockett said the Mill Creek trunk line is constructed within a flood plain and the manholes extend upwards, some with 6 inch stand pipes. He said Mr. Kerzejeski did not need to be concerned because the manholes on that particular line were vacuum sealed and tested and are water tight. Even though, said Mr. Crockett, water may be going over the manholes, there was no sewage going out and no water going in.

Commissioner Vogt said that someone had testified regarding a request made in 1977 that was denied by the policy making body.

Mr. Shawver reported that the minutes from that meeting were very brief. The request went before the Planning & Zoning Commission, it was denied, and a statement was made that they would support A-R zoning. In 1977, he said, everything was A-1, the city limits were further away and the issue was not appealed and brought before the County Commission.

Commissioner Miller said that with many of the developments they've had before them in the past two years, they have continually heard that they must protect the farm lands. She said they worked to strengthen their regulations so five acre lots weren't shooting up farm land preservation. She said she believed this development was one way to preserve farm land by filling in with tighter, denser properties. Commissioner Miller said that if the Southfork or Harpers Point developments were coming before the Commission today, they would not be able to develop the way that they have. She said she was concerned about the plans for Scott Blvd, with no shoulders. She said it was something the Commission will have to look at if they approve this type of development. However, she said, this is one of the first developments that have community built into it. The amenities proposed are to give people the opportunities to know each other and be neighbors.

Commissioner Vogt said when they talk about developments and land use in Boone County they are also talking about essential services and addressing the needs of the development. Those issues, she said, really have been taken care of here. Sewer is number one. Sewer drives how property is developed, she said. This is an opportunity to extend trunk lines and to improve conditions for people already in the area. Commissioner Vogt said she lives in the country and knows it is desirable, but that they deal with on site sewer problems. This development is in a beautiful area, she said. A gorgeous area. She said that someone had testified about wanting to move his family to the country and that the Commission should support people raising their children in a country life. She said she would not want to be part of a government who stopped people from having those opportunities.

Commissioner Stamper said that when he entered public life his father told him he couldn't keep everyone happy and so to keep everybody equally unhappy. He said he tries to focus on what's right and to let things proceed. He said they have spent years to establish standards to make sure adequate infrastructure would exist in subdivisions and that now they were faced with a subdivision that scores 58 on the County's point scale and yet there is a group of people significantly opposed to that.

Commissioner Stamper said that he had spent some time talking with the chairman of Planning & Zoning and with the staff and as best as he could tell, those concerns were reiterated tonight. The single reason that Planning & Zoning was reluctant to approve the development was due to its density. However, he said, the Commission has promulgated regulations that force this density because they didn't want to see the County in 10-20 acre tracts. You have to have a variety of a community in order to have balance, he said. Land use is a right, he said. Commissioner Stamper said the Commission has the responsibility to set a standard that the developer has to meet, but once they achieve those requirements, the Commission has little room to say no, because land use is their right. It is a delicate balance, he said.

Commissioner Stamper asked if the Sapps could go below a density of 200 and still be functional.

Elvin Sapp said they had discussed that, but honestly didn't feel in good faith that they could reduce the density due to the costs of the amenities. You cannot do a quality subdivision with open ground and reduce the density. He said he was sorry and that he wished he could meet everyone halfway.

Commissioner Stamper said that he understood. He said the development was sustainable in nature and comes as close to meeting sustainable growth as anything they had seen in years.

Mr. Shawver said the Commission could place conditions upon the review of the final development plan and that the zoning would not change until that final plan was submitted. They could also place a requirement for a traffic study submitted in conjunction with a final plan.

Commissioner Miller asked if the developer would be required to participate in costs if the traffic study says the development would have an untoward effect.

Mr. Shawver said that off site improvements resulting from a particular developer can be paid for by the developer or shared.

Commissioner Stamper asked if they could require the developer to complete and initiate a traffic study and agree to participate with the County in any necessary off site upgrades.

Mr. Shawver said that in the case of Columbia Insurance Group, the Commission required the developer to pay the full expense.

Commissioner Miller said this case was dealing with County roads, while Columbia Insurance Group was dealing with state roads.

Mr. Shawver said that was correct.

Mr. Rogers said if the Commission required improvements that would be brought to the table by the required traffic study then they needed to make it a condition or they would not have any leverage.

Commissioner Miller said she wished there was a way to compromise on the density, although she didn't believe that there was much of it that was too dense over all.

Commissioner Vogt said that it had been discussed earlier that in order to provide essential services added \$10,000 to each lot and she said in her mind she could understand that in order to provide housing of this nature to people. She said she would rather see this nature of development than the developments they have to deal with and improve infrastructure. She said this development comes close to providing an area for people to have a sustainable kind of life.

Commissioner Stamper said he sensed the Commission had some value to this issue, but some discomfort with the density. He said they had heard from Triple SSS that their feet are in concrete, but he said the Commission was the one voting and they had the latitude to set the density. The difference between 250 and 276 is not very much, he said. He said he was not convinced that the difference between 200 to 276 would have a tremendous impact. The Commission would have to go substantially below that, he said, and then they would be violating the intent of the regulations that set target levels of density as the planning process continues.

Commissioner Vogt said that in her mind they were toward a goal of creating an atmosphere to disguise the density issue and place more dense lots inside the subdivision. The larger lots, she said, have been placed to the outside and that it seemed to her the Sapps were trying hard to be a good addition to the neighborhood.

Commissioner Miller said that she agreed and that the buffer next to Southfork, where there was the most opposition, was a positive. Forty acres, she said, is a considerable buffer. There's no doubt, she also said, that the developers would come back and ask for that area to be developed and that if this development takes ten years to complete, the Commission will be wanting that area developed. Commissioner Miller said that this is a good project and would be an asset to the community.

She said that she would want included in a motion that the developer would participate in any improvements needed from a traffic study and that the study be started right away so it could be incorporated in the County's plan to improve Scott Blvd.

Commissioner Stamper moved that the County Commission of the County of Boone approve a request by Triple SSS Development LLC to rezone from A-1 (Agriculture) to A-R/PRD (Agriculture Residential/ Planned Residential Development) and to approve a review plan on 199.4 acres, more or less located at 5800 S. Scott's Blvd., Columbia; adding as a condition of the review plan the requirement of a traffic study to be paid for by the developer, requiring the developer to participate in necessary off site improvements as identified by the traffic study; with the rezoning to take affect upon approval of the final development plan.

Commissioner Miller seconded.

Commissioner Stamper told Mr. Elvin Sapp, that he had the right to respond to the condition placed by the Commission.

Mr. Sapp said he thought it would be fine and that they had anticipated the density of the development might be less, but that the Commission had just laid another requirement on them and that's why they couldn't tell if the project would work. He said they don't want to develop anything that isn't too high quality, but as far as he was concerned the traffic study would not be a problem. Whatever it predicts, he said, they would try to work out.

Motion passed unanimously. **Order 83-98.**

**SUBJECT: Request by William and Shelly Dometrorch on behalf of Nextel Communications for a Transmission Facility with a 300' tower on 9.73 acres located at 12121 Old Rocheport Rd., Rocheport.**

Commissioner Stamper explained that this was a discussion of a previously tabled item. He asked that testimony support additional information.

Craig Van Matre, 1103 E. Broadway, an attorney representing the Dometrorch's and Nextel Communications, entered into the record a certified copy of the pertinent zoning ordinance, a certificate from the Secretary of State as to the good standing of Nextel. He also submitted a packet of information including a Communication Tower Impact Study done by Moore & Shryock; the minutes of the Planning & Zoning Commission from December 18, 1997 and the minutes of this evening's Commission meeting.

Sherry Kuhlman, 18582 Melrose Woods Dr., Wildwood, Missouri, marketing manager for Nextel, said that Nextel is a leading provider of digital wireless communications systems and services. Partnered with Motorola they offer in one unit a phone, two-way radio, pager and voice mail. No one else offers this product, she said. Currently, she said, they are the only company who owns Spectrum. Seamless coverage is imperative for them to succeed, she said. For those who aren't familiar with wireless service, she said, any spotty coverage is unacceptable to a subscriber. The tower in Boone County would allow them to build out the metropolitan area and bring this unique service to Boone County.

Ms. Kuhlman said that I-70 represents the corridor between Kansas City and St. Louis and the strategic placement of a tower would allow them to cover the most population.

Commissioner Stamper said it would not be necessary to review the collocation information as the Commission had read it earlier this afternoon. He requested that testimony on new information only be brought forward.

Allen Moore, 557 Range Line, Columbia, a real estate appraiser for 20 years in Columbia, said that he specializes in real estate appraisals and market studies. In this case, he said, they studied how a communication tower similar to that proposed for the Dometrorch property might influence the value of nearby real estate. He said that the study includes several interviews with property owners living near similar towers and comparisons between sales of properties near towers.

Mr. Moore said that there were approximately 34 interviews conducted where each party was asked the same set of questions. Some of the properties were in Boone County, most he said, were in Callaway and Cole Counties. In general, he said, the properties were 300 feet to 4,000 feet from towers that were 150 feet to almost 800 feet. He said that every interview conducted was included in the study. Mr. Moore said he also interviewed some real estate brokers who said they had never heard negative comments about buying near a tower.

Mr. Moore said that he concluded that the tower construction would not adversely affect nearby properties or diminish their market value and would not impede normal or orderly development of the surrounding properties.

Commissioner Miller said she was surprised by the document and found it very enlightening.

Commissioner Stamper said that during the tower debate of 1991 that actually went through the court systems, a decision was upheld all the way through the system that was contrary to the information Mr. Moore provided.

Wade Wipple, 18 Tammy Drive, Wentzville, Missouri, area operations manager for Nextel, said he was responsible for the design criteria and establishing a tower location in western Boone County. He said they used a real estate consultant to find existing towers and were unable to do and made a decision to look for raw land to lease. He said they contacted all the towers, ran studies from those towers and were then asked by the Commission to revisit those towers. There is no way that Nextel could meet their coverage objective from the existing towers and would need to build at least two more towers if they did collocate. The wireless business is competitive and to require Nextel to use two or three towers would put them at a competitive disadvantage.

Mr. Wipple explained that the tower is only 20% of the overall cost and that the biggest cost comes from the radio equipment and the continued operation costs of utilities, maintenance and taxes.

Commissioner Miller asked about the difference between car level and street level.

Mr. Wipple explained that street level is using a portable phone in the street, and that car level is using it inside a car with the extra intrusions of buildings to transmit through.

Commissioner Miller asked how they could say they would be at a competitive disadvantage when they are the only provider of this unique service.

Mr. Wipple said they have achieved a niche, but their direct competitors are riding on their coattails with the impending auction of Spectrum.

Zafar Naqvi, 12410 Lighthouse Way, St. Louis, Missouri, radio frequency manager for Nextel, said he is responsible for designing sites and integrating those sites to provide seamless coverage. He explained the promulgation studies and said the proposed site was optimal for Nextel to provide seamless coverage on I-70 and in Boone County.

Commissioner Stamper said that Nextel had provided the Commission with a wealth of information and that they appreciated that. The reason for less debate, he said, is the more thorough information.

Commissioner Stamper said that from this side of the table, they were being assaulted by towers and asked Ms. Kuhlman if she had a feel for where this was going and if their competitors would be requesting towers, too.

Ms. Kuhlman said that as they looked at the tower needs in Boone County, they would build at a height of 300 feet to allow other providers nipping at their heels to collocate.

Mr. Wipple said that Nextel has national agreements with several dozen companies and that AT&T and Spring PCS are currently located on their towers in St. Louis. He said they have a letter from Sprint requesting collocation on this tower once it's constructed.

Commissioner Stamper asked about the agreement with Joint Communications Center.

Mr. Van Matre said that JCC wants to collocate on the tower at 60 feet for a fee of \$10 a year and utilities. He said he understood that was attractive to them.

Commissioner Stamper said that if they were to approve the agreement, they would approve a Conditional Use Permit with no terms or conditions necessary unless they wanted to mention the agreement with JCC.

Mr. Shawver said he would be concerned if they entered public service access as a condition.

Mr. Van Matre said he appears before the Commission regularly and would destroy his credibility if he didn't deliver on this issue.

Commissioner Miller asked what size tower they would need if there was no collocation.

Mr. Wipple said they would still need 300 feet. At 200 feet, he said, they would lose 10-20% of their coverage. If a requirement is to build for collocation, then all further providers need to be below 200 feet.

Commissioner Stamper asked for public comment. There was none.

Commissioner Stamper moved that the County Commission of the County of Boone approve a request by William and Shelly Dometorch on behalf of Nextel Communications for a Transmission Facility with a 300' tower on 9.73 acres located at 12121 Old Rocheport Rd.,

Rocheport and adopt the attached Conditional User Permit for Transmission Tower and the entirety of its attachments as presented by the applicant.

Commissioner Miller seconded. Motion passed unanimously. **Order 84-98.**

**SUBJECT: Prairie Oak Subdivision, Plat 1. S19-T49-R11W. A-1. Next Millennium, LTD, owner. Bill Crockett, surveyor.**

Commissioner Vogt moved that the County Commission of the County of Boone receive, accept and authorize the Presiding Commissioner to sign Prairie Oak Subdivision Plat 1. S19-T49-R11W. Next Millennium, LTD, owner. Bill Crockett, surveyor.

Commissioner Miller seconded. Motion passed unanimously. **Order 85-98.**

Commissioner Stamper asked if there was any one present regarding this plat; no one responded.

**SUBJECT: Replat of Lot 12, County Downes Subdivision Block V. R-S. Geraldine and John Sanderson, owners. James Brush, surveyor.**

Commissioner Vogt moved that the County Commission of the County of Boone receive, accept and authorize the Presiding Commissioner to sign the replat of lot 12, County Downes Subdivision Block V. R-S. Geraldine and John Sanderson, owners. James Brush, surveyor.

Commissioner Miller seconded. Motion passed unanimously. **Order 86-98.**

**SUBJECT: Wild Rose Hills Plat 1. S11-T49N-R12W. R-S. Sterling W. Kelley and E. Jeannette Kelley Living Trust and Doyle and Trudy Taber, owners. James V. Patchett, surveyor.**

Commissioner Vogt moved that the County Commission of the County of Boone receive, accept and authorize the Presiding Commissioner to sign Wild Rose Hills Plat 1. S11-T49N-R12W. R-S. Sterling W.

Commissioner Miller seconded. Motion passed unanimously. **Order 87-98.**

**SUBJECT: Cunningham Corners. S1-T46N-R13W. A-2. Harold and Wanda Cunningham, owners. C. Stephen Heying, surveyor.**

Commissioner Miller moved that the County Commission of the County of Boone receive, accept and authorize the Presiding Commissioner to sign the plat for Cunningham Corners. S1-T46N-R13W. A-2. Harold and Wanda Cunningham, owners. C. Stephen Heying, surveyor.

Commissioner Vogt seconded. Motion passed unanimously. **Order 88-98.**

**SUBJECT: Southbrook Subdivision Final Plat**

Commissioner Miller moved that the County Commission of the County of Boone receive, accept and authorize the Presiding Commissioner to sign the Southbrook Subdivision final plat.

Commissioner Vogt seconded. Motion passed unanimously. **Order 89-98.**

**SUBJECT: Road Acceptance for Southbrook Court and Hawk Road**

Commissioner Miller moved that the County Commission of the County of Boone accept Southbrook Court as a County road and authorize the Presiding Commissioner to sign the roadway maintenance acceptance certificate.

Commissioner Vogt seconded. Motion passed unanimously. **Order 90-98.**

Commissioner Vogt moved that the County Commission of the County of Boone accept Hawk Road as a County road and authorize the Presiding Commissioner to sign the roadway maintenance acceptance certificate.

Commissioner Stamper seconded. Commissioners Stamper and Vogt voted in favor; Commissioner Miller voted in opposition. Motion passed. **Order 91-98.**

The meeting adjourned at

Attest:

\_\_\_\_\_  
Don Stamper  
Presiding Commissioner

\_\_\_\_\_  
Wendy S. Noren  
Clerk of the County Commission

\_\_\_\_\_  
Karen M. Miller  
District I Commissioner

\_\_\_\_\_  
Linda Vogt  
District II Commissioner