

TERM OF COMMISSION: November Session of the October Adjourned Term

PLACE OF MEETING: Roger B. Wilson Boone County Government Center  
Commission Chambers

PRESENT WERE: Presiding Commissioner Keith Schnarre  
District I Commissioner Karen M. Miller  
District II Commissioner Skip Elkin  
Planning and Zoning Director Stan Shawver  
County Counselor John Patton  
Deputy County Clerk Shawna Victor

The meeting was called to order at 7:00 p.m.

**Subject: Planning and Zoning**

Commissioner Schnarre noted that during Planning and Zoning sessions, the Commission will receive a report from staff and then the Commission will have the opportunity to ask staff any questions. The Commission will then move to a presentation from the applicant or agent of the applicant on behalf of their request. After that, the Commission will convene a public hearing where any testimony in favor of or in opposition to will be welcome. Following the public hearing, the Commission will discuss the issue and then vote on the issue.

Stan Shawver, Director of the Planning and Building Inspection Department, stated that the Boone County Zoning Regulations and the Subdivision Regulations are entered into the record. (note - the file copy is retained in the Planning and Building Inspection Department).

**A. Second Reading and Approval of Sign Ordinance**

Mr. Shawver stated this is the second reading of the Sign Regulations for Boone County, Section 25 of the Zoning Ordinance. There is also an amendment to Section 15.C(4)(f) of the Board of Adjustment Powers of the Board. These have both been discussed intensively by the Commission and staff. The first reading of this item was October 12, 2004.

Commissioner Elkin moved to adopt Section 25 of the Zoning Ordinance of Boone County, Missouri, Sign Regulations and Section 15.C(4)(f) Variances for the Height of Freestanding Signs.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 460-2004**

**B. Request by Robert and Anita Beall to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 10.9 acres, located at 10800 E St. Charles Road, Columbia (*appeal*)**

Mr. Shawver stated this site is located 4 miles east of Columbia on St. Charles Rd. The property is zoned A-1, as is all the surrounding property. This is the original zoning in the area. There is an existing house on the property. The applicants are requesting that their land be rezoned to A-2. If approved, the applicants propose to deed 2.5 acres to their son so that he may build a house. This site is within the Boone Electric service area and is in the Public Water District No. 9 service area. It is located in the Columbia School District.

The original zoning of this tract is A-1. An application to rezone the tract to A-2 was considered in May, however the application was withdrawn before the Commission made a recommendation.

The master plan designates this area as being suitable for agriculture and rural residential land uses. The request is consistent with the master plan.

The Master Plan calls for the use of a "Sufficiency of Resources Test" when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner.

The applicants own 10.9 acres of land and propose creating one additional tract of 2.5 acres. If approved, the maximum possible density would be four dwellings.

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

Splitting this tract will not result in a decrease of available utility services in the area.

Access to the site is St. Charles Rd., a county maintained road. The addition of one additional dwelling will have little impact on the road.

The nearest fire station is located at Lake of the Woods, approximately 3 1/2 miles away. The addition of one dwelling unit in the area should not result in an increased demand on other public safety services.

While the Commission has expressed concern in the past about changing the zoning of low density agricultural areas for purposes of allowing family transfer, the low impact of this request is such that staff recommends approval.

The Planning and Zoning Commission conducted a public hearing on this request on October 21, 2004. There were nine members present. A motion was made to deny the request. This motion passed unanimously. The applicant filed an appeal in a timely fashion and is before this Commission this evening on appeal.

Robert and Anita Beall, 10800 E. St. Charles Road, Columbia, were present on behalf of this item.

Robert Beall stated the reason for this request is so their son can build a home.

Commissioner Schnarre asked where their son's home could be on the lot. Mr. Beall stated it would be on the northwest corner of the lot, near St. Charles Road.

Commissioner Schnarre asked where their home is on the lot. Mr. Beall stated it is almost in the middle of the property.

Commissioner Schnarre asked if the 2.5 acres is a square tract. Commissioner Miller stated it is shown as a long rectangle tract.

Commissioner Schnarre opened the floor for a public hearing on this request.

Tom Schneider, 11 N. 7<sup>th</sup> Street, Columbia, was present on behalf of his client, Albert Chance.

Tom Schneider stated Mr. Chance lives on 13-plus acres abutting the Beall property to the southwest. Mr. Chance is concerned about property values.

Mr. Schneider believes this request brings forward two bad precedents in their view. One is this request is classic spot zoning. This would be an island of A-2 zoning in an area that has a numerous A-1 zoned lots. If this is approved, believes it would be difficult for the Commission to say no to the next A-2 application in an A-1 area.

The second reason is this is not planned. The Planning and Zoning Commission unanimously rejected this application for that reason he believes. He believes there is a strong trend toward planned zoning in Boone County and it is for a good reason. This particular property, if it is to be rezoned, should be Planned A-2 for a number of reasons; the number of residents can be restricted to two residences instead of four, restrict the location of where homes are built on the lot, and infrastructure issues can be addressed. In May, Elton Fay came before the Planning and Zoning Commission and discussed water quality issues in a nearby development around a lake. Mr. Fay is also an adjoining owner that opposes this application.

Mr. Schneider stated there are other option to deal with this, for example, the Commission could rezone just the 2.86 acre tract and this would cut the problem in half from their view

point to ensure there are only two houses instead of four. He believes the purpose of this request is so the applicants' son can assist them in later years and another option would be to go before the Board of Adjustment. There is a procedure in the Board of Adjustment allowing during a hardship when a family member needs assistance, a mobile home can be permitted as a second residence during the period of hardship. When the hardship ceases to be then the process expires and does not result in a permanent problem such as this proposed rezoning would.

Mr. Schneider stated his applicant opposes this because it is spot zoning and it is not planned.

Doug Westhoff, 10829 E. St. Charles Road, Columbia, stated he believes it is a consensus of the adjacent land owners is the future assurance that there will not be a mini-subdivision on the 10.9 acres. If Mr. Beall were to pass away or if the property were to be sold and the property has open-ended zoning then there is a potential to have up to four homes on that tract of land. That is way out of character for the neighborhood. He believes it is noble the family wants to stay together as a unit but with the given zoning, the acreage is not sufficient with the open A-2 and this causes great concern for the future of the neighbors' investments.

Commissioner Elkin asked if Mr. Westhoff would be in opposition to a Planned A-2. Mr. Westhoff stated he would consider a Planned A-2. He would have to see the details but believes that would give some assurances to the neighbors that they would have a say in what happens in their neighborhood.

Melinda Gee, 2171 N. McGuire Lane, stated she lives directly behind the Bealls. She is opposed to the rezoning. She does not have a problem with having two houses on the property but anything that would allow more than two houses, she opposes. She has horses. She has a fear that if a subdivision goes in, then the children in the subdivision would want to play with the horses. McGuire Lane is all 10 acre lots and she believes that if this one step is taken then it would be a slippery slope downhill. She does not have a problem if it would just be two houses.

Commissioner Schnarre closed the public hearing.

Commissioner Schnarre stated it is to his understanding that the Bealls were encouraged to present a planned A-2. Mr. Shawver stated that is correct.

Commissioner Schnarre asked why the Bealls decided to come back with an open zoning request. Mr. Beall stated that it is expensive to hire an engineer. Then the Planning and Zoning Commission told them if they pay the money, their request may not pass anyway. They cannot afford to lose \$4,000.

Commissioner Miller asked if the Commission could just rezone the 2.5 acre tract. Mr.

Shawver stated the acreage could be reduced in the request.

Commissioner Miller asked if that could be done tonight. Mr. Shawver stated it is to his understanding that if that is done then it would create two tracts and one would be an illegal tract.

Commissioner Elkin stated it would not fit in the A-1 zoning. Mr. Shawver stated that is correct because one lot would not be conforming to the A-1 zoning since it would be less than 10 acres.

Commissioner Schnarre asked what this does to this lot in the future. Mr. Shawver stated non-conforming lots are only allowed if the lot was in existence before zoning was put in place. The only way to clear that would be to go before the Zoning Board of Adjustment and ask for a lot size variance.

Commissioner Schnarre stated the Commission cannot form an illegal lot.

Commissioner Elkin stated he does not have a problem with the applicant creating a lot for their son but the neighbors do not want open-ended zoning. Open-ended zoning is almost a thing of the past in Boone County.

Mr. Beall asked why the road was improved and other improvements have been made if A-2 zoning is not going to be allowed. Commissioner Elkin stated the question is not if but when will the development happen but today the Commission wants to see planned development because they want to know what is going to go on a lot. Not just for the Commission's sake but for the sake of those who have invested time and money in their homes. The Commission likes to see planned development these days.

Mr. Beall stated the paper he brought to the meeting is what is going to go on the property. Commissioner Elkin stated they could find themselves in a position where they would have to sell and the next person could come in and do whatever they want with the land. This is the problem with open zoning. He is not saying they would do that but if for some reason they did have to sell, the next people may not share their sense of community.

Mrs. Beall stated they have talked with their banker. The banker would have to come in to check the land to see if the remaining eight acres would hold their mortgage. If it is rezoned then the surveyor would have to resurvey the lots.

Commissioner Schnarre asked if the required loan survey is different than a plan. Mr. Shawver stated loans typically have what is referred to as a house on lot survey and that just verifies that there is a house on a lot. It is not the same as a planned zoning survey.

Mrs. Beall stated Lake La Vista is behind them, there are houses there on 2.5 acre lots and they are closer to the lady with the horses than they are.

Commissioner Elkin asked how long has Lake La Vista been there. Mr. Shawver stated it was platted in 1973.

Mrs. Beall stated the land next to them that is worried about any spillage into their lake. Their land is lower than the lake so there will be no spillage. Commissioner Elkin stated the Health Department has rules and regulations that will cover all those items.

Commissioner Elkin stated the neighbors do not want open-ended zoning. He is uncomfortable with open-ended zoning. He is comfortable with planned zoning. He is not against what they are trying to do and believes it is a noble thing. He cannot support open-ended zoning.

There was no further discussion on this item.

Commissioner Elkin moved to deny the request by Robert and Anita Beall to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 10.9 acres, located at 10800 E St. Charles Road, Columbia.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 461-2004**

**C. Request by James and Melanie Abernathy on behalf of Hemme Construction LLC to rezone from R-S (Single Family Residential) to R-SP (Planned Single Family Residential) of 5.0 acres, more or less, and to approve a Review Plan and Preliminary Plat for Golf View Gardens PRD, located at 7400 E. St. Charles Rd., Columbia.**

**D. Request by Brenda K. Robison on behalf of Hemme Construction LLC to rezone from R-S (Single Family Residential) to R-SP (Planned Single Family Residential) of 9.1 acres, more or less, and to approve a Review Plan and Preliminary Plat for Golf View Gardens PRD located at 7400 E. St. Charles Rd., Columbia.**

Mr. Shawver stated this proposal is for a rezoning and revised review plan/preliminary plat for a 34-lot planned residential development that is located on the south side of St. Charles Road immediately east of Stanton Subdivision. The site is located approximately 1 mile northeast of the Columbia City Limits. The property is currently split zoned with the portion north of the creek zoned R-S (residential single family), the portion currently approved as Abernathy PRD zoned R-SP (planned residential) and the portion south of the creek zoned A-2 (agriculture). The R-S and A-2 are original 1973 zonings. The R-SP went into effect December of 1995 and was revised in March of 1997. The total development

proposed is for approximately 14.1 acres. The surrounding zonings also follow the creek with the properties north of the creek being zoned R-S and those properties that are south zoned A-2. These are all original 1973 zonings.

The currently approved final development plan for the property is for 11 dwelling units comprised of 7 single family dwellings and 4-dwelling units in 2 duplex buildings. The new proposal is for a 34-lot subdivision preliminary plat and review plan that is comprised of 2 proposed lots that will each contain a single family existing residence, 2 proposed lots that will each contain an existing duplex, 28 lots for a single duplex or single family residence proposed on each, and 2 common lots.

Property is within the Columbia School District. Public Water District #9 will provide water service. Fire hydrants will be required and will have to meet fire & water district approvals. The actual requirements will vary based upon the actual size, uses, and construction methods proposed for the structures. The site is in the Boone Electric service area and Boone County Fire Protection District. Sewer service is proposed to be from the Boone County Regional Sewer District facility serving Stanton Subdivision. There is available capacity at this facility but it is limited and this capacity is on a first come first serve basis. The location of the new public road connection to St. Charles Road will have to meet Boone County Public Works standards. There are a number of technical issues that still need to be worked out and are delineated by the proposed conditions. The proposal rates 80 points on the point rating scale.

If this commission feels this plan is appropriate for the area, then Staff recommends approval subject to the following 7 conditions.

1. That a variance be granted by the Board of Adjustment for the duplex on proposed lot 3 that is already inside the front setback area. If the variance is not granted then the structure will have to be removed prior to recording of any plats for this development.
2. That the existing sewer easements be indicated by their book and page reference.
3. That the temporary turn around at the end of Orié Drive that is not within the proposed development be shown to be secured or moved back within the property.
4. That the location of Arratt Court cul-de-sac bulb be worked out to the satisfaction of the Planning Director and Boone County Public Works.
5. The details and methods to create the 25 foot stream buffer on each side of the existing creek are to be worked out to the satisfaction of the Planning Director and Boone County Public Works.
6. That the stormwater pipes and the drainage-ways need to be worked out to the satisfaction of the Planning Director and Boone County Public Works.
7. Lot 15 needs to have a structure shown on it as well as a specific landscaping detail to be worked out to the satisfaction of the Planning Director.

The Planning and Zoning Commission conducted a public hearing on this request on October 21, 2004. A motion was made to approve the rezoning requests. Those motions

passed unanimously. Another motion was made to approve the Review Plan with staff conditions. This motion also passed unanimously.

Tim Crockett, Crockett Engineering Consultants, was present on behalf of the applicants of these requests.

Tim Crockett stated they concur with Mr. Shawver's report on the property and would like to address some of the conditions. They do not have any problem with the approval of the Review Plan and Preliminary Plat contingent upon the conditions.

Mr. Crockett stated Arratt Court is in an abnormal location. This is due to County Road and Bridge (Public Works) requesting a stub street be given for possible connection to Frank Stanton Drive. Frank Stanton Drive is a county right of way but not a county maintained road. They believe tying into the road would not be beneficial at this time. They proposed to grant right of way to the property line knowing that it may never be constructed. They did not believe putting in a temporary turn around easement with a temporary cul-de-sac at the end of that street should be done. They believe something more permanent should be done. They have proposed to extend the cul-de-sac to the west property line, put a permanent cul-de-sac structure on it and extend the right of way to the property line.

Another reason they did not extend it to the property line is because the number of lots remained the same and if the line was extended there would have been more impact on the stream, which they did not want to do.

They have proposed to landscape the end of the street to help shield car lights and noise.

Another item of concern has been the temporary turn around on the south side of the development. They have contacted the realtor for the property and are discussing with their client the possibility of them retaining a temporary turn around easement. If that easement is not granted then they will put the temporary turn around easement and temporary turn around on Lot 26 until the time the street is extended.

On the review plan, they have called for a stream buffer easement. Mr. Crockett thought the best way to handle it was by an easement. In talking with Planning staff, he does not believe the word easement is the proper terminology in this case. That gives some implication of who has or does not have the right to that easement. Their only intent is to make sure that it is something that goes with the land and on the final plan so all the lot builders know that it is associated with the lot.

Commissioner Elkin asked what type of structure will be over the creek. Mr. Crockett stated the stream is a Corps of Engineers regulated waterway. They are proposing to span the creek with either a box culvert or arch pipe.

Commissioner Elkin asked staff if it is ok to extend the cul-de-sac with the right of way to the property line and create a bulb. Mr. Shawver stated he believes that will be acceptable to Public Works.

Commissioner Miller stated a cul-de-sac gives people the feeling of the street not being a through street. She believes the temporary cul-de-sac is better than the permanent. Mr. Crockett stated there is no right of way off the property to the west. Their feeling is there will not be a connection made and that is why they wanted to put a permanent cul-de-sac bulb there and it will be less maintenance problem for Road and Bridge in the future in maintaining a permanent bulb.

Commissioner Miller asked why he believes this will not be extended. Mr. Crockett stated there are platted lots to the west of this property and there is no right of way they can tie into.

Commissioner Schnarre opened the floor for a public hearing on this request.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.

Commissioner Elkin moved to approve the request by James and Melanie Abernathy on behalf of Hemme Construction LLC to rezone from R-S (Single Family Residential) to R-SP (Planned Single Family Residential) of 5.0 acres, more or less, for Golf View Gardens PRD, located at 7400 E. St. Charles Rd., Columbia.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 462-2004**

Commissioner Elkin moved to approve the request by Brenda K. Robison on behalf of Hemme Construction LLC to rezone from R-S (Single Family Residential) to R-SP (Planned Single Family Residential) of 9.1 acres, more or less, for Golf View Gardens PRD located at 7400 E. St. Charles Rd., Columbia.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 463-2004**

Commissioner Elkin moved to approve the request to approve a Review Plan for Golf View Gardens PRD, located at 7400 E. St. Charles Road, Columbia, with the following conditions:

1. That a variance be granted by the Board of Adjustment for the duplex on proposed lot 3 that is already inside the front setback area. If the variance is not granted then the structure will have to be removed prior to recording of any plats for this development.
2. That the existing sewer easements be indicated by their book and page reference.
3. That the temporary turn around at the end of Orié Drive that is not within the proposed development be shown to be secured or moved back within the property.
4. That the location of Arratt Court cul-de-sac bulb be worked out to the satisfaction of the Planning Director and Boone County Public Works.
5. The details and methods to create the 25 foot steam buffer on each side of the existing creek are to be worked out to the satisfaction of the Planning Director and Boone County Public Works.
6. That the stormwater pipes and the drainage-ways need to be worked out to the satisfaction of the Planning Director and Boone County Public Works.
7. Lot 15 needs to have a structure shown on it as well as a specific landscaping detail to be worked out to the satisfaction of the Planning Director.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 464-2004**

**E. Request by Request by George Godas to rezone from R-S (Single Family Residential) to C-GP (Planned Commercial) of 5.6 acres, more or less, and to approve a *Review Plan* for Godas Leatherwood Center PCD located at 1601 W Rte. K, Columbia**

Mr. Shawver stated this proposal is for a rezoning and revised review plan for a planned commercial development. Located immediately east of the intersection of Old Plank Road and State Route K just north of where Maple Meadows Drive comes off State Route K. The site is located approximately 2,100 feet south of the Columbia City Limits. The property is currently zoned R-S (residential single family) which is the original 1973 zoning. A tentative rezoning to C-GP was approved in December of 1993. No final development plans have ever been approved for the site so the site retains the original R-S zoning. A review plan for the property was approved in December of 1993; however, this review plan expired in December of 1997. A revised review plan was approved in July of 1999; again however, no final plan, or any physical improvements have been made and this plan is considered to have expired. The current proposal is the second revised review plan for the property and is virtually the same as the 1999 plan.

Adjacent zoning to the north, northeast, east and south of the proposed development is zoned R-S and these are original 1973 zonings. Property to the southwest, which is Maple Meadows Subdivision is zoned R-SP. Property to the west is zoned R-M (residential moderate density) and is the location of Cedarbrook subdivision. The property to the northwest is zoned M-LP (light industrial) effective August of this year. The current proposed review plan contains 5.16 acres with a residual area of 3.7 acres of developed area. A multi-use plat will be required for this property.

It is within the Columbia School District. Consolidated Public Water Service District #1 will provide water service. A 6" waterline exists along State Route K. The water district also has plans to extend a 12" line down towards this development from Bethel Road. Fire hydrants will be required and will have to meet fire & water district approvals. The actual requirements will vary based upon the actual size, uses, and construction methods proposed for the structures. Sewer service is proposed to be from the Boone County Regional Sewer District Cedarbrook/Leatherwood Hills facility. There is available capacity at this facility that must be secured and this capacity is on a first come first serve basis. The driveway connections to State Route K will need to be approved by the Missouri Department of Transportation (MoDOT); at this point we do not know if the locations as shown will be acceptable to MoDOT. Public Works will have to approve the connections to Old Plank Road and these will have to meet their regulations. The applicant has asked for 21 permitted uses and 5 conditional uses under the regulation. It should be noted that conditional uses if approved here still must obtain specific Conditional Use Permits in addition to approval on the plan. Staff has concerns about some of the listed uses and recommends the elimination of 4- Medical, Dental, and Psychiatric offices and out patient clinics, 9-Private Club or Lodge, and 20-Laboratory, Research, Experimental or Testing, from the permitted uses and 4-Residential uses when on second floor or above, from the conditional uses. Permitted use 17 should be modified to be limited to a single neighborhood bar or tavern not to exceed 3,000 square feet. The purpose of this commercial node is to provide services to those already in the area not to provide a draw for additional traffic to come to the area. The uses staff recommends eliminating are generally traffic generators and therefore are not compatible. The residential uses on the second floor or above does not work with the plan because the building shown are specific in size and are only single story. The small cluster of buildings in what will become Right of Way currently contains a lawnmower repair business. These structures need to be removed within 1 year from the County Commission approval date of any review plan. Previous land approvals have included their removal in a specific period of time. The proposal rates 81 points on the point rating scale.

If this commission feels this plan is appropriate for the area, then Staff recommends approval subject to the following 11 conditions.

1. That a multi-use plat be submitted with any final development plan.
2. That the sewer district approves the sewer proposal, and that a guarantee of capacity be

- secured by this development by the developer.
3. That the entrances onto Old Plank Road are acceptable to and approvable by Boone County Public Works and the Director of Planning and be designed and located to BCPW standards.
  4. That some form of documented approval for the location of entrances onto State Route K is provided before, or at the latest with, the final development plan submission.
  5. That a landscaping plan, erosion control/stormwater plan and a traffic analysis each acceptable to this commission be required to be submitted with any final plan and that issues generated by these studies are still open to conditions for mitigation even though they are being submitted as part of a Final Plan.
  6. That it is recognized that those uses that are conditional uses are required to obtain conditional use permits.
  7. That the existing structures on the site be removed within 1 year from County Commission approval of this Revised Review Planed or the approval for this plan is void.
  8. That the Permitted uses section eliminate: 4- Medical, Dental, and Psychiatric offices and out patient clinics, 9-Private Club or Lodge, and 20-Laboratory, Research, Experimental or Testing, from the permitted uses.
  9. That the Conditional Uses section eliminate: 4-Residential uses when on second floor or above, from the conditional uses.
  10. Permitted use 17 should be modified to be limited to a single neighborhood bar or tavern not to exceed 3000 square feet.
  11. As part of the required landscaping the west side, rear facing portion, of the 3600 square feet building be screened to provide a buffer the details of which will be worked out with the remainder of the landscaping plan with the final plan and must be acceptable to the Director of Planning.

The Planning and Zoning Commission conducted a public hearing on this request on October 21, 2004. A motion was made to approve the rezoning request. This motion passed 6-3. Another motion was made to approve the Review Plan with staff conditions plus the following two conditions:

- That free standing signage fall within the guidelines of any established sign ordinance. In the event a sign ordinance has not been established then signage fall within the guidelines established by this body and the proposed sign ordinance.
- Exterior lighting be subject to review by staff with an intent to minimize offsite impact.

This motion also passed unanimously.

Craig Van Matre, Legal Counsel for George Godas, George Godas and Tim Crockett were present on behalf of this item.

Craig Van Matre presented a Previous Plan/Current Proposal for this request. This

document is available for viewing in the Planning and Building Inspection Department.

Mr. Van Matre stated Mr. Shawver did a good job of summarizing all the relevant issues for this request. His client, Mr. Godas, has no objection to conditions recommended by staff or the additional two conditions recommended by the Planning and Zoning Commission with the exception of approved or authorized uses of the medical, dental or psychiatric offices. It seems to him that this use would be beneficial to the neighborhood. It is unlikely that it would be a traffic generator of any significance.

Mr. Van Matre noted Mr. Crockett prepared all the engineering drawings and they believe they comply with all county ordinances.

It is to their understanding that they will have a binding agreement with Sewer District for the sewer at the District's November 15, 2004 meeting. They applied, several months ago, for capacity for this development and were advised they were next in allocating capacity to this development November 15, assuming they receive the necessary zoning this evening.

MoDOT wants Old Plank Road to T into Route K to improve safety. Two MoDOT representatives were at the concept review, which the County conducted two months ago when this issue first came before the County. They indicated they did not have any specific objections at that time and would reserve comments for the final design. They do not anticipate any difficulties in obtaining MoDOT approval for this particular design or location of the access.

Commissioner Miller asked staff why the doctor and dental offices was eliminated. She sees no reason for this to be eliminated. Mr. Shawver stated staff thought this would be a continuous traffic generator.

Commissioner Miller stated she does not believe this would be any different than a restaurant. She understands a clinic might because there would be a lot of doctors. Mr. Shawver stated a clinic is drawing from potentially the entire community but a restaurant is more of a neighborhood draw.

Commissioner Miller asked how big the space is for the medical or dental area. Mr. Van Matre stated there is 10,000 square feet for office space and the whole building is 30,000 square feet.

Commissioner Miller and Commissioner Elkin do not have an issue with allowing the medical and/or dental use.

Commissioner Schnarre opened the floor for a public hearing on this request.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.

Commissioner Schnarre stated he agrees with Commissioner Miller and Commissioner Elkin about the medical use. He asked Mr. Shawver if this is a big concern. Mr. Shawver stated no.

Commissioner Elkin stated a dental office or a clinic would be good for the neighborhood. Commissioner Miller agreed with Commissioner Elkin.

Mr. Shawver stated this was added by staff because there was a request 10 years ago for property just south of this location and that request was turned down. That was a planned request.

Commissioner Elkin requested the documentation requested by condition #4 be documentation from MoDOT. There was no objection to this request.

Commissioner Schnarre asked if condition #12 regarding the signs be removed since the sign ordinance has been adopted. Mr. Shawver stated it was added in case the Commission had not adopted the sign ordinance before this request came forward. It can be removed if the Commission desires.

The Commission agreed to remove condition #12.

Commissioner Miller moved to approve the request by George Godas to rezone from R-S (Single Family Residential) to C-GP (Planned Commercial) of 5.6 acres, more or less, for Godas Leatherwood Center PCD located at 1601 W Rte K, Columbia.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 465-2004**

Commissioner Miller moved to approve the request by George Godas to approve a *Review Plan* for Godas Leatherwood Center PCD located at 1601 W Rte. K, Columbia with the following conditions:

1. That a multi-use plat be submitted with any final development plan.
2. That the sewer district approves the sewer proposal, and that a guarantee of capacity be secured by this development by the developer.
3. That the entrances onto Old Plank Road are acceptable to and approvable by Boone County Public Works and the Director of Planning and be designed and located to BCPW standards.
4. That some form of documented approval from MoDOT for the location of entrances onto State Route K is provided before, or at the latest with, the final development plan submission.
5. That a landscaping plan, erosion control/stormwater plan and a traffic analysis each acceptable to this commission be required to be submitted with any final plan and that issues generated by these studies are still open to conditions for mitigation even though they are being submitted as part of a Final Plan.
6. That it is recognized that those uses that are conditional uses are required to obtain conditional use permits.
7. That the existing structures on the site be removed within 1 year from County Commission approval of this Revised Review Planed or the approval for this plan is void.
8. That the Permitted uses section eliminate 9-Private Club or Lodge, and 20-Laboratory, Research, Experimental or Testing, from the permitted uses.
9. That the Conditional Uses section eliminate: 4-Residential uses when on second floor or above, from the conditional uses.
10. Permitted use 17 should be modified to be limited to a single neighborhood bar or tavern not to exceed 3000 square feet.
11. As part of the required landscaping the west side, rear facing portion, of the 3600 square feet building be screened to provide a buffer the details of which will be worked out with the remainder of the landscaping plan with the final plan and must be acceptable to the Director of Planning.
12. Exterior lighting be subject to review by staff with an intent to minimize offsite impact.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 466-2004**

**F. Request by T-Vine Enterprises, Inc. to approve a Final Development Plan for Settlers Ridge PCD on 5.01 acres, located at 4401 E. Highway HH**

Mr. Shawver stated this is the final development plan that will lock in the zoning for Settlers Ridge PCD. This is located near Highway HH and Highway V.

There was no further discussion on this item.

Commissioner Elkin moved to approve the request by T-Vine Enterprises, Inc. to approve a Final Development Plan for Settlers Ridge PCD on 5.01 acres, located at 4401 E. Highway HH.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 467-2004**

**G. Receive and Accept the following plats:**

- **Harmon Estates. S32-T50N-R11W. A-2. Larry and Judy Harmon, owners. J. Daniel Brush, surveyor.**
- **Albright. S28-T50N-R13W. A-2. Joe and Michele Albright, owners. Steven Proctor, surveyor.**

Mr. Shawver stated Harmon Estates is a one-lot subdivision located on Route OO. Albright is two-lot subdivision located on Dripping Springs Road.

Commissioner Elkin moved to receive and accept the following plats and authorize the Presiding Commissioner to sign said plats:

- Harmon Estates
- Albright

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 468-2004**

**Subject: Second Reading and Approval of Petition for Incorporation for the Village of Pierpont**

Commissioner Miller stated the Commission accepted a substitute petition in October for the Incorporation of the Village of Pierpont. The County Attorney and County Surveyor reviewed the petition to make sure all statutes were met. It is to her understanding that this has been done.

John Patton, County Counselor, stated a substitute petition was submitted revising the town line to be in compliance with the two mile restriction. He has not personally verified this but the County Surveyor has verified the limits.

Commissioner Miller stated the community has reviewed all their responsibilities they will have once they become a community such as election costs, safety patrol done by the Sheriff's Department, contracting with County Planning and Building Inspection for code inspection, and the only road they will have responsibility for is a small portion of Tomlin Hill Road. The costs are minimal for their incorporation. This was discussed and studied before a petition was submitted.

She has received one objection to this request from Sharon Thomas-Parks and Joe Parks. This letter is submitted for the Public Record.

The Commission also received a letter from the City of Columbia expressing concerns about incorporation. This letter is submitted for the Public Record.

Commissioner Miller stated she also has a map for anyone to review showing the old and new boundaries.

Bud Frew, 7480 Highway 163 S, congratulated Commissioner Miller and Commissioner Elkin on re-election.

Bud Frew stated the community has been working on this for at least six months. There were certain obstacles that popped up occasionally that they were able to work through with the help of Commissioner Miller. The community is still steadfast in its desire to incorporate. When they went back around with the new petition, many said they would sign it again. The ones who were left out in this petition told them as soon as they could be included again they would sign another petition. They do know there are a few people who are not interested.

Commissioner Schnarre opened the floor for a public hearing on this request.

Commissioner Miller read the letter of objection from the Parks.

Columbia Mayor Darwin Hindman stated the City Council is concerned with incorporation in general. The Council passed a motion expressing its concerns at their October 18, 2004 meeting.

When it comes to Boone County, he believes everyone appreciates the beautiful country side and the successful and growing communities but believes the agricultural area is diminishing. Boone County has an excellent, stable and expanding economy. He believes one of Boone County's strengths is its long established and self-contained cities and towns.

Columbia is located in the center of the county and the economic engine of Boone County. Columbia is fortunate to have the universities, medical facilities, and insurance industry. It is located at the crossroad of two major highways. The building that is a result of the growth is good.

The smaller towns in Boone County are economic engines also but on a smaller scale. He believes it is fortunate the smaller towns are located far enough away there have been no collisions to date. Due to this, each city has been able to grow and expand as they have needed to and control their own destinies. Columbia's growth over the past few years has been only through voluntary annexation. This has helped Columbia and the other cities stay healthy. They have been able to deal with their own issues of growth as their citizens decide what is in their best interest. It seems to him that the County's policies regarding growth should be to promote growth from the inside out and prevent obstacles to the present pattern from continuing.

Mayor Hindman believes if Boone County continues to incorporate areas then Boone County will end up like to St. Louis City, St. Louis County, and St. Charles County, a county that will have no unincorporated areas. To his knowledge, there are more than 90 incorporated areas in St. Louis County. The result is these incorporated areas compete with each other and has been a source of uncontrollable urban sprawl. It interferes with economic growth and development because everything has to be coordinated among all the cities not to mention other overlapping jurisdiction. This has resulted in almost chaos in the fact that is it almost impossible to get anything done in St. Louis City and St. Louis County. He believes it has been a major obstacle to economic development and coordinated planning. He believes and has read in many places that St. Louis areas are a missed economic opportunity and is primarily a result of the numerous jurisdictions there.

Mayor Hindman believes the Commission should work with established towns and cities to develop a rational policy, with respect to incorporation of new towns and make certain that they will not find themselves working toward a St. Louis County type situation. It may not seem like that is what is happening since this is the first to occur but that is the way it was started there too.

According to the paper, the primary purpose of this request for incorporation of Pierpont is

to prevent annexation of the area. There is a perceived notion that Columbia is going to reach out and annex the Pierpont area. Columbia is not about to annex the Pierpont area, they are in no danger of being annexed. Even if Columbia were interested in it, there would have to be voluntary annexations. This would require votes and would take a lot of time. They do not have any intention of annexing the Pierpont area. There is no reason to push to fast on this issue.

Mayor Hindman noted he also read in the paper that if this is approved then Pierpont intends to reach out and annex further for themselves so as to get around the two mile limit that the State Statute has put in. He thinks rather than going to fast and allow this to occur now, that time should be taken to work together with all the cities in Boone County on a broad and rational policy on what should be done with requests for incorporation. He has a feeling if this occurs then the Commission will receive further requests for incorporation for the same reason with the idea of trying to permanently protect themselves against some form of annexation.

Mayor Hindman believes the proper thing to do, since there is no danger to Pierpont of being annexed at this time, is to postpone this and sit down to work out a rational policy for the good of everyone in Boone County on this issue.

Joy Rissmiller, 7601 Highway 163 S, in reference to the Mayor's comment about people controlling their own destiny, this is exactly what the people of Pierpont are trying to do. Also, the Mayor commented on getting something like this started but the Mayor must not understand that Pierpont is unique in the fact it is already set apart because they are surrounded by Rock Bridge State Park. The Store is a historical area. They have met all the qualifications set out. When the Mayor said this should go slow on but six or seven months of repeated signings and jumping through hoops is moving slow. She believes the people who did not sign the petition; even though it is a small number, are not really opposed to this. The one thing she is most concerned about is she does not recall ever telling the City of Columbia what to do and she does not understand, in all respect to Mayor Hindman, what he cares because she doubts he lives in the area. She does not see how what Pierpont does should have any affect on the Mayor especially if he says they do not have plans to annex the Pierpont area. Pierpont will not be like St. Louis because it cannot bump into any other city because it is surrounded by the Park. She would appreciate it if they would take care of the City and let the Commission take care of the County or the residents take care of Pierpont.

Ron Skiles, 7901 Tomlin Hill Road, stated he agreed with Ms. Rissmiller's statements. What concerns people in Pierpont is the controlled expansion that the Mayor was discussing.

Commissioner Schnarre closed the public hearing.

Commissioner Schnarre read the following two paragraphs from the letter that was submitted from the City of Columbia regarding their concerns about incorporation.

“It is for this reason that the City Council is urging the Commission to publicly develop and adopt specific guidelines to consider when any request for incorporation is received. The Commission has voiced its support for more visible and more effective joint planning efforts and this is an excellent opportunity for that to occur. With the Commission's lead, there can be discussions with all of the established communities in the County to assess those factors that are necessary to assure that an incorporation request is viable for the area making the request and does not result in a long-range impediment to the properly planned growth both the City and County Commission are promoting.

“With regard to the Pierpont request, it is publicly proclaimed as an effort to prevent annexation by the City of Columbia. It is also openly stated that if the incorporation is granted, there are plans to immediately initiate an annexation that would bring Pierpont closer than two miles to the Columbia city limits. This obviously is an intent to circumvent the intent of a state law and should be considered by the Commission as bad public policy.”

Commissioner Schnarre stated he believes the Commission is extremely interested in communicating with all citizens. The City and County Planning and Zoning Boards have been trying to work together and there seems to be some concern on how they can work together.

He is also concerned with the statement made about circumventing the rules. He believes the City needs to work following the rules in compact and contiguous annexation. This is something the City and County need to work on because it has a detrimental effect on operations of the County. He is not against annexation.

Commissioner Miller stated when this was first presented to the Commission; she discussed a possible policy on incorporation. Through Mr. Patton's research of State Law and Case Law, it is clear there are very few places in Boone County that can ever meet Case Law. Mr. Patton did not feel the Commission needed to put together a policy for incorporation. He believed there was enough information in Case Law and Statutory Law that it would guide any future requests. This is the reason the Commission has not developed a policy on incorporation.

When Mayor Hindman spoke about rational policy on incorporation she thought of rational policy on annexation. She believes this goes both ways, if there is discussion on when places should be incorporated then there should also be discussion on when land should be annexed and how compact and contiguous annexation should be because the statute is clear on what that is. Being contiguous by 11 feet is not very compact.

She believes this has been frustrating for Pierpont because they had to shrink their boundary. They had their whole community in this together. They were solid on where they wanted to go. The two mile rule did impede the first boundary so they changed the line to comply with state law. They will have the right to annex just like any other community.

Commissioner Schnarre stated in regard to the comment of taking this slow, when this was first brought forward, the boundary was ok. The City annexed land in the mean time which put them in violation of the two mile rule.

Commissioner Miller stated the petition was submitted two days after the City's annexation took effect.

Commissioner Schnarre stated this has been discussed by the residents for months before the City annexed the land.

Commissioner Elkin stated there has been a lot of talk between the City and the County about planning but nothing happens. The Planning and Zoning Commissions have tried to work together and they are not getting support from both sides. If the City and County want to get serious about planning then let's do it, let's stop talking about it and do it. Once that happens, he would then be happy to sit down and discuss a policy on incorporation. It is a two way street and there has to be give and take on both sides.

When incorporation and annexations are discussed, it is all one sided. Both sides need to listen and discuss compact, contiguous and logical annexations.

Commissioner Elkin agrees with the Mayor's comment of promoting growth from the inside out. This makes sense. This is not just with the City of Columbia but with all municipalities in Boone County.

This is about controlling destiny.

Commissioner Elkin stated city lines do not determine growth and concrete and buildings. There is a false sense that those items do determine growth. All parties need to work together and have serious discussions on growth.

Commissioner Miller stated when the incorporation is approved; the Commission has to appoint Trustees. She asked if it is the Commissions desire to interview these people before they are appointed. Mr. Patton stated State Statute does require Trustees be appointed upon incorporation.

There was discussion among the Commissioners about who to appoint to the Trustees.

Commissioner Miller moved to accept the substitute petition for the incorporation of the

Village of Pierpont containing the revised legal description for the Village of Pierpont. The County Commission does hereby approve the following order for the Incorporation of the Village of Pierpont:

Whereas, for over 100 years there has been an area south of Columbia, Missouri, known by the name of "Pierpont" that has existed as an established place, and

Whereas, this name was assigned to this region because of the Pierpont store, which has long stood at the intersection of two roads, which are now known as State Highway 163 and State Route N, and

Whereas, over time this place has become an established unincorporated village, with houses located on tracts of land relatively urban and residential in character, most tracts being approximately 1 acre or less, and

Whereas, the County Commission has received a petition signed by well over two-thirds of the persons over the age of 18 who reside within the community, and

Whereas, the County Commission has held a public hearing upon said application, and

Whereas, the County Commission desires to encourage local self-government,

NOW, THEREFOR, BE IT ORDERED AS FOLLOWS:

1. The Village of Pierpont is hereby ordered incorporated as a village under the Revised Statutes of Missouri, Chapter 80.
2. The metes and bounds description of said village is:

The point of commencing is the intersection of the north-south quarter section line in Section 18, Township 47 N, Range 12 W with the northern boundary of said Section 18 and southern boundary of Section 7. From this point of commencing West along said section line to the eastern right-of-way line of State Highway 163, which is the point of beginning. From this point of beginning proceed northwesterly along the eastern right-of-way line of State Highway 163 to its intersection with an arc drawn on a two mile radius from the point at which the centerline of Gans Road crosses the section line between Sections 5 and 6, Township 47N, Range 12 W. Then generally in an Easterly direction with the arc until the same crosses the South right-of-way line of State Highway 163. Then with the South right-of-way line of State Highway 163 generally southwesterly with the south right-of-way line of State Highway 163 until the same intersects with the eastern right-of-way line of Tomlin Hill Road. Then following the eastern right-of-way line of Tomlin Hill Road to the point where it intersects with the northwest corner of the land described by deed in Book 1636, Page 476 of the land records of Boone County, Missouri. Then easterly 209 feet to the northeast corner of said property, then south down the east boundary line of said property to an iron pin set at the northeast corner of Tract # 5 of the subdivision described in survey recorded in Book 339, Page 299 of the land records of Boone County, Missouri. Then generally southerly along the eastern boundary of Tracts #5, #4, #3, #2, and #1 in said subdivision to an iron pin at the southeast corner of Tract #1. Then westerly along the south boundary of Tract #1 to again join the east right-of-way line of Tomlin Hill Road. Then South along this eastern right-of-way line of Tomlin Hill Road to its intersection with an extension eastward from the southern boundary of a tract of land described by deed recorded in Book 2170, page 871 of the land records of Boone County, Missouri. Then turn westerly along said extension to the southwest corner of said tract (Book 2170, page 871). Then northerly along the west line of said tract to the southwest corner of Tract B of a survey recorded in Book 392, Page 863 of the land records of Boone County, Missouri.

Then northerly along the western boundary of said tract to the northwest corner of Tract B. From that point continue westerly along the western boundary of the tract of land described at Book 539, Page 52 of the land records of Boone County, Missouri, to the eastern side of a survey recorded in Book 437, Page 553. Then southeasterly along said eastern side to an iron rod set at the southeastern corner of said survey. From this rod go South 88 degrees 29 minutes West approximately 760.7 feet to another iron rod. From this iron rod then go North 24 degrees 20 minutes West approximately 440.4 feet to the south right-of-way line of Route N. Then proceed perpendicular to the south right-of-way line of Route N, to the northern right-of-way line of Route N. Then proceed eastnortheasterly along this northern right-of-way line of Route N to the southwest corner of a one acre tract described as:

A part of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Eighteen (18), Township Forty-seven (47), Range Twelve (12) described as follows to-wit: Beginning at a stone one (1) set seventy-four (74) feet southwest of Government stone (said Government stone being set on south line of section seven (7) at southwest corner of old J. S. Pruett farm); thence in a southeasterly direction along the west line of the first public road, ten (10) rods to stone two (2); thence in a southwesterly direction along the north line of the second public road, sixteen (16) rods to stone three (3); thence in a northwesterly direction parallel with the last line of said first public road, ten (10) rods, to stone four (4); thence in a northeasterly direction parallel with the north line of said second public road, sixteen (16) rods to stone one (1) the point of beginning, and containing in all one (1) acre, more or less.

Then proceed northwesterly along said tract boundary to a stone. Then proceed northeasterly along said tract boundary to the west right-of-way line of State Highway 163. Then proceed northwesterly along this west right-of-way line to the Section line between Sections 7 and 18. Then proceed East along this Section line across State Highway 163 to its eastern right of way line, the point of beginning. Excepting therefrom any portions of Rock Bridge State Park as it existed on July 1, 2004 and any portion of lands that lie within two miles of the Boundary of the City of Columbia as it exists at the time of incorporation of the Village of Pierpont.

3. The village shall have no commons. The village is surrounded on all sides by public lands, and has no need for a commons.
4. The initial Board of Trustees for said village shall be the following three persons who shall serve until the April election of 2006:
  - A. Bud Frew
  - B. Ron Skiles
  - C. Sheree Pippin

and the following two persons who shall serve until the April election of 2007:

- D. Justin John
- E. Bob Miller

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 469-2004**

**Subject: Discussion – Lakewood Estates Homeowners Association**

The Commission had discussion with Lakewood Estates Homeowners Association concerning the traffic flow in and out of the subdivision and how the surrounding development has affected the condition of the roads. The Homeowners Association is requesting more participation from the County based on the actual proportion of the traffic usage.

**Subject: First Reading of Contract with Columbia Surgical Associates (Inmate Medical Services)**

Commissioner Schnarre stated this is a contract with Columbia Surgical Associates for Inmate Medical Services. This contract is similar to the previous inmate medical services contracts except the contractor agrees to bill within 120 days. Other contracts bill within 60 days.

There was no further discussion on this item.

Commissioner Schnarre stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available meeting with an appropriate order for approval.

There was no public comment.

The meeting adjourned at 9:08 p.m.

Attest:

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Wendy S. Noren  
Clerk of the County Commission

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Keith Schnarre  
Presiding Commissioner

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Karen M. Miller  
District I Commissioner

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Skip Elkin  
District II Commissioner