

TERM OF COMMISSION: December Session of the November Adjourned Term

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

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

The meeting was called to order at 7:04 p.m.

Commissioner Stamper noted that during Planning and Zoning issues, 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).

**Subject: Planning and Zoning**

**A. Approve a petition on behalf of Fairway Meadows Corp. to vacate and re-plat lot 8 of Deerfield Ridge Plat 1**

Stan Shawver stated the department has received a petition on behalf of Fairway Meadows Corporation to vacate lot 8 of Deerfield Ridge Plat 1 Subdivision, which is located on State Route K. In accordance with the requirements of Section 1.8.1.3 of the Boone County Subdivision Regulations, before this lot can be vacated, the County Commission is required to conduct a public hearing to consider the request. Before land can be re-platted, the Commission must hold a public hearing in accordance with Section 1.8.2 of the Subdivision Regulations. The Commission must take into consideration the following criteria:

- The character of the neighborhood
- Traffic conditions
- Circulation

- The proper location, alignment and improvement of streets and roads within and adjacent to the subdivision
- Property values in the subdivision
- Public utility facilities and services
- Will not generally adversely affect the health, welfare, or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate

Mr. Shawver noted Deerfield Ridge is a planned development. During the platting process for the subdivision, the developer imposed a building line or a front set back line of 40 feet, which was self imposed. Under County Regulations, a PRD is only required to maintain perimeter set back minimums and the developer has some flexibility within the internal parts of the development. When the plat was recorded, the developer became locked into the 40' set back restriction. There are topographical issues with this lot and the developer would like to change the building line to 20 feet.

Commissioner Stamper asked Mr. Shawver if he anticipates this request for lot 8 only of this subdivision. Mr. Shawver stated he believes that is correct because there have been months of discussions about this specific lot but it depends on each individual lot.

Commissioner Elkin asked if the 20' set back could have been the original set back. Mr. Shawver stated that was correct.

The applicant was not present to offer any testimony.

Commissioner Stamper opened the floor for a public hearing.

There was no one wishing to speak.

Commissioner Stamper closed the public hearing.

There was no further discussion on this item.

Commissioner Elkin moved to approve the petition on behalf of Fairway Meadows Corporation to vacate and re-plat lot 8 of Deerfield Ridge, Plat 1. The vacation is not to take place until the re-plat is approved.

Commissioner Stamper seconded the motion.

There was no discussion and no public comment.

The motion passed 2-0 as follows: Commissioner Stamper – YES, Commissioner Elkin – YES, Commissioner Miller – Absent for vote. **Order 504-2002**

Commissioner Stamper welcomed former County Commissioner David Horner to the meeting.

**B. Approve petition on behalf of Richard and Gayla Miller to vacate and re-plat lot 12 of Country Farms**

Mr. Shawver stated the department has received a petition on behalf of Richard and Gayla Miller to vacate lot 12 of Country Farms Subdivision. In accordance with the requirements of Section 1.8.1.3 of the Boone County Subdivision Regulations, before this lot can be vacated, the County Commission is required to conduct a public hearing to consider the request. Before land can be re-platted, the Commission must hold a public hearing in accordance with Section 1.8.2 of the Subdivision Regulations. The Commission must take into consideration the following criteria:

- The character of the neighborhood
- Traffic conditions
- Circulation
- The proper location, alignment and improvement of streets and roads within and adjacent to the subdivision
- Property values in the subdivision
- Public utility facilities and services
- Will not generally adversely affect the health, welfare, or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate

Mr. Shawver noted there is an existing single family house on the lot. Country Farms Subdivision is zone R-S. The original lots are all 10 acres or more but there are provisions in the subdivision covenants to allow for lots to be subdivided into no more than three lots, no smaller than three acres.

Jay Gebhardt, Civil Engineer with A Civil Group, 711 W. Ash, Columbia, and Rich Miller, were present on behalf of this item.

Commissioner Stamper opened the floor for a public hearing.

There was no one wishing to speak.

Commissioner Stamper closed the public hearing.

There was no further discussion on this item.

Commissioner Stamper moved to approve the petition on behalf of Richard and Gayla Miller to vacate and re-plat lot 12 of Country Farms. The vacation is not to take place until the re-plat is approved.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 2-0 as follows: Commissioner Stamper – YES, Commissioner Elkin – YES, Commissioner Miller – Absent for vote. **Order 506-2002**

**C. Approve the request by Michael Cunningham for an animal training and boarding facility (horse stable) on 2.7 acres, more or less, located at 5801 N. Liddell Lane, Columbia**

Mr. Shawver stated this property is located two miles east of the general Columbia municipal limits. The site is situated on the west side of Liddell Lane approximately ½ mile south of the intersection of Mount Hope Road and Liddell Lane. The site of the proposal comprises 2.7-acres of a 54.6-acre parent parcel. The property of the request is currently zoned A-2 (agriculture). The remainder of the parent parcel is currently also zoned A-2; however, a request to rezone this remainder to A-R/PRD is also on the agenda tonight. Property to the south, west, and north of the requested site is zoned A-2. Property to the east- northeast is zoned A-2 with property to the east-southeast zoned A-1. The adjoining tracts that are east-northeast along the west side of Liddell Lane were rezoned from A-1 in 1991 & 1996. The other zonings are all the original 1973 zonings. The site currently has an existing shed and lagoon system for the existing house that is on proposed lot 1 of Lakeview Stables Estates PRD. The lagoon will be removed by the centralized wastewater system of the development. Access will remain from an existing connection to Liddell Lane. The drive and required parking will have to be brought up to a minimum chip seal surface. Even though this request is related to the proposed rezoning and development it can be reviewed on its own standing while still taking into consideration its role in the overall development. Since the proposal is adjacent to common open space in the proposed development and is mostly buffered from property outside of the development, the rather limited size of the request does not pose concern. With the main focus being to provide stabling of horse for residents of the development staff feels that a limitation on the lighting should be sufficient to mitigate impacts rather than limits on hours of operation. There have been no previous requests submitted on behalf of this site. The master plan designates this area as being suitable for residential land uses. Since the development is a cluster development with a significant amount of open space the proposed use is consistent with the master plan. Staff notified 22 property owners about this request. Staff recommends approval with the following conditions:

- The driveway and required parking area be dust free with a minimum of a chip seal surface. The required parking area will be determined by the area of the stables.
- Animal waste to be disposed of in an appropriate manner.
- No lighting for after-dark riding be allowed.

As a Conditional Use Permit the proposal must meet the following criteria from the zoning ordinance to be eligible for approval.

- a. The establishment, maintenance or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare.*
- b. The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations.*
- c. The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.*
- d. All necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage.*
- e. The establishment of a conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.*
- f. The establishment of a conditional use permit will not hinder the flow of traffic or result in traffic congestion on the public streets. This will include the provision of points of access to the subject property.*
- g. The conditional use permit shall in all other respects conform to the applicable regulations of the zoning district in which it is located. The County Commission shall find that there is a public necessity for the conditional use permit.*

**D. Approve the request by Michael Cunningham to rezone from A-2 (Agriculture) to A-R/PRD (Agriculture Residential/Planned Residential Development) and Approve a *Review Plan* for Lakeview Stables Planned Development on 51.93 acres, more or less, located at 5801 N. Liddell Lane, Columbia**

Mr. Shawver stated this proposal is for a 42 lot 36 home development on 51.92-acres which is the remainder of the site on which the preceding Conditional Use Permit has been requested. (see above report for basic location and zoning info) The proposed development will most likely be constructed in phases. An acceptable phasing plan needs to be submitted with the final development plan. The proposal includes the construction of 2 new county public roadways and a non-gated private drive that serves 3 residential lots and the proposed wastewater treatment plant. The development will have a central wastewater treatment facility constructed by the developer and acceptable to and turned over to the BCRSD. Under the existing A-2 zoning the Maximum Theoretical Density for the property is 20-units. Under the proposed A-R/PRD rezoning the Maximum Theoretical Density for the property is 103 units. The specific review plan and preliminary plat submitted proposes only 36 homes or roughly 1/3 the density that could be requested in an A-R/PRD for this property. The proposed structures are single family homes on their own lots with common area adjoining all home lots. Proposed Lippizan Drive may need a new name as Joint Communications Information Center has not yet approved the name. This roadway is a few hundred feet in excess of the maximum length of 1000 feet for a public

road. Because of the specifics of this design staff recommends that the length be approved if the development is approved, as this commission can allow specific proposals in excess of the 1000 feet. The level of development will trigger some off-site required road improvements. County Public Works and the project engineer are working out the specifics but at a minimum this would be that at the developer's cost Liddell Lane must be chip sealed to Mt. Hope Road. Water service and fire hydrants will be required for this development. The City of Columbia provides water service and is in the process of providing an 8" watermain extension. The site is in a Boone Electric service area, Boone County Fire Protection District, and the Columbia Public School District. In any rezoning request it is incumbent upon the applicant to show that the requested zoning is more appropriate than the existing zoning. Additionally, the Master Plan calls for the use of a "Sufficiency of Resources Test" when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: All necessary utilities can be provided in an efficient manner.

Transportation: With the required off-site improvement there should be adequate transportation infrastructure.

Public Safety Services: The property is in the Boone County Fire Protection District. There is no district fire station located within 5 road miles of this site. The required waterline extension will bring fire flow to the area.

The *master plan* designates this area as being suitable for residential land uses. Both the existing and proposed zonings are consistent with the *master plan*. This site has 46 points on the point rating system.

Staff recommends approval of the Rezoning Request, Review Plan, and Preliminary Plat with the Review Plan & Preliminary Plat subject to the following 3 conditions:

1. That an acceptable phasing plan be submitted with the final development plan. This provision must be added as a note to the review plan and preliminary plat.
2. That it is recognized that Liddell Lane is to be improved to a minimum of chip-seal surface from the south limits of the development to Mt. Hope Road to the north at the developer's expense and that the details be worked out with Boone County Public Works and be acceptable to both the Public Works and Planning Directors.
3. That waterline upgrades and hydrants be installed, along with all needed easements required, prior to construction of any additional structure in the development.

Mr. Shawver noted the Planning and Zoning Commission heard the request and held a public hearing for the Conditional Use Permit request, rezoning and Review Plan at the

November meeting. The Planning and Zoning Commission recommended approval of the Conditional Use Permit with the Staff recommended conditions, which received a unanimous vote. The Planning and Zoning Commission also recommended approval of the rezoning request and Review Plan with the Staff recommended conditions, which also received a unanimous vote.

Commissioner Stamper stated there will be one public hearing for these matters but there will be separate motions for each request. Any testimony that is given should be given on the assumption that both requests are on the table.

Jay Gebhardt, Civil Engineer with A Civil Group, 711 W. Ash, Columbia, and Mike Cunningham, 5801 N. Liddell Lane, Columbia, were present on behalf of this item.

Jay Gebhardt stated this proposal is for 36 new lots, for a total of 37 lots if the existing home Mr. Cunningham lives in currently.

Mr. Gebhardt reviewed the plans for the development and the location of the stables, open space, existing lake, and other items. He noted there is a proposed re-circulating sand filter on the lower side of the dam. There will be an access road to the filter that will be chip and sealed.

There is a total of 55 acres on the site with a total of 51 acres, or 93% being left as open space. There is approximately 6.6% impervious area proposed for the drainage area. The public roads are proposed as 28 feet wide. There are sidewalks proposed but since the majority of the homes will be on one side of the street, they are asking for permission to build sidewalks on only one side of the street. They feel this is appropriate since the proposal does not have houses on both sides of the street.

Mr. Gebhardt stated they do not have any problems with the conditions set by Staff.

Commissioner Stamper asked if the central collection system is also the sand filter system. Mr. Gebhardt stated that was correct.

Commissioner Stamper opened the floor for a public hearing on the Conditional Use Permit request, the rezoning request, and the Review Plan.

There was no one wishing to speak on these issues.

Commissioner Stamper closed the public hearing.

Commissioner Elkin asked Mr. Shawver if the conditions for the Conditional Use Permit were similar to previous Conditional Use Permit's that have been approved by the Commission. He knows there have been conditions limiting the hours of operation for an outdoor arena but this is an outdoor arena with no lights. Mr. Shawver stated he believes

this is correct.

Mr. Shawver stated he believes these conditions that have been recommended are consistent but each Conditional Use Permit is evaluated for the surrounding area and the impact it would have on that area. The parking area is consistent. The Commission has restricted hours of operation on some of the facilities that are in more densely populated areas. The department felt like the nature of the stable is more geared toward the residents of the proposed development.

Commissioner Elkin stated he does not agree with the road going just north at this time. He knows there was a lot of testimony at the Planning and Zoning Commission meeting and requested Mr. Gebhardt to elaborate on the possible reason why the residents should drive a few extra miles north than to drive the more direct route to the south and if there is a possibility of cutting through on Dusty Roads Lane. Mr. Gebhardt stated he has spoken with David Mink, Director of Public Works, and David Nichols, Public Works Design and Construction Manager, about this issue. Mr. Gebhardt feels the roads in the subdivision will be paved. Once a road is chip and sealed to another asphalt road, it will change the driving habits of people. Most people will take, even if it means driving a few extra miles, will stay on a paved road rather than take the gravel. He did an analysis that eight out of ten driving trips from one home will take paved route.

Commissioner Elkin asked what this analysis is based on. Mr. Gebhardt stated this is based on people who live on a paved road will take the paved road rather than drive on a gravel road. There was discussion about the surrounding roads to this proposed development.

Commissioner Miller arrived at the meeting.

Commissioner Stamper stated because this is a Planned Residential Development there is still time to do analysis on the question of the paved roads versus the gravel roads.

There was no further discussion on these items.

Commissioner Elkin moved to approve the request by Michael Cunningham for an animal training and boarding facility (horse stable) on 2.7 acres, more or less, located at 5801 N. Liddell Lane, Columbia, with the following conditions:

- The driveway and required parking area be dust free with a minimum of a chip seal surface. The required parking area will be determined by the area of the stables.
- Animal waste to be disposed of in an appropriate manner.
- No lighting for after-dark riding be allowed.

Commissioner Stamper seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 506-2002**

Commissioner Elkin stated he believes there will be more Planned Residential Developments coming forward in the future. The 36 units that are being proposed instead of the 103 units, which is the maximum density for this zoning, is a good use of the land. There could be twenty separate units with twenty separate lagoons on this land. He believes this is a quality proposal.

Commissioner Elkin moved to approve the request by Michael Cunningham to rezone from A-2 (Agriculture) to A-R/PRD (Agriculture Residential/Planned Residential Development) of 51.93 acres, more or less, located at 5801 N. Liddell Lane, Columbia.

Commissioner Stamper seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 507-2002**

Commissioner Miller asked what the number of lots are that are off the private easement or shared driveway. Mr. Gebhardt stated there are two lots. There are three lots total, but one is a corner lot on Liddell that would have access off Liddell also and then two lots that would only have access off the private driveway.

Commissioner Elkin moved to approve the request by Michael Cunningham for a *Review Plan* for Lakeview Stable Planned Development of 51.93 acres, more or less, located at 5801 N. Liddell Lane, Columbia, with the following conditions:

- That an acceptable phasing plan be submitted with the final development plan. This provision must be added as a note to the review plan and preliminary plat.
- That it is recognized that Liddell Lane is to be improved to a minimum of chip-seal surface from the south limits of the development to Mt. Hope Road to the north at the developer's expense and that the details be worked out with Boone County Public Works and be acceptable to both the Public Works and Planning Directors. (improvements may be required to the south instead)
- That waterline upgrades and hydrants be installed, along with all needed easements required, prior to construction of any additional structure in the development.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 508-2002**

**E. Approve the request by Clifton and Linda Nahler to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 20.0 acres, more or less, located at 3700 E. Biggs Road, Ashland**

Mr. Shawver stated this property is located 1 ½ miles northwest of Ashland on Biggs Road, west of State Highway DD. This property is zoned A-1 (Agriculture). Land to the north and south is zoned A-1. Land to the east was rezoned from A-1 to A-2 in September. Land to the west is zoned A-2. The property is currently vacant but it has been used for agricultural purposes. This site is located within the Southern Boone R-1 School District. Electric service is provided by Boone Electric Cooperative. Water service is provided by Consolidated Public Water District No. 1. The original zoning for this tract is A-1. There have been no previous requests to rezone this property. The master plan designates this area as being suitable for agricultural and residential land uses. Staff notified 12 property owners concerning this request. The Master Plan calls for the use of a "Sufficiency of Resources Test" when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: This site is served by Boone Electric Cooperative and Consolidated Public Water District No. 1. There may not be adequate water available at this time to serve a residential development. A central waste-water system is not available for this site. The developer is proposing the use of individual on-site waste-water systems.

Transportation: Access to the site is from Biggs Road, a gravel, county maintained road.

Public Safety: The property is in the Southern Boone County Fire Protection District. A district fire station is located inside the city of Ashland, approximately 2 miles from this site.

This property is adjacent to A-2 zoning. As mentioned, the tract to the east was rezoned from A-1 to A-2 in September. Staff recommends that this request be approved.

Mr. Shawver stated the Planning and Zoning Commission held a public hearing on this request at the November meeting. The Planning and Zoning Commission made a motion to recommend approval of this request, this motion passed 5-2.

Clifton and Linda Nahler, 3700 E. Biggs Road, Ashland, were present on behalf of this item.

Clifton Nahler stated he believes this is a reasonable use of this land.

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

There was no one wishing to speak on this request.

Commissioner Stamper closed the public hearing.

There was no further discussion on this issue.

Commissioner Miller moved to approve the request by Clifton and Linda Nahler to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 20.0 acres, more or less, located at 3700 E. Biggs Road, Ashland.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 509-2002**

**F. Approve the request by Donald L. Robb to rezone from A-2 (Agriculture) to C-GP (Planned Commercial) of 5.69 acres, more or less, located at 10000 W. Sontag Road, Rocheport (appeal)**

Mr. Shawver stated this property is located near the Interstate 70 and Highways O / J interchange. The site is 5 ½ miles west of Columbia and 4 miles east of Rocheport. The property is currently vacant and is zoned A-2. Property to the east and south is zoned A-2. Property to the west is zoned C-G. The north boundary of this tract is I-70. The applicant has requested that this tract be rezoned to C-GP (Planned Commercial). A review plan has not been submitted for consideration at this time. County zoning regulations allow the commission to consider rezoning requests to C-GP and M-LP districts without a review plan. However, zoning of the tract does not take place until such time that both a review plan and a final development plan are submitted and approved. The master plan designates this area as being suitable for agriculture and rural residential land uses. However, the master plan does recognize that commercial and industrial land uses may be appropriate at the intersections of the major highways in Boone County, provided they are developed through the use of the planned district designation. The original zoning for this tract is A-2. There have been no previous requests submitted on behalf of this tract. Staff notified 9 property owners about this request. The Master Plan calls for the use of a "Sufficiency of Resources Test" when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: This site is served by Boone Electric Cooperative and Consolidated Public Water District No. 1. The water district indicates that there is only a 2 inch water line available at this time. This would not provide the fire flow necessary for a commercial land use. A central waste-water system is not available for this site and the applicant has not proposed any specific wastewater system at this time.

Transportation: Access to the site is from Sontag Road, an asphalt, state maintained road. Lacking any specifics about the future use of this property, it is impossible to determine the adequacy of the existing road.

Public Safety: The property is in the Boone County Fire Protection District. A district fire station is located inside the city of Rocheport, approximately 5 road miles from this site. There is also a fire station in the Midway area which is a similar distance away.

This site has 37 points on the Point Rating Scale.

This property is adjacent to C-G zoning. However, it should be pointed out that there is at least 20 acres of C-G land at this interchange that is vacant and available for development. Staff sees this request as being speculative in nature and cannot support the request. Staff recommends denial at this time. Should the Commission feel that rezoning of this tract can be justified at this time; staff recommends that any motion to approve the request include conditions concerning lighting, signage, landscaping, buffers and a traffic study as the minimum conditions that should be included.

Mr. Shawver stated the Planning and Zoning Commission held a public hearing on this request. There was a significant amount of opposition to this request. The Planning and Zoning Commission made a motion to recommend denial of the request and this motion received a unanimous vote. The applicant filed an appeal in a timely fashion and is here on appeal.

Craig Van Matre, 1103 E. Broadway, Columbia, legal representative for the applicant, and Chris Amos, Gold Star Real Estate, 220 County Road 45, Fayette, were present on behalf of the applicant.

Craig Van Matre submitted seven photographs regarding this request to the Public Record.

Craig Van Matre stated he believes this application presents the problems facing all zoning of this type, which is in order to properly identify which should be done emotional issues have to be detached from any rezoning application.

Mr. Van Matre asked Mr. Amos if photograph #1, as submitted to the Public Record, is a picture of the subject property. Mr. Amos stated that was correct and he noted I-70 east bound is on the left side of the picture.

Mr. Van Matre asked if photograph #2 is a view of the property taken further west than photograph #1. Mr. Amos stated that was correct.

Mr. Van Matre asked if photograph #3 is another view of the subject property taken further west from photograph #2 and what the property is on the right side of the photograph. Mr. Amos stated that was correct and the property is Clark's Trucking.

Mr. Van Matre asked if the west boundary of the subject property is next to commercially zoned property that is operated as a trucking facility. Mr. Amos stated that was correct.

Mr. Van Matre asked if photograph #4 is another photograph of the trucking facility, which also shows the Furniture World sign which is at the same exit. Mr. Amos stated that was correct.

Mr. Van Matre asked what photograph #5 is a picture of. Mr. Amos stated it is a photograph of Sydenstricker and the Missouri Highway shed on the north side of Interstate 70.

Mr. Van Matre asked if photograph #5 is a photograph to the north of the subject property. Mr. Amos stated that was correct.

Mr. Van Matre asked if photograph #6 is a different view from the north side of Interstate 70 from the Route O/I-70 interchange. Mr. Amos stated that was correct.

Mr. Van Matre asked if photograph #7 is a photograph of road with a barely visible driveway just below the crest of the hill. Mr. Amos stated that was correct.

Mr. Van Matre asked if this is the driveway immediately east of the subject property, which leads to the residentially zoned property to the east of the subject property. Mr. Amos stated that was correct.

Mr. Van Matre asked if this road in photograph #7 is State Maintained. Mr. Amos stated that is correct.

Commissioner Stamper asked if this road being referenced is Sontag Road. Mr. Van Matre and Mr. Amos said that is correct.

Mr. Van Matre asked if Sontag Road becomes a gravel road. Mr. Amos stated it does approximately one-half mile to the east.

Mr. Van Matre asked Mr. Amos how long he has been in the real estate business. Mr. Amos stated approximately three years.

Mr. Van Matre asked Mr. Amos if he thought he had any ability to sell this subject

property to someone for residential purposes. Mr. Amos stated he does not believe he will be able to because of the close proximity to the interstate. The only view from the property is Sydenstricker and the interstate.

Mr. Van Matre stated there is no buyer for this property and his client, Mr. Donald L. Robb, at this time. This subject property is almost completely surrounded by commercially zoned property.

Mr. Van Matre stated even though there is no buyer for this property at this time, Mr. Robb has received inquiries about whether the property will be for sale as a commercial property. None of these inquiries want to go through the time of meeting the County's requirements for a Review Plan for this not knowing if the Commission will recognize this property should be zoned commercial at some point assuming that the various matters that are of concern to Mr. Shawver or anyone of how this property will be developed or addressed. They recognize this is a preliminary zoning indication and will be subject to more stringent review in terms of sewer, lighting restrictions, drainage characteristics, and other items.

This type of tentative zoning, without a Review Plan or being able to answer questions, those questions cannot be answered until there is an identified purchaser and the proper zoning is given for this property.

Mr. Van Matre stated he does not believe there was anything wrong with Mr. Shawver's recitation of the matters regarding this request except the fact that there is other commercially zoned property in the area that has not been sold and this is speculative in nature. He does not believe the community has the luxury of assuming that land like this, which is not usable for anything except commercial purposes, to lie foul because it should not be treated as its proper use, which is only commercial. He does not believe there is anyone who would want to build a house with the increased traffic, noise, and smells from I-70, immediately adjacent to all the other commercially zoned properties in this area.

Therefore, by condemning this property to its current use, the Commission is condemning the land to inactivity. To Mr. Van Matre, this is a luxury that everyone in this County thought they had, that property could in effect be kept from being used. He does not believe this luxury is available any longer; property has to be allowed to be used at its highest, best and most reasonable use.

Mr. Van Matre believes the applicant will have someone come forward with a specific use of this property. When this day comes, the applicant anticipates the Commission will fully impose on the purchaser, in the context of reviewing their Review Plan, limitations on hours of use, lighting, traffic, and other improvements to make the property safe but the Commission will never the less consider, reasonably, a reasonable use for this property. As he reads the ordinances, when a specific plan and use for this property is brought forward and be within the jurisdiction of the Commission to deny a use which the

Commission and the neighbors consider to be improper or unwise.

The applicant is not saying the Commission is shutting the door forever on people who have legitimate concerns about what will be on the property because the applicant knows this is the beginning of a long process that will be specified and governed for use in the future. At the time, the applicant wants the Commission to understand that, at this time, the only legitimate use of this property is commercial and they are requesting this property be tentatively zoned that way, subject to the applicant coming forward in the future with a comprehensive Review Plan that will answer all the questions that have come forward in the process.

Mr. Van Matre does not believe it is right to have ordinances that allow for a rezoning without a Review Plan while at the same time saying all that do cannot have their request approved by just the rezoning request alone because there has to be a Review Plan. If this is to be the rule and everyone has to have a Review Plan then that specific phrase in the zoning ordinance in 6A should be stricken. If this language is stricken, then the Commission has to understand that they are correspondingly increasing the value of all property that is anticipated to be zoned commercial because that is a substantial cost to prepare Review Plans. By saying property cannot be rezoned unless there is a Review Plan is saying the property cannot be used until there is identified special user. This is granting, to those who have opened zoned property, a considerable economic advantage over those who must apply for the planned zoning. He does not believe this is fair either.

Mr. Van Matre stated he believes the best thing for the Commission to do is to grant the tentative rezoning and request the applicant to come back forward with a specific user and plan for the Commission's approval at that time.

Commissioner Stamper asked how long Mr. Robb has owned the property. Mr. Amos stated six to nine months.

Commissioner Stamper asked if this subject property is a remnant that was bought off another tract. Mr. Amos stated he believes it was originally a part of where Clark Trucking is located currently. Mr. Amos noted this property was a nursery at one time.

There was no further discussion on this issue.

Commissioner Stamper opened the floor for a public hearing on this issue.

Tom Hammond, 9920 W. Sontag Road, Rocheport, submitted nine photographs to the Public Record in opposition to this request.

Mr. Hammond stated there have been mistakes made by the Commission. Commissioner Stamper noted the Commission has not done anything yet on this request so no mistakes have been made.

Mr. Hammond stated the item he wants to comment on was made during the staff report. The road has been referred to as a paved road and it is not a paved road. This road is a chip road. When the road is chipped, it becomes very slippery.

He noted this property was on the market six months ago for \$40,000.00. Mr. Hammond stated since this property has been sold to Mr. Robb, the property, via a telephone call today, the asking price for the property is now \$150,000.00.

There is only a 2" water line serving this area. When Mr. Hammond developed his property, he had to install his own water line for the 50 acres he developed. There is no sewer on the subject property. Mr. Hammond owns 5 acres, directly across from Sydenstricker, which is zoned commercial, in which he had to put in a two-tier lagoon as required by the Department of Natural Resources. There is no room on the subject property to put in a two-tier lagoon. If a septic system with a leach field is allowed, this would leach into Mr. Brown's property.

Mr. Hammond stated in photograph #1 of the photographs he submitted, this is a dangerous hill and skid marks are visible at the location where the children get on to the school bus. Any increase in traffic for a commercial property would not be advisable.

During the Planning and Zoning meeting, someone stated the subject property had good exposure to the highway both east and west. By photographs submitted, there is no exposure to the Highway. For the property to have a sign, the sign would have to be at least 100' tall for anyone to see from the highway.

Mr. Hammond stated when he came to the Commission a few years ago to request a subdivision be developed in Roberts Ridge, he was informed by the Commission at that time that the commercial end was Clark's Trucking and the commercial zoning would not go any further.

Commissioner Miller asked Mr. Hammond when this took place. Mr. Hammond stated it was approximately four years ago. Mr. Shawver stated this was done by surveys.

Commissioner Miller stated this never came forward to the Commission. Mr. Hammond stated he came to a Commission, unsure if it was this Commission or not.

Mr. Hammond stated in previous testimony, someone stated there is no one who would want their house to face the highway. There are numerous houses on Sontag Road that do face the highway.

Mr. Hammond stated he has been instructed by the Roberts Ridge Homeowners Association that if for any reason this Commission does approve this request for rezoning, the Homeowners Association will seek legal action. The reason for this legal action is

because of the fact the homes in the subdivision are a minimum of \$200,000 and they do not want their property values devalued by commercial property.

Mr. Hammond noted the owner's of Clark's Trucking use a home for their office. Whatever is done with this subject property will effect the Clark's, Mr. Brown's property, and whole subdivision. There will also be a major safety concern because of the increase in traffic which will make this area unsafe for the children.

Commissioner Stamper asked Mr. Hammond to show the Commission where the subdivision is because in the plat book he only sees the King Tract and some 10 acre tracts. Mr. Hammond stated he bought all but 22 acres of the King Tract.

Frank Bonuchi, 9890 W. Sontag Road, Rocheport, stated he understands there is no Review Plan but the application states the applicant must list a proposed use of the property. It does not require a Review Plan but the applicant must state what will be done with the property. The approximate size and location of any buildings that could be built and the wastewater system must be listed on the application is the reason and justification for a request being submitted. Failure to provide any of the required material resulting in the invalidation of the application. It is clear that several of these items have not been supplied by the applicant.

Mr. Bonuchi noted an application for a change in the zoning district map shall have the responsibility to demonstrate to the Planning Commission and the County Commission by competent substantial evidence that the proposed change in the zoning district map is justified. There has been no justification given by the applicant to rezone this piece of property. The only justification that Mr. Bonuchi can see is a \$110,000 profit in the last six months. It is evident that the applicant does not intend to develop the property himself; he will simply sell the property and reap the profit at the cost of the surrounding land owners.

He believes the property was originally owned by Dorothy Davis and was originally a portion of the property that Clark's Trucking is currently on.

Mr. Bonuchi stated he believes the County rezoned all four corners of that intersection in 1972. At that point, this 5.6 acre tract was excluded from the rezoning, even though it was owned by the same individual.

There is plenty of available commercial property in this area. He does not see any justification for making this piece of property commercial.

Safety is an issue. Mr. Hammond submitted photographs of the hillcrest where the children get on the school bus at the driveway. From the hillcrest to the driveway is approximately 400'. This is too close for a vehicle that is traveling 55-60 mph. This is not a city street where the speed limit is 15-20 mph. People drive a good speed on this

road. And children will be children and they will not stay where they are supposed to at all times.

The 2" waterline will not support any fire hydrants. Mr. and Mrs. Brown's new home is very close to this piece of property. He would assume this property in question would have to have some type of fire protection.

There is no current sewage system on the property and has not heard of any plans as to any sewage system being on this property or the type of system.

Mr. Bonuchi stated when he spoke with the realtor regarding the current asking price for the property; the realtor was very quick to note that they are currently in the process of having this rezoned to commercial. This has made it more evident that this is the only justification that Mr. Bonuchi can see that Mr. Robb is attempting to do.

The current entrance to the Roberts Ridge subdivision is 400' or less from this property line and there is no other entrance to the subdivision.

Mr. Bonuchi asked the Commission before any rezoning is approved that the surrounding landowners at least have the right to know what will be put on this property. He believes this is purely an attempt at a substantial profit in a short period of time and it will not help the surrounding area.

Commissioner Stamper asked if all the homes are on a 2" waterline. Mr. Bonuchi stated no.

Commissioner Stamper asked if they were on private wells. Mr. Bonuchi stated no, he believes an 8" waterline was installed from the road to each tract.

Commissioner Stamper asked if there was another waterline except the 2" line. Mr. Shawver stated this area is served by a 2" waterline.

Mr. Bonuchi stated the 8" waterline is served by a 2" waterline. He noted there was an intention of having fire hydrants in the area.

David Dwyer, 1101 N. Dometorch, Rocheport, stated his property is approximately one-half mile east of the subject property. Sontag Road is a gravel road. There is an absence of an adequate waterline and sewer.

Mr. Dwyer commended the Planning and Zoning staff for their hard work over the past 20 years. There is property at this intersection already available for this type of growth rather than the speculation brought forward by this request. If the Commission chooses to ignore the fine work that Mr. Shawver and his staff have done and the Planning and Zoning Commission's recommendation of denial of this request would be the first step down a

slippery slope. All the good work that has been done in past 25 years in this County would be thrown away if the Commission approves this request.

Jeff Brown, 9840 W. Sontag Road, Rocheport, stated he agrees with the previous testimony of his neighbors. This is an emotional issue for him because his property is adjoining the subject property. When he bought his property, he checked the zoning for the surrounding properties and he would hate to see his home devalued because of a commercial property. He noted there are numerous houses between here and St. Louis that face I-70. A commercial property would bring in more traffic to an area which is a private area.

He noted the location of Clark Trucking and there are no trucks that drive through Sontag Road, the trucks use Route O.

Holly Mackley, 3800 Saddlebrook Place #308, Columbia, stated she lived in the area of the subject property for 25 years; her father originally surveyed this land and subdivided the land. When her father passed away, the land was sold to Mr. Hammond. They still own 22 acres just east of the driveway. She lived in a house that faced I-70 for years and there really is not a view of the highway from the land. She is concerned about the people that do live in the area.

Debra Hammond, 9920 W. Sontag Road, Rocheport, submitted a letter from Kathryn Turner, 9880 W. Sontag Road, Rocheport, in opposition to this request to rezone.

Mrs. Hammond noted Mr. Robb does not live in this area and wanted to know if Mr. Robb would want to have commercially zoned property next to his home. If this rezoning request is approved, who is not to say that there will not be an increase in crime in the area.

Margo Bubb, 9862 W. Sontag Road, Rocheport, stated she is concerned with the security and safety of the area and property values. There are very few people that know there is a residential neighborhood in this area. She believes if this is opened for a commercial property, the parking lot would have to be small because of the lot size and the business would have to be one where there was a lot of traffic that moved in and out quickly.

Dorothy Weir, 801 Dometrorch, Rocheport, stated she has lived in this area for almost 25 years. She noted last summer when there was construction on I-70, the big trucks were detouring through and tearing up the road. It did not take the Highway Department long to notice that the trucks were tearing up the road and posted a sign for to have a Not Thru Traffic Way. She agrees with the previous testimony.

Mrs. Weir also noted the green space is needed for this area. She believes it is unfair to think that no one would want to build a home on this property.

There was no one else wishing to speak.

Commissioner Stamper closed the Public Hearing on this issue.

Mr. Van Matre stated the applicant plans to use half of the lot for a building and the other half for a buffer if the Commission approves the rezoning request. This plan would be brought back forward at a later date. The building would be placed as close to the I-70 boundary line as possible. This land is attractive as a commercial property rather than a residential property because it is ground that is seen from the highway. He believes the best use for this property is planned commercial that carefully deals with all the issues brought up this evening in the testimony.

Part of a resolution adopted by the Commission could state that a public notice and meetings with the neighbors be required before a plan is brought back to the Commission. These meetings would be held to address the concerns of the neighbors. This is what the applicant is requesting, to have the ability to attract someone who will work with the neighbors to develop something the neighbors would be comfortable with.

Regarding traffic in the area, anything that would come to the subject property would not impact the subdivision because the traffic will stop at the property which is located before the driveway of the subdivision. Also, if the Commission did approve a planned commercial development, one requirement could be for off-site improvements to improve some of the issues brought forward this evening.

Commissioner Miller asked Mr. Shawver if the applicant could bring in a request for a planned development and Review Plan on the same night and be under the same time frame and if the County's regulations allow for a hearing of a planned commercial and a Review Plan oversight on the same night. Mr. Shawver stated that was correct.

Commissioner Miller stated there is no reason to have to come to the Commission to have the planned commercial approved before there is a Review Plan for time sake. Mr. Shawver stated for time sake, no.

Commissioner Stamper stated if the Commission holds the applicant to the same standards as the neighborhood is calling for, that land would have never developed in that way, particularly with the lack of infrastructure. The reason the homes are there is because they were surveyed off. Mr. Shawver stated that is correct and as seen in an aerial photograph, this is a private easement. Under the current County Regulations, the County would require a public road, 6" waterlines and fire hydrants would have to be installed, and could not be developed in the fashion that it is right now.

Commissioner Stamper asked if this land was targeted and if it is outside the targeted land use on the County's Land Use Plan. Mr. Shawver stated that was correct.

Commissioner Stamper stated it is a tract that is adjacent to it but not included in those formats. Mr. Shawver stated that was correct.

Commissioner Stamper stated in a document handed to him earlier by Mr. Shawver, he asked if these tracts were already zoned or targeted land uses. Mr. Shawver stated the document shows tracts how they are zoned but not necessarily used. There is a sight restrictor and the State Highway Department on the north side, Clark Trucking on the south.

Commissioner Stamper noted there are two corners of this intersection that are not being used. Mr. Shawver stated Furniture World is on the southwest corner but all of the land uses leave a substantial amount of land undeveloped.

Commissioner Stamper asked if some of this is in a flood plain. Mr. Shawver stated there is some flood plain that could be mitigated through flood plain permit and development standards.

Commissioner Stamper stated as the Commission is discussing this item, it feels a little disingenuous to vote for this request one way or the other without telling the neighbors they are in harms way. This will be a commercial tract one day. Whether it is today or in the future, the pressures will be there to place the subdivision beside a commercial development because land that fronts an interstate highway will have that pressure. He does not know when this will happen but this tract is adjacent to commercially zoned land. The Commission sees a lot of requests to rezone property to the zoning of adjacent property, as that property is used, and also because this tract has frontage to the highway. No one knows what I-70 will look like in the future and how that will affect the land that is currently being used. He does not feel comfortable looking the neighbors in the eye and saying this will eventually become commercially zoned land. Whether it is this intersection or another in Boone County, those pressures to rezone will come forward.

He also noted the way the subdivision is configured is in a way the Commission would not choose because of the poor infrastructure.

Commissioner Stamper stated he is uncomfortable in rezoning this property without having a specific plan. In previous testimony, there will be significant limits to this land because of the size of the tract.

Commissioner Miller stated if this request came forward with a plan that could meet the way the land lays and infrastructure requirements, she would not have a problem with approving the rezoning to commercial. She believes this will be zoned commercial in the future. She cannot support a speculation of what might come forward. She wants to know what will be there, how it will lay on the land, how the storm water, sewer, and water is being dealt with. Until she sees this, she is not comfortable voting for the request.

She noted if this came forward with a plan, she could have supported the request.

She agrees with Commissioner Stamper that this is a logical sequence and this property will be zoned commercial in the future.

Commissioner Elkin stated the dilemma with this request is there is no plan. Even if the Commission were to approve this rezoning request, there would have to be a plan. He asked if this plan would have to go through a public hearing. Mr. Shawver stated that was correct.

Commissioner Elkin stated the plan would have to be heard by the Planning and Zoning Commission and then to the County Commission. Mr. Shawver stated public notice would have to be published in the paper, notice to the neighbors and notice for the Planning and Zoning public hearing, a recommendation from the Planning and Zoning Commission to the County Commission and notice for the County Commission public hearing.

Commissioner Elkin stated there would be ample notification for public comment at that stage. At this stage, many of the issues that have been brought forward by staff, the Planning and Zoning Commission, and the neighbors would be addressed. Mr. Shawver stated the Review Plan for a development of this type would try to engage the developer and all interest parties at a concept review. The department would contact MoDOT, DNR, Regional Sewer District, Public Water District, and Boone Electric to discuss all requirements for infrastructure needs. The Fire District and Sheriff's Department would also be involved. The Staff tries to tell the developer up front what is required so when a plan is brought forward to the Commission with information on how problems will be solved. It is at the Commission's best interest to have all the information up front.

Commissioner Elkin stated if this was approved and the applicant did present a plan, then at that time, the issues could be addressed such as lighting, signage, landscaping buffers, and the traffic study.

Commissioner Elkin stated there are some situations where the applicant presents the Review Plan along with the rezoning request. This applicant has chosen the option of separating this out by bringing forward the rezoning request then someday bringing forward the Review Plan. He agrees this land will be zoned commercially, whether it is this evening or sometime in the future but his issue will be addressed again.

Commissioner Stamper asked Mr. Shawver if this request fails this evening what is the process the applicant will have to go through. Mr. Shawver stated the regulations say the development cannot be substantially similar and the application cannot be brought back for a period of one year. In the past, there have been requests for rezoning without a plan and the request has been denied, the applicant will bring forward with a plan, the staff sees this as a substantial difference. A plan has been made and there is something for the

developer to work with. There is an advantage to this because all issues are still fresh in everyone's minds.

Commissioner Stamper stated the Commission is about to take this issue up in a final way. He does not often do this but he is giving Mr. Van Matre the right to withdraw this appeal before the Commission begins debate and closure by the Commission. This would give Mr. Van Matre the option of refilling the application with a plan or can follow the course if it does not pass as outlined by Mr. Shawver.

Mr. Van Matre stated he would like to withdraw this appeal. The reason he is doing this is because he wanted to have the hearing to allow the neighbors and the applicant could go through this process to learn more about the situation. There is no buyer for the property. He agrees with the Commissioners that this property will be zoned commercially at some point in time.

Mr. Van Matre formally withdrew the appeal for this request.

There was no objection to this request by the Commission.

There was no further discussion on this issue.

Commissioner Stamper recessed the meeting at 8:40 p.m.

The meeting was called back to order at 8:49 p.m.

**G. Approve the request by Martha L. Straub Trust to rezone from A-1 (Agriculture) to R-S/PRD (Single Family Residential/Planned Residential Development) and to Approve a *Review Plan* for Martha's Grove Planned Development, on 20.0 acres, more or less, located at 5201 E. Bonne Femme Church Road, Columbia**

Mr. Shawver stated this property is located one mile south of the general Columbia municipal limits to the north. The site is situated on the north side of Bonne Femme Church Road approximately 3000 feet southwest of the intersection of Highway 63 South and Bonne Femme Church Road. The site is immediately west of Bonne Femme Mobile Home Park. The site of the proposal comprises 20-acres of a 64.85-acre parent parcel. The property of the request is currently zoned A-1 (agriculture). The remainder of the parent parcel is also zoned A-1. Property to the south, west, and north of the requested site is zoned A-1. Property to the east is zoned A-1 with a small pocket of R-M (moderate density residential) upon which the existing MHP is located which was rezoned from A-1 in 1983. The other zonings are all the original 1973 zonings. Under the existing A-1 zoning the Maximum Theoretical Density for the property is 2 units. Under the proposed R-S/PRD rezoning the Maximum Theoretical Density for the property is 124 units. The specific review plan and preliminary plat submitted proposes only 20 buildings comprising a total of 40 units. Since the specific proposal includes 40 units, that is the

maximum that would be allowed and is somewhat under 1/3 the density that could be requested in an R-S/PRD for this property. The proposed structures are single family attached units which externally resemble a duplex but have to be built to a higher standard under the building code. The development is proposing a private drive for internal circulation which would be treated similarly to an apartment complex parking lot. The vehicular circulation as proposed can not be made into public roads. There is some 100-year Floodplain on the property near the proposed entry drive and the property is in the watershed of environmentally sensitive streams. The design for the development is proposing storm water detention and several best management practices for stormwater and erosion control. The site is currently vacant and wooded. Sole primary access to the site is from Bonne Femme Church Road. The most direct route to the main traffic network is to go to Highway 63; however, there is a low water crossing in this path. Additionally, the portion of the road proximate to the development proposal and continuing on to the west is an unimproved gravel road. Some road improvements will be required for this development, if approved. Two additional emergency-only improved grass lanes have been provided for emergency vehicle access. A centralized sewer collector system is proposed for this development. The Boone County Regional Sewer District is somewhat receptive to accepting a central system for this development; however, the specific type of system acceptable to the BCRSD has yet to be worked out. There is still concern that even treated wastewater from 40 units will have impact on the streams and water quality. However, the developer is working with the BCRSD, Department of Natural Resources, Rock Bridge State Park, and the County to find an acceptable means to deal with the wastewater. Water service and fire hydrants will be required for this development. Consolidated Water District #1 has indicated they are not sure that there is sufficient existing water service for the development and that waterline upgrades will likely be required and will be at the developer's expense. Staff does concur with the concept that a rezoning to increase the potential density and use of the property would have to be planned due to the sensitive nature of the site and area and believes that with conditions the development can be made compatible with the surrounding area. In any rezoning request it is incumbent upon the applicant to show that the requested zoning is more appropriate than the existing zoning. Additionally, the Master Plan calls for the use of a "Sufficiency of Resources Test" when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: As mentioned previously, the existing water system is most likely inadequate at this time and will require upgrades to be sufficient. The central sewer operated by BCRSD is preferable in general to on-site systems and with conditions can mitigate the impact of the volume and scale of the system on the area. Boone Electric has power to the site. A centralized propane gas system including 2 large tanks is proposed by the developer. A copy of this proposal is submitted to the Public Record.

Transportation: The low water crossing on the road leading to the development can be addressed with off-site improvements.

Public Safety Services: The property is in the Boone County Fire Protection District. There is no district fire station located within 5 road miles of this site. Required waterline improvements will bring fire flow to the area and the emergency access drives provide secondary access for emergency services.

The development will be within the Columbia Public School District. The *master plan* designates this area as being suitable for residential land uses. Both the existing and proposed zonings are consistent with the *master plan*. This site has **56** points on the point rating system. While staff does not believe that the rezoning of A-1 to higher densities is generally appropriate especially in sensitive areas the R-S/PRD is appropriate because of the specific design and conditions. Staff notified 19 property owners about this request.

Staff recommends approval of the Rezoning Request, Review Plan, and Preliminary Plat with the Review Plan & Preliminary Plat subject to the following 7 conditions:

1. That the development not be gated. The private drive/vehicular circulation system within the development is not allowed to have access limiting equipment or fixtures installed. This provision must be added as a note to the review plan and preliminary plat.
2. That it is recognized that the private drive/vehicular circulation system within the development can not become public roads and will not be accepted by the county for maintenance.
3. That waterline upgrades and hydrants be installed, along with all needed easements required and that these improvements be acceptable to the Consolidated Water District #1, Director of Planning, and Boone County Fire District.
4. That the road improvements required by the development be worked out with Boone County Public Works and be acceptable to both the Public Works and Planning Directors.
5. That the specifics of the wastewater system and the steps taken to mitigate the potential impact of the effluent be acceptable to the BCRSD, the Director of Planning, and DNR. It should be recognized that the Director of Planning will take into account the concerns of Rock Bridge State Park when determining acceptability. The acceptable solution may require more than the minimum DNR would require to simply permit the wastewater system. This is an essential issue and if an acceptable solution is not worked out or followed then the development approval is essentially voided.
6. That the two proposed locations for the wastewater system can be amended on a permanent final review plan without the need to resubmit the proposal provided the Director of Planning agrees to the clarifications and all notes and comments from the planning department are followed on the revision and are acceptable to the Director of Planning.

7. That the location, spacing from structures, and other considerations with regards to the centralized propane tanks and suitability of the emergency access drives be acceptable to the Boone County Fire District and the Director of Planning. The locations of the central tanks and applicable notes and notations can be amended on a permanent final review plan without the need to resubmit the proposal provided Fire Marshall and the Director of Planning agree to the clarifications and all notes and comments from the planning department are followed on the revision and are acceptable to the Director of Planning.

Mr. Shawver stated the Planning and Zoning Commission held a public hearing on this issue and made a motion to recommend approval with the staff conditions. This motion was approved unanimously.

Jay Gebhardt, Civil Engineer with A Civil Group, 711 W. Ash, Columbia, Gary Straub, 4604 Bonne Femme Church Road, Columbia, and James Straub, 1318 Ridge Road, Columbia, were present on behalf of this item.

Mr. Gebhardt stated this property is under a trust and the Straub brothers are the trustees. They would like to develop this property but would like to set an example of how this area should be developed. Both brothers own land in this area.

Mr. Gebhardt reviewed a map of the area showing Prairie Meadows, Boone County Public Works, and other landmarks in the area and the different zonings in the area. Another map was reviewed but in a closer area than the previous map. This map shows an overview of the property.

He noted in Mr. Shawver's report regarding the water lines. The evening of the Planning and Zoning Commission meeting, a letter was received from the Water District stating the water lines are adequate in the area.

Mr. Gebhardt reviewed the detailed plan of this proposed development. This development was first brought forward to the Planning and Zoning Commission in September but they withdrew their plans to revise the plans. These revised plans were brought back to the Planning and Zoning Commission in November.

The private drive is a concern to the Commissioners but there are reasons for this private drive. In the original plan, there was a 24' wide driveway. In discussions with Jan Weaver, Friends of Rock Bridge State Park Representative, wanted the impervious area to be reduced to 15%. One way to decrease the impervious area was to increase the proposed tract for development from 16.5 to 20 acres. This did not reach the 15% impervious area. In doing research, Mr. Gebhardt discovered the minimum fire lane is 20' wide. The private drive was reduced from 24' to 20' and now the impervious area is at 17%. This is about as close to the 15% as they can be without beginning to impede on the traffic flow of the development.

The wastewater treatment plant is still pending for location on the property. They are working with the BCRSD on this issue. The sewer and water quality and detention issues are high priority discussion items. They have taken many steps by adding detention and water quality control structures by using the existing pond, reducing impervious areas and other items that the Straub Brothers wanted to do to try to set an example for the development of this drainage basin.

There are two options for the sewer and this will be decided by the BCRSD and The Friends of Rock Bridge State Park.

Mr. Gebhardt noted one item that will be used to decrease the impervious surface was to use reinforced turf emergency access to the church parking lot, which is located close to the proposed development, with the church's permission. One access will be gravel during the development of the area then will be changed to reinforced turf access. This will connect with an existing drive to have an access to the outer road.

The propane system is new and different. Mr. Gebhardt noted the location of the propane tanks. He stated there was some concern about the proximity of the tank to the homes but the Gygr-Gas Representative informed him that the minimum distance from homes is 60' by federal regulations and on a personal tank, there are no minimums. If the location of the propane system is desired to be moved further away from the houses, the developer can do this. With this system, there would be less gas stored on-site.

Commissioner Stamper asked if this would be metered at the homes. Mr. Gebhardt stated that was correct. This is similar to a natural gas system.

Commissioner Miller stated her biggest concern is the private drive. The County fights with developers about putting private drives in this area because in the future someone in the neighborhood will want maintenance. People in the neighborhood will not understand why they are paying tax and have to take care of the drive too. She asked if the property would be owned by the Straub Brothers. Gary Straub stated initially yes. This is in a trust that he and his brother do not have control over. The initial plan is for the Straub Brothers to own and maintain the property.

Commissioner Stamper noted the Commission may have to move away from their traditional standards of not allowing private drives in order to be able to accommodate growth like this. Commissioner Miller stated she believes the standards should be changed so this can be accepted.

Mr. Straub stated the initial plan had 28' wide roads but he was told that this could not be done and the roads were reduced to 24' wide. He understands the reason for this is because of the storm water runoff.

Commissioner Elkin asked if the existing pond would be used as a storm water holding cell for some of the subdivision. Mr. Gebhardt stated that was correct and currently the pond is silted in. They plan to clean out the pond and make it a permanent body of water used as a detention pond to reduce the peak discharge from the site and a water quality structure. Most of the site drains to the pond naturally while the remainder drains to a pond to the north of this property.

Mr. Gebhardt stated the private road is being proposed because of impervious area and also because of curb and gutter. This road will not have curb and gutter. They do not want to have concentrated sheet flows from the site. He understands the concerns with the private drive but wants the Commission to understand that the Straub Brothers plan on owning this land for several years. They are proposing to be able to subdivide these units.

Commissioner Miller asked if it is because of the zoning that they are proposing zero lot line houses instead of duplexes. Mr. Gebhardt stated this is another impervious surface area issue. With two single family homes, there is more impervious area than placing two families under one roof. The proposed single family attached home has a different building code than a duplex. He believes there will be a market for homes like this in the future.

Commissioner Miller asked if there was anyway in the County's regulations to require a road to be maintained at a certain level. She is concerned with the years after the Straub bothers have sold the property and the road begins to fall apart. Mr. Shawver stated since this is a Planned Residential Development (PRD) then the Commission can add suitable language to address this concern.

John Patton, County Counsel, stated he does not believe this can be done.

Mr. Gebhardt stated there is a lot of maintenance that will need to be done for the common area and the road. Eventually, the Straub Bothers will have covenants to have monthly fees for mowing and snow plowing. There should be funds set aside for the maintenance of the property.

Commissioner Stamper stated the Commission has had bad experiences with issues like this.

Mr. Straub stated their intention is to have a property owners association.

Commissioner Miller stated she appreciates what the Straub's are doing for this environment but historically there is a concern about private drives.

Commission Stamper opened the floor for a public hearing on this issue.

There was no one wishing to speak.

Commissioner Stamper closed the public hearing.

Commissioner Stamper thanked Mr. Gebhardt for the proposals he has brought forward that are alternative forms of development. He appreciates Mr. Gebhardt's courage in doing development plans like this in environmentally sensitive areas.

Commissioner Miller noted the Smart Growth Coalition is taking applications on Smart Developments. There was discussion about this at the last meeting and they decided on how this process will be done. People are recognizing the value of these developments. There is a fear of landowners and developers of whether a plan and development will sell. She believes Cherry Hill and a development in Ashland are doing very well. The Commission has a job to do in educating the public on alternate ways of developing the land to work with the environment. There can be successful neighborhoods that do not have cul-de-sacs and all two acre lots. She appreciates the work Mr. Gebhardt has done.

Commissioner Elkin stated he is familiar with this plan through the BCRSD and their work on trying to find an acceptable system. He believes this has forced many to look at the sewer systems in this area of the County. There are many different discharge points that are draining to the Devil's Ice Box currently and this plan may present the opportunity to eliminate some of the discharge points, improve the water quality, and protect one of the greatest assets in the State. He believes this is a quality plan.

Commissioner Miller moved to approve the request by Martha L. Straub Trust to rezone from A-1 (Agriculture) to R-S/PRD (Single Family Residential/Planned Residential Development) of 20.0 acres, more or less, located at 5201 E. Bonne Femme Church Road, Columbia.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 510-2002**

Commissioner Miller moved to approve the request by Martha L. Straub Trust for a *Review Plan* for Martha's Grove Planned Development of 20.0 acres, more or less, located at 5201 E. Bonne Femme Church Road, Columbia, with the following conditions:

- That the development not be gated. The private drive/vehicular circulation system within the development is not allowed to have access limiting equipment or fixtures installed. This provision must be added as a note to the review plan and preliminary plat.
- That it is recognized that the private drive/vehicular circulation system within the development can not become public roads and will not be accepted by the county

for maintenance.

- That waterline upgrades and hydrants be installed, along with all needed easements required and that these improvements be acceptable to the Consolidated Water District #1, Director of Planning, and Boone County Fire District.
- That the road improvements required by the development be worked out with Boone County Public Works and be acceptable to both the Public Works and Planning Directors.
- That the specifics of the wastewater system and the steps taken to mitigate the potential impact of the effluent be acceptable to the BCRSD, the Director of Planning, and DNR. It should be recognized that the Director of Planning will take into account the concerns of Rock Bridge State Park when determining acceptability. The acceptable solution may require more than the minimum DNR would require to simply permit the wastewater system. This is an essential issue and if an acceptable solution is not worked out or followed then the development approval is essentially voided.
- That the two proposed locations for the wastewater system can be amended on a permanent final review plan without the need to resubmit the proposal provided the Director of Planning agrees to the clarifications and all notes and comments from the planning department are followed on the revision and are acceptable to the Director of Planning.
- That the location, spacing from structures, and other considerations with regards to the centralized propane tanks and suitability of the emergency access drives be acceptable to the Boone County Fire District and the Director of Planning. The locations of the central tanks and applicable notes and notations can be amended on a permanent final review plan without the need to resubmit the proposal provided Fire Marshall and the Director of Planning agree to the clarifications and all notes and comments from the planning department are followed on the revision and are acceptable to the Director of Planning.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 511-2002**

**H. Approve the request by Nicholas Peckham to rezone from R-S (Single Family Residential) to R-S/PRD (Single Family Residential/Planned Residential Development) and to Approve a *Review Plan* for Old Plank Village Planned Development, on 15.0 acres, more or less, located at 1851 W. Route K, Columbia**

Mr. Shawver stated this site is situated on the north side of State Highway K across from both the intersection of Coneflower Avenue and State Route K and the intersection of NewTown Avenue and State Route K. The property is also immediately south of a portion of Gateway South Subdivision and immediately adjacent to the Columbia city limits to the

west.

The 15-acres comprising this request are zoned R-S (residential single-family). Property to the south, excluding the NewTown development, the southwest, and west of the proposal is zoned A-2 (agriculture). Property on the north side of Route K to the north and east is zoned R-S. These are all original 1973 zonings. The NewTown development is composed of a central section zoned R-S/PRD (Residential Single Family/Planned Residential Development) flanked on the east and west by C-GP (planned commercial) zoning with a condition limiting uses of the commercial areas to the C-N (neighborhood commercial) uses. All the NewTown zonings were rezoned from A-2 in 1998. In August 2002, a proposal to rezone the property to Two-Family Residential (R-D) was denied by the Planning and Zoning Commission.

A single-family dwelling, garage, and an outbuilding occupy the property. There is both 100-year Floodplain and Floodway present on the property. The site slopes downward from north to south towards Route K.

Under the existing R-S zoning the Maximum Theoretical Density of the property is approximately 93 dwelling units. The current request is for approval a review plan and preliminary plat, which includes 31 lots. Granting this request will not change the maximum density but will allow the construction of duplexes, which would otherwise require a conditional use permit. Duplexes are proposed on 30 of the lots. The existing home will occupy the remaining lot; the developer intends to reserve the right to convert that lot to duplex use in the future. Therefore, this proposal seeks to utilize up to 62 of the maximum 93 units of density available to the property.

Boone County Regional Sewer District will provide sewer treatment for this property at a district facility south of Cedarbrook Subdivision. The sewer access will be by connection to the collection system within NewTown. There is available capacity in the Cedarbrook system for this development.

Consolidated Public Water District No. 1 provides water service in this area. There is an eight-inch and a four-inch water main available at the property.

The *Master Plan* designates this area as being suitable for residential land uses. Both the existing and proposed zonings are consistent with the *Master Plan*.

This site has **70** points on the point rating system. Staff notified 156 property owners about this request.

Staff recommends approval of the preliminary plat and review plan subject to the following conditions:

1. The following items from the project narrative shall be incorporated into the plan; the

review plan shall be modified to include them as notes:

- The project shall be designed so as to incorporate disconnected impervious surfaces to the maximum extent practicable.
  - Impervious area within the development shall be kept to less than 30%
2. Prior to any grading or clearing, the developer must provide proof to the County that a land disturbance permit has been issued for the site by the Missouri Department of Natural Resources.
  3. Prior to construction of a duplex on Lot 22 or conversion of the home on Lot 22 to a duplex or two-family dwelling the developer must demonstrate that an additional unit of sewer service has been purchased from the Boone County Regional Sewer District.
  4. The developer shall work with Missouri Department of Transportation to ensure that sight distance standards are met.
  5. The developer shall provide the Missouri Department of Transportation with hydraulic calculations with respect to the proposed detention facility.
  6. Due to the concerns of Consolidated Water District Number 1, the landscape berms adjacent to Route K shall be deleted from the plan or relocated so as to be outside of the 30-foot utility easement.

Mr. Shawver stated the Planning and Zoning Commission held a public hearing on this issue at the November meeting. The Planning and Zoning Commission moved to recommend approval of the rezoning request and Review Plan with the staff recommended conditions and this voted received unanimous support.

Tom Schneider, 11 N. Seventh Street, Columbia, Jay Gebhardt, Civil Engineer with A Civil Group, 711 W. Ash, Columbia, and Steve Reichland, contract purchaser of the project, were present on behalf of this item.

Tom Schneider stated letters were sent to the neighbors and a held a public hearing on this project. He believes the concerns of all parties were satisfied regarding how the project will be developed. There was no opposition at the Planning and Zoning public hearing and he believes this is because this has been brought back forward as planned instead of an opening zoning and there is less density to the development. The Contract Purchaser satisfied all parties that he has a track record of doing nice developments.

Mr. Schneider stated having Mr. Reichland and or one other individual will own all the duplexes is an advantage to the community because this will guarantee there will be an effort to maintain the quality of the development.

He believes the infrastructure is well planned and that Mr. Gebhardt reassured those at the public hearing that storm water concerns had been addressed.

Commissioner Miller asked Mr. Gebhardt what he has done to this project to address the storm water issues. Mr. Gebhardt stated seven acres of the fifteen acres have been left undisturbed. A detention pond has also been introduced.

Mr. Gebhardt stated one condition is to remove the berms. The only reason he added the berms to the plan is to be used for a natural fence.

Commissioner Miller asked what would be done instead of the berms. Mr. Gebhardt stated they would like to have the option of putting up a fence.

Commissioner Miller asked if trees could be used for a fence. Commissioner Elkin stated it is the Water District that does not want to have trees.

Commissioner Miller asked why there is a 30' easement for the waterlines. Mr. Shawver stated this is what the Water District is asking for.

Commissioner Miller stated she believes this is an unreasonable request.

Mr. Shawver stated this is only noted on the Review Plan because no easements are being dedicated. On the final plat, the department will take the Water District's request into consideration. The County's Regulations only require 10' easement and the department usually compromises with the Water District for a 20' easement.

Commissioner Miller stated she would like to see the trees stay and will not have this condition as part of her motion.

Commissioner Stamper opened the floor for a public hearing on this issue.

There was no one wishing to speak.

Commissioner Stamper closed the public hearing.

Commissioner Miller moved to approve the request by Nicholas Peckham to rezone form R-S (Single Family Residential) to R-S/PRD (Single Family Residential/Planned Residential Development) of 15.0 acres, more or less, located at 1851 W. Route K, Columbia.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 512-2002**

Commissioner Miller moved to approve the request by Nicholas Peckham for a *Review Plan* for Old Plank Village Planned Development of 15.0 acres, more or less, located at 1851 W. Route K, Columbia, with the following conditions:

- The following items from the project narrative shall be incorporated into the plan; the review plan shall be modified to include them as notes:
  - The project shall be designed so as to incorporate disconnected impervious surfaces to the maximum extent practicable.
  - Impervious area within the development shall be kept to less than 30%
- Prior to any grading or clearing, the developer must provide proof to the County that a land disturbance permit has been issued for the site by the Missouri Department of Natural Resources.
- Prior to construction of a duplex on Lot 22 or conversion of the home on Lot 22 to a duplex or two-family dwelling the developer must demonstrate that an additional unit of sewer service has been purchased from the Boone County Regional Sewer District.
- The developer shall work with Missouri Department of Transportation to ensure that sight distance standards are met.
- The developer shall provide the Missouri Department of Transportation with hydraulic calculations with respect to the proposed detention facility.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 513-2002**

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

**i. Cherokee Ridge Estates. S33-T46N-R12W. A-2. John and Ethel Reeder, owners.**

Mr. Shawver stated this is a revised plat. This property is located on Route A. Planning and Zoning Commission approved this plat and it is ready to be received and accepted by the County Commission.

Commissioner Miller moved to receive and accept Cherokee Ridge Estates Plat.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 514-2002**

**ii. Wooldridge. S7-T49N-R11W. A-2. Brad and Shelly Wooldridge, owners.**

Mr. Shawver stated this is a two lot subdivision on I-70 Drive NE. This is where a dog boarding kennel was located. Two months ago, the Commission approved a rezoning of the property and changed a condition on the conditional use permit for the property.

Planning and Zoning Commission approved this plat and it is ready to be received and accepted by the County Commission.

Commissioner Elkin moved to receive and accept Wooldridge Plat.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 515-2002**

**iii. Weingartner. S22-T46N-R12W. Daniel Smith, Reba Kraus and Charlotte Weingartner, owners.**

Mr. Shawver stated this property is located on Dee Woods Road. This is the result of the road improvements revealing sewer problems and other problems. Planning and Zoning Commission approved this plat and it is ready to be received and accepted by the County Commission.

Commissioner Miller moved to receive and accept Weingartner Plat.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 516-2002**

**Subject: Purchasing Department – Second Reading and Award of Bid 73-12NOV02 (Coliseum Roof Repairs)**

Commissioner Elkin moved to award bid 73-12NOV02 for Coliseum Roof Repairs to Watkins Roofing, Inc.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 517-2002**

**Subject: Approval of Resolution on Final Disposition for Ice Arena Proposals at the Boone County Fairgrounds**

Commissioner Elkin moved to make and enter into the following resolution:

Be it resolved by the County Commission of Boone County, Missouri, as follows:

- 1) That the County discontinue negotiations with Columbia Sports Ventures on the current proposal for construction and operation of an ice arena at the Boone County Fairgrounds.
  
- 2) That the County consider in its discretion any new proposals for the construction, operation, and maintenance of an ice arena at the Boone County Fairgrounds so long as any such proposal does not involve County financing or subsidy.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 518-2002**

There was no public comment.

The meeting adjourned at 9:38 p.m.

Attest:

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Don Stamper  
Presiding Commissioner

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Wendy S. Noren  
Clerk of the County Commission

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Karen M. Miller  
District I Commissioner

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Skip Elkin  
District II Commissioner