

TERM OF COMMISSION: August Session of the July 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. Request by Construction Investment Company on behalf of Fabick Companies to revise an approved Review Plan for M-LP zoning on 22.3 acres, located at 7841 E ABC Lane, Columbia

Mr. Shawver stated this property is located approximately 2 miles east of the Columbia municipal limits on ABC Lane. The subject tract is zoned M-LP (Planned Light Industrial) as two different previous Final Development Plans have been approved. The property was rezoned from A-2 (agriculture) effective in May of 2001 and a revised plan was approved in 2003. Land to the east, north, and, west of the subject tract is zoned A-2. These are all original 1973 zonings. Property to the south across I-70 is zoned R-S (residential single-family) with a small pocket of C-G (general commercial) zoning. The R-S is an original 1973 zoning with the small C-G property in Sunrise Estates having been rezoned from the original R-S zoning in 1987. The total property encompasses 22.38 acres.

The current approved final plan is for a heavy equipment sales, rental and service business

which is the same use proposed by this revision. This revision simply proposes a different building size and location as well as a reconfiguration of the site plan. The current approved plan did not modify tract B2, however, the current proposal will require the tracts to be combined into a single tract. Since no other uses are listed, approval will limit the use to that proposed and even the previous uses such as an auto auction are prohibited. There is a required perimeter setback along the property line of 25 feet that can not be waived. All structures including signs must be behind this setback.

This property is located within the Boone Electric service area, the Columbia School District, and the Boone County Fire Protection District. Water service is provided by Public Water District No.9. The Master Plan designates this area as being suitable for residential land uses, but since the property has been rezoned to M-LP the only issue remaining is the specific uses and specific design of the current proposal. Access to the site is from ABC Lane which is a state road. Missouri Department of Transportation (MoDOT) has concerns on the proposed new drive locations. This plan has 74 points on the point rating scale. Staff notified 47 property owners about this request.

Staff recommends that the request be approved with the following 2 conditions:

1. The easements that are being created by other documents shall be recorded prior to or concurrently with the plan.
2. That the access connections to ABC Lane be worked out to the satisfaction of MoDOT and County Planning and that the access circulation be modified on the plan to accurately represent what will be both acceptable and built.

The Planning and Zoning Commission conducted a public hearing on this item on August 19, 2004. A motion was made to recommend approval of this request with staff conditions and this motion passed unanimously.

Dave Bennett, Civil Engineer with Engineering Surveys and Services, was present on behalf of Fabick Companies.

Dave Bennett stated they have submitted a plan to the county that addresses the driveway issue. They have come to terms with MoDOT on this issue and will put in one single driveway.

The sewer easement will be recorded by the developer when this review plan is approved.

Commissioner Elkin asked why the easement was not included in the original document. Mr. Bennett stated the proposed easement is shown on the plan but it has not been recorded at this time. It has not been recorded because the developer was waiting on final approval of the review plan before recording the easement. The easement will be recorded at the same time as the review plan.

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 Construction Investment Company on behalf of Fabick Companies to revise an approved Review Plan for M-LP zoning on 22.3 acres, located at 7841 E ABC Lane, Columbia, with the following conditions:

1. The easements that are being created by other documents shall be recorded prior to or concurrently with the plan.
2. That the access connections to ABC Lane be worked out to the satisfaction of MoDOT and County Planning and that the access circulation be modified on the plan to accurately represent what will be both acceptable and built.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 357-2004**

B. Request by Daniel Boone Land Co. on behalf of Knipp Farms LLC for a permit for an Equine Boarding Facility on 305 acres, located at 10600 S. Hardwick Lane, Columbia

Mr. Shawver stated this property is located near the Columbia Regional Airport between Ashland and Columbia. The property is zoned A-1, as is land to the north, east and south. Land to the west is zoned C-GP and A-1. This property is currently being used for agricultural purposes. The applicants propose using the property for an equine facility, and will breed, raise and train horses. The applicants intend to own all of the horses, but the possibility exists that they may train or board horses owned by others.

This site is located within the Ashland R-1 school district and the Southern Boone Fire Protection District. Electric service is provided by the Boone Electric Cooperative. There is no central wastewater collector system available in the area, so an on-site wastewater system will be required. Water service is provided by Consolidated Public Water District No. 1. The master plan designates this area as being suitable for agriculture and rural residential land uses. The proposed use is consistent with the master plan. Staff notified 11 property owners about this request.

The Planning and Zoning Commission conducted a public hearing on this item on August 19, 2004. A motion was made to recommend approval of this and the motion passed unanimously.

Anna Marie Knipp, Jefferson City, stated they are relocating a horse farm from western St. Charles County that is being taken for development. They are in the process of clearing the land and building a barn and house.

Jim Miller, Wentzville, stated he is a horse trainer.

Commissioner Schnarre asked if they were planning to live here. Ms. Knipp stated that is correct.

Commissioner Schnarre stated there was a lot of discussion at the Planning and Zoning meeting about the set back.

Mr. Shawver stated the Commission has been in discussion about Highway 63 South for some time. The Commission has not rationalized a specific set back they would like to see.

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 Miller stated she is excited about this request.

Commissioner Miller moved to approve the request by Daniel Boone Land Co. on behalf of Knipp Farms LLC for a permit for an Equine Boarding Facility on 305 acres, located at 10600 S. Hardwick Lane, Columbia.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 358-2004**

C. Request by Rajiv Shah/Brentwoods Inc. to approve a Final Development Plan for Leatherwood Hills Planned Development on 1.65 acres, located at 1641 W Rte K, Columbia

Mr. Shawver stated this property is located at 1641 W. Route K. The original zoning for this tract is R-S. It was rezoned to C-N and a conditional use permit for fuel sales was issued in 1975. The property is currently occupied by a convenience store with fuel pumps and a canopy. In May, 2004 the County Commission approved a request to rezone the property to ML-P with a Review Plan.

The review plan was approved with one condition as follows:

The developer shall submit a buffering plan for the north and east property lines. The buffer shall provide a solid, all season buffer so as to minimize visual intrusion to and from surrounding residentially zoned property. The final plan cannot be submitted until an adequate buffering plan has been approved by the Planning Department. The south 60-feet of the east property line can be excluded from the buffering requirement.

The Final Development Plan includes landscaping details that constitute a landscape plan that will provide a sufficient buffer. The buffer shall be installed prior to the occupancy of buildings D, E or F.

An additional fire hydrant is required to be installed to meet fire protection requirements for at least buildings E and F. The applicant has proposed to install the new water line and hydrant, as shown on the plan, after construction of Building C but before buildings E and F. Staff is willing to agree to the proposed installation schedule subject to approval by the Boone County Fire Protection District.

The property scored 81 points on the rating system.

Staff recommends approval of the Final Development Plan.

The Planning and Zoning Commission conducted a public hearing on this item on August 19, 2004. A motion was made to recommend approval of this and this motion passed unanimously.

Rajiv Shah, 113 Coventry Court, Columbia, was present on behalf of this request.

Rajiv Shah stated there is a need for storage units in the community.

Commissioner Elkin asked what was decided about the fence on the north side of the property. Mr. Shawver stated the Commission agreed to buffering.

Commissioner Elkin asked if this buffering was to be a fence or vegetative. Mr. Shawver stated this will be a vegetative buffer.

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 Miller moved to approve the request by Rajiv Shah/Brentwood Inc. to approve a Final Development Plan for Leatherwood Hills Planned Development on 1.65 acres located at 1641 W Rte K, Columbia.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 359-2004**

D. Request by Godas Development to rezone from C-GP (Planned Commercial/restricted) to C-GP to allow for uses previously restricted and to approve a revised Review Plan for Lakeview Mall Phase II on 1.4 acres, more or less, located at 5695 E Clark Lane, Columbia

Mr. Shawver stated this property is located just east of the principle Columbia City Limits at the intersection of Clark Lane, St. Charles Rd and Lakewood Dr. The site is zoned R-M (moderate density residential) with a pending C-GP (planned commercial) designation. This is the third review plan proposal for this property and is limited to the 1.14-acre portion of the development. The approved review plan in effect for this property is for a single building limited to the permitted uses of the neighborhood commercial districts excluding conditional uses. The current proposal is the same as the current approved review plan with the addition of a 9 ft by 12 ft drive up coffee shack. The C-GP designation will not go into effect until a Final Development Plan is approved for this portion of the property. Property to the immediate west is zoned C-GP. Property further to the west is zoned R-M as is property to the north. Property to the south is zoned C-G, (general commercial). Property to the east is zoned C-N, (neighborhood commercial). The site is currently vacant.

In 1973, this site was originally zoned C-N. In July 1974, a 0.152-acre parcel was rezoned to R-M. In December 1976 an additional 4.29-acre parcel was rezoned to R-M. Both requests indicated the zoning change was to utilize the land in conjunction with the developing Lakewood Estates Condominium Development. In April 1995, a rezoning request and Review Plan were submitted for a Planned Commercial Development. In approving the request, a number of development and use restrictions were placed on the review plan by the Planning and Zoning Commission and the County Commission.

The proposed Revised Review Plan shows the same uses and structures as the current approved plan with the exception of the addition of a 9'x12' coffee shack drive up establishment. It should be noted at this time that if approved here a separate conditional

use permit must also be obtained since a “drive-in or walk-in, carry-out establishment, including restaurant” is listed as a conditional use in the C-G parent district. It should be noted at this time that the shown and approved drive thru canopy on the primary structure is only allowable if the intended use is allowable under the use restrictions in effect for the property, for example for a bank. It cannot be proposed as a canopy for gas pumps or as a drive thru for a restaurant, however, as these uses are prohibited. The wording of the permitted uses found on the proposed plan lists “restaurants” as a use could be interpreted to apply to the already approved main structure on the plan. Staff has discussed this with the engineer on the project and the intent is supposed to be that the use described should only apply to the 9’ by 12’ coffee shack. This limitation will mitigate traffic impacts that could be caused if the use was allowed to apply to the larger structure.

The plan indicates a single 30’ driveway connection to Lakewood Drive and a traffic connection into Lakeview Mall Phase 1. The plan shows 36 parking spaces that should be adequate; however, final parking requirements cannot be determined until a specific use is proposed.

Sewer service will be from a connection into an existing Boone County Regional Sewer District (BCRSD) facility with ultimate treatment by the City of Columbia. Fire hydrants and commercial fire flows are required for this development. This development is in the Columbia School District and Boone Electric service areas.

There have been erosion control and stormwater complaints and problems associated with this general development so the provided measures to deal with these situations shown on the plan will have to actually mitigate erosion and stormwater impacts from the site. If they are not functioning then they will have to be modified to actually mitigate the impacts or risk voiding the approval of the development for non-compliance. The sign for the entire complex may have to be moved as it does not appear to meet the setback of the approved plan.

The master plan shows this area as being suitable for residential development but also indicates that where commercial development is proposed it should be of a planned nature. The plat has 88 points on the point rating scale. Staff notified 177 property owners were notified concerning this request.

Staff recommends approval of the revised review plan subject to the following 10 conditions:

1. That it be recognized that no building permits can be issued until an acceptable Final Development Plan and any plans required to be approved in conjunction with said Final Plan are approved.
2. Fire hydrants must be in place and operational prior to the issuance of building permits.
3. Uses on the site are limited to the permitted uses included in the neighborhood

- commercial (C-N) classification; excluding all conditional uses and the following permitted uses: veterinary offices, mortuaries, agricultural activities and private clubs with the inclusion of drive-in or walk-in, carry-out establishment, including restaurant only applying to the 9'x12' coffee shack.
4. Final Development Plan shall include an acceptable lighting plan showing type of fixture, location of fixture, direction of fixture; lighting shall be directed inward on the property.
 5. That the note labeled permitted uses 2) be modified to show the limit on the drive-in or walk-in, carry-out establishment, including restaurant only applying to the 9'x12' coffee shack.
 6. That it is recognized that a conditional use permit must also be applied for and approved for the drive-in or walk-in, carry-out establishment, including restaurant only applying to the 9'x12' coffee shack.
 7. Appropriate Elevation views of the building be submitted with the Final Development Plan, including exterior building materials.
 8. That an acceptable detailed layout plan of the area under the drive thru canopy be shown on the Final Development Plan along with the traffic flow and proposed lanes.
 9. That the freestanding sign for the development be brought into compliance with the perimeter setback requirements.
 10. That the erosion and stormwater plan component actually mitigate the impacts or they will have to be modified to measures that will actually be effective or risk voiding approval for the plan.

The Planning and Zoning conducted a public hearing on this item on August 19, 2004. There was discussion about the proposal. There were public comments about traffic concerns. Motions were made to recommend approval of rezoning request, passing with a 7 yes-2 no vote and approval of the revised review plan with staff conditions, passing with a 8 yes-1 no-1 absent vote.

George Godas, 3609 Scottson Way, Columbia, and Dan Brush, Engineer with A Civil Group, were present on behalf of this item.

Dan Brush stated the only item changed on this review plan is the addition of the 9'x12' coffee shack. They have reduced the amount of impervious area and increased the amount of green space.

Commissioner Elkin asked what assurances the Commission has about stormwater issues. Mr. Brush stated erosion control is always changing and hard to predict. They have proposed an erosion control fence on the toe and top.

Commissioner Elkin stated according to condition 10, what if the proposal does not work, will the coffee shack be closed. Mr. Shawver stated that is a possibility. The department can try to work with the property owner to analyze the situation and solve the problem.

Commissioner Elkin stated the County, the City and Mr. Godas will meet on traffic issues in the area. He hopes that during these discussions, some of the water issues can be resolved.

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 Godas Development to rezone from C-GP (Planned Commercial/restricted) to C-GP to allow for uses previously restricted for Lakeview Mall Phase II on 1.4 acres, more or less, located at 5695 E Clark Lane, Columbia.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 360-2004**

Commissioner Elkin moved to approve the request by Godas Development to approve a revised Review Plan for Lakeview Mall Phase II on 1.4 acres, more or less, located at 5695 E Clark Lane, Columbia, with the following conditions:

1. That it be recognized that no building permits can be issued until an acceptable Final Development Plan and any plans required to be approved in conjunction with said Final Plan are approved.
2. Fire hydrants must be in place and operational prior to the issuance of building permits.
3. Uses on the site are limited to the permitted uses included in the neighborhood commercial (C-N) classification; excluding all conditional uses and the following permitted uses: veterinary offices, mortuaries, agricultural activities and private clubs with the inclusion of drive-in or walk-in, carry-out establishment, including restaurant only applying to the 9'x12' coffee shack.
4. Final Development Plan shall include an acceptable lighting plan showing type of fixture, location of fixture, direction of fixture; lighting shall be directed inward on the property.
5. That the note labeled permitted uses 2) be modified to show the limit on the drive-in or walk-in, carry-out establishment, including restaurant only applying to the 9'x12' coffee shack.
6. That it is recognized that a conditional use permit must also be applied for and approved for the drive-in or walk-in, carry-out establishment, including restaurant

- only applying to the 9'x12' coffee shack.
7. Appropriate Elevation views of the building be submitted with the Final Development Plan, including exterior building materials.
 8. That an acceptable detailed layout plan of the area under the drive thru canopy be shown on the Final Development Plan along with the traffic flow and proposed lanes.
 9. That the freestanding sign for the development be brought into compliance with the perimeter setback requirements.
 10. That the erosion and stormwater plan component actually mitigate the impacts or they will have to be modified to measures that will actually be effective or risk voiding approval for the plan.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 361-2004**

E. Petition submitted by Scotty and Jill Akers to vacate and re-plat Lots 7 and 8 of Harpers Pointe Plat 1

Mr. Shawver stated the department received a petition requesting to vacate and re-plat lots 7 and 8 of Harpers Pointe Subdivision, located off Route K and lots 7 and 8 are on Mount Celestial Road. The property is zoned A-2. The Akers own both lots and their intent is to build a house. They were concerned they would build too close to the lot line so staff suggested the lots be vacated and re-platted.

Section 1.8.2 of the subdivision regulations require the County Commission to hold a public hearing in order to consider any vacation to vacate and or re-plat, taking into consideration 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 within the subdivision, public utility facilities and services, and will not adversely affect the health, welfare, or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate.

Jill and Scott Akers, 70 N. Cedar Lake Drive, Columbia, were present on behalf of this request.

Scott Akers stated they purchased both lots. The house they want to build would be placed close to the lot line.

Commissioner Schnarre asked if the house has been built. Mr. Shawver stated a building permit was issued when the petition was submitted.

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 Miller moved to approve the petition submitted by Scotty and Jill Akers to vacate and re-plat Lots 7 and 8 of Harpers Pointe Plat 1. Said 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 3-0. **Order 362-2004**

F. Request by Sells Development Group LLC to rezone 17.12 acres REC (Recreational) and 19.82 acres A-R (Agricultural Residential) to R-SP (Planned Single-Family Residential) and to approve a Review Plan for Lenway Estates, located at 9689 I-70 Drive NE, Columbia

Mr. Shawver stated the property is located at 6989 I-70 Drive N.E., approximately 4 miles east of Columbia. The 36.94 acre tract was originally zoned A-R. In 1994 17.12 acres was rezoned to Recreation (REC), the remaining 19.82 acres retained the original A-R zoning. The golf driving range was first allowed by conditional use permit in 1989.

Zoning adjacent to the property is as follows: north – A-1 and A-R; east – A-R; south – A-2; west – A-2.

There are currently two dwelling units and the golf driving range on the property. An application to rezone the property to R-S was submitted in May 2004 and subsequently withdrawn. The current application for rezoning to RS-P will create 99 lots, 96 of which are intended for construction of single family residences. Lot 97 (.86 acres) will be the neighborhood park, Lot 98 will house the wastewater treatment system, Lot 99 will contain the buffer and landscape strip.

Density in a PRD is based on the net acreage after subtracting non-residential uses from the gross acreage. Future right of way and common open space are included in the net acreage. The density of the proposed development is 2.6 dwelling units per acre.

The Master Plan designates this property as suitable for agriculture and rural residential land use. The Master Plan identifies the use of planned districts to establish new commercial and industrial areas. The applicant is not requesting commercial or industrial zoning. However, rezoning land for urban land use in an area designated for agriculture

and rural residential development can create conflicts between land uses. Planned zoning can be used to minimize those conflicts in such cases. The Master Plan also identifies a “sufficiency of resources” test for determining whether there are sufficient resources available for the needs of the proposal.

The resources typically used for this analysis can generally be broken down into three categories, Utilities, Transportation and Public Safety Services.

Utilities: Public Water District Number 9 provides water service to the property. The district is not able to confirm whether the existing infrastructure available at the property is sufficient to support the level of development that would be allowed if the proposed rezoning is granted. However, there is a sufficient water source located to the west of this property that could be extended to this property at the developers cost. A central sewer system would be built with the future development. Upon completion, ownership of the system would be transferred to the Boone County Regional Sewer District.

Transportation: A traffic analysis prepared by Crockett Engineering Consultants has been submitted. MoDOT has reviewed the traffic study and agrees with the conclusion that no improvements to I-70 Drive N.E. are warranted because the base traffic flow is low enough that even with the additional traffic generated by the proposed development, the street will continue to function at level of service A.

The subdivision regulations require rights of way to be stubbed to adjacent undeveloped properties. The developer has agreed to provide a stub to the property to the west at a location agreed to by both property owners. An appropriate condition will be included in the recommendation section of this report.

Public Safety Services: There is no indication that public safety services are not readily available to the property.

Conflicting Land Uses: Property west of and adjacent to the subject property was rezoned from A-R to A-2 in 1993. Subsequently, and also in 1993, a conditional use permit was issued to allow a dog kennel. The kennel has been operated in compliance with the terms of the conditional use permit since 1993. This use is compatible with the Master Plan land use designation of agriculture and rural residential land uses. There is a potential for conflict between the kennel and the currently proposed residential use. This potential conflict has been mitigated by a proposal to establish a landscaped buffer around the perimeter of the development. The buffer will consist of a landscaped berm and two offset rows of evergreen trees.

The property scored 56 points on the rating system. 11 property owners were notified of this request.

Staff recommends approval of the rezoning, review plan and preliminary plat subject to

the following condition:

1. The developer shall provide a right of way stub to the adjacent property to the west at a location agreed to by both adjoining property owners.

This was the original staff report. The Planning and Zoning Commission originally heard this request in July. All public comment was made at that time. The Planning and Zoning Commission was unable to reach a decision, ending in a tie vote, and tabled the decision until the August meeting. In that time, there have been additions made to the staff report.

Staff has received a letter from Trent Brooks, Traffic Operations Engineer for MoDOT. The speed limit for I-70 Drive N.E. is 55 M.P.H. That is the speed limit that Mr. Brooks used in making his recommendation.

The applicant and the property owner to the west have agreed on a location for a road stub. The stub should be placed in the vicinity of Lots 32 or 33. As previously discussed, it is staff's recommendation to not require construction of road improvements within the stub until such time as the property to the west is developed.

To increase the effectiveness of the buffer, the applicant has agreed to increase the height of the berm from 3-feet to 5-feet.

The applicant's attorney has added language to the proposed restrictive covenants that will notify all persons who purchase property in the subdivision that there is a dog kennel being operated on adjacent property. Each of you has been provided with a copy of that language.

Staff has received anecdotal information that there is an old cemetery on the property. Cemeteries are "Community Assets" under the county subdivision regulations. Community Assets must be shown on the plat and steps must be taken for their preservation.

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

1. The plat and plan shall be amended to show a road stub to the property adjacent to the west in the approximate location of Lot 32 or 33.
2. The plat and plan shall be revised to indicate that a 5-foot tall berm will be built in the buffer area.
3. The applicant shall provide documentation regarding the presence of a cemetery on the property. In providing such documentation developer may be required to engage the services of a Professional Archaeologist registered with the State of Missouri. If the presence of a cemetery is documented, steps must be taken for its preservation.

Mr. Shawver stated staff contacted the previous property owner and he confirmed there was a cemetery. The applicant's engineer toured the site. The cemetery is located around lot 85. The applicant's final plan would relocate the public park to encompass the four lots.

Commissioner Schnarre asked if the markers are gone. Mr. Shawver stated he could not answer that.

Commissioner Miller asked if the cemetery is part of the park. Mr. Shawver stated it will be part of the park.

Lenny Gilpin, Sells Development, and Tim Crockett, Crockett Engineering, were present on behalf of this request.

Tim Crockett stated there are still markers there. They have found three markers. The cemetery is located on lot 83. The birth dates on the markers are in the late 1700s and death dates are in the mid-1800s. David Sapp of the Boone County Historical Society has identified the three markers and is doing further research to determine if the cemetery is any larger. The initial reaction was the markers had been relocated due to conversation with the previous land owner. After further investigation, Mr. Sapp believes the current location of the markers is the location of the cemetery due to orientation of the markers. They will preserve the cemetery in the neighborhood park.

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

Shelley Wooldridge, 9551 I-70 Drive NE, Columbia, stated she is the owner of the dog kennel and the property west of the proposed development. Dog kennels do not work well next to houses. She has been in the dog business for 25 years. She purchased this land 11 years ago because she was led to believe that the master plan was for commercial and industrial uses. Dog kennels are compatible with commercial and industrial uses.

Commissioner Schnarre asked how many acres Ms. Wooldridge owns. Ms. Wooldridge stated the kennel is on 18 acres.

Commissioner Schnarre asked where the kennel is located. Ms. Wooldridge stated the kennel is as close to the proposed development on the east side of her property.

Ms. Wooldridge stated the 5' berm is a good idea but the lay of the land will have the dog runs overlooking the development. The berm and trees would have to be very tall to keep the dogs from looking into kitchen windows.

She noted this is the only kennel in Columbia that has outdoor runs.

Commissioner Schnarre asked how large the facility is. Ms. Wooldridge stated she is licensed for 100 dogs but usually has 40 to 50. She had planned on building on the other side of her property because the business is doing so well.

Commissioner Schnarre asked if this a training facility or a boarding facility. Ms. Wooldridge stated they do both. They show dogs for people around the nation. They also offer boarding service.

Commissioner Schnarre asked if this is a breeding facility also. Ms. Wooldridge stated they have never bred dogs. She noted she is licensed with the Missouri Department of Agriculture.

Commissioner Elkin stated Ms. Wooldridge has had this kennel for 11 years. What will happen if this subdivision is built and people started calling to complain about noise, which will happen. Mr. Shawver stated the county does not have a noise ordinance. The kennel is licensed as a conditional use permit. Unless there is something not in compliance with the conditional use permit, it is a conditional use. It might prompt staff to go look at the kennel to make sure the conditions of the conditional use permit are being complied with.

Commissioner Elkin stated he does not want the Boone County Sheriff's Department going out and writing tickets disturbing the peace. John Patton, County Counselor, stated typically the way the Sheriff's Department deals with noise problems in the County is through the misdemeanor statute, peace disturbance. He does not believe the Prosecutor will file a case where people moved in next to a dog kennel.

Commissioner Schnarre asked if the owners could still proceed with civil action. Mr. Patton stated they can complain.

Ms. Wooldridge noted the other issue is the odor. They clean with bleach everything everyday.

Commissioner Elkin stated the applicant's attorney has included language in the covenants regarding the kennel. He wants this issue on the table because he knows what will happen. This is in the Northern District and he will be the one taking the phone calls.

Susan Altomari, 2571 N. Dozier Station Road, Columbia, stated many residents of the area have been coming to the Planning and Zoning meetings to state their concerns about this proposed development, including traffic and school concerns. These are all legitimate concerns the developer and Commission should take seriously and work to resolve.

However, she believes this developer has not worked to resolve these issues and not represented himself in good faith. The developer is basically asking the County for a favor to rezone his property. He initially came to the first P&Z meeting with an inadequate plan

and had to withdraw. When a plan was brought forward, he misrepresented the impact of the community such as the dog kennel, traffic and school concerns because he never talked to the people in the community. He misrepresented the speed limit on the outer road, which he said was 40 mph but is really 55 mph. The residents told him this but he never checked the speed limit which is posted on the outer road. He misrepresented the existence of a graveyard on the property because, she assumes, he did not exercise due diligence in making sure there were no aspects of the environment which would impact his plan.

In her opinion, Mrs. Altomari believes going from agricultural to recreational to high density single family zoning is not in the best interest of the community and only in the best interest of the developer. She would like the Commission to encourage less dense zoning and something more appropriate for a rural setting.

We are not adverse to change in the community, change is going to happen and they will welcome it. They are looking for good neighbors who are comfortable and supportive of the community. She is hopeful and optimistic that the Commission will respond wisely in rezoning this property and consider the concerns of the residents who live there.

There was no further public comment.

Commissioner Schnarre closed the public hearing.

Commissioner Schnarre asked why this only received 56 points on the point rating scale. Mr. Shawver stated it lost points because of the inability of the water district to say there was a 6" waterline there and the distance from Columbia.

Commissioner Schnarre stated this is approximately four miles from Columbia. Mr. Shawver stated that is correct, four miles from the city limits at this time.

Tim Crockett stated they have been in contact with the water district on a regular basis. They will not perform a water study until there is an approved plan. They have agreed that if the water capability is not present at the site right now then they will extend it to the site. All the easements are in place with the exception of one along I-70 Drive. They are willing to extend the water mains to provide adequate service for domestic and fire flow. This is a line the water district has on their wish list to have in place. This is the reason they have acquired the easements but have not built the line because they are still trying to acquire one easement.

Mr. Crockett stated Mrs. Altomari indicated this has not been presented in good faith; he takes offense to this statement. Mrs. Altomari indicated they tried to hide the speed limit at 40 mph. This was the information given to them by MoDOT in a concept review. Granted it is posted at that but MoDOT indicated that is what the speed limit was.

On the issue of the cemetery, Mr. Crockett noted they have met with the Planning Department on numerous occasions. They have agreed upon every request given to them at the request of land owners and the Planning Department. He believes this developer has in good faith worked with both the neighbors and the County regarding this plan.

Commissioner Schnarre asked what watershed this development would be in. Mr. Shawver stated he believes this is in the Little Cedar Creek.

Commissioner Schnarre asked what the closest sewer district facility is. Commissioner Elkin stated he does not believe there is one in this watershed.

Mr. Shawver stated the Shaw plant would be the closest to this development.

Commissioner Miller asked if the developer is planning on putting in a lagoon. Mr. Crockett stated they are planning on a mechanical treatment facility. They have been in contact with Boone County Regional Sewer District. They are looking into the possibility of doing a regional facility in the area. The applicant is more than willing to work with the District on anything they need to accomplish that.

Mr. Shawver stated at the last BCRSD Board meeting, the Board authorized BCRSD staff to conduct a study to determine discharge limits.

Commissioner Schnarre stated it is to his understanding that all the zoning around this tract is all original zoning except the A-2. Mr. Shawver stated that is correct.

Commissioner Schnarre stated A-R is to the east. Mr. Shawver stated there are a few more tracts of A-R to the east before the zoning changes to R-M.

Commissioner Schnarre stated this tract was zoned A-R then half was rezoned to REC. Mr. Shawver stated that is correct.

Commissioner Miller asked how many homes could be put on this tract if it was zoned all A-R. Mr. Shawver stated there can be two units per acre in A-R zoning, there are 36 acres, so a total of 72 units. Some units would be lost due to land being allowed for easements and roads.

Commissioner Schnarre stated the developer would not have to do a planned development if it was all zoned A-R. Mr. Shawver stated that is correct.

Commissioner Miller asked if the only thing that is being gained from a planned development is a buffer. Mr. Shawver stated a buffer and a park.

Commissioner Schnarre stated the Commission approved a mobile home park conditional use permit a few months ago. That was the zoning and the conditional use is an approved

use in that zoning. He does not believe the infrastructure exists and the distance is too far to increase the concentration of the zoning at this time. He believes it is too soon. This is his personal opinion. He believes the zoning should remain A-R. He would be open to rezoning the REC back to A-R.

Commissioner Elkin stated the berm will take care of some visual lines for the kennel but it will not do much for the sound. Mr. Crockett stated they have added plantings of a double row of trees on top of the berm to help reduce the sound. One item that was added to the covenants was a statement that the lot owners recognize there is a kennel. Dog kennels do make a noise. This is an existing conditional use permit that is in compliance with County regulations. They want to make every home buyer out there aware of the fact the dog kennel is there and is in compliance.

Mr. Gilpin stated he believes the wording releases Ms. Wooldridge of any liability of complaints.

Mr. Crockett stated this is similar to I-70; it is an existing condition that they want to make anyone aware of. If someone does want to purchase a home then they have to understand those stipulations are in effect. They are not trying to hide the fact there is a dog kennel.

Commissioner Elkin asked how far the development from the kennel is. Mr. Crockett stated he believes it is at least 250'. Mr. Gilpin stated he believes it is closer to 350'.

Commissioner Elkin asked if this tract was zoned A-R how many units could be on this tract. Mr. Shawver stated around 72 but after taking away land for roads and easements then there could be 60 to 62 units.

Commissioner Elkin stated he has the same concerns with this development as he did with the mobile home community that was approved a few months ago. He asked if MoDOT takes into consideration just this development when they look at a plan or do they look at the whole area. Mr. Shawver stated they look at existing conditions and they are aware of the mobile home park that has been approved.

Commissioner Elkin stated they are not requiring any turn lanes. Mr. Shawver stated that is correct.

Commissioner Elkin stated MoDOT is still saying this is going to be a level service A road.

Commissioner Elkin asked how many trips per house, 10 per day. Mr. Shawver stated on a rural property like this, he believes the number of trips per day is seven. MoDOT figures some trips will be combined rather than being in town. Mr. Shawver stated he did not know there were any service level A roads in Boone County.

Commissioner Miller stated she was just out there and this is a ways out.

Commissioner Schnarre noted if this tract is rezoned to all A-R then the developer does not have to come back with a planned development. Commissioner Elkin noted the REC zoning would have to be rezoned.

Commissioner Elkin asked about the Planning and Zoning vote. Commissioner Schnarre stated the first vote was a tie.

Commissioner Elkin asked what the concerns of the three that voted against the request at the first vote were. Mr. Shawver stated there was not a lot of discussion. As soon as the minutes of the first meeting were done they sent them to all members. He believes the concerns of those who voted against the request were similar to Commissioner Elkin's concerns.

There was no further discussion on this item.

Commissioner Schnarre moved to deny the request by Sells Development Group LLC to rezone 17.12 acres REC (Recreational) and 19.82 acres A-R (Agricultural Residential) to R-SP (Planned Single-Family Residential) located at 9689 I-70 Drive NE, Columbia.

Commissioner Elkin seconded the motion.

Commissioner Miller stated she is concerned that the County is losing the opportunity to do a planned development. She worries about this because this is the best avenue for helping the dog kennel owner.

Commissioner Schnarre stated he thinks this will be a different situation in five or six years. Commissioner Elkin stated he does not believe it will be that long.

Commissioner Miller stated if the other A-R zoning begins to develop then the Commission may not have a choice.

Commissioner Schnarre stated he believes it is too soon.

Commissioner Elkin stated this will put a tremendous load on the road. He cannot believe MoDOT did not require at least turn lanes.

There was no further discussion on this item.

The motion passed 3-0. **Order 363-2004**

G. Receive and Accept the following plats:

- Shadowridge, Replat. S8-T46N-R12W. A-2. Kevin Nahler, owner
- Savannah Prairie. S2-T50N-R12W. A-2. Phil Blom, owner
- Bramley. S11-T45N-R13W. A-2. Charles and Jean Ferguson, Diana and Larry Hall, owners.
- Hinkson Heights. S29-T48N-R13W. Jeff and Stephanie Hemme, owners.
- Arrowhead Lake Estates Plat 2. S4-T47N-R13W. Arrowhead Lake Estates Homeowners Assoc., Michael Menser, Ronald and Mary Ebert and Richard and Dana Alexander, owners.
- Hall's Place Plat 1. S18-T47N-R12W. A-2. Kenneth F. and Pamela J. Hall, owners.

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

- Shadowridge, Replat.
- Savannah Prairie.
- Bramley.
- Hinkson Heights.
- Arrowhead Lake Estates Plat 2.
- Hall's Place Plat 1.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 364-2004**

Subject: Second Reading and Approval of Mental Health Needs Assessment

The Commission requested this item be held until the September 7, 2004 meeting for further review of the Mental Health Needs Assessment.

Subject: Accept FY2003 Financial Statements and Audit

Commissioner Elkin moved to accept the financial reports as submitted to the Commission on August 26, 2004 for the FY2003 Financial Audit.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 365-2004**

There was no public comment.

The meeting adjourned at 8:13 p.m.

Attest:

Wendy S. Noren
Clerk of the County Commission

Keith Schnarre
Presiding Commissioner

Karen M. Miller
District I Commissioner

Skip Elkin
District II Commissioner