

TERM OF COMMISSION: September Session of the July Adjourned Term

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

PRESENT WERE: Presiding Commissioner Kenneth M. Pearson
District II Commissioner Skip Elkin
Director of Planning and Building Stan Shawver
County Counselor CJ Dykhouse
Planner Uriah Mach
Deputy County Clerk Kristina Johnson

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

Miscellaneous

1. East Leisure Drive Sewer Improvement Project, Mid Mo RPC

Colleen Vollman was present on behalf of this item.

Ms. Vollman stated that the current sewer apparatus that serves the residents on Leisure Drive is not adequate to provide continued long term use. The system currently consists of a pipe that runs under the trailers and each trailer connects to the main line from a vertical pipe. For several years there has been a consistent problem with sewer malfunction. In most instances a blockage occurs in the line causing a backup and resulting in sewage effluent to discharge above the ground surface and flowing off the property on to other property owner's lots. In order to correct the problem the county proposes to install a gravity flow system that connects to the existing lift station serving the adjacent neighborhood located within the Columbia city limit boundaries. Ms. Vollman further stated this request would allow the application to be processed and not ensure the grant.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the East Leisure Drive Sewer Improvement Project to maintain long term use and healthy conditions by installing a gravity flow sewer system that connects to the existing lift station serving the adjacent neighborhood.

Commissioner Elkin seconded the motion.

There was no discussion or public comment.

The motion carried 3 to 0. **Order 393-2009**

2. Community Development Block Grant (CDBG)

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby authorize the Presiding Commissioner to sign the proposal to be invited to submit a full application for Community Development Block Grant (CDBG) funds to the Missouri Department of Economic Development for the purpose of improving sewers to the Leisure Drive residents.

Commissioner Miller seconded the motion.

There was no discussion or public comment.

The motion carried 3 to 0. **Order 394-2009**

Planning and Zoning

3. Request by Rick and Kimberly Rose for a permit for a privately operated outdoor recreational facility on 11.06 acres located at 7040 S. Lakota Ridge Ln., Columbia.

This site is located south of Columbia off of Lakota Ridge Lane in the Bonne Femme Estates residential development. The zoning for the property is A-2, which is the original zoning. All of the adjacent land is zoned A-2. Approximately 9.5 acres of the 11.06 acre site is within the 100-year floodplain. The character of the area is described as large lot residential: most parcels in the area exceed 5 acres in size. The master plan designates this site as being suitable for residential land uses.

The request is to allow operation of a privately operated outdoor recreation facility which, is allowed as a conditional use in the A-2 district. The specific use is for an athletic field for baseball and soccer. According to the application the applicant intends to operate from 10:00 A.M. until dusk. Minutes from the January 23, 2006 meeting of the Bonne Femme Estates Homeowner's Association indicate endorsement of the use of the subject parcel for an athletic field.

The application must meet the criteria for issuance of a conditional use permit. Those criteria are addressed as follows:

- (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.*
 - Lack of restroom facilities could be detrimental to the public health.
 - Unauthorized use or access to the site, especially outside of the operating hours, raises public safety concerns. With appropriate conditioning the use should not be detrimental to the public health, safety 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.

The neighborhood is characterized by large lot residential use. The proposal stipulates hours of operation from 10:00 A.M. to dusk. No lighting is proposed.

(c) The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.

There is no indication that the proposed use will have a negative effect on property values if the facility is operated within the guidelines established by the application and the conditions of the permit.

(d) All necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage.

- *The site is accessed by a private easement to Lakota Ridge Lane approximately .5 miles south of Buffalo Ridge Road.*
- *The property is within Consolidated Public Water Supply District Number 1.*
- *Boone County Regional Sewer District provides sewer to the lots within Bonne Femme Estates.*
- *There should be no significant change in drainage due to issuance of the conditional use permit.*

(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.

The athletic field has been in existence for several years. Development in the area has continued during that time. There is no indication that the proposed use will have a negative effect on development of the area.

(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.

Public road access from the site to the nearest arterial, State Route K, is via Lakota Ridge Lane and Buffalo Ridge Road. Lakota Ridge Lane is cul-de-sac approximately .5 mile long and serves 23 residential lots. The additional traffic generated by the proposed use should not conflict with the peak hour traffic on Lakota Ridge, Buffalo Ridge or Route K and therefore, should not result in traffic congestion on public streets.

(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.

The site plan shows two parking areas. The gravel area is 160'x60' and the

grassed area is 180'x60'. A survey of 6 communities resulted in an average parking requirement of 23 spaces per ball field. The gravel parking area is sufficient to provide 34 spaces. The area necessary to provide the minimum of 23 spaces 104'x60' and the access drive must be maintained in a dust free surface. Otherwise, the proposed use complies with the applicable regulations of the A-2 zoning district.

Staff recommended approval subject to the following conditions:

- The owner shall devise and implement a plan for providing restroom facilities to the satisfaction of the Columbia/Boone County Health Department.
- The owner shall install a gate within 30 feet of the right of way at the access to the site from Lakota Ridge Lane. The gate shall remain closed and locked at all times outside of normal operating hours except when the owner is on site.
- The owner shall maintain the driveway and 23 parking spaces in a dust free surface.

The Planning and Zoning Commission conducted a public hearing on this request during their August 20, 2009 meeting. There were 6 members of the commission in attendance at the meeting. Following the public hearing, a motion was made to recommend that this request be approved along with the suggested staff conditions. The motion to recommend approval of the request passed with 4 members voting in favor of the motion. It comes forward with a recommendation for approval.

Commissioner Pearson: Does anyone wish to testify in support of this item?

Rick Rose stated that he lived at 7040 Lakota Ridge Ln. He stated that he had built the baseball field for the community and for kids. Rick Rose stated that the field was originally built after having coached his son's team, he realized what few facilities there were for baseball. Rick Rose stated that he felt the baseball field was a positive activity that would help all kids, not just his son, keep off the streets and participating in constructive activities. He stated that he had put a lot of time and energy into building the baseball field and maintaining it. In 2006 Bonne Femme Homeowners voted unanimously to keep this ball field in the subdivision. Rick Rose stated that it is was his wish and prayer that the Commission vote for its usage.

Tom Mendenhall stated that everybody in the community supported Rick Rose. Mr. Mendenhall stated that the baseball field is very well kempt and that the field is state of the art. Mr. Mendenhall stated that the Bonne Femme Homeowners Association had voted in support of the field.

Commissioner Miller inquired as to the location of the site. Commissioner Miller wanted to know if it was located in the wooded area?

Tom Mendenhall stated that the baseball field was in the midst of the homeowners. He

stated that when the field was first built there were not as many homes.

Commissioner Elkin asked if in 2006 when the issue of the field was brought forth, was the field reported to be open for anyone to play?

Tom Mendenhall stated that he did not know.

Commissioner Elkin inquired as to if the agenda was written so games could exist all weekend? He asked if there was a double on Friday, a double on Saturday and a game on Sunday, would that be okay?

Tom Mendenhall stated the baseball field existed amongst vacant lots till somebody built houses around it. Mr. Mendenhall also stated that the field was well received in the community and Mr. Rose was considerate to the homeowners.

Mike and Connie Leopard stated that they lived at 7560 S. High Point Columbia MO. They stated that their son used the baseball field. Mr. and Ms. Leopard *stated that Mr. Rose has helped teach their son about discipline.* Mr. and Ms. Leopard stated that the field was really nice and was well taken care of. Mr. and Ms. Leopard stated that Mr. Rose had always instructed the kids and parents to be extra careful and respectful because the location of the field was in a neighborhood.

Commissioner Miller stated that one of the problems with the field is that it is a permanent structure.

An audience member stated Highlands had a baseball field.

Commissioner Miller inquired as to how often they had games?

He answered regularly

Darren Alexander stated that he and his wife lived at 6751 S. Lakotah Ridge Lane. Mr. Alexander stated that his home was located at the entrance and added that he and his wife could see the traffic that went through the area. Mr. Alexander stated that he and his wife had discussed the baseball field and felt that it was a nice addition to the neighborhood. He stated that just as some neighborhoods have amenities like pools or soccer fields this subdivision had a baseball field. Mr. Alexander stated that he did not have children and had never used the field but had discussed with Rick Rose about allowing his church group to play on the field.

Commissioner Elkin asked if the traffic doubled would Mr. Alexander be ok with the baseball field?

Darren Alexander stated that as long as it was handled properly it would be fine.

Marty Shaw, 3507 Yorkshire, stated that Rick Rose had created a community ball field for kids. Mr. Shaw stated that there were not very many locations for kids to play baseball and the community had appreciated and supported the efforts to have a place for their kids to play ball.

Brad Russell stated that he lived at 4201 Thompson Road. Mr. Russell stated that he coached a children's Christian baseball league. Rick Rose had allowed the children to play a few baseball games on the field last year. Mr. Russell stated that he had taken a bus load of Christian kids up to play baseball, and when they were finished everyone had helped clean up the field. Mr. Russell explained that the game of baseball helps kids learn about discipline and responsibility while playing a fun activity.

Tom Burkett stated that he lived at 1101 Brookedale Ct, Columbia MO. He stated that Rick Rose had been a positive influence on his son and given his son some batting lessons. Mr. Burkett stated that in exchange for the batting lessons, he loaned Rick Rose a tractor from his landscaping company.

Commissioner Elkin inquired if the field was platted in Highlands?

Tom Burkett stated yes, Tom had said it was. He further stated that this baseball field is the proper place to play. With all of the proper equipment, and the fences, and dugouts, it provides a safe place to play the game.

John Nemecek stated that he did not live in the subdivision he lived at 4602 Winterbrook Ct. He stated that Rick Rose had allowed his son to practice and play baseball games on the field.

Commissioner Pearson inquired as to how often people play?

John Nemecek stated he was not sure. His son had played maybe a few times on the field.

Mike Watson stated that he lived at 205 Long Fellow Ln. Mr. Watson stated that Rick Rose had created a place where kids could play baseball safely. Mr. Watson stated the field was well maintained.

Mike Lewis, 3809 Woods Edge, and Hunter Trom, 2705 Woodberry Ct., stated that they had both played on Mr. Rose's field. They stated that Mr. Rose had made sure that they cleaned up after themselves and that they thought the field was a good thing.

Commissioner Miller asked how often the boys practiced on the field.

A member from the audience stated only once or twice a week.

Commissioner Elkin asked the boys if they speed through the subdivision.

Hunter Trom stated no because Mr. Rose would tell their parents.

Commissioner Pearson asked if anyone wished to testify in opposition to the item.

Reginald Kinsey and Jenice Prather-Kinsey stated that they lived at 7060 S. Lakota Ridge, the lot adjacent to the ball field. Ms. Kinsey stated that they are not against children playing sports. Ms. Kinsey stated that they loved children and they had two of their own, they just believe playing in undesignated areas have unintended consequences.

Ms. Kinsey further stated: I have nothing against children or sports. I have one son who played t-ball and base ball and another son who played basketball for the University of Missouri. I am an accounting professor at the University of Missouri where I have been faculty advisor to accounting student organizations for over 20 years. I do this advising voluntarily and with no extra pay from the University of Missouri.

However, we are concerned that granting a Conditional Use Permit for a baseball and soccer operation will be detrimental to our safety, and property values. Granting a conditional use permit will bring in carloads and busloads of teenagers into our subdivision, and driving at unsafe speeds, which has been the case on Lakota Ridge in the last two years.

In April of 2009, The Boone County Planning and Zoning Commission denied a Conditional Use Permit for a paintball project, which stemmed from concerns about how the noise and additional traffic would affect neighboring property values. At the April Boone County Planning and Zoning Commission Meeting Harwood stated and I quote that "There will be carloads of teenagers free to wander our neighborhoods, racing along on roads that aren't designed for it?" We believe that this same phenomenon applies directly to the conditional use permit requested by Rick and Kimberly Rose.

We do not have any adversity to children or teens playing baseball or soccer. However, we prefer that this activity not occur in our neighborhood. Just like The Boone County Planning and Zoning Commissioners believed a better location could be found in a non-residential area for paintball, we support that a better location for a baseball and/or soccer field is outside of a residential area.

At the Planning and Zoning and commission meeting on Thursday, August 20, 2009, Tom Mendenhall, President of the Bonne Femme Homeowners Association, stated that the association gave "unanimous approval" to the ball field in 2006. Rose said the unanimous support included neighbor Reginald Kinsey. We have a copy of the January 23, 2006 minutes before us and Reginald Kinsey was not present to approve or disapprove of the ball field. Further, when Tom Mendenhall presented the baseball/soccer proposal he presented it as follows:

"Motion made by Tom Mendenhall to formally acknowledge the rights of the baseball and soccer field. The motion carried unanimously."

We believe that the motion was unanimous because no mention was made of a “Conditional Use Permit.” Many believed that Rick wanted a baseball and soccer field for him and his son to play and practice baseball.

At the Planning and Zoning Commission meeting on Thursday, August 20, 2009, Tom Mendenhall, President of the Bonne Femme Homeowners Association stated that “we haven’t had anybody call or say anything negative about the ball field.” We have before us a copy of the February 1, 2007 minutes where Tom Mendenhall was present. We will not mention the names of the three neighbors who voiced their concerns, but we will quote their concerns and give you a copy of the minutes for your private review. The three neighbors stated, and I quote:

“one neighbor commented on the cars speeding through the development. A second neighbor said he throws tennis ball as the baseball traffic that are speeding. A third neighbor asked if we could get the county to put up another speed limit sign.”

Tom Mendenhall was present as these neighbors stated their complaints about Rick and Kimberly Rose’s baseball field.

In fact, in response to the three neighbors’ comments, Tom Mendenhall stated at the February 1, 2007, neighborhood meeting and I quote,

“I will talk with Rick Rose about the baseball traffic.”

These minutes were prepared by Tom Mendenhall’s office and he was present at the February 1, 2007, Bonne Femme Association meeting when neighbors voiced their concerns. These neighbors were expressing the same concerns and reservations about the baseball field as The Boone County Planning and Zoning Commission stated as reasons for why they denied the paintball facility in April of 2009—that is; the additional traffic and speed of traffic from the baseball and soccer traffic that would also diminish the property values of neighborhood homes.

Additionally, we would like to put on record our, Reginald and Jenice Kinsey’s, additional concerns. We have to pick up trash in our yard coming from those who play on Rick and Kimberly Rose’s baseball field. At least one mailbox has been knocked down by a baseball player and we believe that this is not the only neighborhood mailbox that has been plowed down by a baseball field visitor. This baseball field has been a nuisance to our pursuit of happiness in a dream home that we have worked our entire lives to build.

To summarize, we have nothing against kids playing baseball and soccer. Nor do we oppose neighborhood kids playing sports in our neighborhood. However, we do oppose a conditional use permit for a baseball and soccer field in our residential zoned

neighborhood. We are concerned that granting of a conditional use permit will be detrimental to our safety and property values. Granting a conditional use permit will bring in carloads and busloads of teenagers into our sub-division, and driving at unsafe speeds as has been the case on Lakota Ridge during the last two years. Moreover, just as The Boone County Planning and Zoning Commission denied a conditional use permit for a paintball project based on the noise, additional traffic and decrease of neighboring property values, we also have the same concerns for our neighborhood and property values.

Rick Rose stated that he monitors very closely when he knows the teams are leaving. He stated: I sit right up there on the right. If I see somebody speeding I put them (on the money). That doesn't happen anymore. People mind down there 'cause I'll throw them off, like I did with the MU Club Team that was speeding. They are no longer able to play out there. Concerns they have, I don't know I think they are fabricated. I do not believe they are real. Nobody is here to attest with them. There is not a problem, it's been blown way out of proportion. Maybe a personal vendetta against me, I have no idea and I don't care. I just want the baseball field to continue on to help youth, to help the game of baseball. And I am willing to negotiate some what on usages and what I can and can't do, because I want it to continue to be allowed.

Commissioner Elkin inquired of Rick Rose if in his opinion the use of the baseball field has become more intense then 2006?

Rick Rose responded: no sir, 2006 and 2007 was the peak and then 2008 it started to fall, in 2009 it has really fallen off. This field is used fifty percent less at this time then it's ever been.

I mean, I'd be more than happy to rescind my application if Bonne Femme Homeowners Association would like to buy that facility at appraised market value. I'd be fine to quit right now.

Ms. Kinsey stated that she would try to fine the homeowners.

Rick Rose questioned Ms. Kinsey: you would try to fine them?

Ms. Kinsey stated she would.

Rick Rose responded let's do it, at appraised value.

Commissioner Elkin stated that one of the conditions for the ball field was sewer. Commissioner Elkin inquired if there was sewer on the ball field?

Rick Rose stated that he did have sewer down there. He stated it cost him \$ 6,700 to get it done. Mr. Rose further stated that it's not hooked up.

Commissioner Elkin clarified but there is a line down there.

Rick Rose stated absolutely.

Commissioner Elkin inquired of Mr. Rose what he did about insurance?

Rick Rose stated the teams are all covered and he had a liability policy.

Commissioner Elkin stated that all three Commissioners drove out to the field earlier in the week to look at it, and there was still an MU Club team sign out there. Commissioner Elkin questioned Mr. Rose if they practice there?

Rick Rose stated: no sir, not at all. They do not. Mr. Rose stated: they called me and asked me if they could play later this month, I think it's the twenty sixth. And I told, them you know kid, I can't think of his name, I'll get back to you. That was three or four weeks ago and I haven't heard from him and I have not contacted him. I have not had luck with those guys.

Commissioner Elkin stated there has been mention of bus loads and questioned if there were buses that went down there?

Rick Rose stated that Brad Russell's team last year, his Christian Team had two bus loads of people. One was one week and one was the next week. One was a Christian school from Kansas City and one was a Christian school from St.Louis. Mr. Rose stated that when you see buses you see kids getting educated and safe or going to sporting events to stay away from drugs and alcohol and malls and street corners. Mr. Rose stated: to me I would love to see a bus coming through for events because it represented the right thing, happened two times.

Commissioner Elkin questioned if there ever had been any alcohol consumption down there?

Rick Rose stated that he was sure that people have gone down there and have had alcohol because he has found it there before. Mr. Rose stated that he has never authorized anybody to go down there and do so. Mr. Rose stated that here has never been any police called. Mr. Rose further stated that he didn't know how Mrs. Kinsey can hear or see, at two or three o'clock in the morning when her bedrooms on the other side of the house and this is two thousand foot away.

Commissioner Pearson stated his wife could probably see it.

Commissioner Miller agreed that yes, she probably could.

Commissioner Elkin inquired if Mr. Rose received any compensation at all or has in the past received any kind of monetary compensation?

Rick Rose stated no, not at all. Mr. Rose stated that he wished that Tom Burkett would bring his son down for another hitting lesson because he could use his tractor right now. Mr. Rose stated that he has a little erosion problem. Mr. Rose stated that he has bartered a little with people. Mr. Rose stated that he had people bring fertilizer and grass seeds, Marty Shaw has come down numerous times with his tractor and help smooth and make things right. Mr. Rose stated that trees have been planted. Mr. Rose stated that everybody likes it in the neighborhood, the involvement, and what this thing represents. Mr. Rose further stated that everybody wants a little piece of it.

Commissioner Elkin stated that all the testimony that has been heard has been about Rick Rose. Commissioner Elkin stated that the majority of the comments have been people stating that they love Rick Rose and that he's the greatest thing since screen doors on submarines. Commissioner Elkin pointed out that it is about Rick Rose.

Rick Rose: Not to me, sir.

Commissioner Elkin stated that if the conditional use permit was granted, Rick Rose could sell this property tomorrow and the conditional use goes with the land. Correct?

Stan Shawver stated yes.

Commissioner Elkin stated that John Smith could come in, could care less about the neighborhood, could care less about speeding, could care less about alcohol, could care less about hours of operation and the neighborhood would be stuck with John Smith. Commissioner Elkin stated that when the Commission makes their decision, that it is not based on personalities, it's based on the land and the use. Commissioner Elkin stated that the question at hand is, is it an appropriate use? Commissioner Elkin went on to state that the conditional use permit would not be for Rick Rose alone but rather it would be for that tract of land, right there.

Commissioner Elkin inquired of the Boone County staff if Bonne Femme Estates, when it was being platted, had that tract of land designated as a park or a recreational area and with the uses that everyone had heard, would there have been the need for a traffic study internally and at the intersection of route K?

Stan Shawver stated that if it was shown as a neighborhood park, within a development and lot sizes, there would be nothing to generate a requirement for a traffic study under the current regulations.

Commissioner Elkin stated that he had a follow up question. Commissioner Elkin stated that there was a comment in the Planning and Zoning Commission from Commissioner Frieling asked if there is a legitimate mechanism to specify that the field is not being approved as a commercial operation. Commissioner Elkin asked if whether or whether not there is an exchange of money, based on the use that is happening out there today and if approved the continued use, would that be considered a commercial operation?

Stan Shawver stated that he would equate it to the way that the county looks at dog kennels. He stated it's the intensity of the use that would qualify it as being a commercial operation. Mr. Shawver further stated that yes this could be consistent with a commercial operation.

Commissioner Elkin stated Bill Florea, County Planner, responded I don't know if staff could regulate that. The best that you could regulate would be the intensity of how it's used.

Stan Shawver stated that is correct.

Commissioner Pearson stated that would require restricting its use. He questioned is that what Bill Florea's saying there?

Stan Shawver stated that there is no way for Boone County to monitor or really regulate whether it's commercial in the sense of exchange of assets in the operation. Boone County can monitor hours of operation. Boone County can monitor the actual use. Mr. Shawver further stated the application says that the hours are from 10:00 am until dusk. The application says it's for baseball or soccer, so if someone starts playing paintball out there Boone County can note that and that would not be in compliance. Mr. Shawver stated that things which are practical applications that are reasonable Boone County can view, monitor, and assess to see if they are in compliance.

Commissioner Elkin stated based on the intensity out there it could be argued that it's commercial use. Commissioner Elkin inquired if that's the case a commercial use is not allowed in a residential A-2 area. Correct?

Stan Shawver stated that commercial use is not but there is a provision as you know for agri-businesses, there are a number of commercial uses in the agricultural districts and residential districts that as a conditional use permit, they qualify even though they are commercial use. Mr. Shawver stated that a day care for example is an example of one of those commercial operations.

Commissioner Elkin inquired if a commercial recreational facility is allowed in an A-2 zoning district?

Stan Shawver stated regulations provide for a conditional use permit for a private outdoor recreational facility, which can be commercially used. Twin Lakes ball field operates under a conditional use permit, and it certainly is a commercial operation.

Commissioner Elkin stated that Mr. Mendenhall testified at the August 20th that he didn't think it was intended to be a commercial business. Commissioner Frieling asked what would happen if it ended up in someone else's hands? Mr. Mendenhall stated at that meeting that he "can't speak on behalf of the neighbors, but I think if that happened then the property some of the other people might do something." Commissioner Elkin stated

that he didn't know what that meant. Mr. Mendenhall further stated at that meeting that "there are thirty six of us I think Mr. Rose would give us that opportunity if something like that happened." Commissioner Elkin inquired if there was a first right of refusal on that land?

Rick Rose asked if he could ask a question when they were done.

Commissioner Elkin stated that he thought he was about done.

Commissioner Miller stated that she had a question for Stan to follow up on what Skip asked. Commissioner Miller inquired about the conditional use permit, could Mr. Rose if granted the conditional use put a deed restriction on his property that limits the conditional use upon sale? And would it be legal?

Stan Shawver stated that the conditional use permit does not restrict any type of deed restriction that the property owner might want to place on their property. Mr. Shawver further stated so yes, they could do that.

Commissioner Elkin: Is it enforceable?

Stan Shawver stated that deed restrictions are not enforced by government. Mr. Shawver stated that deed restrictions would have to be civil matter.

Commissioner Miller clarified that she was inquiring if an actual deed restriction put on the property, could it prevent commercial use.

Stan Shawver stated, it could not be enforced by the county.

Commissioner Miller questioned Mr. Shawver if she were looking in the records of the title company and the property says that it is restricted from commercial use, that that's not enforceable?

Stan Shawver stated not enforceable by the county. It would have to be by the effective parties. Mr. Shawver stated that they would have to defer to CJ whether the homeowners association would be able to get in on that.

CJ Dykhouse stated that no, that's a civil matter.

Commissioner Pearson inquired if Mr. Mendenhall be allowed to speak?

Mr. Mendenhall stated that he would like to say on advice of legal counsel that was why we modified our covenants, so we could enforce this, and we would. And I would like to make two other comments about notes being passed to you all about the meetings and how it was held. There was three people who did have a concern about maybe somebody speeding through there. I had personally called Rick, he put up a sign there about

speeding. And I asked the person are you absolutely certain that they came from the baseball field, well they didn't know. So, I mean, they just didn't know. There's a lot of activities going on at various times in our neighborhood. And Rick is correct, I did knock down one of those mailboxes and I stopped there and told him I hit it and offered to fix, and the other kid did to. We don't have vandalism going on there. I came out, I think trash days on Wednesday. If they put the trash out on Tuesday night the raccoons come out, and the trash is everywhere. A lot of us go through the neighborhood and put that up. It's not these kids throwing that stuff. And I don't think it was appropriate for someone to come up here and say who typed up the minutes ... if my secretary types up the meetings, the minutes get approved, and are sent out by law. We're a registered association, it's handled properly. And all those people voted and if they had some concerns we addressed concerns and that was it. That's why we went ahead as the board of directors and filed this, you know and we certainly enforce it, if we thought it was a problem. We do have a neighborhood watch there. The other night there was somebody escaped from where ever. There were policemen all over the place, we're glad that they are there. They came fast, there is stuff going on. Mr. Frieling did bring this up at the meeting, that's why I immediately called the board of directors and past additional covenants so we could address this concern. Again we're talking about thirty eight lots which includes the premier bank. Thirty seven people did not have a problem with that. In fairness to everybody the minutes were approved and we don't conduct a meeting unless there is an authority of the law.

Commissioner Pearson stated you had a question.

Rick Rose stated Karen Commissioner Miller actually brought that up, and that's what we've been talking about. Rick Rose stated about the deed restriction saying that we can't operate commercially and all of our successors of that land. I do have one quick comment, I know everybody wants to leave.

Commissioner Pearson stated oh we'll be here awhile.

Rick Rose stated: as far as neighborhood security, you know I'm a watchdog, and so is Tom. You know. We have guns there, we watch over that area and protect our rights, and protect our neighborhood. Each and everyone of the people out there. Bad people have a tendency to stay away from kids in sports. Those kids and baseball bats, bad kids don't want nothing to do with those boys. Those baseball boys, those athletes are different ... people. Bad kids stay away, they shy away from kids like that. These little guys help protect our neighborhood. Just my honest opinion. Thank you for your consideration.

Commissioner Pearson stated ok, I have one more question. This field started in 2002?

Rick Rose stated we started doing ground work in 2002, and we actually started building it in 2003.

Commissioner Pearson inquired how long it's been in operation about six years?

Rick Rose stated five, six years.

Commissioner Pearson again stated five, six.

Rick Rose stated yes sir.

Commissioner Pearson inquired if it peaked a year ago? A year and a half?

Rick Rose stated '06, '07.

Commissioner Pearson further questioned if it didn't have a conditional use permit for that whole time period?

Rick Rose stated that somebody said Rick, you need to get one. Mr. Rose stated and then he kind of got scared. And then he down sized, because he was nervous about it. Mr. Rose stated that he just wanted to come clean. He stated he would like to continue to use it, not just for him but for everybody else. Ah, and the usage is going to be much more restricted, then it ever has. And I would be more than happy to have that stipulated on whatever you guys would recommend.

Commissioner Pearson inquired if Mr. Rose ever thought about transferring this to the homeowners association?

Rick Rose stated yeah, sure, it's crossed my mind, but it was always my intent to keep it in the family and build a home down there someday. That's why we did all the extra work, put in a sewer planning to accommodate that. Are we going to do that? Don't know.

Commissioner Pearson asked if there were any other questions?

Commissioner Elkin stated not at this time.

Commissioner Miller stated that her biggest concern is Mr. Rose's good heartedness to let everybody there, has created his problem. Commissioner Miller stated if Mr. Rose would limit it to his son, and his team, or the team Mr. Rose coached and not be allowing a bus load from here and a bus load from there . . . that's what created the heartburn and the hardship. Commissioner Miller stated that she understood that Mr. Rose had a great facility and he wanted to share it. Commissioner Miller stated on the other hand the Commission must find a balance for the people that live right next to it. Commissioner Miller stated if Mr. Rose lived right next to it and he had it out his back door it would be different.

Rick Rose stated he does.

Commissioner Miller stated but Mr. Rose is not the closest one. Commissioner Miller stated if he lived right next to it, and Mr. Rose couldn't sit on his deck knowing that ball games are going, then it would be a different story. Commissioner Miller further stated that she wanted to find a way to have this facility, but she felt that the Commission would have to find some middle ground. Commissioner Miller suggested that they table the decision and find out some further information over the conditions that the Cascades and Highlands have, and all the different ball fields that are within subdivisions, as to hours of use, tournaments, just to get a feel for how they operate.

Commissioner Pearson stated that he'd like to understand how the other ball fields came about. Commissioner Pearson stated that it seemed to him that this started out kind of in one direction and grew. Commissioner Pearson stated that because of its quality, it's become more attractive even though Mr. Rose is saying that it's sort of peaked. Commissioner Pearson further stated that he had an appreciation for the Kinsey's perspective on this, as far as this is their own little piece of heaven out there. Commissioner Pearson stated it's their dream home and the Commission must try and figure out how to respect that. Commissioner Pearson stated that they are trying to figure out how to make this work.

Commissioner Miller stated that she agreed with that.

Commissioner Elkin stated that he concurred.

Commissioner Miller moved that the Commission table it for the night and take some time to learn about how other neighborhoods manage to have these amenities and live around successfully. Commissioner Miller further stated so the Commission can put the right conditions on if they can find that right middle ground and move forward.

Commissioner Elkin stated that his biggest concern, rehashing what he said earlier, is that as long as it's under Mr. Rose's control, it would be status quo, but if Mr. Rose ever sold that land, who knows what would go there as far as the operation and stuff.

Commissioner Elkin stated that concerns him because that could really create some problems.

Commissioner Pearson added it might not just be the Kinsey's that would be concerned at that point.

Commissioner Miller stated that one of the conditions that she would definitely want on there would be no more ball fields of any kind being built. The subdivision has one, and Mr. Rose can't expand the operation.

Commissioner Elkin stated physically he didn't think you could.

Commissioner Miller stated that there was quite a bit of land back there behind the

outfield that might turn into a soccer field or something else.

Rick Rose stated he didn't want more to mow.

Commissioner Miller made a motion to table the issue.

Commissioner Elkin seconded the motion.

Commissioner Pearson asked if there were any other questions? Commissioner Pearson asked who all was in favor of the motion?

Commissioner Miller stated I.

Commissioner Elkin stated I.

Commissioner Pearson stated the conditional use permit is on the table for tonight, and the Commission will reschedule this.

Stan Shawver stated that there's no reason we can't bring it back in a month or in a regular meeting.

Commissioner Miller clarified in a regular meeting? Commissioner Miller questioned if the neighborhood had a list serve or something, they send out an e-mail blast to let them know?

Commissioner Pearson stated then the issue is done for the night.

Motion carried 3 to 0.

4. Request by William J. Harrison and Thomas C. Harrison III for a permit for a private family cemetery on 90 acres located at 3000 E. Winn Rd., Sturgeon

Billy Harrison from 5836 HWY 48 Weldon, IL, was present on behalf of this item.

The subject tract is located to the southeast of the intersection Winn & Tucker School Road, three miles to the west of Hallsville. It is 90 acres in size and has no structures present. It is zoned A-2(Agriculture), and is surrounded by A-2 zoning. This is all original 1973 zoning.

The applicants have requested a conditional use permit for the placement of a private family cemetery on their property. Previous applications for private family cemeteries have identified two recommended conditions. First is that the location of the cemetery be identified on a survey of some form. This is recommended due to the impacts that finding a previously unidentified cemetery can have on the property. And second, that there be some form of access easement to the cemetery location identified and recorded

for descendents of those interred to have legal access to the site.

The following criteria are the standards for approval of a conditional use permit, followed by staff analysis of how this application may meet those standards. Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners.

(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.

If operated in conformance with existing county regulations, the use should comply with this criterion.

(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.

It is difficult to see how the placement of a private family cemetery can have any significant impact on the use and enjoyment of other properties in the immediate vicinity. While there may be an increase in activity at the site on an irregular basis, unless the number of family members interred at this site is considerable, there should be limited impact on the surrounding properties.

(c) The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.

The placement of the cemetery and the ensuring of access and maintenance of the site should prevent any off-site impacts caused by this conditional use permit.

(d) All necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage.

This use has limited needs as far as utilities and infrastructure is concerned. The establishment of an access easement to the cemetery should prevent any problems so far as road access is concerned.

(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.

This use will have negligible impacts on the surrounding properties. The permit's impacts are site-limited, and can be resolved by a survey identifying the location of the cemetery on the subject property.

(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.

As previously mentioned, the establishment of an access easement to the cemetery from the road should allow the request to meet the needs of this criterion.

(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.

The proposal conforms to other applicable regulations of the A-2 zoning district.

Staff recommended approval of the request with the following conditions:

- That a survey identifying the location of the proposed cemetery be approved by the director of planning and recorded.
- That an access easement be recorded and referenced on the previously mentioned survey.

The Planning and Zoning Commission conducted a public hearing on this request during their August 20, 2009 meeting. There were 6 members of the commission in attendance at the meeting. Following the public hearing, a motion was made to recommend that this request be approved with the staff conditions and two additional conditions:

The site not exceed one acre in size.

The property irons have steel or masonry markers to define the boundaries of the cemetery.

The motion to recommend approval of the request passed unanimously. It comes forward with a recommendation for approval.

Commissioner Pearson: OK, is there anyone who wishes to testify on this issue?

Billy Harrison: I live at 5836 Highway 48 Weldon, IL. I am one of the property owners.

Commissioner Pearson: Go ahead.

Billy Harrison: Well, basically we just requested for a private family cemetery plot on that 90 acre tract, which, the recommendation was not to exceed one acre. On the twentieth my family and I had come down to take care of some of the land, and we settled on one quarter of an acre. The easement to the place which comes in off of the Northeast corner above the north twenty-six acres, you can kind of see the trail. It's not a paved road, it's basically a path, if you will, leading back to the cemetery. Ah, this has all been cleared and at this point we're just waiting on the recommendations.

Commissioner Elkin: Did you say one quarter acre?

Billy Harrison: You don't realize till you get out there and start clearing it how big one acre is. And no more, to be honest, no more than this is going to be used.

Commissioner Miller: Why did you put it all the way back in the property instead of close to the road?

Billy Harrison: Why? This has been in the family since 1943. My dad grew up coming out here. Found the place, while staying with his grandmother and what not, and that's the spot he chose.

Commissioner Miller: Well, by doing genealogy, having experience with family cemeteries that are not maintained, that the stones are lost, the property transitions because nobody takes care of them ... You loose that whole perspective. I'm very uncomfortable with this. I will tell you that right off the bat. I think it should be totally fenced around the cemetery so that it is identified by whoever buys it and it's got some way of maintaining it. And nothing has been planned for that. That's just my biggest concern. I just went to a family cemetery and I could find six graves and there are forty some there. Because the cattle has been in, they've tromped them down and the weeds have grown over them, and it is a concern.

Billy Harrison: The recommendation was at the twentieth meeting was either a fence or four corner posts was mentioned. They didn't say one or the other. We chose to not track up the land anymore then possible because it is beautiful wooded land, rather than put up a quarter acre or one acre fence, I chose to put up corner markers, which we don't have in at this time we just came down today from Illinois. As far as maintenance goes, there's several family members that have volunteered to come down and visit the property frequently. And there is also a neighbor just northwest, Sam Sullivan, has also volunteered to help to take care of the place.

Commissioner Miller: I am not concerned now, I am concerned for thirty years from now.

Billy Harrison: There are also talks, and I know that there is nothing set in stone of me and my wife building a house down there. So, that's a possibility.

Commissioner Elkin: We have a couple of cemeteries that are in trust right now.

Commissioner Miller: We have one that ran out of money and nobody takes care of it, but it was given to the county... and that's the point.

Commissioner Elkin: I am not worried about today, I am worried about in ten and twenty years when you know the great great grandkids never met grandma and grandpa ... kind of that one degree of separation, not really concerned, they live in Chicago, wherever. I don't have a problem with the concept of family cemetery on there, I respect that and everything, you know I don't want the tax payers of Boone County getting stuck with this

twenty years from now.

Commissioner Pearson: I don't know if this is proper sequence, but I have a question for CJ. He is our legal council. If this is surveyed off, which it is, it's in there hands, correct? Whose responsibility is it to maintain that cemetery?

CJ Dykhouse: By statute, the statute speaks of the landowner of the land that the cemetery was formally part of are responsible for the cost of the maintenance. The issue becomes that takes action on behalf of the county in order to enforce that obligation. It's not self enforced in absent litigation.

Commissioner Pearson: Does the county have any responsibility to take care of it at all?

CJ Dykhouse: It's deeded to the Commission in trust because that's the statutory mechanism on that. And that's the mechanism by which we create these things. To the extent that there is a maintenance issue, what would happen is in thirty or forty years the County Commission because of the nature of how these things get created might think it's a policy decision that they have to take that on but there would not be an obligation for the County Commission to maintain this cemetery.

Commission Pearson: Does this have to be set up as a trust, or can they just own it?

CJ Dykhouse: Stan has just told me, that they are not proposing deed to the Commission under that statutory process.

Commissioner Pearson: So the family could own it, it would be there responsibility to take care of it, the Commission is out of it.

CJ Dykhouse: Yes.

Commissioner Pearson: Can the county require them to fence this?

CJ Dykhouse: As part of the conditional use, we could, because that would be a condition that relates to that use of the land.

Commissioner Pearson: I know that that probably destroys the land features. My wife's farm that we used to own, there is a family cemetery on that. It's the Hopper Place, and that family had a cemetery on there from the eighteen hundreds. It's small, they fenced it, it's been fenced. Somebody goes in there every year and cleans that up. It's maintained, but I'm sure that nobody has been buried there for probably seventy years. So I guess I don't have any problem with it as long as the county isn't going to have any responsibility for taking care of this thing. And I would hope that you would raise your kids well and they would take care of it.

Commissioner Elkin: It's kind of a question for maybe everyone in the room, how do

you ... now I am not saying that you would do this or anything but the county is responsible for indigent cremations or burials. When somebody doesn't have any resources, the county picks up the tab. There could be a situation where maybe a funeral home looking for cheap burial spots, how do we prevent this from becoming the next pauper grave? If you ever sold the land, or your grand kids ever sold the land how do we prevent this from becoming the cheap place to be buried for indigent ...

Stan Shawver: The conditional use permit is for specifically private family cemetery. That's how that's listed. So if there were other than family members being buried there, how would we even know, and how would we enforce it especially forty years from now. I think within the last couple of years we have had a case here in Boone County. Obviously that one didn't have a conditional use permit it's a long standing cemetery, and they did not restrict burials.

Commissioner Elkin: Can we make a restriction that it's family?

Stan Shawver: I think it is.

Commissioner Elkin: The application is for that, so it wouldn't have to be added.

Stan Shawver: That's the only use the conditional use permit has, is a private family cemetery.

Commissioner Elkin: Mr. Harrison, my question for you is are the graves going to be marked?

Mr. Harrison: Yes. Now when you say family members do you mean only people with the last name Harrison can be buried there?

Commissioner Miller: If it's family members, it's family members.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the request of William J. Harrison and Thomas C. Harrison III for a permit to construct a private family cemetery on 90 acres located at 3000 E. Winn Rd., Sturgeon subject to the following conditions:

- 1) That a survey identifying the location of the proposed cemetery be approved by the director of planning and recorded.
- 2) That an access easement be recorded and referenced on the previously mentioned survey.
- 3) The site not exceed one acre in size.
- 4) The property irons have steel or masonry markers to define the boundaries of the cemetery.

Commissioner Miller seconded the motion.

There was no further discussion or public comment.

The motion carried 3 to 0. **Order 395-2009**

5. Request by Timothy and Toby Rost to rezone from A-R (Agriculture Residential) to C-GP (Planned Commercial) and approve a review plan on 1.7 acres, more or less, located at 2450 N. Trails West Ave., Columbia

The subject tract is located at 2450 Trails West Avenue, south of Highway 40, approximately 3 miles from the city limits of Columbia. The applicants are seeking a rezoning of 1.70 acres of R-S (Residential Single-Family) zoning to C-GP (Planned General Commercial) to expand the commercial areas and use of the property for their landscaping business. Currently, the property is split zoned R-S (Residential Single-Family), A-R (Agriculture-Residential), and C-G (General Commercial). The R-S is original 1973 zoning, the A-R was rezoned in February of 1990, and the C-G was rezoned in April 1982. The property is surrounded by original 1973 R-S zoning.

Currently, the property has one existing building in the C-G zoned area, and six buildings in the A-R and R-S zoned areas. The building in the C-G area is used as an office structure and the buildings located in the R-S and A-R zoned areas are used for the agricultural activities associated with the current agricultural use associated with the landscaping business. The applicant's review plan indicates one new greenhouse building and an associated parking area. If approved, this rezoning will allow for expansion of the landscaping business in the new building. This request scored 63 points on the point rating system. Staff notified 56 property owners about this request.

The Master Plan designates this property as suitable for residential land uses. 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 necessary to serve the proposed development can be broken down into 3 general categories; utilities, transportation, and public safety services.

Utilities: Public water is provided by Consolidated Public Water District #1. There is an existing 6" water line on the east side of Trails West Avenue for provision of water to this site. A new hydrant will be installed on site to meet the requirements of the Boone County Fire Protection District. Electrical service is provided by Boone Electric Cooperative.

Transportation: Trails West Avenue feeds into Rollingwood Boulevard, and these streets are identified on the Major Roadway Plan as neighborhood collectors. The uses identified on the plan, which may increase traffic counts to this site, are off-peak increases, and should have limited impact on peak hour residential traffic for the

residential areas around this site.

Public Safety: The nearest fire station is at Midway, approximately 1 mile away. The existing road network provides access for public safety services. An additional fire hydrant will be installed to meet the requirements of the Boone County Fire Protection District.

This request meets the requirements of the Boone County Master Plan's sufficiency of resources test. While the requested uses are more intense than those uses currently present on the site, they are an acceptable expansion of those uses.

Staff recommended approval of the rezoning request and the review plan.

The Planning and Zoning Commission conducted a public hearing on this request during their August 20, 2009 meeting. There were 6 members of the commission in attendance at the meeting. Following the public hearing, a motion was made to recommend that the rezoning request be approved. That motion received unanimous support. A motion was then made to recommend approval of the review plan. That motion also received unanimous support.

Tim Rost stated that he lived at 8050 Hwy 40, Columbia MO.

Neal Slattery stated he was with the Civil Group, offices at 1123 Wilkes Blvd. Good evening everyone we are here to ask you to consider this zoning request and approve the review plan before you. We are here to answer any questions that you may have regarding this plan of the proposed facility.

Commissioner Miller asked if the area was going to be asphalted?

Mr. Rost answered yes.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request of Timothy and Toby Rost to rezone from A-R (Agriculture Residential) to C-GP (Planned Commercial on 1.70 acres, more or less, located at 2450 N. Trails West Ave., Columbia.

Commissioner Elkin seconded the motion.

There was no further discussion or public comment.

The motion carried from 3 to 0. **Rezone Order 396-2009**

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the request of Timothy and Toby Rost to approve a review plan on 1.7 acres, more or less, located at 2450 N. Trails West Ave., Columbia.

Commissioner Miller seconded the motion.

There was no discussion or public comment.

The motion carried from 3 to 0. **Review Plan Order 397-2009**

6. Request by David Biggs to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 6.14 acres, more or less, located at 3701 E. Biggs Rd., Ashland

This property is located north of Ashland on the north side of Biggs Rd approximately 2000 ft west of the intersection of State Highway DD and Biggs Rd. The subject property is situated approximately 1.25 miles northwest of the closest municipal limits of Ashland. The parent property of this request is zoned A-1 (agriculture). Property to the northeast and east is zoned A-1P (planned agriculture) and was rezoned from A-1 in 1995. Property to the southeast and south is zoned A-2 (agriculture) which was rezoned from A-1 in 2002. Property to the southwest, west, and northwest is zoned A-2 and is an original 1973 zoning. Property to the north is zoned A-1 and is also an original 1973 zoning. The applicant is requesting a rezoning of a 6.14 acre portion of the parent parcel to A-2, the remainder of the parent parcel will remain zoned A-1. The entire parent parcel is vacant. This site lies within the Ashland Public School District. The site is in Consolidated Public Water District #1 and the site is served by a 4 inch water main. The site is in the Southern Boone Fire District but the area of land requested for rezoning can't be subdivided into enough lots to trigger fire hydrants. Electric service will be provided by Boone Electric Cooperative. Wastewater service is proposed to be provided by on-site wastewater systems regulated by the health department. The proposal scores 36 points on the point rating system. The master plan designates this area as being suitable for agriculture and rural residential land uses. The request is consistent with the master plan. Staff notified 23 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. This test serves a gate keeping function to see if a request merits further detailed analysis.

Utilities: This site is served by Boone Electric Cooperative and Consolidated Public Water District 1. There are existing district waterlines serving the property. Sewage will be by an on-site wastewater system regulated by the health dept.

Transportation: Access to the site is from Biggs Rd a County maintained road.

Public Safety: The nearest fire station is located in Ashland within 5 road miles.

The services available to serve the existing zoning are adequate to serve the proposed rezoning. Essentially, the request is to simply move the boundary between the A-1 and A-2 zoning districts from the roadway to a stream draw that crosses the parent parcel. The stream is a natural visible feature and suitable boundary. This stream does require a stream buffer according to County ordinances and would make a reasonable and identifiable district boundary

Therefore, staff recommended approval of the request.

The Planning and Zoning Commission conducted a public hearing on this request during their August 20, 2009 meeting. There were 6 members of the commission in attendance at the meeting. Following the public hearing, a motion was made to recommend that the rezoning request be approved. That motion received unanimous support. It comes forward with a recommendation for approval.

David Biggs stated that he was the owner.

Gene Basinger stated he had offices at 300 S. James and he was the surveyor. Mr. Basinger stated that the copy of the aerial from the Boone County website and it's showing the proposed division of this property Mr. Biggs is looking at doing. Mr. Basinger stated that the 6.14 acres is buffered by a stream which made a nice boundary and it also has a wooded area along another side, and they are also looking at dividing off 11.49 acres. Mr. Basinger stated that he believes that the division of the property is the best way to do it. I don't think the division of the property is part of the question, the question is going to be whether we go from A-1 to A-2 or whether we go from A-1 to A-1P. To do a plan on this property, I personally don't see where the value would be as far as protection for the people or the County of Boone, in that we are really no creating more density by doing this smaller tract.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request of David Biggs to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 6.14 acres, more or less, located at 3701 E. Biggs Rd., Ashland.

Commissioner Elkin seconded the motion.

There was no further discussion or public comment.

The motion carried 3 to 0. **Order 398-2009**

7. Biggs Road. S4T46N-R12W. A-1. David Biggs, owner. Curtis E. Basinger, surveyor (Appeal)

Gene Basinger stated that the Planning and Zoning Commission could not approve a plat because the zoning was not in place. Mr. Basinger stated since then we have just approved the zoning.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve receive and accept the following subdivision plat, and authorize the Presiding Commissioner to sign it.

Biggs Road. S4T46N- R12W. A-1. David Biggs, owner. Curtis E. Basinger, surveyor.

Commissioner Miller seconded the motion.

There was no further discussion and no public comment.

The motion carried 3 to 0. **Order 399-2009**

8. Request by Larry W. Potterfield Revocable Trust to revise an approved Review Plan for Boone West Planned Industrial Development on 14.83 acres, located at 5875 W. Van Horn Tavern Rd., Columbia

This property is located on the north side of Van Horn Tavern Road and is bounded on the north by I-70, approximately 1000 feet west of the intersection with U.S. 40. The site is about 1 mile west of the Columbia municipal limits. The area proposed for revision is comprised of two parcels containing 14.28-acres total. The current zoning of the entire property is M-LP (planned industrial) which was rezoned from C-GP (planned commercial). Property to the north across I-70 is zoned part A-2 and part A-R. Property to the east and south is zoned A-R and property to the west is zoned C-GP. All of the zonings with the exception of the C-GP are original 1973 zonings. The site is currently the location of two large commercial/industrial buildings. The 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 Consolidated Public Water District No.1. Hydrants are required for commercial structures such as that shown on the plan and any upgrade to waterlines to meet required fire flow will be at the developers cost. Sewer is currently provided by an on-site commercial wastewater under DNR or the Health Dept. The purpose of this revision to the plan is to allow a separate lot to be subdivided around the sewage treatment plant for conveyance to the BCRSD. The PID Plan must show all lots that are proposed for creation and this is the only significant change from the currently approved plan. The list of Allowed Uses is the same and the property already has been granted a CUP for the manufacture or assembly of metal or fiberglass products: such as firearms. The Master Plan designates this area as suitable for commercial land use. The Master Plan promotes the use of Planned Districts as a means to establish new commercial and industrial areas. The property scored 80 points on the rating system. Staff notified 16 property owners concerning this request. Since this proposal is virtually identical to the approved version except for a proposed sewer lot for the BCRSD;

Staff recommended approval of the revised review plan subject to retaining the condition on the current approved plan:

- The fire lanes and fire protection requirements must satisfy the BCFPD on any building expansion and any waterline relocation must be made in conjunction with the water district at the developer's expense.

The Planning and Zoning Commission conducted a public hearing on this request during their August 20, 2009 meeting. There were 6 members of the commission in attendance at the meeting. Following the public hearing, a motion was made to recommend that the revised review plan be approved. That motion received unanimous support. It comes forward with a recommendation for approval.

Matthew A. Kriete stated that he was with Engineering Surveys and Services located at 1113 Fay St. Columbia.

Denny Stephenson stated he was with the Potterfield Group.

Mr. Kriete stated that the change is simply for the septic sewer. The ordinance required if any sewage crossing lines it has to be public.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request by Larry W. Potterfield Revocable Trust, to revise an approved Review Plan for Boone West Planned Industrial Development on 14.83 acres, located at 5875 W. Van Horn Tavern Rd., Columbia.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion carried 3 to 0. **Order 400-2009**

9. Petition submitted by Joseph and Roberta Lee to vacate and authorize the re-plat of Lot 76 of Lake of the Woods Plat 2, located at 560 N Shiloh Ave., Columbia

Roberta D. Lee stated that she lived at 560 N. Shiloh, Columbia MO. Ms. Lee stated that when she bought the house 14 years ago, we didn't fully understand what the easement was all about. We are now planning on staying in our home. We want to have the rights of way removed, so when we decide we want to add space for all my additional stuff after 14 years there. When we bought it there was nothing behind us, there was cow pasture. When they started development we had a better understanding of the easement and played 'wait and see.' Since the new development went in, they have curbed the streets behind us and there are multiple entrances and exists to the neighborhood and we would just like to retrieve the twenty five feet so if we wanted to build a free standing garage, we can.

Commissioner Miller moved on this day the County Commission of the County of Boone

does hereby approve the petition by Joseph and Roberta Lee to vacate and authorize the re-plat of Lot 76 of Lake of the Woods Plat 2, located at 560 N. Shiloh Ave., Columbia.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion carried 3 to 0. **Order 401-2009**

10. Audubon Estates Plat 2. S25-T47N-R13W. A-2. Anna Marie Albert-Lewis, owner. J. Daniel Brush, surveyor.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby receive and accept the following subdivision plat, and authorize the Presiding Commissioner to sign it.

Audubon Estates Plat 2. S25-T47N-R13W. A-2. Anna Marie Albert-Lewis, owner. J.Daniel Brush, surveyor.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion carried 3 to 0. **Order 402-2009**

Sheriff's Department

11. Boone county Warehouse Agreement (first read on 8/27/2009)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the Boone County Warehouse Agreement between Dwayne Carey, Boone County Sheriff, and Boone County, Missouri, by and through the Boone County Commission. It is further ordered the Presiding Commissioner is hereby authorized to sign said agreement.

Commissioner Elkin seconded the motion.

There was no discussion or public comment.

The motion carried 3 to 0. **Order 403-2009**

Public Works

12. Agreement for Cost-Share for Installing Porous Asphalt and Bioretention at Columbia Fire Station # & (first read on 8/27/2009)

Stan Shower stated that when the Hinkson Creek project Phase I, report was finalized there had been an agreement between the City of Columbia and Hinkson Creek 319 Grant. We only had a verbal agreement with the City of Columbia at that time for this cost share which would include the installation of the porous asphalt and a bioretention cell for Fire Station # 7 which is the newest station on Green Meadows Rd. The contract was based on a not to exceed amount, the actual amount of reimbursement would be 60% of the total cost, or twenty one thousand seven hundred dollars. City of Columbia is responsible for the 40%.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the agreement for Cost- Share for Installing Porous Asphalt and Bioretention at Columbia Fire Station 7. It is further ordered the Presiding Commissioner is hereby authorized to sign said agreement.

Commissioner Miller seconded the motion.

There was no discussion or public comment.

The motion carried 3 to 0. **Order 404-2009**

Purchasing

13. 42-05-Aug09 – Wall Metal Panel Material for Sapp Building

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby award bid 42-05Aug09 – Wall Metal Panel Material for Sapp Building Erection at Fairgrounds. It is further ordered the Presiding Commissioner is hereby authorized to sign said contract.

Commissioner Miller seconded the motion.

There was no discussion or public comment.

The motion carried 3 to 0. **Order 405-2009**

14. Budget Revision for Fairgrounds Maintenance

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the following budget revision to appropriate Fairgrounds Maintenance contingency funds for building and improvements.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion carried 3 to 0. **Order 406-2009**

11. Commissioner Reports

There were no commissioner reports.

12. Public Comment

There was no public comment.

The meeting adjourned at 7:45 p.m.

Attest:

Wendy S. Noren
Clerk of the County Commission

Kenneth M. Pearson
Presiding Commissioner

Karen M. Miller
District I Commissioner

Skip Elkin
District II Commissioner