

Answer by Letter (J.C. Klaffenbach)

July 27, 1970

OPINION LETTER NO. 393

Honorable Frank Conley  
Prosecuting Attorney  
Boone County Court House  
Columbia, Missouri 65201



Dear Mr. Conley:

This opinion is in response to your question which concerns an interpretation of Section 64.560 RSMo 1969 which states as follows:

"That nothing herein shall affect the recovery of natural resources by strip or open cut mining; provided that commercial structures shall be permitted in all districts except those zoned for residential or recreational use."  
(Emphasis added).

Specifically you inquire whether the underlined portion of the above section means that commercial structures can be erected without planning and zoning approval in areas except those zoned for residential or recreational use in counties adopting county planning and zoning under the provisions of Sections 64.510 through 64.690 RSMo 1969.

We note that the bill as introduced did not contain the underscored provision, but that such provision was contained in the bill as truly agreed to and finally passed. There is obviously no relationship between the first part of the paragraph and the underscored provision.

In our view, the legislature intended that commercial structures must be permitted in all districts except those zoned for

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residential or recreational use, but did not intend that the County Court be divested of any of the broad powers given it pursuant to Sections 64.620, RSMo. et. seq.

Within the framework of the powers vested in the County Courts, they may regulate commercial structures, but do not have the authority to prohibit commercial structures except in residential or recreational districts.

Therefore, in answer to your question, we conclude that under Section 64.560 RSMo 1969, the County Court does not have the authority to prohibit the erection of commercial structures in districts other than those zoned for residential or recreational use. However, commercial structures in such other districts may be regulated as may be consistent with the zoning powers given the County Court.

Very truly yours,

JOHN C. DANFORTH  
Attorney General