

BOONE COUNTY PLANNING & ZONING COMMISSION
BOONE COUNTY GOVERNMENT CENTER, COMMISSION CHAMBERS
801 E. WALNUT, COLUMBIA, MISSOURI
(573) 886-4330

Minutes

7:00 P.M.

Thursday, February 19, 2009

I. Chairperson Smith called the meeting to order at 7:00 p.m., with a quorum present.

II. Roll Call:

a. Members Present:

Pat Smith, Chairperson	Perche Township
Pat Fowler, Secretary	Missouri Township
Carl Freiling, Vice-Chairperson	Cedar Township
Michael Morrison	Columbia Township
Mike Morgan	Bourbon Township
Gregory Martin	Katy Township

b. Members Absent:

Larry Oetting	Three Creeks Township
Paul Zullo	Rock Bridge Township
John Schloot	Rocky Fork Township
Derin Campbell	Public Works
Vacant Seat	Centralia Township

c. Staff Present:

Stan Shawver, Director	Uriah Mach, Planner
Bill Florea, Senior Planner	Thad Yonke, Senior Planner
Paula Evans, Staff	

III. Approval of Minutes:

Minutes from the December 18, 2008 meeting were approved by acclamation.

IV. Chairperson Statement

Chairperson Smith read the following procedural statement:

The Boone County Planning and Zoning Commission is an advisory commission to the County Commission. The Commission is made up of individuals representing each township of the County and the county engineer. The Planning and Zoning Commission makes recommendations to the County Commission on matters dealing with land use. Tonight's agenda includes three conditional use permits, one rezoning request, and one subdivision plat.

In general, the Planning and Zoning Commission tries to follow Robert's Rules of Order, however, it is authorized by the Missouri State statutes to follow its own by-laws. The by-laws provide that all members of the Commission, including the Chairperson, enjoy full privileges of the floor. The Chairperson may debate, vote upon, or even make any motion.

The following procedure will be followed:

The agenda item will be announced, followed by a report from the Planning Department staff. At that time, the applicant or their representative may make a presentation to the Commission. The Commission may request additional information at that time or later following the hearing. After the applicant's presentation, the floor will be opened for anyone wishing to speak in support of the request. We ask that any presentation made to the Commission be short and to the point.

Please give your name and mailing address when you address the Commission. We also request that you sign the sheet on the table after you testify.

Next the floor will be given over to those who may be opposed to the request. Direct all comments or questions to the Commission and please restrict your comments to the matter under discussion. Please be considerate of everyone here. We ask that you not be repetitious with your remarks. We also recognize that some issues can be quite emotional. In that regard we ask that you refrain from applause, cheers, or other signs of support or displeasure. Please afford those with a different point of view than yours the same respect and consideration you would like yourself.

After those opposed to the request have had a chance to speak the applicant will have an opportunity to respond to the concerns of those opposed to the request. Next the staff will be given an opportunity for any additional comments, as appropriate. The public hearing will then be closed and no further comments will be permitted from the audience or the applicant unless requested by the Commission. The Commission will then discuss the matter and may ask questions of anyone present during discussion. Finally, a motion will be made to either recommend the approval or denial of the request to the County Commission. Please note that the Boone County Zoning Regulations and Subdivision Regulations are considered to be a part of the record of these proceedings.

All recommendations for approval are forwarded to the County Commission. They will conduct another public hearing on Tuesday, March 3, 2009. Interested parties will again have the opportunity to comment on the request at that time. The County Commission generally follows the recommendations of the Planning and Zoning Commission; however, they are not obligated to uphold any recommendation. Requests that have been denied will not proceed to the County Commission unless the applicant files an appeal form within three working days. Please contact the Planning office to see if a request that has been denied has filed an appeal, as there will be no further public notification due to the short time between the hearing tonight and the County Commission hearing. The County Commission hearing scheduled for Tuesday, March 3, 2009 will begin at 7:00 p.m. and will convene in this same room.

V. Conditional Use Permits

1. Request by David L. Sallee for a permit for a sewage lagoon on 5.0 acres, located at 11251 N. Hecht Rd., Hallsville.

The following staff report was given by Planner, Thad Yonke:

This property is located on the west side of Hecht Road approximately 3000 ft north of the intersection of Mount Zion Church Road and Hecht Road. The site is approximately 2 miles south of the nearest municipal limits of the City of Hallsville. The subject property for the proposed Conditional Use Permit is 5 acres. The current zoning of this property is R-S (residential single family) which was rezoned from the original A-2 (agriculture) zoning in December of 2008. All the surrounding property remains zoned A-2 and these are all original 1973 zonings. The subject property contains one singlewide mobile home, tool shed, and a wastewater lagoon. This current request is for a Conditional Use Permit for a collector sewage lagoon not approved under County Subdivision Regulations. The applicant has also submitted an

application for a Conditional Use Permit to create a Mobile Home Park on this property which is a separate agenda item. The current lagoon has a DNR No-Discharge permit; however, this permit is not adequate for the lagoon to serve as a collector system under county regulations. To use the existing lagoon as a collector wastewater system will require the approval of this Conditional Use Permit for a collector sewage lagoon system not approved under the county subdivision regulations. In order to use this lagoon as a collector wastewater system if this Conditional Use Permit is not granted would require the system to be brought, at the owner's expense, up to current BCRSD standards and be turned over to the BCRSD for operation and maintenance. A letter provided by the applicant as part of his request is from the BCRSD dated July 1st 2008. This letter indicates that the design of the lagoon can support 6 units. The large sewage lagoon on the site is currently considered by the County to be an on-site wastewater system, since the lagoon only serves the single dwelling unit located on the property.

The site is within the Hallsville School District, PWSD #4, Boone County Fire Protection District, and Boone Electric Service Area. The proposal rates 36 points on the point rating scale. The master plan designates this area as being suitable for agriculture and rural residential land uses. The request is not consistent with the master plan, is not in keeping with the existing character of the area. Staff notified 12 property owners concerning this request.

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, information and comments from utilities and other commenting agencies, planning department/county records, and public comments received following notification of the surrounding property owners. It is important to recognize that it is incumbent upon the applicant to demonstrate that all seven of the criteria for approval of a Conditional Use Permit are met. Under the regulations before authorizing the issuance of such a Conditional Use Permit, the County Commission shall satisfy itself that all seven of the Conditional Use Criteria are met.

(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.

Past experience from the operation of private collector lagoon systems in Boone County has shown that collector wastewater systems operated by non-governmental entities have endangered the public health, safety, comfort and general welfare. The enforcement mechanisms of both the Missouri Department of Natural Resources and The Missouri Attorney General's Office, which are the tools established under the state statutes, are inadequate to guarantee timely compliance and protect the public health, safety, comfort or general welfare. Privately operated sewage lagoon collection systems that were permitted by DNR but were found to be in violation of their operating permit have taken over 5 years to get through the state enforcement process, and even then the problems in many cases are repeated and/or compliance orders and agreements ignored. There is very little leverage to compel compliance from a private sewer operator. This lack of a timely enforcement mechanism is one of the main reasons that the County regulations encourage collector wastewater systems be operated by a public governmental entity.

(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.

If operated in compliance with the DNR permit, the collector sewage lagoon should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations. However, the concern is that there is no effective and timely enforcement mechanism should the permit not be operated in compliance with the DNR permit. Public testimony may be more indicative as to whether this criterion is met.

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

If operated in compliance with the DNR permit, the collector sewage lagoon should not substantially diminish or impair the property values of existing properties in the neighborhood. However, the concern is that there is no effective and timely enforcement mechanism should the permit not be operated in compliance with the DNR permit. Public testimony may be more indicative as to whether this criterion is met.

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

The proper operation and maintenance of a private collector wastewater lagoon on this site does not require extensive facilities and therefore on this point the request meets this criterion.

(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 proper operation and maintenance of a private collector sewage lagoon on this site should not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district as most of the surrounding properties are already developed in compliance with the A-2 zoning found on the surrounding properties.

(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.

The proper operation and maintenance of a private collector wastewater lagoon on this site will not hinder traffic or cause congestion on public streets. The subject property upon which the lagoon is located has public road access.

(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.

There does not seem to be a public necessity for this Conditional Use Permit.

While this use is available as a conditional use in the single family residential district it is not good public policy to allow the creation of what are essentially private sewer companies for which there is little to no leverage to gain timely enforcement when a problem arises. The past experience with private collector lagoon systems is that when a problem happens the responsible private party can ignore the problem for significant periods of time and allow the failure to continue because the enforcement mechanisms available under the state statutes are not effective to secure timely compliance.

Staff recommends denial of this conditional use permit for failure to meet criterion (a) (b) (c) & (g) for the reasons stated in this report.

If the Commission does decide to approve the permit, staff suggests the following conditions:

1. That the collector sewage lagoon system be restricted to serving a maximum of 6 Mobile Home units. The existing lagoon does not meet the standard used by the BCRSD to support the proposed 8 units.

The BCRSD is the commenting agency with the expertise in collector sewer systems that the county consults with on technical aspects of proposals involving central wastewater collection and treatment.

2. That no structure be connected to the collector lagoon system other than Mobile Homes with county permits which are shown and approved on a engineered Mobile Home Park plan in compliance with the Mobile Home Park Ordinance and other county regulations.
3. That the sewage lagoon system be restricted to only serving units legally placed upon the 5-acre tract and that the lagoon system is not allowed to serve any structure or use on any other property or parcel. This condition is needed to mitigate the potential damage of non-compliance by limiting the sewage system to a single property.

Present representing the request:

David Sallee, 3300 Mt. Zion Church Rd., Hallsville.

David Sallee: Staff says I asked for 8 mobile homes out there and 2 RV's. That is not how it is. I am asking for 6 mobile homes and 2 RV's out there. This is transitional housing for the individuals that come out there.

Chairperson Smith: I think you are talking about a different request. We are talking about just the sewer now.

David Sallee: The sewer is in compliance with DNR as was said (in the staff report). The lagoon out there is in compliance with DNR. No it is not in compliance with the Boone County Regional Sewer District (BCRSD herein) but that is because I have not signed over a deed to the land that the lagoon is sitting on and let them take it over. I have discussed with Tom Ratermann the probability of inserting a septic system in there prior to a lagoon and using the lagoon that is there now as a second cell just for liquids and maintain the solids in the septic tank between the sanctuary and the lagoon. That is all covered. DNR, I do have a no discharge permit and it will have to be changed over when I get to the sewer system. It will be self contained it will not be a no discharge evaporative lagoon; I guess it will be, but it will not have any solids in it whatsoever. It will be cleaned out at the septic tank before it ever reaches (the lagoon).

DS: The capacity for the lagoon at present allows for 30 people in that mobile home court. The Missouri State operating permit states that the facility in description is a no discharge system, single cell storage lagoon, wastewater irrigation, sludge retained in lagoon. That will change to being retained in the septic tank. Design population equipment is 30. That is 30 individuals, 3.3 people per mobile home, that is 10 mobile homes up there. The plans that were submitted to the Planning and Zoning Commission, I am not going to have 10 mobile homes up there or 8 mobile homes and 2 RV's either. My intent was to have 6 mobile homes and 2 RV's for transitional housing as these men come in and progress, hopefully, positively, through a better lifestyle. That is where I stand on the wastewater lagoon, right there. It is in compliance with everybody except BCRSD. At this time I do not want to sign it over to them, I want to change it over as I work with it to a septic tank system per their guidance and regulations.

Commissioner Freiling: What is the particular objection to taking the easy path which is making it a public collector system?

David Sallee: Because I would have to sign over that lagoon to the BCRSD. I am not signing my land over to anybody. This is me and my vets out there and we are bending over backwards to make the criteria set by the Planning and Zoning Commission. We are doing so this far.

Open to public hearing.

No one spoke in support of the request.

Present speaking in opposition:

Tom Schneider, Attorney, 11 N. Seventh St., Columbia.

Tom Schneider: I am really here to speak to the next agenda item but this obviously has some bearing on that. I represent various individuals in the neighborhood that oppose the larger issue, being the mobile home park conditional use permit, for several reasons. I will outline the reasons later but this is one of them in that. There does not appear to be adequate or at least reliable infrastructure to support the mobile home park, specifically, no reliable waste water treatment. We want to go on the record in this first application.

Closed to public hearing.

David Sallee: Can I have a translation of what that man just said? I could not understand two words of the whole sentence.

Chairperson Smith: Basically he said he was an attorney and he was representing the neighbors in the neighborhood and he was really here to address the bigger issue of the mobile home park. But because this was part of that issue and he wanted to go on the record of saying there was not the infrastructure to support the sewage lagoon that you are proposing. He was opposed to it on behalf of the neighbors.

Commissioner Freiling: The technical issues aside, I know when I sit up here again and set precedent for having a collector system that is private. I have been here long enough that (unintelligible) messes that have occurred in Boone County with private collector systems. David's intentions aside, without the expertise, and perhaps the timely funds, these systems just seem systematically to not be properly maintained. The regulations were put in place in response to persistent problems not meant to be proactive. At the time they were meant to cure existing difficulties and prevent the same things from occurring in the future. You do it once and you open the door. This is why I asked about the objection to making it a public system. That is the easy way to remove the difficulty with respect to wastewater treatment its the same way that any other person who comes in with a collector system does it. Which is, you deed that to the BCRSD and they have the expertise and funds to maintain it.

David Sallee: If it came down to push or shove I might sign it over to Boone County but I don't see any need to at this point. Not with the plans that are set now to install a septic tank system. Again you are saying it is not a viable collector system.

Commissioner Freiling: I am not arguing the technical aspects; I am arguing the maintenance aspects over time.

David Sallee: All that other stuff that might have occurred out there in the past has no bearing on what I'm doing out there. That's why I am coming out there and worked for four steady years to correct all the short comings out there. I have met every one of them with Planning and Zoning, for the most part; maybe not to your satisfaction. I met with DNR and they were in charge of the lagoon at that time and still are. Their recommendations that we discussed the probability of the septic tank system out there.

Commissioner Freiling: And how long do you expect to live?

David Sallee: A damn sight longer than you will.

Commissioner Freiling: And what happens when you are gone.

David Sallee: I will turn it over to another veteran out there with the same passion for his fellow man as I have. There are a few of them out there and there are some that don't give a damn either. They just found a man killed out here in an old shed out here by Wal-Mart. Who what that guy? Nobody knows because he died out there and there was nothing but skeletal remains because there is no one out there working for that guy. That is the kind of passion I want to put in place behind me and I believe I can because I have men that I know are as passionate about their brethren as I am. Everyone says it is a good cause and everything else but you've got all these T's to cross and all the I's to dot. Cool. You all help me do that. Not by shutting me down but by putting in the place out there and making it work for everybody. The infrastructure is there and no, it may not be pristine but it is functional. Boone Electric has been out there and they have replaced poles and transformers and lines and they are getting it set up, for what? To help these men get off the streets, that's why. They are doing that, I am doing that, the Veterans Administration is doing that, everyone is working for it. Because I don't meet the minimum criteria for some esoteric rules I'm sorry; but I am working on it. I would invite the Planning and Zoning Commissioners to join in with the work and make this work for everybody. You tell me where it doesn't meet the criteria demanded of the County ordinances. Here again, I can ask all of you all how many of you are aware of the ordinance, the exception in the ordinance that says the Commissioners can give a variance, an exception, to make that happen out there? How many of you all were aware of that?

Commissioner Freiling: Every one of us.

David Sallee: Not one of the Commissioners told me that. Because you have an attitude about having a...

Chairperson Smith: We aren't talking about our attitude.

Commissioner Freiling: First of all it is said right at the beginning of every meeting that if you don't agree with the Planning and Zoning Commission's decision you can appeal it to the County Commission.

Chairperson Smith: The applicant knew that.

David Sallee: What I am trying to do right now is broaden your minds to understand that these laws are there for a very good reason; and I knew that. I have been out of town and seen some of the work that is done without supervision and without the Zoning Commission. I don't like it because it isn't safe. It isn't healthy and I wouldn't have anything to do with it. I have met everything that you all have put up for me, every hurdle. What I want you all to do is realize that those laws are not written in stone. They are not the Ten Commandments, they are guidelines. They are guidelines that takes time to meet sometimes. You say it is not a viable collection system down there.

Commissioner Freiling: I did not say that.

David Sallee: Then what is the...

Commissioner Freiling: The issue is maintenance over time.

David Sallee: Maintenance over time. If I set that septic system in there then it should last for 50 years.

Commissioner Freiling: If someone maintains the system. The experience has been that it is often not the case.

David Sallee: Who is going to run this Commission when you die?

Commissioner Freiling: Someone else.

David Sallee: Thank you. And they are going to do the same thing you are doing aren't they?

Commissioner Freiling: Maybe, maybe not.

David Sallee: Maybe more. The same thing is going to happen with the sanctuary out there. When I am gone I may be a pleasant memory and I might not be. But whoever is out there running that will have the same goal in mind that I do. That the men and women that we serve are the reason we are out there. And it is not to let the place go to hell in a hand-basket; it is not to sell it to somebody else. If anything, it is to give it over to the VA, the Federal Government, and let them run it. That is our intention, that is our goal and function at this time. That is all I'm asking right there. You all say, well in the past we have seen bad situations. For the last four years you all have seen nothing but a good situation out there. It has improved steadily all the way down the line and still yet, you question my integrity.

Chairperson Smith: No one is questioning your integrity. We are paying attention to the criteria that has to be met.

David Sallee: You are taking the human equation out of it and it is just the law. When you disregard the human application of whatever someone is doing then you are losing out right there. If I had a history of just slap, dash, whatever, I could say I should be questioned on that. That is not the case at all, you all know me for exactly what I've done over the past year; it isn't all sweet but it has all been geared towards this end. And do you think after I bust my ass to get this set up and going that I am going to turn the property from under my men out there? No. That place is going to be a sanctuary. These men are going to protect their sanctuary with everything they have available; which is caring for the place and maintaining the place, upgrading the place, maybe even enlarging the place, hell, I don't know. My job is to get started and maintain it for as long as I can and improve it and see it grow. If that isn't in your laws then your laws are inadequate. If you can't see anything beyond the law then I am wasting my breath.

Chairperson Smith: Would you like to go back to the matter under discussion please? Let's go back to the conditional use permit for the sewage lagoon.

Commissioner Martin: I will tell you Mr. Sallee, on your application, your request for conditional use permit, you put something in there that scares the hell out of me. That you are going to connect adjacent property to that. That is written on the application.

David Sallee: That is the other half of my property.

Commissioner Martin: That doesn't matter, we are already changing your conditional use request has already to what the deal is. You show 7 houses on here and one further. You told me 6 and 2 RV's just a few minutes ago and then below that I see where you want to go to an adjacent piece of property.

David Sallee: That is the partner in the sanctuary. If there is trouble with that he can build his own lagoon over there, there is no problem there, it's that easy.

Commissioner Martin: Those are the things I have to look at.

David Sallee: Ok, then good, you brought that up. I questioned that myself but it is necessary in my part of the request in paying for a lagoon out there, tough. In the interim that 7 or 8 mobile homes, 6 mobile homes 2 RV's, in the sanctuary, that's it. That's where it will sit and stay until things develop. The adjacent property belongs to my partner in the sanctuary, that line is not being considered. It is being taken out of consideration and can be wrote off. It can be signed off as not acceptable; it is that simple. Because I agree, if I put his out there then I will have to put LaRoe's in there. If they want to do that I might put the Johnson's over in there. But no, I agree with you that the lagoon down there can only handle 10 according to DNR. I disagree with that because it has been there for a long time, since 1973 and it is filling up. If I put a septic tank system in there I bet that will stop right there.

Commissioner Martin: That is not in the request.

David Sallee: Its not.

Commissioner Martin: Things are changing and that makes me more prone to deny it.

David Sallee: Then scratch it. I agree with you on that, lets scratch it because, yeah, it could, but that was to satisfy my partner, I still think it's a good idea, you all don't. Cool, let's just take that one out of there and let's negotiate something that will work. If that adjacent property, which belongs to my partner, is interfering with the whatever, powers, or laws, then we just cap that line off and not worry about it. He can build his lagoon, or I will build his lagoon for him over there.

Commissioner Martin: That doesn't help me tonight. I have to make my decision on what I have before me.

David Sallee: What is before you is a plan that can be adjusted.

Commissioner Martin: You should have been up front.

David Sallee: And it can be adjusted, it is right there on paper. If the Commission disagrees with that where the laws and reasons and ordinances in the county, good I need to know that. What I am saying is that is there for adjustment to make it viable. If that includes taking that number 8 on the adjacent property out I got no problem with that because I can use my backhoe to get him a lagoon, after of course I get a permit. It is no big deal; that is his problem, not mine. That has become a stumbling block for this negotiation, let's take that out. There will be no adjacent property dumping in that lagoon over there. Mark it down, put it on your paper however you want to do it. I've got no problem with that. That lagoon is readily capable and has been functioning since 1973; I still want to put a septic tank in there. There is no detriment to anybody out there. Me and Duane Lyons agreed on a handshake and written statements that I would fertilize his field if he wouldn't charge me to land apply over there. That is the way it is right now. All this is working wonderfully but for all the negative, without any compromise, without putting any personality in to it, I am wasting my time. Why come up here at all if I can't look for some support. If you all want to look at some guy and say you can't do this without doing that good, I'm going to do this.

Commissioner Freiling: That is exactly why I asked you why you wouldn't take the...

David Sallee: Because I don't want P & Z and I don't want Boone County out there in my business. I can live with the Health Department coming out there and checking my septic tanks system periodically that is

the Health Department; that is for health reasons. It is not for putting restrictions on me at every damn breath I take where that property is concerned out there.

Commissioner Freiling: All I am talking about is a collector sewer system being turned over to the agency that handles collector sewer systems, which is BCRSD.

David Sallee: If I can handle it, by golly I don't think they ought to. If I can't get an engineer to sign me off on a registered septic tank system out there using the lagoon as a leech field.

Commissioner Freiling: You are talking about the function of the system and I am talking about the maintenance of the system over time. The reason the regulations are in place is to make sure that these systems are properly maintained over time. There is one way to do that and that is to turn it over to the BCRSD; that area way is open to you.

David Sallee: It is, maybe in a few years. If a situation came up where I, or my representatives, or whoever comes behind me can not handle it then yeah, that would be a viable means for them to ensure continuation of the sanctuary out there. I told you from the get go I will consider that if it becomes necessary but at this time it is not necessary. I don't want to sign over that land out there to the County or anyone else. I don't want to now. When I finally get old someday I might do that. I might give it to the Federal Government and let the VA handle it. I'm sure the VA would handle it a lot better than I can. But right now, for all intents and purposes, that facility out there is fully functional. You have concerns about what might happen 50 years from now when I finally get old. That is a viable concern between now and then I am sure. I am sure as I am sitting here there will be arrangements made to handle whatever comes up. That lagoon system out there is 100 percent viable at this time. The lagoon system as it sits right now is fully functional for up to 30 people; that equates to 10 units with 3 people in each. I am limiting my population to approximately 24 at 3 per house. I brought it down so it would be well below the maximum to ensure that I have adequate time to put in a septic tank or make whatever adjustments are necessary to ensure its viability. It is viable now and 50 years from now it isn't my problem.

Chairperson Smith: We make recommendations to the County Commission, as you know, and you know the rules to go to the County Commission when you don't like what you hear the Planning and Zoning Commission say. I would like this Commission to move on something so that we can get on to the next agenda item which is part of this as well.

Commissioner Martin made a motion to deny the request.

Commissioner Morrison seconded the motion.

Discussion:

Commissioner Freiling: Just for the record, and again, this is one of those troublesome details that we can't ignore. The items that State law requires the Planning and Zoning Commission to meet in the granting of a conditional use permit, they are recited. Paragraph A which relates to the maintenance and detriment to the public health, safety, comfort or general welfare. I don't believe a privately maintained collector system can meet that requirement. Paragraph D, stating all necessary public utilities are in place to meet the requirement. A privately maintained collector does not meet that requirement.

David Sallee: I can't hear you.

Commissioner Freiling: That the absence of a publicly maintained collector system fails to meet the utility requirements in a conditional use permit. For the record I think that those two necessary facts are absent in this case.

Commissioner Martin made and Commissioner Morrison seconded a motion to deny the request by David L. Sallee for a permit for a sewage lagoon on 5.0 acres, located at 11251 N. Hecht Rd., Hallsville.

Pat Smith – Yes

Carl Freiling – Yes

Mike Morgan – Yes

Michael Morrison – Yes

Gregory Martin – Yes

Pat Fowler – Yes

Motion to deny the request carries unanimously.

Chairperson Smith informed the applicant that if he wished to appeal the decision to the County Commission an appeal form will need to be filed with the Planning Department Staff within three working days.



2. Request by David L. Sallee for a permit for a mobile home park on 5.0 acres, located at 11251 N. Hecht Rd., Hallsville.

The following staff report was given by Planner, Thad Yonke.

This property is located on the west side of Hecht Road approximately 3000 ft north of the intersection of Mount Zion Church Road and Hecht Road. The site is approximately 2 miles south of the nearest municipal limits of the City of Hallsville. The subject property for the proposed Conditional Use Permit is 5 acres. The current zoning of this property is R-S (residential single family) which was rezoned from the original A-2 (agriculture) zoning in December of 2008. All the surrounding property remains zoned A-2 and these are all original 1973 zonings. The subject property contains one singlewide mobile home, tool shed, and a wastewater lagoon. This current request is for a Conditional Use Permit to create a Mobile Home Park on this property. The applicant has also submitted an application for a Conditional Use Permit for this same property for a collector sewage lagoon not approved under the county subdivision regulations. The other Conditional Use Permit, while related, is a separate agenda item. The Conditional Use Permit application indicates the applicant desires to create a Mobile Home Park containing 8 mobile homes and 2 RV's (Recreational Vehicles).

The first issue that needs to be clarified is that an RV (Recreational Vehicle) under the county regulations is a "Travel Trailer or Motor Home". Travel Trailers or Motor Homes are not allowable in Mobile Home Parks under County ordinances and regulations. There is a separate category "Travel Trailer Park" which is designated to be used for RV's. A Travel Trailer Park is not allowed in the R-S zoning district even as a Conditional Use. Therefore, the request must be viewed as being limited to the 8 mobile homes requested since the RV's can not be legally requested.

The exhibit drawing provided by the applicant does not comply with the requirements of the Mobile Home Park Ordinance with respect to the proposed design/layout of the Mobile Home Park. The exhibit contains some incorrect and misleading information. Should the Conditional Use Permit be granted for this Mobile Home Park, a new plan and design/layout that complies with the Mobile Home Park Ordinance and County regulations would be required. The current exhibit drawing can not be approved and can not be part of any approval. The exhibit drawing is not an engineered set of plans as required by the Mobile Home Park Ordinance, which is hereby entered into the record.

While the applicant is not prohibited from applying for the Mobile Home Park Conditional Use Permit without providing the documentation required for a Mobile Home Park under the Mobile Home Park Ordinance, it does make evaluation of the proposal difficult and justification of the request virtually impossible to support by the record. The design/layout proposed on the exhibit shows the nearest proposed "pad for mobile home" too close to the existing single wide, the side property line and the public road. In some locations, the proposed park street, which is the private driveway accessing the individual mobile homes in the proposed Mobile Home Park, does not meet the required distance of 25 feet from nearest point on the mobile home stand. The required setback along Hecht Road of 50 feet from the Right of Way edge and 75 feet from the centerline of the public road to the nearest point on any proposed mobile home is also violated on the exhibit.

The proposed wastewater system for the Mobile Home Park is the current sewage lagoon on the property which has a DNR No-Discharge permit. However, this permit is not adequate for the lagoon to serve as a collector system under county regulations. Using the existing lagoon as a collector wastewater system will require the approval of a separate Conditional Use Permit for a collector sewage lagoon not approved under the county subdivision regulations. In order to use this lagoon as a collector wastewater system if the separate Conditional Use Permit is not granted will require the system to be brought, at the owner's expense, up to current BCRSD (Boone County Regional Sewer District) standards and be turned over to the BCRSD for operation and maintenance. The existing lagoon does not meet the standard used by the BCRSD to support the proposed 8 units. The BCRSD is the commenting agency with the expertise in collector sewer systems that the county consults with on technical aspects of proposals involving central wastewater collection and treatment. A letter provided by the applicant from the BCRSD dated July 1st 2008 indicates that the design of the lagoon can support 6 units. The large sewage lagoon on the site is currently considered by the county to be an on-site wastewater system, since the lagoon only serves the single dwelling unit located on the property.

The site is within the Hallsville School District, PWSD #4, Boone County Fire Protection District, and Boone Electric Service Area. The proposal rates 36 points on the point rating scale. The master plan designates this area as being suitable for agriculture and rural residential land uses. The request is not consistent with the master plan and is not in keeping with the existing character of the area. Staff notified 12 property owners concerning this request.

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, information and comments from utilities and other commenting agencies, planning department/county records, and public comments received following notification of the surrounding property owners. It is important to recognize that it is incumbent upon the applicant to demonstrate that all seven of the criteria for approval of a CUP are met. Under the regulations before authorizing the issuance of such a Conditional Use Permit, the County Commission shall satisfy itself that all seven of the Conditional Use Criteria are met.

(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.

The nearest fire station is in Hallsville and is over 3 road miles from the site. Lack of ability to provide fire hydrants makes the request to have an 8 unit Mobile Home Park on this property inappropriate and a detriment to public health, safety and welfare due to a lack of adequate fire protection. The Boone County Fire Protection District is opposed to the request due to a lack of water and hydrants. The density of the request is inappropriate. The Sheriff's Department is also opposed to the request. The Sheriff's Department has indicated that it has compiled data showing it expects a 6% to 8% increase in activity and calls for service for Law, Fire and EMS service to be expected in this area with the development of a Mobile Home Park. This information is based on their experience and records. The e-mail from Major Reddin Chief Deputy of the Boone County Sheriff's Department is hereby entered into the record. The applicant has provided a sheet from Tiger Security indicating security monitoring of the property, this monitoring would normally be expected to be supplemental to normal public safety services and is not a suitable substitute for actual health and public safety standards. Additionally, this monitoring can be dropped at anytime by this applicant or any subsequent owner. The request fails to meet this criterion and is detrimental to or will endanger the public health, safety, comfort or general welfare.

(b) The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations.

The multiple mobile homes that have been on the property in the past were part of a zoning violation complaint and investigation. The zoning violation has been abated and the property brought into compliance with the regulations. Part of the abatement of the violation involved removal of the multiple mobile homes. The original zoning violation complaint is evidence, that at least in part, the use of the property for multiple mobile homes has in the past resulted in injury to the use and enjoyment of the neighboring properties. Public testimony may be more indicative as to whether this criterion is met.

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

Since the proper documentation required under the Mobile Home Park Ordinance has not been provided for review and the current design/layout exhibit shows that the applicants desired layout of the Mobile Home Park does not comply with the county standards and regulations, it is reasonable to assume that the proposed use may have a negative impact on property values in the area. Public testimony may be indicative as to whether this criterion is met.

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

The property is located in Public Water District #4. The district currently has a 2½ inch water main serving the site that provides at best 100 gpm (gallons per minute). The standards for any fire protection start at a minimum of 500 gpm. The closest large water main is 3 miles away. The water district 5 year plan includes running a larger line down Low Crossing Road, but even then the larger line will be approximately 1 mile from the site. When contacted, PWSD #4 indicated that they have done an estimate for installation of the needed waterlines and hydrants. However, the water district will only make the improvements if they are paid for by the applicant and the estimate is only to install the line from Low Crossing Road to the subject property. Additionally, this potential developer-funded upgrade will not be of any use until the Water District improvements are made. Such District-initiated improvements are not expected until late 2010 at the earliest. The requested number of units will require hydrants. To illustrate,

even normal development of the property into a normal subdivision would require hydrants for any more than 3 units. The existing lagoon does not meet the standard used by the BCRSD to support the proposed 8 units. The BCRSD is the commenting agency with the expertise in collector sewer systems that the county consults with on technical aspects of proposals involving central wastewater collection and treatment. Boone Electric can and does serve the property currently, however, the required engineered electrical plan has not been provided so it is not possible to say the proposal is adequately served by electric service. Conditional Use Permits for Mobile Home Parks have been generally required to provide paved road and parking areas, which the existing gravel driveway on the property will need to be upgraded to meet. No information has been submitted with respect to drainage. The request fails to show that all necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage.

(e) The establishment of a conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.

While out of character with the area, a Mobile Home Park would not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district as most of the surrounding properties are already developed in compliance with the A-2 zoning found on the surrounding properties. The lack of water for fire protection has a greater impact on the redevelopment or further development of the properties in 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.

The portion of Hecht Road most likely to serve the site is a chip-seal roadway with no shoulders and several blind turns. The most recent traffic count showed 203 ADT (Average Daily Trips) for the section of road most directly used. While the requested 8 units of the Mobile Home Park can not be supported by other available infrastructure the proposed 8 units would be expected to generate 80 ADT, a 70 ADT increase from the current situation with a single dwelling unit on the property. An increase of 70 ADT will put the road at 273 ADT which is a significant increase, but which is less than the 750 ADT threshold to trigger the need for a collector roadway.

(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 does not provide the required information to demonstrate that it will conform to all other applicable regulations of the county and the zoning district in which it is located. The application actually contains requested items not allowed in the zoning district. The proposal does not conform to other applicable regulations of the R-S zoning district. The failure to show adequate infrastructure to support the request would seem to demonstrate there is no public necessity for the request. A Conditional Use Permit runs with the land, not with the applicant and could be transferred in the future so the permit must be evaluated on the information in the record.

Staff recommends denial of this conditional use permit for failure to meet criterion (a) (b) (c) (d) & (g) for the reasons stated in this report.

If the Commission does decides to approve the permit there are a number of clarifications that must be recognized and, staff suggests the following conditions:

CLARIFICATIONS: If approved

1. No Recreational Vehicles, Travel Trailers, or Motor Homes are allowed as units in the Mobile Home Park.
2. No permits for any additional mobile home units can be issued until a complete set of engineered plans in compliance with both the Mobile Home Park Ordinance and any conditions placed upon the Conditional Use Permit are submitted, reviewed and approved.
3. The definition of family found in the ordinance applies to units in Mobile Home Parks. This definition limits the number of unrelated persons that constitute a Family to 4 persons.
4. That if any infrastructure is required to be installed it will need to be installed, inspected and approved before any additional mobile home units or permits will be allowed on the property.
5. The property is limited to only those structures approved on the plans that are required for compliance with the county regulations and Mobile Home Park Ordinance.

CONDITIONS:

1. That the number of Mobile Home units allowed in the Mobile Home Park be limited to a maximum of 3 units, including the one existing unit on the property.
2. That no Recreational Vehicles, Travel Trailers, or Motor Homes are allowed on the property. This condition is needed to make the issue of compliance clear and expressly enforceable.
3. That the Park Street/Driveway and parking spaces are required to be a dust free surface of at least chip and seal and that gravel drive and parking areas are not allowed.
4. That no structure other than an approved and permitted Mobile Home is occupied as a form of habitation. No vehicle may be used as a habitation on the property. No tent or other form of habitation is allowed on the property either as a temporary or permanent situation. This condition is needed to make the issue of compliance clear and expressly enforceable.

Present representing the request:

David Sallee, 3300 Mt. Zion Church Rd., Hallsville.

David Sallee: They are saying 8 mobile homes and 2 RV's is inaccurate, it is 6 mobile homes and 2 RV's. I realize the conditional use permit requires an electrical loop to supply each RV that can not handle a 200 amp service. If the RS zoning does not include a travel trailer park I guess we will have to live with that. The exhibit that the Commission has is not misleading information it might be off 2 or 3 feet but I doubt that. The exhibit drawing is not an engineered set of plans as required by the mobile home park ordinance which is hereby entered in to the record. Bulls**t, pardon my French. An engineer signed off that whole layout and brought it to scale by engineers. The existing singlewide that is on there shows a mobile home site, it doesn't not show a planned mobile home site; there is a mobile home pad there. The sewer and water have been taken out of there. Those are too close, that's why I took them out. I am taking only 8 mobile homes there instead of 10 to allow further distance between all of them. The sewer lagoon has been totally shot down so I guess we will have to go out in the backyard or something. The wastewater system will be brought up to current BCRSD standards at the owner's expense. All that is required there is that I sign it over to them and pay them to take care of it. That is still totally out of the question at this time. The existing lagoon does meet the requirements set by the BCRSD to support 8 units. Right there it says 10 units on their statement right there. It is not consistent with the master plan. I tell you what, that is still; I don't know what to tell you all about the master plan. Every time I hear that it sets off alarms in my head that I don't even want to address and it includes everybody sitting here, everybody. 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. That is done. Everything out there is geared to the care of these men I plan to have out there. It is not going to endanger the health, safety, comfort and welfare. The density of the request is inappropriate. I argue that too because the density out there has

been pared down to increase safety. The sheriff said there would be an increase of 6 to 8 percent in activity in services. I have requested an increase of surveillance out there and patrols.

DS: In no way does that interfere with the use of any property adjacent to it. Everybody out there is within reason and why they got this lawyer back there, I do not know. They are still playing on the sad song that this place was out there it didn't have any supervision, any management, any maintenance, nothing out there. There was a lot of violations involved in the mobile homes out there. The 7 mobile home lots I took out of there; 5 of them were totally abandoned and falling apart; all that lived there was transients, drunks, all the above. The proper documentation of the mobile homes is there and it is all laid out in the plan that the Commission has and it was signed off by an engineer. Yes the old song about the public water district; it is in the works. The VA is in the works, it has all been brought up within 5 years, I am working on that myself with the VA. The lagoon is not standard issued by BCRSD to support the proposed 8 units because the only thing they have in dispute with me is signing over the title of the land of the lagoon down there for their maintenance. At this time it is not needed. I am there, my contemporaries are there.

DS: Boone Electric can and does serve the property currently, however, the required engineered electrical plan has not been provided so it is not possible to say the proposal is adequately served by electric service. That is strictly imagination, strictly awfulizing. Boone County has been out there, they brought overhead out there, they've brought transformers out there, they have renewed everything that needs to be renewed. They are ready; I am ready. They want to know why I don't have electricity turned on yet; that is the reason I don't have electricity turned on yet.

DS: Utilities, roads, road access and drainage. The utilities are there, the roads are there. The road access; it is not a four lane highway; it is nothing but a two lane. It is a country lane but it is adequate for my needs because there will not be a tremendous increase of traffic other than the increase of a regular OATS bus and/or a VA transportation bus taking them back and forth for their medical needs at the hospital. All the zoning around is A-2. What is A-2? Agricultural 1 is productive farm land right?

Commissioner Freiling: Neither. A-1 or A-2 relates to a residential density of how many acres you have to have.

DS: I was under the impression A-2 was non productive.

Chairperson Smith: No, it is 2.5 acres.

DS: An increase of 70 ADT will put the road at 273 ADT which is a significant increase, but which is less than the 750 ADT threshold to trigger the need for a collector roadway. Again there is not going to be that much of an increase in traffic. There is not going to be 80, there is not going to be 273 because some of them that live out there aren't going to be able to drive anyway. The proposal does not provide the required information to demonstrate that it will conform to all other applicable regulations of the county and the zoning district in which it is located. In what way have I not demonstrated that the applicable regulations have been met out there in every respect except with P & Z here? This is the one I can not please because there is a general attitude, a coloring of your thinking or whatever, about the situation that says this is not allowed and therefore we don't allow it. If the regulations don't allow it, you don't, plain and simple. It takes a little bit of humanity and it is sorely lacking here. How many of you all have been out there?

Commissioner Fowler: I have sir.

Chairperson Smith: We have.

Commissioner Freiling: I have too.

Chairperson Smith: We have all driven by there, that is not the issue.

DS: Yes it is too, for me it is. Why am I here if that is not the issue?

Chairperson Smith: Whether we drive by out there?

DS: Anyway, the conditions; the number of Mobile Home units allowed in the Mobile Home Park be limited to a maximum of 3 units. That is unacceptable, because to have a viable community out there I am going to need a minimum of 6 to 8 because that is what it is going to take to make it all work. I will have a certain number of units rented out to those veterans that can afford to pay for rent. From their rent I will make payments on more mobile homes to bring out men that cannot afford their rent and put them in those. That is why I need a minimum of 8 out there. I will go with 7 if absolutely necessary. No Recreational Vehicles, Travel Trailers, or Motor Homes. I will address that issue later on, I will not put RV's until such time as it has been addressed and brought to your satisfaction. The Park Street/Driveway and parking spaces are required to be a dust free surface of at least chip and seal. No problem on that, I have to enlarge that parking area anyway. No other structures; there have already been structures out there that have been moved since. In the winter time people stay in a tar paper shack with a kerosene heater because they can live there, if not more comfortably, more secure than they could down on the viaducts. If that is a violation of the law then I admit it and I will do it again too, if necessary. What I am saying, what I am asking, is that you people all support me and the sanctuary out there. I have said all I can say.

Open to public hearing.

No one spoke in favor of the request.

Present, speaking in opposition:

Tom Schneider, Attorney, 11 N. Seventh St., Columbia.

Tom Schneider: I represent various area residents, some of who have lived in the area for decades and who are, more or less, unanimously in opposition to this application. I can tell you specifically that at least 15 of the nearby area residents are opposed to this application. The goal of helping challenged veterans is laudable, we are not here to argue about that but that isn't really the issue before the Commission. This is a land use issue and as a land use issue, the idea of a concentration of up to 32 individuals in this sparsely populated area of the county is, from a land use point, ludicrous. That is an extreme density and that is assuming that the two RV's in the application are not even allowed as indicated by the staff report. This application is opposed for at least seven reasons. The first is that it is totally out of character with the neighborhood. I understand that there was something of a mobile home park out there sometime in the past but I also understand from the staff report that it was a nonconforming use; it was illegally there and therefore can not legitimately be considered part of the character of that neighborhood. If this were a zoning application it would be spot zoning; a classic example of spot zoning. There is a concern that there really isn't any services being offered in connection with this community. I did a little bit of internet research looking at the veteran's administration program in all events they are staffed by medical and counselors and I think that is an important concern. There is no public transportation to this area; it is sort of out in the middle of no where. I heard the applicant refer to an OATS bus but I didn't see anything in the application package indicating any sort of an agreement or

willingness by the OATS enterprise to service this area. There are no facilities in this particular area whether it is educational, recreational, or employment. There is nothing for the residents of this community really to do at this location. There is no high speed internet in the area. The community would, in effect, be in pretty much total isolation. We addressed earlier, very briefly, the lack of reliable infrastructure to support it. That being the first conditional use permit application. In short, we think that this is the wrong approach in the wrong place. This sort of density in a neighborhood that is already undergoing some recent turmoil would be very injurious to the neighborhood. As indicated in the staff report you have to find a public necessity and I didn't hear anything suggesting that there was a public necessity for this from a land use point of view. You would also have to find that it is not detrimental to the neighborhood and on this record I don't think that you could make that finding.

Closed to public hearing.

Thad Yonke: As a point of clarification the exhibit that was submitted is sealed by a surveyor not an engineer and it does not comply with the mobile home park ordinance in that all of the required engineered plans that are required for a mobile home park. That is what we are talking about when we say the documentation is not present.

Commissioner Freiling: I am already correct in assuming it's a site survey.

Thad Yonke: A site plan showing everything. It has to be engineered, it needs to have engineered sewer plans, sewer lines, we have to have engineered plans for the electrical installation, we have to have engineered plans for all of that. It is all required under the mobile home park ordinance. Additionally the exhibit itself, as it was presented, violates some of the design criteria. As the applicant indicated, the mobile home park ordinance allows the County Commission to make a variance in when those design things have to be put in place but it does not allow the County Commission to make a variance on the application.

Commissioner Freiling: Is there anyone at the table that thinks that this will not adversely affect the neighborhood in terms of their comfort in their homes and the value of their properties?

Commissioner Fowler: I believe that it will adversely affect the neighborhood, the residents, and the comfort in their homes, and the value of their property.

Commissioner Freiling: Mr. Sallee, you have a mission that is commendable. When the people of Boone County voted for planning and zoning they surrendered some of their property rights to the County in return for a promise that the county would respect the zoning map that was issued at the same time. State law requires it to be done at the same time. The people give up some property rights and the County agrees to protect them from changes outside of the zoning map. The deal is done and the Commission's job is to see that the deal is honored. That is what you accept when you come on this side of the table. You have given us a proposal which, in order for the Commission to accept, violates that basic responsibility to protections offered under the zoning plan when folks gave up their private property rights to get those protections.

Commissioner Freiling: I make a motion of denial of the request based on the fact that this proposal violates a number of the required criteria for granting the conditional use permit, specifically paragraphs A, B, C, D, and G.

Commissioner Freiling made and Commissioner Martin seconded a motion to **deny** the request by David L. Sallee for a permit for a mobile home park on 5.0 acres, located at 11251 N. Hecht Rd., Hallsville.

Pat Smith – Yes

Carl Freiling – Yes

Mike Morgan – Yes

Michael Morrison – Yes

Gregory Martin – Yes

Pat Fowler – Yes

Motion to deny the request carries unanimously.

Chairperson Smith informed the applicant that if he wished to appeal the decision to the County Commission an appeal form will need to be filed with the Planning Department Staff within three working days.

David Sallee: May I make a request? What 15 residents out there that I don't know are hiring an attorney to oppose this, may I have that information.

Chairperson Smith: That would not be information the Commission has. You may ask Mr. Schneider; that is his clients, not the Commissions.

David Sallee: (asking Mr. Schneider) Is that public information?

Mr. Schneider: It is private information.

David Sallee: I guess I am going to have to ask everybody then. Thank you for your time.



3. Request by Barbara Spencer for a permit for a bed and breakfast on 19.2 acres, located at 1850 E. Hwy 124, Hallsville.

Planner, Bill Florea gave the following staff report:

The site is located on the south side of Highway 124 approximately 3.5 miles west of Hallsville and 1 mile east of Highway 63. The property is occupied by one 3-bedroom single family dwelling and several accessory structures. The property is zoned A-2, which is the original zoning.

The request is to allow operation of a bed and breakfast in the residential structure, which is allowed as a conditional use in the A-2 district. A bed and breakfast is defined as: *A dwelling unit that has been converted or built for and is intended to provide overnight lodging to the public for compensation, and which is open to overnight guests in not more than five guest bedrooms, and is not a rooming or boarding house and is the primary residence of the owner or operator.* According to plans submitted with the application the owner intends to convert existing space on the ground floor into an accessible guest room, which will bring the total of available guest rooms to three.

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.

The Health Code will regulate the operation of the bed and breakfast. It should be noted that the application states that the breakfast will be catered from a location off-site. The use should not generate any significant externalities.

The use may require installation of an automatic sprinkler system or other fire protection measures. The applicant should consult with the County Building Inspection Staff and Boone County Fire Protection District to obtain a determination. With appropriate conditions the proposal will not have a detrimental impact on public health, safety, comfort or general welfare.

(b) The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations.

The neighborhood is characterized by large lot residential use. The owner is not proposing any increase to the footprint of the existing residence or modification to its external appearance. Adequate buffering is provided by distance from homes on neighboring properties and the use of the home to shield views of the parking area from the road. The operation of the bed and breakfast should not have a noticeable impact on the use and enjoyment of other properties in the immediate vicinity.

(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.

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

- Water is provided by Water District 4 by means of an 8-inch water main along Highway 124.
- An onsite wastewater system was installed when the home was built in 2001. That system will be reviewed by the Health Department for adequacy when the owner applies for a building permit to convert the 4th bedroom. The Health Department may require modification to the system at that time.
- The property has direct access to Highway 124.
- 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 proposed use will not impede the development of the surrounding 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.

Traffic generated by the bed and breakfast will not be significantly greater than that generated by the residential use and should not hinder the flow of traffic on 124.

(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 4 parking spaces to be provided. The Zoning Regulations require 5: two for the residential use and one for each of the three guestrooms. Otherwise, the proposed use conforms with the regulations of the zoning district in which it is located.

Staff recommends approval subject to the following conditions:

1. The owner shall provide a minimum of 5 parking spaces.
2. The owner shall consult with the County Building Inspection Staff and Boone County Fire Protection District to determine what, if any, fire prevention and/or protection measures are required. Any required items must be completed to the satisfaction of the appropriate agency prior to occupancy as a bed and breakfast.

Present representing the request:

Barbara Spencer, 1850 E. Highway 124, Hallsville.

Chairperson Smith: Does the applicant have any comments on the two conditions the staff recommended?

Barbara Spencer: No I think they are self explanatory.

Commissioner Fowler: The applicant said something about the food being catered in.

Bill Florea: That is what the application stated.

Commissioner Fowler: The location is not certified as a commercial kitchen?

Barbara Spencer: No.

Open to public hearing.

No one spoke in favor of or in opposition to the request.

Closed to public hearing.

Commissioner Fowler: I went out there and looked around. Is that a Christmas tree farm a little bit up from the applicant?

Barbara Spencer: Next door there is a Christmas tree farm; it is not our property.

Commissioner Fowler: When I drove up there I was delighted at the setting and how it set against the landscape and imagining how it would look when things are green and beautiful. It seems that the applicant has a well designed and thoughtful plan for what they are doing. It looks like it will enhance the area.

Commissioner Fowler made and Commissioner Morgan seconded a motion to **approve the request by Barbara Spencer for a permit for a bed and breakfast on 19.2 acres, located at 1850 E. Hwy 124, Hallsville with the following conditions:**

1. The owner shall provide a minimum of 5 parking spaces.
2. The owner shall consult with the County Building Inspection Staff and Boone County Fire Protection District to determine what, if any, fire prevention and/or protection measures are required. Any required items must be completed to the satisfaction of the appropriate agency prior to occupancy as a bed and breakfast.

Pat Smith – Yes

Carl Freiling – Yes

Mike Morgan – Yes

Michael Morrison – Yes

Gregory Martin – Yes

Pat Fowler – Yes

Motion to approve the request carries unanimously.

Chairperson Smith informed the applicants that these requests would go before the County Commission on March 3, 2009 and the applicants need to be present for the hearing.

VI. Rezoning Requests

1. Request by Larry W. Potterfield Revocable Trust to rezone from C-GP (Planned Commercial) to M-LP (Planned Industrial) and approved a review plan for Midway USA West on 3.10 acres, more or less, located at 6081 W. Van Horn Tavern Rd, Columbia.

The following staff report was given by Planner, Thad Yonke:

This property is located at the immediate northeast corner of State Highway UU and Van Horn Tavern Road and is bounded on the north by I-70. The site is about 1 and ¼ miles west of the Columbia municipal limits. The area proposed for revision is comprised of two parcels containing 3.10-acres total. The current zoning of the entire property is C-GP (planned Commercial). The east portion of the property was rezoned from A-R (agriculture-residential) in 1983 and the west portion in 1986. Property to the north across I-70 is zoned part A-2. Property to the east is zoned C-GP and property to the south is zoned A-R. The property to the west is zoned C-GP. All of the zonings with the exceptions of the C-GP are original 1973 zonings. The site is currently the location of a building that has been used as a warehouse/beer distributor and office. The plan would allow a building expansion on the west lot and the maximum size of the building is indicated to be 27,700 square feet. The east portion of the property is a parking lot. 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 provided by an on-site commercial wastewater under DNR or the Health Dept. The list of Allowed Uses includes the following; lumber yard and building materials, wholesale establishment or warehouse including self storage mini warehouse in a completely enclosed building, manufacture or assembly of medical and dental equipment, drafting, optical, and musical instruments, watches, clocks, toys, games, and electrical or electronic apparatus, contractors buildings and storage yards, manufacture or assembly of metal or fiberglass products: such as firearms

(subject to the approval of a Conditional Use Permit), laboratory, research, experimental or testing including the testing of items related to the firearms industry, and office or office building. 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.

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

1. 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.
2. That driveway connections, culvert and drainage be worked out in a manner acceptable to BCPW and MoDot.

Present representing the request:

Matthew Kriete, Engineering Surveys & Services, 1113 Fay Street, Columbia.

Matt Kriete: I am representing the owner on this request. The staff report speaks well for itself.

Chairperson Smith: Do the applicants have any issues with the conditions?

Matt Kriete: No.

Commissioner Freiling: What is the intended use that requires the industrial zoning.

Matt Kriete: For future expansion; it will allow for additional warehouse space if needed.

Commissioner Freiling: What would they do in the proposed site that would require the zoning?

Matt Kriete: Storage and warehouse.

Thad Yonke: They are required to come in for a revised review plan if they have chosen to leave it as CG-P so that is essentially a rezoning request anyway.

Open to public hearing.

Present:

Pat Dougherty, 5821 W. Van Horn Tavern Rd., Columbia.

Pat Dougherty: These folks, for the time that they have been there, have been very good neighbors. They bend over backwards to try to get along with me. They recently removed their big tree on the property line because I felt like a strong wind might damage my garage. They just take care of things in a very timely manner; the issues haven't been that many but I have appreciated their cooperation. In addition to that, their building protects my property against cold north winds. Sometimes I think it is a nice day until I get out and drive away from the area and realize how cold it is. Also, their building significantly reduces traffic noise. It is very reassuring to see close up such a thriving company in Boone County that is expanding and that is hiring. In this doom and gloom period it is nice to live close to a company like that.

As I see it, I have a couple of questions and that is, I'm not sure exactly what this change in zoning will do. I heard possibly some manufacturing of guns.

Chairperson Smith: No, that is just what could happen.

Pat Dougherty: That is somewhat of a concern to me. I have always been puzzled by how large enterprises like this that aren't connected to the major sewer lines are able to get by with their sewer systems. I guess that is up to the Health Department and DNR which satisfies me.

Chairperson Smith: This request is for planned industrial so what they are proposing it would be, it will have to meet that plan. If they change it, they will have to come back and ask for a change.

Pat Dougherty: Currently there is a storage area on the corner property.

Chairperson Smith: When the applicants come back we will ask them to elaborate on that. Basically, what they are describing is the kind of uses that could be on there. But because it is planned it is tied for what they are proposing to use it as.

Pat Dougherty: The old owners, the delivery bays were too close to the road so when a tractor trailer would come out to deliver to it they would block a good portion of the road for a considerable period of time trying to back up in to that bay.

Commissioner Freiling: In the request that they have made one of the possibilities that is listed is manufacture assembly of metal or fiberglass products, such as firearms. This application gives them the right in the future, should they decide to, to go from warehousing to manufacturing.

Pat Dougherty: And it would be approved.

Commissioner Freiling: Yes, that is the request that is before us. It doesn't mention ammunition which, to me, is a significant difference in the application. I don't see a public health threat from just making firearms. On the other hand if they were to do explosives that is a whole different concern.

Pat Dougherty: I have to be realistic about this as far as manufacturing of firearms. I can't see any adverse affect in the corner building.

Thad Yonke: As a point of clarification, in order to do the firearm assembly, they would have to come back for a conditional use permit.

Pat Dougherty: I am not in opposition.

No one spoke in opposition to the request.

Present representing the request:

Denny Stephenson, Vice-President of Operations, 1854 N. Route J, Rocheport.

Denny Stephenson: Just to answer some of the questions, and we do appreciate the support, I will go on 100 percent with the problems when a truck pulls in there. One of the first things the applicant is doing is taking all the truck bays out. We are not going to take any truck deliveries there; it will be a place that doesn't have truck deliveries. There are two entrances to it now and we are going to go to one entry on

that so that we can't even allow truck traffic in there other than small delivery trucks. The docks, that is correct, I don't know how it got there in the first place but I am sure it was far before any of these people here that ever would have approved that. The ML-P gives us uniformity out there, all of our operations have been ML-P and it is a lot easier to go to uniformity.

Commissioner Martin made and Commissioner Morrison seconded a motion to **approve the request by Larry W. Potterfield Revocable Trust to rezone from C-GP (Planned Commercial) to M-LP (Planned Industrial) for Midway USA West on 3.10 acres, more or less, located at 6081 W. Van Horn Tavern Rd, Columbia.**

Pat Smith – Yes	Carl Freiling – Yes
Mike Morgan – Yes	Michael Morrison – Yes
Gregory Martin – Yes	Pat Fowler – Yes

Motion to approve the request carries unanimously.

Commissioner Martin made and Commissioner Morgan seconded a motion to **approve the request by Larry W. Potterfield Revocable Trust for a review plan for Midway USA West on 3.10 acres, more or less, located at 6081 W. Van Horn Tavern Rd, Columbia with the following conditions:**

1. 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.
2. That driveway connections, culvert and drainage be worked out in a manner acceptable to BCPW and MoDot.

Pat Smith – Yes	Carl Freiling – Yes
Mike Morgan – Yes	Michael Morrison – Yes
Gregory Martin – Yes	Pat Fowler – Yes

Motion to approve the request carries unanimously.

Chairperson Smith informed the applicants that these requests would go before the County Commission on March 3, 2009 and the applicants need to be present for the hearing.

VII. Planned Developments

None.

VIII. Plats

1. Sweringen Road Plat 2. S35-T50N-R14W. A-2. C.W. Edgar, Jr. Revocable Trust, owner. Curtis E. Basinger, surveyor.

No one present to represent plat.

The following staff report was entered in to the record:

The subject tract is located approximately 4 miles to the south of Harrisburg, approximately ½ mile to the east of the intersection of State Route J and Sweringen Road. This plat creates two lots, one of 5.50 acres, the other of 6.37 acres, from a 12.50 acre parent parcel, with the remaining property dedicated as right-of-way for Sweringen Road. The property is zoned A-2 (Agriculture), and is surrounded by A-2 zoning. This is original 1973 zoning.

Both lots have direct access onto Sweringen Road. The applicant has submitted a request to waive the requirement to provide a traffic analysis

Water service to these lots will be provided by Consolidated Public Water Service District #1. Electrical service will be provided by Boone Electric Cooperative. Fire Protection will be provided by the Boone County Fire Protection District.

On-site systems will be providing wastewater disposal. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

The property scored 34 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

Commissioner Morrison made and Commissioner Mogan seconded a motion to approve Sweringen Road Plat 2 with waiver requests:

Pat Smith – Yes

Carl Freiling – Yes

Mike Morgan – Yes

Michael Morrison – Yes

Gregory Martin – Yes

Pat Fowler – Yes

Motion to approve the plat carries unanimously.



IX. Old Business

1. Update on County Commission Decisions

The rezoning request by David Sallee was denied by the Planning and Zoning Commission, the County Commission overturned the recommendation and approved the rezoning request.

The rezoning request by Special Olympics was approved as recommended.

The revised review plan by Potterfield was approved as recommended.



1. Sub-area plan.

Chairperson Smith: I am not getting much response from the city on anything and our sub-committee, Commissioner's Fowler, Freiling, and Schloot have all said to go with it. There are some components, some things that I think are really missing. For example, I would like to know exactly some facts like how many people came to these hearings that we had. I can't seem to get this information from the city people. I do have some suggestions of how I would like to add to the map a little bit. The bottom line is, it is going to happen and I was prepared to bring it to the Commission tonight and just pass it and pass it on to the County Commission. Then I had second thoughts about that. We really have to try to get it as a joint project. It was assigned as a joint project and I want it to come back as a joint project. One way or another it is moving forward next month.

Commissioner Freiling: My recommendation was to write it and send the city a note informing the next meeting is the last one.

Chairperson Smith: I have been unable to get specific things. It is not a zoning map, it is a report.

Commissioner Fowler: I think that some of the example plans that we were given to look at, and I have a whole book shelf full of stuff, they were usually presented. As you read through them they were really hard to nail down exactly what they say. The prevailing style of how you do these things is to be so vague and so specific in others. I have read many plans and after reading them I don't know what they say. We took an intentional step that whoever read it, whether they were a county resident or city resident, they could spend 15 or 20 minutes and they would get what the gist of all the things we talked about at all the hearings. I think that because we are bucking the trend of these elaborate plans with all these other things that go along with them that makes them uncomfortable.

Commissioner Freiling: The overview is what was necessary.

Chairperson Smith: I am not giving up I just moved it down a little bit on my list of things.

Commissioner Fowler: Are we voting on it next month?

Chairperson Smith: That is my intention.

Commissioner Freiling: It is in the County.

Chairperson Smith: The County Commission initiated this effort.

Commissioner Fowler: Do we have to make a motion to go ahead and email it out to our community members that showed up at meetings?

Chairperson Smith: What I wanted to do was post it on the website.

Commissioner Fowler: Would it be appropriate for us to email it to all the county residents who regularly attended the open meetings to show them what we've come up with and let them know that there is another step that needs to be taken next month but at least we show it.

Chairperson Smith: Jeff Barrow wanted to have another meeting to bring people in again to look at it. We are just giving it to the County Commission to act on, it is just a draft, are we going to change it? How are we going to change it? What is the point of having another public meeting? We are not going to change it. If the County Commission feels they need to have a meeting about it then they can.

X. New Business

None.

XI. Adjourn

Being no further business the meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Secretary
Pat Fowler

Minutes approved on this 19th day of March, 2009