

TERM OF COMMISSION: September Session of the August Adjourned Term

PLACE OF MEETING: Boone County Government Center Commission Chambers

PRESENT WERE: Presiding Commissioner Don Stamper  
District I Commissioner Karen M. Miller  
District II Commissioner Linda Vogt  
Deputy County Clerk Melanie Stapleton

The meeting was called to order by the Presiding Commissioner at 7:00pm.

Commissioner Stamper stated that the primary purpose of this meeting was to discuss planning and zoning issues. He stated that the format for the meeting would be as follows: staff report, comments from applicant or agent of applicant, public hearing, rebuttal by applicant or agent of applicant, discussion of the commission. He also asked that all those giving comments should sign in, state their name and address for the public record and state if they were present in support of or opposition to the issue. He also asked that testimony be succinct and focused.

**Subject: Request by John R. Satterlee to rezone from R-S (Single Family Residential) to R-M (Moderate Density Residential) on lot 59 of the replat of Sunrise Estates Subdivision and located at 640 N. East Park Dr, Columbia**

Stan Shawver gave staff report as follows:

This property is located in Sunrise Estates subdivision, approximately 2 miles east of Columbia. The property is zoned R-S (Single Family Residential). All of the surrounding property is zoned R-S. This request is to rezone two lots to R-M (Moderate Density Residential). There is an existing duplex on lot 58 that department records indicate was built prior to 1986. Records in the Assessors office indicate that the duplex was built in 1972. Earlier this summer, an application was submitted to build a four-plex on lot 58 and a duplex and four-plex on lot 59. The plans prepared by the engineers and architect for this project indicated that the zoning for these lots was R-M. The permit process requires plans to be reviewed for building code compliance first by a building inspector, who then authorizes the building clerk to accept a building permit application. After the permit has been accepted, the application is turned over to the planning staff to verify flood plain information, assign an address and check zoning. At that point it was discovered that lots 58 and 59 are zoned R-S. The owner was contacted and agreed to submit an application for rezoning. This property lies within the Columbia School District. Water is provided by Public Water District No. 9. Electric service is provided by Boone Electric Cooperative. These lots will be served by the Boone County Regional Sewer District. Staff notified 84 property owners about this request. The *master plan* designates this area as being suitable for residential land uses. The proposed use is consistent with the *master plan*. Staff notes the existing land use in this area in formulating their recommendation. There is a tri-plex on the lot north of lot 59. All of the lots south of lot 58 contain either duplexes or four-plex. Staff sees the in-fill of these two lots as being consistent with the existing pattern on the east side of East park Lane and so recommends approval of the request.

Stan Shawver stated that after extensive testimony, the Planning and Zoning Commission approved the request for rezoning for Lot 59 only. He stated that the motion received four yes votes and one no vote.

Commissioner Stamper asked the Applicant or Agent of the Applicant to come forward.

Stan Elmore, 4401 Old Miller Creek, (previous owner of the lot) stated that he had sold this lot to Mr. Satterlee in March, 1999. He stated that he owned a duplex that existed in this area for many years. He stated that he purchased the vacant lot that originally held a water tower used by the water district. He stated that the water district was phased out and the lot sold. He stated that the two lots together are 200' by 200'. He stated that the project (in front of the Commission) is what has been posed by Mr. Satterlee.

Stan Elmore stated that Mr. Satterlee applied for building permits and a permit for the 4-plex in June, 1999. He stated that construction proceeded and the 4-plex was then finished (with the duplex finished a few days following that).

Stan Elmore stated that Mr. Satterlee withdrew the zoning request on the existing duplex (lot 58) the Planning and Zoning Commission hearing on September 16, 1999. Stan Elmore stated that he owned lot 58 for a long time and was under the impression that the property was zoned R-M. He stated that in some time in the past he received that information from Planning and Building Inspection.

John Satterlee, 4800 Forum Blvd stated that he was present to answer questions.

Commissioner Stamper asked if the wording (about multi-families) was in the covenants.

Stan Elmore stated that it was.

Commissioner Stamper convened a public hearing on the request.

Ken Epperson, 7641 East East Court, stated that he lives in Sunrise Estates. He stated he was present to discuss the integrity of Sunrise Estates, Boone County Planning and Zoning, and the County Commission. He stated that he wanted to know why there seemed to be one rule for some people and another rule for others in Sunrise Estates. He stated that there is a petition (with 200 signatures on it) and people present to testify as to why the rezoning of lot 59 to R-M is not justified. He stated that the signatures were ignored on September 16<sup>th</sup> at the P & Z hearing. He stated that there would not be anyplace for the individual inhabiting the 4-plex (if the zoning is approved) to park their vehicles. He stated that on several occasions eight or more cars have been parked on the street in this area, making it impossible to get through the street until the vehicles were moved. He stated that parking in this situation needed to be addressed.

Ken Epperson gave an example of another individual that was in the same situation as John Satterlee—under the impression that his land had a certain zoning when it did not. He stated that this individual was made to correct the situation. He questioned why the rules seemed to apply for the other individual and not for Stan Elmore, citing the fact that Stan Elmore was a past Boone County Public Works Director. He stated that there has been discussion of a cover-up in this matter. He presented photographs of the street/driveway of the property in question.

Ken Epperson stated that there is also a problem with sewer (a lagoon) in this area.

Tom Weislocker, 7700 Park Lane Dr stated that he was present as the president of the Sunrise Estates Homeowners Association. He stated that Park Lane Dr runs directly into lot 59. He stated that Park Lane Dr is composed of single-family dwellings. He stated that the request is out of character with the neighborhood. He stated that there was parking in the area for the 4-plex, however there was not enough to accommodate the average number of vehicles per household.

Tom Weislocker stated that his point of view on this matter was based on three things: The greatest good for the greatest number of people, what is right (according to the intent and letter of the law), and what's right and what's wrong. He stated that it would be in the best interest of the greatest number of people to deny the zoning. He stated that the intent of planning and zoning laws were to make sure that there were adhered to. He stated that the letter of the law says that this lot is zoned for single-family residents. He stated that in the matter of what is right and what is wrong, it is clear that the rezoning should not be allowed. He asked that the County Commission review all of these things, rise to the duty of their office, and do what is right.

Kathy Kennedy, 641 N West Park Lane stated that Sunrise Estates is a neighborhood that contains young families, young adults, middle-aged people, and senior citizens and where most people know their neighbors. She stated that many people chose to live in this area because of the larger lot sizes. She stated that the construction on John Satterlee's property has continued even though he knows at this time that it is a violation. She stated that the majority of the property surrounding this property is either single-family residential or vacant land. She stated that John Satterlee's construction is out of place. She asked the County Commission to uphold the integrity of the neighborhood to uphold the law. She urged the County Commission to vote against the zoning change.

Dan Cornell, 740 N East Park Lane stated that he lives five lots to the northeast of the request property. He stated that he had a problem with the way the Planning and Zoning Commission was conducted. He stated that it seemed as though it had already been decided (prior to the hearing) the way that the Commission was going to vote. He stated that the burden is on the property owner to make sure that he knows what his property is zoned. He stated that he is against this request. He also stated that this mistake should have been caught a long time ago. He stated that he was not really in favor of the property being torn down, however the law states that it is not supposed to be there.

Commissioner Stamper asked three times if there was anyone else that wished to speak.

There was no one that wished to speak.

Commissioner Stamper closed the public hearing.

Commissioner Stamper asked Stan Shawver to explain the process that a person goes through when they apply for a building permit.

Stan Shawver stated that (in the case of single-family, barn, greenhouse, etc.) the person comes in to fill out an application, and they are given a temporary job card in order to proceed. He stated that in the case of a duplex, tri-plex, 4-plex, etc., the request is assigned to a building inspector to review the code and to see if any revision need to be made in accordance with the code. He stated that then the request is taken to the building clerk to authorize the building clerk to accept the application for a building permit. He stated that the plan must include site plan, zoning, use of the structure. After the application is accepted, construction can begin.

Stan Shawver stated that it was discovered in July that the zoning was incorrect on Mr. Satterlee's property. He stated that Mr. Satterlee applied for a zoning change on July 17, 1999.

Commissioner Stamper called the applicant/agent of the applicant for rebuttal testimony.

Stan Elmore reiterated that the necessary permits were in place when construction on the property began. He stated that never in his knowledge was there a parking problem. He stated that another property owner in this area also believed that his property was zoned R-M. He stated that a lot of these older structures are duplexes (in the area in question). He stated that when zoning was established for the County, there was no zoning given for duplexes and therefore were zoned multi-family. He also stated that the County zoning map is not one that can be taken home or have copies made from. He stated that it sits in Planning and Building Inspection. He stated that he was not able to read that map by himself.

*Questions of the Commission*

Commissioner Stamper asked Stan Shawver if sewer improvements to Sunrise Estates were addressed by a ballot issue. He asked if sewer would be coming to the area.

Stan Shawver stated that this was correct.

Commissioner Miller also stated that if there were not capacity for the structure, then the sewer district would not have allowed this.

Commissioner Stamper stated that the error made in the zoning designation was simply that. He stated that this area also pre-dates the planning and zoning laws.

Commissioner Stamper stated in response to a comment made earlier, that this County Commission does not address issues with pre-drawn conclusions.

Commissioner Stamper asked if the water tower would have required zoning.

Stan Shawver stated that it did not require zoning as long as it was used by the water district.

Stan Shawver stated that he did not know if the water tower was present when this area was platted. He stated that since there was no zoning, there would not have been a minimum lot size for a water tower. He stated that both lot 58 and 59 are 20,000 sq ft which is consistent with other lots in the area.

Stan Shawver stated in response to a question asked by Commissioner Stamper that there area behind the request site is light industrial and anything that fits into that category could be placed there.

Commissioner Stamper asked if Mr. Satterlee could build a single-family unit on lot 58.

Stan Shawver stated that he could not. He stated that now that it is known that this property is R-S, only one main structure is allowed on that lot.

Commissioner Vogt asked if the building/construction on this site continued after the error was caught. She asked if anything was suggested to the builder about halting, after the error was caught.

Stan Shawver stated that when an error is found, the building code does not allow a stop work order unless the building code is being violated. He stated that it at the builder's own risk to proceed after an error is detected. He stated that Mr. Satterlee did continue to build after the error was caught. Stan Shawver related the kinds of problems that can occur for a builder if there are delays in construction.

Commissioner Vogt asked if inspections were made after the error was caught.

Stan Shawver that inspections were made. He stated that the building must still be in compliance with the building code even in the event of a zoning error.

Commissioner Vogt addressed her next question/comment to Ken Epperson. She stated that she was surprised at the complaint about the construction, in that the structure would be sitting with multi-family dwellings providing a buffer from industrially-zoned property. She stated that she understands that everything west of Park Lane is R-S. She asked Mr. Epperson if it would alleviate some of the concerns if something could be done about parking in the area.

Ken Epperson stated that he believed that this should be a consideration. He stated that he realized that it was not logical to Mr. Satterlee to have to tear his building down.

Commissioner Miller stated that there is a lot of parking (of cars) on this street including the single-family dwellings. She asked if the Commission would be willing to limit parking on the entire street.

Stan Shawver stated that each multi-family dwelling is required to provide two, off-street parking spaces per dwelling.

Commissioner Miller asked Mr. Satterlee if there was anyway of widening the driveway so that there is parking for the structures that are built on his property, instead of those individuals having to park on the street.

John Satterlee stated that he intends to put two more parking spaces (in addition to the two spaces already in existence) behind his property to accommodate visitors or overflow. He stated that there is an area behind lot 58 that was intended as a recreation area. He stated that there was a possibility of putting some parking in this area.

Commissioner Stamper asked John Satterlee what his intentions were for lot 58.

John Satterlee stated that he would not set himself up for something else. He stated that he would leave lot 58 as it is and use the two lots for recreation.

Commissioner Stamper addressed his next set of comments to Tom Weislocker and Kathy Kennedy. He stated that it was his sense that the people in the neighborhood are not as upset

with this issue as they are with how landlords have handled their property in the multi-family area. He stated that it seems that this issue has caught the burden of the frustration with how some of the other property owners are behaving.

Kathy Kennedy stated that she does not have an issue with any other apartment building. She stated that she is concerned with the one that she can see out of her bedroom window. She stated that she did not see why it would be so outrageous to ask someone who built buildings in violation, to tear them down.

Tom Weislocker stated that he did not think there was any carryover resentment because the other structures had been present since the 1970s or 1980s. He stated that the heat of this issue has focused on this one building.

Commissioner Miller asked if the County Commission could place parking requirement if the rezoning request were to be approved.

Stan Shawver stated that conditions can not be placed on a rezoning request.

Commissioner Vogt stated that the County Commission does have the authority under the traffic ordinance to put "no parking" stipulation on streets that need them.

Commissioner Vogt addressed the following comments to the residents of Sunrise Estates. She stated that the neighborhood does not seem to be very unified in their comments. She stated that some people wanted to tear the structure down and others did not feel that it should have to be torn down. She stated that people also felt that County government had made a mistake in this situation. She stated that this was true. She stated the County Commission also attempted to situate zoning areas so that they do not infringe on one another. She stated that this was what had occurred in this area. She stated that if there were not multi-family units next door to Sunrise Estates, she could be more sympathetic to their complaints. However, she stated that since those units are present she feels compelled to vote in favor of this request.

Commissioner Miller stated that she concurred with Commissioner Vogt's comments.

Commissioner Stamper once again acknowledged that there was an error made. He stated that Stan Shawver had been asked by the County Commission to outline the things that would ensure that this would not take place again. He stated (in response to Tom Weislocker's first set of comments) that land use in Missouri is a right, and is therefore determined by the landowner. He stated that the government only has the right to place conditions on the use of the land, but ultimately the use is determined by the landowner. He stated that he also supports this request.

Commissioner Vogt moved to approve a request by John R. Satterlee to rezone from R-S (Single Family Residential) to R-M (Moderate Density Residential) on lot 59 of the replat of Sunrise Estates located at 640 N East Park Dr, Columbia .

Commissioner Miller seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 378-99**

Commissioner Stamper thanked everyone for coming out.

**Subject: Request by Evelyn L. Strange to rezone from A-2 (Agriculture) to M-LP (Planned Industrial) of 5.25 acres, more or less, located at 13931 N Hwy 63 North, Hallsville**

Stan Shawver gave the staff report as follows:

This property is located on Highway 63 near the intersection with Highway 124, approximately 10 miles north of Columbia and 6 miles west of Hallsville. The subject site is zoned A-2 (Agriculture) as is all of

the surrounding property. There is a house on the property and a metal building. This request is to rezone the property to M-LP. The applicant has been trying to sell the property, but with the commercial building on the property it has been difficult. This building certainly pre-dates the adoption of county zoning, however, it appears that grandfather rights either were never established or have lapsed due to abandonment. This property is within the Hallsville R-4 school district. Water is provided by Public Water District No. 7. Electric service is provided by Boone Electric Co-operative. Staff notified 10 property owners concerning this request. The *master plan* designates this area as being suitable for agricultural or rural residential land uses. The proposed use is not consistent with the *master plan*, however, the *plan* indicates that it may be appropriate to approve commercial or industrial zoning using the planned category. While staff is concerned about the access to this site off of Highway 63, it is recommending that this request be approved subject to the following conditions:

- ◆ Review plan be submitted for approval
- ◆ Final plan be submitted for approval
- ◆ Permitted uses be restricted to:
  - contractors storage, with no heavy equipment
  - auto repair shop
  - used car lot

All permitted uses of the C-N district as permitted uses. All conditional uses of a C-N district could be allowed as conditional uses (bar, tavern, and massage parlor are not allowed at all).

Stan Shawver stated that the Planning and Zoning Commission made a motion to recommend approval of the request. He stated that the motion received five yes votes.

Commissioner Stamper called for the applicant or agent of the applicant.

Diane Bailey, 18990 Locust Grove (representative of the agent of the applicant) stated that the applicant was not present to discuss this item. She stated that her daughter was present. She stated that this building was built in 1973. She stated that it was used primarily for sales (ceramic, etc.). She stated that the building does have heating/cooling. She stated that the property owner originally assumed that the property was zoned commercial. She stated that they double-checked and found out what the zoning was. She stated that she had not heard any opposition from the neighbors on the request.

Commissioner Stamper convened a public hearing on the request.

Commissioner Stamper asked if there was anyone that wished to testify on the request.

Pam Strange, 13951 N Hwy 63 stated that the property owner (her mother) would be very selective as what would go on this property. She stated that they have lived in this area for twenty years and had a lot of friends in this area. She stated that they wanted to sell this property and move closer to Hallsville.

Commissioner Stamper asked if there was anyone else to speak.

Commissioner Stamper closed the public hearing.

Commissioner Stamper moved to approve a request by Evelyn L. Strange to rezone from A-2 (Agriculture) to M-LP (Planned Industrial) of 5.25 acres, more or less, located at 13931 Hwy 63 north, Hallsville with the following conditions:

- ◆ Review plan be submitted for approval
- ◆ Final plan be submitted for approval
- ◆ Permitted uses be restricted to:
  - contractors storage, with no heavy equipment
  - auto repair shop
  - used car lot

All permitted uses of the C-N district as permitted uses. All conditional uses of a C-N district be allowed as conditional uses, except that bar, tavern, or massage parlor are not allowed at all.

Commissioner Miller seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 379-99**

Commissioner Stamper excused himself from the next issue because he is having a structure built by the developer for this request. He stated that this was the first time in nine years that he had to excuse himself from discussing an agenda item.

**Subject: Request by Fairway Meadows Corp to approve a review plat and preliminary plan for Deerfield Ridge Planned Residential Development, located at 4001-State Highway K**

Stan Shawver gave an abbreviated staff report on this issue for the County Commission meeting. However the entire staff report is listed below as follows:

This property is located on the north side of Route K approximately ¼ mile west of Arrowhead Lake Estates. The adjacent zoning districts are A-2 to the north, south and east, and A-1 to the west. The property is currently undeveloped. Approval of the plat and review plan would result in a subdivision of 42 lots. 41 lots will be used for single family residential development. Lot 42 is being reserved for a possible neighborhood commercial use subject to a rezoning approval.

Water service will be provided by Consolidated Public Water District Number 1 and utilities will be provided by Boone Electric Cooperative. The property is under the Columbia School District.

Wastewater disposal will be provided by construction of a STEP system which will have to be approved by the Boone County Regional Sewer District.

Staff notified 27 property owners concerning this request. Property scored 76 points on the rating system. No one spoke in opposition to the request on September 16<sup>th</sup>.

Staff recommends approval subject to the following conditions:

1. Approval of any final plat containing lots utilizing the extension of Scott's Boulevard, Montauk Court or Buck Trail Court for access shall be withheld until Scott's Boulevard is constructed through from Route K to Route KK.
2. Adjacent lots whose only road frontage is on Scott's Blvd. shall share access points as follows: Lots 29&30, Lots 36&37, Lots 38&39, Lots 40&41. Such shared access points shall be shown on the final plat along with a note describing the limitation on access to Scott's Blvd.
3. Lots 2, 6, 7, 17 and 18 shall be prohibited from accessing directly to Route K. A note and graphic shall be shown on the final plat indicating such restriction.
4. Lots 18, 31 and 35 shall be prohibited from accessing directly to Scott Boulevard. A note and graphic shall be shown on the final plat indicating such restriction.

He stated that the Planning and Zoning Commission made a recommendation for approval that received five yes votes. Stan Shawver stated that the County Commission would be discussing the approval of a review plan.

Commissioner Miller called for the applicant or agent of the applicant.

Ron Shy, 3312 Lemone Industrial Blvd representative of the developer stated that they agreed with the conditions. He stated that he was present to answer questions. He stated that this project would be performed in two phases.

Commissioner Miller asked Ron Shy to bring the plat forward for review by the Commission.

Commissioner Miller convened the public hearing on the request.

There was no one present that wished to comment.

Commissioner Miller closed the public hearing.

Commissioner Miller stated that she feels that this is consistent with the neighborhood and surrounding area.

Commissioner Miller moved to approve a review plan and preliminary plat for Deerfield Ridge Planned Residential Development, located at 4001 State Highway K, Columbia with the recommendation presented by staff as follows:

1. Approval of any final plat containing lots utilizing the extension of Scott's Boulevard, Montauk Court or Buck Trail Court for access shall be withheld until Scott's Boulevard is constructed through from Route K to Route KK.
2. Adjacent lots whose only road frontage is on Scott's Blvd. shall share access points as follows: Lots 29&30, Lots 36&37, Lots 38&39, Lots 40&41. Such shared access points shall be shown on the final plat along with a note describing the limitation on access to Scott's Blvd.
3. Lots 2, 6, 7, 17 and 18 shall be prohibited from accessing directly to Route K. A note and graphic shall be shown on the final plat indicating such restriction.
4. Lots 18, 31 and 35 shall be prohibited from accessing directly to Scott Boulevard. A note and graphic shall be shown on the final plat indicating such restriction.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 2-0. **Order 380-99**

**Subject: Request by Craig and Pamela Isenberg to vacate and replat lots 4 and 5 South Ashland Estates in order to combine the two lots into a single lot**

Stan Shawver stated that the Isenbergs submitted a petition to vacate and replat. He stated that regulations require a public hearing on this request.

Commissioner Stamper convened a public hearing on the request.

Commissioner Stamper also welcomed former County Commissioner George Parker.

There was no one that wished to speak.

Commissioner Stamper closed the public hearing.

Commissioner Miller moved to approve the request by Craig and Pamela Isenberg to vacate and replat lots 4 and 5 of South Ashland Estates in order to combine the two lots into a single lot.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 390-99\***

**The County Commission had a brief recess of five minutes.**



**Subject: Request by Windy Point Partners, L. L. C. for a permit for a mobile home park as a component of Windy Point Planned Development, located at 301 W. Mauller Rd, Columbia**

Stan Shawver presented a staff report as follows:

This proposal is for a CUP for a hybrid of a Mobile Home Park/Subdivision as part of a planned residential development. The project is located immediately North and East of Bon Gor Subdivision, approximately 300 feet East of the intersection of Wade School Road and Cunningham Drive. The site is located approximately 2 miles North of the Columbia City Limits. The property contained within the proposal is currently zoned R-S (residential single family) and there is also a small portion of R-M (residential moderate density). These are the original 1973 zonings. Adjacent zoning to the North, East and South of the proposed development is R-S. These are also original 1973 zonings. Property to the West, within Bon Gor Subdivision, contains a mixture of zonings, R-S, R-M, and a small piece of C-N (neighborhood commercial). These are also original 1973 zonings. The current proposed review plan encompasses 53.1 acres. The proposed density for the entire PRD is 175 units. The maximum theoretical density for the PRD area could have been 330 units. The Mobile Home portion encompasses approximately 20 acres of the 53.1 and is proposed to have 44 lots, 14 lots for individual units, 15 lots set up for 2 units on each, and 15 lots set up for 4 units on each. The total number of Mobile Homes proposed is 104 units. The remaining lots within the planned area contains 4 proposed 4-plex structures, 6 duplex structures, and 42 single-family lots. The development proposes to use 4-plexes to buffer the existing apartments, duplexes to buffer the existing duplexes, and single-family homes to buffer the existing single family homes in Bon Gor. A small green area and a future development area are provided between the property to the immediate North & Northeast and the Mobile Home portion of the development. Staff does not feel that this provides an adequate buffer. A continuous site proof privacy type fence would provide a better buffer to this property. The development is within the Columbia School District. The development is within Water District #7 and a note on the plan indicates service will be provided by Public Water Service District #7. **[Stan Shawver noted for the public record at this point, that Public Water Service District #7 has petitioned to merge with Consolidated Water District #1. The merger will take place January 1, 2000.]** Water infrastructure extensions and up grades will be required for this development and the costs of these are the developer's responsibility. Additionally, part of the proposed project was to eliminate the small water service system that serves Bon Gor by bringing it up to standards acceptable to Water District #7 and turning it over to them. Fire hydrants will be required and will have to meet fire & water district approvals. The actual requirements will vary based upon the actual size, uses, and construction methods proposed for the structures. Sewer service is proposed to be from the BCRSD. The developer has proposed eliminating the existing lagoon facility at Bon Gor by replacing it with a new facility to serve this development and the existing structures in Bon Gor. The BCRSD will need to approve any sewer proposal. There are a number of off-site road improvements that will be required as part of this development to mitigate traffic impacts caused by the development itself. These improvements have been identified by County Public Works in conjunction with both the PW consulting traffic engineering firm and the developers consulting traffic engineer's traffic analysis. The first of these improvements is the improvement of the existing western portion of Cunningham Drive. This will need to be brought up to collector status to match the extension of this road as is contained within the proposed development. Improvements to Mauller Road are required and improvements at the intersection of Mauller Road & Highway VV. The specific nature of these off-site improvements shall be worked out with PW when more specific and engineered plans are produced and submitted for the development. Sidewalks are required throughout the development. A portion of the Boone's Lick Trail may be near and or be contained within the development area. The commission should assess the impact of this development with respect to the trail and any related historic assets. **As a CUP the proposal must meet the following criteria from the zoning ordinance to be eligible for approval.**

***1. 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.***

***2. 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.***

***3. The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.***

***4. All necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage.***

***5. 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.***

***6. 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.***

***7. 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 master plan does show this area as suitable for residential development. The proposal rates 64 points on the point rating scale.

Staff recommends approval of the CUP subject to the all of the following 6 conditions.

- 1. A Site-Proof continuous privacy type fence of 6' height be required to be installed and maintained by the developer along the entire PRD boundary of lot 46, lot 44, lot 32, lot 31A , and lot 47, as well as across the end of the road stubs until such time as the roads are extended as through roads. This condition is necessary for the CUP to attempt to meet the conditional use tests #2 and #3 as listed in the staff report.**
- 2. All off-site road improvements including the improvement of the existing portion of Cunningham Drive, improvements to Mauller Road, and improvements to the intersection of Mauller Road and Highway VV including left turn lanes be designed, built, and approved by BCPW as a condition of approval. The specific nature of these improvements will be determined by PW when detailed engineering plans are provided with any final plat. This is required to meet CUP test #2 and #6 as listed in the staff report.**
- 3. That any change in Water or Sewer service provider as proposed be considered a change in the CUP and Review Plan and require coming back for a new hearing as these issues are contained within the scope of the proposal. This is required to meet CUP test #4 as listed in the staff report.**
- 4. When a final plan and/or any final plat is presented that the number of single family lots included in the plat be equal to the number of Mobile Home sites proposed within the same phase.**
- 5. That the landscaping plan is binding and that if the plantings are not installed and maintained it constitute a violation of the CUP. All plantings that die must be replaced in the next growing season with an equivalent plant of equivalent size or larger.**
- 6. That final plats submitted can be required to include ROW stubs and common areas such as park space or any other area or lot contained within the development that the Planning Director feels is necessary for orderly and timely development.**

If the CUP is approved then Staff recommends approval of the review plan subject to the same conditions numbered 1-6 above.

If the CUP & Review Plan are approved then Staff recommends approval of the preliminary plat subject again to the same conditions 1-6 above.

Commissioner Stamper called for the applicant or agent of the applicant.

Craig Van Matre, 1103 E Broadway agent of the applicant stated that he put together a book for the County Commission that contained the documentary evidence (including a listing of the maps charts, and graphs) that they would like to discuss and submit for the public record. The name of the document is titled *Application by Windy Point Partners, L. L. C. "Conditional Use Permit" to establish Mobile Home Subdivision in Boone County, Missouri.*

Craig Van Matre directed the County Commission to the Articles of Organization of Windy Point L.L.C. (applicant). He stated that R. Gordon Burnam and Bonnie Burnam are not owners, members or shareholders of the applicant. He then directed the Commission to the Deed whereby the applicant acquired title of the property. He stated that he would also like to submit the County's ordinances pertaining to this matter. He submitted for the public record, the Ordinance governing Mobile Home Parks dated August 24, 1971, the County Subdivision Regulations dated April 18, 1995 and the County Zoning Ordinance dated May, 1985 as revised September 3, 1991.

Craig Van Matre also requested that the plat, the plan and the application that are a part of the staff's file be submitted for the public record. Craig Van Matre presented the applicant's proposed permit for the request that they asked that the County Commission adopt. He also stated that included in the book were the witness' summaries. He introduced Pete Crisman Burnam, one of the developers for the proposed request.

Cris Burnam, 3321 Greenfield Ct stated that his family had owned and had been interested in developing this area for some years. He presented a map of the site. He gave the layout of area at present and also of the proposed development.

Cris Burnam stated that they knew that the manufactured home area would be a very controversial. He stated that for this reason, they tried to provide adequate buffers around that site. He stated that along with the buffers (created by the natural topography), they also intended to provide strict restrictions and a homeowners' association to maintain certain kinds of quality standards. He stated that all of the infrastructure (sewers and water) would be public.

Cris Burnam stated that the single-family neighborhood would have lots along the lake selling from about \$17,000-\$25,000. He stated that the target prices were \$110,000-150,000. He stated that when finished, there would be about 142 single-family homes on both sides of the lake. He stated that they intended to replace the lagoon with a modern sewage treatment plant. He stated that the impact of this proposed development would have minimal negative impact. He stated that parks and recreational areas would be created around the lake. He stated that this development would also bring in fire protection and natural gas. He stated that the biggest thing that would benefit this neighborhood is the quality, new investment in this area. He presented exhibits A and B, which demonstrated the topography, property lines, etc.

Cris Burnam stated that one of the things that made this development unique was its focus on restrictive covenants. He stated that the following covenants would affect the manufactured housing portion of the development only: minimum size home 1120 sq ft, 1997 or newer, owner-occupied only, permanent foundations, professional underpinnings, axles and towing hitches removed, no outside pets, no fencing without approval, no commercial activities or vehicles, no boats or RV parking, no inoperative vehicles, and minimum standards of maintenance and upkeep.

Cris Burnam stated that the private homeowners association would be comprised as follows: Class A (140 new, single-family homes) each homeowner has two votes with dues of \$24 a year. He stated that this would equal \$363,360 in maintenance fees/dues. Class B (Bon Gor single family homeowners in the area at present) could join voluntarily. This class would have 132 votes and \$1,584 in maintenance. He stated that then there would be the 103 new, manufacture home lots (which he owns). He stated that he would have 1 vote per unit. He stated that his contribution for those units would equal \$2400. He stated that for the apartments in the area, he would pay approximately \$2500 in maintenance fees.

Cris Burnam stated that therefore when the development was built, the developer would have 33% in the association and the other homeowners would have the other 66%. He stated that the money would be used to maintain the parks (and recreation areas) and to enforce the restrictive covenants. He stated that this system would work very well with adequate funding and good governance.

Craig Van Matre asked Cris Burnam the following questions.

Craig Van Matre: Commissioners, in your package, is a confirmed copy of these covenants (lengthy about 77 pages long. Those are the covenants which we intend to be recorded in the Recorder of Deeds Office of Boone County and to which this development will be subject if this is approved, is that correct?

Cris Burnam: That is correct.

Craig Van Matre: In those covenants we have specified that those covenants can not be amended except with the permission of the County Commission until the developer is down to 33% (pg 73), is that correct Chris?

Cris Burnam: That is correct.

Craig Van Matre: So we want to assure that these covenants are not window dressing, that they apply permanently and can only be changed with your permission, correct?

Cris Burnam: That's right.

Commissioner Stamper stated for the public record that County Counsel John Patton was currently reviewing those covenants.

Craig Van Matre asked that a copy of the covenants be made a part of the public record.

Commissioner Stamper: So noted.

Craig Van Matre introduced Gary Wordack, traffic consultant from Kansas City.

Gary Wordack of Shafer, Kline & Warren Assoc. (home address 2940 Maine St, Kansas City) stated that he would recount the traffic analysis impact that was done on Windy Point, phase 1 and 2. He stated that the traffic analysis impact was conducted by Ron Petering (Shafer, Kline & Warren). He stated that Windy Point is a proposed residential development located northwest of Columbia at the intersection of Rte VV and Mauller Rd. He submitted the exhibit of this for the public record. He stated that the site is served by State Route VV on the east and Mauller Rd on the south, Wade School Rd on the west, and Cunningham Rd on the north. He stated that Rte VV is a two-lane, undivided highway that connects to Rte 763. He stated that Rte VV would be the primary access road for this site. He stated that Rte VV is maintained by the State and is in good condition.

Gary Wordack stated that the traffic impact analysis indicates that Shafer, Kline & Warren were required to analyze seven intersections adjacent to this site. He stated that the basis of the examination was done from manual turning movement accounts taken April 20<sup>th</sup> [of this year]. He stated that the traffic volumes projected in his report were done under standard conditions using the Trip Generation Sixth Edition report published by the Institute of Transportation Engineers. He stated that this is the nationally recognized standard that recognizes statistical data for various types of development gathered from across the country. He stated that the report allows an accurate estimate of trip generation to and from developments. He stated for the record that specific land use codes used in the report were as follows: single-family-210, duplex family units-230, and the manufactured/mobile home units-240.

Gary Wordack stated that the report indicates that the additional trips created by phase 1 and 2 total for a.m. peak hour (7:15-8:15am) would be 186 for the entire network. He stated that the p.m. peak hour (5:15-6:15pm) would have 237 additional trips. He listed the seven intersections reviewed during the analysis (See pg ).

Gary Wordack stated that operational review was performed using the Highway Capacity Manual Special Report 209. He stated that the levels of service are measures of the average delay of vehicles at an intersection. He stated that the level of services (on average) would be as follows: A-5 seconds per vehicle, B-5-10 seconds, C-10-20 seconds, D-20-30 seconds, E-30-40 seconds, and F-greater than 45 seconds. He stated that levels C and D are customarily acceptable levels of service. He listed the existing volumes of traffic for each intersection (See pg). He stated for the record that for all seven intersections the levels were found to in either A or B. He stated that this was indicative that the proposed development would not have a significant impact on the proposed street network or street network.

Gary Wordack stated that under the proposed development phase 1 and 2 (plus the existing development), there were only 3 changes in the levels of services. He stated that most of the proposed roadways in both phases fell into the local minor standard for daily trip generation (less than 400 trips per day). He stated that at the intersections wherein a lot of traffic funnels into an unnamed access road, would fall into the local major or collector minor category. [Deputy's note: For complete definition of terms, please see the document submitted by applicant for the public record]. He stated that this is a low traffic-generating, residential community.

Gary Wordack stated that the Missouri Department of Transportation requested that the consultant look at the impact at Rte VV and 763 since most of the traffic from this site would be going to or from Columbia. He stated that the a.m. peak hour generated 101 additional vehicles, while the p.m. peak hour generated 114 additional vehicles. He stated that the report stated that this was not a significant impact. He stated that the north-bound approach from Rte VV to

Mauler exceeds the 100 vehicles per hour left turn. He stated that the developer has committed to installing a left turn lane for this particular section.

Gary Wordack stated that the proposed development would create no significant traffic or safety impact on this street system as it exists or as proposed. He stated that all intersections analyzed were found to operate well within the national recognized standards of operational efficiency and the service was found to be within either A or B. He stated that there is sufficient reserve capacity on this street system to add an additional development that would not cause problems.

Commissioner Stamper stated for the public record that the gentlemen seated to his right represented the Boone County Public Works Department and an engineering firm that had been consulted to work with this matter.

Charlie Swinger, Bucher, Willis & Ratliff stated that his firm was hired by the County to do a review of the traffic study conducted by Shafer, Kline & Warren. He stated that they agreed with the trip estimates and level of service computations. He stated that they did take issue with the street layout within the development and some of the offsite mitigation. He stated that they met with the County staff and the developer and as a result worked out those issues.

Craig Van Matre asked Gary Wordack the following questions.

Craig Van Matre: Would you tell the Commission a little about your background as an expert.

Gary Wordack: I've got 25 years experience in the traffic engineering field. I'm currently employed by Shafer, Kline & Warren, am a former city engineer, transportation manager for the city of Lenexa, Kansas, traffic operation specialist for the city of Overland Park, Kansas, and was employed by Frederick R. Harris (engineering firm in Kansas City).

Craig Van Matre: It would be fair to say that you have been doing traffic work of this type for all of your professional career.

Gary Wordack: Correct, for all of my professional career--the last 25 years.

Craig Van Matre: Now I take it that these traffic analyses are relatively scientific. The data and method of analyzing the data is systematic and standardized so that it is an opinion about which the reasonable scientist or reasonable person/expert in this field would agree, is that right.

Gary Wordack: That's correct.

Craig Van Matre: To summarize then, at least what I heard, is that all of these intersections operate at peak performance and there are no safety issues and so anyone that argues that this development is going to cause safety hazard to anyone, that is simply not true?

Gary Wordack: That is not true. Mr. Swinger indicated that they had some additional deliberations with the applicant.

Craig Van Matre: So all of these problems and all of these safety issues have been resolved, is that true?

Gary Wordack: Yes sir, that is correct.

Craig Van Matre stated for the record that testimony had been offered for exhibits A-E. He submitted these for the public record.

Christina Luebbert, Marshall Engineering & Surveying stated that she has a Civil Engineering degree, a B. S. in Civil Engineering from the University of MO-Columbia. She stated that she has been a practicing engineer for 4 and a half years with Marshall Engineering & Surveying with specialties in stormwater management, street design, sanitary sewer design, and some water projects. She stated that she was present to discuss a couple of key issues from an engineering standpoint.

Christina Luebbert stated that the first key issue was the water service, specifically the fire protection. She presented an outline/map of the fire hydrants in the area. She stated that those hydrants serve a small portion of Bon Gor Estates, however there are people along the east side of Bon Gor Estates that currently do not receive any fire protection service because they are over 1350 ft away from the existing hydrants. She stated that the Insurance Service Organization would commence a 500 ft spacing to allow two hydrants within 300 ft of each residence. She stated that when water service is brought into the PRD service area of Windy Point, the developer would be required to bring fire protection as well which would bring the greater portion of that unserved area into the fire hydrant radius.

Christina Luebbert stated that this would improve the homeowners' insurance rates because they would then be considered to be under fire protection. She stated that the developer was also in the process of having natural gas brought into the subdivision from Ameren UE. She stated that when lines are brought in, they would be in possible proximity for the extension of this service to the existing Bon Gor Estates. She stated that because natural gas is considered a more efficient heating source, this could reduce heating bills.

Christina Luebbert stated that the main issue that she wanted to focus on was stormwater management. She stated that this is a very unique site and is fortunate to have (in the massive drainage area) two existing detention structures: the County's Downes Lake and existing Bon Gor Lake. She stated that the pink lines on her display (Ex. F) represented the drainage area boundaries for County Downes Lake, the area that drains through Bon Gor Estates, and the other area that contains most of the PRD area. She stated that there is 127 acres that drain into the County Downes Lake. She stated that this would not be affected by the development however, there is a controlled release of that upper part of the watershed through the principal spillway of the County Downes Lake. She stated that there are 85 acres that drain from the west area across Wade School Rd and through the existing Bon Gor Estates. She stated that of this drainage area, only 8/10 of an acre would come from the PRD area. She stated that 131 acres would drain to Bon Gor Lake and as similar to the County Downes area would serve as a detention center with a controlled release across Mauller Rd. She stated that this lake has enough capacity to handle the additional runoff. She stated that the stormwater would be collected from 33 ft wide and 39 ft wide curb and gutter streets into an enclosed storm sewer system that would release to the lake.

Christina Luebbert stated that the preliminary calculations showed that the increased runoff in this area due to the PRD is approximately 10%. She stated however, if the entire watershed that drains through to Mauller Rd is considered, there is only a 3 and 1/2% runoff. She stated that this is absorbed by the detention in Bon Gor Lake. She stated that the natural topography of this site allows for both a visual buffer and keeps the water out of the adjacent property. She stated that the water runs south to unnamed branches that join Rocky Fork Creek about a mile down.

Craig Van Matre asked Christina Luebbert the following questions:

Craig Van Matre: To summarize then, only the existing drainway is more that adequate to handle the additional 3 and 1/2 % increase which will be involved because of this development.

Christina Luebbert: That is correct.

Bill Marshall stated that he is a registered professional engineer since 1966. He stated that he graduated from the University of MO with a degree in mechanical engineering and did work in civil, sanitary engineering work in the 1970s. He stated that he has designed over 50 sewage treatment plants in the State of MO and many in Boone County.

Bill Marshall stated that whatever comes out of the lagoons goes down to Rocky Fork Creek and whatever comes from the Bon Gor Lake area also goes down to Rocky Fork Creek. He stated that one of the things that he reviewed, was the type of treatment that would be most beneficial to the area. He stated that it was agreed that the best thing to do would be to eliminate the existing lagoon system. He stated that there is also a small, 25,000 gallon extended aeration plant just to the north of the lagoons. He stated that this was installed to reduce the biological load on the lagoons and to meet EPA standards.

Bill Marshall stated that the mechanical plant would better remove solids from the water and address biological needs. He stated that this type of system did not have as many odor problems, bug problems, or pest problems. He stated that the lagoons are also an attractive nuisance for dogs, and children (perhaps wanting to use it as a skating pond). He stated that a mechanical system would only require less than an acre in space. He stated that it would not be as greatly affected by rain. He stated that the land (5 acres) for the lagoon could be turned into green space. He stated that this plan makes sense and will eliminate a lot of problems. He stated that this is the best layout for including manufactured homes in any project in Boone County.

Craig Van Matre submitted for the public record exhibits F-J.

Stuart Cavcey stated that he has a four-year degree in Horticulture from the University of MO-Columbia. He stated that he had worked in the country club sector as a golf course superintendent for the past twelve years. He stated that he was employed at two major resorts in the Caribbean. He stated that he has also been involved in quite a few golf course projects.

Stuart Cavcey stated that the green space (#3) on his exhibit is a very large burm, approximately 20 ft in elevation from that site to the homes in Bon Gor Estates. He stated that this site blocks the view of modular homes, if one did not want to see them. He stated that there are also 37 trees in this area varying from conifers to deciduous to ornamental trees. He stated that they would also elevate the bay ridge area (as shown on the exhibit) by about 3-7 ft to further shade the area. He stated that the tract owned by Mr. Lochhaas would hold a fence to shade the area and landscaping. He stated that there would also be two very large shelter houses on either end of the lake along with playground equipment for the children. He stated that a monument would be placed in the location of the historic Booneslick Trail (at the site).

Craig Van Matre asked the following questions of Stuart Cavcey.

Craig Van Matre: Exhibit K-the landscape plan is part of the plan which the developer is committing to install and implement if the PRD and CUP are approved, is that correct?

Stuart Cavcey: That's correct.

Craig Van Matre: And this summary here is a summary of the plantings that will be made as part of that plan, is that correct?

Stuart Cavcey: That's correct.

Craig Van Matre: Now this monument or this marker to mark the location of the historic Booneslick Trail will be adjacent to what is now Cunningham Rd, is that correct?

Stuart Cavcey: Yes

Craig Van Matre: And we are proposing, at least as far as this development is concerned, that it be renamed the Historic Booneslick Trail, is that correct?

Stuart Cavcey: Yes.

Craig Van Matre: Now with respect to the topography and plan as implemented is it fair to say that anyone living in the Bon Gor Development will not be able to see the development?

Stuart Cavcey: As it is now, that 's correct. Even without the trees, the development at the bottom can not be seen.

Craig Van Matre submitted exhibits K-P.

Craig Van Matre stated for the record that the developer is committing to the installation of that marker upon approval of the plan.

Commissioner Stamper submitted for the public record a document submitted by a constituent--A Study of the Impact of Mobile Home Parks on Property Values.

Allen Moore stated that he has been a real estate appraiser in Columbia for about twenty years. He stated that he completed a study of the Windy Point Development (a copy of his report was included in the document submitted by the applicant for the public record).

He stated that the evidence within this report shows that real estate including residential property within close proximity to a manufactured housing community would not incur any measurable diminution in value as a result of that proximity. He also stated that the presence of manufactured housing communities do not effect the use or orderly development of surrounding property. He also stated that this area provides more than adequate buffers and that the development would be sufficiently buffered from other surrounding areas.

Allen Moore stated that the proposed development includes the same uses that are in existence in the development today. He stated on pages 6-9 of his report, were pages of homes in Bon Gor Estates. He stated that the homes that he reviewed were selling from \$60-100,000. He stated that the installation of the treatment plant would improve the safety and appeal of the homes in Bon Gor Lake Estates. He stated that it is also his opinion that the value of the homes would improve as a result of the treatment plant. He stated that there is a mobile home park (Greenhills) that is in close proximity to this site that has very little restrictions on it.

Allen Moore stated that he compared properties that are adjacent to mobile home developments that have sold, with similar homes that are further away from mobile home communities. He briefly addressed the six case studies detailed in his report (contained in the document submitted by the applicant for the public record). [Deputy's note: the case studies are reviewed in great detail in the applicant's document, please see that document for complete description]. He stated that the results of the studies demonstrate that there is really no difference in the depreciation rate of homes that are near mobile home communities versus those that are greatly removed. He stated that he contacted several manufactured home dealers to ask what the demand would be for some lot with the infrastructure and restrictions that this community would offer, he stated that they used words like tremendous. He stated that those dealers stated that they could fill the development up if it were built. He stated that the restrictions would greatly improve the type of tenants and owners that would locate homes in this development. He also stated that there would be several site built homes that would greatly improve the value of other homes in the area. He stated that the project is well-buffered and the restrictive covenants are superior to any other project like this in the area. He stated that the treatment plant would also be of great benefit to the existing Bon Gor Estates. He stated that this would not diminish or impede the market value of surrounding properties.

Craig Van Matre submitted exhibit Q for the public record.

Jack Blaylock, real estate appraiser with offices at 802 E Broadway stated that he has worked in this business at that location for 42 years. He stated that he was asked to determine the effects, if any, that this development would have on the area. He stated that he considered four elements in the worthiness of this development: (1) the current supply and demand for the type of development being proposed, (2) the compatibility of the proposed uses to existing uses already found in the neighborhood, (3) the effect on value, if any, of other properties in the neighborhood, and (4) the economic impact that such a development would have on the general welfare of the County.

Jack Blaylock stated that he agreed with Mr. Moore that there is a great demand for moderate priced housing in all of the Columbia area. He stated that approximately 25% of all dwelling units sold in Boone County is manufactured housing. He stated that the land area available for the placement of manufactured housing is severely limited. He stated that the residential mobile zoning classification that was created in the late sixties by Columbia authorities was very severe. He stated that it has been so severe that no new mobile home development has occurred in Columbia since that ordinance was put into place in 1969. He stated that Windy Point adheres to that ordinance and to Boone County ordinances.

Jack Blaylock stated that the proposed land uses are consistent with the uses already in existence in Bon Gor. He stated that he also conducted a study comparing home sales that were affected by mobile home courts or manufactured homes, and paired those house sales with homes in subdivisions that were not in close proximity to mobile home courts to determine if there was a



difference in the sales prices. [Deputy's note: Jack Blaylock's report and other exhibit information can be found in the applicant's document or on the submitted exhibits]. He stated that he reached the same conclusion as Allen Moore. He stated that Mr. Moore used some of the same subdivisions that he did in his study, however neither one of them knew that the other was conducting a comparison study. He also produced an illustration of neighborhood responses (by the police) to mobile home areas in his comparison study. He stated that he found the same type of occupants as in other areas and was not convinced that rates of crime increase in well-conceived, monitored mobile home parks. He concurred with all previous attributes of the development. He stated that Windy Point is a proper use of land, would be of benefit to the community, and is not inconsistent with the community that surrounds the rest of the development. He submitted exhibit R for the public record.

Craig Van Matre stated that this concluded the formal presentation by the applicant.

Commissioner Stamper called for a brief recess of three minutes.

Commissioner Stamper called the meeting to order and asked Attorney David Rogers (lawyer for some of the opposition to the request) to give comments.

David Rogers stated that he was employed by sixty households who believed themselves to be impacted by the development in question. He stated that he prepared and would like to submit a document entitled the official petition opposing the issuance of the conditional use permit and the approval of the preliminary. He stated that the restrictions listed by the applicant had the condition that they would be submitted to the County Commission [if changed] until there is only 33% interest in the homeowners association. He stated that the restrictions are important because they tie everything to everything else. He stated that everything is contingent upon the Commission approving the plan as asked for in the applicant's document.

David Rogers stated that there is no place in the covenants that keeps them from being changed by the Burnam's at will during the development process. He stated that if one believes that this is not important, then they have not dealt with the Burnams' as he has, in trying to enforce the promises that they make. He stated that the Burnams talk about "my approval, my place." He stated that Cris and Mike Burnam show themselves to be the official enforcement entity [in the association]. He stated that Mr. Burnam stated that he would contribute \$5,000 to association and if the association can sue anyone that is not adhering to the restrictions, then this in and of itself has to be a good thing. He stated that on pg 73 of the restrictions [listed in the applicant's document], he noted that its purpose is to pay the cost of legal fees even to defend the developer against claims made by people in the subdivision. He stated that the restrictions are enforceable by the Board of Directors of the development. He stated that 2 of the 3 on the board will be designees of the Burnam family for as long as they own these lots.

David Rogers stated that the things said and promises made [in the applicant's document] in the name of Windy Point, L.L. C. He stated that until Windy Point begins to operate and do business, the only incorporator is Mr. Craig M. Van Matre. He stated that Windy Point according to the legal counsel of the Secretary of State's Office, does not begin until (and its agreements are amendable at will) such time as it actually begins doing business. He stated that Windy Point would not begin doing business until the County Commission would approve the restrictions, etc.

David Rogers stated that when the Burnam family makes threats, the threats are very in fact and real. He stated that the two projects that he has direct and personal knowledge (and both of which took place in the 1990s) are Haystack Acres Subdivision and the Columbia Cemetery Association. He stated that Haystack Acres is now in a "crummy" a fashion as is allowable. He stated that the roads are gravel, the sidewalks are not built. He stated that the Columbia Cemetery Association had a five-line paragraph in dealing with the same next-generation Burnams, which said (that the famous Doubles Hamburger property brought in) that if the lessee (Burnams) take this property subject to all environmental clean-up costs, and takes it as is and where is. He stated that the Burnams agreed to this and the cemetery got the Burnams to clean this up after \$40,000 in legal fees.

David Rogers stated that his first effort to clean this area up was in 1991 when the Department of Natural Resources caught up with him on his (Cris Burnam) environmental problems at the

Doubles Hamburger location. He stated that Cris Burnam's solution to the oil problem was to pick it up and dump it on the family farm (Bon Gor Estates/Windy Point proposed location). He stated that this was eventually stopped. He stated that when someone says "trust me, trust me, and it takes \$40,000 in legal fees, the defense of a lawsuit in the U.S. District Court, the defense of a lawsuit in Boone County's Circuit--the suggestion made by a pleading by Mr. Van Matre that I was the cause of this and that I was to be on the volunteer board. . . . The night before the deposition was made, I was called and told that I (Mr. Van Matre) do not really know if you can testify in this case because you were somehow a lawyer in it." He stated that if the Burnams were going to do what they said they were going to do what they said they were going to do in the removal of the lagoon to turn it into a park "begins to get so good that it gives you hives."

David Rogers: "Thad Yonke informed him this morning that even though this is a real big traffic, engineering plan--it is not the one that Mr. Burnam is going to do--he says this one is going to take a little more time. He says this one will do for now."

David Rogers presented for the public record the original copy of the lease between the Columbia Cemetery Association and Bon Gor Holding Company. He gave an example of his dealings with Bon Gor Holding Company. He discussed an article in the Columbia Daily Tribune that contained a quote from Cris Burnam. He stated that Cris Burnam stated that it would actually be better for the neighborhood that the lot would be leased, and that people leasing the land would have to abide by the restrictions. He read a quote by Cris Burnam as follows: "It allows me to have greater control over the land, if someone is not conforming to our restrictions, we evict them--that's not something you can do with the County restrictions." He stated that the Burnam family owns about \$12 million in property. He stated that the undeveloped land was the threat that he was holding over the County's head. He stated that he would submit his affidavit (taken an oath) that the original copies of all the events that he described were true and accurate and based on his personal knowledge of what went on in the event. He stated that after making sure that the documents were true and real, he would like to submit photocopies in their place. He submitted the 1989 lease between Bon Gor and the Columbia Cemetery Associations, and the protest petitions to advise how sincerely the people that signed them care. He also submitted the original copy of the article titled "Gordon Burnam Builds Family Empire."

Commissioner Stamper asked that Mr. Rogers documents be placed with Mr. Shawver and are available for viewing.

Commissioner Stamper convened a public hearing on the request.

Judy Behnke, 802 S Fairview stated that she was present to speak on behalf of the request. She stated that she lives in the Chateau Condominiums with her uncle. She stated that her uncle has been active in the condominium covenants and they appear to have worked. She stated that there has to be good governance and money to do what needs to be done. She stated that the experience that they had at Chateau had been positive.

Scott Dunn, president of the Neighborhood Association for Bon Gor stated that (according to Section 15 of the Boone County zoning regulations) he disagrees with this issuance of this conditional use permit on two, major points. He stated that the first was on criteria three, which states that this permit will not impair property values. He stated this was a very proud, mostly working class neighborhood. He stated that he did not believe that a trailer park in one's neighborhood would not affect property values. He stated that tenants of the so-called affordable housing unit would have to pay a great deal of costs for a piece of land that they would not own. He submitted for the record a copy of the booklet *The Real Estate Book, Columbia, MO and surrounding communities*.

Scott Dunn stated that the landscape architect was not an architect, but rather a landscape designer if he graduated from the University of MO-Columbia. He stated that he disputed some of the designs that the landscape designer set forth on the plan for Windy Point because they would not be considered good, fast-grow plantings for this type of development. He stated that the plan is very limited.

Scott Dunn stated that he would not be one of the (majority of) residents currently in Bon Gor Estates that would receive the water and fire protection as a result of the development. He stated

that they are however within three miles of the fire district. He submitted for the public record a recent appraisal performed by the Department of Veterans Administration on his property stating that the lagoon located nearby has no affect on the marketability of the surrounding properties. He posed the question of whether Boone County needs this development.

Larry Luther, 7200 Wade School Rd stated that he is in opposition to the development. He stated that the maximum of 330 lots that could be placed in this area was a theoretic impossibility because that would cause some of the houses to be under water. He stated that he felt it was impossible that a mobile trailer park would not have a negative impact on the surrounding properties. He stated that there were already covenants on the existing subdivision, however the covenants are not very enforceable.

Jim Paul, 7120 Moberly Dr stated that he had lived in this area for 25 years. He stated that he received fair treatment by Gordon and Bonnie Burnam. He stated that the new sewer system would be a great improvement from the lagoon.

Gary Nienkamp, 706 Bon Gor Ct stated that he is in favor of the request. He stated that he lived in this area for the past 25 years. He stated that the lagoons were a great menace. He stated that he is able to see both lagoons from his home and most of the time they are covered with green slime. He stated that the air is terrible and opening windows is not an option. He stated that 100 yards from his front door are three, decaying duplexes. He stated that one day last week as he passed by the duplexes, there was a young man urinating outside of them.

Orrie Snook, 1028 Boorn Ave stated that for the last several years he had been a realtor and had worked with individuals facing the difficulties of finding affordable housing. He stated that there was no doubt that Cris Burnam was offering a solution to this problem. He stated that this should be done for the good of the community.

Karen Bick, 401 Glenstone stated that she stated that she recently purchased a manufactured home and now has to find a place to put it. She stated that she is not a bad person although she lives in a manufactured home. She stated that she hoped the Commission would consider granting this request.

Bob Cunuth, 6444 N Pitch Fork Place stated that he lives in a manufactured home in the kind of area that he envisions Windy Point to be. He stated that the area is inhabited by good citizens. He stated that in his area there are no out-buildings, animals running, or police calls (that amounted to anything significant). He stated that Haystack Acres is one of the best environments going from Columbia to Moberly on Hwy 63. He stated that more development north of town would increase the visibility of the City of Columbia.

Cliff Cosgrove, 2304 Moberly Dr stated that he is in favor of this request. He stated that he has heard people talking down about individuals who live in trailer parks. He stated that he had lived in a trailer park most of his life. He stated that it bothered him that people felt that they are better than those individuals that live in manufactured homes. He stated that he read a quote in a paper from an individual that was concerned about the maintenance of the area/grounds. He stated that he stated that groundskeepers were in this area on a daily basis. He stated that there were also lawncare individuals working in this area, making it a good area to live in.

Mike Canole, 7401 N Hwy VV stated that the problem is not the individuals that live in the trailers, however the trailers themselves. He stated that after a few years, trailers begin to degrade. He stated that the people in this area would not own the ground. He stated that it was not good economic sense to lease this land. He submitted some documents for the public record. The documents were records of police visits/calls to the Burnams' property.

Sarah Clark, 7012 Moberly Dr stated that Cris Burnam has made statements about residents in Bon Gor Estates who no longer take pride in their ownership of property. She stated that this perspective is insulting to the residents of Bon Gor Estates. She stated that as one of the residents, she wanted to say that the truth is that many of those residents have financial or physical problems that inhibit their ability to upgrade their properties. She stated that these residents spent a lot of their money for repairs on their homes. She stated that Mr. Burnam seems to focus on the outside of the property, while not repairing or maintaining the interior of the apartments.

Dave Lochhaas, 7501 N Hwy VV stated that he and his wife are property owners of about 26.8 acres. He stated that about 1100 ft of his property shares a line with the proposed development. He stated that many of the requirements for the conditional use permits seem to address quality of life. He stated that he was concerned that the drainage would not come. He submitted a document from a member of the Boone County Historical Society stating that a portion of the Historical Booneslick Trail was located in this area. He stated that there also seems to be a lack of concern for public safety, health and welfare. He stated that there were no provisions for emergency storm shelters in this area. He stated that his family participated in agriculture and raising livestock. He stated that he felt that they would receive negative feedback if they ever decided to exercise their legal rights to do this kind of farming in the area. He stated that he had not heard the Burnams mention a guard or someone to monitor/guard the situation and enforce the covenants.

Cindy Lochhaas, 7501 N Hwy VV stated that she was given a copy of the report of the effect of mobile home parks on the value of single family properties. She stated that they also turned a study conducted by two individuals with Ph. D.s in real estate (this was submitted for the public record). She stated that this report was also unbiased. She stated that a lot of the mobile parks mentioned in his study had subdivisions (put in around them) at a later date. She stated that Bon Gor Estates is an existing subdivision that would have a mobile home park placed around it. She stated that the people in Bon Gor Estates are being asked to absorb a risk that they should not be asked to absorb. She stated that the people against this request are being accused of being against people who live in mobile homes. She stated that there were people that are against this request who live in manufactured homes. She stated that it is not a matter of manufactured homes, but rather the fact that a high-density rental area will be allowed into what is essentially a single-family residential, owner-occupied area.

Jon Smith, 7405 N Hwy VV stated that this development would benefit the community. He stated that there are many nice, manufactured home communities. He stated that this development would be of benefit to the area and should be approved.

Vicki Trower, 1200 Colchester Rd stated that she just purchased a home in the county. She stated that she does not have anything against individuals that live in trailer homes. She stated that this area is mostly single-family residential, however this does not mean that people in the area want 104 mobile homes in a high density area. She stated that high-density areas, such as what is being proposed, would increase crime and lower property values. She stated that there are traffic problems on Wade School Rd and no one had spoke about improving that situation. She stated that it also sounded as though nothing would be done about the lagoon, if the Windy Point development is not approved. She stated that this is a separate issue and needs to be addressed. She stated that most of the people that she talked to were not against development in the area, however they did not want this kind of development.

Kathy Merrill, 7112 N. Wade School Rd stated that she has lived in Bon Gor Lake for over 25 years. She stated that treatment plant that everyone had spoken to would sit (literally) in her backyard. She stated that if she thought that the pictures presented by the applicant were what was really going to happen in Bon Gor then she would be in favor of the request. She stated that she had the experience of living in this area for 25 years and observing that nothing is ever done. She stated that her fear is that the promises made will not be kept. She stated that there is no way to guarantee the things that were stated here.

James Pounds, 4401 Langham stated that he builds houses for a living. He stated that he has built houses in subdivisions that the Burnam family developed. He stated that he does not believe that this mobile home park would depreciate the value of these homes.

Ross Herman, 7112 N Moberly Dr stated that he is not completely against the request, however he is opposed to the multi-family homes and mobile homes. He stated that he is concerned about the traffic going through Moberly Dr from Mauller Rd. He stated that people would come down this road at a speed of more than 30 mph. He wanted to know if Cris Burnam had proposed a mobile home development in Capri Estates that was turned down. He stated that the buffers that supposedly existed at present do not block the view from his home. He stated that there was no comparison of the crime statistics of other property owned by Cris Burnam.

Harold Mauller, 1301 W Mauller Rd stated that he had lived in this area for 46 years. He gave an example of three young men shooting into his property. He stated that Bon Gor Lake, Crescent Meadows and another area were the three most crime ridden areas in the county. He stated that he did not hear the appraisers talk about Crescent Meadows or Sycamore Hills or study what those developments were doing to the value of surrounding properties. He stated that if you add the vehicles that would be created by the proposed development were added to the traffic that already exists, it would create a safety hazard. He wanted to know what the school board would do with the influx of students that would occur because of this development. He stated that it does not seem to be a very wise thing to permit so many people to congregate in this area.

Commissioner Stamper closed the public hearing. He stated for the public record that all persons present were given an opportunity to sign in and give comments on this request.

Commissioner Stamper called for rebuttal comments by the applicant.

Craig Van Matre asked Jack Blaylock to comment on the study (conducted by the two real estates professors) presented by Cindy Lochhaas.

Jack Blaylock stated that the study is an analysis of the proximity of mobile home parks to single family dwellings in east Baton Rouge, LA. He stated that the study is an article that is to be published in a magazine titled *The Journal of Real Estate Finance and Economics*. He stated that to his knowledge this magazine has no standing in real estate valuation. He stated that the magazine has never been mentioned in any of the professional articles that are studies by real estate appraisers.

Jack Blaylock stated that there was a statement on page 8 of the article that states “that there is an increase in value as the distance from a mobile home park increases.” He stated that this could be driven by the fact that the mobile home parks are located in areas of low land values. He stated that there could have been lower property values to begin with, because the property was located in area with low land values. He stated that this would create an invalid premise [for comparison]. He stated that his study was of properties that were similar, with the exception of the mobile home park. He stated that there were several variables factors into the study such as: age of the house, how long the house was on the market, vacant at the time of the sale, lot area, air conditioning, etc. He stated that the proper methodology was used in his study.

Craig Van Matre stated that this ordeal had not been presented, however evidence that had been presented in opposition to the request was not relevant or competent to the issue at hand. He stated that all of the evidence by the applicant well supports the approval of the conditional use permit and the proposed residential development. He stated that if this development does not qualify, then there is no possibility of a mobile home park in Boone County.

Commissioner Stamper stated that at the beginning of the meeting, it was the intent of the Commission to conclude this matter. He stated however that so much information had been submitted, that it would be inappropriate to try to render a decision today. He stated that the County Commission would take time to review the information in work session format. He stated that at some point there would be a public deliberation and conclusion to this matter. He stated that the County Commission would attempt to clarify a couple of issues and then make a motion to table the request.

Commissioner Stamper stated that it is a fact that improved water lines and fire protection in the area would improve the ISO rating. He asked Mr. Shawver to clarify what the requirement is for a permanent foundation.

Stan Shawver stated that the County zoning regulations for a mobile home being placed on acreage would be to have the home on piers or runners and then under-skirted. He stated that he did not believe that this met the qualification to assess something as real property rather than personal property. He stated that this was indeed a gray area.

Commissioner Stamper stated that the traffic study that was presented by the applicant was a proponent’s study. He stated that it was reviewed by staff, but is by no means an end conclusion.

He stated that in most developments that the County has had dealings with, the responsibility for traffic improvements is on the developer. He stated that there is no public money set aside for something of this nature.

Commissioner Stamper stated that the County requires that buildings, activities and manufactured housing meet specific standards. He stated that there is no trade-off to this code.

Commissioner Stamper stated that it is sometimes easier to protect and provide services for structures that are in one location rather than another.

Commissioner Stamper stated that according to the County's regulation, the developer would be required to demonstrate a stormwater plan that would contain the water on their property, demonstrate how they were going to dispose of the water, and how it would be controlled.

Commissioner Stamper requested that Mr. Van Matre provide data on the total traffic counts that would be involved in this development at some point.

Commissioner Stamper asked if the street signals at Rte VV and 763 are pressure monitored or time sequenced.

A member of the applicant's team gave an affirmative response to the question.

Commissioner Stamper asked about the capacity of the lagoon system in this area. He asked that he be given some insight concerning this area at a later date.

Commissioner Stamper asked the landscape specialist presented by the applicant what his qualifications are.

Stuart Cavcey stated that he is not a landscape architect. He stated that he is a landscape designer with credentials as stated previously.

Commissioner Stamper asked Mr. Burnam if there was a reason why his study on crime in trailer courts did not include Crescent Meadows and some of the other trailer parks in the city.

Cris Burnam stated that he did not believe that those other properties were similar to the proposed development. He also stated for the public record that the Burnam family has nothing to do with Crescent Meadows.

Commissioner Stamper asked if storm shelters are routinely required by the County.

Stan Shawver stated that there are no provisions in the Mobile Home Park ordinance for storm shelters and the subdivision regulations do not require this.

Commissioner Stamper asked Cris Burnam if he had at some point requested a similar development for Capri Estates.

Cris Burnam stated that he had *considered* the option of an industrial park or a mobile home park for this area.

Commissioner Stamper stated that he would like clarification from Allen Moore or Jack Blaylock on what additional sewer capacity, increased water capacity and natural gas would have on property values in the area.

Commissioner Stamper asked John Patton if the only value that restrictive covenants have is if they are adopted as a condition.

John Patton stated that the County does not want to be in a position of administering or enforcing restrictive covenants. He stated that anything that the Commission wanted to enforce, should be put in the conditions in detail.

Commissioner Vogt stated that she wanted to address a comment made by David Rogers. She stated that his comment was that the everything is conditioned on the development of the mobile home park.

Stan Shawver stated that the mobile home park is a segment of the planning and development. He stated that a mobile home park requires a conditional use permit on a planned development. He stated that there has to be a review plan in place for the planned development. He stated that the Planning and Zoning Commission approved a motion to deny the review plan submitted for the planned development.

Commissioner Miller asked if all units would be owner-occupied.

Cris Burnam stated that they would be.

Commissioner Miller asked if he had considered selling some of the land to individuals wanting to put a manufactured home in this area.

Cris Burnam stated that there had only been one experiment with this sort of thing to his knowledge (Crescent Meadows) and it had not had very good results.

Commissioner Stamper moved to table items 5 & 6 (regarding Windy Point) and the rest of the Planning and Zoning agenda. He stated that the Windy Point items would be discussed in work session format and brought back at a later date.

Commissioner Vogt seconded the motion.

Discussion: Commissioner Vogt stated that if anyone was upset about the item being tabled, she just wanted to reassure them that the Commission was taking the necessary time in order to make the best decision for everyone.

Commissioner Miller stated that this also confirms the fact that the County Commission does not have their mind made up when they come in the room and that they have to take time to process the information presented.

The motion passed 3-0. **Order 381-99**

### **Commissioner Reports**

Commissioner Stamper moved to authorize the Presiding Commissioner to sign a letter in agreement to a cash match over a three year period to an in-kind contribution.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 382-99**

Commissioner Stamper moved to authorize the Presiding Commissioner to sign the necessary documents/agreement related to the Child Advocacy Center as presented with the budget amendment on September 23, 1999.

Commissioner Vogt seconded the motion.

There was no discussion.

The motion passed 3-0. **Order 383-99**

The meeting adjourned at 1:15am.

\*Commission Order number 384-389 were skipped inadvertently in the numbering process.

Attest:

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Don Stamper  
Presiding Commissioner

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Wendy S. Noren  
Clerk of the County Commission

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Karen M. Miller  
District I Commissioner

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Linda Vogt  
District II Commissioner