

TERM OF COMMISSION: March Session of the January Adjourned Term

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

PRESENT WERE: Presiding Commissioner Kenneth M. Pearson  
District I Commissioner Karen M. Miller  
District II Commissioner Skip Elkin  
Director of Planning and Building Stan Shawver  
Planning and Building Inspection Planner Uriah Mach  
County Counselor CJ Dykhouse  
Deputy County Clerk Joshua Norberg

The meeting was called to order at 7:05 p.m.

Commissioner Pearson stated Commissioner Elkin will be arriving a little later in the meeting.

**Boone County Regional Sewer District**

Andy Lister, Boone County Regional Sewer District, was present on behalf of this item.

**1. Public Hearing on Removal of Tract from Country Squire NID**

Mr. Lister stated in August of 2007, a meeting was held with the property owners in the area on the east side of Creasy Springs Road, in the Country Squire Neighborhood to discuss the problems they were having with the Country Squire lagoon, and to discuss forming a Neighborhood Improvement District (NID) to bring public sewers to the area. The response of the neighborhood was favorable. At that meeting, the property owners were told that the cost per owner would be approximately \$6,400. As staff began to prepare the petitions, they realized that this sewer line would cross a vacant piece of ground on the southwest corner of Creasy Springs Road and Obermiller Road, so we added that piece of property to the petition, bringing the total number of shares to 37. The petition was circulated and the NID was formed. After that, the owners of the 37<sup>th</sup> property extended public sewer to that tract at their own expense, which brought the public sewer closer to the NID. If this project was completed at the petition estimate, and this property was removed from the assessment role, each remaining share would increase by approximately \$172, which is financed over 20 years. The NID statutes define an improvement as one or more public facilities or improvements which confer a benefit on property within a definable area. The 37<sup>th</sup> tract now has the benefit being offered by this NID. All affected property owners have been notified of this hearing by mail, and the required notice was published in the newspaper. Mr. Lister stated the purpose of this public hearing is to have the Commission consider a request by the owners of the 37<sup>th</sup> tract to remove this tract from the NID, and staff supports their request and recommends that the Commission grants the request.

Commissioner Pearson opened the public hearing and asked for comments in favor of the request.

**Gene Smith**

Mr. Smith stated he is the owner of some of the property in this area. Of the 36 shares, he is responsible for 27 of them. He stated he is being charged twice for 12 duplexes. He stated close to \$15,000 will be added onto a lien on those duplexes. He stated he doesn't agree with being forced to have sewer on his property when he has 35 acres. He wants to know why he can't have a private system at his own house. He stated he also has a problem with being charged for a vacant lot when the people behind him have 4 lots and 2 lots that are going to be on the system too and aren't being charged.

Commissioner Pearson asked Mr. Smith if he is speaking in favor of this item.

Mr. Smith stated he is speaking in favor of this item, but he is not speaking in favor of paying a whole bill and being forced to pay for a vacant lot, and being forced to have sewer on 35 acres on his own house. He stated he doesn't think that is fair. He stated he also thinks the participants are being overcharged for the work.

Commissioner Pearson asked for further comments in favor of this request.

There were no further comments.

Commissioner Pearson asked for comments in opposition to this request.

There were no comments in opposition.

Commissioner Pearson closed the public hearing.

Commissioner Miller asked Mr. Lister to respond to Mr. Smith's comments. She asked if the process was done collectively with Mr. Smith and the other property owners at the time.

Mr. Lister stated there was a meeting at the Sewer District office and almost all of the neighbors were in attendance. There was a proposal that reflected what eventually happened, other than the addition of the 37<sup>th</sup> tract.

Commissioner Miller stated that is what the petitioners signed.

Mr. Lister stated they didn't sign at the meeting, but they signed exactly as the proposal currently exists.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby authorize the removal of the Christina Kelly/Daniel Gwartney tract, Boone County Tax Parcel #11-903-35-00-006.02, from the proposed assessment role of the Country Squire Neighborhood Improvement District subject to the owners conveyance to the Boone County Regional Sewer District of a sanitary sewer easement across said tract.

Commissioner Pearson seconded the motion.

There was no discussion and no public comment.

The motion passed 2-0 **Order 79-2009**

### **Planning and Zoning**

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

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

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

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

*(a) The establishment, maintenance or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare.*

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

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

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

The neighborhood is characterized by large lot residential use. The owner is not proposing any

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

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

There is no indication that the proposed use will have a negative effect on property values.

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

- Water is provided by Water District 4 by means of an 8-inch water main along Highway 124.
- An onsite wastewater system was installed when the home was built in 2001. That system will be reviewed by the Health Department for adequacy when the owner applies for a building permit to convert the 4<sup>th</sup> bedroom. The Health Department may require modification to the system at that time.
- The property has direct access to Highway 124.
- There should be no significant change in drainage due to issuance of the conditional use permit.

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

The proposed use will not impede the development of the surrounding area.

*(f) The establishment of a conditional use permit will not hinder the flow of traffic or result in traffic congestion on the public streets. This will include the provision of points of access to the subject property.*

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

*(g) The conditional use permit shall in all other respects conform to the applicable regulations of the zoning district in which it is located. The County Commission shall find that there is a public necessity for the conditional use permit.*

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

Staff recommends approval subject to the following conditions:

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

Mr. Mach stated the Planning and Zoning Commission held a public hearing on this request at their February 19, meeting. There were six members of the Commission present. A motion was made to recommend approval of this request, subject to the previous conditions. That motion passed unanimously and now comes forward with a recommendation for approval.

Commissioner Pearson stated there is a recommendation of 5 parking spaces. He asked if there is a requirement that this be more than just gravel.

Mr. Mach stated he believes the regulations call for a dust free surface. The only exception is for an animal training facility. A minimum of chip and seal is adequate.

Commissioner Pearson stated the conditions require them to consult with the Boone County Fire Protection District to determine what needs to be done.

Mr. Mach stated that is correct. Since they have the duties of the fire marshal in this part of the county, they are involved in the adaptation as part of the building permit process, and will make recommendations on any fire protection requirements that are necessary.

Commissioner Pearson asked if any type of engineering or architectural report needs to be done with this.

Mr. Mach stated it does not.

Commissioner Pearson opened the public hearing and asked for comments in favor of this request.

**Barbara and Ray Spencer, 1850 E. Hwy. 124, Hallsville**

Ms. Spencer stated she has a slide show if the Commission would like to see it. She stated this property is from 1896, so there is a lot of family heritage there. There is a lot of history from the Hallsville area that she likes to incorporate and bring to the community. She stated she has gotten good response from the community, and they think it will enhance property values.

Ms. Spencer went through the slideshow presenting several pictures of the house and surrounding property.

Mr. Spencer stated the parking area will eventually be on concrete. Right now there is enough for two spaces, and it will eventually be expanded to five.

Commissioner Pearson asked for further comments in favor of this request.

There were no further comments.

Commissioner Pearson asked for comments in opposition to this request.

There were no comments in opposition.

Commissioner Pearson closed the public hearing.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby **approve** the request by **Barbara Spencer** for a permit for a Bed & Breakfast facility on 19.2 acres located at 1850 E. Hwy 124, Hallsville **with the following conditions:**

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

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 80-2009**

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

Mr. Mach stated this property is located at the immediate northeast corner of State Highway UU and Van Horn Tavern Road and is bounded on the north by I-70. The site is about 1 and ¼ miles west of the Columbia municipal limits. The area proposed for revision is comprised of two parcels containing 3.10-acres total. The current zoning of the entire property is C-GP (planned Commercial). The east portion of the property was rezoned from A-R (agriculture-residential) in 1983 and the west portion in 1986. Property to the north across I-70 is zoned part A-2. Property to the east is zoned C-GP and property to the south is zoned A-R. The property to the west is zoned C-GP. All of the zonings with the exceptions of the C-GP are original 1973 zonings. The site is currently the location of a building that has been used as a warehouse/beer distributor and office. The plan would allow a building expansion on the west lot and the maximum size of the building is indicated to be 27,700 square feet. The east portion of the property is a parking lot. The property is located within the Boone Electric service area, the Columbia School District, and the Boone County Fire Protection District. Water service is provided by Consolidated Public Water District No.1. Hydrants are required for commercial structures such as that shown on the

plan and any upgrade to waterlines to meet required fire flow will be at the developers cost. Sewer is provided by an on-site commercial wastewater under DNR or the Health Dept. The list of Allowed Uses includes the following; lumber yard and building materials, wholesale establishment or warehouse including self storage mini warehouse in a completely enclosed building, manufacture or assembly of medical and dental equipment, drafting, optical, and musical instruments, watches, clocks, toys, games, and electrical or electronic apparatus, contractors buildings and storage yards, manufacture or assembly of metal or fiberglass products: such as firearms (subject to the approval of a Conditional Use Permit), laboratory, research, experimental or testing including the testing of items related to the firearms industry, and office or office building. The Master Plan designates this area as suitable for commercial land use. The Master Plan promotes the use of Planned Districts as a means to establish new commercial and industrial areas. The property scored 80 points on the rating system. Staff notified 16 property owners concerning this request.

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

- 1) The fire lanes and fire protection requirements must satisfy the BCFPD on any building expansion and any waterline relocation must be made in conjunction with the water district at the developer's expense.
- 2) That driveway connections, culvert and drainage be worked out in a manner acceptable to BCPW and MoDot.

Mr. Mach stated the Planning and Zoning Commission conducted a public hearing on this request at their February 19, meeting. There were six members of the Commission present. A motion was made to recommend approval of the rezoning request. The motion passed unanimously and comes forward with a recommendation for approval. A second motion was made to recommend approval of the review plan, subject to the previous conditions. That motion passed unanimously and comes forward with a recommendation for approval.

Commissioner Miller asked if the C-G zoned parcel of land next to the subject tract is owned by Mr. Potterfield also.

Mr. Mach stated it is not.

Commissioner Pearson opened the public hearing and asked for comments in favor of this request.

**Matthew Kriete, 1113 Fay St., Columbia, and Denny Stephenson, 1854 N. Rte J.,  
Rocheport**

Mr. Kriete stated he is with Engineering Surveys and Services, and is the civil engineer on this project. He stated the staff report speaks for itself, and they are here to answer any questions the Commission might have.

Commissioner Elkin asked if they have determined whether they are going to go with the Health Department or the Department of Natural Resources for on-site sewer.

Mr. Kriete stated they have not. He stated they are assessing numerous options right now.

Commissioner Miller stated she sees no reason why they shouldn't be able to expand their operation.

Commissioner Pearson asked for further comments in favor of these requests.

There were no further comments.

Commissioner Pearson asked for comments in opposition to these requests.

There were no comments in opposition.

Commissioner Pearson closed the public hearing.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby **approve** the request by Larry W. Potterfield Revocable Trust to rezone from C-GP (Planned Commercial) to M-LP (Planned Industrial) on 3.10 acres, more or less, located at 6081 W. Van Horn Tavern Rd, Columbia.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 81-2009**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby **approve** Larry W. Potterfield Revocable Trust to approve a review plan for Midway USA West on 3.10 acres, more or less, located at 6081 W. Van Horn Tavern Rd, Columbia, with the following conditions:

- The fire lanes and fire protection requirements must satisfy the BCFPD on any building expansion and any waterline relocation must be made in conjunction with the water district at the developer's expense.
- That driveway connections, culvert and drainage be worked out in a manner acceptable to BCPW and MoDot.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 82-2009**

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

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

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

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

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

The property scored 34 points on the rating system.

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

Mr. Mach stated this plat was approved by the Planning and Zoning Commission at their February 19, meeting, and it is ready to be received and accepted by the County Commission with an authorization for the Presiding Commissioner to sign it.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby receive and accept the following subdivision plat and authorize the presiding commissioner to sign it:

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

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 83-2009**

**5. Request by David L. Sallee for a permit for a sewage lagoon on 5.0 acres, located at 11251 N. Hecht Rd., Hallsville (appeal).**

Mr. Mach entered the Boone County Zoning and Subdivision Regulations into the record.

Mr. Mach stated this property is located on the west side of Hecht Road approximately 3,000 ft north of the intersection of Mount Zion Church Road and Hecht Road. The site is approximately 2 miles south of the nearest municipal limits of the City of Hallsville. The subject property for the proposed Conditional Use Permit is 5 acres. The current zoning of this property is R-S (residential single family) which was rezoned from the original A-2 (agriculture) zoning in December of 2008. All the surrounding property remains zoned A-2 and these are all original 1973 zonings. The subject property contains one singlewide mobile home, tool shed, and a wastewater lagoon. This current request is for a Conditional Use Permit for a collector sewage lagoon not approved under County Subdivision Regulations. The applicant has also submitted an application for a Conditional Use Permit to create a Mobile Home Park on this property which is a separate agenda item. The current lagoon has a DNR No-Discharge permit; however, this permit is not adequate for the lagoon to serve as a collector system under county regulations. To use the existing lagoon as a collector wastewater system will require the approval of this Conditional Use Permit for a collector sewage lagoon system not approved under the county subdivision regulations. In order to use this lagoon as a collector wastewater system if this Conditional Use Permit is not granted would require the system to be brought, at the owner's expense, up to current BCRSD standards and be turned over to the BCRSD for operation and maintenance. A letter provided by the applicant as part of his request is from the BCRSD dated July 1<sup>st</sup> 2008. This letter indicates that the design of the lagoon can support 6 units. The large sewage lagoon on the site is currently considered by the County to be an on-site wastewater system, since the lagoon only serves the single dwelling unit located on the property.

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

The following criteria are the standards for approval of a Conditional Use Permit, followed by staff analysis of how this application may meet those standards. Staff analysis of the request is based upon the application, information and comments from utilities and other commenting agencies, planning department/county records, and public comments received following notification of the surrounding property owners. It is important to recognize that it is incumbent upon the applicant to demonstrate that all seven of the criteria for approval of a Conditional Use Permit are met. Under the regulations before authorizing the issuance of such a Conditional Use Permit, the County Commission shall satisfy itself that all seven of the Conditional Use Criteria are met.

(a) The establishment, maintenance, or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare.

Past experience from the operation of private collector lagoon systems in Boone County has shown that collector wastewater systems operated by non-governmental entities have endangered

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

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

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

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

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

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

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

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

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

(f) The establishment of a conditional use permit will not hinder the flow of traffic or result in traffic congestion on the public streets. This will include the provision of points of access to the

subject property.

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

(g) The conditional use permit shall in all other respects conform to the applicable regulations of the zoning district in which it is located. The County Commission shall find that there is a public necessity for the conditional use permit.

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

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

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

- 1) That the collector sewage lagoon system be restricted to serving a maximum of 6 Mobile Home units. The existing lagoon does not meet the standard used by the BCRSD to support the proposed 8 units. The BCRSD is the commenting agency with the expertise in collector sewer systems that the county consults with on technical aspects of proposals involving central wastewater collection and treatment.
- 2) That no structure be connected to the collector lagoon system other than Mobile Homes with county permits which are shown and approved on a engineered Mobile Home Park plan in compliance with the Mobile Home Park Ordinance and other county regulations.
- 3) That the sewage lagoon system be restricted to only serving units legally placed upon the 5-acre tract and that the lagoon system is not allowed to serve any structure or use on any other property or parcel. This condition is needed to mitigate the potential damage of non-compliance by limiting the sewage system to a single property.

Mr. Mach stated the Planning and Zoning Commission conducted a public hearing on this request at their February 19, meeting. There were six members of the Commission present. A motion was made to recommend denial of the request. That motion received unanimous support. The applicant filed a timely appeal of the denial and so comes forward to the County Commission for consideration.

Commissioner Pearson asked if the materials in the packet are part of the original record for the Planning and Zoning Commission.

Mr. Shawver stated that is correct.

Commissioner Pearson stated he knows we are talking about the lagoon, but in the mobile home ordinance, it talks about the requirements for a mobile home park in that regard. Which of the ordinances are relevant? He stated there seems to be a little difference between the two.

Mr. Shawver stated this is for a collector system lagoon for a collector system. This is to approve or deny Mr. Sallee's ability to operate a private collector sewage lagoon.

Commissioner Pearson stated this is going to be part of the mobile home park ultimately if it is approved. He asked if the requirements in the mobile home part apply to the lagoon part. He asked if we should do the mobile home part first and then do the lagoon part.

Mr. Shawver stated he has to have a wastewater system to have a mobile home park, so logically this should be done first. He stated one of the questions for a mobile home park is whether adequate infrastructure will be available. If there is not an approved wastewater system, you can't answer that question.

Commissioner Pearson opened the public hearing and asked for comments in favor of this request.

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

Mr. Sallee stated he has a response to all of the allegations made.

In regards to Section 15.A(2)(a) of the Boone County Zoning Regulations: whether 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: Mr. Sallee stated he disagrees with staff analysis that past experience from the operation of private collector lagoon systems in Boone County has shown that collector wastewater systems operated by non-governmental entities have endangered the public health, safety, comfort and general welfare. He stated the Boone County Regional Sewer District (BCRSD) also acknowledges that he is in compliance, but for them to accept his lagoon, he will have to sign over operation to them. He stated he cannot afford to pay them to operate it. He stated the staff report states there is very little leverage to compel compliance from a private sewer operator. He stated the leverage used to encourage him to comply is the need for this facility for his veterans. He stated that is motivation enough for him to be in compliance with all DNR regulations. He stated if they want a collector wastewater system out there, that will be arranged. He has been working with Tom Ratermann of BCRSD in regard to an in line septic tank system that will alleviate the need for supervision and control. The lagoon will become a leech field where all of the water will evaporate and the solids will be removed by a pump truck.

In regard to Section 15.A(2)(c): whether the conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood: Mr. Sallee stated

the staff report's claim that if the lagoon is operated in compliance with DNR regulations, it should not affect property values, but that there is concern about effective and timely enforcement, is prejudiced of past performance of previous owners and operators. He stated that is in fear of the future and what will be going on out there. Mr. Sallee stated there is a timely enforcement mechanism, and that he is that mechanism. He stated the men that he works with are behind him 100%. The lagoon is meeting all DNR permit requirements, and it will meet all BCRSD requirements as he progresses.

In regard to Section 15.A(2)(d): whether all necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage: Mr. Sallee stated the drainage has been there for the past 40 years. He stated it drains from his property via a culvert to his neighbor's stock pond; the drainage is complete and well established.

In regard to Section 15.A(2)(g): whether 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: Mr. Sallee stated what was going on out there in the past was ridiculous. The people that were out there were unacceptable in many ways. He stated opposition is based on prejudice of past actions. He stated there is new management out there. He stated this is growth. The lagoon has been in place for decades and has been in use. He stated it continues to be in use. If there is any question of any loss of property values, it already occurred decades ago. All the land surrounding this property is agricultural land.

In regards to the suggested conditions should the Commission approve this request: Mr. Sallee stated they recognize the viability of his conditional use permit. He stated the condition restricting him to a maximum of six Mobile Home units is exactly what he wants out there at this time. He stated he listened to the advice of wiser people and he will probably have less. He stated he does not agree with the assessment that the lagoon does not meet the standard used by BCRSD to support the proposed eight units. He is in contact with Mr. Ratermann at BCRSD. He has advised Mr. Sallee about what he can and cannot do, what is best and what will be more difficult, what is expensive and what is less expensive. Mr. Sallee stated Mr. Ratermann is a good source of information that he listens to intently.

Mr. Sallee stated, in regard to the recommended condition that the sewage lagoon be restricted to only serving units legally placed upon the 5-acre tract, he is here for a conditional use permit to use the in-place lagoon to serve only the structures on the 5-acre parcel and nothing else. He stated he raised the question of including a single mobile home on the tract adjacent that belongs to his partner. He stated he has no problem with deleting that since it is unacceptable. He has lowered his expectations to four mobile homes. He stated the zoning allows for thirty-two units, and he can only see placing a maximum of eight out there eventually; right now he can only see four. He stated the lagoon that is out there now can handle four units with a large margin for error.

Mr. Sallee stated the lagoon is in compliance with DNR and BCRSD regulations, with the exception of needing to sign it over to BCRSD. He stated that is what he has to offer at this

point.

Commissioner Pearson asked for further comments in favor of this request.

There were no further comments.

Commissioner Pearson asked for comments in opposition to this request.

**Gerald Mueller, 11 N. 7<sup>th</sup> Street, Columbia.**

Mr. Mueller stated he is here on behalf of his partner, Tom Schneider, who is the attorney representing various individuals in the neighborhood who opposed the larger issue of the mobile home park conditional use permit.

Mr. Mueller stated he wanted to go on record as opposing this conditional use permit, as there does not appear to be adequate and reliable infrastructure to support the mobile home park, specifically no wastewater treatment. He stated other than that, he would refer to the unanimous recommendation of the Planning and Zoning Commission.

Commissioner Elkin asked Mr. Mueller if he said no reliable wastewater service or no reliable wastewater treatment.

Mr. Mueller stated he said no reliable wastewater treatment.

Commissioner Pearson asked for further comments in opposition.

**Mary Sloan, 10851 N. Hecht Rd., Hallsville**

Ms. Sloan stated she lives less than a quarter mile south of the proposed mobile home park. She stated at this time she would like to make it known to the Commission that a group of eighteen property owners in the area within less than a half mile of this proposed mobile home park are in opposition to both conditional use permits. She asked everyone in attendance who is in opposition to stand. She stated everyone lives within half a mile of this subject property.

Commissioner Pearson asked for further comments in opposition.

**Sarah Warren, 11461 N. Hecht Rd.**

Ms. Warren stated she is a couple of tracts north of this proposed mobile home park. She stated her understanding once the park is established, he wants to put disabled veterans in there. She stated she doesn't have a problem with that, but as a nurse and as someone who took care of her mother in her home, there are no facilities out there to take care of an emergency. There is no clinic. What happens if one of the veterans gets in trouble? She stated Mr. Sallee doesn't even live on the property and he won't be there 24/7. She stated her concern is the trailer park and how that is going to function. She stated if she called 911 for her mother, it took a little time to

get someone there.

Commissioner Pearson asked for further comments in opposition.

**Bill Cundiff, 11150 N. Hecht Rd.**

Mr. Cundiff stated he is in support of this item and should have spoken earlier.

Mr. Cundiff stated he owns property just to the east of the subject property. He stated he uses Mr. Sallee as he needs him because he is handicapped. He lives on a farm and has some cattle, and he has had trouble getting help in the past. Since Mr. Sallee has started working on the mobile home park, Mr. Cundiff has used him several times to help do some work around the farm. He stated he has lived on his property since about 1979, and there has been a trailer park there since he moved there. He stated the trailer park was a mess; there were a lot of drugs going on in the park and a lot of people lived there who were less than beneficial to the community. Since Mr. Sallee has cleaned it up, he has to go along with what Mr. Sallee says he wants to do. He stated he has been in the military and he knows what it is like to get out and not have any place to go.

Mr. Sallee reminded Mr. Cundiff that this particular hearing is pertaining only to the lagoon.

Mr. Cundiff stated he knows the lagoon has been worked on several times. When it was shut down there were about twelve trailers in there, and the lagoon took care of those. He stated he doesn't see why it wouldn't take care of the eight Mr. Sallee is requesting.

Commissioner Pearson asked Mr. Cundiff if he stated there were about twelve trailers there.

Mr. Cundiff stated there were about twelve when he moved there.

Commissioner Pearson asked for further comments in opposition to this request.

**Dottie Gilberson, 11450 N. Hecht Rd., Hallsville**

Ms. Gilberson stated she has lived there for twenty-five years. She stated there were never twelve trailers out there. She stated when she moved there, there were four trailers and they all burned down. They put two more out there and those burned down. Then they put another trailer out there and it burned down. She stated there are no fire hydrants out there to take care of any fires. She stated the nearest fire hydrant is close to Mt. Zion Church Road. That means they would have to bring more water in.

Commissioner Pearson stated this would be more appropriate for the next hearing. The current hearing pertains to the conditional use permit for the lagoon.

Ms. Gilberson stated the lagoon was built about six years ago. It used to be a small hole in the ground. Someone finally came out and said they had to build a new lagoon. The current lagoon is

a big lagoon, but it has hoses that pump the water out and it goes on other people's property.

Commissioner Pearson asked for further comments in opposition.

There were no further comments in opposition.

Commissioner Pearson offered Mr. Sallee an opportunity to address the concerns.

Mr. Sallee stated he recognizes their fears and their concern, but that fear and concern is based on the past. The last four years he had a discussion with Mr. Johnson about spillage onto his land. That was corrected immediately. He stated he has agreements to pump land applications occasionally in case of overflow. He stated the lagoon is under control. It is well regulated, well built, and reinforced. He stated one whole berm has been replaced and it is up to DNR and BCRSD standards with the exception that he has not signed it over to them. He stated any opposition to the lagoon as it currently sits is based on past dissatisfaction or prejudice. He stated they are stuck on the past and they fear the future, and there is no reason for it because he has set a good example out there for the past four years. This is the way it is going to be run in the future.

Mr. Sallee stated that is what is going on now, but people are still complaining about the way it was back in 1993. It was renewed in 1993, and it had gone downhill and it didn't have a lot of things that it has now. He stated the people out there refuse to see that because of the prejudice of the past. He stated he cannot alleviate anymore of their concerns. He stated he has operated out there and cleaned it up, not just physically but character-wise. The lagoon is in good enough condition to handle the four units. Everyone's prejudice doesn't have anything to do with the lagoon. He asked what living within a half mile has to do with anything. He stated he doesn't understand why they are concerned about him having a mobile home park out there. They are in support of the people that live adjacent to it. He stated someone mentioned that there is no medical care out there. He stated there are mobile homes all around that area and they don't have medical care either. He stated there is a woman who lives nearby who is a nurse and is looking into being an on-site nurse if there are no conflicts of interest with the Veterans' Hospital.

Commissioner Elkin stated he would like Mr. Sallee to stick to the issue of the lagoon.

Mr. Sallee stated he does not blame the community for their fears. What he does blame them for is their pessimism, self-righteousness, bigotry, and prejudice. He stated they need to wrap their minds around the fact that the lagoon is in good shape and it can serve at least ten units.

Commissioner Pearson closed the public hearing.

Commissioner Miller asked if there is any way we could table this until the next hearing with the understanding that if the next issue passes then this one would pass. She stated she doesn't want to support a private lagoon unless that is the only option.

Mr. Shawver stated the Commission has the option to table it.

Commissioner Pearson stated it appears the issue with DNR is that they don't enforce the regulations.

Commissioner Elkin stated they enforce it, but it is a lengthy process.

Commissioner Pearson stated then it is not timely.

Mr. Shawver stated that is correct.

Commissioner Pearson stated if the permit is valid, where does BCRSD fit into this? Is it just our desire to have them in control so we can make sure it is operating properly?

Mr. Shawver stated that is correct. He stated the first issue tonight was a NID for a private lagoon that is being turned over to public maintenance because it has not been properly maintained.

Commissioner Elkin stated the key is that it is *desirable* to have the Sewer District run it.

Mr. Shawver stated that is correct. He stated not all counties have a sewer district.

Commissioner Pearson stated one of the requirements for the mobile home park is that there be some sort of wastewater treatment.

Mr. Shawver stated that is correct.

Commissioner Pearson stated there is also a permit that they have to have to operate as a mobile home park.

Mr. Shawver stated that is correct.

Commissioner Pearson stated if they violate any provision of the ordinance, one of which being the sewer, their permit is in jeopardy.

Mr. Shawver stated they would be subject to review.

Commissioner Pearson stated they would be subject to suspension and ultimately revocation.

Mr. Shawver stated that is correct. He stated the same is true for a conditional use permit.

Commissioner Pearson asked if there is also a penalty provision.

Mr. Shawver stated the penalty is revocation of the permit, and continuing to operate would be considered a zoning violation, and then it would go to the circuit court.

Commissioner Pearson stated if anyone violates the lagoon, and it is not corrected, he is in violation of the permit and it gets suspended. If he keeps operating he can end up in circuit court with a misdemeanor charge.

Mr. Dykhouse stated this would be considered an unclassified misdemeanor, and an unclassified misdemeanor is defined as an A misdemeanor, which is up to a \$1,000 fine, 1 year in County Jail, or a combination of both.

Commissioner Pearson stated that is what they would be subject to if they continued to operate in violation of the revocation.

Mr. Shawver stated that is correct, and that each day could be a separate charge.

Commissioner Miller asked if the permits from DNR go with the land, because this permit is in Mr. Miller's name and not Mr. Sallee's name.

Commissioner Elkin stated land changes hands all the time.

Mr. Shawver stated there should have been a transfer of ownership.

Commissioner Miller stated she thought it probably stayed with the property.

Mr. Sallee stated the permit was transferred over to the Sallee Post Service Sanctuary.

Commissioner Miller stated she would like to table it until we go through the mobile home park issue, and if we support that issue then we support the sewer. She stated it just seemed backward to her.

Commissioner Elkin asked if the lagoon is currently in compliance with DNR.

Mr. Shawver stated to his knowledge it is.

Commissioner Elkin asked if we have an ordinance that requires Mr. Sallee to turn the sewer over to the Sewer District.

Mr. Shawver stated there is not.

Commissioner Pearson asked if DNR's inspections are complaint-driven.

Mr. Shawver stated it depends on the type of wastewater system. He stated a no-discharge system is probably subject to an annual inspection. Otherwise it is complaint-driven. A discharging lagoon is subject to inspection on a quarterly basis, but that all depends on the availability of the field operations of DNR. BCRSD submits quarterly reports, and some of them are even required to do monthly reports.

Commissioner Elkin stated a conditional use permit is based on the conditions of Section 15.A(2) of the Zoning Regulations. He asked Mr. Shawver if the lagoon is in compliance with DNR and continues to be so, will it meet each of the requirements of Section 15.A(2)?

Mr. Shawver stated he can't answer all of those questions without testimony from the public that may indicate that a system may impact the use and enjoyment of their property.

Commissioner Elkin stated there are a lot of assumptions in the staff report about the chance that it will not be in compliance. He stated he understands those concerns, but it is currently in compliance with all of the regulations.

Commissioner Pearson stated if DNR did its job timely, it should be inspected annually.

Mr. Shawver stated that is correct.

Commissioner Pearson stated they probably don't have the staff to do that.

Mr. Shawver stated he does not know. It is inconsistent.

Commissioner Pearson stated he knows that is a concern, but is that a problem that should be used as a basis for denying a lagoon that otherwise is in compliance since the last inspection?

Mr. Shawver stated he thinks that is a policy issue that the Commission has to address is whether they want to permit privately operated lagoons and wastewater systems. In the past, the Commission has said they were not going to allow that. The staff report is based on past decisions of the County Commission to not allow private systems.

Commissioner Pearson asked if we have other mobile home parks with private lagoons.

Mr. Shawver stated there probably are.

Commissioner Miller stated we are trying to get rid of them right now. Most of them are not in compliance.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby table the request by David L. Sallee for a permit for a sewage lagoon on 5.0 acres, located at 11251 N. Hecht Rd., Hallsville, until after discussion of the subsequent request for a permit for a mobile home park.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 84-2009**

**6. Request by David L. Sallee for a permit for a mobile home park on 5.0 acres, located at 11251 N. Hecht Rd., Hallsville (appeal).**

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

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

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

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

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

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

The following criteria are the standards for approval of a Conditional Use Permit, followed by staff analysis of how this application may meet those standards. Staff analysis of the request is based upon the application, information and comments from utilities and other commenting agencies, planning department/county records, and public comments received following notification of the surrounding property owners. It is important to recognize that it is incumbent upon the applicant to demonstrate that all seven of the criteria for approval of a CUP are met. Under the regulations before authorizing the issuance of such a Conditional Use Permit, the County Commission shall satisfy itself that all seven of the Conditional Use Criteria are met.

(a) The establishment, maintenance, or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare.

The nearest fire station is in Hallsville and is over 3 road miles from the site. Lack of ability to provide fire hydrants makes the request to have an 8 unit Mobile Home Park on this property inappropriate and a detriment to public health, safety and welfare due to a lack of adequate fire protection. The Boone County Fire Protection District is opposed to the request due to a lack of water and hydrants. The density of the request is inappropriate. The Sheriff's Department is also opposed to the request. The Sheriff's Department has indicated that it has compiled data showing it expects a 6% to 8% increase in activity and calls for service for Law, Fire and EMS service to be expected in this area with the development of a Mobile Home Park. This information is based on their experience and records. The e-mail from Major Reddin Chief Deputy of the Boone County Sheriff's Department is hereby entered into the record. The applicant has provided a

sheet from Tiger Security indicating security monitoring of the property, this monitoring would normally be expected to be supplemental to normal public safety services and is not a suitable substitute for actual health and public safety standards. Additionally, this monitoring can be dropped at anytime by this applicant or any subsequent owner. The request fails to meet this criterion and is detrimental to or will endanger the public health, safety, comfort or general welfare.

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

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

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

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

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

The property is located in Public Water District #4. The district currently has a 2½ inch water main serving the site that provides at best 100 gpm (gallons per minute). The standards for any fire protection start at a minimum of 500 gpm. The closest large water main is 3 miles away. The water district 5 year plan includes running a larger line down Low Crossing Road, but even then the larger line will be approximately 1 mile from the site. When contacted, PWSD #4 indicated that they have done an estimate for installation of the needed waterlines and hydrants. However, the water district will only make the improvements if they are paid for by the applicant and the estimate is only to install the line from Low Crossing Road to the subject property. Additionally, this potential developer-funded upgrade will not be of any use until the Water District improvements are made. Such District-initiated improvements are not expected until late 2010 at the earliest. The requested number of units will require hydrants. To illustrate, even normal development of the property into a normal subdivision would require hydrants for any more than 3 units. The existing lagoon does not meet the standard used by the BCRSD to support the proposed 8 units. The BCRSD is the commenting agency with the expertise in collector sewer systems that the county consults with on technical aspects of proposals involving central

wastewater collection and treatment. Boone Electric can and does serve the property currently; however, the required engineered electrical plan has not been provided so it is not possible to say the proposal is adequately served by electric service. Conditional Use Permits for Mobile Home Parks have been generally required to provide paved road and parking areas, which the existing gravel driveway on the property will need to be upgraded to meet. No information has been submitted with respect to drainage. The request fails to show that all necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage.

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

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

(f) The establishment of a conditional use permit will not hinder the flow of traffic or result in traffic congestion on the public streets. This will include the provision of points of access to the subject property.

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

(g) The conditional use permit shall in all other respects conform to the applicable regulations of the zoning district in which it is located. The County Commission shall find that there is a public necessity for the conditional use permit.

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

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

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

CLARIFICATIONS: If approved

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

CONDITIONS:

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

Mr. Mach stated the Planning and Zoning Commission conducted a public hearing on this request at their February 19, meeting. Six members of the Commission were present. A motion was made to recommend denial of the request. That motion received unanimous support. The applicant filed a timely appeal and it now comes forward to the County Commission for consideration.

Commissioner Pearson opened the public hearing and asked for comments in favor of this request.

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

Mr. Sallee stated he agrees with their fears. He stated what he is proposing may have been grandiose at the beginning, but he has been brought down to reality.

In regards to Section 15.A(2)(a): whether 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: Mr. Sallee there will be a fire alarm system installed in every mobile home out there. He stated he is not overly concerned about the loss of a mobile home. There are water hydrants out there within about 50 feet of the mobile homes and it is accessible. He stated in the ordinances governing mobile home parks (Section 13.4), it states that a fire hydrant shall be installed if the water supply district is capable of serving them in accordance with the following requirements. There should be a minimum of two 1½ inch hose streams. Each of the two nozzles, held four feet above the ground, should deliver 75gpm at a flowing pressure of at least 30 pounds per square inch at the highest elevation point of the park. They are to be located within 500 feet. He stated they are located within 50 feet. He stated in case of inadequate water supply for fire protection by regular fire fighting equipment, a 2 gallon fire extinguisher shall be provided and maintained by the park owner in the ratio of 1 to not more than 10 mobile homes. They should be located conveniently throughout the court and one shall be placed in each public building. Individual hose connections at each mobile home from the domestic water supply shall also be provided as an auxiliary source of water for fire protection. Mr. Sallee stated he has all of this placed out there now. He stated conflicts between ordinances, the ordinance with the higher standard shall prevail. He stated the Boone County fire code insists that there should be 4-inch fire hydrants that should provide 500gpm. He stated allowances have been made for fire protection. He has everything required of him out there now, and he has a state of the art fire alarm system in each unit.

Mr. Sallee stated as the water line is extended out there, the VA cannot finance a private operation to extend the water line to the property. He stated he has been in contact with an agency that can finance him, and he is in the process of making that happen.

In regard to Section 15.A(2)(b): whether 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: Mr. Sallee stated the staff report states the multiple mobile homes that have been on the property in the past were part of a zoning violation complaint and investigation. Mr. Sallee stated those mobile homes and their occupants are no longer out there. The staff report states the original zoning violation complaint is evidence, that at least in part, the use of the property for multiple mobile homes has in the past resulted in injury to the use and enjoyment of the neighboring properties. Mr. Sallee stated he agrees with that. That was anarchy at its best, and it is no longer present. Mr. Sallee stated there has been a narrowing of the screening process to ensure the caliber of the people that are out there are the same as the people who are already out there.

In regard to Section 15.A(2)(c): whether the conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood: Mr. Sallee stated that is a rather late concern. He stated that mobile home park has been out there for many years. It has been misused and abused, and if there is any deterioration of property values out there, it is past. What is happening out there now is a vast improvement over what has been out there in past years. He stated there is no diminishment or impairment of property values.

In regard to Section 15.A(2)(d): whether all necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage: Mr. Salle stated this is amusing because there are statements in the staff report that the required engineered electrical plan has not been provided so it is not possible to say the proposal is adequately served by electric service. He stated this is in direct denial of the fact that Boone Electric Cooperative has been out there to replace transformers and poles, and to raise lines. He stated they have brought it up to above adequate electrical service in expectation of more mobile homes out there. The parking areas need to be at least chip and seal, and Mr. Sallee stated he realizes that. He stated utilities are out there and the roads are out there. He stated he will chip and seal them as he progresses. For road access, he stated he has two driveways into the property, and the drainage on the property is accomplished by the lay of the land draining off to the south and into his neighbor's stock pond.

In regard to Section 15.A(2)(e): whether 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: Mr. Sallee stated there seems to be no problem here. He stated it does not affect the surrounding area at all. Nor does it detract from the property value.

In regard to Section 15.A(2)(f): whether 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: Mr. Sallee stated the staff report indicates the increase in traffic could possibly get up to 273 ADT. He stated that is not being argued because the VA and Disabled American Veterans (DAV) are supportive of his efforts to bring this online and make it operable before they commit themselves to a multi-passenger van to transport the men back and forth for their medical needs. He stated he does not live out there right now, but he stated he will be eventually.

Mr. Sallee stated he has a letter from the public relations officer at the VA saying they have made everyone aware that this is potentially available. He stated he has received two calls already from men saying they need to get out of the hospital and need some place to live. He stated in the hospital, everyone picks at a man's brain and he needs a little time to get away from everything.

In regard to the clarifications, contingent on approval by the County Commission: Mr. Sallee stated he did not know that no recreational vehicles, travel trailers, or motor homes are allowed as units in the mobile home park. He stated he has submitted a line drawing of existing mobile home pads and services that are in place right now, and exactly where he wants to place his units. They are back away from the road and the property line and away from the existing mobile homes.

In regard to the suggested conditions, contingent on approval by the County Commission: Mr. Sallee stated he argues that four units are not going to overburden the lagoon system out there. He stated if he brings it down to three, he won't have to have any fire hydrants out there. He stated he needs four units out there so they can support each other in their recovery process and reentering into society. Their medical needs, their social needs, and their recreational needs will be met by each other. He needs that large of a group to be viable.

Mr. Sallee stated he has no problem with chipping and sealing the road. He stated he agrees with the fourth condition prohibiting any other structure other than an approved and permitted mobile home.

Mr. Sallee stated this is coming into existence; it is already out there and functioning. It is agreeable to DNR, the electric company, the sewer company, the water company. He stated it can be improved and it will be, despite the nay saying of everybody within a half mile. He stated it is none of their business what he is doing out there. He stated he has signed agreements with Bill Cundiff and Harold Laroe agreeing with what he is doing out there.

Mr. Sallee stated he has a letter from Chuck Melloway, and he would like to read it to the Commission:

“My name is Chuck Melloway and I own property on 7521 E. Mt. Zion Church Road, and I do not care if David Sallee puts more trailers on Hecht Rd. on his property, and I think that he has made the property look 100% better than it has been in 20 years. So if that man puts nice trailers on that lot that will look better than it ever has, thanks.”

Mr. Sallee stated he is sorry to say that one of the women in the audience is dependent upon his partner for her livelihood. He stated she is here to stab his efforts in the back.

Commissioner Elkin asked Mr. Sallee to not make it personal.

Mr. Sallee stated everything he is doing falls under the exemptions in Section 6 of the ordinance governing mobile home parks. Section 6.1 of that ordinance states: Where the County Court [Commission] finds that compliance with provisions of this Ordinance would result in undue hardship, an exemption may be granted by the County Court without impairing the intent and purpose of this Ordinance. Deviations from design, construction and installation provisions shall be brought into compliance with the Ordinance within a period of time established by the County Court not to exceed five (5) years based on economic feasibility of improvement, nature, significance, and extent of deviation, depreciation of material, improvement, and layout in use and other similar factors.

Mr. Sallee stated this tells him that they are taking into account that everybody is not up to speed. He stated they are offering him this exemption for five years to bring it up to everybody's expectations. He stated he has demonstrated in the last few years that is exactly what he is doing, yet he is being nay sayed by everyone within a half mile that has no concern with anything he is doing out there.

Mr. Sallee stated Section 6.2 of the mobile home ordinance states: Such period shall begin after the County Court has given notice of a certain and specific deviation from this Ordinance to the person to whom the permit or certification was issued.

Mr. Sallee stated from the decision tonight, he will have either nothing to do, or he will have five

years to continue what he has been doing out there. He stated these are the same people who have been rejected and considered expendable so that the Commission can be up here sitting in judgment upon them because they protected our rights to have this hearing. He stated when they are in trouble and he is looking to help them out, the Commission is going to deny them that? He stated that is bigotry and self-righteousness. He stated he disagrees with any denial of trying to help those people as he is trying to do.

Commissioner Miller stated the first suggested condition was that there should be no more than three mobile homes. She asked what the thought process was behind that.

Mr. Mach stated that was put into place by discussion earlier about the fact that this property as zoned could be divided into three lots without requiring fire flow, which is not available at this time. If the Commission was to approve this request, three units is the amount you could get out there without fire flow, so it seemed reasonable to limit it to three mobile home units.

Commissioner Miller asked what year of mobile homes we require.

Mr. Shawver stated mobile home parks have no restrictions. He stated if you were putting a mobile home on land, it has to be 1976 or newer, or you have to get a permit through the Board of Adjustment.

Commissioner Elkin stated that is when Housing and Urban Development (HUD) updated their requirements for no lead, no asbestos, etc.

Mr. Sallee stated the mobile home that is presently out there was out there when he bought the property. He stated that is a 1988. The homes that he plans on putting out there will be newer than 1995.

Mr. Dykhouse stated he wanted to correct for the record that the issue before the Commission tonight is the granting or denial of a conditional use permit. The language about the five year exemption is a decision item for later in dealing with the issuance of a mobile home park permit through the Mobile Home Park Ordinance, which is a different decision item where we would have some sort of negotiation about what the Commission expected. He stated it is not germane to the discussion here tonight. When the applicant stated if he gets the conditional use permit then he by default gets the maximum time the Commission would allow is a misstatement of where we are in the process.

Commissioner Elkin stated when we are making our decision here, we can't base our decision on the type of residents that Mr. Sallee is proposing. He stated our basis is on land use: is this tract of land appropriate under a conditional use permit to allow a mobile home park? We can't base this decision on who he wants in his mobile home park. This is based on whether the land is appropriate for a mobile home park. He stated he applauds his efforts to help veterans with medical issues, but in the context of our decision it is irrelevant.

Mr. Dykhouse stated that is correct. He stated it is probably clearer to think about it not of what

the applicant's stated intention is, but what the maximum commercial use that the property could be put to by the designation we have given it. That is what you are basing your decision on.

Commissioner Pearson asked if the mobile home park ordinance come into play in the consideration of the conditional use permit.

Mr. Dykhouse stated the conditional use permit and the mobile home park permit are separate things. He stated one could have a conditional use permit for a mobile home, but have the mobile home park not lawfully operating because it doesn't have a permit. He stated you could have the conditional use permit without having a mobile home park permit, but you could never have the mobile home park permit without having the conditional use permit.

Commissioner Pearson stated we have these conditional use permit requirements they have to meet. One of the requirements is the discussion of fire flow. The staff report says there is not enough fire flow. The mobile home ordinance says that maybe that is not so important.

Mr. Dykhouse stated the zoning ordinance was more recently promulgated than the mobile home park ordinance. He stated what the mobile home park ordinance does is it says whatever we say here, if we say something more restrictive somewhere else, the more restrictive language wins. He stated to the extent that Section 13 regarding fire protection imposes a lesser requirement than what is imposed elsewhere in the zoning code, the more restrictive is what applies, which is the 500gpm requirement.

Mr. Sallee asked under the conditional use permit, does he have time to reach the 500gpm requirement, rather than shutting the place down because of lack of 500gpm. He stated there are plans in the making to bring water to the area, but between now and then he still needs to function.

Mr. Dykhouse stated staff's answer to that is to limit the density to three units.

Commissioner Elkin stated as part of the conditional use permit, we can put any condition, within reason, that we want to establish as part of the conditional use permit. He asked if we could say Mr. Sallee is allowed three, and then when adequate fire flow is installed, you can go up to a set number.

Mr. Shawver stated the Commission could say that when fire flow is existing, it could automatically go up to some top number, or they can have the applicant come back at such time the fire flow becomes available to show that it is available.

Commissioner Elkin stated as part of the conditional use permit, if we have specific requirements, and he does not fulfill his obligation under the conditional use permit, he is in violation of zoning ordinances, subject to prosecution in circuit court. He stated he could lose his mobile home park permit. He stated we have put review periods on conditional use permits in the past to make sure all the conditions are being met. If the applicant is not fulfilling all the obligations, he would be in violation of zoning ordinances.

Mr. Shawver stated the regulations provide a process that gives the applicant time to correct the violation. Failing that, there is a date scheduled for a hearing before the County Commission to address the issue. If the County Commission is not satisfied, they can revoke the permit, and they have done that on several occasions. If the applicant continues to operate in violation, they can be prosecuted if necessary.

Commissioner Elkin asked if it is safe to assume that if it was approved, there is no way around following the rules and not being prosecuted ultimately.

Mr. Shawver stated that is correct. He stated the last thing we want to do with anybody is to prosecute them.

Commissioner Elkin stated his point is that if this is approved, Mr. Sallee couldn't just go out there and do whatever he wants.

Mr. Shawver stated that ultimately depends on what the court does.

Mr. Dykhouse stated that relates to the fact that some of the staff's recommended conditions are specifically designed to address enforceability so that we know when there is a violation.

Commissioner Pearson asked if there were any other questions.

There were no other questions at present.

Commissioner Pearson asked for further comments in favor of this request.

**Scott Byers, 3300 Mt. Rose**

Mr. Byers stated he agrees with the whole project because Mr. Sallee is getting people like him off of the streets. Otherwise, they are out there downtown. He stated it gives them somewhere to go to be alone.

Commissioner Pearson asked for further comments in favor of this request.

**Michael and Cheryl Clark, 11245 N. Hecht Rd., Hallsville**

Mr. Clark stated he lives in the trailer that is currently on the property. He stated they are in favor of this. He stated he has a bad back because of the military, and he stated before they moved out there, it was all they could do to pay rent and utility bills. He stated Mr. Sallee only charges rent and he pays utilities, and that took a great burden off of them. He stated they are now able to get ahead a little. He stated he likes it out there; it is quiet. He disagrees with Mr. Sallee when he says that it is nobody's business what he is doing out there. They have been out there since January, and nobody has said anything to them about being out there. He stated they have everything they need out there other than the fire hydrant, but they have fire extinguishers

in the unit and the fire alarm works very well. He stated they burned some bacon and the alarm went off, and within about two minutes the alarm company had called Mr. Sallee and Mr. Sallee had called them to make sure everything was ok. He stated he doesn't know why anyone would be against this.

Commissioner Pearson asked for further comments in favor of this request.

**Bill Cundiff, 11150 N. Hecht Rd., Hallsville**

Mr. Cundiff stated there was a question raised about the ability to get to the hospital. There was a woman who lived in the previous trailer park that had a heart attack, and the helicopter came out and took her in. She is doing fine now. He stated he thinks not having a hospital in the area is not a problem.

Commissioner Pearson asked for further comments in favor of this request.

**Nathan Clark, 11245 N. Hecht Rd., Hallsville**

Mr. Clark stated he is the son of Michael and Cheryl Clark. He stated he helped Mr. Sallee rebuild the lagoon, and they made sure they got everything cleared out so that he can get it inspected and get this permit.

Commissioner Pearson asked for further comments in favor of this request.

There were no further comments in favor.

Commissioner Pearson asked for comments in opposition to this request.

**Gerald Mueller, 11 N. 7<sup>th</sup> Street, Columbia**

Mr. Mueller stated he is again speaking on behalf of his partner, Tom Schneider. He stated Mr. Schneider represents the area residents, some of whom have lived in the area for decades, and who are more or less in unanimous opposition to this request. He stated while the goal of helping challenged veterans is laudable, we are not here to argue about that, and that is not the issue before the Commission. He stated this is a land use issue, and allowing a large concentration of individuals in this sparsely populated area is not practical.

Mr. Mueller stated the application is opposed for at least seven reasons: the first is that it is totally out of character with the neighborhood. We understand there was a mobile home park out there sometime in the past, but we also understand from the staff report that it was a non-conforming use, it was illegally there, and therefore cannot legitimately be considered part of the character of that neighborhood. If this were a zoning application, it would be a classic example of spot zoning. He stated there is concern that there isn't any service being offered in connection

with this community. There is no public transportation to this area. The applicant referred to the possibility of a bus coming out there, but we have not seen anything in the application package indicating any sort of agreement or willingness by OATS to service the area. He stated there are no facilities in the area, and nothing for the residents to do at this location. He stated their indication is there is no high speed internet in the area.

Mr. Mueller stated in short, we feel this is the wrong approach in the wrong place. This community is already enduring recent turmoil, and this would be injurious to the neighborhood. As indicated in the staff report, the Commission must find a public necessity, and we didn't hear anything suggesting there was a public necessity from a land use point of view. He stated the Commission must also find that it would not be detrimental to the neighborhood, and from this record we believe the Commission cannot make that finding. He stated Mr. Schneider spoke to an employee at the VA, and this person stated Mr. Sallee has no affiliation with the VA; he is not a service provider for the VA; the VA has no affiliation with a proposed mobile home park. There is a van service that will pick up veterans on three days notice and take them to the VA for medical or mental health appointments. It is not a taxi service. Mr. Schneider asked if a veteran living with Mr. Sallee had a job in Columbia, would this transportation service pick them up, and the answer was no.

Commissioner Elkin stated since this is strictly land use, is it fair to say that all of Mr. Mueller's comments concerning veterans and transportation are appropriate? He stated the Commission's job is to determine whether a mobile home park is appropriate for this land. Mr. Sallee's efforts are to try to attract disabled veterans, and that is fine, but our job is not concerned with that. He stated to Mr. Mueller that he mentioned that this is a land use issue, yet most of his testimony had to do with transportation of disabled veterans. Commissioner Elkin stated that is irrelevant to the issue at hand. He asked Mr. Mueller if that is a fair assumption.

Mr. Mueller stated he doesn't think anyone disagrees with the fact that he is trying to help veterans, but that issue is not directly relevant to a land use question.

Commissioner Pearson asked for further comments in opposition to this request.

**Barb Corwin, 7760 E. Mt. Zion Church Rd., Hallsville**

Ms. Corwin stated she asked for a clarification of whether Mr. Sallee had stated he was pumping out of that lagoon onto some adjacent properties.

Commissioner Miller stated that is a land application and that is a system that is available under DNR.

Ms. Corwin asked if there is a permit in place for him to do that.

Commissioner Elkin stated he has a DNR permitted facility.

Ms. Corwin stated the major concern she has is the ability of the County to enforce even some of

the existing regulations. She stated the Commission is probably familiar with a property that is very close to the neighborhood that is an obvious ordinance violation and there doesn't seem to be many steps being taken to rectify that situation, so she doesn't feel comfortable that there are any guarantees that this property, as it gets developed, is going to be strictly regulated or that there will be consequences. There are other problems in this neighborhood and we don't seem to be able to get a handle on the other crime situations out there.

Commissioner Elkin stated he knows which parcel Ms. Corwin is talking about, but that we are taking appropriate action. There was a mobile home pulled in there illegally; it is not part of any mobile home park. He stated we are addressing that. Unfortunately, government doesn't move very fast, but we are addressing it.

Ms. Corwin stated her other comment is that the property does look nicer than it used to, but it seems that having that many people concentrated in that small area is not a good idea.

Commissioner Pearson asked for further comments in opposition to this request.

**Sarah Warren, 11461 N. Hecht Rd., Hallsville**

Ms. Warren stated she drives by that property everyday, and there is a severe S-corner next to that tract. There are trees on both sides of the road, and if you try to move trailers through there that is all going to have to come down. She stated her trailer was damaged when it was moved in.

Ms. Warren stated there are not a lot of extra things out there to do. The whole area is agricultural. She stated Mr. Sallee has cleaned the property up and it looks much better than it did, but we are all pretty close out there, and when it comes to a fire it gets out of hand very quickly. If you put four trailers together, it will burn very quickly. She stated she thinks there is a pretty good chance that there will be another fire out there before fire flow is out there. She stated they have seen whole fields burned before they could get fire services out there.

Commissioner Elkin stated for the record that the County tried to straighten out that S-curve when Hecht Road was chipped and sealed, but the land owner would not cooperate.

Ms. Warren stated another thing she would like to address is Mr. Sallee's statement that it is nobody's business within a half mile. She stated Mr. Sallee lives farther than a half mile from there.

Commissioner Pearson asked Ms. Warren if she was there when the previous mobile homes burned down.

Ms. Warren stated she was.

Commissioner Pearson asked if the Boone County Fire Protection District responded.

Ms. Warren stated they did.

Commissioner Pearson asked how quickly they responded.

Ms. Warren stated it has been so long and she can't say exactly how long, but she thinks they were fairly reasonable.

Commissioner Pearson asked if they were effective.

Ms. Warren stated they were, but the trailers still burned to the ground. She stated you don't have very long to get out before a trailer burns down.

Ms. Warren stated Mr. Sallee claimed he had two driveways, but there is only one. She stated she goes by there everyday.

Commissioner Pearson asked for further comments in opposition to this request.

**Pat Fowler, 4995 N. Sandker Ct., Columbia**

Ms. Fowler stated she is here to speak to the public necessity requirement of Mr. Sallee's request. Ms. Fowler read the following comments into the record:

"I'm here as a community volunteer to oppose Mr. Sallee's application for a conditional use permit for a mobile home park stated to be a veterans sanctuary in the unincorporated part of Hallsville.

Mr. Sallee's application specifies a veteran's sanctuary to be housed in multiple mobile homes on his property. There has been no testimony or information brought forth that indicates that appropriate and necessary services will be provided to this vulnerable population, namely our military veterans.

Mr. Sallee's testimony at prior hearings and in his interviews with the press states that he is seeking to build a community of veterans who will have a need for drug and alcohol treatment, who may not have secured regular employment and who will need transportation services to get to and from town for VA services. He has been quoted as having his own unique way of handling their alcohol issues. He references the VA as his future partner in this effort, without bringing forward signed letters or agreements indicating a partnership is contemplated or even practical on the VA's part. Over the course of the public hearings and press reports documenting his efforts, he has changed his testimony from his personally driving the veterans on a daily basis to town, to now relying on OATS to transport the veterans to town for services. We have no documentation that OATS serves that area or has resources to provide that service to his tenants.

There are excellent models that exist in Boone County and Columbia of how to create a transitional living program that meets the public necessity of services for our vulnerable populations.

The components of those programs include multi systemic therapy involving community resources and involving family members, job training, drug and alcohol treatment, 24 by 7 staffing, on site counseling and employment assistance. We have a public necessity for this type of supportive programming for our veterans, as well as for our teens aging out of foster care, our families in need of emergency shelter. We also have a community need to provide multi systemic services, wrap around services, to newly arrived folks re-entering society after serving time in prison. The re-entry population is another group of community members that Mr. Sallee has spoken about in public hearings as potential tenants for his contemplated sanctuary.

Your approval of Mr. Sallee's application for a conditional use permit for the express purpose of hosting a veterans' sanctuary or re-entry sanctuary puts at risk our community efforts, and my individual volunteer efforts to make such programming happen for our vulnerable population members. I volunteer my time with the Boone County Offenders Transition Network, a coalition that seeks to create an environment of success for the 35 new arrivals in Columbia each month. I also volunteer as a board member for Comprehensive Human Services, whose trained and licensed staff runs our emergency shelter for women and children.

I come from a military family. I am the granddaughter, niece, cousin and sister of honorably discharged military veterans from all branches of the service. As the daughter of a U.S. Army Veteran who was honorably discharged in April 1955 and who in the last few years of his life needed psychiatric care from his local VA hospital in Tampa Florida, I have a working understanding of the services needed by some of our veterans, the services available in our community, and the obstacles that often exist to delivering those services. Particularly now, with an anticipated expansion of funding for Priority Group 8, which will allow persons no longer attached to the military and within a higher income range to access VA services, this is not the time to enable a service delivery model that will not meet the needs of our service veterans.

There are viable outlets for community organizations to create a transitional living program for veterans, their name is the Basic Needs Coalition, and one such organization already working with them is called Welcome Home. There is funding and support for multi systemic counseling and housing. Drug and alcohol treatment standards for veterans are part of the legislation being proposed by our own Senator Claire McCaskill (Dignity for Wounded Warriors Act and Homecoming Enhancement Research and Oversight (HERO) Act, and the SUPPORT for Substance Use Disorders Act). There is federal funding in the pipeline to expand the services of our local VA. There is not a public necessity for a services delivery system model that does not provide appropriate medical, mental health, drug and alcohol treatment, or employment services to our veterans and re-entry community members. Please do not approve Mr. Sallee's request for a conditional use permit.”

Commissioner Pearson asked about the Basic Needs Coalition.

Ms. Fowler stated the Basic Needs Coalition meets on a monthly basis and they have partner organizations that work to provide housing and necessary services for vulnerable populations like our military veterans, our re-entry folks, our children aging out of foster care, and any other group in need of basic services.

Commissioner Pearson stated it is not just for veterans then. He asked who the Priority group 8 was available for.

Ms. Fowler stated it is for honorably discharged U.S. Military.

Commissioner Pearson asked if it was available for veterans of any time period.

Ms. Fowler stated that is correct.

Commissioner Pearson asked for further comments in opposition to this request.

**Mary Sloan, 10851 N. Hecht Rd., Hallsville**

Ms. Sloan stated it has been said over and over that the zoning in this area is all agricultural. She stated she has lived out there since 1975, and she thinks she can safely say that everyone else who is opposed to this has owned property out there for at least 10 years, some of them as long as 30 or 40 years. She stated this property was rezoned in December over the objection of the Planning and Zoning Commission from A-2 (Agriculture) to R-S (Single Family Residential). She asked where the nearest R-S zoning is in relation to this property.

Mr. Shawver stated he believes the nearest R-S zoning is on the outskirts of Hallsville about 2.5 miles away.

Ms. Sloan stated this is clearly a spot zoning. She stated she served 10 years on the Planning and Zoning Commission, from 1996-2006. She stated she voted on many conditional use permits and rezoning requests. Spot zoning is something that was anathema to the Planning and Zoning Commission and also to the County Commission as a general rule. It wasn't done because it isn't good policy. She stated she wanted to point that out.

Ms. Sloan stated she also wants to address the fact that Mr. Cundiff stated the mobile home park was not there in 1979. Planning and Zoning came into effect in 1973 in Boone County. She stated looking at the maps, she cannot see anything that would resemble a mobile home park on that particular piece of property. She stated at some point after Planning and Zoning was created, a mobile home park was developed out there. It was an illegal use of the property and left to turn into a terrible situation for the people who lived there. She stated she personally called the Health Department twice asking them to investigate it, and it was left until the trailers burned. She stated it does look a lot better since Mr. Sallee cleaned it up, but it doesn't negate the fact that it wasn't a proper use of the property up to that point, and to turn it back into that doesn't make it legal or the right use of the property.

Ms. Sloan stated she echoes Ms. Corwin's concern that good intentions do not get done very fast. Commissioner Elkin stated government doesn't work very fast, and it doesn't, but it doesn't have to take years to clean up a piece of property that shouldn't be allowed to exist in the first

place. The property on Mt. Zion Church Road is not only an eyesore, it is a public nuisance. She stated the neighbors don't feel this is a safe neighborhood anymore and that is why they are here. She stated they are not against Mr. Sallee; they are not prejudiced; they are not basing everything they know on what happened 20 years ago. They are basing it on now. She stated they don't feel it is a safe neighborhood they are not convinced the County can act fast enough to clean it up or keep it clean.

Ms. Sloan stated she spoke with the fire district and she was told no more than three trailers would be allowed on this property under the current fire regulations. The fire district will strictly enforce that. She stated she anticipates that if the County approves this conditional use permit, no more than three trailers will be allowed on there until the fire flows are up to what they need to be, which will not be within the next few months. She stated a fire was started behind her property in 2000, and it burned 7 of her 10 acres of property and came within 50 feet of her house. She stated the Boone County Fire Protection District was out there from 2:00 p.m. until 7:00 p.m. the next night. If a fire gets started anywhere, getting it stopped is not going to be within a few minutes. She stated we have a great volunteer fire department, but we are four miles from the nearest fire station and they have to haul water out there. She stated she and her neighbors paid to have a fire hydrant put in front of her house.

Ms. Sloan stated they are not against Mr. Sallee or his noble idea, but it is just not a place to be putting a mobile home park with a lot of people on such a small piece of property when other agencies who have these kinds of services available.

Commissioner Pearson asked if she was there when the trailers burned on that piece of property.

Ms. Sloan stated she was.

Commissioner Pearson asked if the Fire District was pretty responsive.

Ms. Sloan stated she doesn't know when they were notified or anything, but there was a lot of commotion out there.

Commissioner Pearson asked what the fire flow was on the fire hydrant in front of Ms. Sloan's house.

Commissioner Elkin stated it is a two-inch line, the same as any others. He stated the fire department won't even hook onto two inch lines.

Commissioner Pearson asked for further comments in opposition to this request.

**Betty Laroe, 11211 N. Hecht Rd., Hallsville.**

Ms. Laroe stated her property joins Mr. Sallee's. She stated the hookups for the mobile homes on Mr. Sallee's property are not far enough back to meet the setback requirements. She stated if he put a mobile home there and it caught on fire, it would spread over to her house.

Commissioner Elkin stated he would have to meet the setback distances.

Ms. Laroe stated they are closer than the required distances right now.

Commissioner Miller asked what the setbacks are.

Mr. Shawver stated for a mobile home park it is 15 feet from the side property lines, and 50 feet from the front.

Ms. Laroe stated she wrote a letter to the Commission outlining her opposition.

Commissioner Miller submitted Ms. Laroe's letter into the record, as well as a letter from Matt Higdon.

Commissioner Pearson asked for further comments in opposition.

There were no further comments.

Commissioner Pearson asked Mr. Sallee if he would like to comment on the opposition.

Mr. Sallee stated the land application is an accepted procedure in the event of an overflow or emergency situation, and he has an agreement between him and a couple neighbors.

Commissioner Miller asked Mr. Sallee if DNR allows him to do land applications.

Mr. Sallee stated they do.

Mr. Sallee stated most of the issues are not related to the sanctuary itself. The limit of the density of the population has already been addressed and agreed upon, which is four mobile homes on five acres, which is zoned R-S. That place has been out there for forty years.

Mr. Sallee stated Ms. Warren's concerns about the damage to the trailer she put out there do not have anything to do with his sanctuary.

Mr. Sallee stated he is going to have four trailers on the property – two in the back and two in the front – and there will be enough separation that the fire would not be able to spread between them. He stated the “selective memory” of the response time by the fire department is understandable. They did show up, the fires were contained, and they did not spread. He stated the fires occurring otherwise are totally unrelated to him.

Mr. Sallee stated he does not know why Ms. Warren cannot see the two driveway accesses on the property. He stated there are two broad driveways coming into the park; one is on the tract the mobile homes will be on, and the second is on adjacent land and leads into the park.

Mr. Sallee stated Ms. Fowler raised the question of appropriate services and lack of recognition by the VA. He stated the Commission should have a letter stating they will list Mr. Sallee's offer to all of the providers. He stated he looked at the Boone County Offenders Transition Network, and he rejected it because he did not want that caliber of person out there. He stated the various transportation options that he has sought is to complement what he is going to do himself. He has contacted the DAV about getting a van to come out there, not just for healthcare issues, but also for functions in Columbia. He stated what has been presented here is a worst case scenario that he has no intentions of approaching because he is not capable of it. He is offering an alternative. When the men are through with the intensity of their healthcare, they need a place to go to get themselves together. He stated he has been through that regimen and it will tear you apart.

Mr. Sallee stated he thinks Ms. Sloan is fear mongering. She stated the fires started elsewhere and moved across her property, and Mr. Sallee asked what that has to do with him and his mobile home park. It didn't start in his park.

Mr. Sallee stated Ms. Sloan doesn't believe the County is capable of enforcing these issues out there. He stated it requires individual commitment in the area to get those people out, which he has done. He stated nobody seems to recognize the fact that those elements have been removed and very carefully replaced. He moved a couple out there and they proved totally unacceptable, so he moved them out. He stated as soon as he was able to arrange for another living quarters for them, they were out. Mr. Sallee stated all of the concerns are about the past, not the present.

Mr. Sallee stated to the best of his measurements, his units are set back farther than the requirements. He stated he understands her pessimism because she has some unpleasant taste in her memory from when it was anarchy. He stated the meth lab on Mt. Zion Church Rd. have nothing to do with him.

Mr. Sallee stated everything that was mentioned in opposition is based predominantly on past history. It is deeply ingrained suspicion and fear, but it is also not applicable to the present situation. The land use has consistently been a mobile home park for years, and it is there now. He stated he can live with paring it down to four trailers, but he cannot live with the self-righteous condemnation of past history that has nothing to do with him. He asked why at this late point he would stop complying with regulations.

Commissioner Pearson closed the public hearing.

Commissioner Miller stated she has a lot of questions and comments, but not at 10:30 p.m. She stated she can't think clearly enough to work through this and do it justice.

Commissioner Pearson stated he has some things he would like staff and legal to explain to him. He stated an example is when this was really a mobile home park. There have been a lot of things said about when it was started and that was an illegal use. He stated he would like to get some answers to some things.

Commissioner Elkin stated he would like to know if the fire district can overrule the County

Commission.

Commissioner Pearson stated he also has some questions about the ordinance governing mobile home parks and the inspections of lagoons. He stated it is one thing to have a regulation, and it is another thing to enforce it consistently.

Commissioner Elkin stated he wants to make sure we make an informed decision and there are just a lot of questions out there and a lot of information on both sides of the fence. He stated he wants to get down to the facts. An illegal use is a lot different than a non-conforming use.

Commissioner Miller stated she agrees with that. She stated when we dealt with Windy Point, we asked the applicant to address Section 15.A(2)(a-g) in a written format, and prove that they meet those conditions. We also asked the attorney for the opponent to address those conditions in a written format and prove that they don't meet those conditions. That may be something we can start with. We could ask Mr. Sallee to address how he meets those from his perspective and also ask Mr. Schneider to address it from the opposition's perspective because that way we can get some facts.

Commissioner Pearson asked if it would be appropriate for the minutes to be prepared and copies be given to both sides so they can use that as a basis for their arguments.

Commissioner Elkin stated they will be put online.

Mr. Dykhouse stated once the draft minutes are completed they are a public record and they are available to anyone.

Commissioner Pearson stated he was just asking if that would be a good approach, or just let them go at it.

Mr. Dykhouse stated it depends on what you are asking them to do. If you are asking them to summarize based upon the record that the Commission has before it now, which includes all the staff reports, letters, testimony, etc, how they meet sections a-g or didn't meet a-g, then that would be an appropriate path to go. It sounds like you are asking also for staff to provide additional substantive information to base your decision on. If that is the case, we can still go the draft minutes route, but we probably need to give both sides the opportunity to provide additional information. Staff shouldn't have the last shot at giving new facts. Both sides should have another opportunity to provide new facts.

Commissioner Pearson asked if it would be better to have them present that information in writing or in another public hearing.

Mr. Dykhouse stated that is up to the Commission.

Commissioner Miller stated she thinks getting it in writing forces you to get the facts, and then the Commission can then look at it and determine what the facts actually are. In writing, there is

no question about what someone said or meant.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby table the requests by David L. Sallee for both a permit for a mobile home park, and a permit for a sewage lagoon, on 5.0 acres, located at 11251 N. Hecht Rd., Hallsville, and requests the applicant and opponents to submit written facts and findings on the conditional use requirements of Section 15.A(2)(a-g). The applicant and opponents shall submit said written documents to the Commission no later than 5:00 p.m. on March 16, 2009. The Commission shall hold a public hearing on March 31, 2009, at 7:00 p.m., to further discuss the tabled issues.

Commissioner Elkin seconded the motion.

Mr. Mueller asked for clarification of what information can be included in the documents. He asked if the information should be limited to what has been presented up to tonight, and the record including Planning and Zoning minutes and staff reports.

Commissioner Elkin stated if there is new information found up until the 16<sup>th</sup>, it should be included also.

Commissioner Miller stated the opposition will have a copy of what Mr. Sallee submits, and Mr. Sallee will have a copy of what the opposition submits.

Mr. Dykhouse stated it will be a simultaneous submittal, and if there is a new fact that can't be addressed because of the simultaneous submittal on the 16<sup>th</sup>, there will be a chance on March 31 to convince the Commission.

Mr. Sallee asked if he needs to address a,b,c,d,e,f, and g, or just a,b,c,d, and g, since he met conditions e and f.

Mr. Dykhouse stated as the applicant, Mr. Sallee must address each of the conditions, regardless of which one the staff report said he met.

There was no further discussion.

The motion passed 3-0 **Order 85-2009**

## **Purchasing**

### **7. Amendment Number One – 38-19AUG08 – Topographic and Planimetric Mapping (first and second reading)**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve Amendment Number One – 38-19AUG08 – Topographic and Planimetric Mapping with The Sanborn Map Company, Inc. It is further ordered the Presiding Commissioner is hereby authorized to sign said amendment.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 86-2009**

**8. 64-21NOV08 – Generator Inspection Services (first read on 2/24/09)**

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby award bid 64-21NOV08 – Generator Inspection Services to Fabick Power Systems. It is further ordered the Presiding Commissioner is hereby authorized to sign said contract.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 87-2009**

**Public Works**

**9. Budget Revision for Office Furniture (first and second reading)**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the following budget revision for a 2009 furniture purchase:

| Department | Account | Department Name    | Account Name         | Decrease   | Increase   |
|------------|---------|--------------------|----------------------|------------|------------|
| 2045       | 23001   | Public Works – D&C | Printing             | \$6,288.00 |            |
| 2045       | 91100   | Public Works – D&C | Furniture & Fixtures |            | \$6,288.00 |

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 88-2009**

**10. Sunrise Estates Subdivision – Pavement Project – Phase I (first read on 2/24/09)**

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the Agreement for Consultant Services with Allstate Consultants, LLC for the Sunrise Estates Subdivision Pavement Project – Phase I. It is further ordered the Presiding Commissioner is hereby authorized to sign said agreement.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 89-2009**

## **Miscellaneous**

### **11. Agreement for Animal Shelter and Related Services (first read on 2/24/09)**

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the Agreement for Animal Shelter and Related Services with the Central Missouri Humane Society. It is further ordered the Presiding Commissioner is hereby authorized to sign said agreement.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 90-2009**

### **12. Receive and Accept Conveyance from Wayne and Wanda Hilgedick**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby receive and accept the conveyance of a warranty deed from Wayne and Wanda Hilgedick.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 91-2009**

### **13. Commissioner Reports**

There were no commissioner reports.

### **14. Public Comment**

There was no public comment.

The meeting adjourned at 11:02 p.m.

Attest:

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Kenneth M. Pearson  
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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Skip Elkin  
District II Commissioner