



1 SITE PLAN
 1" = 20'-0"
 1.04 AC

design development
 NOT FOR CONSTRUCTION

<p>THESE DRAWINGS DO NOT INCLUDE THE COMPONENTS OF CONSTRUCTION OR SAFETY.</p>
<p>SITE PLAN</p>
<p>970.819.7950 steambout springs, co. ark457 asaph m. baughwa architect</p>
<p>A Renovation For Cooper's Landing 1186 Smith Hatchery Road Boone County, Missouri</p>
<p>04.04.24 A10 22-07</p>

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Variance Request Justifications

Address: 11505 S SMITH HATCHERY RD

Legal Description: Tract of land as described by trustees deed recorded in book 5023 at page 51.

Tract Size: 1.1 acres, irregular shape

Tax Parcel: 20-800-34-00-006.01 01

Current Zoning: REC

Adjacent Zoning: west of Katy Trail, zoned A-1;

east of Katy Trail, zoned A-2.

Location: Southwest of Columbia approximately 1 mile north of Easley on the west side of Easley River Rd between the Katy Trail and the Missouri River. Middle part of the Southwest Quarter of the Northwest Quarter of Section 34, T47N, R13W, Boone County, Missouri and part of Spanish Grant #1726 (also known as New Madrid Claim #1726). Said tract of land is that part of the tract described by said quit-claim deed lying North of the westerly extension of the line between Boone County surveys #4749 and #5150, West of the M-K-T railroad right-of-way, now the Katy Trail State Park, and East of the East bank of the Missouri River, known as the High Bank, and being the first part of that tract described by a general warranty deed recorded in Book 4872, Page 92.

Current Land Use: The site consists of a general store, outside performance stage, outdoor picnic space; designated tent and RV camping, a marina with boat docks and fuel station.

Summary of Request: Due to the parcel boundaries and location, certain requirements set forth by ordinance are prohibitive to the reconstruction of the general store. In order to accommodate all intended uses and accomplish the intent of the ordinance to mitigate risk to health, safety and property, certain variances are being requested. Adhering to the zoning codes per requested variances would result in the overengineering of a natural space venue, and would not provide benefit to the property and/or surrounding properties, but may cause detriment.

Request A: Pertaining to minimum setback requirements, parcel shape is prohibitive of measured requirements set forth and a variance is requested to allow building footprint to meet property line and bypass setback requirements for the stage from the river. DNR, who occupies the other side of the property line, is in favor and has granted support in the form of a property use agreement. This is also necessary to maintain the existing building footprint, as required to meet stream buffer requirements.

Request B: Variance requested to bypass dust-free requirements set forth in Section 14 for Off-Street Parking and Loading Regulations due to lack of sufficient area on site and proximity to the Missouri River, utility of DNR property to substitute minimum lot requirements, and gravel nature of all trails and roads within proximity.

Property Analysis: The property is designated as a REC zone within an AE floodplain. Since it was taken over from previous owner in 2019, the actual use has been altered with the inclusion of a performance stage and the discontinuation of residential space. Previously documented allowed uses set forth

requirements for permitting, which were not completed before the change of hands in 2019. Requirements for obtaining a building permit take into account property improvements, as well as bringing the property into compliance with ordinance.

Requested Variance:

Request A:

1. Section 10A Yard Requirements- reduce minimum setbacks set forth for REC zones
2. Section 28 Storm Water Ordinance; 28.4.6 Environmentally sensitive areas: enhanced criteria- bypass buffer zone requirement; Section 26 Stream Buffer Regulations 26.5.3- request to bypass minimum buffer regulation due to existing proximity to waterways. Request to bypass minimum buffer regulations set forth in Sections 26.6.2.3; 26.6.2.4; 26.6.3.3; and 26.6.3.4.

Request B: Section 14D(1) Off-Street Parking and Loading regulations; dust free surface requirement

Request C (Alternative to B): Section Storm Water Ordinance 28.4.4.1, Runoff Reduction; 28.4.4.2, Water Quality Protection; 28.4.4.3, Channel Protection Detention; 28.4.4.4., Flood Control Detention

Notification:

- Parcel is the only REC zone on the Missouri River
- Creek Type 1 across North side of parcel
- Total property is approximately 1.1 acres
- The irregular shape of the parcel and proximity between the Missouri River and Katy Trail creates some natural limitations to redesign
- Property is surrounded by A-1 and A-2 agriculture parcels, and requires sensitivity to environmental disturbance and water quality
- The footprint of the building under consideration is approximately 1,100sqft. Total sqft is approximately 2,000 including the second story.
- The building plan is 0 ft from the parcel boundary between Muddy Mo and land owned by DNR
- Special considerations and design modifications have been made to accommodate building requirements within an AE floodplain to the greatest extent possible and within reason
- Impermeable surface area existing around building
- Property contains gas pump, boat ramp, staircase to dock, boat dock
- Muddy Mo has obtained an agreement with DNR allowing usage of DNR land for Cooper's Landing business purposes

Staff Analysis & Recommendation:

Attached are the minutes from the 2005 conditional use permit.

Due to the irregular shape of the property, it's necessary proximity to the Missouri River as a marina and the Katy Trail, its common use as an outdoor gathering space and it's designation in an AE flood zone, certain variances are being requested in order to redesign and construct a new general store building that will improve upon and bring into compliance health and safety requirements, and increase business viability through improved venue. Variances are requested for the reconstruction of one existing building

with a footprint of approximately 1,100 sqft, and requirements set forth by ordinance for REC zone new construction. Granting the requested variances will prevent the over engineering a natural, outdoor space, and support Muddy Mo in protecting the local ecology from interferences, and adhere to relevant stormwater, water quality, and stream buffer ordinances. The Cooper's Landing project plan upholds the Boone County Zoning Ordinance intention of protecting the safety, security, and financial wellbeing of people, places, and the environment, and this will not be impacted by the granting of any variances.

The new design takes into special consideration the requirements for Floodplain Management to ensure the project is compliant with the Boone County Zoning Ordinance to the county's mission to "promote the public health, safety, and general welfare, to minimize those losses described in Article 1, Section B (1): ... inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare." Staff finds that no variances as outlined will increase in flood discharge, variances offer the most minimum diversion from ordinance.

Request A:

1. Section 10 Yard Requirements- minimum setbacks set forth for REC zones in 10A (10 front, 20 rear, 6 side) cannot be fully achieved due to the existing footprint of the building site. Adjacent to the North property line, the building footprint butts to the boarder of the parcel owned by Department of Natural Resources. They have given explicit permissions for Muddy MO to utilize adjacent property for Cooper's Landing operations in return for providing benefit to the parks department. As the minimum setback is not feasible and permissions from adjacent owners have been granted, staff concludes there is good and sufficient cause for allowing this variance. Any alterations to building design or change of building footprint would incur exceptional hardship to the applicant in the form of design costs and potential loss of profit due to reduced business capacity. Changing the building footprint will also put the new design at odds with stream buffer requirements. Granting of this variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
2. Section 28 Storm Water Ordinance; 28.4.6 Environmentally sensitive areas: enhanced criteria- due to the irregular shape of the property and limited available space, Muddy Mo requires a variance on the minimum buffer zone requirement in order to maintain the stage and its location, which is inside the buffer zone from the Missouri River. This stage uses minimally invasive materials and maintaining the existing footprint is required to be maintained in order to meet stream buffer requirements.

Hardship Details:

Due to the irregular shape of the property,

1. there is insufficient space to accommodate required parking on site, thus approval has been requested from the Director of Resource Management to accept off-site parking on Department of Natural Resources (DNR) land per the included agreement;

2. there is insufficient space to accommodate the setback requirements. Approval to build up to property line per the included agreement between Muddy Mo and DNR is requested;
3. it is not possible to meet setback requirements and maintain existing footprint;
4. Building anywhere besides on the existing footprint would be in violation of the stream buffer requirements.

Request B:

Section 14D(1) Off-Street Parking and Loading regulations- request for dust free variance and reduce required parking spaces to minimum required by fire department.

Through an agreement with the Department of Natural Resources, Muddy MO has access to plentiful parking adjacent to Cooper's Landing but over property line. The request is to meet parking requirements by including parking available on DNR's plot, and to bypass the requirement for dust-free surfacing.

Adhering to maintaining a dust free surface will create an impervious surface exceeding 3,000 sqft, which conflicts with the objectives of water quality and environmental preservation set forth in Section 28 Stormwater Ordinance of the Zoning Ordinance for Boone County. Infrastructure for the treatment and proper collection of stormwater is not feasible given the sites location. Creating an impermeable lot will be difficult to obtain and maintain due to proximity of Katy Trail and unpaved adjacent roads. Per 28.1.6. Compatibility with Other Permit and Ordinance Requirements described, "[...] whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence," reducing/eliminating impermeable surface should be the preferred action. Granting variance to the dust-free surface requirement for parking and loading will prevent the need for further infrastructure to manage storm runoff, and is the minimally invasive approach to protecting groundwater from unnecessary polluting resulting from construction.

Granting of this variance will not only meet the requirements of mitigating risk to health, safety, and general welfare, but is a more significant alternative to achieving health and safety goals herein set forth. Further, surrounding traffic ways are not dust-free so creating dust-free parking would offer minimal benefit at a significant expense, and on DNR land. Muddy MO has an agreement with DNR permitting the use of their land for parking and included as an attachment. This document specifies that Muddy MO will be permitted to cross its boundary unless reclaimed by the railroad. Given the benefit served to the parks department by Cooper's operations, there is no reason to believe this agreement will be terminated except in accordance with the National Trail Systems Act. If dust-free variance cannot be granted, Muddy MO will have permission to modify DNR land per the aforementioned agreement, so the request to supplement the parking lot requirement on DNR land remains requested as separate and approvable by the Director of Resource Management.

Hardship Details:

Due to the uniqueness of the property type and location, creating a dust-free surface is illogical and ineffective:

1. Cooper's landing is located off of a gravel road and parallel to the Katy Trail, so site will still be dusted. Parking lies right between the Katy Trail and Smith Hatchery Rd- both gravel.
2. Migrating gravel from trail and road will create mess and take away from site aesthetic;
3. Changing surface type, even if impermeable alternative, will require regular and significant maintenance, due to the proximity to the river and likelihood of water erosion and flooding;
4. Creating dust-free surfaces will conflict with stream buffer regulations and water quality requirements by either creating impermeable surfaces
5. There are no neighboring plots impacted by maintaining gravel cover/will not worsen existing conditions;
6. In the event that the parallel portion of the county road and trail are paved, Muddy Mo is willing to match paving-type at that time;
7. Parking is not on Muddy Mo property, so if required dust-free surfacing would be on DNR land;
8. This is the only REC zone plot in the county that is both on the river and surrounded by gravel access, and should therefore be considered completely unique from any other commercial property, mitigating risk of establishing unwanted precedence.

Request C (alternative to B):

If Request B cannot be granted, multiple variances on the stormwater ordinance will be required in order to create a dust-free surface.

Section Storm Water Ordinance 28.4.4.1, Runoff Reduction: it may not be feasible to reduce 10% of the water quality volume.

28.4.4.2, Water Quality Protection: If dust-free surfacing is required, Muddy Mo will engage with engineers to plant trees strategically to aid in water filtration. In the immediate, the impact of dust free surfacing will be difficult to evaluate. Treatment of water in any other means would require significant infrastructure that is not feasible for the site location and is unnecessary to the business type.

28.4.4.3, Channel Protection Detention: Total impervious area will exceed 20% limitation. Request to bypass requirement for building on-site conveyances.

28.4.4.4., Flood Control Detention: due to building requirements, request to bypass the requirement for the ability for flood waters to pass-through structure.

Hardship Details:

1. Because of the significant impact and conflict with the goals or protecting water quality and preserving the natural environment, adhering to dust-free surface requirements is impractical and therefore not preferred.
2. However, if this cannot be mitigated, Muddy Mo will require significant variances to items within the Storm Water Ordinance in order to adhere to dust-free surfacing requirements.

BOONE COUNTY PLANNING & ZONING COMMISSION

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, May 19, 2005

Vice-Chairperson Sloan called the meeting to order at 7:00 p.m., with a quorum present. Roll Call was taken by Commissioner Heitkamp.

Present:	Mary Sloan, Vice-Chairperson	Rocky Fork Township
	Kristen Heitkamp, Secretary	Katy Township
	Carl Freiling	Cedar Township
	Rob Brown (left 8:15)	Rock Bridge Township
	Boyd Harris	Centralia Township
	Michael Morrison	Columbia Township
	Russell Duker (arrived 8:15)	Missouri Township
	David Mink	Public Works
Absent:	Pat Smith, Chairperson	Perche Township
	Mike Morgan	Bourbon Township
	Larry Oetting	Three Creeks Township

Also present:	Stan Shawver, Director	Uriah Mach, Staff
	Thad Yonke, Staff	Paula Evans, Staff
	Bill Florea, Staff	

The minutes of the April 21, 2005 meeting were approved with no corrections. Approved by acclamation.

Vice-Chairperson Sloan read the procedural statement which stated that the Boone County Planning and Zoning Commission is an advisory commission to the County Commission. The Commission is made up of individuals representing each township of the county and the county engineer or his representative.

The Planning and Zoning Commission makes recommendations to the County Commission on matters dealing with land use. Tonight's agenda includes three conditional use permit requests, three rezoning requests and five plat reviews.

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

The following procedure will be followed:

The agenda item will be announced, followed by a report from the Planning Department Staff. At that time, the applicant or their representative may make a presentation to the commission. The Commission may request additional information at that time, or later following the hearing. After the applicant's

presentation, the floor will be opened for anyone wishing to speak in support of the request. We ask that any presentation made to the Commission be to the point.

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

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

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

All recommendations for approval are forwarded to the County Commission. They will conduct another public hearing on Tuesday, May 31, 2005. Interested parties will again have the opportunity to comment on the requests at that time. The County Commission generally follows the recommendations of the Planning and Zoning Commission; however, they are not obligated to uphold any recommendation. Requests that are denied will not proceed to the County Commission unless the applicant files an appeal form within 3 working days. Please contact the Planning Office to see if a request that has been denied has filed an appeal as there will be no further public notification due to the short time between this meeting and the County Commission hearing. The County Commission hearing scheduled for Tuesday, May 31, 2005 will begin at 7:00 p.m. and will convene in this same room.

CONDITIONAL USE PERMITS

1. Request by Michael Cooper for a permit for incidental retail sales, travel trailer park and restaurant on 1.5 acres in the REC (Recreation) district, located at 11505 S Easley River Rd., Columbia.

Planner, Thad Yonke gave the staff report stating that this property is located southwest of Columbia approximately 1 mile north of Easley on the west side of Easley River Road between the Katy Trail and the Missouri River. The property is situated approximately 3&1/2 miles south of the closest municipal limits of Columbia. The property is zoned REC (Recreational) which was rezoned from A-1 in 1986. All property in this area to the west of the Katy Trail, excluding the subject tract, is zoned A-1, while all the adjoining property on the east side of the Trail is zoned A-2. These are all original 1973 zonings. There is a building functioning as a store, a mobile home residence, boat docks, and boat fueling station on the property. The purpose of these conditional use permit requests is to legitimize activities that have "evolved" at the site. Therefore, the store, the food services, and travel trailer areas are in need of these

permits. With respect to the food services we have determined that it falls under the restaurant category, however, it is our understanding that it may take a form closer to an open air food court along with food sales in the store. The applicant currently has a cantina trailer that functions as one of the kitchen facilities and he needs a larger kitchen area to replace the current cantina trailer. He would like to modify a singlewide mobile home into the new kitchen facility. This is problematic as units manufactured as singlewide mobile homes can only be used as residences under the zoning ordinance. While the staff is supportive of the restaurant uses for this site, the staff can't support the use of the singlewide mobile home. There are additional problems under the floodplain portion of the ordinance as well, with respect to the use of the singlewide. A site-built flood proofed addition to the main building is the best solution under the ordinance and the money that would be invested in attempting to modify the singlewide would be better utilized towards such an addition. The outdoor concerts that take place on the site are covered under the existing Recreational zoning and are not part of the permits under consideration. This site lies within the Columbia Public School District. The site is in Consolidated Public Water District #1 and there is a private well on the property. The site is in the Boone County Fire Protection District and fire requirements will be up to the fire district. Electric service will be provided by Boone Electric Cooperative. Wastewater service will be regulated by either the Health Department or DNR. An engineered wastewater system is on site for boats to use as a dumping station, but it is not a system designed to accommodate restaurant uses. The master plan designates this area as being suitable for agriculture and rural residential land uses, it should be noted that recreational zoning already applies to this site. Staff notified 5 property owners about this request.

As a CUP the proposal must meet the following criteria from the zoning ordinance to be eligible for approval.

- (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.

Staff has no reason to believe that the proposed uses will be detrimental to the public health, safety, comfort or general welfare if operated in conformance with existing county regulations.

- (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 recreational zoning already applies; the requested conditional uses are primarily auxiliary in nature and by themselves should not be injurious. Staff is not aware that the proposed conditional uses have impacted other property owners in the area.

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

There is no indication that the proposed use will have a negative effect on property values if proper facilities are provided.

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

The site is located where it is by the nature of the use as a marina. The uses under consideration are supportive in nature and limited in scope. The existing unimproved road is not a high volume roadway and there is not much other than this site to attract traffic to the

area. Easley River Road is an unimproved gravel county maintained road. The wastewater system has not been permitted by the Health Department and an engineered system is needed. At least one fire hydrant will likely be required by the Boone County Fire Protection District.

(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. As A-1 and A-2 zoned floodplain; development in the area is expected to be minimal and will not be impeded.

(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 proposed use should not hinder traffic flow in the area as the majority of the traffic is suspected to be directly related to this site.

(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.

Without the modified mobile home proposed to be a kitchen, the proposal for the three conditional uses conforms to other applicable regulations of the REC zoning district.

Staff supports this request and recommends approval subject to the following 10 conditions:

1. No singlewide mobile homes may be used for any purpose on the site except as a residence in compliance with the applicable regulations. Only the existing occupied mobile home is allowed on the site and when it is removed for any reason it is not to be replaced with a singlewide.
2. 4 parking spaces are required for the store plus 2 for the residence for a total of 6.
3. All driveway, loading, and parking areas are to be dust free (minimum chip and seal).
4. An engineered wastewater system for the activities including restaurant use must be designed and installed.
5. Lighting is oriented inward and downward so as to minimize light leaving the site.
6. The number of travel trailer slots is limited to a maximum of 12.
7. Comply with all site requirements of the Boone County Fire Protection District.
8. Comply with all requirements of the building code.
9. Must meet Health Department requirements for food service and wastewater.
10. A site plan be made of the property by a licensed engineer that addresses the conditions and activities and is to the satisfaction of the director of planning.

Present: Mike Cooper, 11505 S. Easley River Road, Columbia.

Mr. Cooper stated that the convenience store is well known, it has been there for 20 years. It serves the community and people off the Katy Trail and is a destination for people along the Missouri River. There are a few RV sites that are valuable to the community because they bring out of state people and people from all over the state to our area. About half of the people that use the RV sites are people that want to use the Katy trail and need a nice, safe, convenient place where they can park and spend a few days riding trails. Most of the other people that use the sites are people from Boone County that have discovered that there is a local place where they can go for boating, recreation, music and good food.

The biggest problem right now is the food service; the applicants are limited on their ability to take care of the people that have discovered us and turned Coopers Landing in to a very popular place. We have the small deli inside the store and a cantina on the outside; the cantina business is so popular that they have outgrown the little cantina that is being used right now. The applicants have a plan based on discussions with the local health inspector and with an engineer and the building inspectors; the applicants feel that an improved situation would be a 10-foot wide trailer, formally a mobile home. It has been sitting there waiting for an outcome and a determination of whether the applicants can go ahead and remodel it in to a kitchen. They will use it temporarily for 2 or 3 years until they have the resources to build an addition on the building for a more permanent type of kitchen facility. It is an eyesore right now but that is the reason it is there, if the applicants can continue with their plans to remodel that kitchen then it will look nice and blend in with the rest of the scenery.

Commissioner Heitkamp asked if the applicant was comfortable with the 10 conditions.

Mr. Cooper stated that he just saw them for the first time tonight.

Commissioner Heitkamp stated that she believes operating the single wide as a restaurant is not in conformance with zoning ordinances.

Mr. Cooper stated that he thinks there is the possibility that there are things that can be done to bring it in to compliance. Mr. Cooper met with an engineer who thought it was possible. There are some difficulties but he would like to keep the door open on that if the Commission would consider it. Right now the little cantina is not insulated at all and it is too small. What we could do with this 10-foot wide mobile home is bring in something that could satisfy the requirements that the health inspector has come up with.

Commissioner Heitkamp stated that it may satisfy the health department but it wouldn't satisfy the building code or the zoning ordinances.

Mr. Cooper stated that he understood that but if they couldn't come up with an adequate solution they can not proceed with that.

Commissioner Heitkamp asked if the applicant was amenable with the other 10 conditions.

Mr. Cooper stated that there is no county water at the site so he is not sure how a fire hydrant could be placed. He has installed yard hydrants all over the property with service from his well.

Commissioner Brown stated that a fire hydrant wouldn't be required.

Mr. Yonke stated that the staff condition is that the applicant comply with the Fire District requirements. It is likely that they would need a hydrant; they could possibly use a dry hydrant in to the river. Staff left it open because they know there is no public water there.

Mr. Cooper stated that with previous visits with the Fire Marshal had noted that the river was next to the structures.

Commissioner Heitkamp asked about the waste water systems.

Mr. Cooper stated that there are three septic systems there and the one for the RV site wouldn't be used for this at all. The one that would be used is the one the applicant is already using for the building for the

existing kitchen and the existing commercial purposes that we have. The applicants would continue to use the same septic system. Whenever it would need to be upgraded the applicant would do that.

Commissioner Heitkamp asked the applicant if he was confident he could meet all health department requirements for food service and wastewater.

Mr. Cooper stated yes.

Commissioner Mink asked the applicant if he could comply with condition 2 which is 4 parking spaces plus 2 for a total of 6 spaces within the confines of the property and not along side the road.

Mr. Cooper stated yes; the applicant has that already.

Commissioner Mink asked how often the crowds would require parking greater than 6 spaces.

Mr. Cooper stated that he has an agreement with DNR and Katy trail. The applicant has access to 40 spots that are available and designated as part of the lease agreement with the Katy trail.

Commissioner Sloan asked if private owners are going to bring in their RV's and lease the space or is the applicant planning to put RV's there and lease the RV.

Mr. Cooper stated that he has one RV that he owns himself and the only service it has is electric, there is no water or sewer hooked to it. Most of the RV sites that are there people just pull in and stay a couple of days and use the RV dump as they leave.

Commissioner Sloan stated the applicant is not planning to put RV's there that will be rented out.

Mr. Cooper stated just the one he owns.

Open to public hearing.

Present speaking in favor of the request:

Steve Johnson, Executive Director, Missouri River Communities Network, 904 Maplewood Dr., Columbia.

Mr. Johnson stated that Missouri River Communities Network is a non-profit organization. The mission of this organization is to enhance stewardship of the Missouri River. We are interested in creating a forum to balance all of the stake holders that are related to the Missouri River, including barge operators, agencies, environmentalists, recreation bicyclists, winery owners, and whoever has an interest in the Missouri River. One of the things we are interested in doing is promoting recreation on the Missouri River. We feel that the more people that use and get down to the Missouri River and get out on the Missouri River the more people will start taking a new attitude that the river is a valuable resource that needs to be taken care of. Mr. Cooper is a pioneer in providing services along the Katy trail and the Missouri river. He has been at that location for close to 20 years. His services have evolved over the years as more people are becoming aware of the Missouri River and the recreational opportunities. Those services that Mr. Cooper has provided have expanded. Mr. Johnson stated that he is speaking in favor of allowing Mr. Cooper's request. Mr. Johnson stated that he understands the problem with the building permit and would like to see the staff and Commission figure out some way that the Thai kitchen could expand the facilities there so they could expand.

Present speaking in opposition to the request:

William Crowley, 11340 S. Smith Hatchery Road, Columbia.

Mr. Crowley stated that his property is adjacent to Mr. Cooper's property. Mr. Crowley stated that he has a lot of things to say one of which is the assertions made by the staff which Mr. Crowley found to be not represented from his point of view. The previous speaker, Mr. Johnson, mentioned that Mr. Cooper's activities have expanded; Mr. Crowley concurs with that. It is his understanding that the property initially acquired by Mr. Cooper in 1980 was somewhat less than an acre. On the local current tax rolls Mr. Cooper is currently paying taxes on 1.1 acre. In the preliminary notice of this meeting it was stated that Mr. Cooper is requesting a change in zoning based on 1.4 acres and this evening it has increased to 1.5 acres. Indeed, Mr. Cooper's activities have expanded. It is quite obvious that these activities have expanded at the expense of the local stakeholders mentioned by the last speaker. In particular, Mr. Cooper has expanded on to about 3/10 of an acre of Mr. Crowley's property in which Mr. Crowley currently, and for the past 30 years, have been paying taxes. Mr. Crowley has a copy of the local aerial survey, which contains the property lines, the property lines show distinctly Mr. Crowley's property and Mr. Cooper's property and they show Mr. Cooper's singlewide trailer occupying Mr. Crowley's property. He has had a surveyor on the property and there are irons buried there and he has had the sheriff there and Mr. Crowley has done everything he could to get Mr. Cooper removed from his property, but as pointed out, he has expanded. There will be other speakers, local property owners, who will also testify that Mr. Cooper has expanded.

Mr. Cooper has expanded on to the Katy trail itself; Mr. Crowley has a photo of the expansion. It would be interesting if Mr. Crowley tried to occupy the Katy trail and what his luck would be. Mr. Cooper must have quite a relationship with DNR to permit that. Mr. Cooper has a contract for additional parking spaces; the additional parking spaces are, based upon a contract with DNR are on Mr. Crowley's property. Some of the additional parking spaces that Mr. Cooper is describing are on Mr. Crowley's property. Mr. Crowley would like to propose that Mr. Cooper proves that he owns the property for which he is requesting a zoning variance. Mr. Crowley does not wish his property rezoned.

Commissioner Sloan stated that this is not a rezoning request or a variance; it is a request for a conditional use permit. The property is currently zoned Recreational and as far as the Commission knows, the applicant is in compliance under that zoning.

Mr. Crowley stated that part of the requirements was that the applicant have adequate parking and asked if this parking should be on Mr. Crowley's property.

Commissioner Sloan stated that she couldn't address whether or not this is on Mr. Crowley's property. Part of the staff's recommendation is that there be 4 parking spaces for the store plus 2 for the residence for a total of 6 parking spaces. There is nothing that says anything about additional parking on anyone's property.

Dale Rechten, 11602 Smith Hatchery Road, Columbia.

Chris Rechten, 11602 Smith Hatchery Road, Columbia.

Mr. Rechten stated that he lives right across from Coopers Landing. He is not against Mr. Cooper's business or the restaurant in question; he is concerned that the operation has outgrown his piece of property to the point where access to his own property is inhibited on the weekends. Mr. Rechten stated that he has to listen to loud music on the weekends; it is a concert venue, a marina, restaurant, store and

outside tavern. On another similar property up at Huntsdale they had very restrictive conditions on that property and it was 26 acres of land. Mr. Rechten is not against Mr. Cooper's business but there needs to be restrictions and some of the planning and zoning recommendations sounded sensible but there could be more.

Commissioner Sloan stated that some of the restrictions that Mr. Rechten is referring to is permitted under the current recreational zoning so the Commission can not take those away.

Mrs. Rechten stated that she is against the expansion until things are under control.

Mr. Rechten stated that there is too much on too little property.

Mr. Rechten presented pictures of parking areas.

Mr. Rechten stated that the pictures show how you can't get through the road.

Mrs. Rechten stated that there aren't adequate bathroom facilities; people have been using their driveway for the bathroom. There is not enough parking, there is trash built up, and there are too many people for such a small piece of land and a little one way road. Although she is not against Mr. Cooper's business there needs to be restrictions; something to keep things under control. Now there is parking on DNR property that was not leased to him. Expanding and improving the restaurant is going to make things even worse.

Mr. Rechten stated that it might be better if there can be some kind of agreement reached with the neighbors. The zoning that Mr. Cooper originally received was done without anyone realizing what it meant.

Mrs. Rechten stated that the business is so big that everything is spilling over on to everyone else's property with no way to contain it.

James Crane, 2393 E. Hwy MM, Ashland.

Mr. Crane stated that he owns 262 acres of property adjoining Mr. Coopers and he has rental property that joins it and the renters have complained about the parking and loud noise at night. A few years ago Mr. Crane had a trailer that the renters had moved out of and there hadn't been anyone in it for 4 or 5 years. Mr. Crane went by one day and someone had moved in. He stopped in and asked them who they were and they told him they were renting the trailer from Mr. Cooper and that he owned the property.

Mr. Crane stated that he checked with the Assessor and straightened it out, showing that he owned the property. The assessor said Mr. Cooper had claimed it. Mr. Crane stated that he went by last weekend and there were cars parked along side the road adjoining his property. There is not enough room on the property Mr. Cooper has for the RV parking. Mr. Crane stated that he does not have a problem with the restaurant or the business along the Katy trail. But there is late night music that disturbs neighbors and the parking is terrible along the road.

Closed the public hearing.

Mr. Cooper stated that two weeks ago there was an event down there that was planned by Missouri River Relief and Missouri River Communities Network as a fund raiser. Annually Missouri River Relief has been having a clean up where members of the community come to Coopers Landing and they get

different businesses in the area, including Civic Recycling and Onyx Waste Disposal and other recyclers that recycle products that are picked up and brought to Coopers Landing that was collected from the Missouri River, local roads, the Katy Trail, some of the waste dumps and from some of the neighbor's property. It is all brought to Coopers Landing and as much as possible is recycled and the rest of it is taken to the landfill. That event two weeks ago, the turnout was a lot more than anyone expected. Normally Missouri River Relief is very good about putting out signs and posting where people can park. For that event, that is one of the things that fell through the cracks. It is a once a year event and it is the first time we ever had a problem with that.

Mr. Cooper stated that as far as late night music; the music venue is primarily solo acts and it runs from 7:00 to 10:00. Mr. Cooper doesn't like to run it past 10:00; a lot of the people that come down there, come to camp and sleep so they can ride the Katy trail. For that event, they booked a couple of different bands and they played a little bit late that night; we did have an unusual problem that night. Mr. Cooper was aware of the one car that got parked on a neighbor's field and Mr. Cooper called him and apologized and told him they would try to make sure that didn't happen again. The problem with Mr. Crane's property; a few years ago he saw on his tax bill that he was being charged tax on 3 or 4 acres and Mr. Cooper went down to see what it was and the last time they had surveyed and assessed it they had drawn his property down around the mobile home. Mr. Cooper stated that he did not request them to do that and it surprised him when he went down and found it. Mr. Crane came and showed Mr. Cooper on his deed that this had always been part of his property. Mr. Cooper stated that he accepted that and Mr. Crane took the proof of it to the Assessor's office and they got it straightened out and there was never any more question.

Mr. Cooper stated that concerning Mr. Crowley; this is a dispute over a ¼ acre of land that goes back over 20 years. Mr. Crowley was not a party to the original agreements between Mr. Cooper and the other partners he had at that time. Mr. Crowley has not tried to talk to Mr. Cooper at all to settle this dispute. Mr. Cooper feels that if they could sit down together they could settle the dispute.

Commissioner Freiling asked if there was alternative in sight that the applicant has discussed or envisioned that would allow the continuation of food service in anything other than a permanent structure.

Mr. Yonke stated that a existing cantina trailer is not a singlewide mobile home; therefore it doesn't run afoul of our regulations. The fact that what he is proposing was manufactured as a singlewide mobile home is the problem. If it was a larger cantina trailer that wouldn't be an issue.

Mr. Yonke stated that staff received three calls in opposition to this request. Additionally, for clarification, under staff's proposed conditions the engineered wastewater system is not "when or if it fails" - this is mandatory. If the Commission places those conditions the applicant will have to go to the health department and get an engineered wastewater system. The existing systems that are there now were not inspected by the health department for the uses currently being served. The uses that are there currently are not legal until the applicant gets these permits. The site plan that staff is requiring is to try and resolve some of the property line issues. As far as the zoning goes, it is a "more or less" zoning when it was done, so what it comes down to is all off the property the applicant owned at that time, however much it is, is the recreational zoning. The applicant can not rezone any one else's property, whatever property is not the applicant's is not recreational. The issues about the parking on other property, the Commission can take that in to account with respect to the three conditional use permits, but the only matter before the Commission tonight is really these three conditional use permits. With the recreation zoning, there is no ability to limit the hours of operation on the outdoor concerts, all of that is covered under recreational zoning. The parking problems are related to the concerts and not related to

the conditional use permits. It may be an issue for the property owners but that doesn't stop the other issue. If there are concerns on the property the parking issues are still going to come in to play whether or not there is a conditional use permit granted.

Commissioner Freiling asked if there was any chance the existing systems will be found to be sufficient.

Mr. Yonke stated that he spoke with the health department and they indicated that they inspect the eateries but they do not permit any of them. Similarly the waste water systems were existing so unless there is a failure or complaint the health department doesn't feel they have jurisdiction to go in; whereas if the Commission puts a condition on it then they are involved.

Commissioner Freiling stated that this conditional use permit is intended to both clarify and structure the existing uses primarily.

Mr. Yonke stated yes; and legitimize them because technically they have been illegal up to this point.

Commissioner Sloan stated that she can not go along with the mobile home being a restaurant. If the Commission doesn't see that as being part of this then what is the applicant's alternative.

Mr. Cooper stated that the little cantina is still being used so the alternative is to continue with that until the applicant can figure out something that would be acceptable to the building code. The applicant would like to do an addition to the building but right now with putting in the marina services it would be difficult to do right now; it would be several years off before the applicant can do that.

Commissioner Harris asked Mr. Yonke to clarify condition 10; that will alleviate the concerns of whether there is any encroachment on to adjacent property.

Mr. Yonke stated that if a licensed engineer or surveyor prepares a site plan for this site, part of that is to establish a boundary so there is a little leeway in terms of how accurate they used the record information in determining that. One of the reasons we wanted to have that is because there are disputes over the property lines and we want to make sure we get things back in to compliance. If for some reason the mobile home has to go; then it has to go.

Commissioner Mink stated it would have been nice to have that done ahead of time but there must be reasons it couldn't be. If a study is done and it is determined that some of these things aren't going to work and the Commission proceeds with the approval how does it get rescinded if it doesn't meet the satisfaction of the Director of Planning.

Mr. Yonke stated that if, after one year, the actions are not taken care of the conditional use permit lapses automatically. If it is not brought in to compliance within that year, it lapses. If it is determined that some of it is in compliance and not others and doesn't lapse it can go before the County Commission for a revocation. If the applicant doesn't utilize the 12 RV sites because they find out they can't fit 12 but they can fit 3 that would still be in compliance.

Commissioner Mink stated that Mr. Cooper didn't address the comment about inadequate restrooms.

Mr. Cooper stated that there is a restroom in the store with a shower and laundry; there is also 3 port-a-potties that get serviced every week.

Commissioner Freiling stated that it doesn't mean you can make people use them.

Commissioner Heitkamp stated that the Commission has heard a lot tonight about expansion and the conditional use permit requests for retail sales and restaurant are to legitimize what is currently going on. Commissioner Heitkamp asked where 12 RV's would be placed. If there is a problem with those travel trailer spaces taking up parking spaces in order to be a good neighbor and to serve the people on the trail and on the river the applicant should prioritize.

Mr. Cooper stated that 12 sites was the maximum figure that the applicant came up with. It would be the maximum that could ever be placed on the property. The locations that have been designated for the RV sites are well established and are not involved in the designated parking areas at all, it is completely separate.

Commissioner Heitkamp stated that anyone coming for recreational zoning any more the Commission prefers that it be a planned recreational zoning. When the Brown/Lenau request came up there was a limit on the travel trailers and the County Commission put 24 conditions on the operation of that property.

Mr. Shawver stated that the Brown/Lenau request was for a conditional use permit for an outdoor recreational facility in an agricultural zone.

Commissioner Heitkamp stated that while the Commission encourages development on the Katy trail and on the river it is very important for Boone County to have it but people still do have rights as a neighbor.

Mr. Cooper stated he agrees.

Commissioner Heitkamp asked how many camp sites are proposed.

Mr. Cooper stated that there are no designated primitive camp sites. There are two areas that the applicant allows people to do the primitive camping in and there are 2 or 3 fire rings in both areas and there are water hydrants and picnic tables but there are really not any designated sites. A lot of the groups they get are boy scouts and church groups that pretty much camp in a cluster.

Commissioner Freiling addressed the neighbors stating that property lines are not the Commission's venue. Hopefully by adopting this conditional use permit with its specificity it will help the neighbors rather than hurt them. It seems that the conditional use permit is trying to bring existing activities within the new standards that have been developed by the County since the time when the original zoning was granted. That is a positive and hopes it proves positive for the neighbors. This is not changing use so much as regulating use. Commissioner Freiling stated that the conditions are appropriate.

An audience member asked how the Commission could agree with this if some of that property that is going to expand upon is the neighbors.

Commissioner Freiling stated that the Commission doesn't have the authority or a capacity to make that judgment.

The audience member stated that the Commission is approving an expansion at the same time.

Mr. Yonke stated that there may be a misconception; there is no expansion of the property. The property is somewhere between ½ acre and 1.5 acres. Whatever Mr. Cooper owns is the only thing that counts on that. That is one of the reasons the site plan is required which should help resolve the other issues. If the

applicant can't fit his business on his property then whatever can't fit isn't going to be able to be there. It has to be on Mr. Cooper's property, that is part of what has to be resolved.

Commissioner Freiling made and Commissioner Brown seconded a motion to **approve** the request by Michael Cooper for a permit for incidental retail sales, travel trailer park and restaurant on 1.5 acres in the REC (Recreation) district, located at 11505 S Easley River Rd., Columbia **with the following conditions:**

1. No singlewide mobile homes may be used for any purpose on the site except as a residence in compliance with the applicable regulations. Only the existing occupied mobile home is allowed on the site and when it is removed for any reason it is not to be replaced with a singlewide.
2. 4 parking spaces are required for the store plus 2 for the residence for a total of 6.
3. All driveway, loading, and parking areas are to be dust free (minimum chip and seal).
4. An engineered wastewater system for the activities including restaurant use must be designed and installed.
5. Lighting is oriented inward and downward so as to minimize light leaving the site.
6. The number of travel trailer slots is limited to a maximum of 12.
7. Comply with all site requirements of the Boone County Fire Protection District.
8. Comply with all requirements of the building code.
9. Must meet Health Department requirements for food service and wastewater.
10. A site plan be made of the property by a licensed engineer that addresses the conditions and activities and is to the satisfaction of the director of planning.

Mary Sloan – Yes
Carl Freiling – Yes
Boyd Harris – Yes
David Mink – Yes

Kristen Heitkamp – Yes
Rob Brown – Yes
Michael Morrison – Yes

Motion to approve the request carries. 7 YES 0 NO

Vice-Chairperson Sloan informed the applicant that this request would go forward to the County Commission on May 31, 2005 and all applicants would need to be present.

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2. Request by Robert M. LeMone on behalf of Certified Properties LLC for a permit to allow self storage units to be placed on 5.75 acres located at 5757 S. Hwy 63, Columbia.

Planner, Bill Florea gave the staff report stating that this property is located south of Columbia off of Highway 63. The property is zoned C-G (General Commercial). Property to the north and is zoned C-G and M-G. To the east, across Highway 63, land is zoned C-G and R-M. To the south there is M-LP and C-G zoning. Adjoining land to the west is zoned C-G. This request is to allow self storage units and outside storage for larger items such as boats and recreational vehicles. Plans indicate that there will be an office and a residence for an on-site manager. This site lies within the Columbia Public School District. Limited domestic water service will be required for the residential use, consistent with that required for a single family dwelling. Electric service will be provided by Boone Electric Cooperative.