

TERM OF COMMISSION: March Session of the February Adjourned Term

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

PRESENT WERE: Presiding Commissioner Keith Schnarre  
District I Commissioner Karen M. Miller  
District II Commissioner Skip Elkin  
Planning and Zoning Director Stan Shawver  
County Counselor John Patton  
Deputy County Clerk Shawna Victor

The meeting was called to order at 7:00 p.m.

**Subject: Boone County Regional Sewer District**

**A. Second Reading and Public Hearing for Approval of Budget Amendment**

Commissioner Elkin stated this budget amendment and the following Change Order will close out the Fairway Meadows East Pump Station project.

Commissioner Elkin moved to approve the following budget amendment:

<b>DEPARTMENT ACCOUNT AND TITLE</b>	<b>AMOUNT INCREASE</b>
2053-71100: Fairway Meadows East – Outside Services	\$8,975.00
2053-03411: Fairway Meadows East – Federal Grant Reimbursement	\$1,600.00
2053-03525: Fairway Meadows East – Reimburse Special Projects	\$7,375.00

Said budget amendment is for Change Order #1 for the Fairway Meadows East Pump Station Project.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 93-2003**

**B. Second Reading and Approval of Change Order #1 for Fairway Meadows East Pump Station**

Commissioner Elkin moved to approve Change Order #1 for the Fairway Meadows East Pump Station project.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 94-2003**

**Subject: Sheriff’s Department**

**A. Second Reading and Public Hearing for Approval of Budget Amendment and Approval of Disposal of County Property**

Commissioner Elkin moved to approve the following budget amendment:

<b>DEPARTMENT ACCOUNT AND TITLE</b>	<b>AMOUNT INCREASE</b>
2540-23001: Sheriff Civil Charge Fund – Printing	\$500.00
2540-23850: Sheriff Civil Charge Fund – Minor Equipment and Tools	\$2,000.00
2540-92301: Sheriff Civil Charge Fund – Replacement Computer Equipment	\$4,170.00
2540-91301: Sheriff Civil Charge Fund – New Computer Equipment	\$1,150.00
2540-92300: Sheriff Civil Charge Fund – Replacement Equipment	\$350.00

Said budget amendment is to establish an expenditure budget for the Sheriff Civil Charge Fund.

The County Commission of the County of Boone does hereby approve the disposal through trade-in of a Car Washer (Fixed Asset Tag #13276).

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 95-2003**

**B. First Reading of Budget Revision**

Commissioner Schnarre stated this budget revision is for hospital costs and to close out

the 2002 budget year. This is to pay for hospital costs for an inmate at the Boone County Correctional Facility.

Commissioner Miller stated the amount of this budget revision is \$51,960.00. This is a cost that is out of the Commission's and Sheriff's hands. This also reflects the rising cost in health care for everyone.

There was no further discussion and no public comment on this item.

Commissioner Schnarre stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available meeting with an appropriate order for approval.

**Subject: Public Works**

**A. Second Reading and Approval of Budget Revision**

Commissioner Miller stated this budget revision is for the Fairgrounds Road Improvement project. This is being paid out of the Fairground Maintenance Fund but is being handled by the Public Works Department because the engineering staff oversees projects like this. This will allow for engineering work to be done for paving on the main road coming into the Fairgrounds, the road around the coliseum, the handicap parking lot, and some of the main parking lot. There are some drainage problems and the County felt it would be best to have an engineer look at the problem.

Commissioner Miller moved to approve the following budget revision:

<b>DEPARTMENT ACCOUNT AND TITLE</b>	<b>AMOUNT DECREASE</b>	<b>AMOUNT INCREASE</b>
2120-92700: Fairground Maintenance Fund – Replacement Ground Improvement	\$13,150.00	
2120-71101: Fairground Maintenance Fund – Professional Services		\$13,150.00

Said budget revision is for Engineering Services for paving of main road system at the Boone County Fairgrounds.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 96-2003**

**B. Second Reading and Approval of TH&H Consulting Services Contract (Fairgrounds Road Improvement Project)**

Commissioner Elkin stated this is the Consultant Service Contract that coincides with the budget revision just approved by the Commission. This is a contract with Trabue, Hansen, and Hinshaw for the engineering services.

Commissioner Elkin moved to approve the Proposal for Consultant Services with Trabue, Hansen and Hinshaw for the Boone County Fairgrounds Pavement Rehabilitation Project.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 97-2003**

**Subject: GIS Department – First Reading of GIS Consortium Agreement**

Ross Short, GIS Program Manager, was present on behalf of this item.

Commissioner Schnarre stated this is an agreement between the County, the City of Columbia, and Boone Electric Cooperative for the GIS System. He asked if this is a continuation of the agreement.

Ross Short stated this is an updated agreement. This agreement was originally done approximately five or six years ago. The old agreement has become outdated.

Commissioner Miller stated this is more of a clean up item than anything.

There was no further discussion and no public comment on this item.

Commissioner Schnarre stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available meeting with an appropriate order for approval.

**Subject: Authorize Application for SEMA/FEMA Funding (Boone County Fairgrounds)**

Commissioner Elkin stated this order would allow him to sign the SEMA and FEMA grant applications for the funds that the Commission has discussed. He has faxed a draft copy of the Application to Don Carter with SEMA to make sure it is acceptable to them. Commissioner Elkin has not received a reply on this draft application. This order will

give authorization for him to sign that application.

Commissioner Miller moved to authorize Commissioner Elkin to sign State Emergency Management Agency/Federal Emergency Management Agency funding application regarding the insurance settlement for the Boone County Fairgrounds.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 98-2003**

**Subject: Planning and Zoning**

Commissioner Schnarre noted that during Planning and Zoning sessions, the Commission will receive a report from staff and then the Commission will have the opportunity to ask staff any questions. The Commission will then move to a presentation from the applicant or agent of the applicant on behalf of their request. After that, the Commission will convene a public hearing where any testimony in favor of or in opposition to will be welcome. Following the public hearing, the Commission will discuss the issue and then vote on the issue.

Stan Shawver, Director of the Planning and Building Inspection Department, stated that the Boone County Zoning Regulations and the Subdivision Regulations are entered into the record. (note - the file copy is retained in the Planning and Building Inspection Department).

**A. Approve a request by William and Linda Crane to rezone from A-1 (Agriculture) to A-2/PRD (Agriculture/Planned Residential Development) and to Approve a Review Plan for Crane's Acres on 11.64 acres, more or less, located at 11657 E Englewood Rd., Ashland**

Stan Shawver, Planning and Zoning Director, stated this tract is located 5 miles northeast of Ashland. The property is zoned A-1 (Agriculture), as is all of the surrounding property. This request is to rezone 11.64 acres to A-2 so that the applicants may create a family transfer of land to their son. There is a house, barn and shop on the property. This site is located within the Southern Boone R-1 School District. Boone Electric Cooperative provides electric service. Consolidated Public Water District No. 1 provides water service.

The original zoning for this tract is A-1. In 1989 the applicants received a conditional use permit for an agri-business to allow processing of a limited number of livestock and the processing of deer. A request to rezone the property to A-2 was submitted in December 2002 with the intent to re-submit a request for rezoning to A2-PRD with a review plan.

The master plan designates this area as being suitable for agricultural and rural residential land uses. Staff notified 9 property owners concerning this request.

The Master Plan calls for the use of a “Sufficiency of Resources Test” when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: Boone Electric Cooperative and Consolidated Public Water District No. 1 serve this site. The applicant’s intent is to create one lot through a family transfer, which will have minimal impact on these utilities. The existing residence uses an individual on-site wastewater system. If approved, a similar system will be built for the new home.

Transportation: Access to the site is from Englewood Road, a county maintained road. One additional residence will have minimal impact on this road.

Public Safety: The property is in the Southern Boone County Fire Protection District. A district fire station is located inside the city of Ashland, approximately 9 road miles from this site. This would be a concern for dense residential development, but one additional dwelling should be of minor concern from a public safety point of view.

*There has been recent concern expressed by the Commission in regards to converting land from A-1 to A-2. While an individual rezoning may appear to have a limited impact on the overall area, the commission has noticed a tendency for additional requests once an initial rezoning is granted. The purpose of this request is so that a 2.5-acre tract can be created for a family transfer. The concern with the proposal submitted in December 2002 was that once the land is rezoned, the entire property could be subdivided into as many as 4 lots. As a planned development, any division of the property will be controlled by the development plan. The proposed plan shows the property being divided into two lots, which will allow only one additional dwelling unit.*

Staff recommends approval of the rezoning and review plan.

Mr. Shawver stated the Planning and Zoning Commission held a public hearing on this item on February 20, 2003. There was no opposition to this request. The Planning and Zoning Commission made two motions, one to approve the rezoning request which received unanimous support, and the other to approve the Review Plan which also received unanimous support. Both requests come forward with a recommendation for approval.

William and Linda Crane, 11657 E Englewood Road, Ashland were present on behalf of

this request.

Linda Crane stated they have made these requests so their son can move back to Ashland and help with deer processing.

William Crane stated this tract of land is on a bluff behind their house and is not suitable for anything they currently have.

Commissioner Miller asked if the road situation has been worked out. Mrs. Crane stated that is correct. They will be granting their son a 25' easement. The neighbor will allow the son to use his driveway until everything is established.

There was no further discussion on this item.

Commissioner Schnarre opened the floor for a public hearing on these requests.

There was no one wishing to speak on these requests.

Commissioner Schnarre closed the public hearing.

Commissioner Elkin stated he believes this is a reasonable request.

Commissioner Miller moved to approve the request by William and Linda Crane to rezone from A-1 (Agriculture) to A-2/PRD (Agriculture/Planned Residential Development) on 11.64 acres, more or less, located at 11657 E Englewood Road, Ashland.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 99-2003**

Commissioner Schnarre moved to approve the request by William and Linda Crane for a *Review Plan* for Crane's Acres on 11.64 acres, more or less, located at 11657 E Englewood Road, Ashland.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 100-2003**

**B. Approve a request by Susan Turner to rezone from A-1 to A-1/PRD and to approve a *Review Plan* and plat for Turner's Estate Planned Residential**

**Development on 10 acres located at 8080 Highway AB, Columbia**

Mr. Shawver stated this property is located off a private driveway approximately 2,000 feet south of where the private driveway intersects State Route AB. This intersection is approximately 2 miles east of the intersection of Highway 63 and State Route AB. This property is located approximately 2.5 miles north of the recently altered Ashland municipal limits. The current zoning for the site is A-1 (agriculture) as is all the surrounding property and all the zoning is the original 1973 zoning. The property is currently the site of a single family house and garage. This request is to rezone the property to A-1/PRD (A-1 Planned Residential Development). The proposal is to rezone the entire 10-acre tract to A-1/PRD so that a lot with the existing house, garage, and lagoon wastewater system will be on a 2.5 acre lot with the remaining 7.5 acre lot being transferred to an adjoining property. No additional density is created by this rezoning and no additional dwelling units can be proposed.

This site is within the City of Columbia School District and the Southern Boone County Fire Protection District. The site is located in Boone Electric Cooperative and Consolidated Public Water Service District #1 service areas. Fire hydrants are not required for this land use. There is a 2" waterline serving the area. Sewage is proposed to be by the existing system serving the existing house and as no additional dwelling units can be proposed is not an issue.

The master plan designates this area as being suitable for agricultural and rural residential uses. The proposed use is consistent with the master plan. The request scores 21 points on the point rating scale. Staff notified 11 property owners.

Staff recommends approval of the rezoning, review plan, and plat subject to the following recognition.

1. That it be recognized that Lot 1, the 7&1/2 acre lot being created, must be transferred to an adjoining property and is not able to be utilized except for agricultural activity and furthermore no dwelling unit is allowed on this lot.

Mr. Shawver stated the Planning and Zoning Commission held a public hearing on this item on February 20, 2003. There was no opposition to this request. The Planning and Zoning Commission made a motion to recommend approval of the rezoning, the Review Plan with the staff recommended condition, and the plat. These motions received unanimous support and come forward with a recommendation for approval.

Susan Turner, 8080 Highway AB, Columbia, was present on behalf of these requests.

Susan Turner stated about 10 years ago, her daughter and son-in-law purchased a 60 acre farm. A few years later, Ms. Turner and her late husband purchased 10 acres. For her son-in-law to continue using the majority of the land, she is requesting that she be allowed to sell her home with 2.5 acres and transfer the remaining 7.5 acres to her daughter and son-in-law to use for agricultural purposes.

Commissioner Schnarre asked if Ms. Turner's daughter and son-in-law own land adjoining property. Ms. Turner stated that is correct, they own the entire surrounding 60 acres.

There was no further discussion on this item.

Commissioner Schnarre opened the floor for a public hearing on these requests.

There was no one wishing to speak on these requests.

Commissioner Schnarre closed the public hearing.

Commissioner Miller moved to approve the request by Susan Turner to rezone from A-1 (Agriculture) to A-1/PRD (Agriculture/Planned Residential Development) on 10 acres located at 8080 Highway AB, Columbia.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 101-2003**

Commissioner Miller moved to approve the request by Susan Turner for a *Review Plan* for Turner's Estate Planned Residential Development on 10 acres located at 8080 Highway AB, Columbia, with the following condition:

1. That it be recognized that Lot 1, the 7&1/2 acre lot being created, must be transferred to an adjoining property and is not able to be utilized except for agricultural activity and furthermore no dwelling unit is allowed on this lot.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 102-2003**

Commissioner Miller moved to receive and accept the Turner's Estate Planned Residential Development plat.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 103-2003**

**C. Approve a request by Kevin and Carey Nahler to rezone from A-1 (Agriculture) to M-LP (Planned Industrial) and to approve a *Review Plan* for Dierker and Dent Industrial Park on 9.82 acres, more or less, located at 10425 Hardwick Lane., Columbia**

Mr. Shawver stated this property is located on the east side of Highway 63 and west of Hardwick Lane approximately 1,200 feet south of the intersection of State Route H and Hardwick Lane. There is no private property to the north between this site and the intersection; it is all Right Of Way. This property is located approximately 3/4 of a mile north of the recently altered Ashland municipal limits. The current zoning for the site is A-1 (Agriculture) and is an original 1973 zoning. The property to the immediate south is zoned M-LP which was rezoned from C-GP (Planned Commercial) in April of 2001. The C-GP was rezoned from A-1 (Agriculture) in 1991. All the other surrounding zoning is A-1 and these are all the original 1973 zonings. The property is currently vacant.

This request is to rezone the property to M-LP (Planned Light Industrial) and to approve a Review Plan for 3 buildings of 3,000 to 5,000 square feet, a contractor's storage yard, and a greenhouse and agricultural area. The application indicates that the requested uses are limited to contractor's buildings and storage yards, agricultural activity and retail sales of plant material, landscape and related materials. A note indicating these uses needs to be added to the review and final plan and that it be recognized that any change in use from that proposed will require submission of a new review plan.

This site is within the Southern Boone County School District and the Southern Boone County Fire Protection District. The site is located in Boone Electric Cooperative and Consolidated Public Water Service District #1 service areas. Water service and fire hydrants are required for this land use. There is a 4" waterline located near the east property line as shown on the proposed review plan. Fire hydrants are required and waterline upgrades may be needed. Sewage is proposed to be by a sub-surface engineered wastewater system that will be regulated by the Health Department. The Health Department has concerns with respect to the area proposed for the lateral fields and soil conditions. These issues will have to be resolved to the satisfaction of the Health Department. Any wastewater system will have to be engineered. No direct access to Highway 63 is allowed and any driveway relocation will need to be worked out with County Public Works as appropriate.

The site does drain to Bass Creek and staff does have concern with respect to water quality and stormwater issues. This issue brings into question whether the proposed review plan is too intensive a use for this property. If approved, the review plan should be subject to an engineered stormwater and erosion control plan approval from the Natural Resources Conservation Service (NRCS). The NRCS has expressed concerns with regards to 2 issues. The first is that the creek shown on the plan is a tributary to Bass Creek and a

riparian buffer should be established for the tributary. Immediately north of proposed building 2 is a fairly steep slope that breaks into a flatter slope toward the ridge. Construction should be kept off the steeper slope above the creek channel. The second issue is that the driveway for building 3 should be relocated to the north of building 3 so as to preserve and limit impact on the riparian buffer for the tributary. The landscaped screening areas are shown as a single row of trees. Staff feels that this buffer will not be adequate and a minimum of two rows of evergreen trees at an average spacing of 15 feet triangulated on center should be required on both the east and west sides of the proposed storage yard. All internal drives and parking areas will need to be a minimum of chip seal surface.

The billboards should be eliminated from the plan. Additionally, the commission needs to look at whether or not to eliminate the business signage along Highway 63 in order to not create a de-facto billboard. At the very least this signage should be limited in size, height, and no be allowed to be lighted in any way. In any rezoning request it is incumbent upon the applicant to show that the requested zoning is more appropriate than the existing zoning.

Additionally, the Master Plan calls for the use of a “Sufficiency of Resources Test” when considering the rezoning of land. The purpose of the test is to determine whether there are sufficient resources available to support the proposed zoning, or whether services could be made available in an efficient manner. The resources necessary to serve the proposed development can be broken down into 3 general categories, utilities, transportation and public safety services.

Utilities: All necessary utilities can be provided in an efficient manner with the exception of sewage disposal and stormwater/erosion control. The details of these issues will need to be further investigated.

Transportation: The existing public road network in the area should be sufficient to handle the proposed traffic.

Public Safety Services: The property is in the Southern Boone County Fire Protection District. There is a district fire station located within 5 road miles of this site.

The master plan designates this area as being suitable for agricultural and rural residential uses. The proposed use is not consistent with the master plan. However, the existing M-LP zoning to the south is also not consistent and the master plan does indicate that where commercial and industrial development is to occur it should be planned. Staff does believe that a limited planned commercial/industrial node is appropriate at this location but would not support continuous strip development of the Highway 63 corridor. The request scores 66 points on the point rating scale. Staff notified 7 property owners.

Staff recommends approval of both the rezoning and review plan subject to the following

9 conditions.

1. That the uses be listed as a note on the face of the review and final plan; these uses are contractor's buildings and storage yards, agricultural activity and retail sales of plant material, landscape and related materials.
2. That it is recognized that all drive and parking areas are required to be a minimum of a chip seal surface. Also, that parking is diagrammatic on the plan and that additional parking may be required by the actual size and use of the buildings.
3. That the landscape screening/buffer area should be a minimum of two rows of evergreen trees at an average spacing of 15 feet triangulated on center on both the east and west of the storage yard.
4. That an approved landscaping plan be binding and that all planting and buffering be maintained in good condition at all times. Any planting materials that die or are not providing proper buffering will be replaced no later than the next growing season with plantings that will provide the required buffering equivalent.
5. That an engineered stormwater and erosion control plan be acceptable to the NRCS, County Public Works, and Planning Departments which will include a riparian buffer along the creek tributary and relocation of the drive to building 3. The width of the riparian buffer to be worked out with the planning director and will need to be shown on the review and final plans.
6. No Billboards be allowed on the site.
7. That the engineered wastewater system be acceptable to the Health Dept. and Director of Planning and that if an acceptable solution cannot be reached the approval of the development is void and will require redesign and resubmittal and approval of a revised review plan.
8. That the business signs along highway 63 be eliminated, or that a single business sign limited to ground mounted signs of no larger than 80 square feet with a height no higher than 12 feet to the highest point on the sign, and that the signs not be illuminated in any manner be allowed for the entire site and that such single sign be located at one of the three potential business sign locations.
9. That all lighting on the site be shielded and focused inward and downward.

Mr. Shawver stated the Planning and Zoning Commission held a public hearing on this item on February 20, 2003. The Planning and Zoning Commission made a motion to recommend approval of the rezoning, that motion received 4 "Yes" votes and 3 "No" votes. The rezoning comes forward with a recommendation for approval. The Planning and Zoning Commission made a motion to deny the Review Plan, which received 5 "Yes" votes and 2 "No" votes. The recommendation from Planning and Zoning Commission is to deny the Review Plan.

Shawn Dent, 1102 Brookdale Ct., Columbia, Phillip Dierker, 311 Rockingham Dr., Columbia, and Kevin Nahler, 14510 S. Kidwell, Ct., Ashland, were present on behalf of this request.

Phillip Dierker stated since the February 20, 2003 meeting, they have worked with staff to clarify their intent on the nine conditions and they believe they have made a reasonable attempt to meet those conditions.

Mr. Dierker noted he has spoken with the Health Department regarding the planned sewage system. The Health Department has given indication that the plan would meet their approval.

They have also discussed with staff the width of the riparian buffer. They would also like to have one business sign along Highway 63 to meet the proposed standards under the pending sign ordinance.

Commissioner Schnarre asked if there is a copy of the new Review Plan. Mr. Shawver stated the Commission has the original Review Plan. The applicant will have to revise the Review Plan and bring it back at a later time.

Mr. Shawver noted since the Review Plan did not receive a recommendation for approval, the Commission could not approve the original Review Plan. If the Commission does make a decision to approve the Review Plan, they can place the staff recommended conditions on the Review Plan and the applicant can prepare the new Review Plan. The applicants have been working on incorporating the conditions on to the Review Plan.

Commissioner Elkin stated the applicants have noted they have addressed the riparian buffer and asked if anyone has spoken with them about chemicals and pesticides that will be used. Mr. Dierker stated there was discussion about this during the Planning and Zoning meeting regarding fertilizers. There was also concern about having fuel structures; these have not been proposed at this time.

Commissioner Elkin stated there was comment during the Planning and Zoning Commission meeting about building the storage facility on a steep slope and asked if this issue has been addressed. Mr. Shawver stated the NRCS was concerned about possible building on the steep slope.

Commissioner Schnarre asked if there are flat areas on this land. Mr. Dierker stated that is correct. There is a 100' buffer on either side of the creek and the tributary takes up a lot of the sloped areas.

Commissioner Elkin asked if the applicants are agreeable to the nine conditions set forth by staff. Mr. Dierker stated they are in agreement. They have worked with staff since the February 20, 2003 meeting on the conditions.

There was no further discussion on this request.

Commissioner Schnarre opened the floor for a public hearing.

There was no one wishing to speak on this request.

Commissioner Schnarre closed the public hearing.

Commissioner Miller moved to approve the request by Kevin and Carey Nahler to rezone from A-1 (Agriculture) to M-LP (Planned Light Industrial) and approve a *Review Plan* for Dierker and Dent Industrial Park on 9.82 acres, more or less, located at 10425 Hardwick Lane, Columbia with the following conditions:

1. That the uses be listed as a note on the face of the review and final plan; these uses are contractor's buildings and storage yards, agricultural activity and retail sales of plant material, landscape and related materials.
2. That it is recognized that all drive and parking areas are required to be a minimum of a chip seal surface. Also, that parking is diagrammatic on the plan and that additional parking may be required by the actual size and use of the buildings.
3. That the landscape screening/buffer area should be a minimum of two rows of evergreen trees at an average spacing of 15 feet triangulated on center on both the east and west of the storage yard.
4. That an approved landscaping plan be binding and that all planting and buffering be maintained in good condition at all times. Any planting materials that die or are not providing proper buffering will be replaced no later than the next growing season with plantings that will provide the required buffering equivalent.
5. That an engineered stormwater and erosion control plan be acceptable to the NRCS, County Public Works, and Planning Departments which will include a riparian buffer along the creek tributary and relocation of the drive to building 3. The width of the riparian buffer to be worked out with the planning director and will need to be shown on the review and final plans.
6. No Billboards be allowed on the site.
7. That the engineered wastewater system be acceptable to the Health Dept. and Director of Planning and that if an acceptable solution cannot be reached the approval of the development is void and will require redesign and resubmittal and approval of a revised review plan.
8. That the business signs along highway 63 be eliminated, or that a single business sign limited to ground mounted signs of no larger than 80 square feet with a height no higher than 12 feet to the highest point on the sign, and that the signs not be illuminated in any manner be allowed for the entire site and that such single sign be located at one of the three potential business sign locations.
9. That all lighting on the site be shielded and focused inward and downward.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 104-2003**

**D. Approve a request by Gary R. Jolley for self-storage units on 0.69 acres zone C-G (General Commercial) located at 5711 N Highway 763, Columbia (*Appeal*)**

Mr. Shawver stated the property is located north of the Columbia city limits on Highway 763. There has been a filling station and automotive repair shop on the property, the zoning is C-G (General Commercial) which is the original zoning. The applicant intends to demolish the existing structures and replace them with self-storage units. Warehousing, including self-storage, requires a conditional use permit in the C-G district. No previous requests have been submitted for this tract. Staff notified 13 property owners of this request.

Before recommending approval of a Conditional Use permit the Commission must satisfy itself that the following criteria have been 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.
- 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.
- c. The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.
- d. 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.
- 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.
- 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.

As to *Criteria A*, there is no internal circulation. The aisles between the buildings are 15 to 16 feet wide and 100-foot deep with an outlet at only one end. This will create circulation problems for patrons and for emergency vehicles. Vehicles accessing the rear

portion of the buildings will be required to either back in to or back out of the access lanes. Comments received from the Missouri Department of Transportation (MoDOT) raise concern that the close proximity of the buildings combined with the lack of internal circulation will lead to vehicles backing in to the right of way and or road way which is an unacceptable condition. For the reasons outlined above the proposal endangers the public health and safety.

As to *Criteria B*, there is no indication that the use will be injurious to the use and enjoyment of other properties in the immediate vicinity.

As to *Criteria C*, the proposed use should not have a negative impact on property values in the vicinity.

As to *Criteria D*, all necessary facilities appear to be available.

As to *Criteria E*, the proposed use should not impede the regular development of surrounding property for uses allowed by the zoning regulations.

As to *Criteria F*, the MoDOT has outlined the following concerns. A lot of this size should only need one full access point meeting MoDOT standards. The site plan shows two access points each approximately 70-feet wide. MoDOT is currently developing plans for the improvement of Highway 763. Those plans identify right of way width of approximately 75-feet on each side of the existing center line and a median will be constructed that will allow only right turns in and right turns out of this site. The purpose of the improvements contemplated by MoDOT is to improve the flow of traffic and reduce congestion. The site plan does not take the improvement plan in to account as evidence by the location of the buildings in relation to the right of way and the proposed access points. Since the plan proposed by the developer is in conflict with plans being developed by MoDOT and it can be concluded that approval of the conditional use permit will hinder the flow of traffic. The lack of a system of internal circulation will also serve to hinder the flow of traffic and create congestion on the public road system.

As to *Criteria G*, there is no indication that there is a public necessity for the proposed conditional use permit.

Staff recommends the conditional use permit be denied for failure to meet *Criteria A, F, and G*. If the Commission recommends approval of the conditional use permit, staff recommends the following conditions:

1. The site plan shall be modified so as to provide a system for internal vehicular circulation. Said plan must be approved by the County Planning Department and the MoDOT prior to issuance of any building permits on the site.
2. The point of access shall be modified to the approval of the MoDOT.
3. The developer shall construct a stormwater control system designed by a

professional engineer that prevents the diversion of any additional drainage on to the MoDOT right of way other than that which currently exists.

Mr. Shawver stated the Planning and Zoning Commission held a public hearing on this item on February 20, 2003. A motion was made to deny the request based on failure to meet *Criteria A, F, and G*. That motion passed unanimously and comes forward with a recommendation for denial. The applicant has appealed that decision to the County Commission.

Gene Basinger, 300 St. James Street, Columbia, was present on behalf of this request.

Gene Basinger stated he is not present to actually appeal the recommendation from Planning and Zoning but to discuss the process for his request. Mr. Basinger, the engineer and Mr. Jolley do not feel that they knew what they were getting into as far as what the Planning and Zoning Commission would do to their application. They went through the regulations and believed they met the regulations as outlined. It does not state anywhere that a detailed plan has to be submitted.

They believed they were coming before the Planning and Zoning Commission asking for a Conditional Use Permit assuming they would be getting approval for the site being okay for mini-storage. Mr. Basinger stated what they received from the Planning and Zoning Commission was picked apart and they were under the assumption that no one had reviewed the plan before the meeting. He did not have a problem with what the Planning and Zoning Commission did because he did not understand where this was going. The plan was picked apart, the Planning and Zoning Commission said they did not like the plan and therefore the Conditional Use Permit would be denied. This denial means they could not come back within twelve and ask for the same Conditional Use Permit.

Mr. Basinger stated the Planning Department had a list of problems from staff and the Planning and Zoning Commissioners. When they came forward at the Planning and Zoning Commission meeting, the applicants had no knowledge of these problems. No one contacted the applicants from the Planning Department. Since no contact was made, the applicants did not know if the Conditional Use Permit would be approved or denied.

Mr. Basinger stated he is present at this meeting to voice his concern that no contact was made that there was problems with the plan. The applicants were not given a chance to revise the plan to satisfy the concerns of the State Highway Department and Planning Department. He believes the regulations are flawed in this area. The regulations do not state that a detailed plan has to be submitted or that an applicant will be assessed on their plan for a Conditional Use Permit.

Everyone involved in this process was under the assumption that they were requesting a Conditional Use Permit, which would say if this is a good site for mini-storage. If approval was received at that point, then the applicant would work on a plan to appease all

parties involved, which in this case would be the owner of the property, the Planning Department, and MoDOT.

Mr. Basinger believes this has been unfair to the applicant as to what has happened that the Planning Department staff has reviewed the plan, they do not approve the plan and they cannot come back for one year.

The Commissioners requested Mr. Shawver's response to Mr. Basinger's comment.

Mr. Shawver stated standard protocol is the same protocol that has been followed since these regulations were revised in 1985. The applicants presented their application. There was no contact with the Department before hand. The application required a sketch of the proposed use and this was provided by the applicants. The staff provided that to the Planning and Zoning Commissioner, the Fire Protection District, and MoDOT, since it is located on a State Highway. This is neither a Review Plan nor a subdivision plat and this does not require any response back on comments on the sketch. The applications made no effort to contact the staff. Staff did not know that Mr. Basinger was involved with this until the Planning and Zoning Commission meeting. The plan does state "building and drive lay out per owner" and many other disclaimers on the plan. Mr. Shawver stated he does not believe the applicants were treated unfairly or treated any differently than any other Conditional Use Permit applications over the last 15 years.

Commissioner Miller asked if no concept review was submitted. Mr. Shawver stated that is correct.

Mr. Shawver stated staff did not see the application until the deadline.

Commissioner Schnarre asked if a plan has to be submitted with the Conditional Use Permit Application. Mr. Shawver stated most applicants find that the more information that is given helps the Planning and Zoning Commission determine what will happen. One of the application requirements is that a sketch of the proposed lay out also be submitted.

Commissioner Miller asked if the sketch is required or not. Mr. Shawver stated the sketch is required.

Commissioner Schnarre asked if a detailed sketch is required. Mr. Shawver stated no, just a sketch is required.

Commissioner Elkin asked if there is any type of activity, whether it be rezoning or conditional use, on a State Highway, if MoDOT always has a say in what will go on. Mr. Shawver stated yes this has been done for the past few years and the Planning Department will contact MoDOT.

Commissioner Miller stated MoDOT has changed their process and they are now into Access Management. The County has found this all over the County with many different projects. Mr. Shawver noted this was done within the past three years.

Commissioner Schnarre stated the applicants have a right to an access for the property. Mr. Shawver stated MoDOT will not deny them an access and they already have an access.

Commissioner Elkin stated the applicants want to have a say in what the access is. Mr. Shawver stated that is correct.

Mr. Basinger stated the applicant does not have a problem with what the Highway Department is saying. If this application and the process had gone the way he had expected, and Mr. Basinger stated he had been in to discuss this with staff about this application. The staff is aware of this application and what the applicant, Mr. Jolley, wants to do with the property. He did not have a problem with staff's concerns or the Highway Department's concerns with the plan but the applicant was not given an opportunity to revise the plan because there was no contact from anyone to say the plan needed to be changed.

Mr. Basinger asked how many plans come through Planning and Zoning Commission that are 100% acceptable. There are usually changes that need to be done to plans and it is a give and take process. He does not believe the applicant was fairly treated because the application was denied and they cannot return for 12 months.

As for the discussion about a concept review, Mr. Basinger stated there is nothing in the regulations about having to have a concept review for Conditional Use Permits. No one told him that a concept review was needed. He had no contact from anyone about anything for this application. He is not present to argue about the decision that was made and whether it was right or wrong but the process he went through is flawed. If this was a situation where staff or Planning and Zoning Commission did not like then the applicant should have an opportunity to revise the plan. He did not know the plan would be scrutinized at the Planning and Zoning Commission meeting, he thought the discussion would be about the Conditional Use Permit and whether the location is appropriate for mini-storage.

Commissioner Miller asked staff what the options are for the Commission to consider for this request. She noted she does have sympathy for the applicant and the fact they cannot come back for one year. She believes the property is being improved and wants to know if there are any options that can be handled by the Commission at this meeting and if the Conditional Use Permit is not approved if the applicants have to wait 12 months.

Mr. Shawver stated the applicant did not make any argument on any of the Conditional Use Permit factors at the Planning and Zoning Commission meeting. Mr. Shawver stated

Mr. Basinger's argument is that this is a good land use but made no justification on any of the points that are listed in the Conditional Use regulations. When the permit was denied, the applicant filed an appeal. The appeal is for the Commission to reconsider whether the denial was in order.

Commissioner Elkin asked what is required to be submitted for a Conditional Use Permit application and if the applicant is required to submit an engineered plan. Mr. Shawver stated the applicant is not required to submit an engineered plan.

Commissioner Elkin asked what is the minimum required to be submitted for a Conditional Use Permit. Mr. Shawver read the minimum information that is to be required for a Conditional Use Permit application; this information is included in the Zoning Ordinance for Boone County, Missouri:

- The name, address and telephone number of the property owner and the potential buyer or lessee of the property. Corporate applicants shall list the names, titles, and addresses of the officers and the Board of Directors of the corporation. A copy of the corporate certificate of good standing with the State of Missouri shall be attached.
- A legal description of the property included in the request. Proof of ownership by the applicant shall be attached to the application.
- The present zoning of the land included in the request.
- The present use of land included in the request.
- The size of the tract included in the request, broken down either by acreage or square feet.
- The zoning of land adjacent to the land included in the request.
- The proposed use of land if the permit is approved. This description should be as complete as possible.
- The classification of conditional use requested, the reason or justification for the request being submitted and a sketch of the tract of land showing existing structures and proposed structures.
- The approximate size, use and location of any structures on the property, including wastewater systems. This shall include both existing structures as well as structures that will be built if the permit is approved. Type of wastewater system shall be listed and copies of any existing wastewater operating permits shall be attached.
- The signature of the property owner or his authorized agent and the signature or any potential buyer or lessee or his authorized agent. In the absence of the signature of the owner, the applicant shall attach a written power of attorney signed by the owner.
- The names and addresses of all property owners owning land within 1,000 feet of the property under consideration for a conditional use permit.
- The applicant shall include photographs of the property and existing structures as well as any proposed mobile homes or manufactured structures to be placed on the

- property.
- The application shall include the floor plan and front elevation view of any site built structure proposed to be constructed.
- Failure to provide any of the required material will result in the invalidation of the application.

Commissioner Schnarre asked if all the above listed information was submitted. Mr. Shawver stated all this information was submitted.

Commissioner Elkin stated it seems to him that there was a break down of communication.

John Patton, County Counselor, stated all the minimum criteria has been satisfied by the applicant.

Mr. Shawver read the minimum information that is to be required for a Conditional Use Permit application; this information is included in the Zoning Ordinance for Boone County, Missouri:

“It is the applicant’s responsibility to demonstrate to the Planning and Zoning Commission and the County Commission by competent, substantial evidence that the requirements of the standards for granting a conditional use permit set for the in Section 15 A (2) are satisfied.”

Commissioner Miller stated the two criteria that were not satisfied in the conditional use requirements were the internal circulation and the MoDOT issue but these would have been dealt with on a plan. Mr. Shawver stated that is correct.

Commissioner Miller stated the Conditional Use Permit, itself, was never discussed. She is confused about this whole issue and feels that a Conditional Use Permit could have been granted without a Review Plan and a Review Plan could have been brought back forward at a later date. Mr. Shawver stated Review Plans are not required for a Conditional Use Permit. The applicant made no presentation on any of the points of the Conditional Use Permit. The applicant’s did not satisfy the Planning and Zoning Commission that this is a good use of the land.

Commissioner Miller stated if the applicant had a good plan, there is nothing wrong with the use, and it is just the one exit by MoDOT and the internal circulation. It’s not that the land use is wrong, the plan was not good from reviewing the comments made at the Planning and Zoning Commission meeting.

Commissioner Elkin stated this is like comparing apples and oranges.

Commissioner Schnarre stated the plan was discussed by the Planning and Zoning

Commission not the land use.

Commissioner Schnarre opened the floor for a public hearing on this request.

Adam Shahid, 1607 Hickam Drive, Columbia, asked if the Commission would allow for an exemption as if the applicant never filed this request in the first place so the applicant can avoid the 12 month waiting period to correct the plan that was submitted.

Commissioner Schnarre stated the Commission would take this comment into consideration.

There was no one else wishing to speak on this item.

Commissioner Schnarre closed the public hearing.

Commissioner Miller asked if a Conditional Use Permit can be approved without a drawing and have the drawing be brought back later or if this request can be tabled and allow for a plan to be brought back. Mr. Shawver stated staff always makes a recommendation for conditions appropriate for the Conditional Use Permit, in case it is approved by the County Commission. The County Commission can also attach additional conditions if a decision is made to approve the request.

Mr. Shawver asked if the Commission would like the plan brought back to the County Commission, have the plan go through the Planning and Zoning Commission, or have staff approve the plan.

Commissioner Elkin stated he believes it is an acceptable use. He believes if the internal circulation and MoDOT concerns are addressed and the applicant submits the application back through staff then Mr. Shawver should have the authorization to approve the plan.

Mr. Shawver noted the conditions are for staff to work with MoDOT.

Commissioner Schnarre asked what is allowed at this location at this moment.

Commissioner Miller stated anything that is under the General Commercial zoning.

Commissioner Schnarre asked if there are fire codes regarding the distance between buildings. Mr. Shawver stated the Fire District was not going to respond until actual construction plans were prepared. To his knowledge of the fire code, he believes there is one building too many for this site.

Commissioner Schnarre asked if fire code only allows for a specific number of buildings on a specific site. Mr. Shawver stated typically the life safety code requires a separation of 18 to 30 feet between the buildings.

Commissioner Schnarre asked if this would limit the number of buildings that could be placed on this tract. Mr. Shawver stated that is correct.

Commissioner Schnarre asked Mr. Basinger if he checked the fire codes before submitting the plan. Mr. Basinger stated no. The owner is the one who came up with the plan that was brought forward. The owner gave Mr. Basinger and the engineer a sketch and they worked with the sketch. They informed the owner that they did not believe the sketch was acceptable because of the distance between the buildings. The owner wanted to try the sketch. When a plan is brought forward to the County, a dream plan is usually submitted and then changes are made to a plan so it is acceptable to all parties involved. Mr. Basinger did not know that he was bringing forward a plan that would not be acceptable but felt as if some changes would need to be made.

Commissioner Elkin stated should the Conditional Use Permit be approved, that is the time when Ken Hines will review the plan and no building permit will be issued until the fire code issues are resolved.

Mr. Basinger stated there are also problems with the Highway Department and he is not sure if all of this can be worked out. The Highway Department is saying what they think they will need for their project and when that is all said and done, the applicant may not have a site to work with. He did not contact the Highway Department after the comments received at the last meeting because he thought he should not have to wait his time since the request was denied. He stated he is not present to appeal the decision that was made but to appeal the process.

Commissioner Miller stated that rarely does a plan come to the County Commission that has not been through a concept review and worked with all parties involved, in this case, the Fire District, and MoDOT. Mr. Basinger would not have presented a plan that was not workable. She suggested for future reference that a concept review be done on anything that is brought forward.

Mr. Basinger stated the regulations only require a sketch. Commissioner Miller stated that it is best for Mr. Basinger to do a concept review.

Mr. Basinger stated he understands what Commissioner Miller has stated but the problem with that it a lot of money will be spent to make the Highway Department and Planning staff happy but still have the Planning and Zoning Commission deny the request. He believes he is coming forward requesting a Conditional Use Permit and if that is appropriate and then later bring forward a plan. He believes the regulations are backwards.

There was no further discussion on this request.

Commissioner Miller moved to approve the request by Gary R. Jolley for self-storage

units on 0.69 acres zoned C-G (General Commercial) located at 5711 N Highway 763, Columbia, with the following conditions:

1. The site plan shall be modified so as to provide a system for internal vehicular circulation. Said plan must be approved by the County Planning Department and the MoDOT prior to issuance of any building permits on the site.
2. The point of access shall be modified to the approval of the MoDOT.
3. The developer shall construct a stormwater control system designed by a professional engineer that prevents the diversion of any additional drainage on to the MoDOT right of way other than that which currently exists.
4. Acceptable landscaping plan on the property.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 105-2003**

**E. Approve a request by Witt Enterprises, LLC for a *Review Plan* for Witt Enterprises Industrial Park on 5.12 acres located at 1401 E Prathersville Rd., Columbia**

Mr. Shawver stated this property is located on the north side of Prathersville Road approximately 750 feet east of the intersection of Highway 763 and Prathersville Road. This property is located adjacent to a small portion of the municipal limits of the City of Columbia to the south across Prathersville Road. The current zoning for the site is R-M (residential moderate density) original 1973 zoning with a pending zoning of M-LP; the pending zoning was approved in December, 2001. There was a rezoning request submitted but the applicant did not have a Review Plan at that time and a rezoning does not take place until a Review Plan is approved. The property to the immediate south that is outside of the City is zoned M-L. Property to the west and north is zoned R-M (residential moderate density). The existing R-M and M-L zonings are original 1973 zonings. Property to the east is zoned M-LP and was rezoned from R-M in 1995. The property is currently the site of a vacant house and several out-buildings which are to be removed.

This request is to place 8 commercial/industrial buildings of 5,000 square feet each on the site. A list of the requested uses has been provided and is contains 15 items. If approved the list of permitted uses will need to be placed on the face of the review and final plans. It should be noted that even though contractor's buildings and storage yards are listed, no storage yard areas are shown on the plan and therefore storage yards are not allowed as the plan is presented similarly any other use requiring external storage is not allowed as presented.

This site is within the City of Columbia School District and the Boone County Fire

Protection District. The site is located in Boone Electric Cooperative and City of Columbia water service areas. Water service and fire hydrants are required for this land use and waterline upgrades or extensions may be needed. Sewage is proposed to be by an on-site sub-surface wastewater collector system that will be regulated by Department of Natural Resources. It may be possible to connect to the Boone County Regional Sewer District or City of Columbia wastewater systems in future but at the current time both jurisdictions indicate that this is not possible. If approved, the review plan should be subject to stormwater and erosion control plan approval from the Natural Resource Conservation Service (NRCS). The NRCS has strong concerns with regards to the stormwater and erosion impacts of the proposal and feels the proposal is too intensive. Staff does believe that the stormwater/erosion control measures should be addressed in greater detail. The request scores 73 points on the point rating scale. Staff notified 50 property owners.

Staff recommends approval of both the rezoning and review plan subject to the following 4 conditions.

1. A list of the requested uses has been provided and is contains 15 items. The approved list of permitted uses be placed on the face of the review and final plans. It should be noted that even though contractor's buildings and storage yards are listed, no storage yard areas are shown on the plan and therefore storage yards are not allowed as the plan is presented similarly any other use requiring external storage is not allowed as presented
2. That it is recognized that all drive and parking areas are required to be a minimum of a chip seal surface. Also, that parking is diagrammatic on the plan and that additional parking may be required by the actual size and use of the buildings.
3. That a stormwater and erosion control plan that addresses concerns with respect to these issues be acceptable to the NRCS, County Public Works, and Planning Departments and that it is further recognized that some detention/retention measures and developer improvements such as the culvert under Prathersville Road are developer's costs, such changes can be made to the plan with the planning director's approval with the added understanding that the director can determine the changes as significant and require resubmittal and approval of a revised review plan.
4. That the landscaping plan will be subject to conditions as it is being proposed to accompany the final plan.

Mr. Shawver stated a public hearing was held at the Planning and Zoning Commission meeting on February 20, 2003. The Planning and Zoning Commission made a motion to approve the Review Plan with staff conditions and this motion received unanimous support.

James Pellock, 11235 Rocheport Road, and Brent Mehroff, 14600 Rocheport Gravel Road, were present on behalf of this request.

James Pellock stated the property was purchased several months ago with the hopes of developing commercial rental units for construction and service type businesses. The units would have small offices and the majority of the space would be warehouse space. There have been concerns raised about the sewer but they are working on the issues.

Commissioner Miller asked if the applicants have the Review Plan with them. Mr. Pellock stated they do not and were anticipating Allstate Engineering to be present with the Review Plan.

Commissioner Miller stated it is difficult to approve a Review Plan that the Commission has not seen. Mr. Pellock stated they anticipated meeting Mr. Shy at this meeting.

Commissioner Miller suggested tabling this request until the Review Plan can be brought forward. There was no objection to this request.

Mr. Pellock asked if there were copies of the Review Plan that was submitted and approved by the Planning and Zoning Commission available for the County Commission. Mr. Shawver stated no.

Commissioner Schnarre opened the floor for a public hearing on these requests.

There was no one wishing to speak on these requests.

Commissioner Schnarre closed the public hearing.

Commissioner Miller moved to table the request by Witt Enterprises for a *Review Plan* for Witt Enterprises Industrial Park on 5.12 acres located at 1401 E Prathersville Road, Columbia.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 106-2003**

**F. Approve a request by C. T. Wilson Family Trust on behalf of Green Valley Rifle and Pistol Club, Inc. to rezone from A-1/A-2 (Agriculture) to REC (Recreational) of 35 acres, more or less, located at 4200 Academy Rd., Hallsville (*Appeal*)**

**G. Approve a request C. T. Wilson Family Trust on behalf of Green Valley Rifle and Pistol Club, Inc. for a rifle range on 35 acres located at 4200 Academy Rd., Hallsville (*Appeal*)**

Mr. Shawver stated there are two parts to this request, a rezoning request and a conditional use permit. This property is located at the intersection of Academy Road and Caldwell Road. The north part of the property is zoned A-1 (Agriculture) and the south part is zoned A-2. The adjoining properties are zoned A-1 and A-2. The applicants have requested that 35 acres be rezoned to REC (Recreation). They are also requesting a conditional use permit to allow construction and operation of a rifle range on the property. This site is located within the Hallsville R-4 School District. Boone Electric Cooperative provides electric service. Public Water District No. 4 provides water service in this area. The original zoning for this tract is A-1 and A-2. In 1984 a permit was issued for an outdoor recreational facility that included part of this tract. The use at that time was for an outdoor paintball game. That use was discontinued after a period of time. The master plan designates this area as being suitable for agricultural and rural residential land uses. Staff notified 16 property owners about this request.

The Master Plan also identifies a “sufficiency of resources” test for determining whether there are sufficient resources available for the needs of a proposal.

The resources typically used for this analysis can generally be broken down into three categories, Utilities, Transportation and Public Safety Services.

Boone Electric will provide electricity to this site if it is required. Public Water District No. 4 provides water service in this area, but it is not anticipated that the proposed use of the property will generate significant demand for water. However, it should be pointed out that the rezoning request, if approved, would permit many other uses that could impact the infrastructure in the area. For example, a guest ranch or golf course would require greater water capacity.

The property fronts on county maintained roads. The subject property is adjacent to a shooting facility that has been in place since 1978. It is anticipated that the use of the subject site will draw little additional traffic to the area, as the members of a private club will control the use. Staff understanding is that this facility will not be open to the public. The club will coordinate all activities. Again, other uses allowed in the REC zoning would generate traffic that is not anticipated for the proposed use.

The proposed use will not result in an increase in demand for public safety services. The existing facility operates under very strict safety guidelines. There have been very few demands on public safety services during the operation of the existing facility. Provided the same precautions are used on the proposed facility, a high level of safety should be provided.

The proposed use can be compatible with the existing zoning and land uses in the area. However, staff feels that this use would be better suited as a planned district. As the Commission is aware, the creation of a Planned Recreation District is under consideration and could be available for adoption within the next 6 months.

Upon review, staff feels that this request should be resubmitted as a Planned Recreation request when the zoning classification becomes available.

Should the Commission decide to approve the rezoning request, and the conditional use permit, then the following conditions should be placed upon the conditional use permit:

- Provide staff with a layout of the shooting range.
- Shooting is limited to daylight hours only.
- Range not to open before 10:00 AM.
- Lighting is restricted to dust-to-dawn lights necessary for security.
- Dust free parking lot (minimum of chip and seal surface) is provided suitable to accommodate 20 vehicles.

Mr. Shawver stated that the February 20, 2003 Planning and Zoning Commission meeting, there was extensive public comment and discussion on these requests. The Planning and Zoning Commission made a motion to deny the rezoning request and this motion received 4 "Yes to Deny" votes, 2 "No to Deny" votes, and one Commissioner abstained from voting. A second motion was made to deny the Conditional Use Permit and this motion received unanimous support to deny. These requests come forward to the County Commission on appeal.

Chuck Wilson, 1715 W. Worley Street, Columbia, C. T. Wilson Family Trust representative, John Skaggs, 12651 North Route B, and Brian Connell, 801 Edgewood, Columbia, were present on behalf of these requests.

John Skaggs, Director of Range Operations for the Green Valley Rifle & Pistol Club, stated he has held that position since September of 1994.

Before addressing specific concerns, I would like to briefly detail my experience with shooting and shooting ranges. Prior to becoming the Director of Range Operations I worked with Mr. Ray Chapman, the President of the Chapman Academy of Practical Shooting, as one of his instructors, starting in 1986. I now serve as the schools director. My involvement with shooting and shooting ranges started when I became a Police Officer with the City of East Moline, Illinois in 1972. In the 31 years between then and now, I have attended 23 different schools and training programs relating to firearms and firearms instruction. The one school I take the greatest amount of pride in having graduated from, with Instructor Certification, is The United States Secret Service Firearms Instructor school, at their training facility just outside Washington, D.C. In addition, during that 31-year period, I have been involved in the construction of 24 shooting ranges. Two for the Marine Corps Weapons Training Battalion, Mare Island California, one at the Marine Corps base, Quantico, Virginia, one for the Armed Forces Experimental Weapons Training Center, Williamsburg Virginia, one for the Department of Energy Transportation Safe Guards training facility, Kirkland AFB, New Mexico. One, for the U.S. Department

of State in Pennsylvania. The remainder, were primarily for law enforcement agencies.

In reviewing the minutes from the Planning and Zoning Commission meeting there seems to be but two issues. One concerning noise levels and volume, and the other from the Commissioners about granting Recreational Zoning, as now written.

Before proceeding with specifics, let me define two things. Level refers to how loud a sound is on the decibel scale, the standard by which OSHA measures sound. Volume is how much sound there is. The term sound is preferred to noise. The reason for that distinction is, what one calls sound, others may consider noise. To illustrate my point, If its music you like, its sound. If its music you do not like, it's noise, even if both register the same decibel level. Another misconception that needs clarification is the thought that one shot fired gives a decibel reading of x, and then logically two shots produce twice that amount. This is incorrect.

Using a digital sound level meter we measure the decibel level of one shot from a 223-caliber rifle, 79 decibels. We then fired two shots in unison and got a decibel reading of 79. That test verified the statement I made during the hearing. The number of shots fired does not increase the decibel level.

Without something to compare that to, 79 decibels has no real meaning for most of us. Comparatively speaking the League for the Hard of Hearing lists, on their points of reference table for sound in that decibel range, vacuum cleaners, power lawn mowers and freeway traffic as being in that decibel range. From the OSHA decibel, table items in the same range are: electric sewing machines, busy traffic, mini-bikes, and alarm clocks.

We at Green Valley have concerns about some other statements made during the Commission hearing and conducted more tests. Our interest is in the level of sound leaving Green Valley property.

In the interest of fairness, we wanted to use the rifle that produced the highest decibel level. We compared the decibel levels of the 223-caliber rifle, which is the one that 85% to 90% of the time will be the one used, to a larger caliber rifle. We used an M-1 Garand in caliber 3006 for the comparison. The decibel readings recorded on the meter were the same, 79 decibels for each. Since no difference existed, we elected to use the 223-caliber rifle for our tests.

Our first test involved "line of sight" decibel measurements. We positioned the shooter at the firing line of our 200-yard rifle range. A second person with the sound level meter stood next to the fence along side Academy Road, a distance of 225 yards. This was line of sight to the rifle with no obstructions to deaden the sound before the level registered on the meter. The readings recorded were 68, 66 and 66 decibels. According to the two charts, this is comparable to: normal conversation, dryer and washing machines, cars, air conditioners and electric shavers.

Given the readings we got from that test, we became curious and wanted to know the decibel levels at the corners of our property along Academy Road. We positioned the meter at the Northeast corner along side Academy Road. This is not a line of sight situation. The rifle was fired on the first range south of the main building. The distance between rifle and meter was 173 yards. The meter registered 52, 59 and 56 decibels. These are levels considered below those normal conversations on the OSHA chart. The next test was conducted at the Northwest corner at the intersection of Academy and Caldwell Roads. The distance was 268 yards between rifle and meter and almost line of sight. The readings on the meter were 64, 64 and 66 decibels. Slightly higher than those registered for normal conversation.

During those two tests we had to pause twice for traffic. The meter remained on giving us the decibel levels of the cars as they passed. The car traveling between 20 and 25 MPH on the black top produced a decibel level of 75. The reading recorded for the car on the gravel portion traveling at about the same speed was 70 decibels. Those readings are consistent with those shown on the charts. Both were higher than the readings of rifle shots. Traffic moving on Academy Road creates higher decibels levels or is louder than rifle shots.

During the Planning and Zoning Commission hearing we claimed things such as dirt berms which we plan to build the full length of the proposed range on the Caldwell Road side, would help abate the sound. We tested to determine if that was true. We positioned a rifle on one side of a 10-foot high berm and placed the meter on the opposite side. The decibel levels were 77, 74 and 78. The decibel level for a rifle at a distance of three feet is 163 on the League for the Hard of Hearing chart. Incidentally, that chart also lists handguns at 166 decibels and shotguns even higher at 170. Placing the berm between the rifle and meter reduced the decibel level by more than 50%.

Since our present facility is not the proposed site we felt it more meaningful to get measurements from the actual proposed range site. At 300-yards, with a slight rise in terrain about half way between rifle and meter, the levels were 54, 53 and 54 decibels. At 600-yards, straight line of sight, the readings were 56, 53, 56 and 55 decibels. All are well below the normal level of conversation. We did get a reading of the ambient sound 52 decibels.

Again to assist the Commissioners and ourselves in determining what those levels correspond to we refer to the League for the Hard of Hearing chart. In the home they list refrigerators, electric toothbrushes and coffee percolators as being at the same level. They also list a large office in that range. OSHA lists the average home at 50 decibels.

Based on the information just provided Green Valley feels it has answered the questions concerning sound levels. A rifle range will not increase the decibel level. We will agree that rifle shots maybe heard outside of a house under certain conditions. However, with decibel levels already below the level of normal conversations, without the benefit of

berms, by the time it travels the distance involved the sound would be even less. Are we talking about sound or what someone considers noise?

I would now like to address the volume question. From the comments made the volume question revolves more around, how many shooters and how often someone would be using the range.

The frequency is the first question. The range design limits the types of activities to only three; training, recreational shooting by members and competitions. In the area of training, Green Valley currently offers a basic rifle course twice a year, once in late spring and once in early fall. We do not anticipate that would increase since the instructors are volunteers from the membership and have other obligations. Other opportunities for training courses do exist but again that it would be two or three times a year and primarily for law enforcement purposes. In all cases, the class size will be restricted to twenty due to the number of positions. Our local law enforcement agencies may conduct training of their own but have not indicated when or how many. Regardless of who or when the training takes place, Green Valley is going to limit them to day light hours only, usually between the hours of 8:00 a.m. and 5:00 p.m. and weekdays are the most likely to be used. Rain delays may mean they could go longer in the evening, but never past dark.

The second activity is recreational shooting by members. This would likely be on weekends involving five to ten members. During the week, based on the members past performance, we feel there will be little membership activity. We have also found rifle shooters are not the type who spend hours at a time shooting on the range because rifle ammunition is expensive. The norm is usually twenty to thirty shots and their shooting is over.

It's been stated that many times shooting has been heard from our present facility during the evening and early night time hours. There are but six occasions that come to mind this past year where when I have left for the day and there was a member shooting during the week. Members do have access to the range even when I am not there but I can only recall twenty to twenty five times all of last year that when I came in the next morning I could tell someone had been to the range. I have a system that tells me when a member has been to the range in the evening.

The third and final activity is competitions. Before getting to the number of competitors and frequency of matches, I would like to describe a typical course of fire. 10 rounds from 200 yards in 10 minutes, 10 rounds from 200 yards in 60 seconds, 10 rounds from 300 yards in 70 seconds, and 10 rounds from 600 yards in 10 minutes. That is forty shots in 22 minutes and 10 seconds.

A typical match attracts, on average, thirty to forty competitors. Some matches a little more, others fewer. Administrating a match is also important when you talk about the number of shooters and how many shoot at one time. Before starting the match, the

competitors are divided into four groups. The reason for this is each group has specific tasks. One group will shoot, one group scores, one group records the scores, and the last group prepares to compete. After the first group completes their shooting, the groups rotate so that every competitor competes under similar conditions. With this in mind, even if forty came to compete, only 10 at a time will be shooting. Matches like these normally start at 9:00 a.m. and are done by 3:00 or 3:30 p.m.

Green Valley anticipates that it will hold at least one such event each month, starting in April and ending in October. Because the National Championship matches are in July, there would not be a match at Green Valley during that month. Green Valley would only be scheduling six of those events each year.

We would be less than candid if we lead everyone to believe that is the extent of matches. We are going to make a very large investment in this facility and will need to pay for it. Reality of the matter is that we would usually have two events a month, and occasionally three.

As for the total number of competitors, we may have misled you with the numbers in our initial application with our own expectations. The figure of 7,820 participants was a total for the last three years. Using just the number of individuals taking part in matches and training programs for last year, it is actually 3,043 for the year. Reducing that number down to the 33% percent increase we predicted means there would need to be 1,004 more this year. Calculating what is more realistic for the proposed rifle range, at 15 matches for the season multiplied by the maximum number expected of 40. The total only comes to 600, 100 a month. It would be hard for us, with a limit of 20 per class, to make up the difference of 404.

Green Valley feels, just as we did with sound levels, we have shown that the volume is not such that it will cause a significant increase, in fact may not be discernable by those around us.

There were only six individuals who spoke in opposition, of the sixteen sent notices, and with the information just presented, I would like to respond to some of their comments in the order that they appeared.

Before doing that, we would like to again say that we appreciate their concerns and wish to remain good neighbors, regardless of tonight's outcome. In no way would we like anything said consider derogatory in nature toward them.

Mr. Netemeyer said, "His property is within 1000 feet". That is true in one respect, but not totally. It is this point that Green Valley feels the instructions on the applications are misleading. Yes, Mr. Netemeyer's property is within 1,000 feet of the Wilson property, but not of the 35 acres proposed for the range. The Wilson property is over 500 acres running from Route B west for over a mile. His property is about 1,700 feet from Green Valley's

current facility, and 2500 feet from the proposed range site. Mr. Netemeyer later said "no one wants the National Guard shooting M-16's within 1,000 feet of a residential area." In this case, that would not be the situation. Later in his statement he said that every shot is heard, the noise comes through the ravine. We do not doubt he can hear shooting, but we also know at those distances from our testing it is below the level of normal conversation and many things within his home are louder. We also know there are others in the area, closer than we are that some times do some shooting on their property. I know I have heard it when I have been in that area getting firewood. Mr. Netemyer expressed concern about noise and the new church on Route B and Parks Lane. That church and the houses around it are over a mile from the proposed range site. Based on our sound level testing any sound from us will be lower the conversation levels and probably drowned out by the traffic on Route B.

We appreciate his comments when he said that he knew the range was there before he built his house and that the shooting does not bother him. Mr. Netemeyer said that when the television was on he is not distracted by the shooting. We hope that if he ever does have a problem with our activity that he calls and lets us know so we can try to resolve it.

Chairperson Smith read an e-mail from a resident who lives south of Green Valley, on the south side of Rocky Forks. All that I can say about his concerns is that he is much closer to Rocky Forks than our range and most likely what he is hearing is coming from there and not us. I did speak with a Conservation Agent about Rocky Forks. They do have a sign posted with the closing time of 10:30 p.m., but the park does not have gates, is not patrolled and the closing time is not really enforced. They also allow nighttime hunting, once in a while.

Mr. Fowler's concerns were much the same as Mr. Netemeyer, with the exception of lighting. We did say at the meeting we would not be adding any lighting.

Mr. Voeller said he was not necessarily concerned with the increased shooting as he was with the decibel level. We have answered that by doing the test, and showed that decibels will not increase.

Mr. Caskey is very similar to Mr. Netemeyer in that he says he lives within the 1,000 foot distance. Yes to the Wilson property, but not the site of the proposed range. In fact he is 4,400 feet from it.

Mr. Kabrecik also lives south of Green Valley and closer to Rocky Fork than us. His concern of nighttime shooting maybe because of Rocky Fork rather than Green Valley.

Mr. Smith has also been misled by the 1,000-foot rule. The distance from the proposed range site to his property is somewhere between 1,500 and 2,000 feet. He is close enough that we do share his concern about the sound. Nevertheless, even at that distance the decibel levels will be the same as normal conversation.

The request made by the Planning and Zoning Commissioners that we withdraw our request and wait for the Planned Recreational District to be adopted at an unspecified time in the future, possibly within the next six month essentially forces Green Valley to delay any construction for an unspecified time. It is our understanding they have been working on the Planned Recreation District for two years now with there no guaranty it will be completed with in six months as suggested.

The Staff's report indicated this proposal is compatible with existing zoning and land uses, as they exist today. Staff went on to recommend in the minutes, approval of both the rezoning and conditional use permit.

Green Valley feels that since the proposal meets all the requirements necessary to gain approval by the Commission, that it should be approved, now. To deny this request based on consideration of future proposed Planned Recreation District imposes a hardship on Green Valley and the Wilson family. Such new proposed legislation may take final form is six month, in a year or even longer. We fit the requirement today. In order for construction to begin in 2003, it must begin with this summer's construction season.

Brian Connell stated the applicant does have a computer generated drawing of the proposed range. This drawing shows the impact berm behind the target line. There will be 20 positions at 8' wide, for a total of 160'.

Chuck Wilson stated one of the concerns that was brought up in previous discussions was Recreational zoning and it being an unlimited zoning. This narrow strip of ground is located between existing ranges, the current Green Valley Range and his private rifle range. There is no way to put in anything but another rifle range. He also made a guarantee that in the event that this land was not used as a range he would come back to the Commission and request it be rezoned back to an agricultural zoning.

Mr. Skaggs noted that Green Valley Rifle and Pistol Club has been in existence for 49 years. This is the only activity the Club has ever been engaged in and they have no plans or desires to engage in anything else.

Commissioner Schnarre asked if the tract is 1/8 mile wide and 1/2 mile long. Mr. Skaggs stated that is correct.

Mr. Connell stated the impact berm, which is designed at 40', would be a little less than twice the height of the Commission Chambers and the side berm would be almost the height of the sconces on the walls in the Commission Chambers.

Commissioner Schnarre asked if this would be a level range. Mr. Skaggs stated there is a three foot drop in the terrain. Mr. Connell stated the drop is greater than four feet but over the distance, the range is virtually flat. In order to construct that, they would have to

excavate four feet into the ground in order to realize the dirt for the berms.

There was no further discussion at this time.

Commissioner Schnarre opened the floor for a public hearing on these requests.

Jim Joy, 3606 W. Hilltop Drive, Columbia, stated he supports these requests. He moved to Columbia over thirty years ago and was Chief Firearms instructor for the University Police Academy. He has spent many hours at rifle and pistol ranges but for his personal use, he did not think he needed to go to a range because when he moved here he lived in a rural area. He has children that hunt and there are times when they do go to a range to shoot because where he lives is not a rural area now. It is important to him to have a safe, controlled, designated place that he and his children can drive to for a safe place to shoot. He requested the Commission to support these requests.

Ron Lacey, 5000 Steeplechase Drive, Columbia, stated he is an annual member of the Club. He believes this is a significant asset to the community and the State. It has distinguished itself as a recreational shooting, training and bring world class competitions to this area. As a member, he can attest to the overriding professional way the club is operated and standard of safety the club applies.

Greg Van Hove, 1413 Whitburn, Columbia, stated he is representing 4-H shooting sports. There are 205 children in Boone County that are involved in shooting sports. Green Valley has been kind enough to allow 4-H to use their facilities. They would appreciate it if there were new rifle ranges.

Roger Brown, 1237 El Chaparral, Columbia, stated he is a competitive shooter with an expert classification. He noted there is a benefit to the community from the people who come to shoot at the club from the people who come from out of town and out of state to use the facilities at Green Valley. The competitions will bring in tax dollars to the community.

Commissioner Schnarre asked for those who are in favor of these requests or a member of the Green Valley Rifle and Pistol Club to please raise their hand and there were many in the audience that raised their hand.

Ron Netemeyer, 10951 N Forest Park Way, Hallsville, stated he does not doubt that Mr. Skaggs and others present this evening are experts in the field of firearms but he does not believe that they have a foundation or expertise in decibel readings and he questions some of the findings that were brought forward earlier. There are two issues here, one is rezoning and the other is the Conditional Use Permit.

Mr. Netemeyer stated if the Commission took everything that Mr. Skaggs stated earlier as absolute fact; it does not change the fact that this can be used for some other purpose.

Even if the Commission thinks the Conditional Use Permit they are requesting is right on and exactly for the kind of purpose this property was made for, if the zoning is granted to Recreational, it can be used for something else at a later time. It might be used for something that is not appropriate and not consistent with the existing properties.

Despite Mr. Wilson's best intentions, which Mr. Netemeyer does not doubt, Mr. Wilson will not be here forever and at some point if this is rezoned recreational, it will remain that zoning until someone else says it needs to be rezoned otherwise. In the mean time, there are residential neighborhoods in that area that would be greatly affected by another use that is allowed in a REC zoned area, whether it be go-carts or putt-putt golfing. He believes the recommendation by staff, to wait to rezone until there is a Planned Recreational Zoning, it entirely appropriate.

Mr. Netemeyer stated in regards to the Conditional Use itself, he requests the Commission to remember the criteria set forth, specifically Criteria 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." He never said he lived 1,000 feet from the proposed range. He was present at the Planning and Zoning meeting because he is a property owner within 1,000 feet and was notified as such. He has not measured and if the Green Valley representatives say his house is 1,700 feet away from the proposed range, he will take that as true. Having the frequency of firing within 1,700 feet of his property will in fact harm his ability to enjoy his property and having 15,000 additional shooters at the proposed range will affect the property value of his home. This is based off the number the applicants submitted in their application.

The applicants gave a figure for 2002 for competitions and trainings of 3,043 individuals, resulting in 6,655 days of activity at their organization. The applicants state that adding rifle competitions and trainings would increase those numbers by 33-50%, or 11,761 to 15,640 additional individuals will come utilize the rifle range about the 3,043 that currently use the facility.

Mr. Netemeyer stated the range was there before he moved and to his understanding, it was built in 1978. He has no problem with what is currently there and knew the facility was there when he built his house. He has nothing against anyone who wants to use firearms; he was in the National Guard for 9 years and enjoyed hunting when he was a child but there is an appropriate place for the use of firearms. To expand this facility and give this type of range, one of only three in the state, where 70% of the shooters will be coming in from out of state. He understands the economic interest the City of Columbia may have but he does not want people to forget the outlying areas in the County, such as Hallsville, Harrisburg, and Sturgeon. The people that live in these outlying communities also have rights and interests. These are people who work in Columbia but live in the outlying communities and want to protect their property rights. He does not believe the income for Columbia should always override the property interests of the residents in the outlying areas in the County.

Mr. Netemeyer stated in regards to the decibel versus volume, he has never heard a vacuum, cellular phone or a razor while sitting on his back deck coming from this property. He hears gun fire all the time. He does not know where the applicants have come up with the gun fire being the same decibel level as a conversation, this is not accurate. One can be in Mr. Netemeyer's house, sit on his deck, or be at another property close to his home, and hear the gun fire but cannot hear house hold appliances.

Mr. Netemeyer noted the statement made during the Planning and Zoning Commission meeting by Commissioner Sloan where Commissioner Sloan noted she lives 3.5 to 4 miles away from the facility and can hear the gun fire. The decibel readings that were given by the applicants are not accurate. He stated its not that this proposal is insignificant and inconsequential with the decibel or the volume.

Mr. Netemeyer noted the testimony from others about 4-H shooting. He does not believe whether or not this request is approved will effect their ability to go to the existing gun club. He is requesting this facility not be expanded.

Mr. Netemeyer believes this is a safe and well organized club but there will be a problem with an increase in the noise.

Tom Daly, 3661 Doe Brook Lane, Columbia, stated he is the one who submitted the e-mail for consideration by the Planning and Zoning Commission. There is a noise difference between Rocky Fork Public Shooting are and Green Valley. He lives approximately 2 miles south of the Rocky Fork Shooting area. There is plenty of noise that comes from both shooting ranges. He is concerned with the hours of operation at Green Valley. He does not know if this is an appropriate time to rezone to recreational or what until planned recreational zoning is available.

Mary Sloan, 10851 N. Hecht Road, Hallsville, stated her home is approximately 4 miles from the Green Valley Rifle and Pistol Club, about 5 road miles. She does hear the shooting from the Club and when there are competitions, the shooting is constant and people are aware that there is a competition happening. She is unsure if she lived closer and if there was more shooting that the shooting would not become annoying.

In regards to the decibel levels, she is sure the information that was given is accurate but there is a difference between firing one shot and consistent shooting. She believes the discussion is based on consistent shooting.

Mrs. Sloan stated the Planning and Zoning Commission never saw a plan of the proposed facility. Objections that were raised by the Planning and Zoning Commission were raised were based on less information that the County Commission has this evening.

In the past, when the Planning and Zoning Commission has voted on hours of operation for various types of recreational facilities, those hours have been restricted and were

restricted to less than what the applicant requested and less than staff's recommendation.

To her knowledge, Mrs. Sloan has no opposition to the Green Valley Rifle and Pistol Club in its current use. If this request is denied this evening and comes back forward as a Planned Recreational use, she is unsure if she would be in favor of or against the request. As a member of the Planning and Zoning Commission and having seen so many requests over the years, she feels that it is a necessity that whatever is reviewed by the Planning and Zoning Commission is of a planned nature so there are controls. She does not believe to approve this request without it being a planned zoning is the best move that can be made.

Barry Holman, 14341 Proctor Road, Columbia, asked about the parking area. There are currently two parking areas at the facility now and with the projected numbers, the recommended 20 car dust free lot would be insignificant. If there is a range for 20 shooters, plus staff and spectators, he believes there should be more parking.

Commissioner Miller noted there are 70 spaces on the plan. Mr. Holman stated staff recommended only 20 spaces be dust free. Commissioner Miller stated that staff did not have this plan when that recommendation was made.

Larry Douglas, 6200 E Highway 124, Hallsville, stated he is concerned with the safety. A larger caliber weapon has the potential to go farther than the rifles and pistols. He is concerned that anything can happen with a loaded weapon but more than likely it will not. Also, the applicants were discussing the caliber of the guns fired that were used for the decibel readings and asked if there could be a cap placed on the caliber of weapon being used.

Michael Tate, 8920 Wheeler Lane, Hallsville, stated he is a member of Green Valley and joined the club because it is a safe environment. He noted that all those who have spoken in opposition to this request have noted that Green Valley is a safe place. There will be a 600 yard rifle range built in the State because it is needed. Whether this range is built in Boone County under a well run and planned organization or placed somewhere else. There is no safety at the public ranges.

There was no further public comment.

Commissioner Schnarre closed the public hearing.

Chuck Wilson stated he had a conversation with an audience member, who is an entomologist, and noted that during the summer the cicadas will be much louder than ambient sound.

Commissioner Miller asked Mr. Skaggs to discuss the maximum caliber that will be used. Mr. Skaggs stated because a dirt berm will be used, it is capable of handling up to 50 caliber. He does not anticipate this large of caliber gun being used at the facility. Most of

the rifle matches will have 30 caliber guns being used. There will be some members that will have 300H&H being used by members but does not feel that anything above the 30 caliber will be used.

Commissioner Miller asked for the berms to be described. Commissioner Elkin asked how was this designed and if there is a National Firearms Safety Standard that was used for the design. Mr. Skaggs stated the firm that was used when they were designing this, suggested an impact berm of 15' in height. They did not feel that this would be adequate for the facility so they increase the height of the berm to 40' and extended the width, past where the targets are at.

Commissioner Schnarre asked if this is a 3:1 slope. Mr. Connell stated the slope is actually steep than this, 1.5:1 slope. To put this in perspective, the base is 130' wide, 30' wide flat top, and 40' tall above the target. A sturdy ground cover will be used to hold this in place.

Commissioner Miller asked what the timeline is for this request and if the applicants have something planned for the future that has to begin this construction season. She noted they could begin the dirt work without having the rezoning or Conditional Use Permit. Mr. Skaggs stated 4-H has approached the club to see if the club would host the 4-H National Championship in 2004 and 2005. They could begin dirt work but that would cost them money that they do not know if in the future they would even be able to build the range.

Mr. Wilson stated they would be spending over \$100,000 and this would be a tough gamble to wait for the proper zoning.

Commissioner Elkin asked if there are any statistics available for day versus evening shooters. Many of the comments he has received are about shooting up until 10:00 p.m. Mr. Skaggs stated after 5:00 p.m. he can only think of six times when he's left for the day, which is usually between 5:30 and 6:00 p.m., that someone was there shooting when he left. There were over 20 times that he has come in the next morning, his system was disrupted and he knew someone was there. The majority of the after 6:00 p.m. shooting takes place when the club is conducting a training. The law enforcement agencies are required by court order to qualify at night. These usually occur in the fall of the year. On 33 days in 2003 there was any number of training activities. Members are not furnished with lights.

Commissioner Schnarre asked if the 200 yard range qualifies for FBI or other federal agencies. Mr. Skaggs stated for some qualifying it does.

Commissioner Schnarre asked what the membership level of the club is. Mr. Skaggs stated approximately 311. Some of these members are associate members, who live outside of this area. Others are life members that live out of state.

Commissioner Schnarre asked if there is a lighting system currently at the range. Mr. Skaggs stated the club does have portable lighting for law enforcement training.

Commissioner Schnarre asked what the current zoning on the property is now. Mr. Shawver stated the zoning is A-2. A Conditional Use Permit was granted in 1978 for Outdoor Recreational Facility and this included a sportsman's club and commercial small arms firing range.

Commissioner Schnarre asked what the property owner could do if the current facility is shut down. Mr. Shawver stated the existing club is zoned agricultural.

Commissioner Miller asked if the applicants could have applied for a Conditional Use Permit under agricultural zoning. Mr. Shawver stated no because the current regulations specifically call for a shooting range.

Commissioner Schnarre asked if there are conditions on the 1978 Conditional Use Permit. Mr. Shawver stated no.

Commissioner Schnarre stated he has no problem with this request except for the open recreational zoning. He asked if the request could be conditioned to allow for no lights on the proposed facility. Mr. Shawver stated conditions cannot be included with a rezoning request but can be included with a Conditional Use Permit.

Commissioner Schnarre asked what is being requested. Mr. Shawver stated there is a rezoning request to be considered first. If the rezoning request is approved, then the Conditional Use Permit is the next to be considered. There is no requirement that a Conditional Use Permit has to be used when the zoning is granted. If the applicant follows through with the Conditional Use Permit, then they have to follow the conditions.

Commissioner Elkin stated the firing range is a conditional use under the recreational zoning.

Commissioner Elkin stated he does not believe that safety is an issue with this request. He believes Green Valley runs a safe facility. As far as the noise issue, this is very subjective. The Commission has discussed noise in the past and there are some many different variables that effect how loud something seems.

Commissioner Elkin apologized to the applicants on behalf of the County for not having planned recreational zoning in place now. He believes if there was planned recreational zoning then this issue may not be being debated as much as what has happened. The open recreational zoning, even though he understands the applicants' intentions, is of concern for him.

Commissioner Miller stated if one looks at what is allowed under the REC zoning right now. Commissioner Elkin stated the permitted uses also list, “other similar recreation uses” in the REC zoning.

Commissioner Miller stated the permitted uses in REC zoning are less noisy than what the applicant is requesting, such activities are agricultural activity, club and lodge with incidental facilities, golf and baseball driving ranges, fishing or fly-casting pond, marina, skating rink, swimming pools, etcetera. The conditional uses in the REC zoning include shooting preserve, drag strip, race tracks, and etcetera. She stated she is having a hard time understanding that planned recreational zoning is the savior of this when the issues are noise and hours of operation.

She stated she does not believe there would be as many complaints if the hours were more reasonable that what the facility currently has. She thinks that if someone lived next door to the facility they would not like it either. As good neighbors, the facility should be cautious of this. It would be nice if the facility is holding a competition and night training that the neighbors are notified ahead of time so they do not have an outdoor event for their home. She believes there are things that can be done to improve the relationship with the neighborhood.

Commissioner Miller stated she personally sees nothing offensive in the permitted REC uses.

Commissioner Schnarre asked if the Commission were to approve the rezoning, could the hours of operation be restricted and when planned REC is approved by the County to have the applicant come back and request to be rezoned to planned REC zoning. Mr. Shawver stated the applicants can do that.

Commissioner Elkin asked Commissioner Schnarre to explain his question. Commissioner Schnarre stated he would like to tightly restrict the hours of operation now and when planned REC zoning is available, to have the applicant come back forward and request a rezoning from REC to planned REC. This way the applicant could get started with their operation.

Mr. Skaggs stated he does not have a problem with having the hours of operation restricted. The applicants do not have a problem with the Commission approving the rezoning and the Conditional Use Permit, they would agree to the conditions.

Commissioner Schnarre asked what could be restricted. Mr. Shawver stated the hours of operation, lighting, parking, the number of participants and many other things.

Commissioner Miller requested the berm be identified as 40’ in height on the Review Plan. This would allow for the safety issues that have been discussed to be handled.

Commissioner Elkin stated he does not want to make a decision at the spur of the moment. He is not opposed to what is being discussed. He just wants to make sure that the conditions cover all the bases. The neighbors do not like this request and the Commission needs to take those concerns into consideration and make this balanced. This can be debated for hours. He is concerned with Academy Road and the safety concerns on the section of the road that is one lane. He would like to have worksession time for this to discuss all the concerns and would like to table this request.

Commissioner Miller stated she is not opposed to having worksessions. She would like to find a way to make this work and to tightening the conditions to force the applicant to come back forward when planned REC zoning is available.

Mr. Skaggs stated if the Commission does table this request and give them a chance to work with staff and the Commission, the applicants would find this acceptable.

Commissioner Miller stated she would honor Commissioner Elkin's request to table this request to be able to work on the conditions.

Commissioner Elkin stated he is uncomfortable with voting on this issue tonight. He just wants to make sure all the concerns and issues brought forward are discussed.

Commissioner Miller stated she does not have a problem with the request because of what is currently surrounding the property in question, especially when it is between two firing ranges.

There was no further discussion on this request.

Commissioner Elkin moved to table the following requests to the April 1, 2003 County Commission Meeting:

- Request by C. T. Wilson Family Trust on behalf of Green Valley Rifle and Pistol Club, Inc to rezone from A-1/A-2 (Agriculture) to REC (Recreational) on 35 acres, more or less, located at 4200 Academy Road, Hallsville, and
- Request by C. T. Wilson Family Trust on behalf of Green Valley Rifle and Pistol Club, Inc for a rifle range on 35 acres located at 4200 Academy Road, Hallsville.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 107-2003**

Mr. Skaggs thanked Mr. Shawver and his staff for their work on this request.

**H. Receive and Accept the following plats:**

- **Northwest Estates. S4-T46N-R12W. A-2. Bruce and Connie Bauer, owners.**
- **Silver Forks Estates Plat 2. S27-T50N-R13W. A-2. Phillip Blom, Darren and Sandra Freese, owners.**
- **Mo Mules Estates. S34-T50N-R13W. A-2. Jerry and Ryan Stone, owners.**
- **Heavenly Valley. S18-T48N-R13W. A-2. Donald and Helen Rose, owners.**

Commissioner Miller moved to receive and accept the following plats:

- Northwest Estates,
- Silver Forks Estates Plat 2,
- Mo Mules Estates, and
- Heavenly Valley.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 108-2003**

There was no public comment.

The meeting adjourned at 9:45 p.m.

Attest:

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Wendy S. Noren  
Clerk of the County Commission

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Keith Schnarre  
Presiding Commissioner

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Karen M. Miller  
District I Commissioner

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Skip Elkin  
District II Commissioner