

TERM OF COMMISSION: September Session of the July Adjourned Term

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

PRESENT WERE:

Presiding Commissioner Daniel Atwill
District I Commissioner Karen Miller
District II Commissioner Janet Thompson
Director Resource Management Stan Shawver
Planner Uriah Mach
Assistant County Counselor Ron Sweet
Deputy County Clerk Mike Yaquinto

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

Resource Management

- 1. Public Hearing and request by David L. Sallee to amend a permit for a sewage lagoon on 5.0 acres, located at 11251 N. Hecht Rd., Hallsville. (appeal)**

Stan Shawver read the following staff report:

This request was considered by the Planning & Zoning Commission during their August 20, 2015 meeting.

The minutes for the Planning and Zoning Commission meeting of August 20, 2015, along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

This request is for a permit to amend a conditional use permit for a lagoon that was approved in 2009.

On April 28th 2009 the County Commission issued Commission Order 199-2009 which included the associated Findings of Fact and Conclusions of Law that in turn included the following three conditions required to justify said findings and conclusions:

No structure be connected to the collector lagoon system other than Mobile Homes with county permits which are shown and approved in accordance with the Mobile Home Park Ordinance and other county regulations.

The sewage lagoon is restricted to serving only units lawfully placed upon the 5.0 acre tract and is not allowed to serve any structure or use on any other property or parcel.

A proper permit to operate the lagoon from the Missouri Department of Natural Resources must be maintained at all times.

The current application to modify the CUP for operation of a private collector sewer states "Provide sewer link to adjacent property" with the listed justification indicating "allow service to single home within capacity of lagoon".

The application does not directly list the CUP sought but rather the actions the applicant wishes to undertake which are currently prohibited. It has therefore been determined that the applicant wishes to have condition "A" of the existing CUP modified and condition "B" of the existing CUP eliminated.

Condition "A" restricts the collection lagoon system to Mobile Homes shown on the approved MHP plan and therefore would have to be modified to allow connection of Mobile Homes that are not contained in the Mobile Home Park.

Condition "B" restricts the sewage lagoon to serving the Mobile Home Park and does not

allow crossing any property lines to serve other properties or uses.

The County Commission placed these conditions upon the issuance of the original CUP so that the Conditional Use Permit would be able to meet the seven criteria that are required to be met before a CUP can be approved or issued. The importance of these conditions is documented in the very first sentence of the Findings of Fact and Conclusions of Law issued for the existing CUP through the inclusion of the phrase “subject to the conditions of approval,”; this shows that the entire findings and conclusions are predicated upon the conditions the County Commission agreed are necessary for the CUP to be approved and operated. Staff is not aware of any substantive change in the surrounding area nor in the underlying facts since the original CUP issuance.

Under the Zoning Ordinance the official CUP that can actually be sought is “sewage lagoon or mechanical treatment plant where not approved under the County Subdivision Regulations” and this use is specified to require a CUP to control the establishment of new private collector sewer companies. If approved as requested the County would be allowing the de-facto creation of a private collector sewer company by allowing connection outside of the Mobile Home Park itself. Such private collector sewer companies have proved problematic in the past and so the county policy is that collector sewers serving multiple properties need to be operated by a governmental entity. Only collector sewers operated by governmental entities provide the expected level of accountability for proper operation. Both conditions A & B were placed upon the original CUP to reinforce this longstanding policy.

The findings and conclusion for the collector sewage lagoon indicate that in addition to conditions A, B, & C, part of the reason the existing CUP meets the criteria required for approval is that it is inherently limited by the density restriction placed upon the related Mobile Home Park CUP. The Mobile Home Park is limited to three units. These

findings, specifically #1 & #7 would be undone by approving the request and opening up the system for other properties and uses.

The topography indicates this property is within the Hinkson Creek watershed. The County, along with the City of Columbia, University of Missouri, DNR and EPA are working to improve the water quality of Hinkson Creek, which is on the state 303(d) list of impaired waters. Hinkson Creek is listed as being polluted from unknown sources. One known source of contamination is sewage facilities both on-site and collector. When contamination occurs it is already a difficult task to determine the specific source of contamination and this difficulty is increased with non-governmentally operated wastewater systems. We have received a letter from the BCRSD opposing this request because the request removes the conditions limiting the private sewage lagoon to only serving the MHP. The problems created when two or more marketable properties are served by a private system as noted by the BCRSD as the basis for their opposition, reinforces the County policy that required the placement of the conditions on the original CUP.

Should the request be approved there would be little to prevent the connection of other properties in the area to the system; as allowing one adjoining property to connect but not another would be an arbitrary and un-defendable restriction. This is why existing condition A and B were so critical for the original CUP to be approved.

It is our understanding that the driving desire behind this request is to place a Mobile Home unit on the 5-acre property to the north of the current Mobile Home Park. This property is not owned by the applicant. Even if this request is denied, a permit can be issued for the placement of the Mobile Home with a health department regulated on-site wastewater system on this adjoining parcel and such a permit could be issued at any time.

The Zoning regulations state that it is the responsibility of the applicant to provide sufficient information/documentation to allow approval of the conditional use permit. Before authorizing the issuance of such conditional use permit, the County Commission shall satisfy itself that:

- (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.

Staff recommended denial of the request and recommended leaving the existing CUP as it is with the existing conditions since these conditions were critical as safeguards on the original approval. While the applicant desires to not have the limitations imposed by the current conditions there has been no appreciable change to warrant removal or lessening of the restrictions imposed originally.

Should the commission decide to approve the request then the existing condition language will be difficult to modify so as to retain any meaningful enforceability, but at a minimum a new condition should be added:

- The sewage collection lines and system, as well as any additional modifications or connections to the system shall be designed by a Professional Engineer Licensed to practice in the state of Missouri; a copy of an approved set of such plans be submitted to the director and BCRSD; such plans must be acceptable to and approvable by both the director and BCRSD; and an installation report prepared by a Professional Engineer Licensed to practice in the state of Missouri certifying that any expansion/modification including installation of new lines was constructed in compliance with the approved plans be provided to the director and BCRSD .

The Planning & Zoning Commission conducted a public hearing on this request during their August 20, 2015 regular meeting. There were seven members of the commission present during the meeting.

Following the public hearing, a motion was made to recommend that the conditional use permit application be denied for failure to meet criteria (a) and (g) of the required tests for approval. The motion to deny the request passed unanimously. The applicant filed a timely appeal, a copy of which has been provided to the County Commission.

Commissioner Atwill opened the public hearing and asked if there is anyone present that would like to speak on behalf of this request.

David Sallee said he has requested a variance. The DNR & Health Department has considered and replied to my lagoon as a waste water treatment facility capable of holding 30 or more residents or an equal of 10 mobile homes in that area.

The welfare of the community remains the same. The inflammatory rhetoric by Stan Shawver is contemptible. The effluence is the same with or without a new lagoon. If a new lagoon is dug, it will not have the same bio degradable system. The use of my facility changes nothing to the effluence, in fact, it improves or lessens the effluence as well as that to the community, state or county. My lagoon is more cost efficient than building a new lagoon.

I have requested individual appointments with the Commission to bring this information forward, but have been denied. If you can't handle the heat, get out of the kitchen.

My waste water facility is pristine. These are my neighbors, not socially, but geographically, and they deserve the opportunity to make use of the mutual supplies. All the restrictions that have been applied to this waste water treatment facility originate with Stan Shawver. The petty tyrant, by any other name, is the same and that is what I am dealing with today.

That is my presentation, the best I can offer. I don't have a lot invested in this other than my reputation as a good neighbor and a caring individual. The biggest concern I see, from the Commission's position, is the potential for greater degradation of the community which is a rural community. This plan which you are restricting me to, will do more damage to the creek on its own than if applied to a waste water treatment facility under my control. All this information is verifiable with Health & Human Services in Columbia and the DNR.

What I am proposing is simple community support in a rural area with a readily available waste water treatment facility that will do more good for the effluence than he can do on his

own. I take an interest in my community and would like the Commission to do the same. I have made appointments with all the Commissioners and have been denied. If you don't want to know about this, get out of the kitchen. I am ready for your verdict now.

Commissioner Atwill said the Commission is not ready to give the verdict as there may be other people that would like to speak on this item.

Mr. Sallee said he will leave now and let the people say whatever they want to say. Let me know, I will be getting back to you next week.

Commissioner Atwill asked if there is anyone else that would like to speak on behalf of this request. There were no speakers. Commissioner Atwill asked if there is anyone present that would like to speak in opposition to this request.

Jeffrey Williams said he owns the land directly to the west of Mr. Sallee. He was at the P & Z meeting and asked the Commission if they are aware of his comments at that meeting.

Commissioner Miller said they received the minutes from that meeting and are aware of the comments made by all the speakers.

Commissioner Miller asked Mr. Williams if he thinks there is enough effluence there based on what's already there.

Mr. Williams said that is correct. His property can't support what he is doing now without using my field. It is not ideal to increase the effluence.

The Commissioners thanked Mr. Williams for speaking tonight.

Commissioner Atwill asked if there is anyone else present that would like to speak in

opposition to this request.

Mary Sloan said she owns the property just north, within 1,000 feet of Mr. Sallee's property and she feels she has fought this battle before. Mr. Sallee made the comment that he is a good neighbor. There are many of us in the neighborhood who would take exception to that. The people who own the property directly to the south and the people who own the property directly north of where he wants to put the other trailer are not in favor of this and asked me to come here tonight and speak on their behalf.

We fought this in 2008 and 2009 and there were many, many meetings and lots of discussion. It was, unfortunately, approved at the time, but with conditions put on it for a reason. David Sallee mentioned he can put 10 mobile homes with a lagoon on a five acre tract. He is talking about 30 people. This is not a big neighborhood and not a big subdivision. His piece of property is only five acres and he wants to drop 10 mobile homes on it. You can see from the map that the lagoon is pretty big and he even admits how it is and why he thinks it is such a great thing. There will be a lot of things pushed into a small area and that is not good for the neighborhood.

I served on the P & Z Commission for 10 years, 1996 to 2006 and during that time, we had the opportunity to look at several of these private lagoon systems and I don't recall there ever being a good outcome because they are difficult to enforce and regulate. As much as the County and State would like to, there is not the resources or the manpower to do so.

I think that if this is approved and he does what he wants to do, he will be back to expand. I don't know how he can put something on a piece of property that he does not own and why that person is allowing it. We are told he is not in favor of it, although I have not heard that from him personally. I hope that you deny this request.

The Commissioners thanked Ms. Sloan for speaking.

Commissioner Atwill asked if there is anyone else to speak in opposition to this request. There were no additional speakers and Commissioner Atwill closed the public hearing.

Commissioner Miller said that when this was approved in 2009, it was because Mr. Sallee took over the property and cleaned it up. It was full of junk trailers and trash. When he took the trailers away, he lost the grandfather rights of keeping the trailers. We felt that it was a compromise to limit the number of trailers and allow him to have some. It was very clear that it was never the intention of the Commission to let it get any larger. As a person who has worked on cleaning up Hinkson Creek, and really working on these types of things, and being a sitting member as a Sewer Trustee, I do not believe we should allow two pieces of property to use the same lagoon. It flies in the face of all of our regulations, so I would be in favor of denial of this request to expand.

Commissioner Thompson said the staff report was directly on point. By allowing Mr. Sallee to do what he wants, it eviscerates the conditions on the original Conditional Use Permit. So, I also am in favor of denial of this request.

Commissioner Atwill said he concurs with the two previous opinions and agrees that this should not be allowed. It is regrettable how much time and effort has been put into this and we thank Mr. Shawver for the work and details put into this report.

Commissioner Atwill moved on this day the County Commission of the County of Boone does hereby **deny** the request by David L. Sallee to amend a permit for a lagoon on 5 acres, located at 11251 N Hecht Rd., Hallsville.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #385-2015**

Mr. Shawver asked the Commission to comment on the Conditional Use Permit standards as a means of justification for the outcome of the request.

- (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.

Commissioner Miller said she feels for public health and safety from the Hinkson Creek perspective.

- (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.

Commissioner Thompson said we have heard from the neighbors concerning this item.

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

No comments from Commission on this item.

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

Commissioner Miller said this is a key part of her decision. The road surface, water and hydrants are not properly there to support this expansion.

- (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.

There were no comments from Commission on this item.

- (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.

There were no comments from Commission on this item.

- (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.

Commissioner Thompson noted there is no public necessity.

As noted previously, the motion carried 3 to 0.

2. Public Hearing and request by MD Storage of Columbia LLC for a permit for self-storage units on 1.46 acres located at 1080 E Shalimar Dr., Columbia.

Stan Shawver read the following staff report:

The subject property is located on the south side of Shalimar Drive, west of the city limits of Columbia across Highway 763. The property is approximately 1.46 acres in size, and is zoned C-G(General Commercial). It has R-S(Residential Single-Family) zoning to the west, and C-G zoning to the north, south, and east. This property was

rezoned to C-G in 1975. The property is currently vacant. The application indicates that the property was previously used to store mobile homes pending sale.

The applicant is applying for a conditional use permit for self-storage units. Staff notified 97 property owners about this request. The property scored 81 points on the point rating system.

The following criteria are the standards for approval of a conditional use permit, followed by staff analysis of how this application may meet those standards. Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners.

(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.

If operated in conformance with existing county and state regulations, the use should comply with this criterion.

(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.

Self-storage facilities are typically non-intrusive. Proper conditioning of an approval for this request should mitigate any potential off-site impacts.

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

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

values. When compared to other permitted C-G uses, this should not have a significant negative impact on surrounding properties.

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

The subject property is located on Shalimar Drive, a publicly-dedicated, publicly-maintained right of way. All necessary facilities will be available.

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

The surrounding properties have already developed in a manner consistent with their present zoning. The establishment of this conditional use permit should not impede any further development of the surrounding properties.

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

The subject property is located on Shalimar Drive, off of Highway 763. The site's proximity to Highway 763 allows for limited traffic impact on the residential neighborhood to the west. The proposed self-storage units are also a limited traffic generator when compared to permitted C-G uses for this 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.

The proposal conforms to other applicable regulations of the C-G zoning district.

Zoning Analysis: The proposed conditional use is comparatively non-intrusive. When the site location is considered, staff considers this proposal one of the more acceptable uses for this property. Self-storage units do not generally generate much traffic. While the structures themselves are not particularly offensive, the design requirements to insure their security can be. Conditions to limit the impact of those requirements on adjacent properties are recommended in order to soften the appearance of the storage units and the commercial/industrial appearance of the facility.

Staff recommended approval of the conditional use permit with the following conditions:

- Dust-free paving, minimum chip-seal, is required for all drive surfaces.
- Exterior lighting must be focused inward and downward to prevent light from leaving the site.
- Vegetative screening is to be maintained to soften visual impacts on surrounding properties. The screening is to be based on two off-set rows of conifers with 15' triangulated centers. When a planting dies, it must be replaced with a similarly-sized element.
- A site plan, including landscaping, fencing, and lighting details be provided as part of the permitting process.

The Planning & Zoning Commission conducted a public hearing on this request during their August 20, 2015 regular meeting. There were six members of the commission present during the meeting.

Following the public hearing, a motion was made to recommend that the conditional use permit application be approved with the following conditions:

- Dust-free paving, minimum chip-seal, is required for all drive surfaces.
- Exterior lighting must be focused inward and downward to prevent light from leaving the site.
- A new privacy fence to be installed and maintained in good condition on the south and west sides, a chain link fence on the east side, and landscape screening and architectural fence on the north side. The screening is to be based on two off-set rows of conifers with 15' triangulated centers. When a planting dies, it must be replaced with a similarly-sized element. (amended from staff recommendation)
- A site plan, including landscaping, fencing, and lighting details be provided as part of the permitting process.

The motion passed so this application comes forward with a recommendation for approval.

Commissioner Thompson said in reading the testimony from the P&Z meeting, there were some questions about the signage that would be used and the concerns that the signs be not so intrusive.

Stan Shawver said it would be best for the applicant to address the signage concerns. The County regulations restrict sign placement and size.

There were no further comments from the Commission and Commissioner Atwill opened the public hearing and asked if there is anyone present that would like to speak on behalf of this request.

Wes Bolton said he is with Allstate Consultants and is representing the applicant. Staff gave a great report and we concur with it. We would like to add that this is a C-G zoned property and we feel this use is on the low intensive side and is a good transition to a neighborhood and this is why this property was chosen. It is an appropriate use for this site. We agree with all the P & Z conditions.

For the fencing, we approached all the adjoining neighbors to discuss the fencing and we arrived at a plan as to what the fencing would look like, a new 6 foot high wood privacy fence. The east side of the property will have a chain link fence as it is adjoining to another commercial property. The north side will have an architectural fence with landscaping in concurrence with the neighbors.

The language for the lighting reads inward and downward. All the lighting will be building packs with full cut-off fixtures and there will be no lighting spillage. However, the site will require building packs on the north side of the building to light the parking lot in the front of the building. They will be downward, but not technically inward and we just wanted to note that.

It is our responsibility to go through the seven conditions for the CUP, so we will address those.

(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.

We plan to conform to all the county standards and have been working with staff for some time to make sure this happens.

(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.

This will be properly constructed and operated and we have coordinated with the adjoining neighbors and worked out fencing and landscaping. As mentioned before, this is a low impact use of the C-G zoning.

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

This has been zoned Commercial since 1975 and it is a low impact use, so this is the same justification.

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

We submitted a site plan to Community Development and they have been reviewing and commenting on it. We are in full coordination with staff on this matter.

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

The majority of the property has been developed for some time and we don't see this site development as being a detriment or impediment for future improvements.

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

The driveway is approximately 350 feet from Highway 763 and allows for limited traffic impact on the residential neighborhood to the west. The proposed self-storage units are also a limited traffic generator when compared to permitted C-G uses for this property.

(h) 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.

We are coordinating with County Staff to make sure this is the case. We are not asking for any other variances.

Commissioner Thompson asked about the signage concerns.

Mr. Bolton said he forgot to address this concern. They are not requesting any sign variances and plan to meet all county regulations. The owner of this property also owns some property along Highway 763 and plans to post a sign on that property. We will certainly meet all county regulations.

Commissioner Miller noted that General Commercial is the most open zoning we have, so if we do not ask for a CUP, could a McDonalds be built on this site. Also, could you give us an idea what could be put on this property.

Mr. Shawver said this zoning is the most open we have. Mr. Shawver then went through the various types of uses for this zoning.

Commissioner Miller stated since this is C-G and someone wanted to do one of the uses as described in the regulations, as long as it fit within the set-back guidelines and all the other ordinances, they would be able to do it with no conditions.

Mr. Shawver said that is correct.

Commissioner Atwill asked if there is anyone else present that would like to speak on behalf of this request. There were no further speakers. Commissioner Atwill asked if there is anyone present that would like to speak in opposition of this request. There were no speakers and Commissioner Atwill closed the public hearing.

Commissioner Miller said this is the best thing we could have for this site. It is something we can condition and a lot less obtrusive.

Commissioner Thompson said the willingness of the applicant to abide to these conditions has a minimal impact on the community.

There were no further comments.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby **approve** the request by MD Storage of Columbia LLC for a permit for self-storage units on 1.46 acres located at 1080 E Shalimar Dr., Columbia with the following conditions:

- Dust-free paving, minimum chip-seal, is required for all drive surfaces.
- Exterior lighting must be focused inward and downward to prevent light from leaving the site.
- A new privacy fence to be installed and maintained in good condition on the south and west sides, a chain link fence on the east side, and landscape screening and architectural fence on the north side. The screening is to be based on two off-set rows of conifers with 15' triangulated centers. When a planting dies, it must be replaced with a similarly-sized element. (amended from staff recommendation)

A site plan, including landscaping, fencing, and lighting details to be provided as part of the permitting process.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #386-2015**

- 3. Public Hearing and request by Sally Leann Frazier on behalf of USCOC of Greater Missouri LLC for a transmission facility, including a 190' tower, on 37.59 acres, located at 20305 N Hwy 124, Centralia.**

Stan Shawver read the following staff report:

The subject property is located on Highway 124, approximately ¾ of a mile to the

southwest of Centralia. The property is approximately 40 acres in size and is zoned A-2(Agriculture). The property has A-2 zoning to the north, south and west and REC(Recreation) zoning to the east. The REC zoning was rezoned in 2002. The A-2 zoning is all original 1973 zoning. The property is currently undeveloped. The Master Plan describes this area as being suitable for agriculture and rural residential land use. Staff notified 49 property owners about this request.

A description of the lease area site has been submitted by the applicant in the application materials. The lease area for the tower is approximately 10,000 square feet out of the 39.70 acre parent tract. The siting of the tower may cause difficulties in the future if subdivision is desired. The proposal for a transmission facility is for a 190' monopole tower and support facilities. The applicants have met the submission requirements identified for a conditional use permit for a transmission facility

Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners. As a conditional use permit, the proposal must meet the following criteria from the zoning ordinance to be eligible for approval:

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

If operated in conformance with existing county regulations, the use should comply with this criterion.

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

If operated in conformance with existing regulations, this use should not be injurious to the use & enjoyment of other property in the immediate vicinity for purposes already permitted by the regulations. Public testimony may be indicative as to whether this criterion can be met.

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

The application meets this criterion as per the zoning ordinance Section 15B section 4, subsection (e). However, this is a purely technical analysis as constructed by the regulations. Public testimony may better reflect any impacts on property values.

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

The use has limited needs with respect to utility infrastructure and so the site has adequate facilities to support the proposal.

(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.

This area is zoned A-2, with residential uses limited to 2.5 acre tracts or larger. The surrounding properties are mainly large-lot agricultural properties, with limited access to public right of way. Those along Highway 124 are limited in development potential by Missouri Department of Transportation access requirements. The existing infrastructure, or lack thereof, is a greater factor in increased development than the placement of this transmission facility.

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

The proposed use is a minimal traffic generator and should not hinder traffic or cause congestion on public streets.

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

The proposal conforms to other applicable regulations of the A-2 zoning district, particularly since no land division is proposed. Public necessity has been discussed by the Federal Telecommunications Act of 1997 to allow for widest dissemination of wireless communication services.

Staff recommended approval of this conditional use permit.

The Planning & Zoning Commission conducted a public hearing on this request during their August 20, 2015 regular meeting. There were six members of the commission present during the meeting.

Following the public hearing, a motion was made to recommend that the conditional use permit application be approved.

The motion passed so this application comes forward with a recommendation for approval.

Commissioner Atwill opened the public hearing and asked if there is anyone present to speak

on behalf of this request.

Tracey Malone said she is here representing the applicant. She said the application is for a Conditional Use Permit for the installation of a new transmission facility on behalf of U. S. Cellular. The application was submitted on July 28, 2015 and the project description is for a proposed 190 foot tall monopole wireless tower. The pole itself will be 180 feet with a 10 foot lightning rod. The compound will be 100 feet by 100 feet with a communication facility. The communication compound will contain an 11' x 19' equipment building. The land owners have no other use of this land other than agriculture.

The following is in regard to the conditions within the CUP:

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

The FCC regulates the radio frequency emission issues for the antennas for this project. This project is categorically excluded from emission regulations because the lowest point of any proposed antenna is greater than 10 meters above ground. The structural safety and ice fall safety are ensured within the tower design.

General safety and welfare is improved when communication with, access to medical, public safety and other emergency services is augmented via an improved wireless network.

The U.S, Department of Health and Human Services, Centers for Disease Control and Prevention issued the National Health Statistics Report, Number 70, on December 18, 2013. The report indicates that the percentage of persons aged 18 and over and living in Missouri, outside St. Louis and St. Louis County, in wireless only households for 2012 was 42. 4%. Only 5.7% of this same population used landline only phones and only 2.3% of this population was

without any type of phone service. Improved wireless networks are in demand.

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

The unmanned wireless tower facility will not be injurious to the use and enjoyment of the other property in the vicinity. It will not generate noise or emissions. It will not create any other nuisance conditions.

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

Farming and wireless tower uses are compatible. Wireless towers are expected along highways. Property values will not be impacted. Intervening existing trees are located between the proposed tower and most, is not all, nearby residences. The monopole tower design creates the smallest vertical, visual footprint possible.

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

The wireless project will be accessed from State Route 124 by an existing farm entrance. Buried fiber optic is available in the right-of-way. An existing power pole and an existing telco demarcation are available nearby. Erosion control details are depicted on the construction drawings.

(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.

Property development and improvement on surrounding property will not be impacted by this proposed project. This proposed facility will not impede any future uses.

(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.

An existing farm access is planned to be utilized for ingress and egress. Since this is an unmanned facility, no regular traffic is expected.

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

The statement of ordinance compliance reflects compliance with the transmission facility ordinance.

Commissioner Miller asked if a study was done for co-location possibilities in the area.

Ms. Malone said they did a study of several tall structures and found that they were outside the necessary search parameters.

There were no further comments or questions.

Commissioner Atwill asked if there is anyone else present that would like to speak on behalf or in opposition to this request. There were no additional speakers and Commissioner Atwill closed the public hearing.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby **approve** the request by Sally Leann Frazier on behalf of USCOC of

Greater Missouri LLC for a transmission facility, including a 190' tower, on 37.59 acres, located at 20305 N Hwy 124, Centralia.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #387-2015**

- 4. Public Hearing and request by Walter and Katherine Garrett to rezone from C-N (Neighborhood Commercial) to R-S (Single Family Residential) on .58 acres, more or less, located at 9800 W Wilhite Rd., Rocheport.**

Stan Shawver read the following staff report:

The subject property is located on Wilhite Road off of Route J, approximately 5 miles to the south of Harrisburg. The property is approximately 4.36 acres in size, and split-zoned R-S(Residential Single-Family) and C-N(Neighborhood Commercial). There are two houses and an outbuilding present on the property. The property has R-S zoned property to the north, south, and west, with A-1(Agriculture) zoning to the east. This is all original 1973 zoning. The property scored 20 points on the rating system.

The applicant is seeking to rezone the C-N portion of this property to R-S. The applicant has no commercial uses on the property and its status as commercially-zoned is a limitation on its ability to be sold for rural residential land uses.

The Boone County Master Plan identifies this area as being suitable for agriculture and rural residential land uses. The Boone County Master Plan designates a sufficiency of resources test for the evaluation of zoning changes where each proposal is evaluated to see if sufficient utility, transportation, and public safety infrastructure is in place to support the change in zoning. The sufficiency of resources test provides a "gatekeeping" function. Failure to pass the test should result in denial of a request. Success in passing

the test should result in further analysis.

Utilities: The property is in the Consolidated Public Water Service District #1 service area for water service. It is in the Boone Electric Cooperative Service area for electrical service. The existing wastewater systems serving the dwellings on these lots are subject to the regulations of the Columbia/Boone County Health Department.

Transportation: The property has direct access on to Wilhite Road, a publicly-dedicated, publicly-maintained right-of-way.

Public Safety: The property is located in the Boone County Fire Protection District, with stations in Harrisburg and on State Route E that can service this property.

Zoning Analysis: The C-N zoning was established by the original 1973 zoning map. At that time, it is believed that C-N was appropriate to provide opportunities for additional commercial activity in this vicinity. Since then, there has been no interest for commercial development. Given the current use of the property, it is appropriate to reduce the intensity of the zoning on this property as requested by the current owner.

Staff recommended approval of the rezoning request.

The Planning & Zoning Commission conducted a public hearing on this request during their August 20, 2015 regular meeting. There were six members of the commission present during the meeting.

Following the public hearing, a motion was made to recommend that the rezoning request be granted.

The motion passed so this application comes forward with a recommendation for

approval.

There were no comments from the Commission at this time.

Commissioner Atwill opened the public hearing and asked if there is anyone present that would like to speak on behalf of this request.

Kathy Garrett said she is the applicant and has nothing further to add and will answer any questions the Commission may have.

There were no questions and the Commission thanked Ms. Garrett for coming tonight.

Commissioner Atwill asked if there is anyone else present to speak, for or against, this request.

There were no additional speakers and Commissioner Atwill closed the public hearing.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby **approve** the request by Walter and Katherine Garrett to rezone from C-N (Neighborhood Commercial) to R-S (Single Family Residential) on .58 acres, more or less, located at 9800 W. Wilhite Rd., Rocheport.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #388-2015**

- 5. Public Hearing and request by Jerome and Jeannie Taylor to approve a revised Review Plan for Happy Hollow Estates Lot 4 on 15.30 acres, more or less, located at 801 E Happy Hollow Rd., Columbia.**

Stan Shawver read the following staff report:

The subject property is located off of Highway 163, to the east of the city limits of Columbia. The subject property is 15.3 acres in size. It has an existing house, pool, and shed present on the property. The property is zoned A-2P(Planned Agriculture), and has A-2P zoning to the north and east, and A-1(Agriculture) zoning to the south and west (Rock Bridge State Park). This property was rezoned from A-1(Agriculture) to A-2P (Planned Agriculture) in 1986.

The proposal is to reconfigure the current plan to allow for the creation of an additional building site and lot. This new design would show one 11.97 acre lot with the existing structures and one 3.33 acre lot, allowing for the additional building site. Staff notified 18 property owners about this request.

The Master Plan designates this property as suitable for agricultural and rural residential land use. The Master Plan also identifies a “sufficiency of resources” test for determining whether there are sufficient resources available for the needs of the proposal. Failing to meet the sufficiency of resources test should result in denial of the requested zoning change. Success in meeting the sufficiency of resources test should result in further analysis.

The resources necessary to serve the proposed development can be broken down into 3 general categories; utilities, transportation, and public safety services.

Utilities: The subject property is located in Consolidated Public Water Service District #1 and the Boone Electric Cooperative service area. Wastewater treatment for the existing house is through an on-site wastewater system that was permitted by the Columbia/Boone County Health Department. Wastewater service for the new house will be required to be by the City of Columbia sewer utility, due to proximity to existing

services.

Transportation: These two lots will access Highway 163 by Happy Hollow Road, a private drive created by the previously approved plan and plats for this and the surrounding properties.

Public Safety: The subject property is located in the Boone County Fire Protection District service area, with the nearest station on State Route K.

Zoning Analysis: This property can meet the sufficiency of resources test. However, the question of wastewater service is a significant roadblock in the complete approval of the proposal. At this time, the City of Columbia's policy of requiring pre-annexation or annexation for sewer service will restrict the final approval of this plan. Once an agreement can be reached on how sewer service will be provided and the consequences of that provision of service, a final plan can be approved.

The property scored 86 points on the rating system.

Staff recommended approval of the revised plan with the following condition:

- That no final plan or plat be submitted or approved until an agreement on the provision of sewer service be made to the satisfaction of the City of Columbia, the Boone County Regional Sewer District, and the Director of Boone County Resource Management.

The Planning & Zoning Commission conducted a public hearing on this request during their August 20, 2015 regular meeting. There were six members of the commission present during the meeting.

Following the public hearing, a motion was made to recommend that the revised review plan be approved, subject to the following condition:

- That no final plan or plat be submitted or approved until an agreement on the provision of sewer service be made to the satisfaction of the City of Columbia, the Boone County Regional Sewer District, and the Director of Boone County Resource Management.

The motion passed so this application comes forward with a recommendation for approval.

The Commissioners had no questions at this time.

Commissioner Atwill opened the public hearing and asked if there is anyone present that would like to speak on behalf of this request.

Jay Gebhardt said he is a civil engineering and is representing the applicant. There is nothing further to add to the staff report with the exception that the applicant is not happy about the annexation agreement, but they will need to deal with it.

Commissioner Atwill asked if there is anyone else present to speak, for or against, this request.

There were no additional speakers and Commissioner Atwill closed the public hearing.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby **approve** the request by Jerome and Jeannie Taylor to approve a revised Review Plan for Happy Hollow Estates Lot 4 on 15.30 acres, more or less, located at 801 E Happy Hollow Rd., Columbia subject to the following condition:

- That no final plan or plat be submitted or approved until an agreement on the provision of sewer service be made to the satisfaction of the City of Columbia, the Boone County Regional Sewer District, and the Director of Boone County Resource Management.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #389-2015**

6. Request by Darren and Katie Nickerson to approve a Final Development Plan for Nickerson Estates on 10.73 acres, more or less, located at 7400 S Warren School Rd., Columbia.

Stan Shawver said this is the final development plan as the review plan was approved last month. This will take the zoning from A1 to A2P on the property located on Warren School Road. This will formalize the adoption of the final development plan and by regulations, the re-zoning will not take place until the final zoning plan is approved.

There were no comments or questions from the Commission.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the request by Darren and Katie Nickerson to approve a Final Development Plan on 10.73 acres, more or less, located at 7400 S Warren School Rd., Columbia.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #390-2015**

7. Request by SUERONDOW Farms LLC to approve a Final Development Plan on 1.56 acres, more or less located at 5020 N Rte Z, Columbia.

Stan Shawver said this also is a final development plan regarding the relocation of the propane tank on Route Z. The review plan was approved last month. This formal adoption keeps the M-LP zoning in place.

There were no questions or comments from the Commissioners.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request by SUERONDOW Farms LLC to approve a Final Development Plan on 1.56 acres, more or less, located at 5020 N Rte Z, Columbia.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #391-2015**

8. Receive and accept the following plats:

- **Replat of East Locust Grove Plat 1. S2-T48N-R12W. R-S. David and Sandra Day, owners. Ronald G. Lueck, surveyor.**

- **Jefferson Acres. S30-T47N-R12W. A-2. Patrick W. Lee, owner. C. Stephen Heying, surveyor.**

- **Nickerson Estates. S8-T47N-R13W. A-2P. Darren and Katie Nickerson, owners. Jay Gebhardt, surveyor.**

- **Lake Chateau Plat 2. S29T48N-R11W. R-S. R. Newton and Joyce Riley, owners. Timothy J. Reed, surveyor.**

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby receive and accept the following subdivision plats and authorize the Presiding Commissioner to sign them:

- Replat of East Locust Grove Plat 1. S2-T48N-R12W. R-S. David and Sandra Day, owners. Ronald G. Lueck, surveyor.
- Jefferson Acres. S30-T47N-R12W. A-2. Patrick W. Lee, owner. C. Stephen Heying, surveyor.
- Nickerson Estates. S8-T47N-R13W. A-2P. Darren and Katie Nickerson, owners. Jay Gebhardt, surveyor.
- Lake Chateau Plat 2. S29T48N-R11W. R-S. R. Newton and Joyce Riley, owners. Timothy J. Reed, surveyor.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #392-2015**

Purchasing

9. First reading; Vehicle Surplus Disposal

Commissioner Miller read the following memo:

Following is a list of surplus vehicles that have been replaced. The Sheriff's Department requests commission approval for disposal through the Missouri Auto Auction. Our contract with MO Auto Auction is *15-24APR15 – Auction Services for Surplus Vehicles*.

There were no comments or questions.

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

10. Second reading; Bid Award 45-06AUG15 – Shelter Foundation and Site Work for Battle School Project (1st read 8-27-15)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby award bid 45-06AUG15 – Shelter Foundation and Site Work for Battle School Project to McGilton Construction Co., Inc. of Parkville, MO.

The terms of the bid award are stipulated in the attached Contract Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Contract Agreement.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #393-2015**

County Counselor

11. Second reading; Facility Agreement with United Parcel Service (1st read 8-27-15)

Commissioner Miller moved on this day the County Commission of the County of Boone

does hereby approve the attached agreement between Boone County and United Parcel Service, Inc. for use of a specified area within the Central Missouri Events Center.

The terms of the Agreement are stipulated in the attached Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Agreement.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #394-2015**

12. Second reading; Facility Agreement with Mortgage Research Center, LLC d/b/a Veterans United (1st read 8-27-15)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the attached agreement between Boone County and Mortgage Research Center, LLC for use of a specified area within the Central Missouri Events Center.

The terms of the Agreement are stipulated in the attached Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Facility Usage Agreement.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #395-2015**

Human Resources

13. Second reading; Revision to County Wide Policy 6.3 Drug Free Workplace (1st read 8-27-15)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby adopt a revision to the Drug Free Work Place Policy with the addition of the following paragraph:

An employee must notify his/her Appointing Authority in writing of his/her conviction of a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #396-2015**

14. Second reading; New Personnel Policy – Data and Voice Reimbursement (1st read 8-27-15)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby adopt the attached new Personnel Policy – **Data and Voice Reimbursement**.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #397-2015**

Commission

15. 1st & 2nd reading; Appoint Bill Lloyd to the Planning & Zoning Commission

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby appoint the following:

Name	Board	Period
Bill Lloyd	Planning & Zoning	September 1, 2015 through September 1, 2019

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #398-2015**

16. 1st & 2nd reading; Re-appoint the following board members:

- **Richard Shanker and Dan McCray to the Building Code Commission**
- **Jason Hoffman to the Health Trust Committee**
- **Deborah Schnedler to the Regional Sewer District**

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby re-appoint the following:

Name	Board	Period
Richard Shanker	Building Code Commission	August 1, 2015 through August 1, 2017
Dan McCray	Building Code Commission	October 1, 2015 through October 1, 2017
Jason Hoffman	Health Trust Committee	August 1, 2015 through August 1, 2018
Deborah Schnedler	Regional Sewer District	September 1, 2015 through September 1, 2020

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #399-2015**

17. 1st & 2nd reading; Approve Closed Session authorized per RSMo Sec 610.021 (3) at 8:00AM on September 2, 2015

Commissioner Atwill moved on this day the County Commission of the County of Boone does hereby authorize a closed meeting on Tuesday, August 25, 2015, at 2:00 p.m. The meeting will be held in the Conference Room 338 of the Roger B. Wilson Boone County Government Center at 801 E. Walnut, Columbia, Missouri, as authorized by RSMo 610.021(3), to discuss the hiring, firing, disciplining or promoting of particular employee by a public governmental body when personal information about the employee is discussed or recorded.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #400-2015**

18. Public Comment

None

19. Commissioner Reports

None

The meeting adjourned at 8:22 p.m.

Attest:

Wendy S. Noren *mg*

Wendy S. Noren
Clerk of the County Commission

Daniel K. Atwill

Daniel K. Atwill
Presiding Commissioner

Karen M. Miller

Karen M. Miller
District I Commissioner

Janet M. Thompson

Janet M. Thompson
District II Commissioner