

TERM OF COMMISSION: October Session of the August Adjourned Term

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

PRESENT WERE: Presiding Commissioner Don Stamper
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 6:58 p.m.

Subject: Second Reading and Public Hearing for the following Budget Amendments

A. Sheriff’s Department

Commissioner Stamper moved to approve the following budget amendment:

DEPARTMENT ACCOUNT AND TITLE	AMOUNT INCREASE
2540-23001: Sheriff Civil Charges – Printing	\$500.00
2540-23850: Sheriff Civil Charges – Minor Equipment and Tools	\$3,640.00
2540-92301: Sheriff Civil Charges – Replacement Computer Equipment	\$4,170.00
2540-91400: Sheriff Civil Charges – Auto/Truck	\$20,716.00

Said budget amendment is to set up an expenditure account for the use of the Sheriff’s Civil Charges Fund.

Commissioner Miller seconded the motion.

Commissioner Stamper opened the floor for a public hearing.

There was no one wishing to speak on this issue.

Commissioner Stamper closed the public hearing.

There was no further discussion on this budget amendment.

The motion passed 3-0. **Order 421-2002**

B. Prosecuting Attorney's Office

Commissioner Stamper moved to approve the following budget amendment:

DEPARTMENT ACCOUNT AND TITLE	AMOUNT INCREASE
1262-03411: Victim Witness – Federal Grant Reimbursement	\$10,106.00
1262-10100: Victim Witness – Salaries and Wages	\$9,298.00
1262-10200: Victim Witness – FICA	\$711.00
1262-10325: Victim Witness – Disability	\$43.00
1262-10350: Victim Witness – Life Insurance	\$8.00
1262-10400: Victim Witness – Workman's Compensation	\$46.00

Said budget amendment is to establish a budget for the Victim Witness Grant for October 1, 2002 to December 31, 2002.

Commissioner Elkin seconded the motion.

Commissioner Stamper opened the floor for a public hearing.

There was no one wishing to speak on this issue.

Commissioner Stamper closed the public hearing.

There was no further discussion on this budget amendment.

The motion passed 3-0. **Order 422-2002**

C. Collector's Office and Information Technology

Commissioner Stamper moved to approve the following budget amendment:

DEPARTMENT ACCOUNT AND TITLE	AMOUNT INCREASE
1170-10100: Information Technology – Salaries and Wages	\$11,954.00
1170-10200: Information Technology – FICA	\$915.00

1170-10300: Information Technology – Health Insurance	\$742.00
1170-10325: Information Technology – Disability Insurance	\$55.00
1170-10350: Information Technology – Life Insurance	\$9.00
1170-10375: Information Technology – Dental Insurance	\$65.00
1170-10400: Information Technology – Worker’s Compensation	\$40.00
1170-10500: Information Technology – 401(A) Match	\$163.00
1170-03528: Information Technology – Reimburse Personnel	\$13,943.00
2110-71101: Collector – Professional Services	\$13,943.00

Said budget amendment is to establish an expenditure budget to pay salary/wages for new Computer Programmer/Analyst in the Information Technology Department and to establish a revenue/expenditure budget to transfer funds from the Tax Maintenance Funds to the General Revenue Funds to cover the cost of the new position.

Commissioner Elkin seconded the motion.

Commissioner Stamper opened the floor for a public hearing.

There was no one wishing to speak on this issue.

Commissioner Stamper closed the public hearing.

There was no further discussion on this budget amendment.

The motion passed 3-0. **Order 423-2002**

Subject: Planning and Zoning

Commissioner Stamper noted that during Planning and Zoning issues, 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. Request by Bran and Shelly Wooldridge to amend a permit issued on 04/27/1993 for a kennel by reducing the permit area from 9.0 acres to 5.0 acres, located at 9535 I-70 Drive NE, Columbia

Stan Shawver, Planning and Zoning Director, stated this property is located approximately 3 miles east of Columbia on I-70 Drive Northeast. This tract is zoned A-2 (Agriculture). Land to the north is zoned A-2. Land to the east is zoned A-R and REC. Land to the west is zoned A-R. Land to the south, on the other side of Interstate 70 is zoned A-2. This tract is located in the Columbia Public School District. Electric service is provided by Boone Electric Cooperative. Water service is provided by Public Water District No. 9. The original zoning for this tract is A-R. In 1993, 9 acres were rezoned from A-R to A-2 and a conditional use permit was issued for a kennel. This request is to reduce the size of the area covered by the conditional use permit from 9 acres to 5 acres. The master plan designates this area as being suitable for residential land uses. Staff notified 9 property owners about this request.

In order to approve a conditional use permit, the applicant must prove and the Commission must find that the use meets the criteria established by the Boone County Zoning Regulations. The criteria are as follows:

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

In forming its recommendation, staff takes note that there have not been any complaints about the use of this property. Staff recommended approval of the request.

Mr. Shawver stated the Planning and Zoning Commission held a public hearing on this request on September 19, 2002. A motion was made to approve this request, which received 7 “YES” votes and comes forward with a recommendation for approval.

There were no questions of staff.

David Brockhouse, 5881 E. Rocky Point Court, Columbia, was present on behalf of the applicants.

David Brockhouse stated the applicants have submitted this request because they would like to reduce the area of the conditional use permit from 9 acres to 5 acres so they are able to build a home on the back of the property. The existing area of the conditional use permit does currently have a house.

There was no further comment from the agent of the applicant.

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

There was no one wishing to speak on this request.

Commissioner Stamper closed the public hearing.

Commissioner Miller moved to approve the request by Brad and Shelly Wooldridge to amend a permit issued on April 27, 1993 for a kennel by reducing the permit area from 9.0 acres to 5.0 acres, located at 9535 I-70 Drive NE, Columbia.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 423-2002**

B. Request by Bruce M. Bauer to rezone from A-1 (Agriculture) to A-2 (Agriculture) of 20 acres, more or less, located at 3851 E. Biggs Road, Ashland

Mr. Shawver stated this property is located 1 ½ miles northwest of Ashland on Biggs Road, 1200 feet west of State Highway DD. This property is zoned A-1 (Agriculture), and all the surrounding property is zoned A-1. Approximately 700 feet west of the subject tract the zoning changes to A-2. The property is currently vacant but it has been used for agricultural purposes. This site is located within the Southern Boone R-1 School District. Electric service is provided by Boone Electric Cooperative. Water service is provided by Consolidated Public Water District No. 1. The original zoning for this tract is A-1. There have been no previous requests to rezone this property. However, property approximately ¼ mile north east of this tract did not receive approval of a rezoning request in 1995. That property was subsequently developed as a large lot planned development. The master plan designates this area as being suitable for agricultural and residential land uses. Staff notified 12 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: This site is served by Boone Electric Cooperative and Consolidated Public Water District No. 1. A central waste-water system is not available for this site. The developer is proposing the use of individual on-site waste-water systems.

Transportation: Access to the site is from Biggs Road, a gravel, county maintained road. The developer proposes to divide the property into 6 lots, which will add an additional 54 trips per day to this unimproved road. A preliminary design shows a road that would intersect Biggs 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 2 miles from this site.

This property is not adjacent to A-2 zoning. In the past, the staff has recommended approval of a number of A-1 to A-2 rezoning requests. However, most of those requests have been for property directly adjacent to A-2 zoned land. That is not the case here, but as noted above, A-2 zoning lies 700 feet to the west. Staff has some concern that granting this rezoning request will lead to all of the properties on the south side of Biggs Road to be rezoned. Staff recommends that this request be approved.

Mr. Shawver stated the Planning and Zoning Commission held a public hearing on this request on September 19, 2002. A motion was made to approve this request, which received 5 “YES” votes, 1 “NO” vote, and 1 member of the Commission abstained from the vote and comes forward with a recommendation for approval.

Bruce Bauer, 502 Misty Lane, Ashland, was present on behalf of this item.

Bruce Bauer stated he would like to have his request approved so the land can be divided into 2.5 acre tracts.

Commissioner Miller asked Mr. Bauer if he has gotten any closer in reaching a decision on the sewer. Mr. Bauer stated he has not but has spoken with the engineer and they are reviewing the financial aspects.

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

There was no one wishing to speak on this request.

Commissioner Stamper closed the public hearing.

Commissioner Miller stated this request is consistent with the surrounding area and the Master Plan.

Commissioner Miller moved to approve the request by Bruce M. Bauer to rezone from A-1 (Agriculture) to A-2 (Agriculture) of 20 acres, more or less, located at 3851 E. Biggs Road, Ashland.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 425-2002**

C. Petition submitted by Matthew and Angela Sherman to vacate and re-plat Lot 8 County Downes Subdivision Block VI

Mr. Shawver stated when Lot 6 of County Downes Subdivision was platted; there were a number of lots that were created internally. Those lots pre-dated Planning and Zoning. There was concern at the time that the County was land locking and there was nothing that prohibited this from happening. The Sherman's have acquired one of those lots, Lot 8 of County Downes. After their purchase, they were able to successfully negotiate the purchase of one of the included lots. The Sherman's are requesting to vacate Lot 8, so it can be re-platted so that it will encompass the land locked lot and all of their lot.

The Boone County Subdivision Regulations provide that when a subdivision plat does not provide a mechanism to accomplish a re-plat, they are required to submit a vacation and re-plat request to the County Commission. Section 1.8.1.3 of the Subdivision Regulations provides that the County Commission will conduct a public hearing on those matters. Notices were sent out in accordance with Section 1.8.1.3 of the Subdivision Regulations. Before the County Commission can grant a plat vacation and subsequent re-plat, the

County Commission will take into consideration the following criteria:

- Character of the neighborhood
- Traffic conditions, circulation, the proper location, alignment and improvement of streets and roads within and adjacent to the subdivision
- Property values within the subdivision
- Public utility facilities and services
- Will not generally adversely affect the health, welfare or safety of persons owning or possessing real estate within the subdivision to be vacated or surrounding real estate

There were no questions of staff.

Matthew Sherman, 1104 Trobridge, Columbia, was present on behalf of this item.

Matthew Sherman submitted a letter of support from Edward and Gail Jurkowski for this request. If this request is approved, this would eliminate the possibility of building a house.

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

There was no one wishing to speak on this request.

Commissioner Stamper closed the public hearing.

Commissioner Elkin moved to approve the petition by Matthew and Angela Sherman to vacate and re-plat Lot 8 County Downes Subdivision Lot VI. The vacation is not to take place until the re-plat is approved.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. Order 426-2002

D. Request by R. Realty LLC for a permit to allow a salvage yard on 15.13 acres, located at 8250 E. Highway 22, Centralia (Corner of Highway 22 and Schunermeyer Road) APPEAL

Mr. Shawver stated this property is located approximately 3 miles northwest of Centralia at the intersection of State Highway 22 and Schunemeyer Road. This property is zoned M-G (General Industrial), which is the original zoning. Property to the north is zoned A-1 and A-R. To the east, property is zoned A-R. To the south, land is zoned A-1 or A-R. To the west, land is zoned A-1. The master plan designates this area as being suitable for

agriculture and rural residential land uses. This site is located within the Boone County R-5 school district. Public Water District 10 provides water service in this area. Boone Electric provides electricity.

There have been no previous requests submitted on behalf of this site. Staff notified 7 property owners about this request.

At the time zoning came into effect the property was the site of a fertilizer and farm services business. The current use of the property is for storage of old mobile homes that are being salvaged. Staff became aware of the current use of the property through a citizen complaint. Upon further investigation, it was concluded that the property was being used as a salvage yard, which requires a conditional use permit in the M-G district.

The property owner was initially contacted by certified letter dated January 31, 2002. That letter identified the violation and established a compliance deadline of February 27, 2002. The applicant did not respond to that letter. A second letter was sent via certified mail on March 18, 2002. The property owner met with staff on March 22, 2002. During that meeting the owner agreed to submit an application for conditional use permit by April 24, 2002. The property owner did not meet that deadline. Staff sent a third letter to the property owner by certified mail on July 22, 2002. The July 22 letter directed the owner to submit an application for conditional use permit by August 28, 2002. The applicant met that deadline.

In order to approve a conditional use permit, the applicant must prove and the Commission must find that the use meets the criteria established by the Boone County Zoning Regulations. The criteria are as follows:

- (a) The establishment, maintenance or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare.
- (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), operation of salvage yards raises many potential threats to public health and safety. If limited only to the salvage of mobile homes, the type of materials that may be generated by the salvage yard can be limited. However, materials with the potential to cause adverse environmental impacts will be generated by the proposed use. These include refrigerants contained in small appliances, which contain Chlorofluorocarbons (CFC's), used tires and household chemicals that may have been left in the mobile homes by previous occupants such as cleansers, pesticides and solvents. The chemical compounds can leak onto the ground and be transported off-site by storm water. Used tires can be breeding grounds for mosquitoes.

Storing a large number of mobile homes in close proximity to one another can be a fire hazard. Because of its previous use as a chemical plant, a fire on the property will likely cause the release of unknown substances into the atmosphere. This could cause health problems for individuals living near the site.

The accumulation of junk material on the property also creates habitat for rodents and their predators.

As to Criteria (b), all property adjacent to the site is zoned for agricultural and/or residential use. The use of this property as a salvage yard has a strong potential to be injurious to the use and enjoyment of other property in the immediate vicinity. The externalities listed above, regarding criteria (a), whether real or perceived, will degrade the ability of property owners in the area to use and enjoy their property.

As to Criteria (d) the applicant has not provided information indicating that the necessary utilities are available to the site. Of particular concern is water service capable of providing sufficient fire flow for an industrial use.

Staff recommends denial of the request for failure to meet the criteria (a), (b) and (d).

Mr. Shawver stated the Planning and Zoning Commission held a public hearing on this request on September 19, 2002. A motion was made to deny this request, which received 7 "YES" votes and comes forward with a recommendation for denial. The applicant did file an appeal in a timely fashion and is at this meeting on an appeal.

There were no questions of staff.

Malcolm Clayton, 1501 E. Fox Hallow Road, Ashland, was present on behalf of this request.

Malcolm Clayton stated to his understanding of information from the Missouri Department of Natural Resources, is that none of the trailers have any toxic materials in them at all. They were regulated when they were manufactured. When he visited the property, he could not find any air conditioners. He inherited these trailers and had nothing to do with placing the trailers on the property. His sole objective is to obtain a permit because some of the trailers have been damaged to the point he does not believe they are transportable. He will be taking the trailers apart and moving them. The person the property was rented to began to salvage some of the trailers.

Mr. Clayton stated the only way he knows how to move the trailers is to make them smaller because he does not have a way to move a trailer of that size when it has been damaged. The ones that still have complete structures, he has been trying to get rid of them but no one has shown any interest.

Commissioner Stamper asked what has become of the person who rented the property. Mr. Clayton stated the person who rented the property is Wally Cox and this is the third property he has done this to, to his understanding, in Boone County. Mr. Clayton and Mark Stevenson, who is partner in the LLC, have tried to sue Mr. Cox.

Commissioner Stamper asked if Mr. Cox was no longer leasing the site and the property has been taken back under Mr. Clayton's control. Mr. Clayton stated that was correct.

Commissioner Stamper asked how many trailers were left on the property. Mr. Clayton stated he went to the property last Sunday and he counted 43 partial and whole trailers.

Commissioner Stamper asked if the property is held by an LLC, which is combined of Mr. Clayton and Mr. Stevenson. Mr. Clayton stated that was correct.

Mr. Clayton stated if he is given adequate time, they will remove the trailers. They will begin with the trailers in the worst condition first.

Commissioner Elkin asked what a reasonable amount of time is. Mr. Clayton stated he does have a full-time job but does not have the additional funds to work to remove the trailers. He is unsure of Mr. Stevenson's financial status but knows he is working full-time also. They believe they could remove six or so trailers a month from the property. The trailers would be taken apart and the pieces will be put into a dump truck to remove them from the property.

Commission Miller asked Mr. Shawver how long this problem has been known to the

department. This came forward because of a citizen's complaint. Mr. Shawver stated that was correct. The department began receiving telephone calls at the end of 2001.

Commissioner Miller asked what action was taken by the department when the telephone calls were received. Mr. Shawver stated the department investigated the property. Some of the trailers can be seen from Highway 22. The department tracked the property owners through the Secretary of State's Office because the owner is listed as R Realty LLC.

A letter was sent to the corporate officers of the LLC requesting they contact the department to begin a dialogue, which is a standard procedure on any zoning violation.

Commissioner Miller asked what kind of time line this was under. Mr. Shawver stated the first letter requests the property owner to contact the department within 30 days.

Commissioner Miller asked when this was done. Mr. Shawver stated the first letter was send in January 2002. If no there is no response, the department does allow for leeway, a few days either way and then the department will send a second letter. The department received no response to the first letter. A second letter was sent to the property owners requesting they contact the department by the end of March 2002. The property owners did contact the department and staff held a meeting with the property owners. During this meeting, the department told the property owners that if the trailers were going to be salvaged then they would need a conditional use permit. The property owners did not submit an application for a conditional use permit for the next filing deadline. Another letter was sent to the property owners giving them until August 23, 2002 to file or be turned over to the Prosecuting Attorney.

There was no further comment from staff or the applicant at this time.

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

Cindy Bowne, 6800 E. Highway CC, Centralia, was present on behalf of her husband, Marty Bowne, her neighbors, Charlie Palmer, Jerry Sparks, Mrs. P.D. Sappington, and herself.

Cindy Bowne stated her land is zoned A-R. It was prime development land given the proximity to the Sunnysdale Academy.

She noted Mr. Palmer lives directly across from the subject property. Photographs were taken of the subject property and some where taken from Mr. Palmer's front porch. These photographs were submitted to the Public Record. Mrs. Sparks lives across the road and Mrs. Sappington lives down the road.

They have many concerns. One concern is property values. This was an investment that was made on their behalf and passed on to them. Mrs. Bowne currently uses her land for

farming, there is the proximity to Sunnydale and now they have lost the potential of development now. She hopes this potential is not lost permanently.

Mr. Palmer's home is very close to the subject property. Mr. Palmer lives alone and they are concerned about the potential fire hazard of the trailers close to the fence.

Mr. Palmer uses the creek to water his cattle. He is concerned about the trash that may get into the creek and eventually on to his property that he would have to clean up. The creek that runs through Mr. Palmer's property drains into Mark Twain Lake. Mark Twain is a public drinking water facility.

They are not as concerned with the old fertilizer plant, which has been there for a long time. To the best of her knowledge, it was cleaned out fairly well at the time it was abandoned. They are concerned about the rodents that may move into the area and Mr. Palmer has already seen signs of this. This is a prime rodent habitat but it is not a prime feeding area. More likely Mr. Palmer's yard and supplies are their prime feeding area.

The creek is the rodents' prime watering area. They are concerned with the contamination of that public drinking water stream.

Mr. Palmer does not enjoy his property. When he looks out his front door, there is no enjoyment. The buildings that were there before are not a concern and they understand this. Mr. Palmer's late wife worked at the fertilizer plant and he hopes this building will eventually fall down. Mr. Palmer did not anticipate someone coming in and putting things around his home to further trash the property.

Mrs. Bowne noted there were two or three abandoned vehicles on the property when they investigated the subject property.

If the Commission allows for this to continue, the access for this property is a gravel road which passes in front of Mr. Palmer's home. This is a narrow road and you have to cross a railroad crossing to get to the property. There are no lights or barriers for this railroad crossing. If the traffic becomes heavy on this road, there are potential problems with congestion, especially with agricultural equipment.

She is unsure that a Conditional Use Permit is what is needed here because the area has already been salvaged, since all the valuable items have been removed. She believes the salvage has already occurred and this is more of a disposal area. She is unsure if a Conditional Use Permit for a salvage yard will help with the disposal. She believes this will allow for additional infiltration of other items to be salvaged. She is also worried that the time line will be extended. Their first concern is the items closest to Mr. Palmer's home.

They hoped a time line would be set for disposing of the items. She is unsure that disposal

requires a Conditional Use Permit. A clean up plan is different from operating a salvage yard.

Neighbors have seen smoke on the property last winter. They were concerned there maybe someone living in one of the trailers. This was the situation that maybe placing Mr. Palmer in some type of danger.

Commissioner Stamper asked Mrs. Bowne if she has reviewed the County's Zoning Regulations. This property is zoned M-G (General Industrial District). Mrs. Bowne stated she has reviewed them.

Commissioner Stamper asked Mrs. Bowne if she knows what uses are permitted in an M-G zoning area. There are permitted uses that can happen in this zoning that are of far greater significance to property values than these trailers. Mrs. Bowne stated she is aware of these uses but believes each situation should be taken into consideration as it comes forward.

Commissioner Stamper stated the point is if the applicant were not requesting a Conditional Use Permit, there are uses that would never have to go through any hearing process.

There was no further public comment.

Commissioner Stamper closed the public hearing.

Mr. Clayton stated he has asked many people for suggestions on this situation. Someone suggested beginning a used trailers sales operation but he does not want to do this. He does not want to do this and they do not salvage anything. This is not a zoning violation. He just wants to get rid of these trailers and have his land back. He believes this land has the potential to be worth money. He is not in this business; this was inherited.

The reason the application was postponed is because Mr. Stevenson receives all the business mail and was out of the country when the letter was received. Mr. Clayton did not see a letter until March 2002. Since Mr. Stevenson did not take any action, Mr. Clayton took it upon himself to begin the process.

Mr. Clayton stated M-G is a difficult zoning area to come by in this county.

Commissioner Stamper stated this is a mess and there are no good solutions to this situation. The Commission tries to be solution based. This situation has been let go way beyond where it should. The landowners are stuck in this situation. He feels compelled to create a solution and hears Mrs. Bowne's call for a limited scope and not to allow additional units to be brought in or begin a salvage operation. The problem is how to allow the landowners the opportunity to clean this up without creating additional

circumstances or difficulties.

Commissioner Stamper stated it has been suggested in the testimony that this is not necessary and asked Mr. Shawver for comments on this. It seems that this has to be brought into a conforming use unless there is a contractual understanding that can be reached between the landowners and the County.

Mr. Shawver stated there are a number of problems with the mobile homes that are there. He does not believe the applicants have titles to the mobile homes. They would have to go through a process with the Department of Revenue in order to gain titles so the trailers could be licensed and be able to be hauled on the road.

He believes the best solution is to tear down the trailers in place and haul out the material to an approved construction materials landfill. This process will take some time. Under the County's Regulations, this will require a Conditional Use Permit because by definition it would become a salvage operation. He believes the Commission could, if this request is approved, put a time limit on the permit and a target number of trailers that have to be removed per month. The Commission could also not allow for any additional materials to be brought on to the property.

Commissioner Elkin asked if the Commission has to approve a Conditional Use Permit even though the applicant has stated he wants to get dispose of the trailers not salvage them. Mr. Shawver stated he is worried that removing the trailers from the property may be more difficult that it sounds. He is unsure if the person who put the trailers on the property has titles to the trailers or what the arrangement was for this situation. He believes to do everything legally, as an applicant is expected to do, one would have to comply with State laws. The Highway Patrol will pull someone over if they are moving a mobile home on a State Road and the person moving the trailer does not have a license.

County Regulations state new or used cars, mobile homes, travel trailers, boat sales or a storage lot is permitted use in a commercial district, which by extension would be a permitted use in the General Industrial Zoning District. If a sign was placed on the property saying "Used Mobile Homes" could be debated as to whether or not they are even re-sellable, could end up in court having a judge decide whether or not it is considered a junk vehicle. As Commissioner Stamper suggested this is not a good situation. Everyone wants this property cleaned up. The neighbors have put up with this for long enough and he agrees with the neighbors. The property owner cannot do anything with this potentially valuable piece of property with the trailers there. Anything that he wants to do with the land zoned General Industrial; he will have to remove the trailers. Even the buildings will have to be removed and he does not believe the buildings are suitable for any modern use.

Commissioner Elkin asked Mr. Shawver if the Commission did not offer a Conditional Use Permit but allowed the applicant to dispose of the trailers, the only way any action could be take is to have someone file a complaint. Mr. Shawver stated if someone filed an

additional complaint, the County would be required to turn the case over to the Prosecuting Attorney's Office. The Prosecuting Attorney's Office process is similar to the department's process in which a letter would be mailed giving a time limit on cleaning up the property. The Prosecuting Attorney's Office would also attempt to negotiate a clean up period. Until the applicant shows they will not follow the procedures, the Prosecuting Attorney's Office would hold off on filing charges.

Commissioner Stamper stated this would be setting a precedent for a non-conforming use of the land and would be careful about the Commission setting to turn their head and watch a non-conforming use be dealt with.

Commissioner Miller asked if the time can be limited that a Conditional Use Permit is approved for. Mr. Shawver stated that was correct.

Commissioner Miller stated the Commission would have more authority to do a Conditional Use Permit and require no more additional trailers or salvage materials. Where if the Commission did not take action they would have no authority. Mr. Shawver stated that was correct.

Commissioner Stamper stated the only reason the applicant is present is because he was dismantling the trailers. Mr. Shawver stated that was correct.

Commissioner Stamper stated if the applicant chooses to leave the trailers that would be his choice. Mr. Shawver stated this could end up in court asking a judge to determine whether there is a zoning violation under County Regulations and the County's Regulations are a little nebulous in that regard. The only reason the applicant is present is because he wants to dismantle the trailers.

Commissioner Stamper asked Mr. Clayton how long he believes it could take to remove the trailers. Mr. Clayton stated when he last counted there were 43 trailers. He believes only six to eight could be dismantled and moved in a month. This would take eight months at the most to clean up the property. Winter is coming up and this presents somewhat of a problem in making a guarantee to removing a specific number per month. He noted both he and Mr. Stevenson have full-time jobs.

Commissioner Stamper asked what the pleasure of the Commission on this request is.

Commissioner Miller stated she believes a Conditional Use Permit does need to be done because it gives the County more authority. The timeline for this Conditional Use Permit has to be agreed to and has to be the final timeline. If the situation is not resolved then this will be forwarded to the courts or the County can bill the landowner for property taxes. She prefers to work with the applicant because all parties want this land cleaned up. She understand the limits on the landowners when trying to clean up the property on the weekends only.

Commissioner Stamper stated if nothing is done about this situation and a citizen made a complaint, the County would have the authority to abate the hazard. The Commission's desire is not to go down this road.

He noted the Commission needs to be solution based in the sense of knowing there is a solution if the situation is not resolved. He believes a Conditional Use Permit is a solution, which would be limited in its tenure, limit what can happen within the Conditional Use Permit, and limit the time of the Permit. He suggested a 10 month Conditional Use Permit prohibiting any additional trailers being brought on the site.

Commissioner Miller stated 10 months is too long.

Commissioner Elkin stated 10 months is too long and suggested 120 days but with winter approaching this could be a problem for the applicant to clean up the property. He suggested six months as a limit.

Commissioner Miller stated she wants the applicants to be successful and six months may be cutting it close.

Commissioner Elkin stated a half a year is enough.

Commissioner Miller suggested an 8 month time limit.

Mrs. Bowne requested the Commission also add a condition to have the removal begin the trailers closest to Mr. Palmer's home to remove that danger.

Mr. Clayton agreed to this request.

Commissioner Stamper stated it is unusual for the Commission to dictate where a beginning or end is on a Conditional Use Permit.

Commissioner Miller moved approve the request by R. Realty L.L.C. for a Conditional Use Permit to allow a salvage yard on 15.13 acres, located at 8250 E. Highway 22, Centralia, with the following conditions:

- The permit is limited to 8 months
- All mobile homes or other vehicles are to be removed
- There will be no further salvageable material taken to the property

Commissioner Elkin seconded the motion.

John Patton, County Counselor, suggested the purpose of the permit is to remove all materials.

Commissioner Stamper asked if it was Commissioner Miller's intent to have the Conditional Use Permit to expire after an 8 month period. Commissioner Miller stated that was correct.

Commissioner Miller amended the motion to include "The purpose of this permit is to allow for removal of materials from the property."

Commissioner Elkin agreed to the amendment.

The final motion reads as follows:

Now on this day the County Commission of the County of Boone does hereby approve the request by R. Realty L.L.C. for a Conditional Use Permit to allow a salvage yard on 15.13 acres, located at 8250 E. Highway 22, Centralia, with the following conditions:

- The permit is limited to 8 months
- All mobile homes or other vehicles are to be removed
- There will be no further salvageable material taken to the property

The purpose of this permit is to allow for removal of materials from the property.

Commissioner Stamper asked Mr. Clayton if he agreed to this motion. Mr. Clayton stated he does agree.

Commissioner Stamper stated this is not the best situation to be in for any party but a solution has been made.

There was no further discussion and no public comment.

The motion passed 3-0. **Order 427-2002**

E. Receive and Accept the following plats

i. Yates Acres. S3-T49N-R12W. A-2. Charles and Cynthia Yates, owners.

Mr. Shawver stated this is a one lot subdivision on Spiva Crossing Road. Planning and Zoning approved the plat and it is ready to be received and accepted by the County Commission.

Commissioner Elkin moved to receive and accept Yates Acres Plat.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 428-2002**

ii. Tomlin Hill Lakes. S18-T47N-R12. A-2. John A. Gonnerman Trust, owner

Mr. Shawver stated this is a three lot subdivision zoned A-2 (Agriculture) on Blue Bird Lane. Planning and Zoning approved the plat and it is ready to be received and accepted by the County Commission.

Commissioner Miller moved to receive and accept Tomlin Hill Lakes Plat.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 429-2002**

Subject: Authorize a Closed Session

Commissioner Stamper moved to authorize a closed session on Friday, October 4, 2002 at 11:00 a.m. in Room 243 of the Roger B. Wilson Boone County Government Center as authorized by Section 610.021 (2) to discuss the leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefore.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0. **Order 430-2002**

Commissioner Stamper stated he receive a telephone call from Dr. Jay Dix, Medical Examiner, today. Dr. Dix has requested to have a bench placed on the MKT Trail at the Forum entrance or next to Wayne Mountjoy's bench. Commissioner Stamper has spoken with Mayor Darwin Hindman about working together to getting the bench put in place.

There was no public comment.

The meeting was adjourned at 7:59 p.m.

Attest:

Don Stamper
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Skip Elkin
District II Commissioner