

TERM OF COMMISSION: March Session of the January Adjourned Term

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

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

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

Planning and Zoning

1. Request by William A. Scott Trust to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 7.0 acres, more or less, located at 19600 N. Tucker School Rd., Sturgeon.

Mr. Mach stated the subject property is located on Tucker School Road, approximately 3 miles south of Sturgeon. The applicant is seeking to rezone seven acres of a ten acre tract from A-1(Agriculture) to A-2(Agriculture). The remaining three acres are zoned A-2. This tract is split along a section line that divides between A-1 and A-2 zoning districts as established by the zoning map. The property has A-1 zoning to the north, east, and west, with A-2 zoning to the south, all of which is original 1973 zoning. Staff notified 4 property owners about this request.

The purpose of this rezoning is to create a single, uniformly zoned tract for the creation of a smaller lot.

The Master Plan designates this property as suitable for agriculture and rural residential land uses. The Master Plan also identifies a “sufficiency of resources” test for determining whether there are sufficient resources available for the needs of the proposal.

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

Utilities: This property is served by Public Water Service District #10, Boone County Fire Protection District, & Boone Electric Cooperative. This rezoning will not increase demand on available public utilities.

Transportation: Access to this property is via Tucker School Road. The rezoning will not increase traffic to this site.

Public Safety: This property is three miles from the nearest fire station, located to the north in

Sturgeon. This rezoning will not significantly increase risk or require additional service beyond that which is already provided for the current use of the property.

Zoning Analysis: This request is reasonable and consistent with the current use of the property. As a property along the border of A-1 and A-2 zoning districts that is split by a section line, approval of this rezoning will allow for zoning to be consistent on the entire tract. The requirements of the sufficiency of resources test have been met, leading staff to believe that this rezoning is consistent with the policies created by the Boone County Master Plan.

Staff recommends approval of the request.

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

Gary Scott, 19620 N. Tucker School Rd., Sturgeon

Mr. Scott stated his driveway goes through the property. He stated his mother owns the 10 acres, and they are trying to get this done and get his driveway moved before she passes.

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

There were no further comments in favor.

Commissioner Pearson asked for comments in opposition to this request.

There were no comments in opposition.

Commissioner Pearson closed the public hearing.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the request by William A. Scott Trust to rezone from A-1 (Agriculture) to A-2 (Agriculture) on 7.0 acres, more or less, located at 19600 N. Tucker School Rd., Sturgeon.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 145-2009**

2. Request by David L. Sallee for a permit for a sewage lagoon on 5.0 acres, located at 11251 N. Hecht Rd., Hallsville (appeal – tabled 3/3/09)

Commissioner Pearson stated he would like to give staff an opportunity to present new information.

Mr. Shawver stated staff does not have any new information at this time.

Commissioner Pearson opened the public hearing and asked if there was any new testimony in favor of this request.

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

Mr. Sallee stated the lagoon is in compliance with all Department of Natural Resources (DNR) regulations. He stated the Commission should have a copy of the letter from DNR stating he is in compliance with the regulations for a collector wastewater system. He stated he has nothing else to add to this issue.

Commissioner Pearson asked for further new testimony in favor of this request.

There was no further comment.

Commissioner Pearson asked for new testimony in opposition to this request.

Tom Schneider, 11 N. Seventh St., Columbia

Mr. Schneider stated he represents various neighbors in opposition. He stated he has no new information to provide, and he would just like to restate the neighbors' opposition.

Commissioner Elkin asked Mr. Shawver if the lagoon is in compliance with DNR regulations.

Mr. Shawver stated Mr. Sallee has a DNR permit to operate a collector wastewater system.

Commissioner Elkin stated you have to be in compliance to get the permit.

Mr. Shawver stated you have to be in compliance at the time the permit is issued.

Commissioner Elkin asked if the permit is still valid.

Mr. Shawver stated it is.

Commissioner Miller stated the permit became effective December 8, 2006, and it expires December 7, 2011.

Commissioner Pearson stated if it is inspected and is found to be out of compliance, then it must be brought into compliance to keep the permit.

Mr. Shawver stated that is correct.

Commissioner Miller stated it was inspected on October 22, 2007.

Commissioner Elkin stated the permit holder has to send in samples to be checked by DNR.

Mr. Sallee stated he has sent the samples to the appropriate agencies and he is in compliance.

Commissioner Pearson asked for further new testimony in opposition to this request.

There was no further comment.

Commissioner Pearson closed the public hearing.

Commissioner Miller asked where the closest Sewer District facility was located.

Mr. Shawver stated the closest facility is at Cedar Gate Subdivision just outside of Hallsville. It is probably about two miles away.

Commissioner Miller stated she just wanted to make sure there wasn't anything within a reasonable distance that we could require connection to.

Mr. Shawver stated there is not at this time.

Commissioner Elkin stated these two conditional use permits go hand in hand. He stated he thinks they should be taken up simultaneously.

Mr. Shawver stated he understands that logic, but if you approve the lagoon permit and don't approve the mobile home permit, the lagoon permit can still stand on its own.

Commissioner Miller stated it won't hurt anything.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request David L. Sallee for a permit for a sewage lagoon on 5.0 acres, located at 11251 N. Hecht Rd., Hallsville.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 146-2009**

3. Request by David L. Sallee for a permit for a mobile home park on 5.0 acres, located at 11251 N. Hecht Rd., Hallsville (appeal – tabled 3/3/09)

Commissioner Pearson stated he would like to give staff an opportunity to present new

information.

Mr. Mach stated staff has secured aerial photos of the tract from several different years. He stated a photo from 1968 shows there is 1 mobile home on the property. This is prior to Planning and Zoning. A photo from 1977 shows there are 5 mobile homes at the front of the property. This is post Planning and Zoning approval. A photo from 1980 shows there are 7 mobile homes on the property. There is still no sign of the wastewater lagoon at this time. A photo from 1995 shows there are 7 homes on the property, and still no sign of the lagoon. A photo from 2002 shows the lagoon and 7 mobile homes. Mr. Mach stated after this time was when the cleanup of the property began. A photo from 2007 shows there are only 3 mobile homes on the property.

Commissioner Miller stated the County adopted Planning and Zoning in 1973.

Mr. Shawver stated that is correct.

Commissioner Miller stated the map that Mr. Sallee submitted from Boone Electric doesn't show any mobile homes, but we don't have anything from 1973.

Mr. Mach stated we don't have anything between 1968 and 1977 except for the 1973 land use map that was done for the adoption of Planning and Zoning. That map identified 26 mobile home parks. Since then those have all been located and listed. Approximately 20 of them were licensed as of 1999. He stated it is indeterminate at this time whether there were in fact several mobile homes on the property in 1973.

Mr. Dykhouse stated he would like to suggest the Commission consider both March 16 submissions as part of the record along with the photographs. He stated Mr. Schneider also submitted additional information on March 25 that should probably also be considered part of the record.

Commissioner Pearson asked for new testimony in favor of this request.

David Sallee, 3300 Mt. Zion Church Rd., Columbia

Mr. Sallee addressed the following conditional use permit criteria:

Section 15.A(2)(a): whether the establishment, maintenance, or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare: Mr. Sallee stated the health, safety, comfort, and general welfare of the sanctuary residents is the focus of the sanctuary philosophy. He stated Section 13.4 of the ordinance governing mobile home parks states that a fire hydrant shall be installed if the water supply district is capable of serving them. He stated the ordinances were promulgated before the infrastructure was available, so the onus rests on with the Public Water Supply District #4 to meet Planning and Zoning expectations. He stated the reduction of mobile homes put him outside the auspices of the Boone County Fire Protection District. Public Water Supply District #4 provides water in substantial enough quantity to provide a living quality up to the required

levels.

Section 15.A(2)(b): whether the conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations: Mr. Sallee stated the past remains the past. He stated the Sheriff's reports documents the change and improvement at the property. There were a lot reports and complaints about the mobile home park, but they have all been resolved. He stated the people that will be coming in there will be of a caliber readily agreeable to all the neighbors out there. All of them will go through a tough screening process. He stated it doesn't really apply to land use, but he wants everyone to know he is sincere and consistent about what he wants to do.

Section 15.A(2)(c): whether the conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood: Mr. Sallee stated the proposed layout of the mobile homes is clearly outlined in the presented line drawing submitted by licensed surveyors. The property values have been consistent due to geographic character. He stated Exhibit 2A is a topographical map showing high points of elevation. He stated the blue lines indicate gullies/ravines at least eight feet deep. He stated the gullies and ravines that criss-cross the area sorely limit the possibility of any serious agricultural use. Exhibit 2B is an electrical service map that shows multiple electrical meters in service since 2/12/71. Exhibit 2C illustrates increased mobile home use consistent with a mobile home park. Exhibit 2D illustrates improvement on the tract in question and the deterioration of land use to the north due to non-essential land clutter and increase in local use of mobile homes as preferred life styles. He stated Exhibit 2E is an aerial photo that shows the majority use of mobile homes as preferred life styles in the area. He stated public testimony in the hearing on March 3 is erroneous and prejudicial. The positioning of the mobile homes is well within the County guidelines of distance from property lines, roads, one another, etc. He stated Exhibit 2F shows the land use of the property in question has been consistent for the previous thirty-three years as ascribed by the Hallsville, MO, postmaster. He stated there is a note in the Commissioners' packets that states that the Hallsville, MO, post office has been delivering mail to the Miller trailer court on Hecht Rd. for at least thirty-three years. He stated there should also be a copy of a tax statement from Jill Williamson, a state certified residential real estate appraiser, that states that the number of living units on the property was seven mobile homes, and that is what we were paying taxes on from 1971 until 2008.

Section 15.A(2)(d): whether all necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage: Mr. Sallee stated all utilities have been available for the previous thirty years. He stated the provided maps illustrate the roads, road access, and drainage are all present.

Section 15.A(2)(e): whether the establishment of a conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district: Mr. Sallee stated the provided maps and photos indicate the extant land use in the immediate area. He stated the land out there is not suitable for row crops.

Section 15.A(2)(g): whether the conditional use permit shall in all other respects conform to the

applicable regulations of the zoning district in which it is located: Mr. Sallee stated the tract in question is zoned R-S, and is consistent with a mobile home park/sanctuary operation. The proposal conforms to all other applicable regulations of the R-S zoning district. He stated this is a major public necessity. He stated many people in the community have been contacted in regard to the sanctuary's intent. He stated most have a "wait and see" philosophy. He stated Cathy Richards, Public Administrator, told him to give it a year to prove its worth before we talk business. He stated you can walk down 9th Street, go behind Wal-Mart on Conley Rd., or go along the Hinkson Creek, and you will see confirmation of the public necessity for this request.

Mr. Sallee stated he is opposed to some of the clarifications and conditions should this be approved. He stated he does not believe that any engineering plans are required provided this tract is recognized as completely operable and in use for the previous thirty years. He stated it is consistent with the Section 6 exemptions that say that everything that is out there now does not need to be engineered or anything else.

Mr. Sallee read into the record a letter of support from Billy Miller, Jr.: "I, Billy E. Miller, Jr., by my signature below, state and further aver that I and my mother, Thelma Faye Miller, now deceased, did regularly and monthly collect rent on several (approx. 8-10) monthly (sic) dating back to April of 1972. These mobile homes rented for several hundred dollars per month. The Miller Mobile Home Park has been extant and operating, now as "Sallee Post Service Sanctuary", since the above date of April, 1972."

Mr. Sallee stated everything out there is consistent with being a mobile home park, and he asked the Commissioners to consider approving his request so he can get people off of the streets.

Commissioner Pearson asked for further new information in support of this request.

There were no further comments.

Commissioner Pearson asked for further new information in opposition to this request.

Tom Schneider, 11 N. 7th Street, Columbia

Mr. Schneider stated with respect to what existed in 1973, the only evidence of mobile homes is the 1968 photo, which shows one. The Boone Electric material and Hallsville post office material were 1976 and 1977 documents, and therefore are irrelevant. He stated he would also point out that non-conforming uses can be abandoned. In the 2007 aerial photo plainly shows only three mobile homes, so that would appear to be the maximum that would legitimately be non-conforming in any event. He stated the public necessity was broached by Mr. Sallee by saying that homeless individuals could be served better than in the City of Columbia. He stated we have previously indicated that there is simply no social infrastructure in this area. He stated we did not address in the filing the effect that is perceived in terms of fair market value of property in the area, so he would like the neighbors to come and testify to that.

Commissioner Miller asked Mr. Mach to point out each neighbor's property when they come up

so we can see where they live in context to Mr. Sallee's property.

Nancy Bias, 11601 N. Hecht Rd., Hallsville

Ms. Bias stated she is not for this because the last time there were trailers up there, she had license plates stolen off her car, she had her garage broken into. Mr. Sallee has stated he is bringing homeless people out there, and she stated that is fine, but there is nothing for them to do out there. She stated most of the neighbors are gone during the day, and she doesn't want to come home and find her home broken into or anything else damaged. She is afraid that if there are going to be people out there with nothing to do, no way to get around, and have no jobs, that they might cause trouble.

Betty LaRoe, 11211 N. Hecht Rd., Hallsville

Ms. LaRoe stated she doesn't want this out there because she thinks it will lower the value of her property. She stated there will also be noise from people coming and going and talking. She will be able to hear their televisions and radios because she is right next to the property.

Sarah Warren, 11461 N. Hecht Rd., Hallsville

Ms. Warren stated she is about three houses north of the proposed mobile home park. She stated she has a couple of questions. She wonders where the money will come from to pay the rent and utilities on these trailers. She stated she has one mobile home out there on six acres because that is how it is zoned. She stated she is not looking at this from the point of view of looking at what happened in the past. She is looking at it from the point of view of these guys not being homeless because they can't find work. Most of these guys are homeless because they choose to be. She stated they have to choose between their drugs and alcohol as opposed to their food and a roof over their head and most of them choose drugs and alcohol. She stated she knows they need a place to live, but a place in town would be better than in the middle of nowhere. There are no buses or taxis out there. If you go into town and get drunk, you can't get a taxi to take you home. There is very little to sustain these people when they are out there.

Mary Foster, 10721 N. Hecht Rd., Hallsville

Ms. Foster stated she is worried about the property values and safety. She stated she is a nurse and she knows that these people need to be somewhere where they can get help. She doesn't begrudge them somewhere to go, but this is not the place for this. She stated she moved out there because she didn't want to be in the city; she wanted it to be peaceful and quiet. There are a lot of problems with drugs out there already, and it just doesn't seem like a good idea.

Dot Gilberson, 11450 N. Hecht Rd., Hallsville

Ms. Gilberson stated her main concern is she has a teenage daughter who rides her horses and bike in the neighborhood. She stated she is afraid that if this type of thing comes in, the drinking and drugs will be out of control. She has lived there for 26 years. She stated she doesn't mind if

families move out there, but she doesn't want all the drugs and alcohol out there. She stated she lives across the street and has seen more cops this past month than she has seen in the 26 years she has lived there.

Commissioner Elkin stated it sounds like the Sheriff's Department is doing their job.

Mary Knehass, 11461 N. Hecht Rd., Hallsville

Ms. Knehass stated she doesn't have very much because she is on Social Security, but what she has is hers and she would like to keep it. She stated there have been problems out there before with people taking things that didn't belong to them. She stated she knows how alcoholics are when they need a drink.

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

Ms. Corwin stated she was happy to see the trailer park cleaned up. She stated she does have a problem property next to her, and it shows her how difficult it is to get something done if there is a problem. The drug problems in the neighborhood have been a big concern. She has also noticed increased traffic with unusual vehicles of people who don't live there. She stated she also does not have a problem with families living there.

Mary Sloan, 10851 N. Hecht Rd., Hallsville

Ms. Sloan stated everyone who has spoken against this has lived in the area for a minimum of ten years, some more than that. Nobody has ever voiced any objection to two or three mobile homes being out there for families. The objection is the density that Mr. Sallee originally proposed. He originally asked for eight mobile homes, then it became six, then it became four, and in his March 16 submission he asked for four, and now it is down to three. She stated nobody is going to object to three mobile homes on that property and nobody is going to object to having neighbors who are not 100% families. She stated what they are objected to is his desire to keep increasing the number of homes there up to eight. The density of the neighborhood is so out of line with what is out there now. Nobody is putting multiple families on their piece of property. She also stated there has been an increase in traffic out there already. She stated when things go wrong out there, we can't stop the illegal things that are going on very fast, so it makes them very nervous to see the possibility of someone coming in and pushing a little harder. Ms. Sloan stated there are many neighbors out there who refused to come to this meeting because they are afraid of Mr. Sallee; they are afraid of the things that are going on out there; they are afraid of some of the neighbors that are already out there; and they don't want to be seen in opposition to this because they are afraid there will be retaliation.

Commissioner Pearson asked for further comments in opposition.

There were no further comments.

Commissioner Pearson allowed Mr. Sallee a chance for rebuttal.

Mr. Sallee stated all the opposition is fairly understandable. He stated he has requested a one year trial out there not only for the approval of the Commission, but also for the approval of the neighbors. A lot of things have changed in the last four years out there because there has been supervision. He stated the cost of living out there will be shared by the residents, and right now it is covered by him. He stated the concern about it being loud out there is contradicted by the fact that he wants to put this there because it is quiet and he doesn't want to see any of that disrupted. He stated fear of drugs, meth labs, and pedophiles has nothing to do with him. None of that was on his property or on his watch. He stated there are a lot of drugs out there, but none of them are on his property because he will not allow it. He stated he will have a screening process and everyone out there will pass a criminal and psychological background check. He stated what is being promoted is fear of things that are not based on reality, but on bad taste of what has been there in the past. A lot has changed on that tract and all it has taken is consistent supervision. He stated these men will make good neighbors; if he can not be sure of their physical or mental condition then they will not be out there.

Mr. Sallee stated the best way to use the land out there is what he is doing now. He stated if you don't see change in a year, then you can take away his permit. He stated he also takes umbrage at people saying he is threatening people out there. He stated if they fear him that is their problem, not his.

Commissioner Pearson closed the public hearing.

Commissioner Elkin asked if it would be fair to assume that there are dozens of non-conforming uses around Boone County at this current time.

Mr. Shawver stated there is no way to catalog them.

Commissioner Elkin asked if it would be fair to assume that there are some non-conforming uses out there.

Mr. Shawver stated there probably are.

Commissioner Elkin asked what the process would be if a person with a non-conforming use came forward and said they were out of compliance and wanted to come into compliance.

Mr. Shawver stated they would have to get the land rezoned to appropriate zoning. The process for non-conforming uses expired in 2006 when the Commission made the last revision to the zoning regulations.

Commissioner Elkin stated we would treat anyone with a non-conforming use the same way as we would for Mr. Sallee.

Mr. Shawver stated that is correct.

Commissioner Elkin stated they would come forward and apply for rezoning.

Mr. Shawver stated that is correct.

Commissioner Miller stated depending on what the motion is, she cannot support not having the mobile home ordinance process gone through like we would require for anybody. It was developed in 1976; our regulations have been sorely improved on for everything but that and Mr. Sallee probably has everything needed, but it has to go through the process that is outlined in the ordinance. She stated that was something Mr. Sallee requested not to do, and she would oppose that because that is what we would require of anybody that wanted a mobile home park.

Commissioner Pearson stated we could make that a requirement. He stated even though he requested not to do that, we could say you have to do that.

Mr. Shawver stated that was just a clarification as part of the original staff report that he had to comply with the mobile home park ordinance.

Commissioner Miller stated she thinks you have to treat everyone the same.

Commissioner Elkin stated even though it is three units that we are considering, if someone wanted to put three homes on there instead of mobile homes, would that require engineered plans to do that?

Mr. Shawver stated it would. He stated it is a five acre tract of ground and is entitled to only one dwelling under the R-S zoning. To put three houses, the property would have to be subdivided into a subdivision plat. It would require a road design because there is not enough frontage.

Commissioner Elkin asked if there would have to be engineered drawings if it was done parallel to the road instead of perpendicular.

Mr. Shawver stated if it was a long piece it would still have to be platted as a subdivision.

Commissioner Elkin asked if engineered drawings would be required.

Mr. Shawver stated they wouldn't.

Commissioner Pearson asked if the engineered drawings are a requirement.

Mr. Shawver stated they are.

Commissioner Pearson stated they are a requirement of the mobile home park ordinance.

Mr. Shawver stated that is correct.

Commissioner Pearson stated the exemption provision in the mobile home ordinance provides

for time to achieve these.

Mr. Shawver stated the mobile home park ordinance requires that the application include engineered plans. The exemption provision is to provide time for things like lighting, etc. There are no exemptions available for the engineered plans because they are part of the application.

Commissioner Pearson asked for an explanation for why the ordinance states “Where the County Court finds that compliance with provisions of this Ordinance would result in undue hardship, an exemption may be granted by the County Court without impairing the intent and purpose of this Ordinance. Deviations from design, construction and installation provisions shall be brought into compliance with the Ordinance within a period of time established by the County Court not to exceed five (5) years based on economic feasibility of improvement, nature, significance, and extent of deviation, depreciation of material, improvement, and layout in use and other similar factors.” He stated the engineering designs don’t fit into this exemption, but it seems to him that it might.

Mr. Shawver stated engineered plans have to be submitted that shows the design is in compliance with the regulations. That is part of the application. Then they can ask for exemptions from installation of all of the requirements.

Commissioner Pearson asked if the application is part of the ordinance.

Mr. Shawver stated he can’t read into the ordinance words that aren’t there. You can’t make exemptions to a plan that doesn’t exist.

Mr. Dykhouse stated the application section is in Section 2.2. It sets out the application requirements.

Commissioner Pearson asked if that is part of the ordinance.

Mr. Dykhouse stated it is. He stated he is not sure he understands the question. He stated sometimes the word “design” is sometimes a synonym for the words “engineering plans”. Sometimes the word “design” has more to do with where you are actually placing things, and when you read the application requirements it talks about engineered plans, and when you read the exemption language, you end up with the engineered plans giving the roadmap from which the Commission can then negotiate with the applicant to grant a waiver of up to five years to comply with the other aspects of the ordinance. The word “design” in this instance is not a synonym for the words “engineered plans”.

Commissioner Elkin stated his dilemma with this is that seven mobile homes could still be out there and lived in with no rules or regulations like it was before. How would we be handling that if Mr. Sallee hadn’t purchased the land and there would be seven mobile homes still on there? Would we be calling Mr. Sallee or Mr. Miller and saying we need an engineered plan? He stated there have been up to seven mobile homes out there. If nothing had been done would we be sitting here tonight requesting engineered plans?

Mr. Dykhouse stated the discussion of the engineered plans or the mobile home park ordinance is not germane to the discussion for the conditional use permit (CUP).

Commissioner Elkin stated it goes hand in hand.

Mr. Dykhouse stated it is different because the CUP can exist without the details of the mobile home park ordinance being worked out. It is a separate permit and issue than this issue. He stated the legal analysis to the question posed has to do with the zoning ordinance change that Mr. Shawver referenced in 2006, which is that in 1973 until 2006, if you had seven or ten or three or four mobile homes, there was a process where you could go to the Board of Adjustment and have a factual finding that it is in fact a pre-1973 non-conforming use and it would be grandfathered. The decision in 2006 with the ordinance change was that you have until January 1, 2006, to get your application before the Board of Adjustment for non-conforming uses.

Commissioner Elkin stated if the owner at that time would have come in to the Board of Adjustment and said he had seven or ten mobile homes out there, would we have required an engineered plan?

Mr. Dykhouse stated we certainly could have.

Commissioner Elkin stated we have mobile parks all over the County who at one time or another have come in and gotten a permit, and he guarantees that they don't have engineered drawings and they are still functioning and operating. He stated that is his dilemma.

Mr. Dykhouse stated the Commission can make the decision about the CUP tonight and leave the discussion about the engineered plans to another day, because they are not related.

Commissioner Elkin stated he would like the opposition to know that he understands their concerns about the people aspect of this, but this is a land use issue and he could put anyone in there that he wanted to and we can't make a decision based on what type of people we think would be moving in there. He stated if we did that nothing would get rezoned if we considered all of these what ifs. He stated we have to decide if this is a proper use of the land. He stated to him, there have been mobile homes out there for thirty years. It is fifty times better than it was several years ago.

Commissioner Miller stated if this was approved with three mobile homes and Mr. Sallee went through the mobile home park ordinance process and decided he wanted to increase the number of mobile homes, he would have to come back through and get approval.

Mr. Shawver stated there is nothing preventing the applicant from returning with a different request at a future date for an increase in the number of homes.

Commissioner Miller stated the regulations say if you have that increase you have to have the fire flows to go with it.

Mr. Shawver stated that is correct.

Commissioner Miller stated you can't have the increase without the water district bringing water out there.

Commissioner Pearson stated someone could request that, but it wouldn't be accepted without the fire flow.

Commissioner Elkin stated there could be a five year exemption.

Mr. Shawver stated that would be the thing the Commission would have to weigh.

Commissioner Elkin stated part of the requirement says there is a provision for up to five years for improvements. He asked if a fire hydrant would fall under that.

Mr. Shawver stated if you look at the minimum requirements of the ordinance, it is well below what our standards are. He stated the standards are much higher now than when the mobile home park ordinance was written.

Mr. Dykhouse stated further on Commissioner Miller's point, it depends on how the CUP is ordered. If the Commission orders the CUP with a maximum of three units, even if all of the infrastructure is there the CUP that runs with the land has a maximum of three units so the process would be to come back for a CUP change irrespective of the infrastructure.

Commissioner Miller stated the suggested conditions limit the number of units to three, including the unit already present. The mobile home park ordinance states you must meet the ordinance requirements before you place that second unit on the property.

Mr. Shawver stated that is correct.

Commissioner Miller stated you have to have the mobile home park permit before you can place the trailer.

Commissioner Elkin stated the mobile home permit is another issue.

Mr. Dykhouse stated that is correct. He stated he thought the question was getting at whether the neighbors would have an opportunity to comment if there was ever going to be an increase in density to over three, and they would.

Commissioner Pearson stated if you don't limit it to three in the CUP, is the limit then whatever you set provided you have the other requirements met in terms of fire flow and otherwise. For example, the CUP can allow three until fire flow is met, and then it automatically can increase.

Commissioner Elkin stated it can be worded that way.

Mr. Dykhouse stated it could be worded that way, but it would be beneficial if we had an opportunity to take a look at the facts and circumstances at the time.

Commissioner Elkin asked if the CUP could be set at three, then authorizing staff to verify that infrastructure is there before authorizing an increase.

Mr. Dykhouse stated the Commission could enter an order that had some limited range. He stated the problem is at some point the multi-factor test comes back into play with regards to the traffic, or property values, or density. At some point those things other than fire flow might get out of whack, which is why the defensible decision and the decision with the least potential for unintended consequences is to limit the number of units in the CUP that the Commission orders.

Commissioner Elkin stated the dilemma in all of this is that the things we are worrying about that might happen in the future have already been out there for thirty years.

Mr. Shawver stated if the Commission is considering approval, they need to put a limit on the total number. The reason is the mobile home park ordinance gives the owner an opportunity for up to eight units per acre. If the Water District does put a large water line in then the owner could increase the density up to the appropriate level according to the flow. Rather than looking at possibly six or seven units, you would be looking at forty units. He stated that is why you have to limit the number.

Commissioner Elkin asked if the clarifications in the staff report would be part of the findings of fact or part of the actual order.

Mr. Dykhouse stated the clarifications are just a restatement of the laws that exist in Boone County.

Commissioner Elkin asked if it is just part of the ordinance.

Mr. Dykhouse stated they come from various different sources.

Commissioner Pearson asked if we are going to do findings of fact and conclusions of law at this point, or if we are doing a motion.

Mr. Dykhouse stated the process that has occurred in the past is the Commission has made a motion giving direction for staff to prepare the findings of fact and conclusions of law, which would come back before the Commission for approval at another meeting. The thing to do tonight is to make a motion with the conditions the Commission wants and direct staff to prepare findings of fact and conclusions of law for future consideration.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the request by David L. Sallee for a permit for a mobile home park on 5.0 acres, located at 11251 N. Hecht Rd., Hallsville, with the following conditions:

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

Commissioner Miller seconded the motion.

Commissioner Miller asked if we need to stipulate the timing for the dust free surface through the mobile home park permit process.

Mr. Shawver stated that is correct.

Commissioner Elkin stated he would like to add a fifth condition to his motion: That the conditional use permit will be reviewed after one (1) year of issuance of the mobile home park permit.

Commissioner Miller stated she accepts that amendment.

Mr. Shawver asked if the review will be completed by the County Commission, the Planning and Zoning Commission, or by staff.

Commissioner Elkin asked how we have specified that in the past.

Mr. Shawver stated it has been done all three ways in the past.

Commissioner Miller stated she thinks staff should review it and give a report to the County Commission and then we will make the decision.

Commissioner Pearson stated that is fine.

Commissioner Miller stated she would like to say that she thinks three mobile homes are appropriate for this area. She stated the infrastructure is there and it won't be hard for Mr. Sallee to get the engineered part of it because it is done and it is just more clarifying how it will lay on the lot. She doesn't know if she supports six or eight mobile homes on the lot, but she can live with three. She stated since that is the motion, that is why she supports it.

Commissioner Elkin stated Mr. Sallee is asking for a shot and let's see where it is in a year.

Commissioner Miller stated that is a compromise from where this started.

Commissioner Elkin stated if things are a mess out there in a year, we can revoke the permit.

Mr. Dykhouse stated you can revoke the CUP.

Commissioner Elkin stated there are checks and balances.

The motion passed 3-0 **Order 147-2009**

Family Court Services

4. Intensive Intervention Model Program Grant Application

Commissioner Miller stated these are long-standing grants that do not require a county match.

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby authorize the Intensive Intervention Model Program Grant Application.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 148-2009**

5. Probation Services Enhancement Grant Application

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby authorize the Probation Services Enhancement Grant Application.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 149-2009**

6. State Services to Victim Fund Grant Application

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby authorize the Presiding Commissioner to sign the State Services to Victim Fund Grant Application.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 150-2009**

Purchasing

7. Request for Surplus Disposal (first read on 3/26/09)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request for surplus disposal per the attached memorandum. It is further ordered the Presiding Commissioner is hereby authorized to sign said disposal forms.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 151-2009**

Miscellaneous

8. Agreement for Medical Examiner Services (first read on 3/26/09)

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the Professional Services Agreement with Valerie Rao, MD, for expert testimony provided in the State of Missouri v. Rios trial. It is further ordered the Presiding Commissioner is hereby authorized to sign said agreement.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 152-2009**

9. Agreement for Outside Counsel Services (first read on 3/26/09)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the Agreement for Outside Counsel Services with Rogers, Ehrhardt & Weber, LLC. It is further ordered the Presiding Commissioner is hereby authorized to sign said agreement.

Commissioner Elkin seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 153-2009**

10. Authorize Presiding Commissioner to Sign Refund Requests

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby authorize the Presiding Commissioner to sign on behalf of the Commission Tax refund requests supported by the Collector's Office, in the amount of \$1,000.00 or less.

Commissioner Miller seconded the motion.

There was no discussion and no public comment.

The motion passed 3-0 **Order 154-2009**

11. Commissioner Reports

There were no commissioner reports.

12. Public Comment

There was no public comment.

The meeting adjourned at 9:07 p.m.

Attest:

Kenneth M. Pearson
Presiding Commissioner

Wendy S. Noren
Clerk of the County Commission

Karen M. Miller
District I Commissioner

Skip Elkin
District II Commissioner