

TERM OF COMMISSION: May Session of the April Adjourned Term

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

PRESENT WERE: Presiding Commissioner Daniel K. Atwill  
District I Commissioner Karen M. Miller  
District II Commissioner Skip Elkin  
Director of Resource Management Stan Shawver  
Planner Uriah Mach  
County Counselor CJ Dykhouse  
Phebe LaMar  
Deb Diller  
Craig James  
Jennifer Jones  
Sheldon Toepke  
Kristina Jordan  
Cynthia Smith  
Merrilee Barta  
Deputy County Clerk Cameron Clarke

The meeting was called to order at 7:01 p.m.

**Resource Management**

**1. Request by Debra Diller to revise a permit for Riding School and Equine Boarding Facility on 13.1 acres, located at 5950 N Boothe Ln., Rocheport (original permit approved 5/4/10). APPEAL**

Planner Uriah Mach read the following staff report:

The minutes for the Planning and Zoning Commission meeting of April 19, 2012 along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

The following documents are also entered into the record:

- Excerpt from February 18, 2010 minutes of the Planning & Zoning Commission.
- Excerpt from March 2, 2010 minutes of the County Commission.
- Excerpt from March 30, 2010 minutes of the County Commission.
- County Commission Order 164-2010 dated March 30, 2010.
- Excerpt from May 4, 2010 minutes of the County Commission.
- County Commission Order 220-2010 with associated “Findings of Fact and Conclusions of Law” dated May 4, 2010.
- Building permit 61469.
- Building permit 63442.

The subject property is located on a private drive off of Boothe Lane, approximately 6 miles northeast of Rocheport. It is 13.1 acres in size, and has a house, covered riding arena, outdoor riding arena, corral, and a stable on-site. The property is zoned A-1 (Agriculture) and is surrounded by A-1 zoning. This is original 1973 zoning. The master plan designates this area as being suitable for agriculture and rural residential land uses. In 2002, a conditional use permit was granted for a similar facility approximately 800' south of this site. Staff notified 10 property owners about this request.

A conditional use permit for a Riding School and Equine Boarding Facility was granted to the applicant, at this location, in March 2010. That permit was granted with a number of conditions which the applicant is seeking to have modified.

The following conditions are attached to the 2010 conditional use permit:

- 1) The structures utilized by this use are brought into compliance with Boone County's building code and the fire code to the satisfaction of the Director of Planning and Building Inspections, and the Boone County Fire Protection District.
  - a) Structure to be left open except for the side enclosed by stables.
- 2) Limited to 10 horses, including owner's horses.
  - a) Up to 6 additional horses allowed on property when associated with training exercises.
  - b) Any horse present on the property for more than three continuous days, regardless of whether it is being used for training exercises, shall be deemed a boarded horse and count towards the 10 horse limit.
- 3) Operating hours 7:30 AM to 9:00 PM.
- 4) Manure and other waste material shall be disposed of in an appropriate manner so as to create no impact to adjacent properties.
- 5) Access drive shall be at least 18' wide to allow two vehicles to pass.
  - a) Widening to be completed by June 1, 2010.
  - b) Access drive improvements to extend 50' past tract driveway.
  - c) All improvements are at applicant's expense unless other users agree to share in the cost.
  - d) Surface to be a minimum of chip and seal by September 1, 2011.
- 6) Provide off street parking for 5 vehicles.
  - a) Off street parking and interior driveway to be dust free.
  - b) All event parking must be contained on site.
- 7) Portable toilet to be on site.
- 8) Any lighting is to be directed inward and downward.
- 9) County Health Department to be allowed access to sample pond from May to September to determine suitability for full body contact.
- 10) No 3rd party rental of the facility.
- 11) No parties.
- 12) Any overnight stay must be related to a site specific event.
- 13) Plant and maintain two rows of red cedar trees or other suitable evergreens to break up silhouette of the under roof riding facility.

- a) Trees are to be no more than 30 feet apart.
- b) Trees are to have a minimum diameter of 3 inches at grade.
- 14) Revised access and maintenance easement shall be submitted prior to operation.
  - a) Revised access and maintenance easement to be recorded at applicant's expense with the Boone County Recorder of Deeds.
- 15) Amplified sound system not permitted.
- 16) No horse trailers stored on site.

The applicant is requesting a conditional use permit for a riding school and an equine boarding facility as a means to modify the conditional use permit granted in March of 2010.

As of this meeting, the applicant has failed to meet the conditions involving building code compliance, the access road, driveway, and off-street parking surfacing. The applicant has been partially successful in meeting the tree-planting/screening condition.

After a complaint was received, the applicant was notified that some form of action would need to be taken to amend or modify the conditional use permit or it would face revocation by the County Commission due to lack of compliance with the permit conditions. The applicant decided to apply for a new conditional use permit to modify the conditions. The applicant is requesting the conditions be changed to allow for the following:

- Propose an alternative access drive surface and confirm access drive size.
- Request extension to comply with updated zoning conditions.

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 regulations, the use should comply with this criterion. The applicant's architect submitted plans in November 2011, later amended in January 2012. Those plans received an approval in February 2012 by letter from the director of Resource Management. That letter indicated that a building permit application could be submitted with appropriate fees. Compliance with the building code would allow for this criterion to be met.

- (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 current conditional use permit has conditions limiting the hours of operation, lighting, waste disposal, and activity on the site. Those conditions and the requirement for vegetative screening as an effort to screen the covered riding arena are related to success in meeting this criterion. Based on the limited efforts in vegetative screening, this criterion has not been met. Public testimony may provide more information.

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

If operated in conformance with existing county regulations, the use should comply with this criterion. Public testimony may be indicative as to whether this criterion is met.

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

The issue of roads and road access is of note for this use. The subject property does not have direct frontage on to Boothe Lane. It has access to public roads via a private driveway that extends across the tract immediately adjacent to the north and one that lies to the northwest. That private drive, the access drive for the subject property, and the internal circulation roads have not been widened and surfaced to meet the requirements of the current conditional use permit. This criterion has not been met.

(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 property has already developed in compliance with the present zoning of the area (A-1). The establishment of this conditional use permit will not impede the further development of this area unless a rezoning to a higher density is sought for 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.

Issues with the conditions related to the private drive off of Boothe Lane indicate that while congestion is not a problem, dust and speed are. The conditions related to the private drive should be sufficient to deal with these issues.

(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.

Zoning Analysis: Conditional use permits are structured to allow the governing bodies to approve uses that may be appropriate in the zoning district but which require special review in order to determine whether the proposed use will have an adverse impact on the surrounding area. In 2010, the Planning & Zoning Commission and County Commission approved this use with a substantial list of conditions and a schedule for compliance with those conditions. The applicant has failed to meet that schedule. The action that has been taken by the applicant to meet the requirements of the current conditional use permit has been limited in scope and success. That said, there is no reason to offer additional time for compliance. Per the current conditional use permit, conditions **a), e), f), and m)** have not been met. Those conditions deal with building & fire code compliance, access drive widening & surfacing, off-street parking/internal circulation, and vegetative screening.

Staff recommends denial of the request and termination of the conditional use.

If the Commission desires to approve the conditional use permit, staff has the following conditions:

- 1) The structures utilized by this use are brought into compliance with Boone County's building code and the fire code to the satisfaction of the Director of Resource Management and the Boone County Fire Protection District.
  - a) Structure to be left open except for the side enclosed by stables.
- 2) Limited to 10 horses, including owner's horses.
  - a) Up to 6 additional horses allowed on property when associated with training exercises.
  - b) Any horse present on the property for more than three continuous days, regardless of whether it is being used for training exercises, shall be deemed a boarded horse and count towards the 10 horse limit.
- 3) Operating hours 7:30 AM to 9:00 PM.
- 4) Manure and other waste material shall be disposed of in an appropriate manner so as to create no impact to adjacent properties.
- 5) Access drive shall be at least 20' wide to allow two vehicles to pass.
  - a) Widening to be completed by June 1, 2012.
  - b) Access drive improvements to extend 50' past tract driveway.
  - c) All improvements are at applicant's expense unless other users agree to share in the cost.
  - d) Surface to be a minimum of chip and seal by July 1, 2012.
- 6) Provide off street parking for 5 vehicles.
  - a) Off street parking and interior driveway to be dust free.
  - b) All event parking must be contained on site.
- 7) Portable toilet to be on site.
- 8) Any lighting is to be directed inward and downward.
- 9) County Health Department to be allowed access to sample pond from May to September to determine suitability for full body contact.
- 10) No 3rd party rental of the facility.

- 11) No parties.
- 12) Any overnight stay must be related to a site specific event.
- 13) Plant and maintain two rows of red cedar trees or other suitable evergreens to break up silhouette of the under roof riding facility.
  - a) Trees are to be no more than 30 feet apart.
  - b) Trees are to have a minimum diameter of 3 inches at grade.
  - c) Plantings to be completed by June 1 2012.
  - d) Any diseased, dead or dying trees must be replaced within one growing season.
- 14) Revised access and maintenance easement shall be submitted prior to operation.
  - a) Revised access and maintenance easement to be recorded at applicant's expense with the Boone County Recorder of Deeds.
- 15) Amplified sound system not permitted.
- 16) No horse trailers stored on site.

The Planning & Zoning Commission conducted a public hearing on this request during their April 19, 2012 regular meeting. There were ten members of the commission present.

Following the public hearing, a motion was made to recommend denial of the request. The motion to deny the request passed with a unanimous vote.

The applicant has filed a timely appeal of the recommendation for denial.

Commissioner Atwill opened the public hearing on this item.

Phebe LaMar, attorney for the applicant was present to speak on behalf of this item. Ms. LaMar stated Deb Diller is the owner of Horsin' Around. Ms. LaMar stated Ms. Diller was originally granted a Conditional Use Permit in March 2010, and it was finalized May 4, 2010. Ms. LaMar stated at that time, it was found that use of the property in this way would not be detrimental to, or endanger the public health, safety, comfort, or general welfare, would not prevent neighboring property owners from being fully able to utilize their properties, nor would it impair the property values of the existing properties in the neighborhood. Ms. LaMar stated Ms. Diller has attempted to, and/or complied with nearly all of the conditions that were included in her original conditional use permit. Ms. LaMar stated we should start by going through a very brief timeline of events. Ms. LaMar stated on March 30, 2010 the County Commission approved the permit. Ms. Lamar stated Ms. Diller got in touch with the engineers on March 31<sup>st</sup>, had emails back and forth with them, and obtained a driveway permit in April 2010. Ms. LaMar stated in April and May 2010, Ms. Diller widened the driveway to the 18 feet that was required, and installed trees in May 2010. Ms. LaMar stated Ms. Diller initially worked diligently to try to meet the requirements of the conditional use permit, and was not trying to get around those requirements in any way. Ms. LaMar stated the first requirement is that the structures utilized by this use must be brought into compliance with the building code and fire code to the satisfaction of the Director of Planning and Building Inspections. Ms. LaMar stated Ms. Diller attempted to comply with this; she got permits and built a

building, but unfortunately was a victim of an unscrupulous contractor who did not comply with all of the requirements he was supposed to comply with. Ms. LaMar stated Ms. Diller is not familiar with the building code, and did not know what was going on until it was too late. Ms. LaMar stated Ms. Diller has been in a position to try to undo what happened as a result of what the contractor did. Ms. LaMar stated Ms. Diller didn't realize there had been no building permits, or that it was not in compliance with what she was supposed to do until it was already done. Ms. LaMar stated as a result, the building that was constructed was an A-4, when her permits were for an A-1. Ms. LaMar stated Ms. Diller has not been in compliance with the A-4 requirements. Ms. LaMar stated she found out about this, and has got bids and done the background work necessary in order to become compliant, but then realized she was running up against a timeline as far as getting the road constructed. Ms. LaMar stated that's not to say Ms. Diller doesn't realize the importance of those, and she fully intends to comply with these requirements. Ms. LaMar stated Ms. Diller is a teacher and this is a part time thing for her. Ms. LaMar stated Ms. Diller is not trying to manipulate the system; she just hasn't been able to get it done. Ms. LaMar stated Ms. Diller is more than willing to comply with what is necessary to bring the building into compliance. Ms. LaMar stated Ms. Diller has complied with the limitation on the number of horses, and is happy to continue to comply. Ms. LaMar stated the operating hours are from 7:30 a.m. to 9:00 p.m. just as allowed, and there has been no question about that. Ms. LaMar stated there has been no issue with the manure and other waste materials. Ms. LaMar stated Ms. Diller widened the access drive to 18 feet, thinking initially that's what was necessary. Ms. LaMar stated it's unfortunate she didn't realize it needed to be 20 feet, because it would have been cheaper to widen it at the time it was widened to 18 feet. Ms. LaMar stated Ms. Diller is willing to widen it to the 20 feet. Ms. LaMar stated the issue is that she started to go out and get bids in 2010, and then again talked to contractors in 2012 with regard to the chip and seal requirement. Ms. LaMar stated unfortunately at the time she originally came to the Commission in 2010, she was unaware of a couple of things about the chip and seal. Ms. LaMar stated Ms. Diller was unaware of the cost of how much it would be put in a chip and seal driveway. Ms. LaMar stated the second issue is how much it would cost to maintain a chip and seal driveway with the grade on this particular driveway. Ms. LaMar stated if there is not a lot of grade to the road, it makes a big difference in what is necessary to make a chip and seal driveway feasible. Ms. LaMar stated she knows there are County maintained chip and seal roads, but there is a budget for maintenance. Ms. LaMar stated we're talking about a drive that would go from very little maintenance to a road with a lot of maintenance. Ms. LaMar stated that would make it more difficult/impossible to operate this facility, and frankly more expensive for the neighbors who must maintain the driveway in addition to her client. Ms. LaMar stated while Ms. Diller is responsible for maintaining her half of the cost of the maintenance on the road, she is only responsible for half, not the entire cost of the maintenance. Ms. LaMar stated she realizes there are people who are concerned about dust, but we have to keep in mind that this driveway is off of a gravel road. Ms. LaMar stated several of the neighbors are within about the same distance of Boothe Lane (gravel road) as they are of the driveway. Ms. LaMar stated it makes sense to minimize dust to the extent that it's feasible and reasonable, but in this case due to the grade of the driveway it isn't feasible to chip and

seal the driveway.

Commissioner Elkin asked if she had bids for the chip and seal, and cost estimates for the annual maintenance of that.

Ms. LaMar stated Ms. Diller has gotten bids for the chip and seal, and it was about \$40,000. Ms. LaMar stated they didn't give her an annual estimate of the cost, but you're going from a little to no maintenance road, to one that must have the chip and seal redone ever few months. Ms. LaMar stated the only portion of this Ms. Diller cannot comply with is the chip and seal requirement. Ms. LaMar stated having the widening done by June 1 is pushing it, but is happy to try to do it as soon as possible. Ms. LaMar stated the next requirement is that they provide off-street parking for five vehicles, and that has been done. Ms. LaMar stated if they don't chip and seal the driveway, it doesn't make a lot of sense to chip and seal the parking lot. Ms. LaMar stated she would be happy to discuss other methods to make the parking lot dust free. Ms. LaMar stated it stays relatively damp in this area because they clean the horses, so she's not sure dust is a really big issue. Ms. LaMar stated the next requirement is that lighting be directed inward and downward, and that has already been done. Ms. LaMar stated there is a portable toilet on site, and it will continue to be. Ms. LaMar stated the County Health Department is allowed to access the lake to the extent they want to. Ms. LaMar stated there are no third party rentals or parties. Ms. LaMar stated the overnight stays, if there are any, are related to a site specific event. Ms. LaMar stated with regard to the trees, her client misunderstood the requirement. Ms. LaMar stated there is no way to get around a misunderstanding except to say I'm really sorry, and I wish I had understood it better. Ms. LaMar stated Ms. Diller interpreted the requirement to mean two rows of cedar trees, and put in a row along two different walls. Ms. Diller stated at the same time she planted the trees along the walls, she also planted trees in additional areas. Ms. Diller stated it's unfortunate it wasn't in a row next to the building. Ms. Diller showed some pictures of the trees Ms. Diller planted. Ms. LaMar stated this is something she can comply with. Ms. LaMar stated her client is in a position that doing it right now is not the best time of year to do that. Ms. LaMar stated her client will have a tremendous outlay of expense trying to widen the road and get the other safety issues complied with. Ms. LaMar stated as a result, it would be beneficial to give Ms. Diller an extension to get the trees planted. Ms. LaMar stated her client has already done the revised access and maintenance easement, and it was recorded in December 2010. Ms. LaMar stated Ms. Diller is not using an amplified sound system, and there are no horse trailers stored on site. Ms. LaMar stated it's unfortunate Ms. Diller didn't have a better understanding earlier on in this process how she should proceed. Ms. LaMar stated it's also unfortunate she doesn't have unlimited funds; however, she's a teacher and she has horses. Ms. LaMar stated Ms. Diller is an ideal person to provide the services and do what she has proposed to with her property. Ms. LaMar stated Ms. Diller has not maliciously tried to ignore the requirements of the Conditional use permit she was given. Ms. LaMar stated Ms. Diller has complied with the requirements, and attempted to comply with the conditions she did not. Ms. LaMar stated her client is asking the Commission to be patient with her in what turned out to be a less than ideal circumstances as she seeks to comply with the



remainder of the requirements. Ms. LaMar stated her client is also asking the Commission to reconsider the requirements regarding chip sealing the driveway and parking. Ms. LaMar stated Ms. Diller didn't know early in 2010 what she knows now, which is that the option is not feasible for this driveway. Ms. LaMar stated taking that into consideration; her client is now asking that the Commission only waive that requirement. Ms. LaMar stated she and Ms. Diller are both present to answer any questions.

Commissioner Elkin asked what the difference is between A-1 and A-4.

Mr. Shawver stated the building was built as a U use. Mr. Shawver stated the building was built without a permit, and classified as a U use when they did get a permit. Mr. Shawver stated a U use is strictly for individual use. Mr. Shawver stated to use the building for the classes; it would need to be classified as an A-4 (assembly) use. Mr. Shawver stated an assembly use means that people are inside the building that are unfamiliar with the building.

Commissioner Elkin stated he's confused, and asked what the difference is between A-1 and A-4.

Mr. Shawver stated the building was never an A-1 building; it was classified as a U building. Mr. Shawver stated an A-1 building is a church building.

Commissioner Elkin confirmed it went from a U to an A-4. Commissioner Elkin asked what the requirements for an A-4 are.

Mr. Shawver stated that would require a change of use in the building, and when a change of use is proposed a design professional is required to do an analysis of the existing structure, conditions that exist, and determine what is necessary to convert the building from that use to a different use.

Commissioner Elkin asked for examples of A-4 uses. Commissioner Elkin stated while he's looking that up, he sees an estimate for chip seal from Christensen Construction for \$15,000, and one from Frech for \$44,000, that's a huge difference. Commissioner Elkin stated when Frech bids on County projects they're neck and neck.

Mr. Shawver stated Frech includes the widening and the chip and seal as separate line items. Mr. Shawver stated Christensen doesn't include the widening. Mr. Shawver stated an A-4 assembly use is intended for: viewing indoor sporting events and activities with spectator seating including but not limiting to skating rinks, swimming pools and tennis courts. Mr. Shawver stated A-1 is like movie theaters and so forth.

Commissioner Elkin confirmed A-4 is the least restrictive place of assembly.

Mr. Shawver stated yes.

Commissioner Elkin asked if she was just raising and riding her own horses, if it would stay under a U use.

Mr. Shawver stated it would.

Commissioner Elkin asked what would happen if she just boarded horses.

Mr. Shawver stated it would still be under the U use.

Commissioner Elkin confirmed the Christensen bid was just for the chip seal, and Frech had all of the excavation and widening.

Mr. Shawver stated yes, that was documentation Ms. Diller submitted to the Planning and Zoning Commission.

Commissioner Elkin asked why the road condition changed from 18 to 20 feet wide.

Mr. Shawver stated to accommodate the change of use to the A-4 classification. Mr. Shawver stated when Architect Brian Connell did the Chapter 34 analysis; he found that the building could not conform to A-4 requirements, so he proposed an alternative six conditions to make the building nearly suitable. Mr. Shawver stated one of those conditions was to construct a 20 foot fire line within 150 feet of all parts of the perimeter of the structure, post a fire lane and apparatus adjacent to the structure, and provide a turnaround.

Commissioner Elkin confirmed that the 20 foot is a fire lane.

Mr. Shawver stated yes, it is fire lane access.

Commissioner Atwill stated he's curious to know why we would require chip and seal, when the road leading to it is gravel.

Mr. Shawver stated the Commission conducted a number of work sessions with the applicant and neighboring property owners, and one of the issues that came up was dust. Mr. Shawver stated the Commission compromised and allowed a chip and seal surface.

Commissioner Atwill asked if he was correct in believing the County doesn't chip and seal roads anymore.

Mr. Shawver stated we do apply chip and seal on our roads.

Commissioner Atwill stated it is disfavored though.

Mr. Shawver stated it's not the best surface.

Commissioner Elkin stated it's high maintenance and adds up. Commissioner Elkin stated we're getting better at it because we're improving the drainage systems.

Commissioner Miller stated it's not meant for 100 cars per day, but it works fine for 20-30 cars per day.

Commissioner Elkin stated light cars, not trucks. Commissioner Elkin stated if horse trailers and cattle trucks, and propane trucks drive on it, it will crumble. Commissioner Elkin stated without an adequate base, and with Missouri winters this road will crumble quickly.

Ms. LaMar stated you can combine that with the grade on this road, and it makes it that much worse.

Commissioner Atwill asked what the traffic count was on this driveway.

Ms. Diller stated there are four residences off it. Ms. Diller stated one residence is a retired couple, one carpools so there is only one car, and the other two have two vehicles.

Commissioner Atwill asked how many people per day visit Horsin' Around.

Ms. Diller stated it varies between none and maybe four.

Commissioner Atwill asked if that number is higher in the summer.

Ms. Diller stated not particularly, in the summer we have summer camp so parents come out in the morning and pick the kids up in the evening.

**Craig James** was present to speak in favor of this item. Mr. James stated he lives on Boothe Lane, and helps maintain the site by doing some cleaning and farmhand work. Mr. James stated we try to maintain a very clean facility. Mr. James stated the drive is gravel, as is the road that leads to it. Mr. James stated we put in five railroad ties for parking spaces. Mr. James stated we put a lot on concrete in to support the building. Mr. James stated this is a very low impact and clean facility. Mr. James stated we do have horses there, and the kids come out and ride them. Mr. James stated he has seen a lot of wayward children come out, and the relationship with the horses has changed their lives. Mr. James stated most of their clients are ladies who come out and do natural horsemanship and board their horses. Mr. James stated he thinks there could be a lot worse things in Boone County besides this. Mr. James stated you can see by the pictures how we maintain the facility. Mr. James stated it's cleaned everyday, and there is a manure spreader to dispose of the manure. Mr. James stated the kids and ladies come out to board, clean, and ride the horses. Mr. James stated this is a small business, and if we were to have to put in the chip seal that would be a huge economic impact. Mr. James stated we have people who bring hay, and have veterinarians come out. Mr. James stated

we have had some birthday parties for kids. Mr. James stated there are some kids that would never get to experience equine if they didn't have something like this. Mr. James stated he has taught kids for several years himself, and he can see the difference it makes in the kids. Mr. James stated he has seen kids change just by having this facility and interacting with the horses. Mr. James stated Ms. Diller has spent over \$9,000 just on the landscaping brick alone. Mr. James stated he honestly thought it was ten trees on each side himself. Mr. James stated we tried to do that, and actually put in 25 extra trees. Mr. James stated we lost a lot of the trees last year with the terrible drought. Mr. James stated we live on top of a hill, so the barn can be seen. Mr. James stated he knows we can't afford the chip seal, and it would probably shut Ms. Diller's small business down. Mr. James stated he's in full support of this, and people have seen it's a very low impact facility. Mr. James stated there might be three, maybe four cars at the very most. Mr. James stated there is no dust that comes off of the private drive, because you can only go about five miles per hour. Mr. James stated he's just asking the Commission to reconsider this, and think about what it really is. Mr. James stated he believes this is a very positive thing for Boone County.

Commissioner Atwill asked if Mr. James was there in 2010.

Mr. James stated he had just gotten there. Mr. James stated he was there when Red Methaney had talked to Ms. Diller about the building permit. Mr. James stated he told her she wouldn't need a permit because it was an as-is structure. Mr. James stated he also told her that as an add on to a structure that already has a permit, she wouldn't need another permit. Mr. James stated Ms. Diller is not the expert, the contractor is supposed to be. Mr. James stated the contractor mislead her, probably to get the contract and money to build the facility. Mr. James stated Ms. Diller is an excellent teacher, but she was mislead.

Commissioner Atwill asked if the same neighbors are still present in the neighborhood.

Mr. James stated yes.

Commissioner Atwill asked if they have all been spoken with.

Mr. James stated we have had meetings with them at one time, and went to a few of their houses. Mr. James stated we had one meeting at our house in the yard several months ago. Mr. James stated the relationship Ms. Diller used to have with her neighbors was as brothers and sisters, but unfortunately the neighborhood relationship has been diminished completely because of something. Mr. James stated Ms. Diller always had this place graded for this arena, even before he got there. Mr. James stated he thinks the neighbors knew she was going to have a riding arena, but they didn't realize it would be this big. Mr. James stated if the Commissioners would come out and look at it they would realize it's nothing more than a barn and ten stables.

Commissioner Miller stated the Commissioners have all been out there.

**Jennifer Jones** was present to speak in favor of this item. Ms. Jones stated she is speaking as a boarder and horse owner who keeps her horse at Horsin' Around. Ms. Jones stated she is also a friend and student of Ms. Diller. Ms. Jones stated her son goes to Ms. Diller's camps. Ms. Jones stated she was very impressed by the camp; the camp was amazing and the structures are beautiful. Ms. Jones stated she was impressed with everything she saw, but especially Ms. Diller's teaching ability. Ms. Jones stated she fully trusts Ms. Diller with the care of her son. Ms. Jones stated the facility is safe, clean, and the camp has taught her son responsibility and built his character. Ms. Jones stated they had her son's birthday party there, and it was a hit. Ms. Jones stated all of the parents were talking about how clean it was, and how impressed they were. Ms. Jones stated as a friend and student of Ms. Diller's, you can tell Ms. Diller really loves horses because of the quality of care they receive, and the quality of the environment. Ms. Jones stated the facility is very clean, it doesn't smell, and the flies are minimal. Ms. Jones stated Ms. Diller is a born teacher. Ms. Jones stated she has learned more about horses with Ms. Diller than she could've imagined. Ms. Jones stated she is a new horse owner since November. Ms. Jones stated because of Ms. Diller's knowledge, guidance, and help, she was able to rescue a horse from the humane society. Ms. Jones stated she has become a better horse owner because of Ms. Diller. Ms. Jones stated without this facility, she will no longer have this viable resource. Ms. Jones stated she also believes if the facility has to close, she will no longer be able to keep her horse. Ms. Jones stated without Ms. Diller's knowledge, she can't do what she needs to do safely. Ms. Jones stated Ms. Diller's facility is her home away from home. Ms. Jones stated it's her comfort, and a place that makes her happy.

**Sheldon Toepke** was present to speak in favor of this item. Mr. Toepke stated he and his wife own property the north of Horsin' Around, and they fully support her request for the change from the chip and seal. Mr. Toepke stated the three other parties that use that lane all have gravel driveways, so we all haul in rock every year. Mr. Toepke stated if Ms. Diller were to sell in the future, they are looking at how to protect themselves if there was a different owner. Mr. Toepke stated we're looking at the expense of having to maintain the chip and seal. Mr. Toepke stated if he had known more about that at the time of the original conditions, he would have commented then. Mr. Toepke stated it has only been more recently that they have understood that. Mr. Toepke stated again, we support her, and hope the Commission will look at alternative methods to keep dust down.

Commissioner Atwill asked if Mr. Toepke was in favor of the chip and seal in 2010.

Mr. Toepke stated we didn't object, but we didn't know the cost, or that there are alternative methods to keep the dust down like the magnesium-chloride.

Commissioner Elkin asked if the conditional use permit would transfer to a new owner.

Mr. Shawver stated conditional use permits stay with the land.

Commissioner Atwill stated that he would request comments by previous people not be duplicated. Commissioner Atwill stated people should just say they agree with the previous comments if that what there intent is.

**Kristina Jordan** was present to speak in favor of this item. Ms. Jordan stated she is an Equestrian Studies major at Stephens College, and she just wants to speak briefly about owning a horse at Horsin' Around. Ms. Jordan stated she has owned her horse for six years, and moved from the small town of Carney, Missouri. Ms. Jordan stated it was hard to find a place that provides such adequate care. Ms. Jordan stated her horse has been on star rest for over a month now, and Ms. Diller has gone out of her way to make sure the care he needs is provided for him. Ms. Jordan stated she hasn't found such service anywhere else. Ms. Jordan stated she boarded at a different place a year ago, and it was hard to make sure he received the care he needed. Ms. Jordan stated she found that care at Horsin' Around. Ms. Jordan stated if the chip and seal is required, it could put Ms. Diller out of business and said she will need to find a new place for her horse. Ms. Jordan stated she doesn't think she can find a place that will provide as good of care as Ms. Diller has given.

**Cynthia Smith** was present to speak in favor of this item. Ms. Smith stated she has been a boarder for a long time, and has boarded at some of the best training facilities in Oklahoma. Ms. Smith stated she has boarded in Callaway, Boone, and Howard counties. Ms. Smith stated Horsin' around is one of the nicest facilities she has had the privilege of working with. Ms. Smith stated she hopes she won't need to find a new boarding facility for her horse. Ms. Smith stated she works for a large insurance agency in town, and she travels a lot. Ms. Smith stated it's nice to know that when she leaves town her horse is being taken care of. Ms. Smith stated the cedar trees required block the look to the turnout where the other horses go. Ms. Smith stated horses are social creatures, so if they're all out in paddocks it's a lot easier on us if they can see the other horses. Ms. Smith stated if we plant enough trees to block that look, it raises a safety issue for those of us riding in the arena. Ms. Smith from a beautification thing you may not want to look at the arena, but for those who have horses, we would prefer to not get thrown on the ground.

**Merrilee Barta** was present to speak in opposition to this item. Ms. Barta stated she lives to the east of the subject property. Ms. Barta stated she would like the conditions agreed to two years ago to be implemented. Ms. Barta stated the slope of the road is an issue. Ms. Barta stated if there was work that needed to be completed such as crowning or ditches to prepare the road for chip and seal before, there was plenty of dirt. Ms. Barta stated Ms. Diller hauled all of the dirt to her property for personal use. Ms. Barta stated her big concern was a complete lack of research. Ms. Barta stated Ms. Diller was told two years ago she had to do chip and seal, and she could have done more research while she was winding the road to see what was required for chip and seal. Ms. Barta stated we had ditches on the road until it was winded. Ms. Barta stated the road has eroded, and made its own ditch. Ms. Barta stated Ms. Diller didn't bring in more rock to try to slow it down. Ms. Barta stated there are a couple of water places. Ms. Barta stated she brought

up putting concrete over it as a group, but it was denied at the time. Ms. Barta stated it was brought up again at the meeting a month ago, and there are two places with the water issue. Ms. Barta stated her husband tried to grade it last spring, but there wasn't enough rock. Ms. Barta stated they thought it was still waiting to be chip and sealed. Ms. Barta stated if she needed more rock at that time she should've requested it. Ms. Barta stated the other lack of research happened with the A-1 to A-4 permit. Ms. Barta stated Ms. Diller had summer camps at this property for several years. Ms. Barta stated she is unsure why it was permitted for personal use only when she had already been running these camps. Ms. Barta stated the extra trees they planted were in the valley. Ms. Barta stated they have trees there on their side for shade. Ms. Barta stated the trees are on a very steep hill, so there is no way they would block any view of the building. Ms. Barta stated before Ms. Diller built the building, her husband informed her about getting a permit. Ms. Barta stated their neighbor to south had also gone for a conditional use permit and learned about that. Ms. Barta stated she doesn't understand why it wasn't understood that there would need to be a permit for people to be in the building. Ms. Barta stated when we had the blizzards in 2010 and 2011, her husband cleared snow off of everybody's driveway to their personal houses, and the community road. Ms. Barta stated we have tried to be neighborly. Ms. Barta stated a couple things have happened directly related to them that make it difficult to be neighborly.

Commissioner Elkin asked what happened.

Ms. Barta stated Ms. Diller did a couple things to her that she would not like to share here. Ms. Barta stated we still try to wave and they still look away. Ms. Barta stated she wishes there had been a lot more research done ahead of this. Ms. Barta stated a metal building would have been plenty tall enough for horses, with less of a profile. Ms. Barta stated she knows some people with a metal horse building, and it's a lot lower. Ms. Barta stated it will be a long time before the trees grow and block everything, but she still thinks it's a good idea.

Commissioner Elkin asked if all of the conditions were to be met, would she still be opposed to what they're doing out there.

Ms. Barta stated no, she would just like the conditions met. Ms. Barta stated they keep it clean, and the conditions help keep everything clean.

Commissioner Miller asked if the Gerzen property is chip and sealed.

Mr. Shawver stated the Commission placed a requirement that they chip and seal. Mr. Shawver stated Mr. Gerzen decided to go ahead and do an asphalt surface.

Commissioner Elkin asked what the length of their driveway is.

Mr. Shawver stated about 700 feet long.

Mr. Mach stated if he is recalling correctly, it is about 750 feet long. Mr. Mach stated it is between one-third to one-half the length of this drive.

Commissioner Atwill asked if the driveway goes to the Diller's entrance.

Mr. Mach stated yes, the requirement is for it to be chip and sealed 50 feet past the drive to her house.

Commissioner Miller asked who the four parties are that participate in paying for the upgrades to the drive.

Mr. Mach stated the Barta's, the Diller's, the Toepke's, and the Greyhouse's.

Commissioner Elkin asked if the maintenance agreement encompasses all four property owners.

Ms. LaMar stated yes. Ms. LaMar stated the day after the Planning and Zoning Commission meeting, an email was sent to the Greyhouse's. Mr. Greyhouse's email stated he would like to keep the drive gravel.

Mr. Greyhouse stated he is here if there are any questions for him.

Commissioner Elkin asked Mr. Greyhouse if he has any comments.

Mr. Greyhouse stated he just doesn't want the increase in cost associated with a chip and seal drive.

Commissioner Atwill confirmed all four property owners are represented here.

Commissioner Miller stated yes, the four that pay for the road. Commissioner Miller stated the McMillan's who get the dust from the road aren't present.

A resident stated they also get the dust from Boothe Lane.

Commissioner Atwill asked Mr. Greyhouse if he would be content to have the chip and seal requirement erased.

Mr. Greyhouse stated that's correct.

Commissioner Atwill closed the public hearing on this item.

Commissioner Atwill asked if it is permissible to take such a complicated, multi-faceted project such as this under advisement for further discussion with staff.

County Counselor CJ Dykhouse stated absolutely, it has been done in the past. Mr. Dykhouse stated typically, the Commission would give the staff direction to prepare draft



findings of fact and conclusions of law. Mr. Dykhouse stated staff would present that to the Commission at a regular work session.

Commissioner Miller asked if in conditional use permits for horse facilities, we require dust free surfaces.

Commissioner Elkin stated we made an exception to equine because of the danger of slick surfaces.

Mr. Shawver stated prior to 2004, the regulations required that all driveways, parking areas, and loading areas be a minimum chip and seal surface. Mr. Shawver stated in 2004, there were several horse owners on the Commission, and there were a number of conditional use permits over the previous years. Mr. Shawver stated the Commission changed the regulations so that there is no requirement for a dust free surface unless it is specifically required by the terms of the conditional use permit. Mr. Shawver stated that is what the Commission did in 2010.

Commissioner Elkin stated that was because hard surfaces can be slick and dangerous when loading and unloading horses.

Mr. Shawver stated that is why on a couple occasions, the Commission required a minimum of chip and seal for the driveway, and one loading area, but the other loading areas could be gravel.

Ms. LaMar stated this was her understanding, that it was only a requirement of the conditional use permit, not any ordinance.

Commissioner Elkin asked if it was clear about the driveway and the parking area.

Ms. LaMar stated when she spoke to Mr. Mach yes.

Commissioner Elkin asked if the cost estimates include the parking areas, or if it just included the drive.

Ms. LaMar stated the estimates just included the road.

Commissioner Elkin stated he understands dust is a concern, but the County does not chip seal gravel roads anymore. Commissioner Elkin stated the County still uses chip seal, but it's a coating over existing roads. Commissioner Elkin stated we did that, because it was terribly expensive to maintain. Commissioner Elkin stated we have switched over to magnesium-chloride if dust is a problem because it's a lot less expensive, and holds up better. Commissioner Elkin stated he has a hard time telling folks to do chip and seal when we don't do it anymore; however, he understands the dust is an issue.

Commissioner Miller stated if you use magnesium-chloride, it still takes specialized equipment. Commissioner Miller stated it's not cheap either if you don't have the equipment.

Commissioner Elkin stated if we required you to put chip seal, you would get sick of it. Commissioner Elkin stated it would be rough.

Commissioner Miller stated we did require them to put chip and seal down, and we haven't said we weren't going to.

Commissioner Elkin stated he knows, but if we did it would be a disaster. Commissioner Elkin stated that's just his opinion.

Commissioner Miller stated she likes Commissioner Atwill's idea to table the item and figure out all the issues.

Commissioner Elkin stated he's ok with that.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby table the request by Debra Diller to revise a permit for Riding School and Equine Boarding Facility on 13.1 acres, located at 5950 N Boothe Ln., Rocheport, pending joint work sessions between the County Commission and the Resource Management Department.

Commissioner Elkin seconded the motion.

The motion carried 3 to 0. **Order # 217-2012**

There was discussion of when this item will be brought forward for a final decision.

Commissioner Atwill encouraged Ms. Diller to figure out exactly what her obligations are if the Commission adopts something, because it will not be well received if she comes back and says she didn't understand it again.

**2. Request by VH Properties LLC to approve a Final Development Plan for Midway USA Campus on 21.51 acres, located at 5875 W Van Horn Tavern Rd., Columbia.**

Director of Resource Management Stan Shawver was present on behalf of this item. Mr. Shawver stated this is the revised final development plan for the midway arms facility. Mr. Shawver stated the review plan went through about a year ago, and it took a little while to get the final development plan back. Mr. Shawver stated this puts all of their pieces of property onto one plan. Mr. Shawver stated it was unintentionally piecemeal.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request by VH Properties LLC to approve a Final Development

Plan for Midway USA Campus on 21.51 acres, located at 5875 W Van Horn Tavern Rd., Columbia.

Commissioner Elkin seconded the motion.

The motion carried 3 to 0. **Order # 218-2012**

**3. Haystack Acres Plat 4. S18-T49N-R12W. A-R. Northwood Baptist Church, owner. James V. Patchett, surveyor.**

Director of Resource Management Stan Shawver was present on behalf of this item. Mr. Shawver stated this is the replat of the lot that was vacated by Northwood Baptist Church off of Alfalfa Drive.

**4. Williams' Estate Plat 2. S21-T48N-R12W. R-S. Georgia R. Redden, Mildred I. Wright, John Williams, Edward Williams, George and Ethel Williams Trust FBO James Otis Williams and Betty A. Butler, owners. James R. Jeffries, surveyor.**

Director of Resource Management Stan Shawver was present on behalf of this item. Mr. Shawver stated this is a minor subdivision plat off of Rustic Road.

Commissioner Miller asked if this is by the bridge that's the problem.

Mr. Shawver stated it's south of there, yes.

**5. The Hill at Lake Mert. S10&15-T-45N-R12W. Roger and Jeri Metensmeyer, owners. J. Daniel Brush, surveyor.**

Director of Resource Management Stan Shawver was present on behalf of this item. Mr. Shawver stated this is a two lot subdivision south of the cemetery.

Commissioner Elkin 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:

1. Haystack Acres Plat 4. S18-T49N-R12W. A-R. Northwood Baptist Church, owner. James V. Patchett, surveyor.
2. Williams' Estate Plat 2. S21-T48N-R12W. R-S. Georgia R. Redden, Mildred I. Wright, John Williams, Edward Williams, George and Ethel Williams Trust FBO James Otis Williams and Betty A. Butler, owners. James R. Jeffries, surveyor.
3. The Hill at Lake Mert. S10&15-T-45N-R12W. Roger and Jeri Metensmeyer, owners. J. Daniel Brush, surveyor.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order # 219-2012**

**6. Acceptance of Security Agreement and Letter of Credit from Coil Construction (first reading)**

Director of Resource Management Stan Shawver was present on behalf of this item. Mr. Shawver stated this is the assurity for Stormwater out in Midway. Mr. Shawver stated there is a letter of credit for about \$22,000. Mr. Shawver stated it needs to be on the record that the Commission accepts it.

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 an appropriate order for approval.

**Purchasing**

**7. Sole Source Purchase – 108-123112SS – Annual Software Maintenance for Work Order Management with Maintenance Connection (second reading, first read 4/26/2012)**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the Facility Maintenance and Sheriff's Department request to utilize Sole Source Vendor Maintenance Connection for Sole Source Purchase 108-123112SS - Annual Software Maintenance for Work Order Management. It is further ordered the Presiding Commissioner is hereby authorized to sign said contract.

Commissioner Elkin seconded the motion.

The motion carried 3 to 0. **Order # 220-2012**

**8. Bid award to Cross Midwest Tire Inc. for bid 17-29MAR12 – Tires - Heavy Truck and Large Equipment Term and Supply (second reading, first read 4/26/2012)**

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby award bid 17-29MAR12 – Tires – Heavy Truck and Large Equipment Term and Supply to Cross Midwest Tire Inc. It is further ordered the Presiding Commissioner is hereby authorized to sign said contract.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order # 221-2012**

**County Clerk**

**9. Cooperative agreement with University of Missouri under FVAP Ease Grant  
(second reading, first read 4/26/2012)**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the contract between the Curators of the University of Missouri and Boone County, Missouri to research new voting system technologies as a part of the Federal Voting Assistance Program Grant. The terms of this agreement are stipulated in the attached contract. It is further ordered the Presiding Commissioner is hereby authorized to sign said contract.

Commissioner Elkin seconded the motion.

The motion carried 3 to 0. **Order # 222-2012**

**Commission**

**10. Region F Multi-Agency Coordination Concept (second reading, first read 4/26/2012)**

Commissioner Elkin moved on this day the County Commission of the County of Boone does hereby approve the attached Region F Multi-Agency Coordination Concept. It is further ordered the Presiding Commissioner is hereby authorized to sign said document.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order # 223-2012**

**11. Public Comment**

**12. Commissioner Reports**

The meeting adjourned at 8:34 p.m.

Attest:

\_\_\_\_\_  
Daniel K. Atwill  
Presiding Commissioner

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Wendy S. Noren  
Clerk of the County Commission

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Karen M. Miller  
District I Commissioner

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Skip Elkin  
District II Commissioner