

January 26, 2011
4:00 PM

MINUTES OF THE HENDERSON COUNTY
ZONING BOARD OF ADJUSTMENT

The Henderson County Zoning Board of Adjustment held its rescheduled meeting of January 26, 2011 at 4:00 p.m. in the King Street Meeting Room, 100 N. King Street, Hendersonville, North Carolina. Those present were: Jim Phelps, Chairman, Jim Crafton, Vice Chairman, Ann Pouch, Hunter Marks, Tony Engel, Zoning Administrator Toby Linville, Deputy County Attorney Sarah Zambon, and Zoning Board Secretary Karen Ann Wall. Alternate Member Janice Brown did not attend. New Alternate Member Jim Clayton was present to observe.

Chairman Phelps called the meeting to order at 4:00 PM. He introduced the board members.

Chairman Phelps: We have under Old Business the minutes from the previous meeting which was December 1, rescheduled from November 24th. I think everybody's had a chance to have a copy and look over them. Are there any corrections, additions or changes that need to be made that anyone saw?

JCrafton: I move we approve.

Chairman Phelps: Is there a second?

APouch: Second.

Chairman Phelps: Jim moved, Ann second. All in favor let it be known by saying aye. Opposed, no.

All board members stated aye.

Chairman Phelps: The ayes have it. Minutes are approved. Under New Business before we get to our case today, it's that time of year where we elect a Chairman and a Vice-Chairman so I guess we will bring that up as our next order of business.

JCrafton: I nominate Jim Phelps to be Chair.

TEngel and APouch: I'll second.

Chairman Phelps: Any other nominations? If not shall we come to a vote? All in favor, aye.

All board members stated aye.

Chairman Phelps: Opposed, no. Ok, thank you very much. Now we need a Vice-Chairman.

APouch: I nominate Jim Crafton.

HMarks: Second.

Chairman Phelps: Any other nominations? If not shall we come to a vote? All in favor say aye.

All board members stated aye.

Chairman Phelps: Opposed, no. The ayes have it. We now have a Chair and a Vice-Chair. Thank you very much. Alright we have no orders and we have one case today. SUP-11-01, Thomas Redmond Mowing, Inc., requesting special use permit for Outdoor Storage – required in Residential-Two-Rural (R2R) as defined by S.R. 2.9 in the Land Development Code. Location: 2185 Old U.S. Hwy 25, Tuxedo, NC on 3.10

acres, (PIN 9575218714). Would we proceed to open the public hearing as the first order?

Deputy County Attorney SZambon: Yes.

Chairman Phelps: Ok, then I need a motion to go into public hearing.

HMarks: I motion.

TEngel: Second.

Chairman Phelps: Hunter made a motion and Tony second it. All in favor, aye.

All board members stated aye.

Chairman Phelps: Opposed, no. Unanimous that we will go into public hearing. I'm going to read to you the Opening Statement about a quasi-judicial proceeding. And this is the outline:

Ladies and Gentlemen, a quasi-judicial proceeding is being held today on the following petition, special use permit where Dwayne Hill is the petitioner. A quasi-judicial proceeding, much like a court proceeding is one in which one's individual rights are being determined under specific rules of procedure. As such, not every person has a right to give evidence in a quasi-judicial proceeding. Under the Rules will be affected by the outcome of the decision are allowed to participate in the proceeding. All persons who are allowed to speak and participate in this hearing, including all witnesses that will be called, must be placed under oath. The proceedings will be as follows:

-The board will ask any persons, other than the petitioner and the Henderson County Staff, who desire to become parties to this action to explain how they would be affected by this proceeding. For example, they may be the owner of an adjoining parcel of property, or have some other special and unique interest that justifies their participation as a party. You should understand that you do not have to be a party in order to testify in this proceeding, if some other party calls you as a witness.

-Then all witnesses and parties will be sworn in as a group to tell the truth in their testimony.

-The board will then have the Zoning Staff summarize the petition and what is sought by the petitioner.

-The board will then have the petitioner or the petitioner's attorney present their evidence in support of the request.

-Each party has the right to ask questions of the witnesses.

-After the petitioner is finished presenting evidence, the other parties are then allowed to present their evidence.

-Again, each witness who testifies may be asked questions by the other parties.

-The members of this board may also ask questions.

After the evidence is presented the board will discuss the issues raised and will make a decision. The board's decision must be made in writing within 45 days of the hearing. We will now identify the parties. The board acknowledges the petitioner, Dwayne Hill and the County Staff as parties to this proceeding. Are there any other persons present who can demonstrate that they will be affected by the outcome of this proceeding and who wish to be a party to this proceeding? If so, please come to the podium. You will need to state your name and address.

BAllison: Brent Allison, our address is HomeTrust Bank, Asheville, North Carolina. We own the property and are trying to sell it to Thomas Redmond Mowing so we would

be pretty affected by your decision today. I'm the Special Assets Manager. What other information can I provide you folks?

Deputy County Attorney SZambon: Nothing right now. We'll ask you more later.

Chairman Phelps: Is there any question about him being a party?

JCrafton: Clearly he is.

BAllison: Thank you.

Chairman Phelps: You will need to be sworn in when we do that, sir. Anyone else?

Sir, come up to the podium. State your name and address please.

JBayne: My name is Jerry Bayne of 512 Terrys Creek Road, Zirconia. I'm here with my parents. They own and operate a nursery that adjoins this property. We'll be affected by this zoning decision and I'd like to speak for this. We welcome these people to the community if this is the proper time to say these words.

Deputy County Attorney SZambon: Sir, you'll have an opportunity to say whatever you want to say once we get going. Well, the board should decide if they want him to be a party.

JCrafton: My question would be, should the parents who own the property be the ones having interest, then call on him as a witness?

JBayne: I own the property.

JCrafton: You own the property? Ok. Then that's fine.

Chairman Phelps: You clearly then would qualify, right?

JCrafton: Yes.

Chairman Phelps: So you will need to come too when we swear in the people.

APouch: What about the bank?

Chairman Phelps: This is the adjoining, he owns the adjoining property. Anyone else? If not, then I would request that the two as well as Mr. Hill all come up to the podium to be sworn in.

Deputy County Attorney SZambon: And anybody else who plans on being a witness or any party.

Chairman Phelps: If any of you plan to call a witness I would request that you have them come forward at this time also. Do you swear or affirm that the testimony you shall give to the Zoning Board of Adjustment shall be the truth, the whole truth, and nothing but the truth, so help you God?

All parties/witnesses stated, "I do".

Parties:

Dwayne Hill, applicant for Special Use Permit, land buyer

Brent Allison, owner of land (HomeTrust Bank)

Jerry Bayne, adjoining property owner

County Staff

Chairman Phelps: First then we'll call upon the staff, Toby I guess, to present the facts of the case as we will be hearing.

Zoning Administrator TLinville: If you will go through your packet here, I'll show you the items that we have. We have the special use application signed by Dwayne Hill, the supplemental requirements for Outdoor Storage which requires a special use permit in the Residential 2 Rural district, which is why we're having this hearing. There is a

zoning report showing the property with an aerial. There's also some floodplain on this property. Next is the site plan showing where the storage will be located in conjunction with the existing building, and then the site of the possible future addition.

Chairman Phelps: I'm sorry, I'm reading this site plan and how do I read – so this square little grid area – this is where the proposed storage will be?

Zoning Administrator TLinville: Correct.

Chairman Phelps: None of that is – it's just land, there's nothing on it at this point in time?

Zoning Administrator TLinville: That's right.

Chairman Phelps: Thank you.

Zoning Administrator TLinville: Next is the approval letter from the Technical Review Committee. The bullet points, there to add the base flood elevation, acquire the flood permit, show the screening, and acquire the driveway permit have all been completed. And the Technical Review Committee gave a favorable review recommendation to this board. And finally there are photos of the existing site. This has been a convenience store, a restaurant, a general mercantile feed and seed kind of store before. And it's been vacant for several years so it would be good to have something occupying that building.

Deputy County Attorney SZambon: Toby, can I just ask you a few questions real quick?

Zoning Administrator TLinville: Sure.

Deputy County Attorney SZambon: These pictures, did you take these pictures?

Zoning Administrator TLinville: Yes.

Deputy County Attorney SZambon: How do you know you took those pictures?

Zoning Administrator TLinville: Because my initials are on the bottom of them.

Deputy County Attorney SZambon: And do they fairly and accurately portray what the property looks like?

Zoning Administrator TLinville: Yes.

Deputy County Attorney SZambon: At this point the County would like to enter the entire packet including the pictures into evidence. Now you can continue.

Chairman Phelps: Is there any objection to any of the packet? Being none, it is so recorded.

Zoning Administrator TLinville: That is all I have unless you have any questions.

Chairman Phelps: One thing I forgot to mention to ask the board before we got started is; Does anyone have any conflict or anything that would keep them from rendering a fair and unbiased opinion on this case? If not, I'm assuming everybody is ok with that. I would like to disclose in the interest of full disclosure that I have a small account with HomeTrust Bank. I don't think that would influence me in any way, but just for the record.

JCrafton: I have a question, Toby. In looking in the book and we had the same material online, I'm having difficulty figuring out what the applicant is asking us for. I don't see any description of – I know it has to do with outdoor storage but I don't see any description of what they're asking for. Where would I find that?

Zoning Administrator TLinville: It may not be clear. Mr. Hill has a Right-of-Way Maintenance business and he can address this better than I will, but they mow right-of-way for DOT as contractors, so the storage area will be used for the storage of

tractors and mowers. The existing building will be used for an office and maintenance of the equipment.

JCrafton: Generally we get the material ahead of time so we can study. Would it be possible on something like this to have some description of actually what the applicant has requested so that when we sit down we have a better idea of what it is we've come to address?

Zoning Administrator TLinville: Ok. Sure will.

Chairman Phelps: Any other questions of Toby.

Deputy County Attorney SZambon: I have some questions for Toby. Toby, can you go over why this project will or will not substantially endanger public health, safety, and welfare.

Zoning Administrator TLinville: Is it my place to answer those questions?

Deputy County Attorney SZambon: You can.

Zoning Administrator TLinville: It's not my project.

Deputy County Attorney SZambon: It's not your project but you're the Zoning Administrator.

Zoning Administrator TLinville: That's a question for the applicant.

Deputy County Attorney SZambon: Do you feel in your experience as Zoning Administrator, based on your knowledge of the area that this will affect public health, safety, and welfare?

Zoning Administrator TLinville: No.

Deputy County Attorney SZambon: Why?

Zoning Administrator TLinville: Because there's an existing building there. It has been a commercial business in the past. It's not a substantial change.

Deputy County Attorney SZambon: And you said when the TRC reviewed it, what was the outcome?

Zoning Administrator TLinville: They approved the project with the conditions that are on the approval letter, which have been met.

Deputy County Attorney SZambon: And you said all the conditions have been met that are on the approval letter?

Zoning Administrator TLinville: Yes.

Deputy County Attorney SZambon: What is this property zoned?

Zoning Administrator TLinville: Residential 2 Rural.

Deputy County Attorney SZambon: And is this a permitted use in R2R?

Zoning Administrator TLinville: Yes, with a special use permit.

Deputy County Attorney SZambon: How big did you say the property was?

Zoning Administrator TLinville: Three point three five acres.

Deputy County Attorney SZambon: Three point three five? How come on this it says three point one?

Zoning Administrator TLinville: What are you looking at, the report? Yeah, the tax office usually removes the right-of-way. The surveyor may not have, there may not be, there probably isn't a right-of-way there so he counted for the entire property.

Deputy County Attorney SZambon: So this picture is the existing building?

Zoning Administrator TLinville: Correct.

Deputy County Attorney SZambon: What's this picture?

Zoning Administrator TLinville: That is the existing southern portion of the property looking towards the southern property line.

Deputy County Attorney SZambon: And what is this picture?

Zoning Administrator TLinville: That's the same view.

Deputy County Attorney SZambon: And then this is the aerial?

Zoning Administrator TLinville: Correct.

Deputy County Attorney SZambon: And what are the uses on the property surrounding this property?

Zoning Administrator TLinville: Agricultural, residential.

Deputy County Attorney SZambon: By agricultural, it's a farm?

Zoning Administrator TLinville: Yes.

Deputy County Attorney SZambon: And this project meets all of the requirements of the S.R. based on your knowledge?

Zoning Administrator TLinville: Yes, once the fence and the landscaping are completed.

Deputy County Attorney SZambon: And the landscaping and the fencing haven't been put in because, why?

Zoning Administrator TLinville: Because they haven't gotten there permits yet.

Deputy County Attorney SZambon: To your knowledge is this project in compliance with state, local, and federal law, and the comprehensive plan?

Zoning Administrator TLinville: Yes.

Deputy County Attorney SZambon: I don't have any further questions for Mr. Linville at this time.

Chairman Phelps: Anyone else? Mr. Hill, would you like to come forward and present your case?

DHill: Thank you, yes. I've come to apply for a permit so that I can move my business down to this property. It looked like a good fit from where I'm at up on Crest Road near the Upward Elementary School. It's just got so busy there that this would be a lot better area than where I'm at. Also it's a couple miles closer to my home since I live right down on the Gap Creek Road. So it's only two miles from where I live. And it came at the right time as far as we were looking for a place to move to. That looked like a good fit since in the past it has been a garage. That's what the higher part of that building was at one time. It was a garage and they closed it up and made a café out of it, and stuff. It looked like a perfect place for us at the time.

Chairman Phelps: And would you describe your business?

DHill: We do highway mowing for the state of North Carolina. We contract through the DOT. We have six counties that we mow. We have Henderson, Polk, Transylvania, Rutherfordton, McDowell, and Burke that we mow. In the summertime I have as many as 50 employees that spread out throughout those counties, and in the wintertime around 20 that we keep working. We've been doing this since 1992.

Chairman Phelps: What type and quantity of equipment do you have that would be stored there?

DHill: It's farm tractors with mowers on them. They are mounted to a 60 horse power tractor. They look just exactly like a farm tractor that you'd see on any farm except that they have mowers. And the area that to the south behind that building is flat, even ground. It's been - somebody filled in years ago and it's a perfect place for all that to be able to be stored in the wintertime. In the summertime it's spread out throughout all those counties. We might have one or two that's there as

replacements throughout the summer, you know, to where we can move tractors from this county to that.

Chairman Phelps: What would be the most that would be stored there at any one time?

DHill: I would say we have 30 farm tractors that would be stored there.

Chairman Phelps: Further questions from the board?

JCrafton: Equipment naturally ages, deteriorates, and then breaks down in time then you buy replacement equipment and sometimes you use the old ones for spare parts. What do you do with abandoned equipment?

DHill: Well we don't ever – we are set up to where we replace all our equipment every 10 years and we either sell them outright or trade them in on new equipment so that we keep a stock, as far as we don't have any junked tractors sitting around where we took the tires off of them and they just sit in a pile and let stuff grow up over them. Because you really loose - you really don't have anything that's of value to you with it sitting over there in parts. We keep new equipment, good equipment to where we're using everything we've got.

JCrafton: Would you be receptive if we wanted to impose a condition of the permit to say that you could not accumulate or store abandoned equipment?

DHill: Sure.

JCrafton: Ok.

HMarks: Will this be gravel at some point?

DHill: Yes. I think it's – they may have had gravel already on it because in the past they were using it to park eighteen wheelers in there and stuff at the time. But it's grown up in weeds. You can't really see what's in there until I can get in there and bush-hog it off but it's been a parking area in the past.

Deputy County Attorney SZambon: Mr. Hill, I have to ask you some questions so I can write this order either way based on the factors in our ordinance. So I'm sorry if these questions seem a little tedious. Can you justify to the board, similar to the question I asked Mr. Linville, why this permit will not, and your use of the property, will not endanger public health, safety, and welfare?

DHill: I can't think of anything it would do to cause anybody any harm.

Deputy County Attorney SZambon: Where is your business now?

DHill: On Crest Road.

Deputy County Attorney SZambon: On Crest Road?

DHill: Right before you get to Upward Elementary.

Deputy County Attorney SZambon: And you stated several times that this property was a good fit for your business. Why is it a good fit for your business?

DHill: Well, there's more space. Where I'm at I'm limited on space and actually have neighbors closer to where I'm at now than what I will if I move there.

Deputy County Attorney SZambon: What if anything are you planning to do to minimize the effect on the surrounding area in terms of glare or dust or traffic?

DHill: The traffic is probably going to be less since we're a private company then when it was as a gas station, with people running in and out. As far as lights I don't foresee having any outdoor lights that's going to shine on anybody. And that's about it.

Deputy County Attorney SZambon: And your business is operated pretty much only during daytime hours.

DHill: Yes, ma'am.

Deputy County Attorney SZambon: And can you point out to me on the map where the ingress and egress are going to be, and where the parking is going to be?

DHill: This is the ingress and egress. The driveway here is about 24 foot across here. And then there's also one here about 24 foot across. This is the parking area, storage area for the equipment that is all flat. Parking for individual cars will be right here. This is all asphalt. This will be spaces for cars.

Deputy County Attorney SZambon: Mr. Linville mentioned that one of the requirements on you under the S.R. was to put in landscaping. Can you kind of describe the landscaping requirement?

DHill: We're going to put in some shrubbery and stuff around the existing building. It's all asphalt. That whole front's asphalt from in the past so there's not really any place you can put it right up against the building. But to the right we have an area that is all grass that could be to put shrubbery in, or out along the state highway as long as we don't encroach where the state plantings are. We don't want to get out there and work where we'll be required to mow them down because they're too close to the highway. But along the edge and stuff and all the way around the screened area we're going to put in some type of pine that will screen that surrounding storage area.

Deputy County Attorney SZambon: And you don't have any plans to put any further structures in there?

DHill: No, ma'am, other than that proposed building to the, looking at that, it would be on the right hand side, another garage with a garage door there.

Deputy County Attorney SZambon: And you said you're planning to do maintenance to your equipment on this site?

DHill: Yes, ma'am.

Deputy County Attorney SZambon: What are your plans for – I assume in fixing mowers and stuff that there are some chemicals and gasoline and that kind of stuff – what are you planning to do in terms of clean-up for that kind of stuff?

DHill: We keep oil dryer for any kind of a spill. We have drying agents to keep that up and the storage area to put that out - to put it in - and then have it picked up.

Deputy County Attorney SZambon: And your only client for your business is the state? Yes, ma'am.

Deputy County Attorney SZambon: So it's not like – there wouldn't be – would there or would there not be clients coming in to see you during different parts of the day.

DHill: I'm not going to say that it wouldn't happen that somebody might come by and want something done but that's not something that's done on a regular basis. Our main business is that we work for the DOT and not individuals.

Deputy County Attorney SZambon: I don't think I have any further questions for – I'm sorry one more question. If this board chose to, would you be willing to accept a condition that you would be vested as to just this site plan so that if you wanted to change it or anything later, you'd have to come back and get an amendment? Would you find that acceptable?

DHill: Sure.

Deputy County Attorney SZambon: I don't have any further questions.

Chairman Phelps: Other questions?

JCrafton: I have one other. What do you plan to do for fuel storage?

DHill: There is an above ground tank that is still on the property that was a kerosene tank that we'll be using for our off-road diesel that we use for the tractors.

JCrafton: What's the storage capacity of that tank?

DHill: I believe it's a thousand gallon tank if I ain't mistaken.

JCrafton: Do you have a dyke around it to contain it?

DHill: I think that one is the self contained, a dyke under it if I ain't mistaken. I believe that's what that picture looks like. I'm not sure but –

JCrafton: That doesn't show any type of a dyke around the tank. It just shows the tank with a skirt. I am suggesting that, I think it's OSHA or some environmental organization, when you have storage like that, they recommend a concrete dyke around them and then an outlet valve so you can drain off water, from rain water type thing. But in case a leak happens the dyke's big enough to contain the contents of the tank so it doesn't escape and penetrate the soil or any of that type thing. That's not really a zoning issue but it might be a regulatory issue you'd be confronted with.

DHill: Right. That's not a problem.

Chairman Phelps: Toby, did that come up in the Technical Review Committee at all?

Zoning Administrator TLinville: (indicated no)

Deputy County Attorney SZambon: On the front of this map here, there's a dotted line that says, 'proposed chain link fence'. Is that just going to be across the front, on the side that's adjacent to highway 225?

DHill: Yes, it's right along this front right here. And then there'll be a chain link fence down here about 50 feet because this is so grown up in briars and shrubbery and stuff I don't think anybody can come – I'm hoping nobody can get through there to get my fuel or parts or whatever. And there'll be a gate here and also here.

Chairman Phelps: Thank you. If that's the end of your presentation you can sit down then we'll see, we'll call the other people and see what they want to present. Do we need to hear both sides before the cross examining occurs, the way I was reading this script? We have other parties evidence first and then we go to the cross examining?

Deputy County Attorney SZambon: It might be easier to go through cross examining as you go through witnesses. I'm not anticipating a lot of cross examining.

Chairman Phelps: Does anyone – any of the other parties have questions for Mr. Hill and what he said? Ok, if not then we'll have the first of the parties to come forward and hear their evidence.

JBayne: As I said, I'm Jerry Bayne and I've just come to support Mr. Hill in his efforts to get this done. We – my parents have run a nursery there for over 35 years and I've joined them with that in the recent months and years. I cleaned up our property and put up a fence, etcetera, and Mr. Hill intends to do the same thing. From my point of view it will be a good addition to the community. Right now there's tractor trailers in and out of that property at all hours of the day and night, which doesn't bother me particularly because I'm down at my nursery some of those hours of the day and night. But I think his business will – after he puts up the fence and does the shrubbery and so on and so forth, cleans up the property – it will certainly look better. So I

personally, from owning the nursery, welcome them to the community. As he said, they employ about 50 people. I also teach school at East High and they employ some of the students, some of my students in the summer months. It's one of the few jobs that kids can get anymore. So I support not only him and his family but his business and want to speak in favor of that. Thank you very much.

Chairman Phelps: You're welcome. Any questions from any of the board members? Sarah, any questions? Thank you, we appreciate your comments. (To Mr. Bayne). Anyone else?

BAllison: Good afternoon. I'm Brent Allison, HomeTrust Bank, Special Assets Manager. We currently own the property and have a sales contract with Thomas Redmond Mowing to sell them that property. It's a property that we had to foreclose on so we view this as a positive for the community - that we can go on and move an asset that's just sitting there. Somebody will be actually do something with it, to take care of it and employ people in the community, and further business in that area of Henderson County. Any questions from the board?
(there were no questions from the board or Deputy County Attorney Sarah Zambon)

Chairman Phelps: If anyone wants to present rebuttal evidence to any of the things we have heard or any of the testimony or any evidence or any questions of the people, this is the appropriate time for that. Ok, would anyone like to make any closing remarks? If not, then the evidence has been presented and the closing remarks, which were none, concluded that it would be appropriate for the board to discuss this issue presented today. So I would remind the board that we can either vote today, directing staff to bring back findings and facts consistent with the decisions to a future meeting of the board for our review, or we can continue our discussion and decision until a later date. I remind the board that the board must issue a written decision within 45 days of the conclusion of this hearing. At this time it would be appropriate for us, if there are no objections, to discuss this presentation. And we will need a motion to go out of public hearing.

TEngel: I so motion.

APouch: Second.

Chairman Phelps: Tony, and Ann seconds. All in favor, aye. Opposed, no. All board members stated aye.

Chairman Phelps: Unanimous. We are now out of the public hearing and we are free to discuss the motion as a board, to discuss the presentation and the application.

HMarks: I just have one question for clarification. I guess it may be for Toby. On the south side of the property, I guess it would be on the left on the plat, it says, 'Camp Greystone'. Is there like a neck of property between this property and this property that Greystone owns?

TEngel: It wraps all the way around.

HMarks: So Bayne's property is not actually next to this property? It appears if you look on the zoning report there's a strip of land that comes up here.

Zoning Administrator TLinville: Yeah, I think you're right. You can see on the zoning report probably a 60 foot easement there that accesses their property.

HMarks: But as far as we know have we heard anything from Camp Greystone?

Zoning Administrator TLinville: No.

HMarks: Ok, just curious.

JCrafton: Chairman, I think it's a good fit. I don't see any obstacles or objections that we as the Zoning Board of Adjustment would have concern about. I would maybe invite comments from the other members of this committee as to whether they think it's appropriate to add a condition stating that he would not store or accumulate abandoned equipment, just to protect the land. Other than that I don't see any problems. You've got the Technical Review Committee's approval. You've got the buffering. You've got support from the landowner, providing employment in the community. I don't see any negatives.

Chairman Phelps: We also have those caveats from the Technical Review Committee.

APouch: Well it says the plan was approved subject to compliance to the following conditions. Is that – do we have to –

Chairman Phelps: Do we have to include those too, Toby? Because it appears those have been done.

Deputy County Attorney SZambon: All of those have been done.

APouch: They've been done so we don't have to do them.

Chairman Phelps: So we don't, so then the only thing would be the non-storage of abandoned equipment, is that correct? Jim, if you'd like you can use the approval motion and just put that one condition.

JCrafton: I move the board approve the special use permit number 11-01 because the application met the standards for a special use permit by complying with the conditions established by the Technical Review Committee and we would additionally add the condition that the landowner, or the applicant - let's say that because he doesn't own the land yet - the applicant would not store or accumulate abandoned equipment on the property.

Chairman Phelps: Everybody understand the motion? Is there a second?

TEngel: Second.

Chairman Phelps: Any further discussion on the motion? If not shall we come to a vote? All in favor of the motion, aye. Opposed, no. It is unanimously agreed upon.

Chairman Phelps – voted in favor of the motion

Jim Crafton – voted in favor of the motion

Ann Pouch – voted in favor of the motion

Tony Engel – voted in favor of the motion

Hunter Marks – voted in favor of the motion

Deputy County Attorney SZambon: Mr. Hill, I'm going to draft this order and then the board reviews it at their next meeting at which point they'll sign it and then you can have it. And then you'll be all good to go.

DHill: Alright, thank you. Do you have a date for that, the next meeting?

Deputy County Attorney SZambon: February 23rd.

Chairman Phelps: Same time.

Deputy County Attorney SZambon: Then again, they won't change their decision at that time. It's just for them to review the order that I draft to make sure it complies substantially with what happened at the hearing and what their decision was.

Chairman Phelps: It's just a matter of formal approval and signing it.

DHill: Do I need to come back for that?

Deputy County Attorney SZambon: No, Toby or Karen Ann will call you when you can come pick up the order just so you'll have a copy.

DHill: Alright, thank you very much.

Deputy County Attorney SZambon: And Mr. Chairman, you have to close the meeting.

Chairman Phelps: I need another motion – we went out of public hearing but now I need another motion to close.

TEngel: I motion to close the hearing.

APouch: Second.

Chairman Phelps: All in favor of closing the hearing say aye. Opposed, no. All board members were in favor of closing the hearing.

Chairman Phelps: Hearing is now officially closed.

Chairman Phelps introduced David Weintraub, Executive Director of Environmental and Conservation Organization (ECO) to show his newest film, "Code Blue: Water in the Mountains."

After the film and remarks from Mr. Weintraub, Chairman Phelps introduced the newest Alternate Board Member, Jim Clayton, to the board.

Chairman Phelps: Motion to adjourn.

HMarks: I motion.

Chairman Phelps: Motion is made. Second?

APouch and JCrafton: Second.

Chairman Phelps: All in favor, aye.

All board members were in favor of adjourning the meeting.

Meeting adjourned at 5:25 p.m.


Chairman, Jim Phelps


Karen Ann Wall, Secretary