

MINUTES OF THE HENDERSON COUNTY
ZONING BOARD OF ADJUSTMENT

The Henderson County Zoning Board of Adjustment held its regular meeting March 31st 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, Tony Engel, Hunter Marks, Zoning Administrator Toby Linville, Deputy County Attorney Sarah Zambon, and Zoning Board Secretary, Karen Ann Antonucci. Alternate member JoAnne Telker took the place of Alternate member Eric Goodman who could not attend.

Chairman Phelps: Called the meeting to order at 4:03 PM. Chairman Phelps introduced the board members.

Chairman Phelps: Ok, first order is the minutes from the previous meeting. I hope everybody has had a chance to review these. You were provided a copy so are there any additions, corrections or adjustments thereto that anyone noted?

JCrafton: Move we approve.

TEngel: (indicated second).

Chairman Phelps: Motion has been made to approve. All in favor, aye. Minutes are approved as submitted.

All board members were in favor of approving the January 6, 2010 minutes.

Chairman Phelps: Now we have no other old business at this point so we'll go on to New Business. And the first item on our agenda is Case SUP-10-02, Church of the Nazarene requesting a special use permit for a Recreational Vehicle Park required in Community Commercial zone as defined by SR 4.18 in the Land Development Code. Location: 44 Nazarene Drive PIN 9588602816. Before we open any cases I need to inform everyone about the proceedings and how they work:

A quasi-judicial proceeding is much like a court proceeding where an individual's rights and interests are being decided upon specific rules of procedure. Parties to this case have the right to present evidence and cross examine witnesses. The burden of proof in these cases typically lies with the Applicant. The extent to which the Rules of Evidence used in courts apply is up to the discretion of the board. Quasi-judicial proceedings are different from other public hearing in that not everyone has the right to present evidence before this board and to become a party to this proceeding. Only those who can demonstrate that they will be affected by the outcome of the hearing may become parties. After a description of the person's interest in this case, the board will determine whether they will be allowed to present evidence as a party. Please note you do not have to be a party to testify if someone who is a party calls you as a witness. All parties and witnesses who intend to present evidence or testify before this board must be sworn in.

Chairman Phelps: And we will need for you to give your name and address before being sworn in. I would also like to say at this point we will swear in everyone from both cases at the same time as a way of expediting the procedure. So those who think they are a party or will be a party in one of these cases, will you please come to the microphone and state your name and address and why you feel you are a party.

JQuinn: Ok. My name is Joe Quinn. I'm representing the Hendersonville Nazarene Camp on behalf of trying to get an RV Park approved. I did get a letter that had been approved by the Zoning Board but there were some stipulations to be made, some changes on the plat, which have already been

made. And I understand that the surveyor did drop a copy off to the Zoning Board. You may have it, Toby?

Zoning Administrator TLinville: Yes.

JQuinn: Where we did go ahead and make the changes. There was some questions about the sewage. And there was some questions about –

Chairman Phelps: We don't need you testimony at this time. We just need to determine your standing. So you're a member of the church? You're representing them?

JQuinn: Yes.

Chairman Phelps: Sarah, does that satisfy?

Deputy County Attorney SZambon: Mr. Quinn, how were you chosen to represent the church on this matter?

JQuinn: The Nazarene Camp has a separate board from the church board. Right now I am the only person at the camp because it only operates once a year for a week. I stay there and kind of watch the grounds for them. The president of the camp had appointed me to try to take care of getting the permits and all that were needed. Because he actually lives in Cookeville, Tennessee and it's a little hard for him to travel back and forth. So they appointed me if it's alright with the board to represent them.

Deputy County Attorney SZambon: Mr. Quinn, did you or Toby did Mr. Quinn, is he the one whose name is on all the applications and he filed the special use permit and all that stuff?

Zoning Administrator TLinville: Yes.

Deputy County Attorney SZambon: It's up to the board. I don't have that much of an issue.

APouch: I thought only the owner of the property –

Zoning Administrator TLinville: Owner or an attorney is what we usually say but since Joe is the groundskeeper or the maintenance person there and responsible for the property we felt like he could represent them.

Deputy County Attorney SZambon: And also because the property is not in the name of the, as I recall, of an individual. It's in the name of the church so there is no entity who is the owner to come here. It was going to have to be like a corporation. They appoint an agent. And it sounds like from this case the church as a corporation has appointed Mr. Quinn to come.

APouch: Do they have a vestry in their church or deacons or whatever you have?

JQuinn: They have board members. I am a board member. But we do have board members, yeah.

Chairman Phelps: So you are a board member of the Park that we are here today for? You said there are two boards.

JQuinn: There's two boards. I am a board member on the church. I've been brought in several times on the camp board but I am not an elected member of the camp board. But they do call me in to the meetings because of the permits and all that I've been trying to obtain for them.

Chairman Phelps: And the church owns this property?

JQuinn: Yes.

Chairman Phelps: That's good. Does anybody have any objections to Mr. Quinn being - ? Then you are certainly a party.

JQuinn: Yes.

Chairman Phelps: Have a seat. Is there anyone else that's here to testify in this case? Or provide any evidence? Ok. That's fine.

Deputy County Attorney SZambon: Mr. Chairman, the County and the, and Mr. Linville of course will be parties to this.

Chairman Phelps: Right, the County staff. Other than the County Staff members is there anyone? If not shall we hear of the parties to the second case? Now as to the second case which is A-10-01 Seven Falls Golf and River Club, Etowah, requesting appeals of ground cover violations and associated civil penalties for Case # HENDE-2007-059 and Case # EC-2007-10-09. Anyone who wishes to become a party and testify in this case please come forward to the podium and state your name and address.

Deputy County Attorney SZambon: And Mr. Chairman, again, the County will be a party to this case. And on behalf of the County I'll be representing the County. And Tim Fox and Natalie Berry will be testifying for the County.

Chairman Phelps: Thank you. Are there any others? If not, Mr. Quinn would you come forward then and be sworn in?

Deputy County Attorney SZambon: Mr. Chairman, if we can just swear in everyone in for both hearings at once. So is there anyone else in the audience that represents Seven Falls or is here on behalf of the Seven Falls matter that either wants to be a party or to testify? They should come up now.

Zoning Board of Adjustment Secretary KAAntonucci: 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 were sworn in.

Chairman Phelps: At this time we will begin our first hearing. Decisions of this board are based upon the Henderson County Code. After we hear all the evidence, the board will discuss the matter and may either vote on the case or continue the case to another date. The board may direct staff to bring back a draft order for the board to review at our next meeting. The board's decision must be made in writing within 45 days of the conclusion of the hearing.

Case SUP-10-02, Church of the Nazarene, requesting a special use permit for a Recreational Vehicle Park – required in Community Commercial zone as defined by SR 4.18 in the Land Development Code. Location: 44 Nazarene Drive, Hendersonville. (PIN 9588602816).

Parties:

Joe Quinn – Member of Church of the Nazarene and church board member

Witnesses:

N/A

Chairman Phelps: Do I hear a motion that we open the case?

TEngel: I motion that we open the case.

Chairman Phelps: Is there a second?

APouch: Second.

Ann seconds. All in favor raise your hand. Unanimously approved to open the case. At this point in time before we start the case I've been reminded that I need to remind everyone on the board that if any member has any conflict or any relevant evidence or any ex parte conversations or any other interests in the outcome of the cases to be heard, that needs to be shared at this time. I need also remind the board members that in North Carolina anyone who has a: made up their mind prior to the hearing, has a close familial business or other associated relationship with the applicants or a financial interest in the outcome must recuse him or herself from the hearing. Hearing none we can proceed. Toby, did you want to begin?

Zoning Administrator TLinville: Certainly. I don't know if you all are familiar with this site. It's a church camp with lots of cottages around it. And this is the addition to some RV spaces. Our ordinance doesn't address one or a few, it's either an RV Park or it's not. This special use permit is for the addition of the RV spots behind the Nazarene property. And we'll go through the packet here. You have the special use application form. Next is the letter that went to TRC and like Joe said the Technical Review Committee gave a favorable recommendation to the board on this project. And there were a few changes that needed to be made to the site plan and those have been made and reflected in your packet. Next you have an aerial photo and a zoning report of the property. You'll see the blue on there. There is some floodplain on this property but the homes will be located outside of there. There are some pictures of the area where the RVs will be placed and these won't be permanently set up. This is a, like he said, a really a one-time-a-year large church meeting so they'll be scattered in throughout the year. These won't be permanent RV setups. Next is the

floodplain application which is required because there's development on the property and it has floodplain. That's just paperwork more than anything for us. And then there are a couple of site plans in your packet, one small, one large. You'll see the new road that will come in off of Orchard Road, South Orchard Road. We've drawn in 12 potential spots but probably won't be that many especially at first. Any questions?

HMarks: Is this the original site plan?

Zoning Administrator TLinville: No.

HMarks: This is the new plan, right?

Zoning Administrator TLinville: Yes. Yes.

Chairman Phelps: And this meets the requirements of the Technical Review Committee, this new one?

Zoning Administrator TLinville: (indicated yes)

Chairman Phelps: Any questions of Toby from the board members?

JCrafton: Yeah, Toby, I had a couple of questions. One thing when I was reading through this trying to be prepared for the meeting, I was looking for the position of the Technical Review Committee on the documents that we have. The only thing that I could find – it says that the site plan is incomplete and meeting approval would be contingent on a re-submittal of the site plan.

Zoning Administrator TLinville: Right, that-

JCrafton: Is that the limit of what we have here? So you're telling us now that you have subsequently approved that.

Zoning Administrator TLinville: Right. Right. At the submittal date to TRC it wasn't complete but they got approval with the changes that needed to be made. And those changes have been made.

Deputy County Attorney SZambon: Mr. Chairman, the County would like to enter the packet into evidence. I don't remember if Toby did that or not for procedure.

Chairman Phelps: If no objection it's accepted for submission and made a part of our hearing and proceedings and the record.

Deputy County Attorney SZambon: Mr. Chairman, if I can ask Mr. Linville a few questions?

Chairman Phelps: Please.

Deputy County Attorney SZambon: Mr. Linville, the floodplain issue, have they received their, have they been approved for the floodplain stuff?

Zoning Administrator TLinville: Ask our Floodplain Administrator.

Deputy County Attorney SZambon: Alright, after Mr. Linville speaks I'm going to have Ms. Berry come up who's already been sworn in for the next hearing, talk about the floodplain issue. But Mr. Linville to the best of your knowledge all the other concerns of the TRC have been met.

Chairman Phelps: Ms. Berry.

Assistant County Engineer NBerry: I have not seen the revision. If you can share it with me I can tell you pretty quickly if it would be approved. It was just a matter of putting some information on it.

Zoning Administrator TLinville: That was one of the additions was to add the flood elevation.

Assistant County Engineer NBerry: Yes, it's all on there. It would be approved.

Chairman Phelps: It would be?

Assistant County Attorney NBerry: Yeah, as soon as I get back to my desk I'll sign it.

Deputy County Attorney SZambon: So Mr. Chairman, if the board does want to approve this project that one of the conditions be that the floodplain has to be officially approved my Ms. Berry.

Chairman Phelps: Any other people from the County staff? If not Mr. Quinn, would you like to go forward and make your case at this time?

JQuinn: Ok, the only questions that I think were left open from the meeting, the past meeting that I came to was about the water hookup and the sewage. This facility has an onsite sewer system that we installed. It's larger than what we needed at the time. And the question was would we be able to run these RV sites into our existing sewer system. I believe it was Seth Swift who gave me some

names to call that could help me with answering that question. And I did call. I talked to Roger Edwards about the sewer system. He said I shouldn't even need a permit if each pad, each RV pad ran a separate line to the sewer system instead of tying them all together, that he didn't see a problem. The question on the water hooking into the well, I talked to Bill Connors I believe it was and he said he didn't see any problem at all with that, with us tapping into the existing well since the facility is only going to be used like one week out of the year. And probably not even use all of those pads. What we did, we had our surveyor just spot as many pads as we could get back there. And it came to 12 pads that met the codes size-wise. But we probably won't be using all of those. Maybe four or five at a time for one week. And this is what I relayed to Bill Connors and he said, "I don't even think you need to worry about getting a permit if that's the case, and it's your own water system." So that's what they had told me. Otherwise the only other information I can give you is that it is only used for camp meeting. It's kind of a large facility. We have a lot of people come but they're only there for one week. And the rest of the time most of all the buildings are closed and winterized for the winter except the dining room which people use for weddings and family reunions and things like that. Maybe used three or four times a year but as far as the rooms and the RV pads it'd just be a week out of each year.

Chairman Phelps: I want to bring to your attention, Mr. Quinn and remind the board and Sarah correct me if I'm wrong on this but NC law SR 44- SL 2009-4211 does not allow reliance on lay witness testimony in matters where only expert testimony would generally be relied upon. So in the form of an expert as far as the sewage amount and treatment plants and all I think that would fall under that ramification of the law. And since they are not here to be cross examined and to swear to the testimony then we just have to consider that, I think, hearsay. Is that correct Sarah?

Deputy County Attorney SZambon: From what I understood Mr. Quinn's testimony to be he was not representing himself as an expert. What he did instead was to say what other people had told him. So that would be hearsay evidence and it's up to the board at to evaluate the credibility and because the other person isn't here to be crossed examined. It depends on how big a factor this will be in your decision, you know, what you want to make of it. The County doesn't have an objection to the evidence at this time.

Chairman Phelps: That's good. And it was mainly a reminder on my part incase people - we don't have to rely on hearsay and we can determine among ourselves how much credence we want to give to that.

JCrafton: Mr. Chairman I would, when we are finished with this witness and we can direct our questions to Toby, the Technical Review Committee has approved this I'd be interested did they consider those facts.

Chairman Phelps: Do you have anything else for us Mr. Quinn?

JQuinn: No. I believe Mr. Connors did say that I gave him all the information about the RV Park because he said the board may want to contact him. And he said I need to know what I'm talking about. So I gave him the information. I don't know if you all can do that if you want to call him and he can tell you the same thing I just told you. But basically that's about all that I can tell you.

Chairman Phelps: In your opinion then you feel that the sewage is more than adequate to handle these RVs that you will have in place?

JQuinn: Yes I am. Now we're not dead set on hooking into the existing system. That just seemed to be an option that would probably be best because it's where the RV sites are going to be, the sewage system that runs right across the front of it there to the plant. Before I think, then it's probably pumped into the City sewer. I'm not real sure now how they've got that set up. I kind of got caught in the middle of that. And nobody knew a lot about it. But I do know that the system was a very large system. They paid over \$30,000 dollars just to have that system put in. And they told them at the time it was much larger than what they really needed but they were kind of looking ahead, if they might need it later on. I'm sure that it will handle it especially for one week a year but we could

look at putting in a dumping station. I don't know if it's feasible to think about or even if it would be legal to put a clean-out station where the RVs could dump right into the City's sewer where we have tapped into the City. Is that something that might be a possibility? Instead of putting in a dumping station just put a clean-out where they could run their pipe straight in.

APouch: Do you rent these spaces and cabins, your church?

JQuinn: Yeah. They call ahead and reserve and we – I don't even know what they rent them for. It's not very much but they do rent some. I guess you'd consider it rent. They call it contributions.

Chairman Phelps: But you only plan to use this, like you said, one or two weeks a year?

JQuinn: There is a possibility, there is a district in Rock Hill area that has been traveling to Virginia to have their week long meeting. They're coming, they're wanting to come here to have it right after our meeting's over. I think as far as that goes it would be good for the community. It's going to generate people that will probably be here a week shopping and buying fuel and maybe spending some money in our surrounding community. So in that aspect I think it would be an asset to the community.

APouch: Does the property pay tax, property tax?

JQuinn: I don't know. No, I don't believe, I believe we're tax exempt since it's through the church.

Deputy County Attorney SZambon: Mr. Chairman, if I may I have some questions for Mr. Quinn. Mr. Quinn, when you asked, was it Mr. Connor, about the sewer system?

JQuinn: Let's see, Roger Edwards.

Deputy County Attorney SZambon: Edwards. When you asked Mr. Edwards about the capacity of the existing sewer system that you have did you ask him about four or five pads or for 12 pads?

JQuinn: 12.

Deputy County Attorney SZambon: You asked for twelve.

JQuinn: I told him we had 12 pads. He said he wouldn't want us to tie them together and run one pipe into the sewer system. He wanted us to run from each pad a separate pipe.

Deputy County Attorney SZambon: But he said that 12 separate tie-ins to the sewer system would be fine in terms of capacity.

JQuinn: He said it would. He didn't see why it would not since it's only going to be used one week a year, possibly two. He said, "You're not going to be picking up that much, probably more".

Deputy County Attorney SZambon: And who does Mr. Edwards work for?

JQuinn: Let's see I had it written down here. It's Environmental, it's with Environmental Health but it's like a sp-

NBerry: Division of Water Quality.

Deputy County Attorney SZambon: Ok. It's DWQ?

JQuinn: Yeah, and I didn't jot down those letters but anyway these are the two fellows that I was instructed that I would have to talk to.

Deputy County Attorney SZambon: And you're asking this board for, as per your application to have 12 pads, right?

JQuinn: Yeah.

Deputy County Attorney SZambon: Ok. I just want to clarify because you had said that you were really only going to use four or five pads. And I just want to make sure we understood they were doing 12 pads. Does this project have public water?

JQuinn: We do have City water. We built a new hotel there a few years back. It is connected to City water.

Deputy County Attorney SZambon: Will the RV Park be tied into City water?

JQuinn: It'll be tied into the well. We have a well that supplies about 2/3 of the other buildings. It's a real deep well, got plenty of water. I don't believe there'd be a problem tying into it. I can't even see the water pressure go down even when we're full. People taking showers and you can't even tell. But that's when I talked to Bill Connors. He's the one I talked to about the water. And he told me that he didn't see a problem since it was private, a private well and only it being used a week or

two weeks out of the year. He said he didn't even think I'd have to have a permit. That's what he told me.

Deputy County Attorney SZambon: Ok. So that was for the public water not the sewer?

JQuinn: Yeah.

Deputy County Attorney SZambon: Because Mr. Connors is for the well water.

JQuinn: For the well water. And we of course have the well tested every year before camp meeting.

Deputy County Attorney SZambon: And is the Park arranged in such a way that it would be accessible by emergency services vehicles?

JQuinn: Yeah. Matter of fact we covered that at the last meeting. We're putting in a new road. Some of the addresses have been changed. The road will come in off of South Orchard instead of off of Upward Road because of the new construction on the highway that's going to be coming up there pretty soon, on Upward Road. We will not be able to enter Nazarene Drive off of Upward Road after they widen the highway. We will be able to exit there but we'll have to enter off of South Orchard Road.

Deputy County Attorney SZambon: You can't get in Nazarene Drive after the construction but you can exit that way.

JQuinn: Yes.

Deputy County Attorney SZambon: Who surrounds the church property? Specifically the church RV Park property?

JQuinn: Right below where we're wanting to put our pads for the RVs they just put in another RV Park, a pretty good size Park. It looks basically ready. He's poured the pads, got the power poles up and everything. Other than that there's a private dwelling on the other side and that's about it.

Deputy County Attorney SZambon: How large is the church property altogether?

JQuinn: I do have that somewhere but-

Deputy County Attorney SZambon: Well you can just give an estimate if you have an estimate.

Zoning Administrator TLinville: It's 13 acres.

JQuinn: I was going to say at 13 acres. I thought that's what I'd read, 13.

Deputy County Attorney SZambon: And the RV Park, will you be supplying any other utilities to the people in the RV Park besides sewer and water?

JQuinn: Power.

Deputy County Attorney SZambon: Power. Ok. And you're only planning to use this – if the board were to make a condition that the RV Park could only be used for the summer or for certain, you know, two weeks or three weeks or some period of time would that be a problem for the church?

JQuinn: I don't think that it would present a large problem but my thinking was that some of these people, during the summer that have RVs, may want to come up and park there, like if they're on vacation or something.

Deputy County Attorney SZambon: Are you anticipating that people would use the Park, the RV Park with the pads, not the buildings, the pads during the non-summer months? Say, Labor Day to Memorial Day?

JQuinn: I would not think they'd come in the fall and winter.

Deputy County Attorney SZambon: Ok.

JQuinn: I don't think so. It would be spring and summer most likely.

Deputy County Attorney SZambon: That's all I have.

Chairman Phelps: Mr. Quinn, when these pads are built and there are RVs occupying those pads would they be visible to the adjoining property?

JQuinn: They'll be visible from the other RV Park that this man has put in.

Chairman Phelps: Just from that campground?

JQuinn: The people on the other side of us, there's too many trees. The back of his property is woods and there's no homes back in there. No, it wouldn't be very visible even from the road.

Chairman Phelps: And you can see the RVs on the adjoining property from your property now?

JQuinn: In the wintertime when the leaves are off there's trees, rows of trees between us. But when the leaves are down, yeah, you can see his pads. In the summer, not so much.

Chairman Phelps: Any other questions from the board? Thank you, sir. Jim, you said you had a question.

JCrafton: Yeah, I have a couple of questions for Toby. Toby, I'm looking at the SR 4.18 for Recreational Vehicle Park item number 9 sewage system. It reads; *Recreational vehicle/Park model home spaces shall not be provided individual hookups to a septic tank a public/community sewage system or municipal sewage disposal system instead a central dump station shall be provided for the use of all occupants.* Which would suggest what Mr. Quinn has been presented to us the way it's been recommended and the way he intends to hook up his sewer is in violation of the provision of this ordinance. I wanted to ask that question and also did the Technical Review Committee take into considerations issues of water supply and sewage issues when you all approved his application?

SR 4.18. Recreational Vehicle Park

- (1) Site Plan. Major *Site Plan* required in accordance with §200A-296 (Major Site Plan Review).
- (2) Road Class. If the *recreational vehicle park* contains more than 50 *recreational vehicle* spaces, the *use* shall be located on a *collector, thoroughfare, boulevard* and/or *expressway*.
- (3) Lighting. *Lighting mitigation* required.
- (4) Perimeter Setback. Fifty (50) feet.
- (5) Recreational Vehicle Spaces. *Recreational vehicle* spaces shall be a minimum of 2,000 square feet and shall have dimensions no less than 40 feet by 50 feet. A *recreational vehicle* space may contain up to four (4) campsites for tent set-up. No *recreational vehicle* space is permitted in the 100-year *floodplain*.
- (6) Common Area. A *common area* shall be provided, that is equivalent in square footage to 25 percent the total square footage in: *recreational vehicle/park model home spaces, structures* on site, parking areas and *driveways*. *Common area* shall be accessible for the use and enjoyment of *recreational vehicle park* occupants, located as to be free of traffic hazards and maintained in good condition by the *applicant*.
- (7) Operations. The *recreational vehicle park*:
 - a. Shall provide rental spaces:
 1. For the location of *recreational vehicles, park model homes* and/or tent set-up,
 2. Which may contain an open or covered porch not exceeding 15 feet in height and not to exceed 400 square feet in area, and
 3. Which have no point of direct access not indicated on the *site plan*;
 - b. May contain *structures* ancillary to the use;
 - c. Shall be permitted one (1) store, exclusively for the sale of incidental gifts and foodstuffs; and
 - d. Shall provide, at the time of application, an evacuation plan for a natural disaster event.
- (8) Solid Waste Collection. The facility shall provide a suitable method of solid waste disposal and collection consisting of either private collection from individual *uses* or the *use* of dumpsters (installed and/or operated to meet all local and state statutes, ordinances and regulations (including Chapter 165 of the Henderson County Code, *Solid Waste*) and thereafter certified by the Department of Public Health). Where dumpsters are used, Screen Class One (1), Two (2) or Three (3) shall be provided consistent with the requirements of §200A-147 (Screen Classification).
- (9) Sewage System. *Recreational vehicle/park model home* spaces shall not be provided individual hookups to a septic tank, public/community sewage system or municipal *sewage disposal system*; instead, a central dump station shall be provided for the *use* of all occupants. A *recreational vehicle park* shall connect to a municipal *sewage disposal system* when the system is located within a distance equal to the product of 50 feet multiplied by the number of spaces proposed for the *recreational vehicle park*. If a *park* is located more than 2,500 feet from an existing municipal *sewage disposal system*, such connection shall not be required.
- (10) *Common Area Recreation and Service Facilities*. Those facilities within the *recreational vehicle park* shall be for the sole purpose of serving the overnight guests in the *park*, and shall adhere to the development standards established in SR-4.5 (*Common Area Recreation and Service Facilities*).

Zoning Administrator TLinville: Yes, that's why he had those answers and they were more for him than for us. The property is 13 acres and it's been there for a long time. So there is a community well that is inspected by the State. There is a package treatment plant that is inspected by the State, and we don't know any of those rules. And there's City water and there's City sewer. The City water and sewer serve the front, the newer buildings and the older buildings are on the community well and

septic. And since this is towards the back near those older systems if they can serve it we were fine with that. You're talking 500 feet to get to the municipal services so-

JCrafton: But it says they either have to, if I read this right, it says they either have to go to the municipal service if it's within a prescribed distance or they have to use a central dump station. It says they cannot use individual hookups.

Zoning Administrator TLinville: Right, right. And they are not because he's got that community pump, package plant. That counts as a-

JCrafton: But he just testified to us that he intended to use, on the recommendation of Mr. Roger Edwards, I think it was, that the recommendation was that he in fact do individual hook ups.

Zoning Administrator TLinville: No, No. Individual lines to their package plant. He's not going to put in 12 septic tanks. The point of that is to not have individual septic tanks. He will feed a community package plant.

HMarks: Is their package plant tied to the sewer?

Zoning Administrator TLinville: I don't know.

HMarks: Because it also says here, it says if you're *50 feet multiplied by the number of spaces proposed for the recreational Park*. That'd be 600 feet, 50 x 12. There's no scale on my map but it appears those lots may be within 600 feet of, I don't know where the sewer is either but if that's the case it says; *shall be connected to the sewer way*. So that is a question too.

JCrafton: It also says *individual hook ups not only not to a septic tank but they are not to be to a public community sewage system or a municipal sewage disposal system*.

Chairman Phelps: But when you read on; *a recreational vehicle Park shall connect to a municipal sewage disposal system when the system is located within the distance equal to the product of 50 feet multiplied by the number of spaces*. Which is 12 which is 600 which means it should be.

HMarks: If it's within 600 feet.

Chairman Phelps: Did we say it was 500 feet? I don't know.

TEngel: Is the Health Department going to be the overseer of this?

Zoning Administrator TLinville: No, the State will be. Or the City. You know the City could require it, but we're kind of away from the utilities. Like I say those were questions we all had. He needed to be aware of and address. So TRC wasn't concerned with how those were met. They have options there.

Deputy County Attorney SZambon: Mr. Chairman, I've spoken with Anthony Starr who's here and we reviewed the provision that you were talking about regarding the sewage system. The best way for them to do this project, and if you want to approve this project you can make it a condition, would be for individual lines from each pad to go to a dumping station and then the dumping station can go from the dumping station to the community sewer system or to the public sewer. It's just that they're saying that they don't want 12 lines going into the community sewer system or into the public sewer system. So it would just be another step but it would be 12 into one and then one into the community system.

Chairman Phelps: He wouldn't necessarily have to have the line from 12 into one. Twelve could go by there and individually dump into that site. Isn't that the way normally RVs usually do? They go up to a dumping site and dump?

Deputy County Attorney SZambon: Yes.

Chairman Phelps: So they wouldn't need a line necessarily. I mean they could have.

Deputy County Attorney SZambon: From the RVs to the dumping station is what you're saying? They wouldn't need a line, yes. But it just can't be each pad that ties in with the community system. It would have to be something else and then that ties in.

Chairman Phelps: Either one. The best thing to say is if we were going to put in any stipulations in that they have a dumping station. And then from that you could run the line to the public sewer. Am I understanding that correctly, Sarah?

Deputy County Attorney SZambon: Yes. That is my understanding.

Chairman Phelps: Further questions of Toby or anyone else? Mr. Quinn, do you have any cross examination questions for Toby or any of the County members?

JQuinn: No, I don't. We're not objecting to a dumping station.

Chairman Phelps: So that would be acceptable to you?

JQuinn: Yeah. You know that was one of the options we were leaving open. We were just trying to find out what would be the best way, the easiest way to get this Park set up. A dumping station is one of the things that we had talked about. So we're not objecting to the dumping station. It will handle a dumping station with no problem.

Chairman Phelps: I'm not sure you got picked up on the microphone but basically what he's saying is he has no objection to a dumping station being part of the process and the approval, correct?

JQuinn: Right.

Chairman Phelps: If there are no further questions do I hear a motion we close the public hearing?

JCrafton: So moved.

TEngel: Second.

Chairman Phelps: Tony seconds. All in favor let it be known by raising your hand. Unanimously approved to go into our session. A reminder when we make our decisions to remind ourselves what were the facts heard in this case. How do the facts relate to each of the findings in the case? Is there enough factual evidence to support each finding and Sarah, correct me, do we need to vote on each finding separately or can we do it as a whole?

Deputy County Attorney SZambon: Typically what we do is that you all vote based on the evidence that's been presented whether or not a special use permit is approved or denied and if it's approved what conditions you would like and then I come back with a draft order. And the idea with the draft order is then if you're ok with the draft order those would be your findings. And those would be your conclusions. However if you want to tell me exactly what you want that's fine too. It might take longer.

Chairman Phelps: But I mean it's ok we do it the way we have been doing it, and that's ok, and so we don't - as long as we are in agreement that each one of these four elements have been satisfied.

Deputy County Attorney SZambon: Yes. And that's how I always craft the order, to make sure the SR components and the special use components have all been met.

Chairman Phelps: Ok.

APouch: When we went to that meeting in Asheville didn't they say we had to vote on each one?

Chairman Phelps: That was my question, and they were saying that we needed to vote on each one of the elements separately. That was the point of my clarification here is if we could and still be in compliance.

Deputy County Attorney SZambon: If for some reason, like say that I brought you back a draft order and Mr. Crafton didn't like finding of fact number five and Mr. Engel didn't like finding of fact number 12, anything that's not unanimous, if you unanimously voted on the order it doesn't need to be broken out. But if any of you had a problem with specific findings then you have to go through each one and vote on all of them. Does that make sense? As long as you're unanimous it makes it easy.

Chairman Phelps: This document is provided from the School of Government Zoning Hearings and which Rules to Apply by David Owens. One of the things that says, and I think on there, is that at the conclusion of the evidentiary hearing the board making the decision must adopt written findings of the facts upon which it is basing its decision. This particular document doesn't say each individual one or in total, just that we have to make written findings.

JCrafton: And that's what she'll bring to us-

Chairman Phelps: And that's what she'll bring to us but just for full disclosure I'm trying to get this completely straight. So I think what we're doing is fine. Ann, to answer your question I know that they seem to stress that it's best. And I think anytime there's any severe controversy or disagreement on any of the elements that we probably should vote on each one independently. But as long as the board is pretty much in agreement along all lines of each one of these I think we can do it as we

have done in total with getting the written document from Sarah. Unless there's any board member with any objections to that.

Deputy County Attorney SZambon: Again, if you would like to do it, if you would like to tell me exactly what you want and come to the findings and conclusions, I'm happy to do that. It's up to all of you. But I do think, legally I think it's fine the way we've been doing it, as long as you all don't start fighting.

Chairman Phelps: It just outlines the form we've been using.

JCrafton: Are you ready to consider a motion?

Chairman Phelps: Yes, let's do. Let's proceed then and we can go through the testimony that we've heard and look at the requirements for the standards for review and get the opinions and questions of the board members.

JCrafton: Well to facilitate discussion I'd like to put a motion forward then that we could discuss for the purposes of a vote. I would move that this board having heard the application regarding application SUP-10-02, having heard the testimony of the applicant describing their intentions, having heard the testimony of County staff and the Technical Review Committee's findings and approval of the process, having found that the applicant by his description would meet all of the conditions of the special use permit that this board would approve the application for this special use permit with the following four conditions:

First - That the applicant meet and get final approval on the floodplain application.

Two - That the use of the site for the RV vehicles be limited to summertime for the months of June, July, and August.

- That the applicant install a dump station to comply with the requirements for the handling of sewage system waste from the different sites.

And fourthly - That the applicant be in full compliance with ordinance SR 4.18 and all of its stipulations.

Chairman Phelps: Motion has been made. How about also limiting it to 12 pads?

JCrafton: Well that's what the application is for.

Chairman Phelps: But if we don't put it in there-

APouch: Yeah, let's say no more than 12.

TEngel: Well according to the site plan, the site plan becomes part of this.

Deputy County Attorney SZambon: Yes. They would be vested to this site plan.

Chairman Phelps: To just the one shown, the 12 shown?

Deputy County Attorney SZambon: Yes. However if you would like me to put it as a condition, I mean it will be a finding of fact. If you would like it as a condition add it.

Chairman Phelps: Why not add it to be specific?

JCrafton: I don't have a problem with adding it. I think it's covered anyway but we could add it.

Chairman Phelps: To avoid any vagueness I think it would be good to have it in there. It doesn't hurt because that was their intention. Is there a second to the motion?

TEngel: I'll second.

Chairman Phelps: Discussion, questions by the board?

HMarks: Is there a specific reason for limiting it just to June, July, and August? Is that going to be too restrictive?

JCrafton: Well the whole presentation was based on a very limited use and therefore it didn't generate traffic. It didn't generate all of the things of additional full time residence and all of the things we have to consider there. And my thought in putting a limitation on there, which I thought was rather generous when he only suggested they would only use it one to two, maybe the most, three times a year-

APouch: He did say people might stay longer.

JCrafton: It then saves us having to consider all the other elements that would be involved if it were full time residency there.

Chairman Phelps: Could we also rephrase that to say during the period of Memorial Day through Labor Day? That kind of gives two holidays in there as he said when people could be traveling.

JCrafton: That's fine. It essentially covers the same timeframe. I would accept that amendment, Memorial Day to Labor Day.

HMarks: I guess the question I would have and I don't want to address Mr. Quinn again –

Chairman Phelps: For clarification purposes we can't. We can't ask for further testimony but we can ask for a point of clarification. For clarification we can open it. So Mr. Quinn, would you come for clarification point please.

HMarks: Restricting it to basically Memorial Day to Labor Day, would that be a problem?

JQuinn: I don't see how it would, no.

Chairman Phelps: I've been reminded that's probably a question but the point was made.

JQuinn: Ok. Anything else you need from me? Any more questions?

Chairman Phelps: Not at this time. Ok. We got the motion. Basically it will have to be approved through the flood plan approval County by Ms. Berry and limited to 12 pads. It will have a dump station and the period will be of uses permitted is from Memorial Day to Labor Day. Correct? Does everybody understand that? Are you ready to come to a vote?

TEngel: Yes.

Chairman Phelps: All in favor of the motion as stated let it know by raising your right hand. Let the record show that all members voted in favor. Mr. Quinn, if you'll come forward you'll understand that your application has been approved. And Sarah, at our next meeting we will have the formal order. Is there anything that needs to be added, Mr. Quinn needs to be aware of before, regarding, other than that, that we have 45 days to approve the order?

Deputy County Attorney SZambon: We have 45 days for an order to be approved.

JCrafton: He can't begin any of the things he applied for until he receives the actual order.

Deputy County Attorney SZambon: No.

JQuinn: Yeah, that'd be fine. We're probably not going to even proceed with it until after August. We do have it staked out and we've had the surveyor mark the sites. But that's as far as we're going right now, at this time.

Chairman Phelps: Thank you, sir. Motion to close the case?

TEngel: I'll motion to close.

Chairman Phelps: Tony moves. Second?

APouch: Second.

Chairman Phelps: Ann moves. All in favor raise your hand. Unanimous. Let the record show unanimous approval by the board. Ok, now we come to the point, do we need a break before we come to the next case, anyone? If not we'll move to our next case. Do we do something?

Deputy County Attorney SZambon: No. You're fine. I wouldn't, go ahead you can open it.

Chairman Phelps: Well formally I guess I have to say we need to open the Case A-10-01 Seven Falls Golf and River Club, Etowah, requesting appeal of ground cover violations and associated civil penalties assessments for Case # HENDE-2007-059 and Case # EC-2007-10-09. Do I hear a motion we open this case?

HMarks: I make a motion.

Chairman Phelps: Hunter motions. Second?

JCrafton: (indicated second).

Chairman Phelps: Jim second. All in favor raise your hand. Unanimous. Let the record show unanimous approval to open the case. Now, do we have anyone here to speak to this case?

Deputy County Attorney SZambon: Mr. Chairman, unless there is anybody present who is here to represent Seven Falls, is there anyone here to represent and Seven Falls? No, for Mr. Vinson and Seven Falls (Ms. Zambon responding to a person in the audience). Mr. Chairman, since there is no

one present here for Mr. Vincent and for the Seven Falls property who requested the appeal in this matter, and in appeals it is the burden of the person appealing to show why they are appealing and why they think these things are wrong, and there's no one here to say that, the County would move that this board vote to deny the appeal and uphold the findings of the County and the fines.

Chairman Phelps: Thank you. Questions of Sarah, anyone?

APouch: Have they declared bankruptcy? I mean if we fine them do they have any –

Deputy County Attorney SZambon: Matters of bankruptcy or the financial viability of the appellant in this case are not really for this board to decide. At this point in the proceedings the County has assessed them fines but we haven't moved for enforcement of those fines. To get those fines we would have to go to Civil Court. This proceeding would have been just to determine whether or not there were violations, whether or not those fines were appropriate.

APouch: Thank you.

Chairman Phelps: Thank you. Any other questions or discussions? If not do I have a motion that we approve to uphold the fines as assessed by the County?

JCrafton: The motion would be to deny the application, wouldn't it?

Deputy County Attorney SZambon: Yes. The motion would be to deny the appeal thus upholding the fines.

Chairman Phelps: Ok, rephrase it then. Someone can better rephrase it in the form of a motion.

HMarks: I make a motion that we deny the appeal and leave the fines in place.

TEngel: Because we've heard no information on-

HMarks: Because Seven Falls is not with us to give a presentation at the meeting.

TEngel: I'll second the motion.

Chairman Phelps: Hunter has made the motion and Tony has seconded it. Is there any discussion on this motion?

APouch: There's nothing to discuss.

TEngel: We really don't know anything at this point. All we have is the information that has been presented to us.

Chairman Phelps: Shall we come to a vote? All those in favor of the motion denying the appeal let it be known by raising your right hand. All opposed, no.

Chairman Phelps – voted in favor of denying the appeal

Jim Crafton – voted in favor of denying the appeal

Tony Engel – voted in favor of denying the appeal

Ann Pouch – voted in favor of denying the appeal

Hunter Marks - voted in favor of denying the appeal

Chairman Phelps: Let the record show it was unanimously voted on by all members of the board to deny the application.

Deputy County Attorney SZambon: Mr. Chairman, as this is technically a quasi-judicial proceeding meaning after I talk you can close it, I'll bring back to the board within 45 days a very brief findings of fact, conclusions of law and the decision in this matter in writing.

Chairman Phelps: Thank you very much. Your assistance is greatly appreciated. Do I have a motion that we close this case?

JCrafton: So moved.

TEngel: Second.

Chairman Phelps: And a second. All in favor let it be known by raising your right hand. Let the record show it was unanimously approved to close the case. Is there any other business to come before the board at this time? If not and if the agenda is not too large for next month I've requested that Sarah prepare some training materials for us based upon that new law that came into effect 1-10-10. So hopefully we will have time for that next year – at our next meeting so that we'll be clarified on that issue. I need a motion to adjourn.

APouch: I so move.

Chairman Phelps: Second?

HMarks: (indicated second).

Chairman Phelps: All in favor. Unanimously approved to adjourn. Thank you very much. Meeting adjourned.

Meeting adjourned at 4:59 p.m.



Chairman, Jim Phelps



Karen Ann Antonucci, Secretary