

**MINUTES
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 W. NEEDLES AVE.
BIXBY, OK 74008
June 04, 2012 6:00 PM**

STAFF PRESENT:

Erik Enyart, AICP, City Planner
Patrick Boulden, Esq., City Attorney

ATTENDING:

Dr. C. G. Wells, Jr.
See attached Sign-in Sheet

CALL TO ORDER

Meeting called to order by Chair Jeff Wilson at 6:10 PM.

ROLL CALL

Members Present: Jeff Wilson, Murray King, Dave Hill, and Larry Whiteley.

Members Absent: Darrell Mullins.

MINUTES

1. Approval of Minutes for May 07, 2012

Chair Jeff Wilson introduced the item and made a MOTION to APPROVE the Minutes of May 07, 2012 as presented by Staff. Murray King SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: King, Wilson, Whiteley, & Hill

NAY: None.

ABSTAIN: None.

MOTION CARRIED: 4:0:0

OLD BUSINESS

NEW BUSINESS

2. **BBOA-560 – Dr. C. G. Wells, Jr. for Marcia D. Wells.** Discussion and possible action to approve (1) a Variance from Section 11-8-5 to be permitted to maintain two (2) dwellings on a singular tract of land, (2) a Variance from the 40' rear yard setback and 2.2 acre minimum land area per dwelling unit standards of Zoning Code Section 11-7A-4 Table 3, and, (3) a Variance from any other Zoning Code requirement preventing the

placement and maintenance of a Use Unit 9 single-wide manufactured home on a lot containing a Use Unit 6 single family dwelling and the Juniper Hill Farm a Use Unit 15 nursery business in the AG Agricultural District.

Property located: Part of the NE/4 NW/4 Section 06, T17N, R14E; 9740 and 10288 E. 121st St. S.

Chair Jeff Wilson introduced the item and called on Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the Staff Report as follows:

To: Bixby Board of Adjustment
From: Erik Enyart, AICP, City Planner
Date: Wednesday, May 30, 2012
RE: Report and Recommendations for:
BBOA-560 – Dr. C. G. Wells, Jr. for Marcia D. Wells

LOCATION: – 9740 and 10288 E. 121st St. S.
– Part of the NE/4 NW/4 Section 06, T17N, R14E

LOT SIZE: 1 2/3 acres, more or less

ZONING: AG General Agricultural District

SUPPLEMENTAL ZONING: None

EXISTING USE: (1) Use Unit 15 Juniper Hill Farm nursery-related business,
(2) Use Unit 6 single-family dwelling, and
(3) Use Unit 9 single-wide manufactured home

REQUEST: Variance from (1) Zoning Code Section 11-8-5 to be permitted to maintain two (2) dwellings on a singular tract of land, (2) the 40' rear yard setback and 2.2 acre minimum land area per dwelling unit standards of Zoning Code Section 11-7A-4 Table 3, and, (3) any other Zoning Code requirement preventing the placement and maintenance of a Use Unit 9 single-wide manufactured home on a lot containing a Use Unit 6 single family dwelling and the Juniper Hill Farm a Use Unit 15 nursery business in the AG Agricultural District

SURROUNDING ZONING AND LAND USE:

North: (Across 121st St. S.) AG & RM-2; A 40-acre agricultural tract and the The Sand Plum assisted living center and two (2) vacant frontage tracts to the northwest zoned RM-2.

South: RS-3 & AG; Vacant land zoned RS-3 for part of a future “Chisholm Ranch” single-family residential subdivision.

East: AG and RS-3/PUD 58; A rural residential tract containing approximately 10 acres and single-family dwellings and vacant lots in the Chisholm Ranch Villas residential subdivision to the northeast zoned RS-3/PUD 58.

West: RS-3; Vacant land zoned RS-3 for part of a future “Chisholm Ranch” single-family residential subdivision and single family residential in Heritage Park Estates beyond that to the west.

COMPREHENSIVE PLAN: Low Intensity + Vacant, Agricultural, Rural Residences, and Open Land.

PREVIOUS/RELATED CASES:

BBOA-274 – Dr. Cecil Wells Jr. – Request for Variance from the minimum area standard in the AG district to allow for a Lot-Split (BL-176) of an approximately 2.6-acre tract into two (2) tracts of approximately 0.9 acre and 1.7 acres, the latter being the subject property – Approved by BOA 02/07/1994.

BBOA-275 – Dr. Cecil Wells Jr. – Request for Variance from the minimum frontage standard in the AG district to allow for a Lot-Split (BL-176) of an approximately 2.6-acre tract into two (2) tracts of approximately 0.9 acre and 1.7 acres, the latter being the subject property – Approved by BOA 02/07/1994.

BL-176 – Dr. Cecil Wells Jr. – Request for Lot-Split of an approximately 2.6-acre tract into two (2) tracts of approximately 0.9 acre and 1.7 acres, the latter being the subject property – Approved by PC 03/02/1994.

BL-360 – Chisholm Ranch, LLC for Patricia Wells Trust – Request for Lot-Split approval for a 17'-wide "Easterly Southern Tract" to be taken from the south end of the subject property and added to the Chisholm Ranch, LLC acreage – PC Conditionally Approved 09/15/2008.

BL-361 – Chisholm Ranch, LLC for the Juniper Hill Farm, Inc. – Request for Lot-Split approval for a 18'-wide "Easterly Northern Tract" to be taken from the abutting Chisholm Ranch, LLC acreage and added to the north end of the subject property – PC Conditionally Approved 09/15/2008.

RELEVANT AREA CASE HISTORY: (not a complete list – selected from cases most recent, most relevant to this application, and concerning properties closest in proximity to the subject property)

BZ-98 – Harmony Homes/Charles Smith – Request for rezoning from AG to RS-3 & CS for the NW/4 NW/4 to the west (includes what was later platted as Heritage Park Estates) – Recommended for Approval by PC 02/23/1981 and Approved by City Council 03/02/1981 (Ord. 420).

PUD 8 – Ed Black & Jim Diamond – Request for rezoning for PUD approval for a "Sylvan Springs" small-lot patio home residential subdivision in the NW/4 NW/4 to the west (includes what was later platted as Heritage Park Estates, but not by this application) – Recommended for Denial by PC 01/30/1984, amended by Applicant and Appealed to the City Council, remanded back to the PC, and Recommended for Denial by PC 03/26/1984, and Withdrawn by Applicant.

PUD 9 – Ed Black & Jim Diamond – Request for rezoning for PUD approval for a "Spring Creek" small-lot patio home residential subdivision in the NW/4 NW/4 to the west (includes what was later platted as Heritage Park Estates, but not by this application) – Recommended for Denial by PC 05/29/1984, Appealed to the City Council, and (per notes) Denied by City Council 06/12/1984.

BZ-233 – Joe Donelson for First Equity Corporation – Request for rezoning from CS to RS-3 for the northwest 5 acres of the NW/4 NW/4 to the west (part of what was later platted as Heritage Park Estates) – Recommended for Approval by PC 09/24/1997 and Approved by City Council 11/10/1997 (no Ordinance found).

BZ-292 – Merritt Properties, Inc. / Sand Plum Limited Partnership – Request for rezoning from RM-2 to CS for two 1.5-acre tracts to the northwest in front of the The Sand Plum assisted living center – Recommended for Denial by PC 05/19/2003 and evidently not appealed to the City Council.

BZ-323 – Haikey Creek Partners, LLC for David Markle – Request for rezoning from AG to RS-3 for 55 acres to the east for the Chisholm Ranch, Chisholm Ranch Villas, and part of a future phase "Chisholm Ranch" single-family residential subdivisions – Recommended for Approval by PC 12/11/2006 by 2 to 1 vote and Approved by City Council 05/11/2009 (Ord. 958 on 12/11/2006 corrected by Ord. 968 on 01/22/2007, which was later corrected again by Ord. # 2014 on 05/11/2009).

PUD 58 – Juniper Hills Villas – Haikey Creek Partners, LLC for David Markle – Request for PUD approval for 8.12 acres abutting to the east for the Chisholm Ranch Villas subdivision (then tentatively known as "Juniper Hills Villas") – Recommended for Approval by PC 05/21/2007 by 2 to 1 vote and Approved by City Council 06/11/2007 (Ord. 971).

BZ-339 – Chisholm Ranch, LLC for Juniper Hill Farm, Inc. – Request for rezoning from AG to RS-3 for 22 acres abutting to the north and south for part of a future "Chisholm Ranch" residential subdivision – Approved in July 2008.

BL-357 – Chisholm Ranch, LLC for the Juniper Hill Farm, Inc. – Request for Lot-Split approval for the "Westerly Northern Tract" to be taken from the abutting Chisholm Ranch, LLC acreage to deed to the 1-acre tract property abutting to the west – Approved by PC 07/21/2008.

BL-358 – Chisholm Ranch, LLC for the Patricia Wells Trust – Request for Lot-Split approval for the "Westerly Southern Tract" to be taken from the 1-acre property abutting to the west to deed to Chisholm Ranch, LLC – Withdrawn by Applicant 07/15/2008.

BACKGROUND INFORMATION:

The Applicant has recently relocated, from the approximately 31-acre tract abutting to the west with an associated address of 10158 E. 121st St. S. and belonging to Chisholm Ranch, LLC, a single-wide mobile / manufactured home to the southeast corner of the subject property of 1 2/3 acres, more or less, addressed 9740 E. 121st St. S. The manufactured home has been located, and is intended to be connected to utilities and to remain behind (south of) all the commercial buildings on the subject property, which support the Juniper Hill Farm nursery-related business. The manufactured home is occupied as a dwelling by an employee of the Juniper Hill Farm business. In addition to the business and the manufactured home, this same 1 2/3 acre tract has a single family dwelling. There is a 1-acre tract on the west side of subject property, which belongs to Dr. C. G. Wells, Jr., and contains a single-family

dwelling. The Juniper Hill Farm business on the subject property, the single-family dwelling on the subject property, and the single-family dwelling on the 1-acre tract abutting to the west all share the 9740 E. 121st St. S. address. The Applicant has been advised that, based on the location of the driveway at its point of connection to 121st St. S., "9740 E. 121st St. S." is an inadequate address, as it suggests a location immediately next to Mingo Rd., and the driveway is in fact located over 400' east of 101st E. Ave., and that, for reasons of emergency response, it is not appropriate for multiple buildings to share a singular address. The Applicant has stated that, at this time, he does not prefer that the existing addresses of the two (2) houses and the Juniper Hill Farm business be reassigned, but does want to have an address assigned to the manufactured home. The manufactured home on the subject property does not yet have a physical address assigned, but 10288 E. 121st St. S. has been reserved for it if and upon approval of this application and a future application for Special Exception.

Zoning Code Section 11-8-5 restricts tracts of land to one (1) dwelling unit each. Therefore, the manufactured home would constitute the second dwelling on the tract, and is not permitted.

The property is zoned AG Agricultural District in the City of Bixby. The AG zoning district is primarily designed to allow for farming and general agricultural purposes and allows for one (1) conventional, site-built residential dwelling per tract. Use Unit 9 mobile / manufactured homes, including double-wide manufactured homes, are permitted in the AG zoning district, limited to one (1) per tract, with the approval of an application for Special Exception.

A commercial nursery, identified in the Zoning Code as a "Greenhouse, retail sales" businesses, is recognized as a Use Unit 15 commercial use. Even if selling wholesale, only to landscapers and other businesses, but not the general public (e.g. selling bulk quantity landscaping products from pallets, etc.), if any sales occur on the premises, it is a Use Unit 15 business.

The Use Unit 15 commercial nursery is not a permitted use in the AG district. However, the Applicant informed Staff on May 04, 2012 that he has lived at this location for "50 years." If the Applicant's business occupied the buildings on the 1 2/3 acre property since before the first Zoning ordinance or Zoning Code first prohibited them in the AG district, the business and the buildings they occupy are legally nonconforming, or "grandfathered." The City of Bixby did not adopt a Zoning ordinance until circa the original late 1960s or early 1970s Zoning Ordinance # 234 (or possibly an earlier ordinance), but certainly by the April 02, 1974 Zoning Ordinance # 272. It has been 38 years since the 1974 ordinance was passed.

In 1994, the Bixby Board of Adjustment approved two (2) Variances that apply to the subject property:

BBOA-274 – Dr. Cecil Wells Jr. – Request for Variance from the minimum area standard in the AG district to allow for a Lot-Split (BL-176) of an approximately 2.6-acre tract into two (2) tracts of approximately 0.9 acre and 1.7 acres, the latter being the subject property – Approved by Board of Adjustment 02/07/1994.

BBOA-275 – Dr. Cecil Wells Jr. – Request for Variance from the minimum frontage standard in the AG district to allow for a Lot-Split (BL-176) of an approximately 2.6-acre tract into two (2) tracts of approximately 0.9 acre and 1.7 acres, the latter being the subject property – Approved by Board of Adjustment 02/07/1994.

Also in 1994, the Bixby Planning Commission approved the Applicant's Lot-Split application, creating the subject property of 1 2/3 (1.7) acres, as follows:

BL-176 – Dr. Cecil Wells Jr. – Request for Lot-Split of an approximately 2.6-acre tract into two (2) tracts of approximately 0.9 acre and 1.7 acres, the latter being the subject property – Approved by Planning Commission 03/02/1994.

In 2008, the Bixby Planning Commission approved Lot-Split application BL-360, which split the "Easterly Southern Tract" from the south side of the 1 2/3-acre subject property and added to the Chisholm Ranch, LLC acreage. Also in 2008, the Bixby Planning Commission approved BL-361, which split the "Easterly Northern Tract" from the Chisholm Ranch, LLC acreage and added it to the north end of the 1 2/3-acre subject property. It appears this was a property trade intended to allow for a more logical landholding pattern reflecting existing conditions (driveways, etc.), and to accommodate the future development of the Chisholm Ranch, LLC acreage. The split pieces were attached to the adopting lots in both instances, as required by the Planning Commission.

It was recognized at that time, and it is recognized still, that BBOA-274 and BBOA-275 maintain their effect. Thus, it will not be necessary to request a new Variance from the minimum lot area requirement in the AG district per Zoning Code Section 11-7A-4 Table 3, which minimum lot area

standard may have required more land area than the 2.0 acres now required, per case notes. Neither will it be necessary to request a new Variance from the street frontage requirement of Zoning Code Section 11-8-4. However, Staff observes that neither Variance application included a Variance from the 2.2 acre minimum land area per dwelling unit standard for properties in the AG district per Zoning Code Section 11-7A-4 Table 3. Further, based on the Applicant's description of the placement of the single-wide manufactured home and a site inspection on May 18, 2012, it would appear likely that it occupies part of the minimum 40' rear yard setback per Zoning Code Section 11-7A-4 Table 3. Finally, it is quite possible that, even as Staff has spent a significant amount of time trying to scope out any additional Zoning Code provisions from which the subject property and the situation are out of compliance, Staff may have inadvertently missed one or more. Therefore, Staff recommended, and the Applicant requested a "Variance from the 40' rear yard setback and 2.2 acre minimum land area per dwelling unit standards of Zoning Code Section 11-7A-4 Table 3, and a Variance from any other Zoning Code requirement preventing the placement and maintenance of a Use Unit 9 single-wide manufactured home on a lot containing a Use Unit 6 single family dwelling and the Juniper Hill Farm a Use Unit 15 nursery business."

The Zoning Code and State Statutes prevent the allowance of a Use Unit 9 manufactured home by use of Variance application, as such would constitute an unlawful "Use Variance." It is possible, however, to seek and receive Zoning approval for the Use Unit 9 manufactured home use by Special Exception application. Although the Applicant was advised of this fact, perhaps due to a misunderstanding, the Special Exception application was not submitted along with the Variance Application. Staff only noticed the omission on May 24, 2012, and sent the Applicant another application form and instructions by letter on that date. The application was received May 29, 2012, and it will be placed on the July 02, 2012 Board of Adjustment agenda for consideration.

This will cause a delay in the ultimate Zoning approval of the manufactured home, presuming approval. However, Staff believes that the approval of the Variance presupposes the Board of Adjustment's subsequent approval of the Special Exception, recognizing that the application included a request for Variance from "any other Zoning Code requirement preventing the placement and maintenance of a Use Unit 9 single-wide manufactured home on a lot containing a Use Unit 6 single family dwelling and the Juniper Hill Farm a Use Unit 15 nursery business in the AG Agricultural District," and recognizing that the "Finding of No Substantial Detriment or Impairment" test and standard of the Variance, if the Board finds it satisfied, is similar to, and in my estimation, approximately the same as the tests and standards for granting a Special Exception pursuant to the Bixby Zoning Code, "that the [S]pecial [E]xception will be in harmony with the spirit and intent of [the Zoning Code], and will not be injurious to the neighborhood or otherwise detrimental to the public welfare."

Therefore, if the Board of Adjustment approves the necessary Variances on June 04, 2012, subject to the approval of the Special Exception, Staff will issue the address assignment letter at that time. This should allow the utility companies to connect the manufactured home unit with services.

Also by the May 24, 2012 letter, Staff has requested of the Applicant "a survey, site plan, or sketch representing the 1.7-acre tract and the improvements located on it, and especially the location of the relocated manufactured home..." Staff is concerned that the unit may not be fully located within the boundaries of the 1.7-acre tract subject property, recognizing how close it appeared to be to where Staff would expect the property line was, when Staff visited the site.

ANALYSIS:

Subject Property Conditions. The subject property is located approximately 500' south of 121st St. S., near the southwest corner of the intersection of 122nd St. S. and 103rd E. Ave. in Chisholm Ranch Villas. The subject property is unplatted and contains commercial buildings which support the Juniper Hill Farm nursery-related business, a single-family dwelling, and a single-wide manufactured home recently relocated to the southeast corner of the subject property, behind (south of) all of the commercial buildings. The subject property appears to slope slightly downward to the southwest. It is accessed from a private, paved driveway connecting to E. 121st St. S. at approximately the 10200-block thereof. The driveway then crosses the 1-acre tract abutting to the east along its north and south sides. Additional property information is located in the Background Information section of this report.

Tests and Standard for Granting Variance. Oklahoma State Statutes Title 11 Section 44.107 and Bixby Zoning Code Section 11-4-8.A and .C together provide the following generalized tests and standards for the granting of Variance:

- Unnecessary Hardship.

- Peculiarity, Extraordinary, or Exceptional Conditions or Circumstances.
- Finding of No Substantial Detriment or Impairment.
- Variance would be Minimum Necessary.

Nature of Variance. As suggested by Staff in a letter dated May 04, 2012, the Applicant is requesting a Variance from (1) Zoning Code Section 11-8-5 to be permitted to maintain two (2) dwellings on a singular tract of land, (2) the 40' rear yard setback and 2.2 acre minimum land area per dwelling unit standards of Zoning Code Section 11-7A-4 Table 3, and, (3) any other Zoning Code requirement preventing the placement and maintenance of a Use Unit 9 single-wide manufactured home on a lot containing a Use Unit 6 single family dwelling and the Juniper Hill Farm a Use Unit 15 nursery business in the AG Agricultural District.

The third and final Variance component is intended to be a 'catch-all,' in the event other provisions of the Zoning Code would prevent the land uses and property conditions but were inadvertently overlooked when determining the number of and scope of Variances necessary. Specifically, it would appear this Variance component could be applied to any regulations restricting the expansion of a nonconforming business use by the addition of the single-wide manufactured home to the subject property.

All Variance request elements are inextricably related with a common nexus: The proposal to maintain all existing land uses on the subject property, including the single-wide manufactured home. Further, the different Zoning Code regulations from which the Variance has been requested all operate to a singular effect: the prohibition of the same. Therefore, this report will not divide the separate Variance components into different report sections, except where possible and appropriate.

Unnecessary Hardship. The Applicant claims that an Unnecessary Hardship would be caused by the literal enforcement of the Zoning Code because "Financial – have been here for 50 years – I am retired as I am 85 [years] old."

The strict application of the Zoning Code restrictions will result in the prohibition of the maintenance of all existing improvements on the property, which Staff believes could amount to an Unnecessary Hardship.

Peculiar, Extraordinary, or Exceptional Conditions or Circumstances. The Applicant responded to the question asking how the subject property and its Condition or Situation is Peculiar, Extraordinary, and/or Exceptional by stating, "My sales contract states Chisholm Ranch is to furnish attachments to all utilities when its completed." The Applicant appears to be referring to terms of sale when the main part of the acreage for the Juniper Hill Farm nursery-related business was sold to Chisholm Ranch, LLC. It does not appear to be relevant to the application in question.

Staff believes that the following facts may be considered arguments in support of this test and standard:

- The house and commercial buildings serving the Juniper Hill Farm nursery-related business are assumed to be legally nonconforming, or "grandfathered," as described in detail in the Background Information section of this report.
- For tax assessment and other governmental purposes, single-wide manufactured homes are commonly recognized as personal property, as they are usually not attached to the land in a permanent fashion and so are not necessarily part of the real estate.
- The single-wide manufactured home was only recently added to the subject property. It was relocated from the main part of the acreage for the Juniper Hill Farm nursery-related business sold a few years ago to Chisholm Ranch, LLC for a future residential development. It has evidently been occupied by an employee of the Juniper Hill Farm nursery-related business for a period of time predating the sale. Since the land on which it was previously located was sold to Chisholm Ranch, LLC, and since it belongs to the Juniper Hill Farm business, to a certain extent, approval of the Variance would preserve the status quo.
- It can be argued that the building is functionally related to the business, analogous to a nightwatchman or on-premises caretaker commonly employed by other types of businesses. It is also analogous to commercial farms and other large commercial businesses that provide their own workers housing on site, but at a reduced scale in this case.
- As it pertains to the Variance from the 40' rear yard setback in the AG district, Staff believes that the subject property and its Condition or Situation is Peculiar, Extraordinary, and/or Exceptional due to the fact that it is a landlocked tract with no street frontage, and thus it is

somewhat arbitrary to deem the south line as the rear yard line. The front, rear, and side yard lines are arguably ambiguous. Further, the property to the south, which would stand to benefit from the 40' setback, is not developed. The property abutting to the south is currently subject to a Mutual Access Easement per the plat of Chisholm Ranch, Book 4731 Page 36 & Book 5615 Page 887 of the records of the Tulsa County Clerk. Finally, according to preliminary conceptual plans for a future phase of "Chisholm Ranch," that area will be a future street.

- *Recognizing the Board of Adjustment approved a Variance from the minimum lot area standard in the AG district (BBOA-274) and recognizing that the subject property was then, and is now landlocked with no street frontage, the 2.2-acre minimum land area standard may be argued to have been implicitly approved ("land area" by definition is a function of lot area + adjacent right-of-way), even though it should have been explicit. Further, the minimum lot area standard from which Variance was granted appeared to have been more stringent, in terms of acreage, than the 2.0 acres currently required in the AG district.*

Finding of No Substantial Detriment or Impairment. *The Applicant claims that the requested Variance would Not Cause Substantial Detriment to the Public Good or Impair the Purposes, Spirit and Intent of the Zoning Code or the Comprehensive Plan because "Contract also states that I will install a privacy fence all along the property lines so as not to detract from surrounding properties. Mobile home that was on property sold to Chisholm Ranch – they told me it was OK with them." The Applicant appears to be referring to terms of sale when the main part of the acreage for the Juniper Hill Farm nursery-related business was sold to Chisholm Ranch, LLC. It does not appear to be relevant to the application in question, except perhaps as it pertains to the 40' rear yard setback Variance element. The Applicant is in the process of constructing a masonry wall along this south property line. Provided the fence/wall is placed on the common property line or within the subject property and provided the single-wide manufactured home is located within the fence/wall, the effect of Variance from the 40' setback would be somewhat mitigated from the standpoint of aesthetics, buffering, and separation of uses.*

Staff believes that certain arguments listed in the Peculiar, Extraordinary, or Exceptional Conditions or Circumstances section of this report may also be used to support the application in terms of this Substantial Detriment test and standard.

Finding of Minimum Necessary. *The application form does not provide this item in the form of a question, and the submitted information does not contain any arguments in regard to this item. However, the Minimum Necessary to Alleviate the Unnecessary Hardship standard should be considered not applicable, or otherwise inherently satisfied, as this Variance seeks a qualitative and not quantitative form of relief (Variance to be permitted to maintain certain land uses, unbounded Variance from land area requirement, unbounded Variance from rear yard setback, and unbounded Variance from all other restrictions against all the above).*

Staff Recommendation. *For the most part, Staff believes that the arguments provided by the Applicant and Staff appear to substantially meet the tests and standards of the Zoning Code and State Statutes. To the extent the arguments are found lacking, the Board may wish to consider other arguments that the Applicant and Board may discover during public hearing and consideration of this case at the meeting.*

If found satisfactory, Staff recommends the Approval be subject to the submission of a survey, site plan, or sketch representing the 1.7-acre tract and the improvements located on it, and especially the location of the relocated manufactured home, and the relocation of the home to a location fully within the subject property if found to be lying to any extent outside same.

Chair Jeff Wilson clarified with Erik Enyart that it was Mr. Enyart's opinion that, if the Board approved the Variance that evening, it would be in effect declaring that it would not [disapprove] the Special Exception the following month.

Chair Jeff Wilson clarified with Applicant Dr. C. G. Wells, Jr. that the caretaker living in the manufactured home unit was the same as took care of the [Juniper Hill Farm] nursery [when it was its full size].

Dr. Wells stated that, per the terms of sale to the developer, he was to furnish a wall [along his south property line]. Dr. Wells stated that the wall would practically cover up the view of the

mobile home from any angle. Dr. Wells stated that he did not know he had violated the ordinance before he moved [the mobile home]. Dr. Wells stated that he had split the lot to give his son some land[, the subject property,] with his home. Dr. Wells stated that the subject property was used for his son's landscaping business.

Chair Jeff Wilson confirmed with Erik Enyart that, if and when the mobile home was removed, the approved Variance would allow for a new house to be constructed on the lot.

Patrick Boulden stated that the Board could condition the approval so that the Variance approval would go with this mobile home. Erik Enyart stated that, if the Board did, the Variance would expire to [the] extent [of the second dwelling unit on the property].

Chair Jeff Wilson asked the Applicant if he did not object to that condition, and Dr. Wells indicated he had no objection to that.

Dr. Wells stated that, according to the development plans, there would be a swimming pool just south of the mobile home. Dr. Wells stated that part of his deal with the developer was that he would be allowed to move the mobile home.

Larry Whiteley stated that all of that land was country till just a short time ago.

Declaring that the basis for the approval was set forth in the recommendations of the report of the City Planner, and with guidance on the wording of the Motion by Patrick Boulden and Erik Enyart, Chair Jeff Wilson made a MOTION to APPROVE BBOA-560 with the following Conditions of Approval:

1. The approval is restricted to this mobile home only and no permanent structures can go in its place, and
2. Subject to the submission of a plot plan generally representing the location of the mobile home on the subject property.

Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	King, Wilson, Whiteley, & Hill
NAY:	None.
ABSTAIN:	None.
MOTION CARRIED:	4:0:0

Dave Hill asked why the Special Exception was still required. Erik Enyart stated that, according to State Statues, cities cannot approve "Use Variances," and if [the entire] approval was granted by [this] Variance it would constitute a "Use Variance," and as the Bixby Zoning Code specifically allowed Use Unit 9 manufactured homes by Special Exception [in the AG district].

Chair Jeff Wilson confirmed with Erik Enyart that he would issue the address for the mobile home the following day.

ADJOURNMENT

Chair Jeff Wilson asked to entertain a Motion to Adjourn. Larry Whiteley made a MOTION to ADJOURN. Dave Hill SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	King, Wilson, Whiteley, & Hill
NAY:	None.
ABSTAIN:	None.
MOTION CARRIED:	4:0:0

The meeting was Adjourned at 6:32 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary