

October 15th, 2008
NOTICE OF REGULAR MEETING AND PUBLIC HEARING MEETING OF THE
BENTON COUNTY PLANNING BOARD

WHEN: October 15, 2008
TIME: 5:30 p.m. The Benton County Planning Board will meet to receive Public Comments on any of the proposed projects on the agenda.
PLACE: Benton County Administration Building, 215 East Central Avenue Quorum Courtroom, 3rd Floor (Suite 324), Bentonville, AR 72712

MINUTES FOR REGULAR PUBLIC HEARING

1. Call to Order

2. Roll Call

The following Benton County Planning Board members were present: Scott Borman, Mark Curtis, Mark Gray, Caleb Henry, Bill Kneebone, Tim Sorey, and Heath Ward.

The following Benton County Planning Office staff members were present: Ashley Pope, Ronette Bachert, Teresa Sidwell, and Karen Stewart.

3. Disposition of the Minutes of September 3, 2008 technical advisory committee meeting and the September 17, 2008 public hearing meeting as distributed.

Mr. Borman made a motion to accept the meeting minutes as distributed; Mr. Gray seconded the motion.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone, Mr. Sorey, and Mr. Ward all voted in favor of the motion; the motion was passed.

4. Reports of Planning Board members

5. Public Comment

Preston Newbill of 11493 Burgin Valley Road stated that he was present to comment on the Centerton Quarry project. Mr. Newbill stated that at the beginning of the process concerning the quarry he was not in favor of it. He added that several stipulations were placed on the project and he would like to make sure that the stipulations were met before any materials were removed from the site.

Lance Thibodeaux of 8693 Manor Dr, Bentonville stated that he was present to comment on the R & R Street Rods project. He stated that his house was located approximately 50 yards from the business. He added that he had been disturbed by loud noises on two occasions after business hours and would like controls set concerning the noise and increased traffic that may occur because of the operation of the business. He commented that his intention was not to shut down the business. He added that Mr. Pearce had been a good neighbor and keeps his property clean.

Patrick Burton of 5316 Ervin McGarrah Road, Lowell stated that he was present to comment on the Professional Concrete Specialties project. Mr. Burton stated that he was concerned about safety because of the gated entrance to the property. He added that company vehicles had to stop in the road, blocking traffic, so that they could open the gate for entry to the property. Mr. Burton stated that he was concerned with other issues such as pollution, noise, drainage, runoff and pride of ownership.

Tommy Liles of Bel Air Road, Springdale stated that he was present to comment on the Professional Concrete Specialties project. He stated his concern about water drainage from the project site onto his property and presented photos to the Board for consideration. Mr. Liles added that he did not want another ditch on his property caused by water runoff from the project site.

Tony Miltich of 9679 E. High Meadows Drive stated that he was present to comment on the Whispering Woods Community Center project. Mr. Miltich presented a PowerPoint presentation for Board consideration. He stated that he lives within walking distance of the project and was aware of the changes that had taken place. He commented that in 2007 red dirt covered the road because of construction on the site and that Mr. Spivey had given some neighbors coupons for car washes. He added that the road was slippery and nasty for a period of months. He showed a photo taken last month of a steep hillside with poured concrete and deep ruts. He proceeded to show another photo of silt fences that were put up after he had called ADEQ. He expressed concern that the silt fences had not been maintained. Mr. Miltich stated that a new silt fence was constructed recently and holes were dug that were collecting water and mosquito larvae. He added that embankments had not been seeded as required by ADEQ. He stated that he wanted the Board to be aware that the developers of the property have never shown any responsibility.

Tom Skipper of Lindsey & Associates stated that he was present to represent a landowner at 10144 Coose Bay Boulevard near the Whispering Woods Community Center project. Mr. Skipper said that his clients were devastated when they learned of the project. He added that his clients had never imagined that anything other than a residence would be built next to them.

Andrew Huntsinger of the Slinkard Law Firm of Rogers stated that he was present to represent Kim and Richard Gerhardt. He stated that Mr. & Mrs. Gerhardt purchased property in 2001 immediately to the north of the Whispering Woods Community Center project and assumed that the vacant property next to them would be used for residential purposes only. He added that no notice of the project improvements were given to his clients and that his clients were concerned about vehicles, noise, and trash and that the use of the property as a recreational

center were not compatible with residential homes. Mr. Huntsinger concluded that waste water facilities, a gate, parking, and access for emergency services vehicles were issues that concerned his clients.

Nicole Chervenyak of 9922 Coose Bay Boulevard stated that she was present to comment on the Whispering Woods Community Center project. She stated that she approves of the project and feels that it is an asset to the community. She added that improvements have been made to the property and the road to the property has been paved. Ms. Chervenyak stated that she is a real estate agent and has sold numerous properties adjacent to community areas similar to the Whispering Woods project and feels that it does not diminish the property value. Ms. Chervenyak stated that Patsy Simmons of 9795 Coose Bay Boulevard had submitted a letter stating that she was in agreement with the project as well. She added that she felt that rules and regulations should be met and looked forward to the community center.

Public Comment was closed at 5:49 pm.

6. **Old Business:**

A. Large Scale Development - **Whispering Woods Community Center** - 10142 Coose Bay Boulevard, Avoca

- Provide a drainage report for the project site.
- Implement sedimentation/erosion control measures and provide a plan for permanent site stabilization.
- Provide a solid waste disposal contract to Staff.
- Obtain the approval of the Benton County Fire Marshal.
- Provide covenants governing the use, maintenance and hours of operation of the proposed community center.
- Determine how access to the site will be restricted to only the residents of the subdivision; show the proposed gate on the site plan.
- Show fencing/buffering (to mitigate impact of noise and light) on the site plan.
- Provide a copy of the Corps of Engineers permit to Staff.
- Address the need for water/wastewater treatment at the site. Explain why permanent facilities are not planned, if applicable.

Jennifer Gray of the Watkins Law Office, property owner Ami Spivey, and Randy Ritchie of Steadfast, Inc. represented the large scale development project.

Ms. Pope stated that all stipulations have been submitted to Staff. Mrs. Stewart stated that the sheet submitted for the solid waste disposal was not legible and asked that a legible copy be submitted to Staff. Mrs. Stewart added that Officer

Higgins of Environmental Services visited the site and found that the storm water erosion control silt fencing has been corrected.

Ms. Gray stated that there was a misconception that Ms. Spivey was trying to back door the process. She added that Ms. Spivey was not aware that the project would have to go through the large scale development process.

Ms. Gray stated that they believed that all stipulations had been submitted and asked the Board if they had any concerns regarding the stipulations. Ms. Pope commented that the drainage report had been submitted the day of the meeting and passed it to the Board for review.

Ms. Gray proceeded to show a Power Point presentation of the project; the first slide showed a site map. Ms. Gray commented that there was a private road that accessed the property. She added that the road was a 12 foot paved surface with a 20 foot easement which allowed sufficient room for two cars to pass. The next slide Ms. Gray presented was that of a Carroll Electric power pole with the neighboring Gerhardt property in the distance. Ms. Gray commented that her client was aware of the Gerhardts' concerns about the lighting on the pole and that Ms. Spivey would be willing to put the lighting on a timer so that it would be on only during the community center operating hours.

Ms. Gray referred to the next stipulation concerning fencing and gating of the property. She reminded the Board that her client proposed a split rail fence instead of a privacy fence so that it would not obstruct the Gerhardts' view of the lake. She stated that a privacy fence to the north of the gazebos and basketball court may be an option to shield the neighbors visually as well as providing a noise barrier. Ms. Gray proposed a security gate on the south side of the property with coded access to the property; the code would also be given to the Gerhardts. She added that relocating the gate from the west side of the property to the south side of the property may serve as a deterrent to someone trying to gain unauthorized access to the property by vehicle.

Ms. Gray stated that they had proposed that the hours of operation be set for 7 a.m. to 10 p.m. daily. Ms. Gray stated that her client envisioned turning the property over to an LLC or POA to be managed. She added that hunting and loud activities would be restricted. She stated that her client wants to be a good neighbor and find a way to compromise.

Ms. Gray referred to the next stipulation regarding wastewater treatment facilities. She suggested that a permanent installation of a waterless composting toilet would be preferable to a portable toilet so as to preserve the aesthetic value of the property.

Mr. Borman stated that he had concerns about the silt fence remaining in good working order. Ms. Spivey stated that they will take measures to correct the silt fences and that the silt fences would be maintained routinely. Mr. Sorey noted that the new silt fences had been installed improperly. Ms. Spivey stated that the silt fencing in the common area was inspected by an environmental officer and passed. She added that the contractor is now working on the silt fencing in the cul-de-sac and the environmental officer would be returning in 10 days to inspect that portion of the fencing. Mr. Borman asked Staff to get a letter from

the Environmental Department in regards to this issue after the inspections had been completed.

Mr. Curtis asked for a timeline for the work that has been completed on the property. Mr. Curtis asked if the community center was developed before the subdivision development. Ms. Gray stated that it was originally developed for private family use, but over time Ms. Spivey realized that she needed to improve the property as a common area in order to sell the other properties in the subdivision. Ms. Spivey referred to a slide and commented that the property had undergone improvements since her parents purchased it in 2003 and she subsequently purchased it from them in 2004. Ms. Gray commented that Ms. Spivey was not aware of the permit requirements and since she was made aware of the requirements she has made every effort to comply.

Ms. Gray commented on references made during the public comment portion of the hearing that the project would diminish the property value in the area. She referred to slides of properties both commercial and non-commercial within a mile of the project that were not well maintained. She added that since Ms. Spivey purchased the property only one mature tree had been removed from the property line adjoining the Gerhardt property and that every effort had been made to preserve the natural beauty.

Mr. Curtis inquired about walking trails on the property. Randy Ritchie stated that a large portion of the trails have not been identified because many of the properties in the subdivision have not been final platted. He added that along the lot lines and behind the set backs there are trail easements. Mr. Curtis commented that a walking trail on the property would be a difficult task because of the terrain. Ms. Spivey stated that an old hunting trail already exists.

Ms. Pope submitted photos that were taken by an Environmental officer for the Board to review.

Mr. Ward asked Mr. Huntsinger when the Gerhardts had purchased their property. Mr. Huntsinger replied that the property was purchased in 2001. Mr. Ward asked Mr. Huntsinger if his clients were willing to compromise. Mr. Huntsinger stated that at this time his clients were not interested in compromise.

Mr. Henry asked Ms. Spivey if any attempt was made to contact the neighbors before improvements were made to the property. Ms. Spivey stated that she was not aware that she was required to do so. She added that since the Planning Board process had begun she had tried to make concessions with the Gerhardts including access to the lake through the property, access to the property and fencing. She stated that the subdivision is not covenanted and she did not understand how the Gerhardts would not know that the lake would continue to be developed.

Mr. Sorey stated that she had another adjacent property owner to the south. He added that it appeared that the gravel drive loops around the sand volleyball court and comes onto the adjoining property. Ms. Spivey stated that the drive had been there since she bought the property. Mr. Sorey asked if Ms. Spivey

had contacted that adjoining property owner. Ms. Spivey commented that she had not but assumed that the property owner was aware of the drive.

Mr. Sorey stated that the Gerhardts have direct sight of the gazebos from their back deck; he added that he felt the screening proposed would not be adequate. He suggested that evergreen shrubs and trees be used to screen the gazebos from the neighboring property along the north property line. Mr. Sorey stated that if he were to review the project as if it were a new project he would suggest using the other property that is across the 20-foot road for the amenities to provide separation from the Gerhardt property. Mr. Sorey stated that Ms. Spivey would need to work out the location of the gate with the Gerhardts. Ms. Spivey stated that she would be willing to locate the gate wherever the Gerhardts would prefer. Ms. Gray added that they have made efforts to contact the Gerhardts on the various issues and have received no response. Mr. Sorey suggested that they consult the regulation book about screening and buffering as well as consulting a landscape architect.

Mr. Kneebone asked about the management of the property in regards to the operating hours. Ms. Spivey stated that the property owners would be responsible to abide by the hours of operation. Ms. Gray added that the lights would be on timers and should deter any after hour activities.

Mr. Borman asked that an engineer's certification of proper installation of the compost toilet be added as a stipulation. He added that operating procedures and maintenance logs are to be available for public view upon request.

Mr. Ward stated that the hours of operation will be from 9 a.m. to 9 p.m. and that the lighting will be directed away from the Gerhardt property to their satisfaction and be operated on timers to coincide with the hours of operation.

Mr. Sorey asked Ms. Spivey why running water was not proposed. Ms. Spivey stated that water was not proposed because of the cost. She added that she felt there was not a need for running water.

The stipulations for this project are:

- Provide a legible copy of the solid waste disposal contract.
- Consider using the part of the property that is across the 20-foot road to provide separation from the Gerhardt property.
- Provide complete covenants governing the use, maintenance and hours of operation of the proposed community center.
- Determine how access to the site will be restricted to only the residents of the subdivision; show the proposed gate on the site plan.
- Show detailed fencing/buffering (to mitigate impact of noise and light) on the site plan.
- Provide certification from an engineer confirming proper installation of the composting toilet.

Mr. Sorey made a motion to table the project until the applicant provides a solution to the buffering and screening of the adjacent properties. Mr. Sorey added that a resolution to the gate and access issues must be submitted to the Board as well as the other stipulations mentioned. Mr. Borman seconded the motion.

Mr. Borman, Mr. Gray, Mr. Henry, Mr. Kneebone, Mr. Sorey, and Mr. Ward voted in favor of the motion; Mr. Curtis voted against the motion, the motion was passed.

Ms. Gray asked the Board if she could consult with them about the project. She also asked for a ruling from the Board in regards to consulting with the Gerhardtts if her client was not able to make contact. Mr. Sorey stated that they have two options: Ms. Spivey could place the gate on the property or at the road. He commented that placing the gate at the road could cause problems with the traffic on the road. Mr. Ward stated that when a solution is decided Ms. Spivey should contact Staff and the project would be placed on the agenda for the next TAC meeting.

B. Preliminary Subdivision – Spavinaw Creek Ranch – Hwy. 43, Gravette

- Obtain the approval of the Health Department for the wastewater treatment and lot sizes.
- Turn the stub street by Lots 6 and 7 into a T intersection with an easement only for Road 2. Remove Road 2 from the plat.
- Annotate how residents will access the creek on the property and show this on the plat.
- Submit drainage analysis and culvert designs for the roads.
- Show offsite easements if residents will be accessing the creek as common property on the final plat.
- Submit a copy of the hydraulic study of the 4" water line.
- Since the water line will not meet the code for fire flow, installation of sprinkler systems in the houses will likely be a condition of approval.
- Show common area easement of creek off the stub street on preliminary plat.

Ferdi Fourie of Civil Design Engineers represented the preliminary subdivision project.

Ms. Pope reviewed the outstanding stipulations with the Board. She stated that the stipulation to obtain the approval of the Health Department for the wastewater treatment and lot sizes had not been submitted. She added that Mr. Fourie had notified Staff that it had been held up at the Benton County

Sanitarian's office. Ms. Pope referred to the next stipulation and stated that Mr. Fourie had asked that Road 2 not be removed from the plat. She added that a "No Public Access" sign had been put on the plat. Ms. Pope stated that the annotation of how residents will access the creek on the property had been shown on the common area of the plat but she was not aware if it had been annotated. She commented that there needs to be a legal description of the common area added so that it is a part of the plat. Ms. Pope stated that the drainage analysis had been submitted to Staff. She stated that offsite easements had not been put on the plat in lieu of the common area. She stated that the hydraulic study had been submitted to Staff.

Ms. Pope stated that Mr. Fourie had asked that the installation of sprinkler systems not be a condition of approval; she added that the Fire Marshal had submitted a second letter. Ms. Pope paraphrased that the letter stated that the Fire Marshal provided an option of a wet source (i.e. pond) to meet the fire conditions but he stated that sprinklers were preferable. She added that the Fire Marshal stated that the cost of a pond may be comparable to the cost of sprinkler systems because of the construction requirements. Mr. Fourie asked if the construction of the retention pond could begin after the last building permit was issued or possibly after twelve homes were built instead of up front. Mr. Ward asked what if something happened before the twelfth house was finished.

Mr. Sorey commented on an email that he had received from Mr. Fourie stating that he felt that the sprinkler requirement should be enforced at the building permit stage. He asked Staff if the stipulation was a requirement at the building permit stage. Ms. Pope commented that it was the time at which the cost is incurred however the Planning Board stipulation that a sprinkler system be installed is a condition of the approval of the subdivision. She added that fire code issues were addressed at this level. She stated that if the Board wanted to require the sprinkler system at the building permit stage that it would be an option but this would release the developer from any responsibility to provide fire protection to the subdivision. Mr. Sorey added that the home owner could be required to install a sprinkler system. Ms. Pope stated that at this time the Planning Department does not require single family dwellings to be sprinkled and there would be no guarantee that the cabins i.e. vacation homes would be protected.

Mr. Borman asked if Mr. Fourie had adequate time to consider the Fire Marshal's options. Mr. Fourie stated that he had discussed the issue with the Fire Marshal. He added that a water feature had been planned for Phase II but that they did not want to proceed with construction of the water feature at this time because of the uncertainty of selling the property in today's market. Mr. Sorey commented that the least expensive option would be to require the builders to provide the sprinkler system. Mr. Borman asked what the Fire Marshal had recommended for the pond size in gallons. Ms. Pope stated that it was a 10,000 gallon pond with a line pump that pumps at 1,000 gallons per minute. Ms. Pope commented that the time of enforcement is a building code and fire code issue. She added that the time to consider enforcement is at the platting stage

because that is when dual fire apparatus, access road requirements, number of lots in a subdivision, and hydraulic flow on the water line is considered. Mr. Sorey commented that Mr. Fourie needs to know what the requirements are at the preliminary plat stage. Mr. Fourie stated that he was not aware that he would agree to it being a requirement but he understood that they would agree to do it when houses were built. Ms. Pope stated that it would be a condition of approval that a wet source (i.e. pond) would need to be constructed or whoever chooses to build on these lots would have to put in a sprinkler system to meet the fire conditions. Mr. Fourie stated that they would prefer that the stipulation would be to provide a pond as a water source for sprinkler systems. He added that it would be part of the preliminary plat and be built before the final plat. Mr. Sorey stated that the details of the pond that were a part of the letter from the Fire Marshal need to be added to the plans. He added that the location of the pond needs to be indicated on the plans and the changes must be forwarded to staff and the Fire Marshal.

Mr. Sorey asked Mr. Fourie for confirmation of the location of the common area on the plans. Mr. Fourie confirmed that the common area on the plat is the location of the creek. Mr. Sorey stated that the parcel would need to be surveyed; Mr. Gray agreed. Mr. Henry asked about the swale where Spring Valley Road T's off and the intended use of lot 21. Mr. Fourie stated that Lot 21 was going to be the future water feature and possible park for the 12.5 acre parcel. Mr. Henry commented that because of the swale running through the parcel, it would be in everyone's best interest to have a drainage easement. Mr. Fourie stated that the swale will be tied into the future water feature. Mr. Henry asked if the plat reflected proposed contours that followed the natural flow of storm water.

- Obtain the approval of the Health Department for the wastewater treatment and lot sizes.
- Annotate how residents will access the creek on the property and show this on the plat.
- Show offsite easements if residents will be accessing the creek as common property on the final plat.
- Since the water line will not meet the code for fire flow, the developer will be required to either install sprinkler systems in the houses or "provide a 10,000 gallon static water source (e.g. a lined pond) with fire department access and a dry hydrant installed".
- Show common area easement of creek off the stub street on preliminary plat.

Mr. Borman made a motion to approve the project pending stipulations; Mr. Kneebone seconded the motion.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone, Mr. Sorey, and Mr. Ward all voted in favor of the motion; the motion was passed.

7. **New Business:**

A. Variance from Tract Split – **Claude & Edna Boyle** – 9600 Ruby Hall Rd., Gentry

- Show the previous tract split (to the south of tract 1 on the submitted survey) and label it as tract 2 (per the previous tract split).
- Label the parent tract as tract 1 (per the previous tract split), the newly created parcel as tract 3.

Edna Boyle represented the Variance from Tract Split.

Ms. Pope stated that all stipulations were met.

Mr. Borman made a motion to approve the variance from tract split; Mr. Curtis seconded the motion.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone, Mr. Sorey, and Mr. Ward all voted in favor of the motion; the motion was passed.

B. Large Scale Development Time Extension – **Centerton Quarry** - 15271 Burgin Valley Rd., Centerton

- Staff will draft recommendation for approval of frontage improvements and red dirt mining.
- The applicant must submit a time table for frontage improvements.

Mr. Terry Sossong of the Rogers Group represented the Large Scale Development Time Extension.

Ms. Pope stated that Staff recommends a time extension of the Centerton Quarry project as it was approved in July 2006 with the following conditions.

- A. A time extension that would expire on March 31, 2009.
- B. Any further extensions would be in the form of a new application.
- C. The applicant will confirm a new agreement with the Benton County Judge's office.
- D. The applicant will confirm a new agreement with the Decatur School Board regarding hours of operation and coordination with school bus drivers.

E. Revalidate any permits with the State of Arkansas that expire.

Ms. Pope added that at this time Staff would recommend denial of red dirt extraction from the project site and requests more information on how the extraction will transpire.

Mr. Ward stated that the Board would address the time extension and then address the request for extraction of red dirt from the project site.

Mr. Sossong stated that they have worked diligently to meet all the stipulations for the project. He added that one stipulation was left to meet and that he would like to receive a time extension from the Board. He added that he had recently received an independent review in regards to the water line and the issues surrounding it. He suggested that the time frame be extended up to a year in order to get the water pipe line soil, slope stabilization, and buffer zone reports. He added that core drilling and rock stability testing would be needed for the water authority and requested a two year time extension after approval by the Benton Washington Water Authority. Mr. Sossong stated that a time frame is difficult to determine when working with boards.

Mr. Sossong stated that he had negotiated a very good road that exceeded the Benton County specifications in regards to road width and thickness of asphalt. He commented that in a conversation with Ms. Pope, she had expressed concerns about the transition of a new judge so he wanted to change the wording of the stipulation regarding the Benton County Judge's office and the stipulation regarding the Decatur School Board. He stated that he did not have any opposition to the stipulation regarding the revalidation of permits. He added that they have the bonds for the reclamation of the quarry and are presently paying on that bond as a good faith effort.

Mr. Sossong stated that the original approval was set to expire in March 2009. Ms. Pope commented that in Mr. Sossong's letter he had requested a date in 2010 for the time extension. She added that she felt that Mr. Sossong had re-evaluated the timeline since his original proposal and would like the extension to be further out although he has not set a firm date. She commented that Staff recommends that a firm date be set. Mr. Sorey asked for clarification concerning the time extension date. Mr. Sossong replied that he requested a time extension of one year for the water authority approval and then an additional two-year extension for the project. Mr. Sorey stated that he did not feel comfortable extending the date to 2012. Mr. Sossong suggested a time extension until December 31, 2011.

Mr. Sorey commented on item B in regards to a new application being submitted. He suggested that if any regulations were to change that would affect the project during the time extension period that it should trigger a new application being filed. Otherwise, he suggested that the new application be handled administratively. Ms. Pope stated that repeated time extensions would set a precedent; she added that projects need to be re-evaluated. Mr. Sorey agreed with Ms. Pope.

Ms. Pope commented on setting the date for item C. Mr. Sossong stated that he would have no problem with confirming the agreement with the Benton County Judge's office by December 31, 2009.

Mr. Curtis stated that he saw a potential problem with the possibility of the Decatur School system being taken over by another school system. Mr. Sossong stated that he recommended that the words "or the responsible school board" be added to item D.

Ms. Pope asked the Board if they wanted to extend the time limit to 2011 on item E. Mr. Sorey stated that the wording should be changed to "applicant will maintain any permits with the State of Arkansas throughout the course of approval."

Mr. Sorey stated that the Board had an agreement letter with the county in regards to the road improvements and the right-of-way requirements. Mr. Sossong stated that he had not proceeded with the plans for the road. Mr. Sorey suggested that he proceed with engineered plans for the road so that he would have the details in place when the new administration took office.

Mr. Sorey made a motion to approve the time extension subject to stipulations; Mr. Curtis seconded the motion.

Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone, Mr. Sorey, and Mr. Ward all voted in favor of the motion; Mr. Borman abstained; the motion was passed.

Mr. Ward stated that the Board would open the discussion on the incidental red dirt sales from the Centerton Quarry project. Ms. Pope stated that Staff recommends that the incidental red dirt sales from the site be denied. She pointed out that there were three reasons for the recommendation. 1. The road has not been paved and the paving of Bethlehem Road was a crucial element of the project. 2. The safety was a significant concern of the school district. 3. There was a stipulation that there would be no blasting until the road improvements were made. Ms. Pope asked the Board to consider the intent of the condition although the red dirt sales would not require blasting.

Ms. Pope commented that Staff was open to the option if more information was provided for the extent of the red dirt sales and how it will affect the area. She added that she had some options on #3 for conditions of approval if the Board wanted to approve the sale of red dirt from the site.

Mr. Sossong stated that the project was a one time opportunity to sell red dirt from the project site to the state of Arkansas for improvements to Highway 102. He added that allowing the one time sale of red dirt would allow the project the funds for improvement of the intersection. He commented that he proposed a safer "T" intersection. He added that calcium chloride would be laid on the road to significantly reduce the amount of dust. He suggested a \$10,000 bond for

maintenance of the road and hours of operation to begin after the school buses are gone in the morning. He added that the intent was for a one-time red dirt removal and not a daily operation. He commented that the dirt will be removed from the area in which the road is to be improved and the slope of the land will be seeded, fenced, and maintained to restore the pasture land.

Mr. Sorey stated that he wants assurance before the 2011 date that Bethlehem Road will be paved by Centerton Quarry or if the County paves the road first that Centerton Quarry will agree to reimburse the County. He added that he felt the paving should not be done before the red dirt excavation because truck traffic reduces the useful life of the pavement. He suggested that on immediate completion of the red dirt removal; the road is to be paved. Mr. Sossong stated that he would not know if he had approval for the project at that point in time. Mr. Sorey commented that he was aware of that fact but the county has made a promise to the community that nothing would be done on the project until the road was paved. Mr. Sossong stated that the red dirt site down the road was not required to do any road construction. Mr. Sorey stated that it was a good point for the public to understand but it does not apply to this project.

Mr. Curtis agreed with Mr. Sorey that the Centerton Quarry project agreed to certain stipulations in order to receive approval for the project and one of those conditions was to pave Bethlehem Road. Mr. Henry asked for clarification as to why Mr. Sossong wanted to remove the red dirt considering the fact that he was not going to make a profit and he would not be assured of project approval at that point in time. Mr. Sossong commented that it would be a way to clean up the intersection and remove the dirt from the project site. Mr. Henry asked how much of a cut would be made. Mr. Sossong stated that the cut would vary 8 to 18 feet depending on the lay of the land.

Mr. Henry asked if there was an overburden of red dirt from the site. Mr. Sorey stated that the original permit allows for the overburden of red dirt to be stripped off and sold, used, or stored on site. Mr. Sossong commented that he was asking for site development, not red dirt mining. He added that red dirt removal would be necessary in order to develop the road. Mr. Kneebone stated that he did not recall approval to mine red dirt from the site when the application went before the Board in 2006.

Mr. Sorey stated that the approval from the water authority was the key to the project moving forward. Ms. Pope stated that the wording of the stipulation could be "paving of Bethlehem Road will begin within 6 months of the approval of the mitigation plan by Benton Washington Regional Public Water Authority." Mr. Sossong stated that he could not definitively agree to that stipulation based on the information that he has at this time. Ms. Pope replied that her understanding was that Mr. Sossong would pave the road but he was not sure when that would take place. Mr. Sossong commented that he was willing to put up a bond to assure the County that he would do whatever was needed to maintain the road. Mr. Henry inquired about the maintenance of the road before paving. Mr. Sossong stated that it would be maintained to County

specifications. Mr. Sorey stated that the timeline of road improvements may be acceptable to the adjacent land owners but he felt that it should be presented to the public. Mr. Sossong stated that the issue would be the time constraints of the Highway 102 project.

Ms. Pope reiterated the conditions for the red dirt sales.

- a. The applicant will be responsible for dust control and necessary repairs on Bethlehem Road caused by traffic including heavy trucks to and from the site.
- b. The applicant will submit a bond to Benton County in the amount of \$10,000 to guarantee maintenance and paving of Bethlehem Road as stated in the previous condition.
- c. The applicant will operate the red dirt extraction after the hours of school bus traffic on Bethlehem and Burgin Valley Roads.
- d. Approval of red dirt sales will be for a one time removal and sale for the Highway 102 project.
- e. The applicant must submit road construction plans to the Board.

Mr. Sossong commented that he wanted the Board to be comfortable with the conditions of the project. He added that he has had a good relationship with the County Road Department and that he had no problem with getting the road construction mapped out. Mr. Henry inquired about the restrictions for Burgin Valley Road. Mr. Sossong stated that it would be the first and only load a truck will haul if caught on Burgin Valley Road. Mr. Sorey stated that he was not comfortable that a date was not set for the paving of Burgin Valley Road.

Mr. Sorey made a motion to approve request to begin red dirt hauling operations to improve the intersections of Burgin Valley and Bethlehem Roads with the stated stipulations; Mr. Gray seconded the motion.

Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone, Mr. Sorey, and Mr. Ward all voted against the motion; Mr. Borman abstained; the motion was denied.

F. Lot Split – **Eden’s Bluff Lake Estates** – Lot 14A & Lot 14B, Lowell

This project was not reviewed at the TAC meeting due to a lack of representation.

Mr. Sorey made a motion to table; Mr. Kneebone seconded the motion.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone, Mr. Sorey, and Mr. Ward all voted in favor of the motion; the motion was passed.

G. Large Scale Development – **Professional Concrete Specialties** – 3597
Phillips Rd., Lowell

- Add Rexston Lane to the plat.
- The applicant needs to contact the City of Springdale Planning Department for a written review & comment and submit comments to Staff.
- Label the loading area on the plat.
- Show proposed contours.
- Road Department approval for roadside drainage may be required.
- The applicant must notify adjoining property owners.
- Contact ADEQ for a NPDES/SWPPP permit application to be posted on site
- (Show plans for storm water detention on the plat).
- Contact ADEQ for all applicable environmental regulations relating to truck and heavy equipment repair shop.

Bill Platz of W/R Consulting represented the large scale development project.

Ms. Bachert stated that all stipulations had been met. She added that she had received recommendations from the City of Springdale stating that the approval of the project was ultimately at the discretion of Benton County.

Mr. Platz referred to the public comment at the beginning of the meeting, stating he was not aware of the issues surrounding the gate. He suggested that recessing the gate off the road or installing an electric gate might solve the issues with traffic congestion on the road. Mr. Platz commented that he had added a retention pond to cut down on drainage to the roadway, removed the roadside drainage, and addressed all the issues brought before the Board. He stated that the building was for storage of concrete forms; no concrete would be mixed onsite.

Mr. Borman stated that both gates need to be moved 30 feet off of the road to eliminate traffic congestion.

Mr. Sorey stated that an evergreen barrier on the north side of the property needs to be added in accordance with Benton County regulations. He added that the evergreen screening on the east side of the property needs to be far enough back to screen the property from the road.

Ms. Pope asked the Board what they would entertain as appropriate hours of operation and the outside playing of music. Mr. Platz replied that there was no need to have any music at all. Mr. Ward agreed that music was not required for the operation of the business.

Mr. Curtis stated that during the TAC meeting the Board suggested a retention pond on the property instead of draining the water off site. He added that there will not be an increased amount of water coming across the road. Mr. Curtis commented that the applicant has submitted drawings to reflect the changes in regards to storm water drainage.

Mr. Henry commented that pouring concrete into the ditch will get undermined and washed out; he suggested riprap as a solution. Mr. Platz agreed that riprap would serve the purpose and last longer. Ms. Pope commented that the applicant will need a road cut bond to do the work. She added that the riprap addition for the deflection of water was to the north.

Mr. Sorey stated that the pitch of the drive needs to be switched so that it redirects drainage water going down the driveways to the center green space and the detention basin.

- Ensure that gates are moved back from the road at least 30 feet or install an electric gate.
- Evergreen barriers on the north and east sides of the property must be added in accordance with Benton County regulations.
- Install riprap in the ditch to the north of the property as part of the proposed improvements.

Mr. Curtis made a motion to approve with stipulations; the motion was seconded by Mr. Kneebone.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone, Mr. Sorey, and Mr. Ward all voted in favor of the motion; the motion was passed.

H. Large Scale Development – **R & R Street Rods** – 8690 Manor Dr.,
Bentonville

- Submit the required hazardous chemical compliance letter.
- Correct the encroachment on Lot 7 with a lot line adjustment.
- Set hours of operation.

Mr. Ray Pearce represented the large scale development project.

Mr. Ward commented that a neighbor had stated that Mr. Pearce was a good neighbor but he requested that some hours of operation be placed on the business.

Mr. Pearce commented that his business entailed building cars and motors. He added that there had been an occasion when a race car engine was tested at

10:30 p.m. and disturbed the neighbor's sick baby. Mr. Pearce stated that such an incident will not happen again.

Mr. Sorey stated that no obnoxious noise after 7:00 p.m. will be allowed.

Mr. Ward stated that the stipulation concerning the encroachment on Lot 7 was still outstanding.

- Submit the required hazardous chemical compliance letter.
- Correct the encroachment on Lot 7 with a lot line adjustment.
- Operations must cease no later than 7 p.m.

Mr. Kneebone made a motion to approve pending stipulations; Mr. Sorey seconded the motion.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone, Mr. Sorey, and Mr. Ward all voted in favor of the motion; the motion was passed.

I. Large Scale Development – **Stoney Brook Substation** – 6762 Price Alley Dr., Rogers

- Leave as much vegetation around the perimeter of the property as possible.
- Gravel drive needs to be narrowed and hug vegetation area.
- Provide SWPPP to Staff.
- Submit environmental report to Staff.
- The applicant must notify adjoining property owners.

Jeff Smalley, Systems Engineer for Carroll Electric represented the large scale development project.

Mr. Smalley stated that he had submitted a storm water plan and an environmental plan to Staff. Mrs. Stewart stated that the SWPPP and the environmental reports had been submitted to Staff and available if the Board wished to see them. She added that the applicant had notified the adjoining property owners and that Staff had received concerns from Mr. and Mrs. Laxson of 1635 S. Rainbow Road. Mrs. Stewart commented that Mr. and Mrs. Laxson are concerned about their property value and building on their property in the future. She stated that the only stipulations that are outstanding are to leave as much vegetation around the perimeter of the property as possible and the gravel drive needs to be narrowed and hug vegetation area.

Mr. Sorey confirmed that there would be a 3 foot buffer along the fence row and that 17 foot of the 20 foot easement would be used for the road. Mr. Smalley agreed.

- Leave as much vegetation around the perimeter of the property as possible.
- Gravel drive needs to be narrowed and hug vegetation area.

Mr. Borman made a motion to approve pending stipulations; Mr. Sorey seconded the motion.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone, Mr. Sorey, and Mr. Ward all voted in favor of the motion; the motion was passed.

J. Variance from Large Scale Development – **Suarez Appliances** – 13676 Hwy 59, Gentry

- The applicant must notify adjoining property owners.
- Storage of appliances on the property cannot be visible from the road.

The variance from large scale development was represented by Victor Suarez translating for his father.

Mrs. Stewart stated that the stipulation regarding adjoining property owner notification was handled by Staff. Mr. Sorey commented that in regards to the second stipulation the wording should have been that "Outdoor storage of appliances on the property will not be allowed."

Mr. Borman asked if Staff had heard from any adjoining property owners. Ms. Pope stated that Staff had not heard from adjoining property owners. Mr. Borman asked Mr. Suarez if he understood the stipulation that he could not have outdoor storage of appliances. Mr. Suarez answered that he did understand the stipulation.

- Storage of appliances on the property cannot be visible from the road.

Mr. Borman made a motion to approve pending stipulations; Mr. Sorey seconded the motion.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone, Mr. Sorey, and Mr. Ward all voted in favor of the motion; the motion was passed.

Ms. Pope commented on the lunch and agenda for the upcoming Planning Board work shop.

7. Adjournment at 8:25pm

Respectfully submitted,

Ashley E. Pope

Planning Director