

PUBLIC HEARING MEETING MINUTES OF THE  
BENTON COUNTY PLANNING BOARD

WHEN: February 20, 2008

TIME: 5:30 p.m. The Benton County Planning Board met to receive Public Comments on 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 Gray, Caleb Henry, Bill Kneebone, Adele Lucas, Tim Sorey, and Heath Ward. The following Benton County Planning Office staff members were present: Ashley Pope, Kathleen Davis, and Karen Stewart.

3. Disposition of the Minutes of January 2, 2008 technical advisory committee meeting and the January 16, 2008 public hearing meeting as distributed

This was postponed until the next meeting; there were no copies of these meeting minutes available at the meeting.

4. Reports of Planning Board members

There were no reports from the Planning Board members.

5. Public Comment

Mr. Sorey explained to the public that the meeting format had been changed to receive all public comment at the beginning of the meeting. He read the list of all of the agenda items and then asked anyone wishing to speak to state their name and address before commenting. He also asked that each speaker limit the time they speak to three minutes.

Hank Henderson of 9957 East Highway 72 had comments relating to the Our Shop large scale development application. He stated that the business sits directly in front of his house and that he did not like seeing a salvage yard in front of his home. He distributed photographs to the Board members. He said that there are approximately 40 junk cars on the applicant's property and that the business generates noise. He informed the Board that the applicant shares a driveway with Mr. Henderson's property. Mr. Henderson asserted that recently his wife and daughters arrived home to find a man urinating in the driveway. He then clarified the location of his house in relation to the project area.

Mr. Sorey reminded the Board that they could recall anyone back to the podium should they have questions. He then asked Mr. Henderson what the condition of the property was before the applicant moved onto it. Mr. Henderson stated that the property owner

"understood that he wasn't supposed to be working on cars or keeping cars there." Mr. Henderson claimed that none of the current issues existed when the previous occupant used the property; the previous occupant kept all activities inside the shop building with the doors closed.

Ms. Lucas asked Mr. Henderson if there was a tree line between his property and the applicant's vehicles. Mr. Henderson stated that at this time, there is a clearing between the properties through which the vehicles are visible.

Steve Burnett, of 14524 Springtown Road, had comments relating to JJ Johnson's Environmental Cleanup large scale development application. He stated that he was "concerned or confused by the notification" requirements; his property touches the driveway to Mr. Johnson's property. Mr. Burnett stated that he had emailed his concerns to the Planning office and was answered by Ms. Pope who informed him that Benton County large scale development regulations only require the applicant to notify those property owners whose land adjoins or abuts his land. He expressed concern with the terrain of the applicant's property, since it is on a hilltop near several creeks, and how any runoff from the property will drain. He said that rural water is not available to residents of the area, so they all rely on wells for drinking water.

Mr. Sorey asked where Mr. Henderson's property is in relation to the proposed large scale development; Mr. Henderson answered that it is to the east across the county road.

Curtis Kinzey of 14348 Springtown Road also had comments relating to the JJ Johnson's large scale development application. He informed the Board that his driveway is directly across from Mr. Johnson's driveway and that Mr. Johnson's driveway is extremely steep. He stated that "any water that comes down his driveway comes down mine. I just don't want to have to go elsewhere to have water when I want a drink."

David Kampwerth, Karst Biologist from the U.S. Fish and Wildlife Service (Arkansas Field Office), handed out maps to the Board members and told them that the area in which the business is proposed is a much-studied, 11-square-mile recharge zone (the area from which a body of water is recharged). He stated that "anything that is spilled, drained, dumped, rained, whatever immediately goes underground and comes out two springs along the side of Osage Creek." He informed the Board that the Blind Cave Fish and Blind Cave Crayfish reside in this area. He maintained that surface runoff is not a major concern, but anything that seeps into the ground will end up in the water table. He said that there is a known geologic fracture in the area into which everything drains into the groundwater. He added that there is a cave habitat only 1/2 to 3/4 miles from the proposed project. Mr. Kampwerth stated that ADEQ and the Office of Hazardous Materials Safety would likely have an interest in this project.

Mr. Borman asked if the residents using water from the springs are pulling the water directly from the spring or from their wells; Mr. Kampwerth answered, "Both," explaining that some residents pipe water from the springs into trucks and stock it.

Mr. Borman asked what the average well depth is in the area; Mr. Kampwerth answered that a gentleman he spoke with today had drilled to 310 feet, but that his water contained high levels of fecal coliform and e-coli bacteria. He added that much of the water tested in this area contained bacteria from human and animal waste.

Mr. Borman asked if the residents in the area use septic systems; Mr. Kampwerth answered, "Affirmative."

Mr. Sorey asked if there were measures that the applicant could take in order for Mr. Kampwerth to approve of the project. Mr. Kampwerth stated that the extremely steep drive would need some sort of retaining system to avoid draining into the nearby valley, and that the applicant should have some form of secondary containment in place in case of accidental spills to avoid the possibility of groundwater contamination.

Public comment was closed.

## 6. New Business:

### A. Large Scale Development - **Our Shop** - 9953 Highway 72 East, Rogers - John Bevill

John Bevill represented the large scale development application. The outstanding stipulations were as follows:

- Submit septic system information
- Submit solid waste contract (copy of bill will suffice)
- Submit public utilities contract (copy of bill will suffice)
- Remove the border, the title block, the owners' certification and dedication, Benton County Planning acceptance, everything that has signatures, the stamp and surveyor's declaration, "filed for record" information and the legal description for all but tract 2 from the site plan.
- Show the fence, the gravel, the well line and the contours on the site plan.
- Investigate well situation with the Health Department.
- Have an easement prepared for the well line extension on Tract 2.

Ms. Pope stated that Mr. Bevill had submitted a revised site plan; she said that the septic system information submitted is the annotation on the site plan "apparent septic location". Ms. Pope stated, "Mr. Bevill has submitted that the guy that did the slab installed the septic and there's not been any permitting or anything on that septic system... we don't have any record of it." She went on to say that the applicant had submitted a copy of the solid waste contract, but had not submitted an electric bill or public utilities bill. She asked Mr. Bevill if he had brought those copies with him; Mr. Bevill answered that the electric bill is in the name of Billy Smith, the owner of the property, so he did not have a copy of it, but he stated that he had a receipt showing that he had paid on the account.

Ms. Pope stated that the applicant had removed the border, the title block, the owners' certification, Benton County Planning acceptance, the stamp and "filed for record" information on the site plan. She said that he proposed 180 feet of privacy fencing.

Ms. Pope addressed the stipulation to investigate the well situation with the Health Department, stating that "there is a water line to a well that is on another piece of property that we've had Mr. Bevill look into." She stated that either Mr. Bevill or Ms. Davis would explain the well situation. Ms. Pope then stated that the applicant had been asked to have an easement prepared for the well line extension on Tract 2, but that the easement had not been submitted. She then asked Mr. Bevill to explain the well; Mr. Bevill said that there had been an agreement that, "if they purchased the land was that they had two years on that well and then they would have to find their own water source

at the end of the two years... he and the other gentleman... there's a gentlemen's agreement that as long as he just used it for the shop it would be fine."

Ms. Pope stated that Ms. Davis had spoken with Caroline Eastman of the Benton County Health Department, who stated that she had no objection to the current arrangement "as long as when Pea Ridge water extended into that area he connected." Ms. Pope informed the Board that this was a verbal confirmation only; Staff had had nothing regarding the well usage submitted in writing. Ms. Pope added that the proposed business is in the Pea Ridge Fire Department's fire service area.

Mr. Borman stated that some sort of written agreement between the owners of all three parcels regarding the use of the well would be required in order to protect and ensure continued water service. He stated that he knew that Pea Ridge would be putting in a water line, but the timing is uncertain. He added that this well would not fall under the definition of a public water system since it is serving such a small number of end users.

Mr. Borman stated, "And with that same agreement for usage of the water there's also going to have to be – he's got it shown on here – but there's documented easements for the water lines and access to the well for repairs and such... And who's going to be responsible for repairs also has to be addressed, whether it's going to be the one property owner or shared between all three people." Mr. Borman added that the septic system must be inspected before anything else is done.

Ms. Davis stated that Ms. Eastman told her that a DR could go to the site to ensure that things are working properly and that since it is not a daycare or a school that the existing situation should be satisfactory until the City of Pea Ridge runs a water line to the property. Ms. Davis said that Ms. Eastman stated that if the City of Pea Ridge did not run the water line within a year that a new well would have to be dug for the business.

Mr. Borman agreed that there were no major issues with the existing situation. He added that his concern involves the "apparent septic location", the proximity of the well on the other side of the property line, where the lateral lines run and in which direction the lateral lines run.

Ms. Pope asked if the "apparent septic location" is on the other property or if he was simply drawing a line to it; Mr. Bevill answered that he was drawing a line to it. Ms. Pope clarified that it is right on the side of the shop.

Mr. Sorey asked the Board to consider the project and "whether or not this should be here – if it is here, what it needs to have done to it so it can remain here." He added that the applicant is leasing the property and will not purchase it unless he receives the approval of the Planning Board. Mr. Sorey stated that the Board should not treat this business, which already exists, any differently than a new submittal. He asked the Board if they would approve this business in this area if it were a brand new submittal.

Mr. Borman stated that if the large scale development was submitted and met all of the county requirements, then his answer would be, "Yes."

Mr. Ward agreed and stated that the Board would stipulate whatever was necessary in order to address adjoining property owners' concerns.

In reference to the shared driveway, Ms. Lucas asked what easement rights existed to get across the property; Mr. Sorey answered that there is a "30-foot access & utility easement to be dedicated by this plat." Mr. Gray stated that it is an easement of record, so it is not an issue.

Mr. Borman asked if the septic being on someone else's property would be an issue; Mr. Sorey stated that he did not believe that it was on someone else's property, it was simply a note.

Ms. Lucas asked if Tract 3 shared the well; Mr. Bevill stated that he did not believe so. Ms. Lucas clarified that Tracts 1, 2 and 4 used the well, but that Tract 3 does not; Mr. Bevill stated that that was the case, as far as he knew.

Staff recommended the following, in order to address the compatibility issues: Limit hours of operation to 7 a.m. to 7 p.m.; Build an 8-foot privacy fence, with a gate, around the entire site, beginning 5 feet from the easement.

Mr. Sorey asked if Ms. Pope meant that the fence should be built around the use area, not the entire 5 acres. Ms. Pope stated that the fence should be built around the entire use area (shown on the site plan as the cross-hatched area). Mr. Borman stated that this is a typical requirement for large scale developments.

Ms. Pope stated that other conditions of approval would be an approved inspection for the septic system, a written well agreement, a written easement document for the well that also addresses repairs.

Mr. Borman enquired about the solid waste and public utilities contracts; Ms. Pope stated that the applicant has submitted the solid waste contract and that he can obtain a copy of the public utility bill or receipt. Ms. Pope stated that the applicant currently pays Mr. Smith, the property owner, for electricity. Mr. Bevill agreed to provide Staff with a receipt.

Mr. Kneebone opined that if this business were run properly no complaints would have been generated and that most automotive repair shops did not keep "junk cars" on their premises.

Mr. Borman asked if drainage was an issue with this project; Mr. Sorey stated that that was why the Board had requested topographic information. He then addressed Mr. Kneebone's comments, stating that in the past the Board had limited the number of vehicle applicants could keep on their property. Mr. Sorey said that this large scale was supposed to be a repair shop, not a salvage yard, but that it looked like a salvage yard.

Ms. Pope stated that this project does meet the definition of a salvage yard according to the Benton County ordinance. She added that, as a condition of approval, the 8-foot privacy fence needs to be maintained in good condition, since "fences have a tendency to get in disrepair."

Mr. Sorey suggested that some buffering should be required so the neighboring property owners "look at an 8-foot tall square fence around this whole thing." He suggested evergreens to buffer between the use area and the fence.

Mr. Ward asked Mr. Henderson if the gap in the tree line was where he could see the business from his front yard; Mr. Henderson answered that he could see it from there and from the pond on his property.

Mr. Gray asked if the cross-hatched area depicted the parking area and if it violated any setbacks; Ms. Pope stated that vehicles can be in the setback.

Mr. Gray asked if the buffer and usage overlapped; Mr. Sorey stated that that was correct and asked if Mr. Gray was proposing a buffer of a certain dimension. Mr. Gray stated that if the Board required a buffer, they would have to remove the usage; Mr. Sorey stated

that that was correct and that the applicant would have to designate an area for the buffer.

Mr. Sorey asked Mr. Bevill if he was leasing the entire 5 acres; Mr. Bevill stated that he is "leasing with an option," but added that he did not intend to use the entire 5 acres for his business.

Ms. Pope stated that if the Board wished to require an additional vegetative buffer, she recommended moving the fence in 10 feet from the proposed use area.

Mr. Sorey asked, "Just along that east property line, correct?"

Mr. Ward asked, "Between Tract 2 and 3, correct?"

Ms. Pope stated that she had thought the buffering should be placed around the entire project area; Mr. Ward concurred, but asked for further clarification. Ms. Pope responded that the fence should be around the whole use area, 10 foot inside that area, with trees around the whole use area. She then asked if this was what the Board had in mind.

Mr. Sorey wanted to ensure that the applicant would not lose any storage space; Ms. Pope assured him that there would be no loss of storage space. Mr. Sorey asked for further clarification that "a 10-foot buffer coming up the east side..." would be required. Ms. Pope added that buffering on the south and west sides of the property would also be required. Mr. Sorey continued, "... and a 10-foot buffer along the easement, right?" Ms. Pope stated that it was actually five feet from the easement.

Mr. Sorey expressed concern regarding whether or not the drive on the east side is actually located within the easement. He stated that the fence position should be based on its distance from the edge of the pavement instead of from the easement. He suggested that the fence needed to be a minimum of ten feet from the edge of the pavement and five feet from the edge of the easement, which would allow space between the drive and the fence, as well room for planting. He noted that on the other sides of the property, the applicant simply needed to plant outside of the fence.

Ms. Pope asked if the applicant should plant any specific species of tree; Mr. Sorey answered, "Evergreen."

Ms. Pope read the list of stipulations:

- Evergreen tree buffer on all sides of the project area, ten feet from the edge of pavement, 5 feet from the edge of the easement
- A written well agreement
- Easement document for the well that documents how repairs will be handled
- An approved septic system inspection
- Limited hours of operation from 7 a.m. to 7 p.m.
- An eight-foot privacy fence, which must be maintained in good condition, around the entire repair operation.
- Limit the number of vehicles to 20 operable vehicles

Mr. Sorey stated that there are currently about 40 vehicles on site, "most of which I don't think are operable." Ms. Lucas observed that, "they didn't look operable." Mr. Bevill stated that about half of the vehicles are operable and the rest are "works in progress". He added that he had disposed of most of the vehicles that could be considered salvage

and that he does have some vehicles that are long-term projects. He added that some of his customers are awaiting tax refunds to be able to claim their vehicles.

Mr. Ward said that he wanted to add the stipulation that nothing may be stored outside of the fenced-in area on the property.

Mr. Borman asked if a drainage letter had been submitted regarding this project; Mr. Sorey stated, "No, and that's why we have the aerials with topo." Ms. Pope pointed out that the applicant had requested a variance of the drainage study/letter requirement.

Mr. Borman expressed concern regarding the pond on the neighboring property, noting that there is not a great deal of difference in the topography between the two properties, but that the neighbor's property is downhill of the project area and downstream from stored vehicles. He stated that the possibility of runoff to the neighbor's property made him think that a drainage study would be necessary for this project to show that there would be no adverse impact.

Mr. Henry concurred with Mr. Borman, adding that the drainage letter needs to reflect what type of impact would be made on the surrounding properties.

Ms. Davis asked of the applicant needed a drainage letter or a full drainage study; Mr. Borman answered, "I think there's a significant potential for contamination occurring downstream." Mr. Sorey added that, "The study probably would show that there's not a hazard to any increased runoff, it's what may runoff..." Mr. Borman interjected, "Type of runoff." Mr. Sorey continued, "That needs to be addressed in that report or that letter." Mr. Sorey stated that a detail of the proposed fence would be necessary to ensure that it meets the Board's standards. The spacing of the trees should be added to the drawing to ensure a sufficient buffer.

Ms. Pope asked if the Board had decided on the number of vehicles to which the applicant would be limited; Mr. Sorey stated that they had not. Mr. Henry stated that he did not know what limitations the Board had set in the past, so he was unable to propose a number. Mr. Borman asked how many vehicles were currently onsite at this project location; Mr. Sorey answered, "Forty-plus..." Ms. Lucas observed that the applicant would not be able to fit that many vehicles inside the fence unless the fencing was expanded; she suggested limiting the applicant to twenty vehicles onsite at any one time, stating, "Unless you have a huge staff, you're not working on 20 vehicles at a time." Mr. Bevill stated that he was not working on every vehicle, every day.

Mr. Henry stated that the Board seems to be viewing this project as a salvage yard, noting that Ms. Pope had stated that it meets those criteria; Ms. Pope agreed. He stated that it would be reasonable to approach the number of allowable vehicles from that perspective, and that there would likely be more than twenty vehicles in a salvage yard.

Mr. Borman suggested that the applicant should be limited to what fits inside of the fence. Mr. Sorey addressed the hours of operation, asking Mr. Bevill if the suggested 7 a.m. to 7 p.m. limits posed any problem; Mr. Bevill stated that his current hours of operation were from 9 a.m. to 5 or 6 p.m., and that any work done after this time is personal. Mr. Sorey asked during which hours work is being done; Mr. Bevill responded that work was being done anytime between 8 a.m. and 8 p.m. Mr. Sorey responded that the work being done later in the evening is more likely to be an issue for the neighbors. Mr. Bevill reiterated that any work being done after 6 p.m. is on his own vehicles.

Mr. Sorey asked Mr. Bevill's neighbor, Mr. Henderson, to come back to the podium, stating that, "He's the one that's going to have to live with the operations." Mr. Sorey asked Mr. Henderson's opinion; Mr. Henderson stated that currently the applicant is

working every day of the week and asked Mr. Sorey, "Are we talking seven days a week? ...obviously, I don't like that." Mr. Henderson and the Board discussed the hours of operation; Ms. Lucas expressed concern regarding how the hours would be enforced.

Mr. Borman suggested that the hours of operation should not go past noon or one p.m. on Saturday and that there should be no operations on Sunday. Mr. Ward agreed and Ms. Lucas pointed out that these were "normal shop operation hours."

Mr. Sorey summarized that the hours of operation would be limited to 7 a.m. to 7 p.m. Monday through Friday, 8 a.m. to noon on Saturday, and the business would be closed on Sunday.

Ms. Pope listed the stipulations:

- Submit a detail of the fence that will be constructed
- Indicate proposed tree locations on the site plan and/or submit a detail
- Submit a drainage study that addresses the environmental issues of this project
- Nothing may be stored outside of the fenced area
- Limit the number of vehicles stored onsite to a maximum of 40
- The buffering will consist of evergreen trees surrounding all sides of the project area
- Obtain a written well agreement
- A document easement for the well which addresses repairs must be obtained
- Obtain an inspection and approval of the septic system
- Limit the hours of operation to 7 a.m. to 7 p.m., Monday through Friday and 8 a.m. to noon on Saturday; there will be no operation on Sunday.
- The privacy fence should be eight feet in height, surround the entire cross-hatched area on the site plan, and should be maintained in good condition.
- The fence must be ten feet from the edge of pavement in the easement and five feet from the edge of the easement. There must be at least ten feet inside of the hatched area to allow the buffer.
- Any proposed expansion must be brought back to the Benton County Planning Board for resubmittal.

Mr. Bevill stated that the proposed hours of operations on Saturdays would not work for him; he stated that "we don't get around until 9 o'clock" and that 9 a.m. to 5 p.m. would be "more along the lines of what we do." Mr. Sorey expressed empathy, but pointed out that the business is located in a residential area, not in a commercial or industrial area, so it would need to be sensitive to the surrounding neighbors.

***Mr. Borman made a motion to approve the large scale development application, subject to stipulations; Mr. Ward seconded the motion. Mr. Borman, Mr. Gray, Mr. Henry and Mr. Ward voted in favor of the motion; Mr. Kneebone, Ms. Lucas and Mr. Sorey voted against it. The motion was passed.***

Mr. Sorey encouraged Mr. Bevill to address the stipulations promptly if he planned on keeping this business in this location; he also asked Staff to bring this back to the Board

should progress not be made in a timely manner. He added that Mr. Bevill should limit his operations to his property and not treat the driveway easement as a part of his property.

B. Large Scale Development - **O. A. K. Home Builders** - 13960 Hiwasse Road, Hiwasse - A. P. Kiesel

Tony Kiesel represented the large scale development application.

Ms. Pope stated that Mr. Kiesel had submitted a revised site plan which addresses the stipulations from the TAC meeting. The outstanding stipulations were to show screening or a privacy fence around the project area and to show a concrete apron on the second driveway. She pointed out that there are only three sides to the fencing, and asked the Board if they would require the fourth side to be fenced.

Mr. Sorey stated that no one could see the unfenced side of the business unless they were on the applicant's property. Mr. Gray stated that it appears there is a 20 to 30 foot drop in that area.

Mr. Sorey asked what the height of the proposed screening fence would be; Ms. Pope answered that she would propose it to be eight feet high and would be required to be maintained in good condition. Mr. Kiesel was amenable to this condition.

Mr. Sorey asked for any Board comments or questions; there were none. Staff recommended approval, subject to stipulations.

The stipulations were:

- Construct an eight-foot high screening or a privacy fence around the three sides of the project area indicated on the revised site plan and maintain the fence in good condition
- Construct a concrete apron on the second driveway

***Mr. Kneebone made a motion to approve the large scale development application, subject to stipulations; Ms. Lucas seconded the motion. All Board members voted in favor of the motion; the motion was passed.***

C. Large Scale Development - **James Johnson** - 14411 Springtown Road, Siloam Springs – Haz Mat Storage

James J. Johnson and George Cruz represented the large scale development application.

Ms. Pope reminded the Board that this application had come to them as an inquiry at the TAC meeting; she pointed out that a copy of the survey had been submitted, as well as a copy of a hand-drawn site plan, a variance request to waive the drainage letter requirements, general drainage information from Benton County's GIS system (with ten-foot contours), and the project application. She stated that the Fire Marshal had no comments or negative feedback regarding this project. She said that Staff had received many inquiries regarding this project.

Ms. Pope stated that Mr. Johnson had submitted proof of notification of the adjacent property owners and proof of utilities and trash service. He had also submitted an approval letter from the fire department and a hazardous chemical compliance letter from DEM. She stated that Mr. Johnson was requesting approval and that he declared that "he will be storing oil-impacted soil and possibly antifreeze on-site."

Mr. Sorey asked for any questions from the Board. Mr. Borman asked where the soil would be coming from; Mr. Johnson answered that it would be coming from traffic accident sites. Mr. Borman clarified that the hazardous materials "could be diesel, oil, antifreeze..." Mr. Johnson agreed. Mr. Borman asked if there were hazardous chemicals in the cargo of a truck wreck if Mr. Johnson's business would clean those up; Mr. Cruz stated that cargo would be separate - that in most cases, "if a tanker truck wrecks... you're going to have a vacuum truck there."

Mr. Cruz stated that there was a misconception that chemical-laden soil would be dropped onto plastic on the ground at their facility. He asserted, "Not at one time will there ever be a "hazardous material" at this facility." He stated that he was sure that the State of Arkansas follows EPA regulations regarding what constitutes hazardous materials; he contended that "diesel fuel, oil depending on the metals in the oil, is what makes it hazardous is not considered hazardous material because it's considered non-regulated waste."

Mr. Cruz stated that, in the event of a large spill, their company would not be hired to move soil twice (once to their facility and then to the landfill), they would dig it up, place it on plastic and leave it to be shipped to the proper facility. He stated that material from smaller clean-up sites, such as suicides, is put into 55 gallon drums and taken to their location or to the medical examiner's office. He stated that very little contaminated soil is brought back to their site and any chemicals have usually solidified by the time they make it to the business location, so there would be little chance of it running off onto the ground. He added that contaminated soil would be stored inside the building in a lined, sealed container box; he stated that he had never seen materials packaged this way leak in the sixteen years he has been doing this job.

Mr. Borman stated that he appreciated Mr. Cruz's comments, but added, "I don't like to hear people that are in the business of haz-mat say never. I've been in the drinking water business for 20 years, I deal with chemicals day in and day out, and I don't like the words "never gonna happen" because eventually it does happen." He added that runoff permeating the soil or into the aquifer is his main concern in the proposed project area. He stated that ADEQ should be notified and that the applicant should obtain an opinion letter from ADEQ as well as from U.S. Fish and Wildlife.

Mr. Borman stated that he had reservations about granting a variance of the drainage study due to issues with containment, access, drainage, and potential environmental impact.

Mr. Sorey asked both representatives of the large scale development application to introduce themselves and give their addresses for the record; they did so.

Mr. Cruz stated that he had stated "never" earlier because they would not license this facility to hold hazardous waste. Mr. Borman stated that even if the applicant was only "storing ten gallons of diesel-contaminated soil on there and it runs off and it permeates into the ground... it's not considered hazardous waste by EPA, but it is a contaminant to the water." He stated that it was the applicant's responsibility to show the Board that there would be no adverse impact to the environment.

Mr. Sorey clarified that the Board is not prohibiting the project, but is asking for more information regarding how the proposed operation will be conducted and how any possible runoff will be contained. He surmised that Mr. Borman was not in favor of waiving the large scale development requirements; he suggested that most of the concerns could be addressed if the applicant completed the large scale development requirements.

Ms. Pope pointed out that the applicant had attended the TAC meeting and that the Board required a few minimal requirements from the large scale development process; she stated that the Board had not told the applicant that he needed to go through the full process. Mr. Borman stated that with this type of facility, at least a drainage study should be submitted. Mr. Sorey noted that public comment is not available at the TAC meeting.

Mr. Ward stated that he had advised the applicant at the technical review that some sort of written plan detailing the business' operations would be beneficial. He added that even if the risk of contamination is minimal, it exists, and the applicant should have a plan in place to deal with such possibilities.

Ms. Lucas agreed, adding "When we started this conversation, we were talking about oil-impacted soils and antifreeze being kept on site, then you explained about the truck wrecks, and then you started explaining about how you're not going to have these impacted soils on site. And you started talking about all these other things you were going to have on site and I got lost in the conversation because we weren't where we said we were going to be." She stated that due to the public comments that were made and to the lack of information regarding the operations, she had concerns about the proposed business area. She said that since this is a recharge zone, there are greater concerns about the water.

Mr. Johnson stated that the Department of Emergency Management and the ADEQ have both been contacted regarding the proposed business, but that he was informed that he had to receive Benton County's approval first. Mr. Sorey stated, "ADEQ is going to wait for our approval... but part of our process would require you to go to them." He stated that even after Mr. Johnson received the approval of the Planning Board, he would not be able to begin operations until he completed ADEQ's requirements. Mr. Johnson acknowledged that he would have to obtain permits before he could begin operations.

Mr. Sorey stated that based on the questions he asked Mr. Kampwerth of the U.S. Fish & Game Department, he thought that this project could be undertaken at this location, but that measures would need to be taken to ensure that the sensitive environment in this area was protected. He added that without a site plan prepared by a surveyor and reviewed by an engineer to determine the potential impact it would be difficult for the Board to make a determination.

Ms. Lucas stated that it was a variance that was requested and that she was not inclined to grant a variance. Ms. Pope stated that the variance was submitted as part of the large scale development application; she added that what he submitted was based on what he was told at the TAC meeting.

Mr. Sorey did not believe that the applicant would be able to obtain an opinion letter from ADEQ; Mr. Borman concurred, adding that ADEQ is waiting for the Planning Board's decision. Ms. Pope stated, "They will send us a letter." Mr. Sorey felt that the approval of ADEQ could be condition of the Board's approval.

Mr. Ward asked to add to the stipulated drainage risk assessment report a requirement that the applicant formulate a plan to deal with potential issues. Mr. Sorey stated that if all of the materials stored on site would be kept inside of the covered facility, there would not be much risk; Ms. Lucas added, "Especially in these barrels that are double-lined." Ms. Lucas conceded that there are positive aspects of this project. Mr. Borman stated that the Board would need it all in writing.

Mr. Sorey asked if the drive to the shop follows the 30 foot access easement; Ms. Pope answered that the drive does not stay in the easement, but that the applicant's mother

owns the property on which it is located. Mr. Sorey stated that it would be easy to get cleared up in case the applicant ever decides to sell the property.

Ms. Pope listed the stipulations:

- Approval of this project is subject to the applicant obtaining all necessary ADEQ permits
- Submit a drainage study that addresses environmental impact
- Submit a written plan regarding how the operation will be conducted, including risk assessment and plan to mitigate possible issues
- A full large scale development site plan
- Resolve easement issue so that either the easement follows the drive or the drive follows the easement

Staff recommended tabling the project until the majority of the stipulations can be met.

Mr. Henry stated that his concern was the lack of secondary containment on the site in case of a catastrophic event; he felt that this should be addressed. Ms. Lucas stated that the risk assessment should be generated by an environmental engineer. Ms. Pope said that she had thought that this would be managed by ADEQ; Mr. Borman stated that "it may or may not be." Mr. Sorey stated that the need for secondary containment should be a part of the ADEQ's regulations; Mr. Borman stated that it would depend on how the ADEQ classifies the chemicals. Mr. Sorey reiterated that nothing had been submitted to the Board enabling them to see how the operation would be run, so they had nothing on which to base opinions.

Mr. Henry asked for clarification regarding what type of drainage study would be done on the property; Mr. Borman said that the applicant needs to submit a drainage study that addresses environmental impact.

Mr. Sorey addressed the applicant, stating that Staff had recommended tabling and asking the applicant if he wished to request tabling; Ms. Pope clarified that either the Board or the applicant can request that a project be tabled.

***Mr. Ward made a motion to table the large scale development application; Mr. Borman seconded the motion. All Board members voted in favor of the motion; the motion was passed.***

D. Large Scale Development - **TowMate** - 15827 Serenity Point Lane, Rogers - William Bryan Anderson

Bryan Anderson represented the large scale development application.

Ms. Pope stated that this project had originally come to the Board as an inquiry; she stated that the applicant had submitted a copy of his electric bill as requested, as well as a variance request from the stormwater/drainage and set back requirements. She stated that the building is 90% complete.

Mr. Borman clarified that the applicant manufactures wireless trailer lights; Ms. Pope stated that that was correct. She added that adjacent property owners have been notified; she stated that this is mostly a family-operated business.

Mr. Sorey stated that the Board had requested the submitted site plan; he asked the applicant whether or not the abandoned asphalt drive up to the rear of the building is used at all. Mr. Anderson answered that it is not, but that the gate keeps people from dumping.

Mr. Sorey asked for any comments or questions from the Board; Mr. Borman asked for Staff's recommendations.

Staff recommended that the Board require the applicant to obtain a building permit for the almost-completed building; Staff also recommended stipulating that if the house is ever destroyed it cannot be rebuilt in the setback.

Ms. Pope pointed out that there is a parking area suitable for parking 4 - 5 cars; she stated that there did not appear to be a parking issue when she visited the site.

Mr. Sorey asked if those parking spots are designated for use by the community; Mr. Anderson answered that they are designated for those using the community boat dock; he added that he owns half of that dock. Mr. Sorey stated that his concern was that at some point in the future Mr. Anderson's business would overwhelm the small parking area; Mr. Anderson stated that once his project is complete, he will have room to park 8 vehicles at the project site (where the construction vehicles are currently located).

Ms. Pope asked the Board if they wished to limit the hours of operation or the number of employees for this business; she reminded the Board that this is located in a residential neighborhood. Mr. Anderson interjected that his business generates no noise, noting that he has students in the building working at night. Mr. Sorey asked if the business consisted of shipping and receiving; Mr. Anderson agreed and added that UPS comes to the business at 5 p.m.

Mr. Sorey stated that the Board might consider limiting the number of employees due to the parking constraints; Ms. Pope stated that they could limit the number of cars.

Ms. Lucas asked what the business does, since she was not present at the TAC meeting; Mr. Anderson answered that they manufacture radio-controller taillight systems for the tow-truck industry, utility companies, mobile home movers, house movers, etc.

Ms. Pope listed the stipulations:

- Limit the number of vehicles to a maximum of eight
- If the buildings onsite are ever destroyed, there will be no rebuilding in the setback
- The applicant will obtain a building permit

***Mr. Kneebone made a motion to approve the large scale development application, subject to stipulations; Mr. Gray seconded the motion. All Board members voted in favor of the motion; the motion was passed.***

Mr. Sorey stated that this application was a good example of a large scale development that works.

Mark Curtis, of 15728 Putman Road, Rogers, stated that he is a neighbor of Mr. Anderson's and that everything that Mr. Anderson said was "absolutely correct."

E. Tract Split (Variance from Subdivision Regulations) - **Terrel Frasure** - 4106  
Patterson Road, Pea Ridge - Ramsey Surveying, Inc.

Terrel Frasure represented the variance request.

Ms. Pope stated that this is a 5-6 acre parcel being split into three parcels for family members; she added that this is within Pea Ridge's planning area, so they will need to get approval from the city of Pea Ridge. She stated that everything had been located on the plat; she also said, "It should be noted that the sole access to Tract 1 is through an easement."

Ms. Frasure stated that she is doing this split so that her oldest daughter can build a house on the property and her grandchildren can be closer to her.

Staff had no objections to the split; she questioned why the setback on the plat was there; Ms. Frasure explained that it had been a rabbit house. Mr. Gray stated that it appeared that the surveyor had interpreted it as the front of a lot. Mr. Sorey suggested that Ms. Frasure ask her surveyor take off the setback. Mr. Gray stated that the Board would take it either way.

Ms. Pope explained to Ms. Frasure that the setback means that she could not build in that area. Mr. Sorey clarified that the Board was not requiring the setback, but they did not have a problem with it being there.

The stipulations were as follows:

- Obtain approval of the split from the City of Pea Ridge
- Either remove the 25-foot setback or agree not to rebuild in the setback

***Mr. Borman made a motion to approve the variance from the subdivision regulations, subject to the stipulations; Mr. Ward seconded the motion. All Board members voted in favor of the motion; the motion was passed.***

7. Announcements

Ms. Pope reminded Mr. Sorey, Mr. Ward, Mr. Borman, and Mr. Henry of the Zoning Committee meeting on February 21st at 5:30 p.m. in which they agreed to participate; Mr. Borman encouraged the other Board members to attend.

8. Adjournment

The meeting was adjourned at 7:09 p.m.

Respectfully submitted,

Ashley E. Pope

Planning Director