

April 21, 2010
NOTICE OF REGULAR MEETING AND PUBLIC HEARING MEETING OF THE
BENTON COUNTY PLANNING BOARD

WHEN: April 21, 2010
TIME: 6:00 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 Board was represented by Scott Borman, Jim Cole, Lane Gurel, Bill Kneebone, Ken Knight and Heath Ward; Mark Curtis was absent.

Staff was represented by Chris Glass, Ronette Bachert, Teresa Sidwell and Karen Stewart.

3. **Disposition of the Minutes** of March 17, 2010 public hearing meeting as distributed. Mr. Kneebone made a motion to approve the minutes; the motion was seconded by Mr. Ward. All members voted in favor of the motion.

4. **Reports of Planning Board members**

There were no reports presented by the members of the board.

5. **Public Comment**

Mr. Borman asked for public comment; there was none and public comment was closed.

6. **New Business:**

A. JP District 09 – Variance from Commercial Fee – Solid Rock Baptist Church – 3501 S.W. Rainbow Farm Rd., Bentonville

Mr. Lloyd Day and Mr. Justin Wallace represented the project. The stipulations for the project were as follows.

- *Proof of written notification of adjoining property owners will be required.*
- *Local emergency services must be notified and documentation provided to Staff.*

Mrs. Stewart stated that Staff had not received documentation from the applicant regarding the stipulations. Mr. Day stated that he had sent notifications to adjoining property owners and had receipts from the postal service. Mr. Wallace stated that he had notified CENCOM and the Bentonville Police Department. He added that he had received a call from the Sheriff's Department and they volunteered to help with traffic control and extra patrols. Mrs. Stewart stated that the applicant would need to submit written documentation for the record. Mr. Borman agreed.

Mr. Knight made a motion to approve the variance from commercial fee and the motion was seconded by Mr. Gurel. Mr. Borman, Mr. Cole, Mr. Gurel, Mr. Kneebone, Mr. Knight, and Mr. Ward voted in favor of the motion and the motion was passed.

Mr. Ward made a motion to approve the project pending stipulations and Mr. Cole seconded the motion. Mr. Borman, Mr. Cole, Mr. Gurel, Mr. Kneebone, Mr. Knight, and Mr. Ward voted in favor of the motion and the motion was passed.

B. JP District 11– Discussion - Red Barn Wind Project – 9305 Browning Rd., Decatur

Nathan Wilson represented the project. Mrs. Stewart stated that the applicant was present to discuss the project with the Board and that there would be no approvals granted at this meeting.

Mr. David Kampwerth of the U.S. Fish and Wildlife Service spoke at the April 7 TAC meeting regarding wind energy in Benton County; the main speaking points were as follows.

- *Improper siting of wind turbines can adversely affect area wildlife.*
- *National Wind Advisory guidelines can be obtained at fws.gov.*
- *The reasons bats are attracted to wind turbines is unknown.*
- *A two-year survey of wildlife and potential effects on karst is recommended by the U.S. Fish and Wildlife Service.*
- *Bat echolocation detector (anabat) placed where the turbine would be located (120-480 foot elevation) is recommended.*
- *Radar on site, remote or manned, typically 2-3 months in spring and fall.*
- *A survey by a federally-permitted biologist may be required.*
- *The site may be monitored for potential violations of the Endangered Species Act.*
- *Migratory Bird Treaty Act may be enforced.*
- *The Fish and Wildlife Service recommends the development of a county ordinance regarding wind energy.*
- *Department of Energy wind and geothermal grants may be available.*
- *DeKalb County, Illinois, has dealt with wind energy and has planning ordinances that may be used for reference.*

Mr. Wilson stated that Mr. Kampwerth is very thorough and added that his group was very thorough as well. Mr. Wilson commented that they have established proper siting of the wind turbines but that they were awaiting a full environmental review for final turbine placement. He stated that he was researching the bat population in the area and considering relocating the endangered species to a habitat elsewhere.

Mr. Wilson stated that if they ordered the wind turbines by December of this year they would receive a 30% government stimulus and be able to utilize taller towers. He added that the towers would measure approximately 328 feet instead of the industry standard of 282 feet. Mr. Wilson felt that a taller tower would further mitigate risks to birds by raising the turbine out of their flight path.

Mr. Wilson stated that he intended to place eight 2.5 megawatt turbines each with a rotor diameter of 90 meters. Mr. Kneebone asked if Staff had contacted DeKalb County regarding wind energy ordinances. Mr. Glass stated that Staff will write to them requesting the information. Mr. Borman suggested that Staff take a sampling of areas with wind farms. Mrs. Stewart added that Ms. Bachert had a draft wind ordinance in the works as well.

Mr. Borman recommended that the applicant contact U.S. Fish and Wildlife and come to a written agreement before coming before the Planning Board. Mr. Wilson stated that he is going above and beyond the requirements recommended by Mr. Kampwerth. Mr. Knight asked if the applicant had begun a two-year survey of wildlife as recommended by Mr. Kampwerth. Mr. Wilson stated that he planned to propose to Mr. Kampwerth a relocation of the endangered bats to a new habitat. Mr. Knight asked about the timetable for the project. Mr. Wilson stated that the NWA Regional Airport had done a Federal NEPA review that covers a broad area including the site for his project. He added that the Flint Creek Coal Power Plant was also required to do a NEPA review that overlaps. Mr. Wilson stated that according to his experts; a two-year study would not be required so therefore the timetable would be much shorter. He added that they would only need to do a study on the flight patterns of birds in the spring and the fall.

Mr. Ward cautioned the applicant to arrive at an agreement with the U.S. Fish and Wildlife Department before returning to the Board. Mr. Borman agreed and noted that the Endangered Species Act could cause the applicant grief. Mrs. Stewart asked the Board for clarification regarding surveys and site plans. Mr. Borman stated that he would be required to submit one site plan with all eight turbines shown. Mr. Wilson asked if he would need to submit a plan with a scale of one inch equals one hundred feet. Mr. Borman stated that a site plan with a vicinity map would be sufficient. He added that the site plan should note roads, the location of turbines, adjoining property owners and security measures that will be taken for public safety.

The applicant asked about setbacks that would be required. Mr. Borman stated that the project must adhere to county road setbacks. He added that the towers must be situated so that the tower and its turbine will not encroach upon the road setback or adjoining property owners should it collapse. Mrs. Stewart asked if they would be using the communication tower regulations with regard to this project. Mr. Ward stated that there is not a specific ordinance addressing wind towers so the Board will accept the standards for communication towers.

Mr. Knight asked the applicant how much experience he had with wind generation. Mr. Wilson stated that he had been working in the wind generation field since October of 2009. He added that previously he had worked for Energy Electric Company and found the sites when looking for place to put up small wind turbines. Mr. Knight stated that he felt that it would benefit the applicant to build relationships with the people in the area so that they would be educated on the noise that wind turbines produce. Mr. Wilson stated that it was a community wind project and that the community had visited other wind farms and was familiar with wind turbines. Mrs. Stewart noted that the area is sparsely populated. Mr. Wilson added that he had modeled the project after community wind farms in Minnesota.

Mr. Ward asked what would be the expected life span of the wind turbines. Mr. Wilson stated that the life span is until the wind stops blowing as long as they are maintained. He added that the turbine life is about 25 years and the tower will last about 50 years. Mr. Wilson stated that wind turbine technology would double capacity in roughly 10 years with less weight and he expected that trend to continue. Mr. Wilson commented that Empire Electric and SWEPCO are looking for renewable energy. He added that a climate bill will be presented to the senate on April 27 and he suspected that Carroll Electric will be interested as well. Mr. Wilson stated that he had just put a deposit down for a transmission feasibility study which he believes will show that it will be a matter of stepping up from 34.5 KB to 165 KB.

Mr. Borman asked the Board to disregard references to the climate bill coming before the senate because it is not a done deal and has no bearing on the Board's decision. Mr. Gurel observed that the federal government that is providing the stimulus money that expires in December; is the same federal government that is asking for long term studies about endangered species. He added that the different parts of the federal government do not communicate with each other and wondered if someone might lobby for an extension of the stimulus money. Mr. Borman stated that it was not for the Board to decide. Mr. Gurel stated that it was brought up for discussion purposes only.

Mr. Wilson asked when he would be able to come back before the Board. Mr. Borman stated that the applicant would need to come before the Board before construction begins. He added that the applicant would need to contact Staff and that Staff would guide the applicant through the Large Scale Development process and all the requirements. Mr. Gurel stated that it could conceivably take more than one month of meetings with the Board. Mr. Cole suggested that adjoining property owners be notified as soon as possible to flush out any issues. Mr. Ward stated that communications with the community is advised. Mr. Glass suggested that the Gentry Chamber of Commerce or the Mayor's office be contacted regarding a public forum to discuss the project.

C. JP District 01 – Preliminary Plat – The Estates of Lakeway Phase II -
East High Meadows Road, Rogers

The stipulations from the TAC meeting were as follows:

- *Board may require applicant to post a performance bond.*
- *Board may seek the opinion of the Benton County Attorney regarding interpretation of Planning Regulations, Chapter IV, Section 25.*
- *Board may consider a variance from Planning Regulations, Chapter IV, Section 25 because the project is Phase II of the subdivision.*
- *The proposed lot line adjustment on lots 37 and 38 could be handled administratively by Staff.*
- *The Board may stipulate that project improvements are completed within 60 days or applicant will post a bond.*

Mr. Gurel recused himself from the Board so that he could represent the project. He pointed out that the surveyor had changed the word "apartment" to "garage" on the plat because there is no apartment. Mr. Knight asked if an apartment over the garage is allowed. Mr. Gurel stated that he did not believe the covenants specifically dealt with renting an apartment space in a home.

Mr. Gurel stated that Staff had found that the Board had previously granted nine projects with preliminary and final plats at the same time. He added that he would like to ask for both preliminary and final plats. Mr. Gurel stated that he has investigated the issue regarding a completion bond and does not believe he would be able to obtain one because of the low cost of the project. Mr. Borman stated that he did not believe in the concept of accepting both preliminary and final plats at the same time. Mr. Glass stated that the County Attorney was putting together a memo regarding the powers of the Board relative to bonding. He added that an engineer may be required to make an assessment to establish the requirements for a bond.

Mr. Gurel stated that the water main work would be completed in about a week and then the Health Department would need to give approval. The roads will be built to county specifications but he would not be asking for the roads to be turned over to the county for maintenance.

Mr. Knight made a motion to grant approval for the preliminary plat subject to the stipulation that the proposed lot line adjustment on lots 37 and 38 will be handled administratively by Staff; the motion was seconded by Mr. Kneebone. All Board members present voted in favor of the motion and the motion was passed.

7. Adjournment

The meeting was adjourned at 6:55 pm.