



Benton County Planning Board

Public Hearing

Technical Advisory Committee Meeting

July 11, 2012

6:00 p.m.

Benton County Administration Building

215 East Central Avenue

Quorum Courtroom, 3rd Floor Suite 324

Meeting Minutes

PUBLIC HEARING

Call to Order: The meeting convened at 6:00 p.m.

Roll Call: Jim Cole, Mark Curtis, Lane Gurel, Ashley Tucker, Ken Knight, and John Pate were present.

Disposition of Minutes: Lane Gurel moved to approve the 6/6/2012 and 6/20/2012 minutes, with the stipulation that the June 20 minutes would be amended to include roll call and that Mark Curtis chaired the meeting. Motion passed.

General Public Comment: None

Old Business: None

New Business:

A. Big Springs Sporting Clays-LSD # 12-194, JP District 11, 14282 Prichard Road, Gravette, AR. 72736

Represented by: Russell Atchley from Kutak Rock Law Firm, Fayetteville AR

Mr. Atchley stated that he had brought a court reporter to document the meeting. He provided copies of his presentation to those present. Highlights of his presentation include:

- Sporting Clays is a private club, with less than 25 members
- Sporting clays is a lawful, widely recognized activity
- Sporting Clays' hours of operation will be standard daylight hours
- Charity events will total no more than twelve per year

Mr. Atchley pointed out that Arkansas law shields sport shooting ranges from any civil or criminal nuisance liability, providing that the shooting range activity is in compliance with its county noise control ordinances. Benton County has no noise control ordinance. Chairman Gurel noted that Benton County has a Planning ordinance which requires the applicant to show the Board that sound carrying off site can be mitigated. Mr. Atchley responded that the ordinance needs to include specific, measurable noise

standards. Chairman Gurel indicated that his reading of the ordinance that lack of mitigation can mean that the proposal is not compatible. Mr. Ken Knight cited Arkansas Statute 5-71-201, which prohibits activities that make “unreasonable or excessive noise.” Mr. Atchley responded that the specific statute he cited would govern any general statute. Chairman Gurel asked how noise will be mitigated, and Mr. Atchley stated that the applicant does not believe mitigation will be required, under the law. County Attorney George Spence stated that he did not agree that the statutes cited by Mr. Atchley apply. Jim Cole recused himself from a decision on this applicant, and stepped down from the Board platform for the rest of the discussion on this applicant.

Mr. Atchley addressed environmental concerns regarding this application. ADEQ has no rules or regulations on shooting ranges. The State of Arkansas has a statute which regulates ammunition, and based on this statute Mr. Atchley does not believe it would be legal to require the applicant to use steel shot instead of lead shot. He also posited that shooting range activity is not governed by EPA laws.

Tim Sorey, representing the applicant, reported the following:

1. The Arkansas Department of Health has no front end requirement for mass gatherings; it is done on a case-by-case basis.
2. ADA access would require paved parking, and the applicant has requested a hard surface waiver. Specific parking needs will be addressed as required, with assistance provided for those that need it.

Staff presented their report which stated that due to the removal of the sighting range staff has no significant concerns in regard to the type of facility, provided that charity events can be limited to a specific number per year. Staff noted that the Board may wish to consider the following:

1. In regard to parking:
 - a. Grant a waiver in regard to hard surface on the intermittent parking area
 - b. Applicant should provide signage to indicate handicap parking areas.
2. Consider specific conditional uses including:
 - a. Limiting hours of operation (ex. dawn to dusk or alternately 8:00 am to 7:00 pm) .
 - b. Limiting the number of large scale charity events which can be conducted on the site each year.
3. The Board should consider the following prior to rendering any decision in this case:
 - a. Regarding lead shot, while the EPA does not regulate reporting, it does regulate lead if there is a chance said lead from a site can enter a CWA waterway.
 - b. ADEQ does not regulate this type of activity, but will investigate any complaint.

c. Litigation under RCRA is allowed.

Staff suggested that, based on the Best Management Practices outlined by the applicant at the meeting of 4/11, staff have an opportunity to assess the applicant's lead mitigation strategies in relation to the complete set of BMP's provided in the EPA guide. Because the information has not been provided in advance of the meeting, staff suggests continuing the hearing to the July 25, 2012 Public Hearing for further analysis and report. Staff is not qualified to confirm the accuracy of the data submitted regarding the shotgun ballistics, rifle shot travel distances, or noise reductions for distance and tree buffer. The Board may desire to retain a consultant to study these issues to validate the applicant's materials, or shed more light on issues not yet addressed.

Public Comment:

Lisa Thrailkill of 326 Bluff Drive, Lowell, AR said that her family owns the property north of the proposed site. She expressed her concerns with her and her family's safety, and said she disagreed with what the applicant is saying about the shot not leaving the property and that the noise level is very disturbing.

Mr. John Boreen of 14543 Beaty Road (east of the proposed site) commented that Big Springs Sporting Clays is not putting the Sporting Clays on their own 580 acres because their business is to rent cabins and obtain membership for the Big Springs Sporting Club. If customers don't like the shooting range proximity, they won't come back and they would lose revenue. He expressed concern for the value of his property going down with a commercial range being next door. He asked Chairman Gurel why the proposal is for 73.77 acres and not just the five to ten acres needed for the range and did that mean they could go ahead and do something else on the acreage. Chairman Gurel said they would have to come before the Board if they wanted to expand the operation. Mr. Boreen asked who carries the liability insurance, the homeowner or the business. Chairman Gurel stated that would be up to the individuals if they wanted to protect themselves.

Dane Workman of 3256 Tanglewood Drive, Springdale, stated he has a cabin at Big Springs and that it is a Sportsman's Club. He said all they want to do is shoot skeet, that they are there for a good time and that they rent their cabins to people and it is not cheap. You have to be a member of the club and it is a small club organized for recreation— it's not to make money.

Clete Brewer of Rogers AR, stated he has two cabins at Big Springs Sporting Clays and he has only shot twice in the past two years and has a lot of the 2000 free skeets he received when he joined the membership left and couldn't understand why there is a problem with gridlock on Big Springs Sporting Clays.

Terry Nanny of Talamore subdivision Bentonville, AR, stated that throughout the night you are liable to hear shotguns going off like crazy because of the Quails Unlimited being near. Mr. Nanny said he is part of the organization of Big Springs Sporting Clays and owns a cabin there and is going to move his family out there and safety is extremely important to them and his family will abide by all of the safety rules.

John Boreen rebutted Mr. Nanny's comments and stated that Quail Hollow was an existing facility before the Talamore subdivision and those people chose to live in that neighborhood and hear shotguns. While he is in an existing neighborhood and Big Springs Sporting Clays chose to come in to his neighborhood.

Jon Hodoway of Rogers, AR wanted to clarify the distance issue, stating a French ballistics expert General Jouranee worked out a formula that the maximum range in yards equals 2200 times the shot diameter in inches, the maximum range reflected at sea level, altitude will change that. The vast majority of shot falls within 300' of the muzzle, the other distances being discussed are worst case scenarios. Mr. Hodoway said there is a demand for shooting and no noise ordinance in Benton County. If the Board doesn't allow any ranges then there will be shooting anywhere and everywhere because there is no designated place for it. Mr. Hodoway asked Chairman Gurel for clarification as to who briefed him. Chairman Gurel stated it was planning staff.

Misty Thompson stated that along with her brother Mike Thrillkill and their spouses own the property to the north of the proposed shooting range. Ms. Thompson said she has not heard how many guests the members were allowed to invite. Ms. Thompson made comment that lead is an environmental hazard and that the applicant has not done an environmental impact study. One of the purposes of the Board was to ensure that the environment would not be harmed and that the rights of the individual property owners would not be infringed upon. She said that neighbors will lose any ability to address noise complaints once the project is approved. She stated that her family goes out to their property on the weekends to relax and that you can't relax with shooting going on.

John and Jan Wan of Gravette, AR stated they own the chicken houses next to the proposed project site and that they are 870 feet away from the shooting range and that they had just built two (2) more chicken houses so they are now much closer to the shooting range. They said they wanted to build a house within 300' of the shooting range. Ms. Wan said when they bought the land from Tim Craig he did not say anything about a shooting range next to them and if he had of informed them of that they would not have bought there. It doesn't make sense to build a chicken house next to all this noise and it's not good to raise chickens there. Mr. and Ms. Wan said that it is not ok for shot to come to their property and they are now afraid and the chickens are now stressed. Ms. Wan asked the Board to consider that they spent their life savings to build the chicken houses and that she felt that it is not ok for the lawyers and engineers to say it is ok for the range to be there.

Karen Wilkins of 14807 Wann Road, Gravette, AR, ¾ of a mile from the range. Ms. Wilkins stated they bought the property in 1953 and came to live there in 1957 and that it had been peaceful and quiet, but now it is loud and startling to them and their dogs and disruptive to their way of life.

Board Comments:

Board members asked the applicant several questions concerning the operation. Sporting Clays started operation in April 2010. The applicant stated that maximum daily attendance experienced was 35 to 45 people, but typical usage is by a few people on weekends. Noise from the operation can be heard at the rental cabins. The applicant said that care will be taken not to damage the environment.

Mr. Mark Curtis made a motion to allow the waiver in regard to hard surface paving on the intermittent parking area, and a reasonable accommodation be made for ADA access. Mr. Ken Knight seconded the motion. The motion carried 5-0-0. Mr. Curtis made a motion to approve the Big Springs Sporting Clays project with the conditions that hours of operation will be from 9:00 am to one half hour before dusk or

7:00 pm whichever comes earlier, and that the applicants will adjust the shooting stations to make sure the shot does not leave the property. Mr. Ashley Tucker seconded the motion. The motion carried 3-2-0.

B. New Beginnings Childrens Center-LSD # 12-196, JP District 11, 14222 Jo Ann Lane, Centerton, AR 72718

Represented by: Ken Booth with Sand Creek Engineering, Bentonville AR and Ken Ferguson, Cave Springs, AR (President) of New Beginnings Children's Center

Staff presented their report which specified that, should the Planning Board wish to consider granting approval for the New Beginnings Children's Home LSD application, the following recommendations be considered:

1. In regard to solid waste:
 - a. Screening and landscape buffering should enclose the garbage receptacle.
2. The applicant should provide a statement from Benton County Child Services addressing the project.
4. The applicant should provide proof that all state guidelines for ratio of adult per child and square footage for each child in sleeping areas have been met.
5. The applicant should provide a final approval permit from the Health Department.
6. The applicant should provide building and access plans and details for the residential homes proposed on the property.
7. In regard to the submitted water extension plan;
 - a. Only the office, library and home one (1) may be built as part of Phase One (1). No other structure may be plumbed or attached during Phase One.
 - b. Before Phase 2 to can be started, the main lines must be upgraded from a 4" on Highway 102 to a 6" or 8" main line (to be determined at that time) and the line servicing the project along JoAnn Lane upgraded as well to a minimum of 6".
 - c. Approval of the upgraded lines must be provided to the Planning Department from the Centerton Water and Sewer Commission.

Public Comment:

Mr. Buddy Verneti with Susannah Development stated he owns fifty seven (57) acres just south of the proposed project. Mr. Verneti said he wanted to develop the acres and build affordable houses and has been waiting for the water line to come in. He informed the Board he would not have bought the acreage if the proposed project was sitting across the street from him. He is concerned with what he

believes is now going to limit what he is able to do with his property, such as build a liquor store. Mr. Verneti said he didn't feel he would be able to do that now because of a Children's Home being in the neighborhood. He is also concerned about the financial viability of this project.

Mr. Greg Bench of 2210 SW Penook Avenue Bentonville AR stated he owns twenty (20) acres to the SW of the proposed site. He currently has cattle on the acreage but intends to build a family home there. Mr. Bench commended the applicants for what they are trying to do but was concerned with the road maintenance stating that the road has a rough entry right now as it is with trucks travelling up and down and the situation would only get worse with increased traffic of the New Beginnings Children's Center being there. Mr. Bench also expressed his concerns, regarding increased crime, theft and vandalism along with his worries on the type of kids living in the homes.

Applicant Comments:

This is a family-style home for foster children, not a psychiatric or criminal treatment facility. There will be full supervision. The facility is not run by a church – it is a non-profit organization, with a five member board of directors.

Board Comments:

Mr. Knight made a motion to approve the New Beginnings Children's Center project with the stipulations recommended by staff to exclude stipulation number one being that the applicant should provide a statement to planning staff from Benton County Child Services approving the use of the facility upon completion of construction but before operations commence. Mr. John Pate seconded the motion. The motion carried 6-0-0.

C. Vicki Campbell, Down Under Trucking- LSD #12-197, JP District 14 ,5431 Colvin Place, Lowell, AR 72745

Represented by: Jason Campbell (Owner) 808 Almoo Street, Lowell, AR

Staff presented their report, with the update that the shop building has been moved on the site plan, and landscaping added. Staff recommends that should the Planning Board choose to approve the LSD application the following stipulations be considered;

1. That the applicant should provide a final approval permit from the Health Department indicating that the indicated septic design meets with all health department regulations.
2. That any increase in site activity, which may include increases in truck traffic shall be submitted to the planning board as a modification of the approved LSD application.
3. That any changes to the approved site plan shall be submitted to the Planning Board as a modification of the approved LSD application.
4. That the Department of Emergency Management grant approval for any hazardous chemicals on site.

Applicant's Comments:

The applicant stated that they have septic approval and will comply with the law on hazardous chemical requirements.

Public Comment:

None

Board Comments:

Mr. Curtis made a motion to approve the Down Under Trucking project with the stipulations recommended by staff being that the applicant return to the Planning Board if any increase in site activity, which may include increases in truck traffic shall be submitted to the Planning Board as a modification of the approved LSD application, and any changes to the approved site plan shall be submitted to the Planning Board as a modification of the approved LSD application. Mr. Pate seconded the motion. The motion carried 6-0-0.

TECHNICAL ADVISORY COMMITTEE

Call to Order:

Old Business: None

New Business:

- A. ARCO Excavation & Paving Office and Storage Yard-LSD # 12-199, JP District 6, 10287 East Highway 72, Pea Ridge AR. 72751.**

Represented by: Chris McDaniel(Owner) Bentonville, AR 72712 (Geoff Bates, Bates and Associates was not present)

The applicant briefly described the project, including its location.

Staff presented their report and recommends that the Planning Board consider the following recommendations in order to amend the submitted application, to be heard at the July 25th Public Hearing:

1. In regard to site plan elements the applicant should update the site plan as indicted.
2. The Board may wish to consider requesting the removal of one proposed or existing access drive. The trucks entering at the northern proposed access drive should access the shop from the gravel staging lot and not from the existing drive at HWY 72. The creation of two additional drives will increase the possibility of transportation hazards due to the traffic on HWY 72 and the existing access points on both the site location and adjacent properties along this stretch of road.

3. The current septic system is not indicated on the site plan. It may need to be reviewed by the Health Department.
4. There is no solid waste disposal customer service agreement provided by the applicant. Neither has a hazardous chemical compliance form been completed.
5. Approval is needed from the Pea Ridge Fire Department, as well as the Highway and Health Departments. An AHDT entrance will be required. Signage needs to be indicated on the site plan.

Board Comments:

Chairman Gurel asked the applicant to respond to the recommendations made by staff and return to the next Planning Board meeting for Public Hearing. The applicant was reminded to make the necessary notification to nearby property owners.

Staff Updates:

Discussion item: Easy Beaver Lake Boat Storage--LSD, Project # 12-170—JP District 01, Hwy 12 East, Rogers, AR, LSD Amendment, Amendment to previously approved LSD, location of sign moved.

Staff presented their report which stated the applicant would like to adjust the location of the sign on his property.

1. In regards to site plan adjustments:
 - a. Originally the applicant proposed the sign at the Western edge of the property.
 - b. The applicant is now requesting that the sign be moved to east.
2. The applicant would also like to increase the size of the sign.
 - a. The original sign size was indicated as 4'x 8'.
 - b. The size of 4'x8' was never a contingency for approval nor was it defined by the board upon approval of the LSD for Easy Beaver Boat Storage.
3. In regards to applicant justification:
 - a. Poor (near zero) visibility of sign for westbound traffic due to undisturbed vegetation. This could have a significant impact on the marketing the business.
 - b. Poor visibility of sign for eastbound traffic due to obstructed view caused by the AHDT speed limit sign. When looking eastbound, that AHDT sign is in direct conflict with the current location of my storage facility's sign. The location of this AHDT sign was not realized when the sign location was selected.

- c. The current sign location is too close to undisturbed vegetation. Some vegetation would have to be removed to make approved sign location work. The applicant would like to save as much of the existing vegetation as possible.
- d. The applicant has stated that in order to properly advertise his business, a 7'x14' is more suitable than a 4' x 8' sign

The applicant was not present at the discussion hearing. The Board stated that the applicant would have to bring and site plan changes before them in order for approval.

Adjournment: 10:55pm