



**Benton County Planning Board
Public Hearing
Technical Advisory Committee Meeting**

November 6th, 2013

6:00 PM

Benton County Administration Building
215 East Central Avenue

Meeting Minutes

PUBLIC HEARING:

Call to Order: The meeting was convened at 6:00 PM by Planning Board Chair Ashley Tucker.

Roll Call: Mark Curtis, Jim Cole, Starr Leyva, Ashley Tucker, Ken Knight, Rick Williams.

Staff present: Administrator of General Services John Sudduth, Chief Building Inspector Glenn Tracy, Planning Coordinator Amber Beale, Planning Assistant Michael McConnell and Planning Manager Rinkey Singh were present.

Public: Five (5) members of the public were present.

Disposition of Minutes: Mr. Knight moved to approve the October 16, 2013 Planning Board Meeting Minutes. The motion was seconded by Mr. Curtis. The motion carried 6-0.

General Public Comment: None

Old Business: None

A.) New Business:

Lake Side Storage #13-321

Motion to continue until 11/20/13 made by Mr. Curtis with a second from Ms. Leyva. The vote carried 6-0

**Betty Mize Mobile Home Park File # 13-323
Represented by Todd Butler**

Comments from Staff: The property in question at 14032 WhiteOak Lane. Bentonville is currently occupied by Ms. Betty Mize and her two sons and she is proposing a Mobile Home Park on her 4.99 acre lot. The surrounding land use is timber and residential. 911 Administration is requiring that the existing residence change their address from 14026 to 14024 WhiteOak Lane. There is an open case on the property with the Environmental Department as of 9/20/2013. The applicant is indicating compliance with the setback regulations as well as the minimum lot sizes for mobile homes and is meeting the parking requirement per the submitted plat. There is an internal 18 ft. drive with access to WhiteOak Lane. The septic system that is existing on site is adequate for the three residential structures currently occupied but if Ms. Mize seeks to add additional mobile homes then an additional septic system will be required. The second septic system and field is indicated on the plat. The applicant will confirm the availability and service provider of electricity and

the availability of solid waste disposal. The applicant herself can remain on the existing well but the remaining structures will be required to connect to Centerton Water. A hydraulic analysis was provided by the applicant which indicated that if the proposed development was completed as planned then the existing 2" line would be at capacity and no further connections could be made.

Comments by Applicant: None

Comments/Questions from Board: Ms. Leyva asked where the light pole for spaces 8 and 9 was shown on the plat. Mr. Butler said that there was not one currently on the plat.

Mr. Knight said that the buildings looked like they were in pretty bad shape and he doubts that they could be remodeled. He wants to know what her plan is for the mobile homes. Mr. Butler said that she is planning on remodeling them and Mr. Knight asked if that was possible.

Mr. Tucker said that one of the proposed stipulations was to require Ms. Mize to obtain a building permit prior to renovation. Mr. Knight asked Glenn Tracy if they could be remodeled . He stated that Ms. Mize would have to bring them up to the current code. Mr. Tucker said that any time you renovate a lot of issues with code enforcement would come up but for the Planning Boards purposes discussion of building plans were out of their scope.

Ms. Leyva inquired about why the letter from the fire department was taking so long. Mr. Butler called and left messages with the fire department. He noted that the original letter from the Hiwasee Volunteer Fire Department was going to come now from Gravette Fire Department because Gravette had since absorbed Hiwasee. Ms. Leyva inquired about how firefighting would be handled for the property. Mr. Curtis pointed out that the Fire Marshal (Mark Trollinger) was in attendance. Mr. Trollinger stated that the plan was to haul water to the site for fire suppression and that Gravette was a full time department and someone should be there every day.

Mr. Cole asked if the approval would be for the plat and Mr. Tucker said that it was for the configuration of the lots (spaces) because they were not individually platted lots and wouldn't be up for sale.

Ms. Leyva asked if the detailed information about the water pressure was on the plans and if the lines would be able to provide the needed pressure. Mr. Butler said that as per the the evaluation done, water could be tapped seven (7) times. Mr. Tucker asked if Ms. Mize did indeed tap the main water line 7 times would the water pressure be maintained at the necessary level. Mr. Butler said that was the case and noted that it was not his company that did the study.

Ms. Beale brought to the Boards attention the "sunset" clause which states that the applicant has two (2) years to complete the her plans otherwise she would need to reapply to the Planning Board. Mr. Tucker noted that this was included in the "standard conditions" and was attached to all projects.

Mr. Tucker opened the meeting up to public comment and requested that the time allowed to be changed from two (2) minutes to three (3). All voted in favor 6-0.

Public Comment:

Phillip Fletcher- 12087 Wiseman Rd.

Submitted pictures to staff. He has lives next to the property for 30 years and there was one (1) existing home on the property which was a mobile home and in the last few years the owner has moved in six (6) mobile homes that are in bad shape with one being a newer home. His concerns are that when you put many people on one wooded area there will be fire hazards with child welfare concerns given the

amount of trash on the property. He is concerned that the spring, which feeds several houses with water would be contaminated and the septic system could become overloaded once the mobile park reaches full occupancy. He voiced his concern about the visual impact of the property and that if Ms. Mize is starting out with older run down mobile homes then it would look even worse in five (5) years. He said that Ms. Mize fell through the floor recently and broke her leg. He then said that a new home had been constructed across the way whose property value would be dramatically reduced if this project went through. Mr. Curtis asked if Mr. Fletcher had well water that could be affected by this project. Mr. Fletcher does have well water but it was far enough away not to be affected.

William E. Gerran- 13955 White Oak Lane

He wants to bring up two issues, the first of which is a safety issue. White Oak Lane is a "B" road 50 (fifty) feet onto White Oak Lane it constricts so that 2 (two) vehicles cannot pass each other for about 100 feet. Once 500 feet onto White Oak Lane it compresses again to the same width. The addition of vehicles onto this road will pose a risk for children walking to and from the bus stop and several times per day the residents have to stop to let each other pass by. He asks that the Planning Board deny this project for safety reasons. Being in the development business he knows that infrastructure needs to come before development and the land owners at the beginning of White Oak Lane will not allow the county to improve it. The second issue is property values and he recognizes that there is no zoning in the county he worries that this development would lower the property values for all area property owners and he hopes that the Board denies this proposal.

Charlotte Minegar- 14029 White Oak Lane

She has several concerns about this development and she was under the assumption that Ms. Mize was required to clean up her property due to a county violation. She has concerns about animals wandering around the neighborhood and attacking her animals. Ms. Minegar spoke with Ms. Mize' son and she is concerned about Ms. Mize' income and the fact that she won't be able to clean up her property. Ms. Mize' property has devalued property and become an embarrassment for the community. Ms. Minegar asked about the septic situation and how many occupied dwellings she could have out there currently. Mr. Curtis asked where Ms. Minegar got her water from and she stated it came from a well.

Brian Yarbrough- 14051 White Oak Lane

This property has been in its current condition since around 2005 and he furnished a letter to the Planning Staff citing several complaints. He addressed the question "how do you remodel a mobile home". He said that you don't, the materials are too cheap to remodel. Mr. Yarbrough asked about how, given her low income, she was going to make the necessary improvements to the property. He is on the same well that is below Ms. Mize' property as are 5-6 other property owners and doesn't want any more trash going into it.

Donny Arnold- 14037 White Oak Lane

He says that the property hasn't been improved in years and it is a fire and safety hazard.

Additional Board Comments

It bothers Mr. Knight that at least five (5) property owners have come forward but the applicant has not shown up to any of the meetings. Mr. Cole agrees with Mr. Knight and says that it would be hard to vote for this proposal given the condition of the site and the current outstanding violations. Mr. Curtis asked Staff about the NOV extension. Ms. Singh said that Officer Dunn granted her the extension upto Nov. 25, 2013, because Ms. Mize had provided receipts showing some clean efforts and the health condition of Ms. Mize. If she fails to clean up before the deadline the case will go to court. Ms. Leyva asked if any comments had come from the road department concerning the condition of White Oak Lane. None were given. Mr. Tucker stated that at DRC the road departments comment was that no permit would be required if the existing drive was to be used. Mr. Curtis commended Mr. Butler about his work. Mr.

Tucker asked that the Board focus on the regulations and how they might be applied to this case and that what the Board is being asked to do is approve the site plan and spaces on the plat. Ms. Leyva asked about the history of the case and if there were any previous outcomes. Mr. Butler answered that in the past, the Planning Board had not heard the case and wouldn't until some of the violations had been taken care of as well as the septic system installation. Mr. Tucker said that since the application had not been accepted then it was essentially denied.

Ms. Leyva then asked about the fire information. Marc Trollinger stated that given the proximity to the town lines, both Gravette and Centerton would respond. Ms. Leyva asked, given the condition of the road, would the fire departments have issue with site access. Mr. Tucker then spoke about the potential of a fire to spread from structure to structure given their close proximity.

Mr. Williams made a motion to not approve this proposal, Mr. Curtis second. The vote was 6-0 in favor. The reasons are as follows:

Mr. Cole: Past issues including environmental violations have not been cleared up even though ample time has been given. Compatibility with surrounding land use.

Mr. Curtis Above reasons. A commercial venture should be held to a higher standard and the current owner has done nothing to raise the current standard of conditions on site. The safety of the roadway and the water safety for adjoining property owners.

Ms. Leyva compatibility issues and wanting to have a complete application. Access issues for the fire trucks and being able to properly fight fires and ensure the safety of adjoining properties.

Mr. Knight Above reasons. Density of people on location and the ability of fire department to put out a fire on site. The condition of the road, traffic issues, population density on a narrow road and the safety of its users

Mr. Tucker The main reason is the current site is in violation of the county ordinance 02007-28. The property has existed this way for the past nine (9) years. Doesn't appear that there is a serious effort to clean up the site. The project is not compatible with the surrounding area. Density is not compatible with the areas, high density next to sub agricultural areas. Should the proposed development be allowed, property values may decline.

Mr. Williams Above reasons. Concern with life safety. There is not adequate infrastructure for this type of development. The applicant has not come forward to address the Board's concerns about why the property has not been brought into compliance with county ordinances

Barnett Replat File # 13-322

Represented by Ron Homeyer Civil Engineering Inc.

Mr. Ken Knight abstained from the review of this application. He left the podium and seated amongst the public. Comments from Staff: The proposed replat in the Summerwood Subdivision would take the existing 15.99 acres and split it into two parcels, one of 11.339 acres and another of 4.611 acres. The neighboring land uses are timber and residential. The applicant needs to identify that there will be a 50 ft. building setback from the centerline of Abberly Lane, must get written approval from all property owners within the subdivision and provide the location of the septic system and an alternative field. Ms. Beale went on to say that the only issue outstanding regarding this project is that signatures of the subdivision property owners have not all been received and that similar applications for replats have been

granted within this subdivision.

Comments by Applicant: Mr. Homeyer said that two of the property owners have not submitted their approval but he had submitted an amendment to the protective covenant which specifically allows the subdivision of lots 1, 3, 4, 5, 6, 9, 10 and 11 which was signed by all owners and apply to current and future property owners within the subdivision and he is wondering if that is sufficient for the boards purposes or if he and the applicant needed to pursue the remaining signatures.

Comments/questions from Board: Mr. Tucker addressed this concern by identifying chapter 6 of the Benton County Planning Regulations which says under section 2 that all property owners must sign off on a replat. Mr. Homeyer countered that the covenant has all of the property owners signature on it at the time the amendment was prepared which was in 2007.

Mr. Curtis asked why the applicant could not get all of the signatures, which was because one of them was dragging his feet and the other is a bank which is based in Fort Worth, Texas. Mr. Tucker stated that in the past this requirement has not been something the board has deviated from in their approvals though would not be necessary for a vote.

Mr. Curtis is wondering if the owners in 2007 are still the owners today. They are the same with the lone exceptions being the foreclosed bank owned property.

Mr. Cole asked Mr. Tucker if they could vote but have conditions for approval being the applicant gets the required signatures and he said that it would be a condition of recording the plat. Mr. Homeyer asked once again if the signatures on the covenant were equivalent to what this condition would be. Mr. Curtis then stated that the future owner was an absentee owner that might not know about the replat and the Planning board needed to make sure that the future owner knew about the replat before entering into a contract for the property and that was where the difference was.

Mr. Tucker spoke about property owners believing that subdivisions would maintain their character after you purchase a lot within it. He then said that the regulations were applied universally with respect to fairness to the applicants.

Ms. Singh then told the applicant that any covenant was a private agreement within the subdivision and was outside the jurisdiction of the Planning Board. The Planning Regulations, on the other hand, are required to be fulfilled for a successful Replat. .

Public Comment: None

Mr. Curtis made a motion for approval of the replat of Summerwood Subdivision with the condition that the signatures of all of the property owners be obtained as a condition of recording the final plat. Mr. Cole seconded the motion. No discussion followed. The vote carried 5-0 with Mr. Knight abstaining.

TECHNICAL ADVISORY COMMITTEE

Call to Order: 7:10 PM

Old Business: None

New Business: **Hickory Creek Cell Tower #13-324**

Represented by Leann Fager

Staff Comments: AT&T proposes to build a 255 foot self-supported tower on HWY 264, Lowell. The current land use is vacant and undeveloped with timber to the north. The land slopes to the southeast up to the highway. There is an existing twelve (12) foot culvert on the property. The base of the tower is 188.45 feet to the edge of HWY 264 and does not meet the setback regulation which would be 305 feet (height of the tower and an additional 50 feet). The applicant is requesting a variance to this regulation and must demonstrate a hardship. The shape of the parcel and the amount of timber to the north are the reason the setback is not being met. The applicant has provided a letter regarding colocation not being feasible due to the fact that there are no towers within a ½ mile radius. There are no residences within the 305 feet of the proposed tower. The applicant is in compliance with all regulations regarding visual mitigation, noise and site security. An access easement of 30 feet is being proposed with a 12 inch culvert running under the driveway entrance. As per Bobby Keeton a utility access driveway permit will be required along with a \$750.00 deposit and the applicant has agreed to comply with the 37 foot easement width. Marc Trollinger has requested that proper containment measures be taken for the diesel backup generator proposed on site. A plan showing the containment in the event of a spill is required and the noticing requirements have been met.

Applicant Comments: Ms. Fager notes that the diesel tank is prefabricated for containment but will obtain confirmation of that from the manufacturer. In terms of the fall zones it is the general conception that towers fall down like trees but a self-support tower like the one proposed bends at stress points and twists, staying within the compound and she feels that the fall zone is more than safe as is. Ms. Fager said that they chose this site because it met the coverage objectives from the engineering group at AT&T and that there is very spotty service throughout that area and this tower would best address that issue as well as work within the constraints presented such as topography and landowners.

Board Comments: Mr. Cole asked if AT&T could avoid requesting the variance and meet the setback requirement if some of the timber was removed. To this Ms. Fager said that due to the topography a taller tower would need to be built if the site was moved further north. Mr. Cole then asked if the applicant stated that the variance was being requested due to the sites topography and Ms. Fager didn't know but said that it probably should.

Mr. Tucker said that the Board was struggling with the variance request because it seems to be a self-inflicted hardship that could be avoided and that the Board would be looking for her to provide reasons and evidence that the hardship is not in fact self-inflicted.

Mr. Cole referenced the cell tower ordinance and says that topography is mentioned in it.

Mr. Curtis suggested that the height of the tower be lowered to bring it in compliance with the setback requirements and Ms. Fager answered that it was because of coverage issues that could not be met with a shorter tower. Mr. Curtis suggested that a hardship is not represented by a company choosing a site based on covering the greatest amount of customers and land area possible.

Mr. Knight said that the Board has reviewed other such proposals before and have seen towers that have fallen and suggested that the company erect additional towers to make up for the coverage loss of a shorter tower. Ms. Fager countered that residents want fewer towers not more which represents their own desire as well.

Mr. Tucker stated that he has heard from different residents about the number of towers and their visual impact. He asks what type of tower it would be and Ms. Fager said that it would be a self-supporting tower.

Mr. Knight wanted to know how the company would communicate with the tower and Ms. Fager answered

that it would be with fiber optics. Mr. Tucker then asked where the repeater would go to which Ms. Fager responded by saying that she didn't know and that it would be up to AT&T but she assumed it would go in one of their existing boxes and she will meet with AT&T prior to that determination. Mr. Knight asked if there was fiber optics currently available on site and Mr. Mcgarrah, the property owner answered that there was. Mr. Knight asked that when the project comes to the Public Hearing Ms. Fager bring a coverage map.

Mr. Tucker made sure that Ms. Fager knew she needed to prove her hardship. Ms. Singh asked Ms. Fager about the fall zone of the proposed tower. Ms Fager clarified that the self supported towers collapses on itself.

Mr. Knight inquired as to whether the tower would lease space to other carriers. Ms. Fager said that they have colocation agreements with all the other major carriers.

STAFF UPDATES: Planning Regulations Update:

Ms. Singh noted that staff met with Mr. George Spence, Attorney, and he noted that in the Arkansas State code notice to the school districts and their board of directors is required to provide them an opportunity to comment. She further noted that staff contacted the nine (9) school district's supervisors via email and first class mail on November 4th 2013. A public hearing is therefore scheduled on November 20th as part of the Planning Board meeting for the school board representatives to attend and provide comments. Subsequently, on December 19th, the regulations will be reviewed by the Quorum Court. Staff is also preparing a fee ordinance that can be adopted at the same time.

DISCUSSION ITEMS: New Beginnings Children's Home #12-196

Staff Comments: Ms. Singh had recently received detailed comments from the Fire Marshall who reviewed the phased development for New Beginnings Phase two. She noted that when it was approved in 2005, the stipulations was that any changes to the original plan would be reviewed by the planning board and there were specific requirements regarding water extension plans. In accordance with the decision letter, only the office and home were allowed during phase 1 and it was required that the water lines would need to be upgraded for future phases. Due to recent discussions with the fire marshal New Beginnings has proposed new stipulations and staff recommends the updating of the decision letter to reflect the new proposed requirements.

Marc Trollinger spoke about phase two which is of two residential structures. The estimate to extend the water lines was in excess of 1.2 million dollars, making it unfeasible and Centerton Water has no plans on expanding the lines. Mr. Trollinger and the chief of the Centerton Fire Department went over the code book carefully and found appendix B section 103.1 which states that "the fire chief is authorized to reduce the fire flow requirements for isolated buildings or groups of buildings in rural areas or small communities where development of full fire flow requirements is impractical". They came up with a list of alternate requirements. The fire department will respond to a fire on site with an additional 4 units and the developer will adhere to these seven (7) requirements.

1. The development will maintain fire protection membership with Centerton Fire Department for all buildings on the property,
2. maintain their monitored fire alert system,
3. maintain a minimum of two 10 pound fire extinguishers within each residence,
4. building exteriors must be built with no combustible materials,
5. a fifty (50) foot setback will be maintained between each building,
6. install residential fire sprinklers in each remaining residential buildings and

7. explore the retrofitting of existing residence and if future water line improvements and if the line is 6 inches or larger a fire hydrant will be required on site.

He further noted that the developers have agreed through an email. Their water supply system for the sprinklers will be from a pump system on a separate electric meter. Marc Trollinger asks that these stipulations take the place of the original requirements.

Mr. Knight asks about the pump system being enough flow for fire suppression. Mr. Trollinger said that the flow would be adequate and would come from a 500 gallon tank and there is a volunteer fire station ¼ mile away with full apparatus.

Mr. Tucker states that this should be a fairly simple process with the applicant coming in for a simple revision to the stipulations and plan. Mr. Trollinger said that the buildings are constructed with near noncombustible materials and that the applicant has been very forthcoming and helpful during this process.

Mr. Tucker recommends contacting the developer and if they want to change the plan then come in and speak at the next TAC meeting and then the public hearing. Mr. Cole asks about public noticing issues and if there is a need to provide notice. Mr. Curtis wonders if the developer might just be able to go straight to public hearing. Ms. Leyva says that if the developer isn't in any hurry then they should go through the entire process from TAC on to the public hearing.

Staff will contact the developer and explain the timelines. Mr. Tucker suggests that staff research precedent on public noticing requirements. Mr. Sudduth suggest that we go through with the public hearings and noticing because people need to know what's going on in the county, then asks the fire marshal what fire code the county operates under and have we adopted appendix B yet and it has been. To Mr. Sudduths understanding there are no sprinkler requirements currently but this is in addition to the normal regulation. Mr. Trollinger said that it was more opposed to the current stipulation, these will be used. Mr. Sudduth hasn't reviewed the plans and is confident relying on the Fire Marshalls judgment. One of the concerns that the two fire chiefs had is the future of the property. The property was deeded to the children's home and if the property ceased to be a home for children then the property would be deeded back to the original owner.

Meeting was adjourned at 7:56pm