



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

January 15, 2014

6:00 PM

Benton County Administration Building
215 East Central Avenue, Bentonville AR

**Planning
Board
Approval:**

Meeting Minutes

PUBLIC HEARING:

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

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

Staff present: Administrator of General Services John Sudduth, Planning Manager Amber Beale, Senior County Planner Michael McConnell and Planning Director Rinkey Singh and Chief Building Jeff Brown were present.

Public Present: 8 members of the public (See attached sign in sheet)

Disposition of Minutes: Mr. Knight moved to approve the December 18, 2013 Planning Board Meeting Minutes. The motion was seconded by Mr. Williams. The motion carried 5-0.

General Public Comment:

Beverly Heitzman, 8645 Par Lane, Rogers:

Ms. Heitzman attended the last meeting and didn't realize that J&D Liquors would not be on the agenda tonight. Ms. Heitzman conducted a site visit and looked at the Dollar General site and thinks that it makes sense to continue the wooden fence and maintain that same continuity throughout this development and into the future.

Steve Long 8675 Par Lane, Rogers:

Mr. Long sited his continued concern about light pollution encroaching onto his property from the liquor store. About a week after the December 18, 2013 meeting Mr. Long had his brother drive onto the Darrow Garner Property. He drove around and realized that the light wouldn't be as bad as he originally thought, though it was still annoying. Mr. Long believes that the two tiered landscape buffer would not be as effective as a solid fence. Mr. Long appreciates the lengths the Board went to to address his concerns but he is more concerned with light pollution from advertising signs, parking lot lights, security lights and vehicles driving around the building. When the Dollar General was approved there was a provision for a solid fence, though that development is much closer to homes than J&D would be, but cars do not drive around the Dollar General store. His concern is not a moral one but one of pollution and protecting his property values. Mr. Long feels that this type of business will infringe on his property values and his right to enjoy his property. He believes that J&D will operate in a professional manner but Mr. Long acknowledges that he has no legal recourse if they don't, or sell the property.

Mr. Tucker asked Staff to follow up with Darrow Garner regarding a solid fence.

Old Business:

- A) **Elaine Fowler, Bridge Store Liquor (#13-334), 15479 Hwy 12 East, Rogers 18-03392-000**
Represented by: Mr. Thad Kelly (Architect). Ms. Elaine Fowler, P.O. Box 338 Lowell, AR (owner) and Mr. Kent Hirsch (Attorney) were also present

Staff Report: The applicant, Ms. Elaine Fowler, is seeking Planning Board approval for the operation of a liquor store in an existing commercial building at 15479 Hwy 12 East, Rogers. Staff noted the following outstanding issues:

- I. Variance for the canopy located within the required setback.

Comments from Applicant: Mr. Kelly noted that this is an existing store and an existing property and that it is very frustrating to come before the Board since November and still not get an approval to cease selling convenience goods and start selling packaged goods. Mr. Kelly asked the County Attorney George Spence to help with the interpretation of the County's jurisdiction of an existing store.

Mr. Spence said that his recommendation is to allow Bridge Store Liquor to withdraw their application for a Large Scale Development and to go forward with their project because he does not think that the regulations apply to them.

About one year ago Mr. Spence got a call from Mr. Hirsch regarding Ms. Fowler's desire to do something with this property and asked Mr. Spence what he needed to do because of the change in law regarding liquor stores. He advised Mr. Hirsch to call the Planning Department.

About a week ago Mr. Spence got a letter from Mr. Hirsch stating that they were having some problems with what's going on. Mr. Spence forwarded the letter to Ms. Singh and Mr. Sudduth. Ms. Singh, Mr.

Sudduth and Mr. Spence had a meeting (1/14/14) where he asked Ms. Singh to show him in the regulations where this applies. Mr. Spence went on to paraphrase Ms. Singh's comments at that meeting, "Ms. Singh said that this is the process the Planning Department had been going through with applications like this one and she referred to section 8 chapter 10 of the Benton County Planning Regulations". Mr. Spence said that this was the definitions section and that the definition of a Large Scale Development is "the general term used to refer to any proposed land use change".

Mr. Spence asked Ms. Singh if there was a land use change in this case. He said that there was some discussion about there being a land use change because alcohol was involved. Mr. Spence said that under our rules we have three land uses, residential, agricultural and commercial. It is his feeling that a change from selling sodas to selling beverages isn't a change under our rules.

He said that where they caught it was "or constructing a building or structure that is required to have a permit pursuant to these codes. Mr. Spence noted that Ms. Fowler is required to get a building permit. He suggested that the Planning Board be allowed to have their say on the issue and that it could possibly come to a resolution tonight.

Mr. Spence had received a call from Mr. Kelly, architect for the project asking him to be present at the meeting tonight. Mr. Spence then called Ms. Singh who reminded Mr. Spence about the definitions section and their discussion about it. Mr. Spence looked at the code online and found out when a Large Scale

Development permit is necessary. It said under Section 1 “Development permits are required for all new commercial and industrial developments” and said that it doesn’t qualify under that definition. Section 1 goes on to say “All additions, substantial improvements or major renovations to commercial or industrial developments.” Mr. Spence said that he didn’t think the project qualified under that portion either and upon meeting with Ms. Singh and Ms. Beale asked them where “substantial improvement” was defined. Under the FEMA Flood Damage prevention section of the code it defines Substantial improvements as “a change that equals or exceeds 50% of the market value of the structure.” Mr. Spence doesn’t think that applies.

Mr. Spence then asked if this project would require a permit under the new regulations currently under review. They determined that it would not be required under the new regulations. He further added that he sees no problem with approving the variance request as it is an existing issue.

Questions/Comments from Board:

Mr. Tucker asked if Mr. Spence had referred to the sample list of commercial and industrial uses under the Large Scale Development section. Mr. Spence said that they had gone through the list. Mr. Tucker said that currently, as a convenience and gas station store it would fall under use 8. It would then be changed to use 10 which is a shopping list, which includes liquor stores. He then stated that under the enabling legislation the Planning Board is required to review by what use is going into the building.

He then asked Mr. Spence how the Board would differentiate this use (liquor store) from Movie Theater or adult oriented business or anything else on the list including a veterinary clinic or mortuary if the Board would be only considering that the property was commercial.

Mr. Spence said that he didn’t know if they would. He said that the regulations that we go by are the Benton County Development regulations. He said that he doesn’t see it as a change in use.

Mr. Tucker says that among the distinctions he is making between convenience goods and package goods is if Bridge Store went to ABC to apply for a permit to sell alcohol as a convenience store it would be applying for a completely different license than it is currently, so even the State of Arkansas recognizes that these are two separate uses.

Mr. Spence noted that the ABC and state can regulate that and the County could too, but he doesn’t know if we do.

Mr. Tucker then stated that the Board has never behaved that way. They have never, not considered the use of the facility and its impacts on the community and the environment.

Mr. Spence said that if they were making a major change then he would feel differently, but if what they are doing is going from a retail outlet to being a retail outlet and what they are doing is changing things within the building footprint that might require a building permit.

Mr. Tucker asked Mr. Spence and Mr. Kelly if they would need a permit including a building permit for this project.

Mr. Kelly said that yes they would need an electrical permit for the remodel.

Mr. Tucker then says that under the Counties Large Scale Development definition this project would apply and that’s how the Board has operated.

Mr. Kelly had met onsite with Glen Tracy, Benton County Building Official, who told him that the building was originally used as a convenience and gas store with an occupancy classification of mercantile and because there is no change in the type of occupancy and only a change in the tenant, the occupancy classification would remain mercantile.

Mr. Tucker states that the only thing the applicant could fall back on would be the cost under the substantial use definition because anything that is required to be changed otherwise by code is not considered a substantial alteration. So if you were required to install fire suppression equipment or the ADA upgrades that are being implemented are otherwise required by code.

Mr. Kelly then says that the ADA has thresholds if you aren’t doing a certain amount of work you don’t have

to implement the ADA changes.

Ms. Singh furnished the letter from Glen Tracy that lists the building code requirements, to the Board for their consideration.

Mr. Tucker asked the applicant what the value of the building was.

Mr. Kelly said that the assessor has the building valued at \$127,000.

Mr. Tucker asked what the value of the improvement was.

Mr. Kelly stated that it was less than \$60,000.

Mr. Cole asked if the issue before the Board was to let the applicant withdraw their Large Scale Development application.

Mr. Kelly said that they had not submitted a Large Scale Development application. He said that he was given a form and he put down that the project was a remodel and that staff changed it to a Large Scale Development.

Ms. Singh addressed that comment by saying the Large Scale Development application is submitted by the applicant and staff does not change it. The application is a fairly lengthy application form.

Mr. Spence stepped in and said that the applicant would still have to obtain all building permits and they would have to meet all fire codes, just not the Large Scale Development permit.

Mr. Knight asked if they were still considering the RV Park and its septic system because he feels its concerning considering that we have several permanently installed trailers and combined with the change in operations the septic system should be reviewed because of the substantial changes in the property.

Mr. Kelly said that there were two septic systems. One for the RV Park which is just a holding tank and the other, with lateral lines for the three bedroom home and store.

Ms. Leyva stated that the septic system would be addressed with building permits and water being turned on or off or another event of that nature.

Mr. Kelly spoke with a Ms. Satterfield of the Health Department who said that the holding tank needed an agreement with a hauling company and an alarm installed on the RV holding tank.

Mr. Knight asked how the sewage gets from the trailer to the holding tank.

Mr. Kelly stated that there is an underground piping system and a dump tank.

Mr. Tucker said that there were two items before the Board tonight. One of them being the variance request and the other being the lot combination.

Mr. Kelly stated that the he gave a copy of what they did to the assessor's office who researched their records and couldn't find the three parcels ever being separate. Currently the Benton County GIS Department is going through the process of combining the parcels on the basemap.

Mr. Tucker asked if the surveyor provided a survey of an individual parcel that matches the plat in the assessor's book.

Mr. Kelly said that every deed has the same description and the assessor couldn't tell him why nor could they find any record of it being three parcels.

Mr. Knight asked if, since the parcels are combined, the removal of the mobile home should be considered with the remodel of the store.

Mr. Spence told the Board that he is not trying to get them to come to one conclusion or another and if the Board feels that it qualifies then make your determination based on that.

Mr. Tucker said that he keeps thinking about the statement in the code that makes a project a Large Scale Development if it requires a building permit.

Ms. Singh added that staff has always took the meaning of substantial improvements to mean the

requirement of a building permit. The FEMA definition is used for a substantial damage because of flooding. Mr. Spence informed the Board of a meeting in which Ms. Singh, Mr. Spence and Ms. Beale went through the new regulations to determine if this project qualified and they determined that it would not qualify for Site Plan Review. The process would have been an administrative review.

Mr. Tucker stated that a structure needing a building permit would necessitate a Large Scale Development permit and that they needed an electrical permit not a building permit.

Jeff Brown, Chief Building Inspector said that yes, this project would require a building permit.

Mr. Kelly said that the electrical permit was part of the overall building permit.

Mr. Cole asked if the County had remodel permits.

Mr. Brown said that yes they do.

Mr. Tucker asked if this would be considered a remodel permit or regular building permit.

Mr. Brown said that it would be building permit that was classified as a remodel.

Mr. Tucker then asked the Board how they wanted to define Large Scale Development. Is it any new construction or is it anything that requires a building permit.

Mr. Cole said that he thinks it's any new construction.

Mr. Tucker said that Arco Paving comes to mind. They took over a house for use and they came in for a Large Scale Development.

Mr. Cole agreed that it was a continuation of a commercial use.

Ms. Leyva disagreed and thinks that it's a disservice to the public if the Board says that everything that is currently commercial can change to anything else commercial. So for example an internet office has a small storefront but they change to something else that would have more traffic or a more intense use where different aspects need to be changed like landscaping or there will now be light pollution where there wasn't before.

Mr. Tucker said that is why he believes we have the appendix to create use classification without creating a zone. He asked Ms. Leyva if she ultimately believed that the result would be the same.

Ms. Leyva replied hopefully.

Mr. Williams asked how we come up with the permit cost and are the attached trades figured off of fixture count.

Mr. Brown responded by saying that under these circumstances it goes by what they have done in the remodel, how many trips out to the site for inspections.

Mr. Tucker asked if the amount of the permit wasn't necessarily tied to the cost of construction.

Mr. Brown said that no, it isn't tied to the cost of construction.

Mr. Kelly said that the Board has helped the project and that they are doing a lot of work that they wouldn't have normally done and that they just want to get started.

Mr. Tucker stated that because of the scope of the remodel this project would not require a Large Scale Development permit, especially since the Board has discussed at length over the past three months what type of projects would come before the Board in the future, but does think that it is not in the public's best interest to not consider individual uses. Mr. Tucker went on to say that in the new regulations this type of use is defined within its own chapter.

Mr. Tucker told the applicant that they could request to withdraw their application and the Board would just hear the variance

Mr. Kelly told the Board to formally withdraw their application for Large Scale Development.

Variance Request:

Ms. Beale informed the Board that the applicant is requesting a variance from the setback requirement for a canopy that is 20' from the property line or 50' from the centerline of the road, whichever is greater. The

applicant submitted the variance request for approval by the Planning Board.
Mr. Tucker ask the applicant if the conditions and modifications were still being agreed to.
Mr. Kelly confirmed that they were in agreement.

Public Comment: None

Vote: Mr. Cole made a motion to approve the variance request. Motion seconded by Ms. Leyva. The vote carried 5-0

**Sheila Piha (#13-329), 309/311 West Appleblossom, Lowell
18-06030-000
Represented by Mr. and Mrs. Piha of 309 Appleblossom, Lowell**

Staff Report: Mr. and Mrs. Piha are seeking to operate a RV repair business at their home on 311 West Appleblossom Ave, Lowell. The current land use is a residential structure and the applicant is proposing a new building of 60'x 80' for RV repair on site. The applicant is requesting a waiver from the parking requirements and from providing detailed engineered drawings. The surrounding land use is primarily residential with nearby commercial properties. The site consists of 1.81 acres with an existing 20' gravel drive and a 55' wide entrance. The hours of operation will be from 8:00am- 5:00pm with Mr. Piha being the only employee. Applicant is seeking the Planning Boards approval for a waiver from the requirement that they provide an engineered stormwater management plan.

Outstanding Items:

The outstanding items are as follows:

1. Stormwater drainage analysis prepared by a Registered Professional Engineer in Arkansas.

Comments from Applicant: Mr. Piha had spoken with a civil engineer who told him that he didn't see any problems with flooding on the property and was going to charge Mr. Piha \$2,000 for a letter to that effect. This has become a real burden on the applicant. He further noted that the engineer was delaying the issuance of the letter.

Questions/Comments from the Board: The Board asked if staff had any comments regarding this request. Ms. Singh stated that staff had looked into the stormwater issues and found that water flows to the front potentially flooding the applicant but not really the neighboring properties. Mr. Tucker added that this was actually on the agenda for the TAC hearing that the Piha's attended. The request was withdrawn because the applicant was to obtain the above referenced letter. He agrees that the Pihases themselves will be the only ones flooded. Ms. Leyva asked if this was a normal charge from an engineer. Mr. Tucker said that while the charge is normal this figure is a little high. Mr. Cole asked if all of the neighbors received notice about this waiver. Ms. Singh said that they had been notified. None of the neighbors voiced any concerns.

Public Comment: None

Vote: Mr. Knight made a motion to approve the waiver. Motion seconded by Mr. Cole. The vote carried 5-0

New Business:

**Alcupe Scrap Services, Jeanette Potter LSD (#13-343), 12921 Bush Rd. Centerton,
18-08780-000**

Jeanette Potter and David Morris as representatives

Staff Report: The applicant is proposing to construct an 8,000 s.f. single story building, utilizing 2,000 s.f. for a residence. In addition to the proposed project, the applicant is requesting a variance from the parking requirements. Their proposal includes two motor vehicle spaces including 2 ADA accessible spaces. Staff identified the change of owner as per the assessor's database.

Staff provided the background that the property is 22.31 acres in total with 1.10 acres under development with the proposed project. The current land use is vacant. The property is located within the Centerton Planning Boundary. The residence will be occupied by the owner and the warehouse will house the applicant's online auction company. The business hours will be from 8:00am to 4:30pm Monday to Friday. The applicant has noted that a maximum of 1-3 trucks are expected on site throughout the week and that no customers are expected at the warehouse. Two access driveways are proposed from Bush Rd and will be connected by an internal drive; the applicant will be required to obtain a driveway permit. The proposal complies with all setback requirements and applicant will provide a vegetative buffer for the parking area. The applicant has provided locations and specifications of all lighting for the proposed development. Water will be provided by the City of Centerton, applicant has confirmed the availability of an ADA compliant restroom on the site plan. Solid waste services will be provided by Deffenbaugh Industry and in accordance with the engineer's statement a detention facility is not required on site. The applicant has indicated that no chemicals will be stored on site and the applicant has notified the Benton County Emergency Management Agency to this affect. Centerton Fire has confirmed their willingness and ability to provide fire services at this location. The Benton County Fire Marshal has noted that a two hour fire wall will be required between the warehouse and the residence as well as a Knox box needing to be installed.

Outstanding Issues:

On January 8, 2014, the applicant provided a revised site plan addressing the outstanding items identified at TAC. The following comments need to be addressed prior to the issuance of the decision letter:

- Adequacy of truck maneuvering on-site
- Location of dumpster to be shown on the site plan
- Provision of the number of ADA parking spaces on-site
- Status of health department approval
- Applicant may consult with local arborist or the Benton County Extension Services to install native plant species on-site to meet the buffer requirements.

The above information is required to be submitted before the issuance of the decision letter, on or before January 20, 2014.

The Planning Board may consider the following in their decision:

- I Request for a variance from parking requirements- 30 required versus 3 proposed including two ADA spaces. Applicant has requested a reconsideration of the number of spaces required.
- II Conditions for Site plan Approval-
 1. Standard Conditions- that the owner agrees to fulfill all the Standard Stipulations;
 2. Owner agrees that if there is any processing to be done within the warehouse which utilizes water usage; a cross-connection control will need to be installed to the satisfaction of City of Centerton water Department.

3. The owner agrees to post the Notice of Intent (NOI) and SWPPP on site prior to the issuance of a construction permit. Further agrees to install a construction entrance, silt fences, concrete washout area, to minimize any impact from the construction activities as required by ADEQ, prior to the issuance of a construction permit.
4. The applicant agrees that no outdoor storage of equipment or inventory shall be allowed on-site unless approved by the Planning Board.
5. The owner agrees that any change of use from the proposed online auction storage warehouse to scrap services on-site shall require prior approval of the Planning Board.

Applicant Comments: None

Questions/Comments from Board: Ms. Leyva Spoke with Caroline Eastman of the Health Department who is reviewing the septic permit, Ms. Eastman got in touch with the designer who is fixing some minor issues but does not feel that acceptance will be an issue given the amount of land on site.

Mr. John Sudduth wants to make sure that the applicant isn't going to be operating a scrap service and wants clarification as to what exactly the applicant is going to be doing on site.

Ms. Potter assured Mr. Sudduth and the Board that they would not be operating a scrap service. The change of name was because that was the name under which they filed their LLC, the Potters then filed a DBA (doing business as) under Alcupe Auction Solutions.

Mr. Tucker also cautioned the applicant that the Board was not approving an industrial operation but was approving a commercial use.

Mr. Tucker said that he had calculated 180' from the loading dock to the edge of the road. He then said that it appears to be enough room for a truck without a sleeper cab to adequately maneuver on the property. If the applicant is going to have trucks with sleeper cabs on site then the building really needs to be moved back 20' so that the truck doesn't have to use the roadway to back in to the building.

Mr. Tucker asked the applicant if they had any intent to have a wash down area inside the warehouse. Applicant replied no they were not going to have a wash down area.

Mr. Tucker then asked the applicant if they were going to have outside storage on site.

The applicant said that if they were to have any outdoor storage then it would be in the back of the building.

Mr. Tucker said that if that was the case then it should be marked on the plat. That way they won't need to come back in to alter the approved site plan. Stipulation #4 says that nothing will be stored outside.

Ms. Leyva asked how that storage area would be accessed and where the dumpster would be located.

The applicant said that the dumpster would be located on the concrete slab in the back of the building and removal would happen in the front loading zone.

Mr. Tucker asked that Stipulation #4 be amended to say that the outdoor storage provision conform to the final recorded plat.

Ms. Leyva asked what they would be storing outside.

The applicant said that it would most likely be restaurant equipment that could get wet.

Ms. Leyva asked the applicant what the surface type would be due to the possible presence of refrigerants or other chemicals.

Mr. Morris confirmed that the slab could be poured concrete if necessary.

Mr. Tucker recommended that the surface be at least gravel.

Mr. Morris noted that as a large commercial project the biggest issue is material costs. He noted that soon materials would cost an additional 8-12%. It would be a great financial burden on the Potters if there was even a 90 day delay. The issue with the name came up because the bank made them change the name, they

do not run a scrap business and the name is misleading.

Mr. Tucker noted that the Board is approving the overall development. If the applicant chooses not to build the outdoor storage that is fine, but if the applicant gets it approved now they won't have to come back to the Board if they choose to build it in the future.

Mr. Tucker also mentioned that any outdoor storage would have to be screened.

Public Comment: Wayne Box, 12841 Bush Rd, Centerton. Mr. Box purchased his property in July and the first he heard about the project was when he received a certified letter in the mail. Mr. Box has twin toddlers at home and a wife. They moved out to the country for a reason, to be away from businesses. Mr. Box said that the tree line is not thick at all and he will be in full view of the proposed development. He is trying to protect his family because now there will be traffic where there wasn't previously. He is also protecting his property values. His other concern is storm drainage. The property is generally flat but it slopes towards his property and he believes he will have significant runoff from the proposed development.

Mr. Tucker mentioned to Mr. Box that the landscape buffers comprised of American Thuja Evergreens were in place every 4 feet.

Mr. Box said that he and the Potters could work together to come up with any additional buffering.

Mr. Tucker asked the applicant how wide the proposed trees would get.

Ms. Singh said that initially they would be 1 gallon in pot size.

The applicant was not sure specifically how wide they would get. Mr. Tucker then asked if they would fill in the spaces at the current spacing.

County Planner Michael McConnell said that they would indeed fill in the spaces as proposed.

Mr. Tucker suggested to the applicant that they work with their landscape company or an arborist to find an acceptable alternative to reduce the cost.

The applicant asked the Board why they would need screening behind the building if nobody lives there and the Potters own it all. Ultimately nobody will see it.

Mr. Tucker suggested that how the Board typically handles that issue is with a waiver from the buffering requirements.

Mr. Cole said that he wasn't sure if outdoor storage was what the applicant came in looking to have, so if she decided that she didn't want outdoor storage then this would become a non-issue.

Mr. Tucker said that he wasn't sure if it would as the ordinance requires buffering between commercial and noncommercial uses.

Mr. Tucker asked the Board if it would be appropriate to extend the screening for the rear of the property and he would leave it up to the applicant to request a waiver from this requirement.

Mr. Morris said that they would work with Mr. Box on the issue of screening.

Ms. Potter said that they would not ask for a waiver.

Mr. Tucker suggested that the applicant meet with an extension agent or arborist to come up with a solution for screening with native plant species.

Mr. Tucker brought up the issue of storm drainage. An issue raised by Mr. Box.

Mr. Tucker asked how stormwater is being handled.

Ms. Singh referenced the drainage report submitted by the applicant and noted that as per the engineers statement the runoff flows easterly and that no portion of the project lies within a floodplain and that no threat is posed by storm drainage.

Mr. Knight asked how the water would be mitigated from the roof.

Mr. Tucker said that because of the type of soil there would be no impact.

Ms. Singh said that the information regarding roof runoff is not included in the report and it simply states

that there is no significant impact from the development.

Mr. Morris said that the applicant is doing a much more significant undercut than would normally happen for a project of this type, combined with the soil type, to help with storm drainage.

Mr. Tucker said that his main concern is the peak discharge potential and how that affects the neighboring properties.

Mr. Morris said that they are creating a low berm to combat some or most of the storm water that would drain east.

Ms. Leyva noted that the drainage channel along the road including the culverts would only be along the applicants own property creating a pool of water.

Mr. Tucker noted that there would be a low point in the drainage channel and that the swale concentrates the flow of water.

Mr. Morris said that they were creating a swale based on the engineer's recommendations. The applicant has revised the plans once, internally, addressing some of the stormwater concerns going with a larger CMP.

Mr. Tucker stated that the Planning Board is more interested in Bill Platz taking ownership of the discharge potential and making a recommendation to address any drainage issue that doesn't exist today.

Applicant indicated that they would not pursue outside storage with this application.

Applicant asked if the Board had approved the plan for one ADA space because the building code only requires 13 spaces which would drop them below the required amount (25) necessitating two ADA spaces.

Ms. Singh informed the applicant that the calculations for the number of ADA spaces came from the planning regulations, not the building code. Even if the Board was inclined to grant the waiver from the required number of ADA spaces they couldn't because the Americans with Disabilities Act is a Federal Law and the Board has no authority to waive the requirements.

The applicant said that they have no problem putting the spaces in they just have a problem with the fact that the building code says one thing and the planning regulations say another, and they are drastically different.

Mr. Tucker said that the reason for that might be that the building code has evolved over time whereas the planning regulations have not.

Ms. Singh then asked how the neighbor and the applicant would bring to a resolution their differences in screening and drainage.

Mr. Tucker said that the Boards intent would be to enforce the planning regulations.

Vote:

Request for Variance:

Mr. Knight makes motion to approve the parking variance from the 30 required to 3 proposed. Motion seconded by Ms. Leyva. Vote carries 5-0.

Site Plan Approval:

Mr. Cole makes motion to approve site plan with the 5 noted conditions. Motion seconded by Mr. Knight.

Mr. Tucker adds a 6th Stipulation requiring applicant to provide a verified engineers statement regarding stormwater discharge levels. Mr. Cole amends his motion to include the 6th stipulation. Mr. Knight amends his second to include the 6th stipulation.

Vote carries 5-0

TECHNICAL ADVISORY COMMITTEE

Call to Order: 8:09pm

Old Business: **New Beginnings Children's Home Amendment, LSD(#14-354) , 8800 New Beginnings Dr., Centerton, 18-11185-001**

Application withdrawn by applicant

New Business: None

OTHER BUSINESS: None

STAFF UPDATES:

A. Planning Division Reorganization

The Planning and Environmental Department has been reorganized into the Benton County Development Department with each Planning, Environmental Services and the Building Safety Division being divisions within. The Quorum Court approved the reorganization on December 19th, 2013.

B. Ron Homeyer, New Planning Board member introduces himself to the Board.

DISCUSSION ITEMS:

TowMate LLC Notification update:

Ms. Singh said that on December 4th, 2013 the Planning Board reviewed this project as a TAC item and Staff had requested proof of notification.

On December 18th, 2013 this project went before the public hearing and was approved with stipulations, one of them being proof of notification.

On December 23rd, 2013 staff followed up with Gary Davis, civil engineer on this project and on December 27th, 2013 staff received the proof of notification. Upon review staff determined that 5 of the property owners were not notified.

Staff then notified Gary Davis of the issue; also the letter stated that the public hearing date was December 4th, 2013 when it was in fact held on December 18th, 2013.

Staff sent Mr. Davis a map showing him the remaining property owners. Ms. Singh discussed with Mr. Tucker and Mr. Spence and determined that Mr. Davis should provide the notification to the Board. Ms. Singh noted that the decision letter had not gone out yet and the Board might consider reconvening the public hearing two weeks after notification has been received by staff or rescinding the decision letter.

Ms. Leyva asked how the applicants get the addresses.

Ms. Singh said that typically the applicant will go to the assessor.

Ms. Leyva said that she wonders if the applicant got a new list for the spring.

Ms. Singh then said that staff had provided the applicant with a new list with the clarification that the list might not be inclusive and it's ultimately up to the property owner to make sure they reach all abutters.

Mr. Tucker asked if he simply didn't sign the decision letter then it would void itself after 45 days.

Mr. Tucker then suggested that he do that and then reconvene the public hearing after notification and barring public comment re issue the decision letter. Mr. Spence suggested that the Board reconvene the public hearing and reinstate the approval if nobody came and commented.

Mr. Sudduth asked if the Board was going to require the applicant to re notify all of the abutting property owners with the correct date. He went on to say that staff would now be requiring applicants to submit the letter and the list of property owners to staff prior to sending the letters out.

Mr. Tucker asked if the intent was to track down the property owners or to just do our due diligence.

Ms. Leyva said that during the course of her work she sends out letters of this nature and sometimes the property address and the billing address are not the same. She recommends sending the letters to the billing address. Mr. Sudduth agreed.

Administrative Review: None

Meeting Adjourned at 8:36pm