



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

February 5, 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, Ron Homeyer.

**Staff present:** Administrator of General Services John Sudduth, Planning Manager Amber Beale, Senior County Planner Michael McConnell, Planning Director Rinkey Singh and Building Official Glenn Tracy were present.

**Public Present:** 2 members of the public (See attached sign in sheet)

**Disposition of Minutes:** Mr. Knight moved to approve the January 15, 2014 Planning Board Meeting Minutes. The motion was seconded by Mr. Curtis. The motion carried 7-0.

**General Public Comment:** None

**Old Business:**

- A. TowMate LLC, (#13-338), 15704 E. Hwy 12, Rogers  
18-03384-006  
No Representatives**

**Staff Report:**

- On Decembers 4, 2013, this application was reviewed by the Planning Board as a TAC item. Staff requested proof of notification.
- On Decembers 18, 2013, this application was reviewed by the Planning Board as a Public Hearing item. The decision was to approve with conditions. As a condition of the decision letter, the proof of notification was required.
- On December 23, 2013, staff followed up with Mr. Gary Davis regarding the outstanding proof of notice.
- On December 27, 2013, staff received the proof of notices sent to the abutting property owners.
- It was noted that 5 of the property owner (7 parcels) were not notified. Staff contacted Mr. Davis on December 27<sup>th</sup> identifying the issue.
- It was also noted by Ms. Singh that the date on the notification letter was wrong, saying the Public Hearing date was to be held on December 4<sup>th</sup>, 2013. The Public Hearing date was in fact December 18<sup>th</sup>, 2013.
- The options open to the Planning Board are as follows.

- Issue the Decision Letter
- Rescind the Decision of the Planning Board provided on December 18<sup>th</sup>, 2013
- Extend the timeline and reconvene the Public Hearing 2 weeks after proof of notification is provided to Staff

**Applicant Comments:** None

**Board Comments:**

Mr. Tucker stated that in order to make the timeline work and to try and be as accommodating as possible the Board could reopen the Public Hearing so that anyone who is an abutter and didn't receive a notice could comment on the project. He noted that at the Public Hearing the Board did not hear any comments. If there were none this time then the Board would simply re-read the decision back into the record and the Board could vote at that time.

Mr. Cole asked if the conditions TowMate LLC would now have to meet would be the noticing. Mr. Tucker confirmed that.

Mr. Knight asked Staff what they thought about the applicant's motivations regarding the noticing. Ms. Singh stated that she had spoken with Mr. Bryan Anderson regarding this issue and that he was on board with getting this taken care of and doing it the right way. Ms. Singh went on to say that Mr. Anderson had been relying on his agent to move the process forward and that had not happened. She noted his frustration with the situation and his willingness to move forward with the process.

Mr. Tucker stated that the Board could not do nothing, because that would be an approval so he recommended that the Board take one of the three actions prescribed by Staff.

**Vote:** Mr. Curtis made a motion for the extension of the timeline and to reconvene the Public Hearing in March when Staff had received proof of notifications. Mr. Cole seconded the motion. No discussion or public comment on motion. Motion carried 7-0.

Mr. Curtis asked staff to further note to the applicant that the property abuts to the centerline of the roadway.

**New Business:** None

**TECHNICAL ADVISORY COMMITTEE**

**Call to Order:** 6:13pm

**Old Business:** None

**New Business:**

- A. McGarrah Telecommunications Tower, #14-357, 15114 E Hwy 264, 18-02745-001  
Represented by Lee Ann Fager, 4300 Stockton Ave. North Little Rock, AR**

**Staff Report:** Staff gave a presentation on the proposed 195' monopole telecommunications tower. Staff noted that the applicant was requesting the following variance as part of their application.

- A variance of 32' from the required setback.

The following are outstanding items:

- A utility access driveway permit from AHTD will be required along with a \$750.00 deposit. The minimum width is 37'.
- A plan for the containment of a diesel spill from the backup generator.
- Applicant must demonstrate a hardship for the Variance.

The applicant is requested to address the outstanding items for this project no later than February 10<sup>th</sup>, 2014.

**Applicant comments:**

Ms. Fager stated that she had notified the abutting land owners about this project and provided certified mail receipts.

Ms. Fager said that after discussion with the tower builder the Benton County Fire Marshal will be able to put antennas for the Emergency Services Department.

Ms. Fager said that since the tower is now under 200' the company can construct a monopole tower and it does not need to be lighted other than a continuous red light, not flashing white lights and they can meet the setbacks plus a little bit of extra.

**Board Comments:**

Mr. Knight asked if the tower wouldn't be guyed or triangular.

Ms. Fager confirmed that it would be neither.

Mr. Knight asked if the Fire Department would be putting additional antennas on the tower and if the tower could support this.

Ms. Fager said that since the company was building the tower to suit they would be designing it with additional antennas in mind.

Mr. Cole asked what the justification was for the variance.

Ms. Fager responded that it was regarding the topography of the site and finding a cooperative land owner.

Mr. Tucker noted the Board was not handling site plan approval, but only the variance request.

Ms. Leyva asked if there was anything on site indicating where the tower would be located.

Ms. Fager said the site was already staked out.

Mr. Knight asked who would be maintaining the site.

Ms. Fager said the tower company would be doing the maintenance and AT&T would coordinate with the Fire Department for upkeep of their antennas.

Ms. Singh added that there is an Annual License Fee associated with this project per Benton County Planning Regulations.

- B. John Dye Jr., LSD #14-360, 1938 Slack St, Pea Ridge,  
15-11947-000  
Represented by John Dye Jr.**

**Staff Report:** Staff gave a report on the proposed remodeling of a vacant 3,216 sq. ft. commercial building into a fitness center. It is noted in the report that there was no record of prior Planning Board approval, despite being built in 1999. The applicant is requesting the following waivers:

- Waiver from the requirement of engineered drawings.
- Waiver from detailed Stormwater Management Plan.

**Outstanding Items:**

- Applicant must obtain Health Department Approval for a new septic system.
- Applicant to provide detailed parking drawings including stall dimensions and location for ADA and regular spaces, maneuvering aisle and access drive dimensions.
- To provide detailed information regarding proposed vegetative buffer along eastern property line including specific species and an information sheet from the US Department of Agriculture.
- Applicant to provide maintenance plan for vegetative buffer.

**Applicant Comments:**

Mr. Dye noted the issue of taxes being delinquent has been taken care of and receipts have been furnished to staff on February 5<sup>th</sup>, 2014.

**Board Comments:**

Mr. Curtis asked what the buildings were to the west and if there was any fencing or buffering in between the properties.

Mr. Dye said that the buildings were storage units and that there was no fence or buffering between the properties.

Mr. Curtis asked if the applicant was living in the home on site.

Mr. Dye replied that it would be a rental home.

Mr. Tucker asked if it was the applicant's intention to sell the house in the future.

Mr. Dye said it was his intention to split the lot and sell the half with the home on it.

Mr. Knight asked if the applicant would increase the HVAC capacity in the building with the new use.

Mr. Dye said that he would be upgrading the HVAC capacity in the building to accommodate approximately 20 people at any one time.

Ms. Leyva asked if notifications had gone out.

The applicant had sent out the notices and provided Staff with receipts.

Ms. Leyva asked if the applicant had had a septic designer on site.

Mr. Dye said that yes, Bobby Buchanan was on site and she had staked out the site and that the perk test had not been done.

Mr. Tucker asked if the shop had its own water.

Mr. Dye said that the shop was on city water and the house was on a separate well.

Mr. Tucker asked the applicant to describe the lighting situation on site seeing as the business would be open 24 hours a day.

Mr. Dye said that there was one sconce type light on the front of the building. He is not proposing any additional lighting.

Mr. Sudduth asked if clients would have access to the building 24 hours a day and what type of activities are planned. He gave the example of runners being along route 72.

Mr. Dye replied that no there were no activities planned that would be outdoors. If they were to offer activities outdoors then they would fence off an area for that purpose.

Mr. Sudduth then asked the applicant why they started work without a permit.

Mr. Dye said that it was his oversight and upon having the Fire Marshal on site he realized that there were other steps that needed to be taken. He then stopped work and started the process to come into compliance.

Technical Advisory Committee adjourned at 6:48pm

**OTHER BUSINESS:** Mr. Knight asked Staff to find out when Downtown Towing would be going to the Supreme Court. Staff will provide an update on February 19<sup>th</sup>, 2014.

**STAFF UPDATES:** None

**DISCUSSION ITEMS:**

**A. David Morris, Area Lake Boat & Mini Storage, #14-351, 15055 E Hwy 12, Rogers**

Ms. Singh gave a short background of the issues regarding this property including the Board's belief that Mr. Morris was operating a construction company on site and that he was storing heavy machinery on site, both in violation of the Planning Board approval.

Ms. Singh asked the applicant to submit a letter stating his intentions regarding the site which he did so on January 13<sup>th</sup>, 2014.

Ms. Singh reviewed the minutes from the Planning Board meetings and determined that there was some gray area regarding whether Mr. Morris could store heavy machinery on site.

Staff met with Mr. Morris at the DRC meeting on January 29<sup>th</sup>, 2014 where he stated that he had a need to park or store some of his construction company's machines on site while he either looks for a new site for his business or he sold the machines. At the DRC there were several differing opinions but Ms. Singh offered to the Board that they could allow Mr. Morris to store construction equipment on the open gravel parking area and if it goes beyond that then he would have to come in for a formal application.

Mr. Curtis said that upon the initial approval there was no mention of there being construction equipment on site and that the building would house a storage and maintenance area as well as the housing for the property caretaker.

Mr. Tucker said that was not how Mr. Morris described his activity on site.

Mr. Tucker then said that it did not appear that Mr. Morris had opened a construction business, Staff agreed.

Mr. Tucker then said that he found on Mr. Morris' application where he put that he would be storing construction equipment on site.

Mr. Knight asked why Mr. Morris had a sign on the door labeling it as a construction company office.

Mr. Tucker said that Mr. Morris had just taken it off a truck and stuck the sign there. He also stated that the sign was gone.

Ms. Singh said that on her site visit she could see no evidence of a construction company office.

Mr. Curtis said that there was an additional trailer parked alongside the fence outside the buildings, which had been there for some time.

Mr. Curtis said that if he had known at the time of the Public Hearing what Mr. Morris's intentions were then he would have had much greater scrutiny regarding the creek and he would have voted against the project.

Mr. Tucker said that there is still no distinction within the Benton County Planning Regulations between one type of storage and another.

Mr. Knight said that he is still concerned that this property is a front for a construction company.

Ms. Singh suggested that the Board ask Mr. Morris for a list of what he intends to store on site.

Mr. Tucker said that at the DRC meeting Mr. Morris said that he was looking for a space in the Centerton area for his construction business.

**B. Douthit Tract Split, LG & Stella Jane Douthit, #13-306, 16401 Butler Rd, Siloam Springs, 18-10432-000**

Staff gave a short presentation about this tract split including the issues of mobile homes being placed within the building setback, septic issues and topography. Staff also state that this property is directly next to a 100 year flood zone.

Mr. Tucker asked if the northern most trailer is on the property but entirely within the setback while the southern trailer touches the setback line. Staff confirmed this.

Mr. Williams asked what the purpose of the split was.

Ms. Singh said that staff did not have that information but usually tract splits are for sale or tax purposes, but she doesn't see this as a buildable parcel.

Mr. McConnell stated that there was a 20% slope along the entirety of the new tract.

Mr. Curtis asked about the new parcels access.

Staff stated that the access to the new parcel would be directly from Old Hwy 68.

Mr. Tucker stated that he is concerned that the applicant is not leaving enough room to make the trailer conform to the building setbacks.

Mr. Curtis said that he does not think they could allow a split without making sure that the trailers conform to the regulations.

Ms. Singh said that while the trailers have been in place for a long time the tract split was a trigger for bringing them into compliance.

Mr. Curtis said that he wasn't sure if they would have enough room for a septic system.

Ms. Leyva stated that the parcel gets its water directly from a series of tanks that gets drawn from some sort of surface water.

**C. Darrow Garner, J&D Liquors, #13-337, 14199 E Hwy 12, Rogers, 18-03334-004**

Ms. Singh said that she contacted the applicant and they are evaluating the cost differences between a solid fence and the two tiered vegetative buffer which was approved by the Board. Staff is hoping that the applicant has that evaluation so Staff can present it to the Board on February 19<sup>th</sup>, 2014.

Mr. Tucker said he believes the condition was that the applicant works with Staff to provide a suitable buffer.

Staff will provide an update.

**D. Update USA Metals Lawsuit**

Ms. Singh stated that the hearing scheduled for February 5<sup>th</sup> & 6<sup>th</sup>, 2014 was postponed due to inclement weather until a date to be determined, most likely in August 2014.

**Administrative Review:** None

Meeting Adjourned at 7:13pm