Benton County Planning Board
Public Hearing
Technical Advisory Committee Meeting

June 1, 2016
6:00 p.m.
Benton County Administration Building
215 East Central Avenue, Bentonville AR 72712

Planning Board Approval: 6/7/16

Meeting Minutes

PUBLIC HEARING:

Call to Order: The meeting was convened at 6:00 p.m. by Planning Board Chair, Mark Curtis.

Roll Call: Jim Cole, Sean Collyge, Mark Curtis, Starr Leyva, Ashley Tucker and Rick Williams were present. Ron Homeyer was absent.

Staff present: Kevin Gambrill – Planning Director, Taylor Reamer - Planning Manager, Derek Linn – Senior County Planner, Tracy Backs – County Planner and Glenn Tracy – Building Official, were present.

Public Present: There were six members of the public present.

Disposition of Minutes: 05-18-2016

Mr. Williams moved to approve the May 18, 2016, Planning Board Meeting minutes.
The motion was seconded by Mr. Tucker. Mr. Cole abstained. The motion carried 5-0 with 1 abstention.

General Public Comment: None

Old Business: None

New Business – Items for Public Hearing:

I. **Barnett Waiver - #16-077**
17461 London Road, Garfield, 18-05327-000 and 18-05338-000

Applicant/Owner: Jeffrey Barnett, 17461 London Road, Garfield

Staff gave a presentation on the Barnett Waiver, #16-077, 17461 London Road, Garfield

Comment from Mr. Barnett: None

Board Comments:

Mr. Tucker: To review, one septic system is for the shop (temporary house); the second septic system is for the house that you are building; and the third septic system is for the one cabin. Correct? I will now ask you to speculate a bit. Look out 25 years, the little cabin, the person that's going to occupy it may no longer occupy it…what happens to it?

Mr. Barnett: Yes, that is correct. Well, I have seven children so who knows? I couldn't guess on that. I don't plan on leaving so I will be there.

Mr. Curtis: I guess from a planning perspective; the best thing is that we will have the knowledge of where the septic locations are. So when the property changes hands, if there is a question, at least we know. In many places in Benton County, we don't have that knowledge and that will be a problem in the very near future.

Public Comment: None

Mr. Cole motioned to approve. The motion was seconded by Ms. Leyva.

Voting Record: Motion carried 6-0, approved.

II. Martinkewiz Variance - #16-071
13640 Shaffer Road, Garfield, 18-01155-000 and 18-01165-000

Applicant/Owner: Alan Martinkewiz, 13640 Shaffer Road, Garfield

Staff gave a presentation on the Martinkewiz Variance, 13640 Shaffer Road, Garfield

Comment from Mr. Martinkewiz: None

Board Comments:

Mr. Cole: What is the purpose of the shop?

Mr. Martinkewiz: To keep tools, work shop, store trailers, work on cars, store cars, etc.

Mr. Cole…but just for your own use?

Mr. Martinkewiz: Yes.

Ms. Leyva: (Directed to Staff) Whenever you visited, did you see any other buildings that may be within the setbacks down this particular road?

Staff: I will turn that over to Glenn Tracy. He made the site visit.

Mr. Tracy: I did not go that far down the road. From the line of site, it did not look like that would be a problem.

Mr. Tucker: I have been down Shaffer road a couple of times. I don't remember seeing any other structures that close to the road.

Mr. Martinkewiz: Oh, there are several.

Mr. Tucker: Yes, there are several that are close but I don't know about within the 25 feet.

Mr. Martinkewiz: No, there are several. I don't know if you want to count Indian Bow Circle that turns off of Shaffer Road, but yes, I can think of two right now. One is under construction. And there is one on Shaffer Road that must be within...I don't know...I haven't measured it...but it is close.

Mr. Cole: The hardship here is the topography?

Staff: As outlined in the application, the major limiting factor would be a significant rock ledge on the south side of the property. I do have pictures that Mr. Tracy took on his site visit.

Public comment:

Mark Smith, 13740 Shaffer Road. I am a property owner right around the corner.

Why would there be an allowance for it? If you have the setbacks and that's the reason they are there, why wouldn't you just build a building that would fit inside those parameters? My concern is that it will be really close to the road. I don't think there is anything quite like that on that road that is inside that easement. How tall (would the building be) right next to the road? Storage? Would there be boats, traffic, ATV's, etc. on the road? This can be a determent to my property and others. Why allow this when setbacks are already in place? He just needs to build a building that will fit in that area that is designated. That's how I see it. Thank you.

Kevin Morey...13664 Shaffer Road (live there part-time) in a lake house.

Driving up and down this road, there are several buildings that are way <u>inside</u> the setbacks. Driving around the corner, back and forth, this building to me will

not be in the line of site where you can't see around a corner. I see no reason that he shouldn't be granted the right to build it.

Mr. Curtis: Where else do you live?

Mr. Morey: I live in Bentonville.

Mr. Curtis: Okay. So just a weekend lake house?

Mr. Morey: Yes, sir. We have had it for about a year and a half. I have probably traveled the road as much as everyone else does every weekend going out there. The way it sets back if you look at the pictures, you would see no reason not to give him the okay to do this.

Board comments:

Mr. Tucker: The front to back, we understand that is fixed by bluff, so that causes you to skew the building which pushes it even farther forward. How much more can the length be reduced reasonably?

Mr. Martinkewiz: The bluff impacts the side, the 32 foot. Correct. I have already cut it 30 percent. I wanted 80' x 40' wide and that was going to cut into the variance too much. I have reduced the size. I am looking for 0 to 25 feet but hoping it won't be that close. I won't know until I get the ground level and the building orientated so that I have a reasonable distance between the cliff wall and the side of the building for construction purposes. I would like to have, in the ideal world, 8 to 10 feet so I can work in there. I am shocked and amazed by some of the comments by Mr. Smith; but I guess everyone is entitled to their opinions.

Mr. Tucker: If the width of the building on the site, could reasonably or feasibly be reduced to limit the impact, then there is a self-inflicted wound, so to speak. You are making the problem by the way that you created the building. If you reduced it down to 31 feet, would that be reasonable?

Mr. Martinkewiz: I wanted 40 feet. I have reduced it down to 32 feet. No, that is unreasonable. The building is precut. That would mean cutting, welding, remanufacturing the building for a foot.

Mr. Curtis: I am of the opinion that this is a self-inflicted wound as well. If I was going to put a building on a piece of property, I would make sure what the measurements were before I bought the building.

Mr. Martinkewiz: I did. They are 32' wide.

Mr. Curtis: And yes, the rock ledge is a geographic or geological handicap and would in most cases be the variance. I see the variance as one caused by you

buying the building that's not the right size for the property you have. So, I have big trouble with that. I am not concerned about you and the building. I am concerned about the building after you are gone, the road and what happens around the neighborhood. So, I am struggling with this. Just so you know.

Mr. Martinkewiz: Mind you, it (the building) will still be 25 feet from the center of the road in the worst possible case.

Mr. Curtis: Right, but if road gets widened, it won't be 25 feet. It will still be 25 feet from the center of the road but the road will be closer and closer to your building as the road gets widened. That is something we as planners have to take into account.

Ms. Leyva: A couple clarifications from Staff: 41 feet building to center line. So in other words, he is 9 feet into it (setback) and that is the greater? We look at front property line or center line, whichever is greater. So the 9 feet is actually the greater? Just want to make sure I am understanding correctly.

Staff: Correct. This is an interesting situation because Shaffer Road was originally just an easement—not a county road. Technically on the south side, where this building is going, there isn't a legal property line. There is a right-of -way running through the properties.

Mr. Leyva. So that's why we did the center line?

Staff: Right.

Mr. Martinkewiz: That I don't think is actually documented. Correct?

Staff: No, it is. County records show this as a right-of-way.

Ms. Leyva: So we have a 9-foot setback. Additionally, the property/parcel to the west, at 1165 Shaffer, you own that one, correct? If a person combines their lots, there is no side setbacks they would need to meet to the next property. So that's a possibility the applicant could have chosen to do but did not. To combine his lots, it would be one big parcel, correct?

Staff: That is an option, yes.

Ms. Leyva: I just want to make sure I was understanding all the options that were available to the applicant.

Mr. Martinkewiz: Correct. North south is the problem.

Mr. Cole: Would a lot line adjustment work too?

Staff: Yes, that is correct.

Ms. Leyva: I just want to make sure I understood all the available options to the applicant. It is a 9-foot distance that you are encroaching and you could be fully within the setback.

Mr. Martinkewiz: Right, my understanding is that the right-of-way is from the center of the road. 25 feet on either side of it. I have been confused as to what the law is regarding the additional 25 feet.

Mr. Leyva: They are doing it based on the staking. You are doing it based off of what you are requesting.

Staff: There are two ways to explain this: (1) 0 foot building to front property line setback; (2) that is, in essence the same as a 25 foot building to center line setback. The County right of way is 50 feet, 25 feet on each side of the center line and then the setback line is 25 feet beyond the right-of-way line. So, there is a total of 50 feet from the center line of the road to the building setback or there is still 50 feet from the right-of-way line to the 25-foot setback. So, essentially, it is the same, 50 feet from the center line of the road.

Mr. Martinkewiz: So it serves like it's a 100-foot right of way.

Staff: For this particular property, yes.

Ms. Leyva: Thank you.

Mr. Curtis: On your site visit, the road is very narrow. Two cars can pass easily. Fire apparatus can move down it.

Mr. Tracy: Yes, not two fire trucks side by side but you could stagger and get through there. Two vehicles can get through there. What I measured from 41 foot from the center of the road is the farthest point of the shed would be in that 50 feet. So basically, one corner of the building he is asking for a 9-foot variance. The other corner on the other side of the road, was 61 feet. So it is a small portion that he is trying to get in that setback.

Mr. Tucker: The lot adjacent that you own, is it buildable or does the cliff run straight from it to the road?

Mr. Martinkewiz: What do you want to build on it? It is narrower as you move toward the road because the road curves around. From the rock wall to the center of the road is 50 feet as you move to the east. I have it located on the widest possible location.

Mr. Cole: I was trying to figure out if a lot line adjustment was even reasonable.

Mr. Martinkewiz: It won't change anything. It won't change where the road is located.

Mr. Collyge: (Question for Staff) Was this originally just an easement or access road?

Staff: As originally platted, yes. And then as more houses were built, there was a need to create a public right of way.

Mr. Collyge: What is the width of that right of way?

Staff: 50 feet. Every county road that is paved, will have 50 foot of right-of-way. That is right of way, not dedicated easement to private access. That is 50 feet of public access via Shaffer Road.

Mr. Martinkewiz: On the survey platted, it says 30 feet of right-of-way.

Mr. Williams motioned for approval. The motion was seconded by Mr. Tucker.

Staff: There are two options here, which are we moving to approve? We have the applicant provided variance request and then second we have Staff version. There are two considerations in front of you. Staff would just like clarification on which one is being acted upon.

Mr. Collyge: It's a 9-foot request, correct?

Staff: By default, it becomes a 0 foot building to parcel setback.

Mr. Collyge: Is the Staff's recommended variance request acceptable to the applicant?

Mr. Martinkewiz: I am a little confused by the question. I think so. I am just trying to get where I can put the building up and keep it in a safe, workable manner from the rock wall on one side and as far away from Shaffer Road as I can on the other side.

Mr. Tucker: I think the way the Staff's option is written is easier to enforce and map on the site because the property line is somewhat tenuous out there.

Mr. Martinkewiz: I believe I can work with Mr. Tracy to ensure that everyone is satisfied with the location.

Ms. Leyva: My only concern is that Staff went out there and did the staking. Often staking a building, not the overhang which could be another foot, sometimes two. It is not an accurate representation of the variance the applicant is seeking.

Mr. Martinkewiz: That's why I asked for not less than 25 feet to give me some room in there for that. I won't know until I get the ground level, set and staked out exactly where it's going to be. Set a hard line no closer than 25feet from the center of the road to the building.

Mr. Tracy: 40 feet for a 10 foot set back with overhang.

Staff: 41 feet could be amended and modified by the Board as it sees fit, as a buffer, or wiggle room.

Mr. Curtis: Fudge.

Mr. Martinkewiz: Trying to make it not complicated.

Mr. Curtis: Motion is to approve the Staff's writing of this.

Mr. Curtis and Ms. Leyva opposed the motion. Voting Record: Motion carried 4 – 2, approved.

TECHNICAL ADVISORY COMMITTEE

1. **Call to Order:** 6:40 p.m.

2. **Old Business / Ongoing Applications:** None

3. **New Business:**

I. Byrnes [Flint Creek Woodworks] Site Plan Review, #16-090, 18958 Jackson Road, Gentry, 18-13598-002

Byrnes Site Plan Review: Don Johnston, 8173 Ironwood Court, Rogers; representing the Byrnes family.

Staff gave a presentation on the Byrnes (Flint Creek Woodworks) Site Plan Review, #16-909, 18958 Jackson Road, Gentry, 18-13598-002

Comment from Mr. Johnston:

When we went to the first meeting (Development Review Committee (DRC) meeting), we were questioned about a sprinkler system in the building. I said that I felt like we were within code but I did not know for sure. The gentlemen that was there (at the meeting) from the Fire Department was not Marc Trollinger but someone else. Marc Trollinger and I finally got together. He (Marc Trollinger) sent me a letter stating that we would need a sprinkler system. I reviewed the code with the state fire marshal and with the International Congress in Atlanta. I showed Mr. Trollinger a comment section. Mr. Trollinger agreed that we fell within that section which meant that we did

not have to have a sprinkler system. However, when it came up, Mr. Trollinger recommended a change that would help us as far as making him happier. The owner liked that change. So, what you would see in the revised plans, is actually that we have split that combustible product room off and it now faces an open driveway. We met on Friday and everyone is a lot happier. I know the owner is happier. He was actually going to tear down part of the structure to move the building closer.

Mr. Curtis: I would think in a wood working shop, fire suppression would be an important thing.

Mr. Johnston: It is important, especially in the room where you are doing the sanding because you get a lot of really fine dust. That room is under negative pressure and he does have the correct dust removal equipment. Nevertheless, it is always better if it is just separated. There is a door from that room into a finishing room. Mr. Trollinger said as long as they put a closure on that door, so that it would be closed every time, not left open, that he would be happy with that. So I really think we are making some progress. The water is probably the big thing about the spring water. Of course, they have been drinking it for years but we will just have to get it tested.

Mr. Curtis: Did you get a list of the outstanding items?

Mr. Johnston: Yes.

Board Comments:

Mr. Tucker: This is a great proposal. The improvements are a great change. My question is as they are developing this, have you looked at separating this into two parcels so you have the commercial parcel and the residential parcel? You wouldn't have to have a waiver and might save the applicant some tax money because their house and their business would be...

Mr. Johnston: I honestly have not thought about that but that is a really good suggestion, Mr. Tucker.

Mr. Tucker: That may be something that could be done administratively. It could be done as part of the application or administratively. It might make some of this process a little easier. It's up to you and your client if they want the whole thing.

Mr. Johnston: Yes, it is up to him.

Mr. Tucker: How are they separating the finishing from the wood working area? My concern is with the vacuum equipment that creates static electricity that usually sparks in the winter. Is that being separated by air pressure or by the door?

Mr. Johnston: It is separated by solid walls. There is only one door between where the dust is and where they are doing the finishing.

Mr. Tucker: So they are creating a separate finishing room?

Mr. Johnston: Yes. They are not keeping the door shut all the time. But if we go to this proposal, the door will be shut. One of the other things that I ran into is...when I was out there, I saw no painting. And yet when he filled out his form, he listed lacquer. I asked what are you doing with lacquer? The owner stated that every once in a while we paint. I said that he really needs to consider that if he is going to paint, we need a paint booth. He only has two jobs left to paint. They have decided that painting is such a small part of their business that they will just get out of that business rather than spend $20,000 on a paint booth. They will paint the two jobs they have outside. That made it easier on me because I did not want to design a paint booth.

Mr. Tucker: Yes. Usually it's only a problem in the winter when you get dry air and the vacuum system sparks.

Mr. Johnston: Or you have snow and it's humid and you can't get the lacquer to do anything. So we have eliminated that problem.

Ms. Leyva: The fire hydrant issue in notes from the fire marshal...what's going on there?

Staff: As of today, Mr. Trollinger submitted new comments based on the new site plan. Everything listed here looks to be met via the new revised site. The hydrant is not detailed on the June 1st comments.

Mr. Johnston: The hydrant would have killed the project I am sure.

Ms. Leyva: It does sometimes.

Mr. Curtis: I need to ask you about screening if no one else will. What kind of screening are you proposing?

Mr. Johnston: None. You can't see anything from where they are except the back of a chicken house to the south that is nearly as long as their property. To the north is a creek. To the west is the dad's house. To the east is a wooded forest. Vacant land. There is a house down close to the chicken house. I do not know who it belongs to but it is 300 to 400 feet from this structure. That lot is nearly 700 feet long. We are 163 feet from the back.

Mr. Curtis: I certainly understand you not worrying about screening from the chicken houses. If the owner (family) is living in the house, I can understand the non-screening there.

Mr. Johnston: There are trees on that lot line or the property line to the east, where the house is that does not belong to the Byrnes family. Frankly, I am worried about what we are going to do to get fire trucks in. We need to lay out some better corners. It's

tight. We know we need to do some road work to get it opened up to where we can feel good about that part of this project.

Mr. Curtis: Another question is concerning parking...

Mr. Johnston: Fine. There is plenty of room for parking. I had 14 and he (Taylor Reamer) has 16. It's no big deal. We will pave three shipping areas 25 feet out from door. We will have paved handicap parking and a sidewalk around the shop. The rest of the parking will be gravel. When I do parking, I always put the stabilization fabric down so it does not become a mud hole. I am a big fabric fan.

II. Shankle Waiver, #16-091 & 16-092 through 16-104, Heagerty and Sears Road, Bentonville 18-09210-000

No representative for the Shankle waiver appeared.

Staff gave a presentation on the Shankle Waiver, #16-091 and 16-092 through 16-104, Heagerty and Sears Road, Bentonville, 18-09210-000.

Staff: It's a blanket waiver.

Mr. Curtis: This is what we didn't want to have happen. It's compounded by the fact that it is Bentonville's jurisdiction. In making the rules and regulations, we didn't foresee this. I think this is going to take some discussion here. I would like some input from the Board.

Mr. Williams: Why is the city not looking at it?

Staff: It is not their septic requirements and they are not extending sewer lines to the subdivision. They exercised their jurisdiction as far as approving the subdivision of land--not for the utilities or the infrastructure. It is the County's septic requirements.

Mr. Tucker: Are there any other subdivision requirements that the County could impose on this project?

Staff: As the County did not review this subdivision when it was originally platted, the approval and review was laying with the City of Bentonville.

Mr. Curtis: Did they even give it to us to look at?

Staff: They did. At that point, there was no conversation about multiple septics. This was a black and white subdivision of large acreage real estate lots. There was not a discussion of the "ifs" there was going to be multiple septics. It laid with Bentonville to review. Did we comment on this project? Yes. And that is why we have the notes of septic compliance, buildability, etc. But if we were to review a project of this nature in our jurisdiction, with the requirements that we have of one septic one parcel, that would obviously be a big conversation with an applicant. Make sure they were

well aware of perhaps having a five-acre tract and making it into two 2-1/2 acre tracts so that you have the availability of building on both lots. It is a jurisdictional issue that happened with this property.

Ms. Leyva: The applicant is not here either to be able to clarify this for us. St. Valerie Downs which is fairly close to this subject property has multiple houses with accessory pool houses that has a separate septic system on it too. Because of the location of the house to the pool house, the pool house usually has a rest room and maybe an outdoor covered cooking area as an accessory building. Applicant stated additional living quarters. The applicant left it very vague.

Staff: They really don't know. These are medium to good sized lots without public sewer. Working with City of Bentonville as far as territorial jurisdiction so that they can impose exactions under their subdivision ordinance per state law.

Mr. Tucker: What water shed is this under?

Mr. Curtis: Illinois River. No question about that.

Mr. Tucker: For a blanket subdivision request like this, for as big as an environmental impact as that has, I would like to make an Environmental Impact Statement about how that would impact the Illinois River water shed. This request is essential double what they proposed. They are, in fact, doubling the density that they presented to the city of Bentonville. Was the city of Bentonville aware of that when they made their application?

Staff: The state ADH rules is what governs here for septic approval. It would beg the question, if all these lots were built out into one common planned septic design and perked through all the lots, what would those designs entail? What would that impact be? I don't know.

Mr. Tucker: There is a creek just to the south that drains directly into the Illinois River.

Ms. Leyva: You said the lots are 5 – 7 (acres) so there won't be subdivision review for ADH. They would come in as individual lots. It's not a situation like the subdivision that I referenced where it did go through subdivision review. There they knew how big the houses were proposed to be and approximate locations of septics. Feasibility of buildability.

Staff: Correct. Building envelopes, septic locations were previously platted under the Health Department.

Staff: Essentially the Planning Board, if you so choose, would stipulate that there be some larger common plan even though that's not something that we call it because that is a state term.

Ms. Leyva: How close is city sewer to this? Do we know? With the new schools, they extended the sewer out.

Mr. Tucker: The sewer goes just south of Morningstar, maybe two lots.

Mr. Curtis: It's almost closer to Rogers than it is to Bentonville.

Staff: It is in the area between Cave Springs, Bentonville and Highfill. The airport is in the bottom left hand corner.

Mr. Curtis: Without any representation here, we have nothing to ask questions of. I am very concerned and think that we should table this. I don't know how we can act on it two weeks from now without knowing something more.

Mr. Collyge motioned to table the waiver. Mr. Tucker seconded the motion. Approved: 6 to 0

Mr. Curtis: Was the applicant aware of his needing to be here tonight?

Staff: Yes.

Ms. Leyva: Noticing requirements went out, correct?

Staff: He can re-notify. He will be slated for June 15th and July 6th.

III. Butler Variance, #16-084, 21751 Vista Shores Dr., Garfield 15-02042-000 + 15-02043-000

Butler Variance: Ryan Butler, 13122 Shaffer Road, Garfield

Staff gave a presentation on the Butler Variance, #16-084, 21721 Vista Shores Drive, Garfield, 15-02042-000 + 15-02043-000

Comments from Mr. Butler: No comments. Correct address is 21721 Vista Shores Drive, Garfield.

Board Comments:

Ms. Leyva: Why the adjustment? I see that there is a storage shed but it's a storage shed, right?

Mr. Butler: Right. It's a metal building with a concrete slab floor. When I submitted the variance request, I supplied quite a bit of verbiage. I don't know if that is something you reviewed or that is contained in these comments. Should I elaborate on what I wrote?

Mr. Curtis: Yes.

Mr. Butler: I am seeking a property line adjustment as mentioned by Staff. This was platted in the 1970's. There are no covenants or other requirements on the division. The lot line adjustment is necessary because the metal building (storage shed) sets partially on both of the lots. The adjustment would eliminate that encroachment and put the storage shed solely on the east lot. I currently own both lots. I am requesting the variance as noted. There is no new conflict created in acreage. It's just a continuation of an existing conflict. The less than 120 feet of frontage on the west lot would become still less than 120 feet of frontage after it is said and done. The east lot would actually gain frontage. There is no opportunity to make the lots conform to the current requirements. I simply don't have the frontage available and don't have the overall area available. All the lots in that area are of similar shape, size and frontage. I think you would find that every one of them violates current standards. I am not talking about my neighbors' lots. My house is at the top of Shaffer.

The reality of the situation is that I can't move the building. I can't get rid of the encroachment by any other means that I know of. It doesn't do anything or alter any of the public streets, easements or neighbors. It doesn't seem to change the nature of the area.

Mr. Curtis: Why not just combine the lots?

Mr. Butler: Because I might want to sell off a lot in the future or keep a lot for access to the lake and sell the shop property, etc.

Mr. Curtis: The lot, as is, would be grandfathered in under the old codes. Once you make a change to it, it is under the new codes. Am I right with that Mr. Gambrill?

Staff: You are in terms of frontage requirements. The acreages aren't changing but the frontage it.

Mr. Curtis: So we then come into some conflict. That as well as the fact that the septic tanks and whatever else happens down the road. That is something we need to take into account. The lot sizes are such that it will be difficult to have a "perk able" lot with .3 acres.

Mr. Butler: Yes, that is the feedback I have from the "septic" people.

Mr. Curtis: So by combining the lot you might have a chance to actually make it a buildable lot.

Ms. Leyva: Even if both perked out with this new design for Lot 8, the septic feasibility is not there. You would build where the storage shed is because that is the bigger part for a house. You couldn't get septic lines with the 10 foot setback on either side. You wouldn't be able to get septic lines even if you could build a house

on the upper part. You are essentially making unbuildable lots by this lot line adjustment.

Mr. Butler: I believe the lots are unbuildable to begin with.

Ms. Leyva: I have seen things built out there.

Mr. Butler: Yes, that is what I am saying. I could make the lot line adjustment without having to come and discuss it because they are not buildable under current regulations.

Ms. Leyva: They are buildable due to the fact that they are grandfathered in. There are several things that even with septic, you get variances because it was platted so long ago. You don't have to meet certain septic requirements that we currently have with the AR Department of Health.

Mr. Butler: That is not what the "septic" people say. They say that there is no variance available for that.

Ms. Leyva: When was this subdivision platted?

Mr. Butler: I was told in the 70's.

Ms. Leyva: Yes. There is a "pre 77" requirement that you only have to have your septic on it. You don't have to have the alternate area on there and that is why your lot is so small. It meets those old requirements.

Mr. Butler: Right. But wouldn't a new structure have to meet current requirements? Then why would this lot line adjustment have to meet current requirements?

Ms. Leyva: Subdivision of land. We are not talking about septic systems here.

Mr. Butler: Okay. But that is not the feedback from the "septic people" at all.

Mr. Curtis: Well that's good in a sense of protecting things. That's a good sign. I like that idea. I am just trying to figure out what we can do to help you out. Like the other object on Shaffer Road, I have trouble with this as well.

Mr. Butler: This appears to be nothing like the other.

Mr. Curtis: The others had other reasons. This is just a land issue, not a building issue. The other one had building issues. I need some help.

Ms. Leyva: I know we are talking about Lot 8 and 7. If the applicant wanted to, (his choice) he does have the ability to come up to our current standards of lot dimensions. He does own lot 9 too. So combining all three of them would make our minimum lot size. Correct? Applicant could come up to our current standards but he

is only looking at these two lots to adjust them. He is not looking to come up to our current standards.

Staff: Presumably.

Staff: To alleviate encroachment, the applicant is reorienting the lot lines. By doing so, it goes against our lot frontage requirements. There is no net change in the lot acreage. It's an orientation issue for frontage. You get into the issue of buildability and future development in Lot 7 for instance. There are orientation issues...front yard from rear yards. Based on the size and septic discussion, I am not sure that we have a rational basis to prognosticate development potential from that stand point. There are three parcels under common ownership.

Ms. Leyva: But we are doing a lot adjustment for a temporary building because it is a storage shed, not a home or dwelling.

Staff: Correct.

Mr. Butler: It's a metal frame building on a concrete slab so it's not a residence. I would ask how do I get rid of the encroachment? Can I be compelled to combine three lots to get rid of an encroachment?

Mr. Curtis: We are not in the habit of compelling property owners to do things unless there is a serious problem. So, I don't know if the word compel is one....

Mr. Butler: Okay. Forgive my verbiage. I guess what I am asking is, I've got a building that setting one third on the west lot and two-thirds on the middle lot. I've tried to come up with a way to get rid of that encroachment to give me the ability to do something if I need to or want to, although I don't have any direct plans to do anything. What is my....

Staff: Staff has not researched this but past experiences are coming into my brain called merger doctrine or lot merger. It is used in a lot of other places around the country. In some instances, depending on how it's interpreted in case law, physically building a structure over lots of record effectively merges the lots even if he doesn't combine the plat. He may have effectively merged the plat. I have never looked at it in the state of Arkansas. It's called lot merger doctrine.

Mr. Tucker: How long has the building been there?

Mr. Butler: Since we owned it. No we didn't build it. I am not trying to fix a problem I created. I bought the property and the building was on it. I would assume 20 years ago maybe would be my guess.

Mr. Curtis: You didn't build it. Without further research, I hesitate to say that we could make a reasonable guess as to what we can do for you. I am sorry to stretch this out but I think it's something we need to have Staff do some more research on to

try to figure a way that brings it up to code as best as possible with the least hassle to you. I don't know how that can be accomplished in two weeks' time. Maybe we can. We understand now why you want to do what you want to do and I guess it's up to us to decide whether we feel that that is in the best interest of the County. But I think we need to do some more research on it. If you will give us some more time.... Is there some time element here that we need to play with? Staff?

Staff: No, other than the noticing has already been sent out for the June 15th meeting.

Mr. Butler: Besides combining the lots, does anybody have any ideas about how I can remove this encroachment? In Chapter 5 as I read through it, lot line adjustments or building encroachment is specifically identified there. It seems to me that I am doing a simply lot line adjustment without changing the nature of the property.

Mr. Curtis: Yes, you are but when you change the lot line you are changing the frontage requirements so you are solving one problem and creating another one.

Mr. Butler: I would clarify that Chapter 5 reads am I creating a new problem? I am not creating a new problem. The same problem exists before and after this.

Mr. Curtis: Yes, I agree with you. We are trying to figure out a way that the same problem does not exist or a "as bad" as a problem doesn't exist.

Mr. Butler: I understand. If I carved directly out around the building, and didn't change the frontage, would we have to debate anything? If I neither change frontage or acreage....

Ms. Leyva: I will pull all the Vista Shores (Shaffer) permits with the Health Department. That way you can see all the ones that have been approved in the last five years to see septic feasibility and buildability on those little bitty lots.

Mr. Butler: I have lived at the top of Shaffer for seven years. I talked to "septic people" about it too. It's hard on these things. You don't know how far you are supposed to go. I could have had a full survey done but then the answer may be that that was a complete waste of time and effort because it was simply never going to get approved on any adjustment. I appreciate any feedback.

Staff: I will ask my Administrator to see if he wants us to pursue legal counsel through Mr. Spence to see if merger documents even come up in this county or in this state. Are these lots effectively merged now?

Mr. Tucker: You brought up a point of could you just wrap around it? If you chose not to merge them, ...

Mr. Cole: Is there any magic to keeping the three acreage?

Mr. Butler: At the time I did that so that I would only have one violation. If it's one trigger or five triggers, it didn't matter. I am just trying to brain storm ideas. If I did want to just combine all lots, is that a whole separate variance process? At that point I would meet frontage and acreage.

Staff: How much total acreage would all three combined be? If the minimums are met, there is no reason for any waiver or variance. In the simple scheme of things, what you have provided is a lot line adjustment. Showing how you want to orient your lot line due to the fact it was in violation of the County minimums. That's why the waiver was being sought. Lot combos are administrative approval. Staff reviews it. We approve it. It's a simple process. There is no waiver or variance involved.

Mr. Butler: It's over one acre I know.

Mr. Cole: He would not have to come back here?

Staff: That is correct. He would not have to come back here.

Staff: It's an option for you.

Mr. Butler: The other option of carving out around the building...would that trigger coming back here? It would seem like it would not by Chapter 5 requirements. That absolutely would create no new violation which is what it specifically says.

Mr. Cole: I think you would end up coming back here because you would want to for the future. If you would sell lots, you would want to show a document that you have the variance.

Staff: If you would carve out exactly around it, these building setbacks have to be abided by so it looks like it's pretty close now. If you move it you would be in violation of the building setbacks so you would have to have a building setback variance.

Mr. Butler: No, with the setbacks. I would carve 10 feet around the building.

Ms. Leyva: So we would end up with a 40-foot frontage instead of a 30-foot frontage?

Staff: Unless you were to snake it where it ended up basically where the existing one is. I think Staff can continue to work with it if they wanted to show us an additional exhibit. We could share with the Board other options.

Ms. Leyva: I want to make sure the applicant knows, if you choose to do the whole re-lot combination, you don't have to come back in front of us. To re-separate them out, all three would then be in violation of current ordinances. You are grandfathered in at this time because the lot sizes. You can continue to have the three lot sizes that you have. Septic feasibility is great. If you try to split them again all three would be

in violation. You can no longer be grandfathered in even though you could show that they preexisted.

Mr. Butler: No. This is not because I have a direct plan to do something. Honestly the process on what would appear to be a simple lot line adjustment and a frontage that violates before and after seems to be awfully challenging. Maybe it's not worth it speaking bluntly. We have a dock right there. I could put an easement in much easier than I could do this I suppose.

Ms. Leyva: Does the water come up to that Corps boundary?

Mr. Curtis: Your property touches the Corps boundary?

Mr. Butler: Yes. It is water front.

Mr. Leyva: There is something called flowage easement too. You might look into this if you ever think to build. There is not just Corps property but they also have a flowage easement as well.

Mr. Butler: That's another challenge of the septic with this whole area. The pin that this refers to or marker is at 126 feet. It did not sound like I have a buildable area.

Mr. Curtis: So, I want to have some kind of plan here. The plan is that Staff will do some research and get back with the applicant.

Staff: I think Staff should work with the applicant to find out how the applicant wishes to proceed forward. I don't know if it is solidified at this point. I think there is still discussion the applicant wants to have.

Mr. Butler: It would seem like my lot line adjustment is dead in the water. If that is the case, I would like to know it and pursue other things. If it is not the case, then I wouldn't see any reason not to pursue this.

Mr. Curtis: That's why we have this discourse. Without some more input from the Staff on the legalities on what is taking place here, I would feel very uncomfortable saying yes or no. I need to get some guidance as well. I think the rest of the Board feels the same way I do about this. I have been here almost eight years and this is the first time this has come up.

Staff: We will generate as much research as we possibly can in the next two weeks. We will still continue with the Public Hearing on this and just see where it falls. Is that acceptable to the Board?

Mr. Curtis: Yes. The Staff will communicate with you and we will take it from there.

Mr. Butler: Understood. Thanks for the time. If there is something that I decide between now and then, I will notify Staff.

Mr. Curtis: Yes.

Mr. Cole: Or if you feel you need more time…

Staff: You have full control. You can table this. You can suspend. You can do whatever you would like. We will have you on the schedule and will keep you there until you say otherwise.

Mr. Butler: Okay. Thanks for your time.

IV. Maris Variance, #16-085, 23525 Lin Z Way, Gravette, 18-16374-003

Maris Variance: Adam Maris, 23525 Lin Z Way, Gravette

Staff gave a presentation on the Maris Variance, #16-085, 23525 Lin Z Way, Gravette 18-16374-003

Comments from Mr. Maris: I want to buy the piece to the south of me (143 acres). Part of the purchase and sale agreement is that my neighbor is going to get a piece of the acreage that I have to the north. Therefore, (I need) a tract split. Derek (Staff) pointed out that I'd, in fact, built an 1,800-foot storage building within the setback. When we measured, it was 14 feet from the fence that my neighbor put up over 20 years ago. It was a fence of convenience, not of accuracy. The fence is to keep his cattle off my property. That is why I am here.

Board Comments:

Mr. Tucker: Tell us about the multiple residences on the parcel that is referenced.

Mr. Maris: They are just guest cabins.

Mr. Tucker: So is that part of the business?

Mr. Maris: Yes.

Mr. Tucker: Does each one have a septic system?

Mr. Maris: They are tied into whatever septic systems they need to be in. We had to get all the permitting for that.

Mr. Curtis: When was this done?

Mr. Maris: It has been done over the course of the last ten years.

Mr. Curtis: So it was okay ten years ago?

Mr. Maris: No. I don't know when the initial main building was built because I bought it as an existing building. 2009, 2011, 2013... each of the subsequent buildings were built and approved for septic.

Mr. Curtis: Okay.

Ms. Leyva: And this building that was built too close, is that an athletic facility?

Mr. Maris: It's a storage building. It holds our tractor. It's an 1,800 square foot metal building on a concrete slab. The most important thing is that I am buying all the property to the south of me where this encroaches. But before I can do that, I need to receive this variance.

Staff: The Board wanted to know about the uses and things so I went ahead and did a little research. In 2011, the four guest cottages were built. In 2012, the lateral addition to the main building you see in your aerial (was built). In 2014, the storage shed (that we are talking about in the variance) was constructed. So you had the lateral addition to the main building, four guest cabins. In 2011, the square building to the north of the four cabins was permitted for a building permit. So you have a lateral addition to the main building, the four cabins that were built in 2010 and then in 2011 you have another lodge building that was constructed. Then the last improvement was the storage building that encroaches on the setback.

Mr. Curtis: Thank you very much. I can certainly understand you measuring from the fence and building the building thinking you had plenty of room but the fence is wrong. That is not uncommon.

V. Williams Waiver, #16-086, 2555 Williams Way, Bentonville 15-12403-003 + p/o 15-12403-003

Williams Waiver applicant: Mr. John Herzik, 8874 La Bonne Vie Dr., Springdale, 72762

Staff gave a presentation on the Williams Waiver, #16-086, 2555 Williams Way, Bentonville, 15-12403-003 + p/o 15-12403-000.

Comments from Mr. Herzik: Mr. Williams presented me with the possibility of building him a home on his property which, of course, as a builder you like to hear. It seemed simple enough but ended up being a lot more complicated. It was originally an approved subdivision called Spring Valley. We learned as we submitted for our septic system, everything was checking out great with the perk. It kicked back with one problem, the rest of the lots in the subdivision had not been submitted for review for approved septic systems on each and every lot. Mr. Williams came to me and said that he wasn't sure if he wanted to make a subdivision out of this. I will just dissolve the subdivision to alleviate this problem. I just want to build my home. So he did so. That ended up being a lot bigger challenge than

anybody expected because of its location in between Little Flock and Benton County. No one really knew who was authorized to make those changes so he (Mr. Williams) was a ping pong ball for quite a while. He finally got that all completed.

One of the things he wanted to make sure was that he did not have any floodplain in his lot for insurance purposes. When he cut that small section off, it was in a flood plain because it is on a slope. The area located further to the north than what the Staff graphics show. Due to the topography we want it downhill to the fields. Trying to locate the septic field on another location on the lot brings us other reasons...water well and possibly a geothermal system. That ended up being a big problem for us. We would have to use a pump to go up hill rather than downhill. This presented a lot more challenges. If we could go ahead and get this approved for an easement, this would solve all those things and I could get started on his home.

The most important thing is that Mr. Williams owns all land around it (like a donut). Small hole is his lot in the middle. The closest house is a few football fields away so it really doesn't affect anyone else. So I was hoping it was a simple conclusion to get that easement.

Board Comments:

Ms. Leyva: So you don't have an approved septic system yet?

Mr. Herzik: No. The only reason it was not approved is that all the lots around it were not approved.

Ms. Leyva: When was it was submitted to the Health Department?

Mr. Herzik: Yes, that goes way back to December.

Mr. Tucker: Can septic be in a floodplain?

Ms. Leyva: Okay.

Staff: In summary, when we had correspondence with the applicant, we presented them with two options: (1) waiver process and not do a septic system redesign; or (2) come before this Board to seek a waiver. But before Public Hearing, have an easement recorded. Then submit your design to ADH for approval independently. Those are the instructions that we presented to the applicant.

Mr. Herzik: I am not sure where it (the easement) is in the approval process with the County.

Comments from Mr. Williams: Larry Williams, 7867 Lucas(?) Circle, Springdale, AR.

There seems to be a little bit of confusion right now about how I get the easement recorded. The surveyor told me that I need to have a title company do it. As soon as I figure out what I have to do, I will run it down there and have it recorded. So, we will have the easement recorded in the next day or two. FEMA moved the flood plain. These lots are 25 years old. I will get it out of the flood plan by creating a new lot. Then the health department wanted me to perk all this land up there. This was a waste of time, effort and money. This started last September. So then in the process, I have to go to Little Flock. You all seem to have a much more efficient way of doing things than they do. So, I have been waiting since September just to build a house on my property. The reason we are requesting this is that it is all about time. This was the simplest, quickest way to get it done.

Mr. Curtis: Not being a developer, it would seem to me that we could just change the lot line? The key here is that you can't change the lot line because it goes into a flood plain.

Mr. Williams: If you build a structure in a floodplain, that is a problem with the Board. If you go to the bank, this much of a lot is in it and the structure is not, we have a problem. So I am dealing with all these different people.

Staff: To dovetail off of Mr. Williams' comment, I took it upon myself to contact NFIP direct, to talk about the insurance issue. NFIP as well as flood plain management practices, it is not typical floodplain management practice for banks to require removal of the lot out of a floodplain. As long as the structure is not in it, from an insurance perspective, the NFIP doesn't really take issue with it. However, the lending institution as a private entity is able to exact whatever they would like. If they feel more comfortable with that parcel being completely out of the flood plain, then they have the discretion to require it.

Mr. Curtis: I appreciate the input.

4. **Other Business:** None

5. **Staff Updates:**

   I. **Administrative Approvals:**
   A. Cripps Minor Subdivision, 16-079, Worthington at Cripps Road, Gravette
   B. Thurman Minor Subdivision, 16-081, Luper Road, Springdale
   C. Haggard Minor Subdivision, #16-069, 10906 Slate Gap Road, Garfield

6. **Discussion Items:**

   I. **BBG Holdings, LLC – Land Use Change and Review Requirements.**

   Staff: On May 25th on our DRC, Mr. Shannon Weathers of BBG Holdings, LLC approached Staff to consult with them about whether they

were or were not in compliance with regulations whether they be County, State or otherwise. What initiated that, was that our Environmental Division had a complaint sent to them about environmental issues not necessarily planning issues.

When the environmental Staff went there, there weren't any environmental issues that they could see. However, one of the officers did note that there may be additional commercial activities that went beyond what was approved by the Planning Board and just brought it to the attention of the Planning Division. So Environmental closed their environmental complaint and handed it off to Planning. Therefore, we had a DRC meeting.

After the DRC meeting, we concluded with the applicant that there were, at least at that time, two additional uses beyond the fertilizer plant that was approved by the Planning Board in2002 and in 2005. While there is no hard file for the 2002 and 2005 Planning Board reviews, there is mention of those [respective] Planning Board approvals in the 2010 Planning Board review file. We have some old minutes but there is only one physical file for this property regarding the fertilizer plant from 2010. As you can see in the graphic, you have the poultry fertilizer feed approved in 2002 and 2005, and then you have the scale house which was added on in 2010. All that is associated with one use that was approved.

When we came out of the DRC, there was not only this E3, LLC, a construction and demotion processing (construction debris and reuse/recycling). A very worthwhile use in the County.

Mr. Curtis: This is a chipping facility for bedding for animals, right?

Staff: Not so much. It is really recycling a lot of the construction debris that is coming through. Additionally, there is a seasonal wood mulching products, Easterling Wood Products. As described by Mr. Weathers at the DRC, that is more of a seasonal business. The conclusion from Staff was, a nonresidential, non-ag use beyond what was approved by Planning Board was added. To satisfy the complaint that we were then handed, we need to come before the Planning Board to determine if these added uses constituted site plan review or major amendment to a previously reviewed large scale. We have done it that way before. One note though, there was an e-mail that was sent to me on Tuesday from Mr. Weathers essentially stating that the Easterling Wood Products is going to be removed. They will no longer operate there so that will only have the E3, LLC C and D processing in addition to the approved fertilizer plant. So that's the discussion on the floor.

Mr. Tucker: I remember in the past, Mr. Spence had sent orders to the tenants or land owner to appear for a hearing.

Staff: At this point, we don't have any cease and desist. It was literally a land use issue that was presented to us. The applicant came in willing to discuss with the County our position on it. We informed them that we would bring it up as a discussion item to the Board to make sure that these types of changes in land use would not constitute a material change to a previously approved plan.

Mr. Tucker: Did the building expand any?

Staff: No, it did not.

Ms. Leyva: Are we storing different chemicals? Different flow of traffic?

Staff: I would presume that the truck traffic would change a little bit with the C & D operations. A new subdivision is going up. One immediately adjacent to it and to the north. Coincidentally, we reviewed this subdivision tonight for the blanket variance for the septic.

Leyva: This one has, I am assuming, lots of ADEQ permits to be operating, especially so close to the creek that is behind them if I remember right.

Staff: I believe they have their existing notices of coverage from ADEQ. That is not the issue.

Ms. Leyva: I was thinking, does that change anything with them?

Staff: That is a good question. That is something that would probably get flushed out with....

Ms. Leyva: Or did they already have those approvals with ADEQ?

Staff: I do know in the 2010 file for the scale house, one of the stipulations was that they present evidence or proof from ADH of septic approvals and I do not find any of that in their file.

Ms. Leyva: The scale house? Does it even need...

Staff: I don't have those facts. We would get those through a review.

Ms. Leyva: Are they tearing the building down (seasonal wood products business) or just removing the commercial operation from it?

Staff: As the applicant described it at the DRC, it would be a fully enclosed operation. A lot of the demolition and reclamation type things where they are bringing in construction debris from work sites are out in

the open and exposed to elements whereas this would not. They report this to be kind of a more unique operation in that it is all contained, there are less particulates going out into the air and obviously you are meeting health regulations for negative pressure.

Ms. Leyva: The Easterling Wood Product seasonal use to be removed. What does removed mean?

Staff: That just means the use would be eliminated even though it's a seasonal use now. According to the applicant, they wouldn't have it there anymore.

Ms. Leyva: The building would turn into storage?...another part of their operation for something else? You would assume they are going to utilize the space for something whether it be…I'm going to store the lawn mower in it…

Staff: The warehouse at 10397…I believe that was part of the review from either 2002 or 2005 depending on which one's newer. Warehouse 1 and warehouse 2 being legitimized for the fertilizer plant. There are portions of 10401 that are being used for the C & D processing. So 10401 is the building that at least now would contain two uses. I don't know about the other warehouse at 10397.

Mr. Tucker: Both are industrial uses?

Staff: Yes.

Mr. Tucker: We are walking the line of going between what kind of industrial use is allowed.

Staff: To answer that question, the 2002 and 2005 basically fell under Appendix A in the [previous Planning & Development Regulations]Blue Book.

Mr. Tucker: So the Blue Book said that they couldn't have a change in use without approval.

Staff: Right. It provides sample lists of commercial uses and sample list of industrial uses. One of the sample lists for industrial uses is fertilizer.

Mr. Tucker: If I remember right, the approval would have said any change in use required Board approval.

Staff: New uses, newly established, nonresidential, non-ag uses or changes in existing uses…

Mr. Curtis: What was the environmental call about?

Staff: That is unknown to me because when it came into Environmental they thought it might have to do with the Solid Waste District. The previous complaint may have involved bypassing State rules and going over State lines with debris. This goes well beyond [County] Planning at this point. I would recommend contacting Ms. Sidwell if you have questions at this point. I can E-mail the report or get a copy to you, but I would definitely recommend contacting Ms. Sidwell.

Mr. Curtis: Okay. The reason I ask is that I didn't know if a neighbor called to complain. Or perhaps the people in the new subdivision were trying to "stir things up" so to speak.

Staff: The applicant, Mr. Weathers, brought that up voluntarily at the DRC. The applicant has been in contact with a neighbor, Mr. Shankle of the new subdivision, and they are building a large berm on the far southern side of the Osage Estates to help shield the view at least alleviate any wind from the plant.

Staff: Does just the C & D operations constitute enough of a change from the existing uses that were approved to bring them in for a full site plan review?

Mr. Tucker: If their approval said that they can't change their use, without approval, yes.

Staff: The actual vote for that use in 2010, came under old business.

Mr. Curtis: I don't remember it at all.

Staff: There is not any change in the gross square footage. We are dealing with a change of use of the existing structures.

Mr. Curtis: I thought we were keeping pretty good records in 2010.

Staff: We have a site plan and meeting minutes but in terms of the vote, it really fell under old business.

Ms. Leyva: So the approved uses in 2002, 2005 are poultry feed and litter (the pink things). Are we talking about the difference of, I have an oil change shop and now I have a transmission shop OR are we talking about now I am manufacturing vehicles out of the building? That's what I am trying to understand. Does it really fall under the umbrella of what the approved use was?

Staff: In 2013, my predecessor had to respond to this subject and I don't know if it was because of a complaint then. She wrote a memo which I have in the current file. Staff could not find a physical file from 2002 or 2005 but there is mention of it and all sorts of letters from 2002 and 2005 but there is no file. In 2010, there is a file. So there is a poultry feed litter fertilizer approved use in 2002 and 2005 and then the scale house is added in 2010. In 2010's file, you have an overall site plan that shows these two warehouses and the scale house. But the only use that Staff is able to find is the fertilizer plant. That is the approval.

Mr. Curtis: I can understand that there are no files from 2002 and 2005 because I was around and say what was happening. The people in the office were of the ilk that they wouldn't have kept files. I am of the opinion that we have to take a look at it.

Staff: We have an open inquiry that we can't close. Staff would close it by going through Site Plan. Our file comes from our Environmental Division signed by Ms. Sidwell.

Mr. Curtis: There is no anonymous complaint. It sounds like what you have is pretty inconclusive.

Staff: The existing use, the fertilizer plant, is approved. Applicant wasn't aware of Planning regulations but is seeking health permits now. They weren't aware of the regulations regarding this change of use situation.

Mr. Curtis: If they came in 2010 to add the scale building, they were aware that they had to come in front of the Board.

Ms. Leyva: The applicant is not adding a building. Is the change in use, truly a change in use?

Staff: I don't believe our current regulations stipulates what change in use constitutes.

Ms. Leyva: The applicant would see this as an addition to his process, not a change in use.

Staff: If you meet #6, you are exempt. And then you have a list of development requiring site plan review.

Mr. Ed Mount: Owner of E3, LLC. I have a lease on that property and the buildings for a year starting in January (2016). If there are any question on the C&D, I can answer them.

Mr. Curtis: What do you do?

Mr. Mount: Sort demolition debris and recycle it so it doesn't go to the landfill. The wood is taken to a grinding facility to, the concrete you take to a concrete crusher, the scrap metal is taken to a scrap yard, the shingles you take to asphalt recyclers, the cardboard is baled and sold to paper mills. You can recycle about 70% of it.

Mr. Curtis: So you sort it at this facility?

Mr. Mount: No. I have an ADEQ permit that I am processing. Once it is completed, I can sort it (the debris) at that facility.

Ms. Leyva: And the remaining 30%, what happens to it?

Mr. Mount: There is always some trash you cannot recycle...dirt, rock, etc. That will go to the landfill.

Mr. Curtis: So how many trucks a day are going in and out?

Mr. Mount: I run two trucks…five to ten turns.

Mr. Curtis: Do builders deliver it to you?

Mr. Mount: No, I have roll off trucks with 30 yard open tops. Right now, it's all going to the landfill which is a shame. Until I can get approved, I can't dump and sort. No one else is doing this around here so there is a big need for it. So that is my niche. I am more of a recycler than a trash guy.

Mr. Curtis: I like the idea. There is a huge need for it.

Ms. Leyva: So that's what the entire building is going to be used for or is it still going to be used for poultry litter?

Mr. Mount: You would have to speak to Mr. Weathers about that. I have half of the building that he operates out of and half of the building the Easterling has now. And he is moving out.

Ms. Leyva: So the processing is hopefully going to done in both of those buildings.

Mr. Mount: It will be in the Easterling Wood building. Not in the poultry and feed building.

Staff: He will be in the western, larger area.

Mr. Mount: I charge less than what the landfill would charge and recycle as best as I can. So I have competitive rates and for LEED projects, I offer separated cans. It's what the customer wants.

Mr. Curtis: I love the idea. I love that you are an entrepreneur in Benton County. It's all great. What do we do?

Mr. Tucker: The only reason I see for it to come back to Benton County is that when it was approved, it was for a specific use.

Mr. Mount: I have been operating there since January with no complaints.

Ms. Leyva: Any outdoor storage with your process?

Mr. Mount: The only thing that could be outdoors is if we had concrete debris that was segregated. There would be nothing comingled.

Ms. Leyva: Do we have containers for that? How is it going to be stored? Where is it going to be stored? So potentially 20 truckloads, 20 roll offs that could be dropped off per day. And where do those get dropped off at? No roll offs will be stored outside?

Mr. Mount: Right. I have certain containers inside so that get taken to the right place. It would not be stored outside but eventually it would be outside. I have a drop lot in Springdale where we stage empties that we use to swap out. They would be dropped off inside the building.

Mr. Cole: So there would be no change to the Site Plan.

Mr. Williams: Does the Certificate of Occupancy change?

Ms. Leyva: How many employees do you have?

Mr. Mount: Five on the site.

Mr. Curtis: I don't think parking is a factor. The traffic is not changing that much. I can't see where it's that big of a deal. It's not changing use. It's an addition. Square footage isn't added either.

Mr. Cole: I agree. Not that much of a change in use.

Ms. Leyva: What did the original approval stipulate, especially in regard to outdoor storage?

Staff: Graphically I don't see anything that speaks to permission of outdoor storage or that it is prohibited. It is not delineated.

Ms. Leyva: Is there city water out there?

Staff: No. It is all well and septic.

Mr. Mount: There is a bathroom in the scale house.

Ms. Leyva: Any noise that you will be generating?

Mr. Mount: No. It will all be done inside.

Ms. Leyva: Hours of operations? Same days of operations?

Mr. Mount: Same.

Staff: BBG Holdings fertilizer plant is in the approved minutes. All Board members voted in favor of the motion. Details on truck activity is available. Hazard chemical compliance letters are referenced.

Mr. Curtis: The addition of the scale house didn't cause much controversy or I would have remembered it.

Ms. Leyva: With the information that we currently have, I don't feel that it needs to come back in front of us.

Mr. Curtis: Consensus.

Staff: Staff appreciates the discussion.

Meeting Adjourned: 8:50 p.m.

Next Meeting: Wednesday, June 15, 2016