

FILED

2016 OCT 21 PM 1:16



Benton County Planning Board
Public Hearing
Technical Advisory Committee Meeting

TENA O'BRIEN
CO & PROBATE CLERK
BENTON COUNTY, AR

October 5, 2016

6:00 p.m.

Benton County Administration Building
215 East Central Avenue, Bentonville AR 72712

Meeting Minutes

PUBLIC HEARING:

Call to Order: The meeting was convened at 6:00 p.m. by the Planning Board Chair, Ashley Tucker

Roll Call: Bob Bracy, Jim Cole, Sean Collyge, Ron Homeyer, Terry Maienschein, Ashley Tucker and Rick Williams were present.

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

Public Present: Fourteen people signed the sign-in sheet.

Disposition of Minutes: September 21, 2016

Mr. Williams motioned to approve the September 21, 2016, Planning Board Meeting minutes. The motion was seconded by Mr. Maienschein. The motion carried 7-0.

General Public Comment: None

Old Business: None

New Business – Items for Public Hearing:

**I. Gorgas Site Plan Review, #16-213, 20570 Park Road, Rogers;
15-09826-000**

Applicant: Dave Chasten, 8830 Garrison Road, Rogers; also present was John Gorgas, 20510 Park Road, Rogers

Staff gave a presentation on the Gorgas Site Plan Review, #16-213, 20570 Park Road, Rogers; 15-09826-000

Mr. Tucker: Do you have anything to add or any additional comments?

2016 OCT 21 PM 1:16

Mr. Chasten: We got a copy of the bill for Benton County Water #5 from the water department. I talked to Caroline (*Eastman*) at the Benton County Health Department. She sent me an e-mail. They inspected the septic when she was at the bar and she said basically that it was okay. I got a letter here stating that the septic was okay for the two bathrooms. If we decide to do a restaurant, she said that we would have to upgrade the septic but we are not going to do that. It is just going to be two restrooms. She said it was basically okay for the two restrooms.

Mr. Tucker: Have you provided that letter to Staff?

Mr. Chasten: I have it right here. (*Mr. Chasten hands the letter to Taylor Reamer.*)

Mr. Tucker: Taylor (*Reamer*), let us know if that letter is sufficient for you. Anything else to add?

Mr. Chasten: That's it.

Board Comments: None.

Staff Comments: None.

Public Comment:

Janice L. Base, 4727 Marcel Avenue, Memphis, TN 38122

I am also a Benton County taxpayer. I own 40 lots at Tanglewood. I am the owner because my parents are deceased and I inherited the rest of the lots. My parents were the sole owners of Tanglewood at one time. It was broken into subdivisions. One of the people that just spoke, he has a motel out there. My father knew about the motel and had agreed to that. My parents had "protective covenants." They were filed and recorded many years ago. When I received a letter from this gentleman, to utilize the property that he had purchased for the recreation/leisure area, our family attorney, which is Kelley law firm, checked the covenants. For each of these subdivisions, there are covenants telling what you can and can't do on the property. They checked it out. I am not trying to be a bad person, or anything like that, but as the daughter of my parents, I am supposed to watch all this stuff. My mother just passed so I am very emotional. They looked all this stuff up. They have to do that anytime there are any changes out there. That's why I had to come tonight; because according to the covenants, it's considered a violation. Anytime anything is done out there, they have to look all this stuff up and see what you can and can't do.

Mr. Tucker: Could you describe what the violation would be in the covenants?

FILED

2016 OCT 21 PM 1:16

Ms. Base: Yes, I can. At the time that they did the motel, you actually got permission from my parents to do what you could do on the lots that was part of the thing that you could do.

TELEPHONIC
CO. & PROBATE CLERK
BENTON COUNTY, AR

Ms. Base began to read from a document....

No lots shall be used except for residential purposes provided, however, that RH Base and Roselle Base may authorize the use of one or more lots for light commercial including motel or recreational purposes. No building shall be erected, altered or be placed or be permitted to remain on any other lot other than one detached single family dwelling not to exceed two and one half stories in height and a private garage or for more than two cars.

And then there is another thing...the Board of Adjustments, which would be my parents, from time to time upon majority vote, shall have power to alter or modify said protective covenants. Understood and agreed that said Board shall have specific power to authorize the use of one or more lots for light commercial including motel or recreational purposes.

They didn't contact my mamma or anything. She just died a year ago March. They didn't contact her or anything. It would have had to have been legal.

Mr. Tucker: So this is current. So it is something that is going on now within the past few weeks. Is there a provision for who would supersede your parents as the BOA?

Ms. Base: The attorney said no. These are what control everything. I just talked to him today to find out if it they were still in force and they said yes. Kelley Law Firm. I asked if I would have the power to do anything.

Mr. Tucker: One of the things that we are reviewing is, does it meet the state and local planning regulations? What you are describing is a civil matter that is between you and the owner.

Ms. Base: I don't know. The attorney told me today that they can't do nothing.

Mr. Tucker: That is between you and the person who purchased the property. We are here to administer the regulations and ordinances of Benton County in the state of Arkansas.

Ms. Base: Well, this is Benton County. This is filed in your county.

Mr. Tucker: That is a civil agreement between you and the owner. It may be filed in the County, but it's not an ordinance that we have jurisdiction over. We have no authority over that document. Does that make sense?

FILED

2016 OCT 21 PM 1:16

Ms. Base: Yes I know you can't control it because this is a done deal. They can't do anything about doing that out there. They have no control over it. They can't do that on that property.

TERESA DRIEN
CO & PROBATE CLERK
BENTON COUNTY, AR

Mr. Tucker: We administer the rules and regulations that were set by the Quorum Court of Benton County. The document that you are describing is a private matter, not a public matter. You record it so that everybody has access to it.

Ms. Base: This has been recorded in Benton County by Josephine R. Headland, clerk and recorder in Benton County, Arkansas.

Mr. Tucker: Yes, that is the normal way that a deed would be recorded or a deed restriction. It's not an ordinance. It's a private matter. It's between your parents and the individual they sold the land to. They recorded it so that if someone bought it later, they would still have access to the document.

Ms. Base: Well, I don't know. The attorney said that they couldn't do it, is what I was told.

Mr. Tucker: You will have to talk to your attorney and make that matter between your attorney and the applicant's attorney. That's not something that governs what we do here.

Ms. Base: Okay. He just told me to come and that they were not able to do it because they wouldn't have permission to do it because my parents were not alive to tell them that they had permission.

Mr. Tucker: You will have to talk to your attorney and to the applicant. Nothing that we do here replaces or supersedes or overrules or overwrites that private agreement. Does that make sense to you? We could approve it; but if they made an agreement that said that they wouldn't do it, then even if we approve it, it can't be done until that agreement is modified or if that agreement has been vacated because your parents are deceased.

Ms. Base: Yes, I just don't want to get in a mess and didn't want you to get in a mess.

Mr. Tucker: We appreciate that. It sounds like there is a document that the applicant needs to consider. As part of your process, you should consult your attorney to find out what that document holds. Thank you ma'am.

Ms. Base: Okay.

Mr. Tucker: Is there anyone else who would like to speak? *(None)*

FILED

2016 OCT 21 PM 1:16

Mr. Tucker: Given this document that was presented, we will offer you the same opportunity to speak on that document. Like I said, nothing we say or do here, should be explicitly or implied to overrule agreements that were made by deed or recorded in an easement or anything else. We just administrate the law of Benton County.

LENA O'BRIEN
CO. & PROBATE CLERK
BENTON COUNTY, AR

Mr. Chasten: What I don't understand is in the beginning, it was a bait shop, it was a gas station, it was a convenience store, and then it turned into a bar. All these structures were built through all this time since the late 60's. If it is supposed to be a single dwelling for a home or a house, that was vacated 50 years ago or better. I don't understand how it could become a bar and a convenience store with this covenant supposed to be in court.

Mr. Collyge: There may have been an agreement between the POA and the previous owner that may have never been recorded if they had just a letter agreement. Once it started, it's been ongoing.

Mr. Chasten: So what we need to do is to find out who is in charge of giving us this agreement? They are deceased.

Mr. Collyge: If it was filed, there would be a record of an exception to the POA. I think it may have very well have been that they requested a letter and just kept it in their file. It happens all the time. People don't think about filing those things and the years go by and so forth.

Ms. Base: I was my mother's POA. I am the sole owner of anything that is left. I am representing the family now. I will have to talk to my attorney.

Mr. Chasten: So how do we go about contacting the people to get permission if they are deceased? So you (*Ms. Base*) can make the decision?

Mr. Tucker: Sir, I ask that you address the Board. I would consult your attorney. Find out from the title company what all are the documents involved. The title company should have the documents that you need...or a title company... whoever you typically use. So any questions or comments?

Mr. Bracy: Is there any value to us approving or denying anything at this point based on some civil litigation?

Mr. Tucker: There are a couple of ways that you could choose to handle this. You could choose to request more information from the applicant. You could vote to postpone the vote. Or we could amend the conditions. Or we could just choose to table it at this time.

Mr. Bracy: I suggest that since there is some civil litigation that needs to be taken care of, that be taken care of before we vote and that we postpone at this point. Is that proper?

FILED

2016 OCT 21 PM 1:16

Mr. Gambrill: If this Board is to consider any potential civil litigation, they may want to wait and make that consideration once an actual suit has been filed. Given that there is no suit now, you may want to take that under advisement.

Mr. Tucker: That's generally the way litigation is, if it's not pending, then it does not exist. There is a potential for it but it.....

Mr. Cole: Any litigation or cause of action isn't competing over Planning Board's approval of this application. So it is outside the scope of what we are reviewing. I would tell the applicant you do need to contact your attorney. Anything you do is at risk.

Mr. Collyge: Mainly for the purposes of just clearing it up.

Mr. Chasten: Absolutely!

Mr. Tucker: A little bit of money for an application is somewhat mute at that point. I will leave it up to the Board to choose. If we continue to discuss the point of action. We either postpone it to a later date until we have more information, we can vote now or we can make it part of the conditions that it be resolved prior to decision making. Or we could just vote.

Mr. Maienschein: I don't think it involves us.

Mr. Cole: I agree with that comment. If the applicant wanted to table it to resolve this, that would be one thing. Otherwise, we have an application before us that is a separate matter.

Mr. Tucker: The application is to remove the structure that is already removed and build a shade structure, for lack of a better term.

Mr. Bracy: And two bathrooms in a building.

Mr. Collyge motioned to approve. Mr. Cole seconded the motion.

Motion carried 7-0.

Mr. Tucker: Your motion carries here. Like we said, you need to resolve civil matters especially with the person that is sitting in the audience. Sounds like she has contacted her attorney so you might want to do the same. Get with Taylor (*Reamer*) to get the necessary paperwork.

FILED

2016 OCT 21 PM 1:16

II. Dake Septic Waiver, #16-197, 13340 South Hendrix Road, Bentonville; 18-08446-000

TENA O'BRIEN
CO & PROBATE CLERK
BENTON COUNTY, AR

Applicant: Brandon Dake, 4403 Braymore Drive, Rogers

Staff gave a presentation on the Dake Septic Waiver, #16-197, 13340 South Hendrix Road, Bentonville; 18-08446-000

Mr. Tucker: Any questions or comments?

Mr. Dake: No sir.

Mr. Tucker: Anything from the Board? *None*

Mr. Tucker: Staff? *None*

Mr. Tucker: Would anyone in the audience like to speak on this waiver? *None*

Mr. Williams motioned to approve. Mr. Collyge seconded the motion.

Motion carried: 7 – 0.

III. Williams Waiver, #16-211, 19901 Walker Road, Siloam Springs; 18-13122-004

Applicant: Beverly Williams, 19901 Walker Road, Siloam Springs; also present was Zach Pinoy, 18991 Highway 16, Siloam Springs

Staff gave a presentation on the Williams Waiver, #16-211, 19901 Walker Road, Siloam Springs; 18-13122-004

Mr. Tucker: Do you have any additional comments?

Mr. Pinoy: I can't think of anything to add, no.

Board Comments: None

Staff Comments: None

Mr. Tucker: Is there anyone in the audience that would like to speak on the Williams waiver? *None*

Mr. Maienschein motioned to approve. Mr. Cole seconded the motion.

Mr. Tucker: Any discussion on motion? *None*

Motion carried: 7 – 0.

FILED

2016 OCT 21 PM 1:16

TENA O'BRIEN
CO & PROBATE CLERK
BENTON COUNTY, AR

TECHNICAL ADVISORY COMMITTEE

1. Call to Order:
2. Old Business / Ongoing Applications: None
3. New Business:

I. **Hall Setback Variance, #16-217, 10310 Red Bluff Road, Garfield, 15-10482-000**

Applicant: Steven Hall, 10310 Red Bluff Road, Garfield

Staff gave a presentation on the Hall Setback Variance, #16-217, 10310 Red Bluff Road, Garfield, 15-10482-000

Mr. Tucker: Mr. Hall, do you have anything to add?

Mr. Hall: The request is only to permit that this building be built a little more safely. The land topographically falls off fairly steeply from the top of the road. By moving it any feet at all from the setback, it would help make the building process safer and remove some of the expense of raising a foundation building level.

Mr. Tucker: So the hardship is essentially the 120 feet of fall on the back of the building and down to the valley below?

Mr. Hall: Yes. This is what we call a parking lot right there. It's been cleared since the house was built. The intent was to put a building on this. If I have to set it clear back, I will have to remove some more trees and I am not particularly fond of doing that. So moving up anything at all gets me out of the trees that are existing. It also makes it safer and less expensive for me to build.

Mr. Tucker: Any questions from the Board?

Mr. Maienschein: Is this a subdivision lot?

Mr. Hall: Yes.

Mr. Maienschein: Are there any covenants? Have you gotten approval?

Mr. Hall: Yes there are. There are no setbacks in the covenants.

Mr. Tucker: The building that you are building, where are you measuring the setback from, the wall or the overhang?

FILED

2016 OCT 21 PM 1:17

TENA O'BRIEN
CO & PROBATE CLERK
BENTON COUNTY, AR

Mr. Hall: Actually the wall. There will be an 18' overhang

Mr. Tucker: So that is something you need to consider. The farthest projection of the building is where the setback is to. Should we modify this to 11-1/2 feet into the setback?

Mr. Hall: Yes, we probably should do that. I could just leave it as it is and make sure the building sets back 1-1/2 feet more. Is that correct?

Mr. Tucker: That would actually be easier.

Mr. Hall: Yes, and it might be less confusing for the people that received all the letters. I have no problem with moving it back if I have to. As I said, any gain that I can get helps.

Mr. Tucker: Okay, if you have 1-1/2 feet to give up....

Mr. Hall: No problem. I would certainly give that up for time's sake.

Mr. Tucker: Anything else from the Board? *None*

Mr. Tucker: Staff, anything? *None*

Mr. Tucker: I will see you in two weeks for Public Hearing.

II. Murray Septic Waiver, #16-218, 20545/20549 Russell Corner Road, Gravette; 18-14950-001

Applicant: Beverly Murray, 63320 East 189 Road, Fairland, Oklahoma; also attending is Jaimee Perryman, 20549 Russell Corner Road, Gravette

Staff gave a presentation on the Murray Septic Waiver, #16-218, 20545/20549 Russell Corner Road, Gravette; 18-14950-001

Mr. Tucker: Could you tell us a little bit about your project? What you are doing? Why you are doing it?

Ms. Murray: My daughter travels for her job. It's been a problem for me to come over because she does have animals to take care of. I wanted the trailer so that my son could move in a take that burden off me. That is basically what we are doing...putting in another dwelling for him so he can be there and I don't have to commute as much as I have been. She does quite a bit of work and she travels quite a lot. I am not that young anymore.

FILED

Mr. Tucker: Okay. That is a fairly normal request. Any questions from the Board?

2016 OCT 21 PM 1:17
TENA O'BRIEN
CO & PROBATE CLERK
BENTON COUNTY, AR

Board Comments: None.

Staff Comments: None.

Mr. Tucker: Alright. We will see you in two weeks.

III. Springtown SDA Church Site Plan Review, #16-224, 12444 Fairmount Road, Gentry, 18-10773-005

Applicant: Jason Williams, 644 Red Oak Street, Gentry

Staff gave a presentation on the Springtown SDA Church Site Plan Review, #16-224, 12444 Fairmount Road, Gentry, 18-10773-005

Mr. Tucker: Mr. Williams, do you have anything to add?

Mr. Williams: Since we visited with the Fire Marshal, we have revised our plans reducing the seating capacity of the sanctuary to meet the requirements for NOT sprinkling our building. Based off of his comments, we are going to submit plans to Benton County, to the Fire Marshal, for further review and comment to waive the sprinkler system requirements.

Mr. Tucker: In general, that has been somewhat of a difficult item in the area that you are developing. Several people have wanted to develop to a scale similar and they have not been able to. So definitely keep that in mind. We would hate to approve something and then you would have to come back. Spend a lot of your time.

Could you tell us a little bit more about the use, the breath and length of use?

Mr. Williams: Yes, we have outgrown the current building with the influx of our congregation. Over the past several years, we have done some fund raising and have made the decision to expand and have a larger sanctuary and larger classroom areas for our church. We have no intentions of having it as a school. It's just going to be for Sunday church. Saturday is our day of worship. With that being said, it's just to accommodate a larger classroom and sanctuary than what is existing. Our plans are to take the existing facility and turn it into a fellowship hall.

Mr. Tucker: Do you plan on doing daycare, serving meals, anything like that?

2016 OCT 21 PM 1:17

TENA O'BRIEN
PROBATE CLERK
BENTON COUNTY, AR

Mr. Williams: No, during the week, there are just daycare in the building. Outside of that, there is no daycare or anything like that in the new facility.

Mr. Tucker: Do you plan on renting the building out on Sunday or anything like that?

Mr. Williams: No, there are no plans on renting out that building.

Mr. Tucker: There's pretty much something every day for something generally not school related or not daycare related.

Board Comments: None.

Mr. Tucker: Taylor (*Reamer*) could you flip over to the aerial image? One comment on buffering. This one sits in a fairly large wooded area.

Mr. Williams: Yes, I know on the report it states that it's 9.4 acres. We are actually on a total, on the entire parcel, of almost 40 acres. So our request would be to waive the buffering requirements due to our facility being on the northern center portion of the property area. We are surrounded by tree line in nearly all directions. A member of our church actually owns the property to the south. We could provide documentation stating that he would not require us to have any sort of buffering.

Mr. Tucker: Okay. It appears to be fairly well buffered in its current state with solid vegetation on the property. I would leave it up to the Board as well.

Mr. Homeyer: I have been on the property. Other than the house to the south, you can't see any of the other residences from the property. The property to the south could change hands. But due to the topography, anything you would place next to the church, you would be looking over from the property to the south anyway. Buffering would take a long time to ever get to the point where it actually buffered.

Mr. Cole: Is the parking on the other lot also?

Mr. Williams: Yes, it is.

Mr. Tucker: It actually goes almost to the pavilion, doesn't it?

Mr. Williams: It's going to go to the west.

Mr. Cole: Is there an easement?

FILED

2016 OCT 21 PM 1:17

Mr. Tucker: It's the same owner. Two parcels, common ownership
TINA OIGRIEN
CO & PROBATE CLERK
BENTON COUNTY, AR

Mr. Maienschein: That's their driveway, correct?

Mr. Williams: That's correct. That's an asphalt paved driveway leading up to the church facility. It's a private drive. We plan on adding a parking lot to the west in the gently sloping grassy field area.

Mr. Tucker: Anything else? Staff anything else? We will see you in two weeks.

**IV. Smith Setback Variance, #16-228, 14049 Pyramid Drive, Rogers
15-06305-000**

Applicants: Janacek Remodeling: Tim Janacek, 1812 South 26th Street, Rogers and Jonathan Janacek, 7 Finger Circle, Bella Vista

Staff gave a presentation on the Smith Setback Variance, #16-228, 14049 Pyramid Drive, Rogers; 15-06305-000

Mr. Tucker: Do you have anything else to add?

Mr. (Tim) Janacek: Actually it's not a bedroom, it's a playroom for their grandchild who was recently born. They let us know that they didn't need any more bedrooms. They have an existing one-car garage. When this structure was remodeled a few years ago, they only had an area for a one-car garage. They have been using this area as an exercise room. He wanted to build a garage. Looking at the layout of the property with the sloping, I could not get a garage in this area. So I advised him that we could make an exercise room there and let him have his existing garage back. If I can do that, can I just put a play area up there since I have a new grandchild. His family trust does own the property right next to it so it's not like it's impeding on another piece of property. He's not bothering a neighbor or anything. The other house is 21 feet from the property line so there is quite a bit of setback. The way these houses are built out there, you are not going to change much if somebody would ever come in and buy the property next to him. You just can't move a lot around. When the house was remodeled, it stayed within the existing footprint of the house when it was built in 1968. If you look at the layouts of those properties, it's a pie-shaped lot and a hard area to work with there and try to get anymore room at all possible. We can't go any closer to the lake with the Corps setbacks. With the triangular shape, it took us some time to figure out how to make something work. We will have to actually put in a retaining wall on the side of the exercise room to keep water flow from in there. It's going to be about 3 feet into the

existing hill side in his driveway. That's the reason why I would like to make that crotch there because of the slope of the land. JENA O'BRIEN COUNTY CLERK BENTON COUNTY, AR

Mr. (Jonathan) Janacek: If you'll notice between the two properties, there is actually a block retaining wall going that entire distance. Our request for the variance is basically one foot from that wall. So even being that close to it, any piece of equipment that would ever need to go through there, it would change nothing for them from what it currently is.

Mr. Tucker: Are you measuring to the wall or to the roof overhang?

Mr. (Jonathan) Janacek: To the overhang.

Mr. Tucker: To the wall would actually be another 12", a little further back. 18" further back. So there would be roughly 2-1/2 feet back.

Mr. (Jonathan) Janacek: Yes. And that's from the closest point. Because of the layout of the lot, it actually gets further away. There's only one spot, which is the very corner of the building, that would be approaching the property line.

Mr. (Tim) Janacek: We got with Staff to establish what setbacks are out there. We couldn't find what setbacks were when this was put in years ago. So we are going on the existing 10 foot setbacks.

Mr. Tucker: I think the 10 foot would apply today no matter what it was before.

Mr. (Jonathan) Janacek: Right, and that's why we are asking for the variance on this. It's just strange lots out there. There's only so much you can do.

Mr. Tucker: How much width are you building?

Mr. (Tim) Janacek: 14 feet.

Mr. Tucker: Are you providing stairs within that 14 feet or are the stairs in the existing residence?

Mr. (Jonathan) Janacek: For the second-story structure, the second story itself will have a doorway that goes into the kid's play area. Then the first floor will have a door that goes into the garage into the new exercise room.

Mr. (Tim) Janacek: We are keeping the floor levels the same with the existing structure. Right now the second story that will be tied into is a

2016 OCT 21 PM 1:17

media room. So you will be going into the media room to get into the play room upstairs. Downstairs you will be going through the garage to get into the exercise room. We have elevations with the looks of the neighborhood. The house ties in quite well together. It does not take away from the area at all.

Board Comments:

Mr. Bracy: That retaining wall being so close, are there any special drainage requirements?

Mr. (Tim) Janacek: There is a 12" drain in place with catch basins. One by the pickup that's parked up there (*referring to a photo*) and then another one further down that is not showing on here. It's about where the arrow is pointing to the retaining wall itself. It's in that area right there. Just to the right of that wall is another 24" x 24" catch basin. It is 12" drain pipe to catch water from flowing. That was one of the problems they had in the past that was addressed by putting all this in to try to redirect that water so it would not be a problem.

Mr. Tucker: Which way is water flowing?

Mr. (Tim) Janacek: Water flows coming toward us so it is coming downhill...from the pickup (*in the photo*) downhill.

Mr. Tucker: So it is flowing from the top of the sheet down?

Mr. (Jonathan) Janacek: No, from the bottom left to the top right.

Mr. Tucker: So you are going to essentially cut off the water as it flows along the side of the retaining wall.

Mr. (Jonathan) Janacek: Where the garage is going right now that water is redirected, I mean where the exercise room is, that water is already being redirected in front of the house. Because of the slope of the land, and because of the property when all that was built when the concrete was put in, anything from the retaining wall to the front of the house, goes that direction. It all had to be sloped that way because it is at the lake.

Mr. Homeyer: Is that a shared drive they have there?

Mr. (Tim) Janacek: Yes, it is.

Mr. Homeyer: So you are running all the water down that shared drive?

2016 OCT 21 PM 1:17

Mr. (Tim) Janacek: No, there is another catch basin in the existing garage. We are not putting any on the neighborhood. The one that was remodeled in 2008, that was a very delicate thing to address there.

Mr. (Jonathan) Janacek: There has been rework from that first remodel to some of the drainage. We weren't anticipating how water was going to run exactly. Now that we know how it does run, it allows us to create some better catch basins with this future project to prevent water from going where it shouldn't go.

Mr. (Tim) Janacek: Basically, everything on the right side of that telephone pole goes down to the center of the driveway and straight to the lake. And that is Mr. Smith's property.

Mr. Gambrill: The imagery on the large display boards is a little bit more resolute than the ones that are right in front of the Planning Board, just FYI.

Mr. Tucker: So we are looking behind the telephone/power pole. So it is actually sloping left to right in this image.

Mr. (Jonathan) Janacek: That's correct. There is a built-in catch basin drain right there to catch water from flowing down the hill right now. When we have to build our new concrete wall up hillside where that planter is, we will redirect that water down into that catch basin.

Mr. Tucker: How do you prevent undermining the wall?

Mr. (Jonathan) Janacek: French drains.

Mr. Tucker: So you are going to install a drain to catch the water. Right now the soil is retaining the toe of the wall. Are you tying the footing into the retaining wall? You are only a foot back. You are actually going to be in the wall with the footing.

Mr. (Tim) Janacek: Actually our footing will go right up to the retaining wall, yes. Between the retaining wall where the bushes are, there is some drainage back in there. At the pole, it's about two feet wide and goes to approximately 3 feet wide and wider down there. There's negligible amount of water that gets in that area because there is an existing curb up there. So anything coming down the driveway is all flowing down to the drains down below now. Anything to the left of that telephone pole, goes on the other property with the retaining wall and the catch basins in there. That is all designed to stay on that side of the property.

Mr. Bracy: So the proposal that's the exterior wall that's going...

2016 OCT 21 PM 1:17

JEAN O'BRIEN
2016 PROBATE CLERK
BENTON COUNTY, AR

Mr. (Tim) Janacek: We are just going to bring that out.

Mr. Bracy: But still won't you have from this curbing to the outer corner capture point the water running down this curb is going to come into that building?

Mr. (Jonathan) Janacek: Yes sir and that's where we are actually going to be using concrete to slope it out.

Mr. Bracy: You are going to slope it back out?

Mr. (Jonathan) Janacek: Yes, sir.

Mr. (Tim) Janacek: It's a unique addition but it can be done. As you see, it's limited space on his lot and he is trying to make the most of it.

Mr. Tucker: Anything else from the Board? *None.*

Mr. Tucker: Anything from Staff?

Mr. Gambrill: The only thing Staff would make a point to is to verify with the Health Department that just because they say it's a play room, and it very well could be, that they are not going to need additional capacity for the existing system. The lot is relatively small at least based on today's septic design standards.

Mr. Tucker: They usually go by fixture count. So if you are adding fixtures, then you definitely need to confirm if you are adding a bedroom or a fixture. Confirm that your permit is still valid.

Mr. (Jonathan) Janacek: The room addition will not have any closets or anything like that. It won't be utilized as a bedroom or bathroom or anything of the sort.

Mr. (Tim) Janacek: If you see the drawings, you will see what looks like a small closet in one corner. This will be for duct work going down to feed heat and air below.

Mr. Tucker: Alright. If there's nothing else from the Board, we will see you in two weeks.

Mr. (Tim) Janacek: Neither one of us will actually be here. I will have one of my representatives here from the company.

Mr. Tucker: Alright, as long as someone is here and prepared to answer questions or discuss with the audience.

2016 OCT 21 PM 1:17

TENA O'BRIEN
CO & PROBATE CLERK
BENTON COUNTY, AR

Mr. (Tim) Janacek: Yes. They will be prepared to answer anything.

V. Humane Society Site Plan Review, #16-230, 407 East Nursery Road, Rogers, 18-03578-000

Applicant: Diego Garcia, Crafton-Tull, 901 North 47th Street, Suite 200, Rogers

Staff gave a presentation on the Humane Society Site Plan Review, #16-230, 407 East Nursery Road, Rogers, 18-03578-000

Mr. Tucker: Alright, anything to add?

Mr. Garcia: No, I think Taylor (*Reamer*) covered it pretty well.

Mr. Tucker: For full disclosure, I worked on helping raise funds for this about twelve years ago. I actually thought it had already been built by now. Glad to see something is moving again. I haven't really seen anything in the past twelve years since but glad to see that it is moving again.

Board Comments: None.

Staff Comments: None.

Mr. Tucker: Alright, we will see you in two weeks.

VI. Ozark Management Company Site Plan Review, #16-229, 21153 Highway 16, Siloam Springs, 18-12741-000

Mr. Homeyer recuses himself.

Applicant: Ron Homeyer, Civil Engineering, 701 South Mt. Olive, Siloam Springs

Staff gave a presentation on the Ozark Management Company Site Plan Review, #16-229, 21153 Highway 16, Siloam Springs, 18-12741-000

Mr. Tucker: Mr. Homeyer, could you tell us a little bit more about it?

Mr. Homeyer: Sure. As far as septic, this is on city sewer so it will just have another service line extended. Fire sprinkler system will be designed and there is more than adequate water available for this sized building. There is currently an ADEQ construction permit on the entire site. It has not been released yet or closed out. Benton County 911 did issue a new address but they must not have copied you in on the e-mail.

FILED

2016 OCT 21 PM 1:17

I will forward that to you (*Taylor Reamer*). It is 21161 Highway 16. Other than that, I guess I will try to answer any questions you might have.

WALTER BRIEN
CO & PROBATE CLERK
PENTON COUNTY AR

Board Comments:

Mr. Tucker: Is it the same operator that you had previously?

Mr. Homeyer: Same owner of the property but it will be a different entity leasing this one.

Mr. Tucker: Okay. Same owner, same builder, different entity operating the facility.

Mr. Homeyer: Different entity leasing the building.

Mr. Tucker: This was a fairly controversial project the last time. We have several new Board members. Could you talk about the mitigation to the south and also talk more about the context that the building sits in in regard to its light industrial, industrial, heavy industrial nature?

Mr. Homeyer: Sure. You've got Dayspring corporate headquarters warehouse all that on the east side of Highway 16, directly east and then south of this site. To the west, is Siloam Springs Industrial Park. You've got a hatchery, warehousing type, concrete batch plant. It's not directly adjacent but there is a five-acre tract between this seven and a half and everything to the west. The only residential is kind of horseshoed inside of all this industrial activity directly to the south. So the tall berm was put in because the property to the south or uphill a little bit from this property, would get immediate buffering but then the trees that were planted wouldn't have to grow 20 years to give them full coverage.

Mr. Tucker: It doesn't look as tall as it is but when you drive by, it's a fairly sizable berm.

Mr. Homeyer: The further back you go, the taller the berm gets. You can't even see the chicken hatchery anymore because of that. The rest of the property to the north is just cultivated field owned by one of the Allan's of the former Allan Candy Company.

Mr. Tucker: Have you heard anything from the neighbors or has Staff heard anything from the neighbors?

Mr. Homeyer: Since the sign went up this afternoon and the letters were mailed today, I don't expect anything until later in the week or next week.

FILED

2016 OCT 21 PM 1:17

Mr. Tucker: I would like to remind Staff, if you are contacted, please don't discuss the project among yourselves. As our local reporter reminded us last week, it is state law. If you are contacted, use your County e-mail and don't discuss it with each other.

Mr. Homeyer: All the drainage drains to the north. It's going across a cultivated field. It's not headed toward any residential at all. In fact, residential run off comes to this property.

Mr. Tucker: Will there be any impact to the storm basin with the construction?

Mr. Homeyer: It's going to take up part of the ground space so we'll just have to make it deeper. The ultimate plan is to build a basin probably almost three-quarters of a mile away that would service not only this property but the acreage in between.

Mr. Tucker: Okay. Definitely be prepared to talk about the hardship for the parking variance. This was actually number one on my list of to dos for the regulations. I don't think we have approved a single warehouse yet with the total correct number of parking spaces per the ordinance. I don't believe it's actually correct. I think there is something off. It's our fault.

Mr. Homeyer: I think if you compare it to the Bentonville regs, there is either an "and" or an "or" that is missing.

Mr. Tucker: I think you are correct. I think there should have been an "or" and it says "and." I guess we will see you again in two weeks.

4. Other Business: None

5. Staff Updates:

I. Administrative Approvals:

- i. Williams Minor Subdivision, #16-235, Stage Coach at Fruitwood, Gravette; 18-12170-000

6. Discussion Items:

Mr. Gambrill: Just as a matter of fact, the Humane Society project that you had reviewed at TAC tonight, is the first project that the County has seen inside the city of Rogers's Planning Area, that they are not reviewing per revisions to their ordinance. They actually revised their ordinance. They no review large scale development, or what we [the County] call site plan review, under their planning jurisdiction. They revised their regs so that they no longer, technically, have to review. Their regs used to say that they actually did take site plan review inside their planning area. So there

FILED

OCT 21 PM 1:17

TENA O'BRIEN
CO & PROBATE CLERK
BENTON COUNTY AR

was a little back in forth with this one in the very beginning; but since they reviewed their ordinance, now we are able to legally accept this.

Mr. Tucker: Part of the reason that they did that is because we have a robust ordinance now.

Mr. Gambrill: We may have forced their hand, but they [Rogers] saw some of the obvious pitfalls with trying to regulate for a site plan review outside city boundaries.

Mr. Tucker: Yes. Alright. Very good. Anything else?

Meeting Adjourned: 7:40 p.m.

Next Meeting: Wednesday, October 19, 2016

APPROVED THIS 19th DAY OF October, 2016

ATTEST:



PLANNING DIRECTOR or
PLANNING MANAGER

APPROVED:



PLANNING BOARD CHAIR or
PLANNING BOARD VICE CHAIR