

2020 JUN 11 AM 11:40

BETSY HARRELL
CO & PROBATE CLERK
BENTON COUNTY, AR

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

May 6, 2020
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, Mr. Tucker.

Mr. Tucker: Due to health concerns related to covid-19 and current federal health recommendations to avoid gatherings of ten or more, some of the Planning Board members as well as County staff may attend this meeting by phone or other remote means. That being said, the County Administration Building will be open for those who would like to attend. Those who do attend will be asked to listen from the lobby outside the Quorum Court Chambers. Attendees will only be allowed to enter the Quorum Court Chambers to make a public comment or speak during the public hearing items on the agenda. Those who do attend to observe CDC recommendations regarding hygiene, the use of masks or other facial covering, a social distancing keeping at least 6 ft from any other person at the meeting. Moreover, nobody should attend the meeting if they are experiencing any type of illness involving fever, sneezing, cough, or shortness of breath. Those who want to make public comment but do not want to attend may do so in written form submitted to planningboardmembers@bentoncountyar.gov by at least 4:30pm of the day of the meeting.

Roll Call: Bob Bracy, Ron Homeyer, Terry Maienschein, Stephen Torrez, Ashley Tucker and Rick Tucker were present. Sean Collyge was absent.

Staff present: Taylor Reamer – Director of Planning, Madison Kienzle – County Planner

Public Present: Two members of the public were in attendance.

Disposition of Minutes: April 15, 2020

Mr. Williams motioned to approve the April 15, 2020, Planning Board Meeting minutes. The motion was seconded by Mr. Maienschein.

Motion approved: 6 – 0

General Public Comment: None.

Old Business: None

New Business:

- I. **Rocky Branch Baptist Church Site Plan Review, case no. 20-045, 19956**

2020 JUN 11 AM 11:40

BETSY HARRELL
CO & PROBATE CLERK
BENTON COUNTY, AR**Rocky Branch Rd, Rogers, 15-11227-001**

Representative: Dick Kelsey 19155 Pinecrest Trail, Rogers, AR

Staff gave presentation.

Mr. Kelsey: We're happy to do everything you've mentioned.

Mr. Tucker: Where is the septic system located?

Mr. Kelsey: It's in a large field, beyond the parking lot. It has 700 ft of lateral line. It is a large system and works quite well.

Mr. Tucker: Is it to the East?

Mr. Kelsey: Yes, because on the West there is a road.

Mr. Torrez: I have no questions.

Mr. Williams motioned for approval with stipulations. Mr. Homeyer seconded the motion.

Motion approved: 6-0

II. *Pepper Source Site Plan Review: Major Amendment, case no. 20-044, 11103 North Old Wire Rd, Rogers; 18-05017-000, 18-05017-001*

Representative: Dave Jorgensen 124 W. Sunbridge, Fayetteville, AR

Staff gave presentation.

Mr. Jorgensen: I wanted to add that one of the Planning Board members had suggested moving the parking lot to the North, adjacent to Old Wire Road. The client agreed that was a good idea, so we wanted to accommodate that. Therefore, instead of draining in a Southeasterly direction, it will drain to Old Wire Road. We will also install a detention pond to ensure that our post development flow does not exceed pre-development. Also, we thought the new location would reduce the impact to surrounding neighbors, by putting it closer to the main facility.

Mr. Tucker: The only remaining item on that list is landscape buffering. We have not seen a landscape plan that complies with the ordinance.

Mr. Jorgensen: Correct. We did not provide one because the existing parking lot to the South has a landscape buffer, and the employee parking has a landscape

2020 JUN 11 AM 11:40

BETSY HARRELL
CO & PROBATE CLERK
DEWITT COUNTY, AR

buffer, so we didn't know how to abide by that. I guess we could put a buffer on the East side of the new parking lot.

Mr. Tucker: Yes. I believe that would be intent as well.

Mr. Jorgensen: I think we can accommodate that.

Mr. Bracy: I appreciate the applicant is revising the plan to build the parking lot closer to the main facility. To the East there are trees, however, they are sparsely space. Would they need to be filled in, to effectively buffer?

Mr. Jorgensen: I believe we can accommodate that, either by additional plantings along the South boundary. That may be better than additional buffering to the East.

Mr. Bracy: There appears to be a roadway North of the existing trailer off of Old Wire Road that goes East and then South where some structures appear to be. What are those structures?

Mr. Jorgensen: I don't know what those structures are, but I think there is a house located down there. The access road along the South boundary is for the that house.

Mr. Bracy: This roadway appears to be a gravel or two-lane road to the North of the existing trailers, heading in an East/Southeast to a very Southeast corner of the clearing.

Mr. Tucker: I believe that is from the installation of a powerline that you are seeing. Some left-over construction traffic.

Mr. Tucker: We had several written comments from residents including from Terri Shiery, Gary Hagar, Angela Sbanotto. There are also members of the public in the audience, who would like to make a comment.

Mr. Wayne Gaston: 13109 Walnut Valley Rogers, AR

When they developed 2017 there were trees and riparian buffer all along the side, however, they cut all of the trees off of that property. They filled the dip or the holler in with stumps and red dirt. When it rained the water left ruts 6 ft wide and 12 ft deep, and the red dirt went into my shop building destroying many of our possessions including collectibles, antique furniture, and china costing us thousands of dollars. I have spoke with the owner after my building was flooded, I realized they had not put any sod fencing, or complied with any ADEQ requirements. So, I called this board and they told me that we only provide permission for the project, we do not enforce it or police the project. I had to call other people, setting the ball in motion. They ended up putting sod fencing, and

2020 JUN 11 AM 11:40

BETSY HARRELL
CO & PROBATE CLERK
BENTON COUNTY, AR

they had to fill in the holler, and add riprap. Their catchment pond is 8 ft wide and 30 ft long. 1000 sq ft with one inch of rain is 8,000 gallons of water, and 16,000 gallons of water falling on the existing and proposed parking lots, and a 8ft wide 30 ft long 2 ft deep hole is not big enough. The water doesn't even go into the catchment pond, but down into a ditch that was dug, into the holler, and down into my place, and a number of my neighbors. Peppersource has not complied with any regulations to prevent my neighbors and I from getting washed out. The speed of the water that comes down the hill does a lot of damage. Also, Peppersource has burned pure trash. Benton County has spent a lot of money policing this plant to prevent them from burning trash. Mr. Campbell told me that they are going to park their trailers in the parking lot because they don't want to spend the \$7 million to build the freezer unit that they want. It is cheaper to have seven semi-trucks running 24 hours 7 days a week 365 days a year. They run at 89 decibels a piece. There are techniques to quiet the trucks, such as those used for RV's. There are motor homes that are 50ft long, with big diesel units, but you don't hear the generator because it has a small piece of pipe that runs the length of it and its quiet. The neighbors feel very disturbed by the noise, even more so than the water. Somebody needs to back up the law.

Mrs. Karen Masters: My husband and I own a property near Peppersource on the Southeast side of the existing parking lot. The noise from the trucks disturbs us, especially when they come in at 10 o'clock at night. There is no buffer between our property and Peppersource. The wall of trees is between your parking lot and another lot that has a backhoe on it. There is nothing on the Southeast corner. In compliance with section 4.6.16, what are your plans for maintain the 40ft buffer, with wall or fencing and the 2-3 tiers of vegetation?

What are your plans to direct the lighting away from our property? I do understand the full cut-off lighting, however, our property sits much lower than yours and so we always see the light. The proposed parking lot is even higher, so we will still see the lighting.

Also, our mailbox was knocked down in the direction of your lot. We can't prove it was one of your drivers, but it's a noted concern if traffic is going to increase.

For your reference, our property line 293 ft from the proposed lot, and our house is 300 ft from the proposed lot.

Mr. Tucker: The three main concerns are the noise, water, lighting, and buffering. Please address the lighting, continue to talk about buffering and how you intend to buffer from the neighbors, the noise, and the water runoff. We have seen your drainage report, but it seems to indicate something different from what is going on. So please help us understand how you plan to capture your water.

Mr. Jorgensen: As per the drainage report submitted this week, the proposed

2020 JUN 11 AM 11:41

BETSY HARRELL
CO & PROBATE CLERK
BENTON COUNTY, AR

parking lot will drain in a southwesterly direction towards Old Wire Road, completely. No part drains in a southeasterly direction. The other land that was cleared, 13 or 14 acres, a portion of that property does drain in a Southeasterly direction. The part that the new parking lot is on drains in a Southwesterly direction towards Old Wire Road. The detention pond was sized properly to prevent post development flow from exceeding predevelopment. The drainage that goes down the drainage path, is existing drainage. Some trees were removed when the property was cleaned up. I was not aware of any major problems in the cleanup process, in fact I have a letter from the Environmental Division of Benton County, wherein Mr. Tim Filbeck, the enforcement officer wrote to Peppersource:

"I am writing today to follow up on the visit and inspection I had at your property located in Benton County. Let me start by saying that Benton County is not the creator of Ordinances. When I assumed this case, from the former officer, I found that this property was in deplorable condition. In short order, your company did a remarkable job not only bringing this property into compliance but beautifying the area. Your efforts are remarkable, and we are appreciative of how quickly you completed this task. When I returned for my final inspection, I was pleased to see that there was no violations and the property was graded and seeded. I also appreciate you submitting all the receipts to allow me to close this case. If you have any questions or concerns, please feel free to contact me. The case is officially closed."

This was a letter that was written as a result of the cleanup of the property when Peppersource purchased it. Judging by this Peppersource did a good job cleaning up what was a pretty bad situation. As far as the tree buffer that goes to the existing house that is located adjacent to this property, we will have to look at that to see what we can do to provide more trees and more buffer, even if it is a combination of trees and fence. There is additional room that we can install more buffers. It was mentioned that this new parking lot is going to be higher. It will not be very much higher, because we are moving it adjacent to the existing parking lot. It is probably a foot or two higher than the existing parking lot. As far as lighting goes, we are going to provide lighting that is directed towards Old Wire Road rather than a Southeasterly direction, improving the situation. We must have lighting to ensure the safety of the food cargo trailers. We plan on installing directional lighting, specifically designed for parking lots to help alleviate the safety problem, and also the intrusion to the surrounding neighborhoods. However, we couldn't completely block off lighting, but we can improve on tree buffer and a fence along that boundary.

Mr. Tucker: Combining fencing and trees to help buffer the lighting would be useful. Could you talk about the use of the refrigerated trucks for storage, since we are more so approving a temporary refrigerated storage, more than a parking lot. It's a little deceiving to suggest that you are just parking trucks, if they are

2020 JUN 11 AM 11:41

BETSY HARRELL
CO & PROBATE CLERK
BENTON COUNTY, AR

actually being used for refrigerated storage.

Mr. Jorgensen: I cannot comment on that. In my visits to the property, the motor would occasionally turn on to refrigerate one of the trucks. But for the most part I did not hear it, but I do not live there.

Mr. Tucker: We don't technically have a noise ordinance in Benton County. We do however, require that you mitigate additional noise that your producing if it is harmful to the neighbors. If you are doubling the amount of noise, we would ask that you additionally provide some mitigation measures. Whether that is mufflers on the truck, which can be put on and removed. A company that I previously worked for had to comply with a 30-decibel limit at the property line. You can put a berm to redirect the sound, you can add additional vegetation. There needs to be some mitigation if the proposal is a refrigerated storage area instead of an empty trailer parking area.

Mr. Jorgensen: Your comment is very well taken, and all I can do is pass it on to my client. I can assure you, that out of respect for the neighbors, we need to at least put in some mitigation measures.

Mr. Tucker: Your description of lighting mitigation sounds reasonable. Please address water mitigation. Both the new flow and existing water problems.

Mr. Jorgensen: The parking lot construction that was done in 2017 drained in a southwesterly direction and we installed a detention pond to prevent post development flow from exceeding predevelopment. That was a matter of record, and Taylor should have that information. The property was cleaned up, in the process I'm sure some trees were taken down. I have no idea what the predevelopment conditions were on that site, above and beyond the parking lot that we dealt with in 2017. But I know that there was a general cleanup of the trash and stuff out there. Riprap was added to the draw that goes in a southeasterly direction to mitigate the erosion problem that was there. I do not know the predevelopment condition of that area.

Mr. Tucker: Does the water continue down North Old Wire, or does it turn and go to the southeast?

Mr. Jorgensen: The drainage from the parking lot that was constructed in 2017 and the new proposed lot drains in a southwesterly direction to Old Wire Road. They enter the detention pond prior to draining in south direction, and the rest of the site drains in a southeast direction.

Mr. Tucker: Where is the discharge point on Old Wire Road? Is it along the colder, or does it discharge somewhere else?

FILED

2020 JUN 11 AM 11:41

BETSY HARRELL
CLERK OF PROBATE
BENTON COUNTY, AR

Mr. Jorgensen: It drains in the ditch along the east side of Old Wire Road and it drains in a south direction.

Mr. Tucker: Has this property changed hands?

Mr. Reamer: Not since 2017.

Mr. Tucker: So many of the violations predated Peppersource's ownership.

Mr. Bracy: I understand the complaint of the water discharge, however it should not be a problem to engineer a retention area, with a weir design, so that the outflow would be at a pre-development level. Is that a concern to the client?

Mr. Jorgensen: I did not understand your comment.

Mr. Bracy: The water today is discharging in a southerly direction into a retention pond, and then offsite. The ADEQ requirement is to have your discharge on your site regulated at the far southwest part along the ditch on Old Wire. Are you going to upgrade that?

Mr. Jorgensen: The parking lot that was installed in 2017 has its own detention pond. The proposed lot will have a new detention pond, just for that parking lot.

Mr. Bracy: Your requirement is that you cannot release water offsite, anymore than under the regulation. In the new project you are going to get a new detention pond to collect runoff, but is that not draining down to the existing detention pond, then discharge from site?

Mr. Jorgensen: Its not adding to the existing detention pond, we are going to install a drain pipe all along the east side of Old Wire Road. The previous detention pond, discharges into a pipe in the ditch by Old Wire Road. Our new detention pond will discharge into that pipe, and along Old Wire Road. We will be piping the ditch on the East side of Old Wire Road, the entire length of the site. We will not be adding any additional runoff. We have sized the detention ponds to accommodate the increased runoff from the two gravel parking lots.

Mr. Tucker: Does that make the control point, restriction the southwest corner of the property?

Mr. Jorgensen: It will discharge in the southwest corner of the property into the ditch along Old Wire Road.

Mr. Tucker: Does it overflow that ditch?

Mr. Jorgensen: No, it does not. Post development flow will not exceed predevelopment flow along that ditch line.

2020 JUN 11 AM 11:41

BETSY HARRELL
CO & PROBATE CLERK
BENTON COUNTY, AR

Mr. Tucker: So, if it is overflowing, it is not due to the discharge that you are adding.

Mr. Jorgensen: Exactly. This new parking lot drains completely towards the Old Wire Road direction. That is one reason we decided to relocate the proposed parking lot to the North, so that we do not drain in a southeast direction.

Mr. Bracy: The new parking lot is going to drain into a retainage area, which is then going to go to Old Wire Road, easterly ditch in a southerly direction, would that not flow into the other retainage ditch's flow? All of the water before it leaves the property on the very southwest part, is controlled so that it doesn't leave the property at any greater rate than before. You control the whole discharge that leaves at the southwest part of the ditch on Old Wire Road.

Mr. Jorgensen: That is correct.

Mr. Bracy: If there was a problem in the path, and the discharge at that location exceeded in any value that was a problem or a nuisance, in the new construction this will be remedied by new calculations of the total water runoff from the site.

Mr. Jorgensen: The new parking lot will not drain in a southeasterly direction at all. The drainage that goes down this draw, is from the rest of the Peppersource site that has nothing to do with the proposed parking lot. The drainage that goes in a southeasterly direction has always gone in that direction, and the only possible increase in flow, had to be from the clearing of the sight and reseeding, and water that drains into that drainage path, and the Peppersource people went in and installed riprap to control the erosion, however water will continue in that southeasterly direction as it has forever. I don't know that there is an increase in flow, other than some rooftops were taken down, dilapidated trailers and old houses, but right now its just a cleared field. Water runs down the drainage path. However, the proposed lot does not drain in that direction.

Mr. Bracy: So the neighbor's concern, is about the field drainage going in the southeasterly direction.

Mr. Jorgensen: Yes. That is a preexisting condition.

Mr. Bracy: Is there anything that would require Peppersource to address previous concerns before approval?

Mr. Tucker: I believe the answer is no, that is a civil matter under a separate issue. All of those flow problems are coming from the north of where we are today, and are going around this parking lot, not necessarily going through.

2020 JUN 11 AM 11:41

BETSY HARRELL
CO & PROBATE CLERK
BENTON COUNTY, AR

Mr. Reamer: At this point, the application that was filed, the regulations require them to design the proposed development in accordance with our codes and ordinances which have been satisfied by this development. The board has not entertained off-site off-property nuisances as a part of any kind of decision-making process.

Mr. Jorgensen: One of the reasons that we decided to move the parking lot to the north because we know that that part of the property does not drain in a southeast direction.

Mr. Williams: Is all of the property contiguous that is either pre-developed or that you are currently looking at for development?

Mr. Reamer: Is your question really surrounding additional development from Old Wire to the east?

Mr. Williams: All the property is connected; therefore, all the drainage would be connected. If the previous drainage study was incorrect it would still be incorrect.

Mr. Reamer: I think the drainage analysis that was performed in 2017 by Mr. Jorgensen was in direct relation to just the development area and not the overall site. The real focus of the 14 acres was on the two parking areas, not necessarily the entire site. Correct?

Mr. Jorgensen: Yes, it was just for the employee parking and the trailer parking.

Mr. Williams: So, there was no consideration of any land clearing above and beyond that.

Mr. Tucker: We don't regulate clearing of land.

Mr. Williams: Well if it's part of the project, it's still a disturbance of the property, and the drainage would have to be considered.

Mr. Tucker: I agree.

Mr. Reamer: The board may entertain an overall drainage study and drainage report to be submitted to further mitigate not only the development of the parking lots but also the total disturbance that occurred onsite, to mitigate any potential issues.

Mr. Tucker: You can see the riprap in the image. I think a study would be highly appropriate to understand the site as a whole, not just the part that we are disturbing.

2020 JUN 11 AM 11:41

BETSY HARRELL
CO. & PROBATE CLERK
BENTON COUNTY, AR

Mr. Bracy: I would agree with that, and feel far more comfortable. Adding a new project to the site is the right time for the owner to look at any other concerns. If we entertain this, we can add this into the conditions for approval or denial.

Mr. Maienschein: I also think we need definitive use of the property, whether it's a parking lot or cold storage.

Mr. Tucker: (to Mr. Jorgensen) Would you entertain that as a condition of approval?

Mr. Jorgensen: I do understand the situation, I would entertain that and pass it on to the client. It would require an additional drainage analysis of the pre and post development situation, wherein the land flows in a southeasterly direction and please add that to your condition of approval if that is appropriate.

Mr. Tucker: Is it something that should be reviewed prior to determining an outcome? Since when it is approved, it is approved and it really doesn't matter what the outcome is. It is just information at that point.

Mr. Bracy: Yes, I think that is correct. I would rather see it before we vote, so that we're not voting on something that has a lot of loose ends. And we know what we're voting on as an end result.

Mr. Williams motioned to table with additional review on June 3rd. Mr. Maienschein seconded the motion.

Motion approved: 6-0

III. *Stuckey Variance, case no. 20-052, 14491 E AR Hwy 12, Rogers; 18-03229-014*

Representative: Ken Stuckey 3357 N. Southridge Dr. Fayetteville, AR

Staff gave presentation.

Mr. Stuckey: I wanted to point out that where the proposed location is for the variance request, if you look west it's not any closer to the highway than the current parking lot that concreted on the west side of the property. So, we're not getting any closer to the highway. It looks more suitable where I've requested to place it on the property for a couple of reasons. First, the visibility is the best here which is important for something like ice. Also, it removes it from the traffic of the parking lot is the safest option. In addition, the path is a 10x12, however the ice machine is only 6x8, which is the physical space of the building itself, but the pad is 10x12. If you look at the setback it is another 2 feet away from the highway.

Mr. Tucker: What is the overhang of the roof?

Mr. Stuckey: It is one foot on each side except the back.

Mr. Tucker: So, the variance is actually be 13.98 feet. Mr. Stuckey please revise that on your plan. From a percentage standpoint that will be a lot more palatable.

Mr. Torrez: With the revised setback, the variance is less than 50% variance request?

Mr. Reamer: Yes.

Mr. Tucker: Since this is a temporary structure, would the board entertain that the variance is extinguished with the removal of the building?

Mr. Homeyer: Yes, I like that idea a lot.

Mr. Maienschein: I agree.

Mr. Williams: I agree.

Mr. Bracy: I agree.

Mr. Torrez: I agree.

Mr. Tucker: Mr. Stuckey, what that will do is, the way that variances work, because you have a variance you could build anything there. What we are proposing is that once you remove this building, if you want to build anything else you have to come back for a new variance, rather than be able to construct a restaurant 13 feet from the highway.

Mr. Stuckey: That would be agreeable to me.

Public comment: none

Mr. Maienschein motioned to approve, with stipulations previously mentioned.
Mr. Williams seconded the motion.

Motion approved: 6-0

TECHNICAL ADVISORY COMMITTEE

1. Call to Order

FILED

2020 JUN 11 AM 11:41

BETSY HARRELL
CO & PROBATE CLERK
BENTON COUNTY, AR

- 2. **Old Business / Ongoing Applications:** None
- 3. **New Business:** None
- 4. **Other Business:** None
- 5. **Staff Updates - Administrative Approvals:**
 - I. Farrer Minor Subdivision, case no. 20-050, S. Pleasant Valley Rd, Bentonville; 18-11518-002
 - II. Thompson Minor Subdivision, case no. 20-051, 14899 Cow Face Rd, Lowell; 18-02802-000
 - III. Josiah Farms Minor Subdivision, case no. 20-063, 14148 Fairmount Rd, Siloam Springs; 18-13956-000
- 6. **Discussion Item:** Staff explained to the Board the continuity of department operations.

Meeting Adjourned: 7:30 p.m.

Next Meeting: June 3, 2020

APPROVED THIS THIRD DAY OF JUNE, 2020.

ATTEST:



PLANNING DIRECTOR

APPROVED:



PLANNING BOARD CHAIR or
PLANNING BOARD VICE CHAIR