

2023 DEC -7 AM 9: 19



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

November 15, 2023
6:00 p.m.

**Quorum Courtroom (temporary location)
2113 West Walnut Street Rogers, AR 72756**

DETAILED MARRELL
COUNTY CLERK
BENTON COUNTY, AR

Meeting Minutes

PUBLIC HEARING:

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

Roll Call: Bob Bracy, Rachel Kitterman, Linda Lloyd, Theresa Neal and Ashley Tucker were present.

Staff present: Madison Kienzle – Planning Director, Tracy Backs – Senior Planner and Sandra Garza – County Planner

Public Present: See sign in sheet

Disposition of Minutes: November 1, 2023

Mr. Tucker motioned to approve the November 1, 2023, Planning Board Meeting minutes. The motion was seconded by Ms. Lloyd.

Motion to approved: 5 – 0

General Public Comment: None

Old Business: None

New Business:

- I. **Vilella Waiver, case no. 23-361, 14740 Esculapia Hollow Rd, Rogers; 18-03749-014**

Representative: Frederick Vilella, 14740 Esculapia Hollow Rd, Rogers

The applicant is proposing to remove the existing trailer home and build a 20' x 40' home on to the existing footer and flat pad. Per the applicant, the septic for the existing trailer is on another property owner's land to the southwest (18-03749-006, Ronald Blanshan).

Benton County Planning and Development Regulations require that any land development as defined in this Ordinance that utilizes septic systems, also known as Individual Sewage Disposal Systems, must be designed so that the tank, lateral

DEPT. OF PUBLIC SAFETY
CLERK
BENTON COUNTY, AR

lines, and alternate area are all located on one (1) legally recognized Lot or Tract as referenced by deed. The applicant seeks a waiver of the sanitary sewer system within section 4.6 of the General Requirements of Division and Development of Land for residential Site Plan Review requirement.

Public Comment: None

Ms. Lloyd comments she would approve with conditions that the septic easement be filed.

Ms. Lloyd motioned to approve, seconded by Mr. Tucker.

Motion to approve: 5 – 0

II. Snopko Waiver, case no. 23-362, 12738 Gooseberry Ln, Bentonville; 15-19100-000

Representative: Adam Guck (representing Justin Snopko), 812 E Summit Loop, Rogers

The applicant is proposing to build a new dwelling on top of the existing underground dwelling. That is, this new dwelling would be a second story to the property owner's existing single-story underground dwelling. Benton County Planning and Development Regulations define medium density residential as one dwelling per acre. Two dwellings on less than two acres is considered a non-compliant high-density situation. To exceed the medium density threshold requires Site Plan Review. The applicant seeks a waiver of the high-density residential Site Plan Review requirement.

Mr. Tucker asks if the site has been reviewed by the Health Department for an additional septic system?

Mr. Guck, I believe it has, when he and I talked on Monday he mentioned the second set of lateral lines and septic, were approved.

Mr. Tucker states that proof of the approval will need to be submitted prior to getting the building permit.

Ms. Lloyd states there is a note that states that in case an alternative area is needed, the well must be abandoned, and if they don't yet have public water, how are they going to get a building permit if they have to abandon the well.

Mr. Guck, I believe there's already city water running down the street.

Public Comment: None

Mr. Tucker motioned to approve, seconded by Ms. Lloyd.

Motion to approve: 5 – 0

III. Johnston Site Plan Review, case no. 23-364, 14780 & 14778 Bethlehem Rd,

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ROBERT W. WELLS
COUNTY CLERK
CENTERTON, AR

Gravette; 18-11193-007

Representative: James Leeman, 3437 Iris Court, Boulder, Colorado

The subject application is for an unmanned battery energy storage facility.

Ms. Lloyd, I would like to know, we received extensive comments from the City of Centerton, have you seen those and can you address those?

Mr. Leeman, yes, we received those comments this morning, most of them related to the storm water drainage system. I believe there was some confusion on the type of drainage that was being proposed, the proposed site plan includes a stormwater retention and not detention facility. We won't have any storm water outfall; we size the basin to accommodate back-to-back 10-year storms. So, it's oversized for the county's requirements. Most of the comments were written as if we were proposing a stormwater detention and outfall facility and not a stormwater retention wet pond.

Ms. Lloyd, they also mentioned since you're not going to have any water, how you're going to handle fire suppression.

Mr. Leeman, yes, so fire suppression is really inherent in the system itself. These containers that we're proposing to install on site become specially fitted with fire suppression systems on the interior. These are dry type fire suppression systems and those are intended to release if there is any indication of smoke or fire within the container.

Mr. Tucker, is that a chemical foam, gas, what type of event would you expect? Because like in a hangar when the fire suppression system goes off, you have thousands of cubic yards of foam below hand across the landscape. How do this work?

Mr. Leeman, the specific type that I've seen referenced in the past is FM 200 dry type suppression.

Mr. Tucker, basically a cloud dust.

Mr. Leeman, yes sir and it is contained within the cabinet.

Mr. Bracy asks if this review would not be seen by Centerton.

Mrs. Kienzle states, the property is in Centerton's Planning Area but by ordinance, they have not adopted to review large scale development in their planning area, but we do offer them an opportunity to make courtesy comments. I do believe there are representatives from the city of Centerton here tonight, I expect someone will make a comment.

Dr. Neal, what was the Fire Marshal's comments?

Mrs. Kienzle, Fire Marshal did not provide comments.

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REBECCA WELLS
COUNTY CLERK
PULASKI COUNTY, AR

Dr. Neal, do you know why?

Mrs. Kienzle, he was provided an opportunity to provide comment two weeks ago, he did not provide comment, if that is something the board is concerned about, I can certainly talk to him. What I will say too, is that they will be applying for building permits for the containers and the Fire Marshal will do a full fire inspection when that occurs.

Dr. Neal, how will we know that's been accomplished?

Mrs. Kienzle, we have ordinances in the county that require certain building requirements for different structure types and we accomplish that through our building safety division and through building permits.

Dr. Neal, I'm just concerned because this is a new technology, it's not that old and I understand the fire suppression inside the container, I would just want him to confirm that, that is a good safety Mechanism.

Mr. Bracy echoes to Dr. Neal's comment. I think the fire department needs to be aware of how they would attack this problem, should there be an emergency.

Mr. Leeman, we work with local fire authorities that often comes during the building permitting phase. So that's something we're completely used to, we're happy to work with the Fire Marshal, I'd like to add, for every project, we provide training to local fire departments, that's in collaboration with our manufacturers who also help us to operate the facilities. So, there'll be multiple levels of communication with the fire marshal that won't end with permitting.

Mr. Bracy, with this type of utility, would it be secured similar to what electric substations?

Mr. Leeman, yes sir, we would have a security fence.

Mr. Bracy, what type of lighting would be available?

Mr. Leeman, no lighting for the batteries but if lighting is required for the substation, it would be compliant with the standard that was requested in the comments.

Mr. Tucker, during our last meeting we talked about standoff distance being basically the gravel drive, I'm seeing a lot of smaller plantings of evergreens, conifers, those tend to be very slow growing. There's quite a bit of standoff distance between the gravel drive and the planting. In the past we've asked for those plantings to be either on a berm or adjacent to a berm to help with the slow growing aspect of that type of plant. Another type of plant to be added to infill the conifers can be deciduous to kind of address the issues of the huge gaps that you'll see after initial planting, to better screen the visual impacts.

Mr. Leeman, yes sir, you'll see in the updated site plan that we actually did include a four-foot berm on the east and west sides of the property.

Public Comment:

HELL
CLERK
Y, AR

Tim Whitaker, 14860 Bethlehem Rd

Speaking on behalf of his family, the Gainey Family, Holland Family and a couple of other neighbors that didn't feel comfortable speaking tonight.

States he's done some research on this technology and has spoken to others; people state this technology is very promising but it comes with a lot of risks. It should not be next to a residential area, we have houses all around it, this thing is literally 150 feet from my master bedroom, from the property line of where they intend to build this substation. We have a very rural residential areas growing up that way as you guys well know on 102 with all those neighborhoods coming and It's all going to be impacted with this. My wife got diagnosed with primary progressive multiple sclerosis, which is a sensory element and mobility disease, so noise was an issue as such. We built our home where there is peace, we are not apposed to anything non-residential but these industrial battery facilities operate 24/7 and never turn off. There have been cases on these type facilities catching on fire and people don't know why, the toxins when these things happen are very dangerous and have dangers to the community and ultimately vulnerable groups like elderly, children and people with immune, it's just a problem all around not to mention the environmental disaster. As much as these sites catch on fire, they should not be anywhere near residential areas, the innovation should not come at the expense of the people and the lives of people in Benton County, our first responders and our residents. Residents might hear and feel a constant home, day and night and can make it difficult to sleep, concentrate or relax, exactly what most people don't want and definitely my wife with her issues. To wrap this up, put yourself in our position with my wife, would you want to live there and raise kids next to that facility? We support alternative energy but I don't support being a guinea pig for this right next to my house, I sent links on cases that have occurred with these type facilities, I suggest you look and read over them and think, would you want your family to live next to this facility.

Bill Edwards, Mayor of Centerton, 200 Municipal Dr. Centerton

I'd like to echo on all Tim said, I just want to reemphasize, as you know this is in Centerton's planning area and this isn't our fire district and that is what concerns me, thank you for reading the comments I forwarded to you. A couple things that are disturbing is that the Fire Marshal offered no comments to this, we've had no communications with our fire department from this project at all. I think we need to understand what we are getting into; we don't know what's going to happen out there, we don't even know what equipment's needed to put a fire out, we can't put water on this, there's not even going to be water there. We'd have to bring water tankers if water was needed. And if there is additional equipment needed, does that burden need to be on the city of Centerton, I don't think so because we provide the service out there, but again, that is close to a lot of houses. We have very large subdivision coming within a mile of this, the whole area would have to be evacuated if there was an event, there are a lot of houses and commercial coming in out there. I would request a communication with our fire department because they're the ones that have to respond to this. We have a lot of issues out there with accidents, we do have issues out there, especially with the storms out there. My other concern is that there is nobody at the site, they're offsite, we might get an alarm, we don't know.

Alan Craighead, City Engineer for Centerton, 200 Municipal Dr. Centerton

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DELL
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I reviewed this plan and I spoke with our Fire Marshal today, he wasn't aware of it until yesterday. He hasn't had a chance to review this plan at all, and as the mayor said, our fire department will be the first ones to respond to it. he contacted the county Fire Marshals and said he had no comment and he wasn't aware of the project until the Fire Marshal called, so he might have received the email but never looked at it, no idea. I think you need more information for this project before you can take any action on this if you today. I reviewed the site plan briefly and the stormwater management doesn't come close to meeting the City of Centerton's standards. I know it's in our planning district and then calls for no impact on neighbors. They're calling for a retention pond, but the pond will be perpetually dry forever because the berm around the pond is higher than all this surrounding land and there's no transfer, sustain to get water in, so any water that's coming off and they call for an increase isn't going in that pond, there are some revisions that need to be made and more information needs to be provided before taking action on this today.

Bonnie Nelson, 14498 Bethlehem Rd

My property is one property away from the location, if it weren't for all the forest, I would be able to see it from my upstairs. I don't think we should rush anything; we need something like this, it would suit Benton County better if we put it in an area where there's a lot fewer homes. We are just getting more and more homes out in the area all the time.

Danny Norton, 14570 Bethlehem Rd

I am only 30 feet from the property, I definitely oppose it. My main concerns start with the possibility of lithium fires, also like Jim, I can't believe they are trying to put something like this, so close to us. We get a lot of pretty high infrequent winds that would blow that right to us, also noise level, property values will drop. There is no way anyone wants to live next to something like this, not even the applicant.

Kevin Pilgrim, 14532 Bethlehem Rd

I also have another residence at 14591 Bethlehem Rd which is basically across the street from where I live, my property butts up to the fence on the backside. I've got a unique aspect to this thing because I worked with this stuff every day for the last 22 years through Walmart. I'm at the critical infrastructure enterprise data center that has these types of systems, and even Walmart will not put lithium ion in their building that we can withstand a F-5 tornado. We run lead acid batteries, it takes more maintenance, more people, but it's much safer, more reliable to keep the floor, our data floors up. In this particular facility, which is on Moberly, without that facility, you guys won't be doing any business anywhere. There's a lot of noise with inverters. Rectifier batteries don't make much noise but of course the cooling of the batteries makes a lot of noise. I'm also very familiar with FM 200 that's underneath the floor for fire suppression, it's never gone off. We don't ever want it to go off. What it does is it takes the oxygen molecules out and without oxygen you don't have a fire. The cabinets being proposed for these batteries have a hatch on them, if that hatch blows because it's too hot in there, once that hatch blows, the FM 200 goes off, it's in the atmosphere. This is not the place to put this, this is a safety aspect of it that I have a problem with, there's a lot of questions here that don't make sense for this type of operation.

Cindy Norton, 14570 Bethlehem Rd

W. J. HUNTER, CLERK
BENTON COUNTY, AR

My home is 250 feet on the east side of the proposed site. I am opposed to the site due to incompatibility with the adjacent property planning and development regulations of Benton County, Chapter 4, under development patterns, page 53 & 54, rights to residential viability. They should not negatively impact existing residential development or such. Impact must be mitigated as per nuisance abatement provision and reduce the value and viability of the existing land use. This will make the residents area no longer desirable due to the fear of fire and toxic gases, the nuisance of the noise and the downfall of the property value. Page 64, we have noise and it says no proposed use may create levels of noise that is hazardous or disruptive to the peace and enjoyment of adjacent properties. James at SMT said the noise level of the system would be 55 decimals at our property line and our house is only 30 feet from this property line. This means I will be hearing 55 decimals, which is equal to a person speaking when the system is running. This system cycles on and off, 24/7. Page 65, water and soil contamination, since large amounts of trash, whole trailer houses have been buried on this 22-acres site in the past, it poses a concern and the EPA should be contacted and contaminants should be safely removed. Page 66, notice of public hearing, I would like to state that my notice was not sent within 14 days, it arrived 11/3/23. This proposal is incompatible and should not be supporter unless extraordinary measures can be taken to offset the impact. There is nothing they can offer that will stop the property value from falling or the dangers the system possesses.

Mr. Leeman states, fire safety is their number one value and fire safety is considered through every part of the process from conception of a project, all the way for the entire lifecycle of the project. As far as noise goes, SMT Energy provided a noise study that showed a sound level at adjacent property lines of less than 50 decibels. I can assure that we're doing everything we can do to minimize the noise, the applicant provides extraordinary measures to mitigate impact to adjacent properties.

Mr. Bracy asks about the security and maintenance.

Mr. Leeman, there is a number of different companies that would be involved in both monitoring and maintenance of the system. The manufacturer of the batteries themselves have maintenance agreements that allowed them and their specialized technicians to arrive on site, not only for regular scheduled maintenance but in the event of any unplanned maintenance needed as well.

Mr. Bracy, are you going to hire utility people that are going to live and work in Benton County?

Mr. Leeman, there's a network of third-party providers around the country with technicians that are qualified to respond in any event.

Mr. Tucker asks if they have operations centers to monitor the system.

Mr. Leeman states they do, they have one in North Carolina that is monitoring 24/7.

Dr. Neal raises the concern on the Fire Marshal not providing comment, both the Centerton Fire Marshal and the county's need to have a discussion because fire is a big deal.

The board would like to see more detailed information on the proposal and state the project should get tabled for the applicant to be able to provide the information requested.

Mr. Tucker motions to table the project to December 20, 2023, seconded by Dr. Neal.

Motion to Table to December 20, 2023: 5 – 0

IV. Poole Site Plan Review, case no. 23-365, 20225 Chamber Springs Rd, Siloam Springs; 18-10610-002

Representative: James Leeman, 3437 Iris Court, Boulder, Colorado

The subject application is for an unmanned battery energy storage facility.

Public Comment:

Lisa Watkins, 20185 Chamber Springs Rd.

I am south of the proposed project, my concern is, if Apple tells me not to charge my phone on my nightstand, how is this lithium? Is that 200 watts going to affect me and my grandchildren that I babysit every day? What about explosions? I mean, fire is one thing but explosion is another issue. I'm not against this, I can't say that, I know we want our electricity and I understand that. I'd want some answers to my questions, concerns and fears before I say I'm okay with being 600 feet away.

Matthew Harmon, 20167 Chamber Springs Rd.

My wife and I are at the property adjacent to the site. My concerns are all the same concerns that were involved in the last project and additional to that, first and foremost regarding notice of public hearings, we were not notified by certified mail of this public hearing, therefore we request that if it's not denied tonight, which doesn't sound like it, that we would like to have the opportunity to do our research about this type of operation.

Kevin Pilgrim, 14532 Bethlehem Rd

You might want to think about um, with a site like this, these containers that are out in the open, a lot of electricity in them and all that, and us being in tornado alley. What happens to these things or how are they subject to that kind of atmosphere. God forbid it ever happens, but my site at Walmart is designed for an F-5 tornado, so there's a lot of concrete in it that surrounds the batteries, generators, everything. Just might want to consider all that.

Anna Watkins, 21246 Dawn Hill Rd

My mother-in-law just spoke a minute ago, Lisa. I have a 3-year-old and a two-year-old they are there every day and there is not enough research to show what this can-do long term. We want our family to live as long as possible. We don't want any disasters or anything. Potential issues like everybody have been talking

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WELLS ANNELL
CO. & PROBATE CLERK
ROGERS, AR

about, a few extras I didn't hear, these facilities can leak chemicals for hours before any smoke occurs. That is a major problem with residents living around it. I'm wondering if part of the reasons they can't build near these facilities that everyone's asking about could be because of potential explosion risks. I personally believe that Fayetteville and Washington County needs to be involved here because it is less than three miles from the Weddinton Forest, which is a national forest. We don't know what type of sound problems that could happen, anything could happen with our wildlife that is there. I wanted to point out that I live on Dawn Hill which is down by the train tracks, those train tracks, I can hear it shift and the train, which is about 85 decibals, 55 decibals is much less than that and with a person speaking, the people that are living close to the facilities are going to have to almost be speaking over somebody 24 hours a day. These facilities need to be away from people and wildlife, as far as they can be to be safe. The fire departments not giving any information on it and how to treat it, because we have no idea how to treat it, which means you just have to let it burn, that can take numerous days.

Jane Harmon, 20167 Chamber Springs Rd
I moved here and we chose our property this year because of a chronic health condition that I have and the single-story home and the flat piece of property that it allowed me to participate in the hobbies that I want while my husband could continue to work, we moved closer to our grandchildren in Benton County. When we talk about, and I will quote James saying, we don't want this to be a square deal. You don't want anything that is not a square deal. It is not a square deal to me. And also quoting, it's important for me to sleep tonight, that was said. It's important for us to sleep tonight too, knowing that the single biggest investment we have, our property is not destroyed by this being right next door to us.

The Planning Board discussed the proposal with the applicant. The board decides to also table this project for further information to be provided by the applicant.

Mr. Tucker motions to table the project to December 20, 2023, seconded by Ms. Lloyd

Motion to Table to December 20, 2023: 5 – 0

TECHNICAL ADVISORY COMMITTEE

Call to Order

Old Business / Ongoing Applications: None

New Business:

- I. Rapert Major Replat & Waiver, case no. 23-379 & 23-387, Railroad Cut Rd, Rogers; 15-03678-000**

Representative: Kevin Michael, 5311 West Village Parkway, Rogers

This is a replat of 10 lots and vacated right of way (Morgan Lane), being combined.

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BETSY SIMRELL
Clerk & Page Clerk
BENTON COUNTY, AR

The Planning Board discussed the proposal with the applicant.

II. Tackett & House Variance, case no. 23-380, Twin Cove Resort Rd, Rogers; 15-09044-000

Representative: Evan House, 6073 East Huntsville Rd, Fayetteville

To meet the Corps of Engineers requirement for shared access to a boat dock on Beaver Lake, the property owner is requesting a variance from the Benton County one-acre minimum lot size requirement by: reducing the size of 15-09044-000 from 3.77 acres to 3.72 acres, with a 0.50 tract split which will provide lake access to the boat dock for the Twin Coves Mobile Home Park. See Corps documentation and site plans attached.

The Planning Board discussed the proposal with the applicant.

III. Simrell Site Plan Review, case no. 23-381, 9484 Simrell Dr, Garfield; 18-00575-000

The subject site was approved to construct 18 cabins in 2003 by the Benton County Planning Board: 16 2-bedroom 24' x 32' cabins, and 1 1-bedroom 24' x 24' units. The site improvements were not made at that time. Per Appendix K – Standard Conditions of Site Plan Review, "The owner shall complete all the proposed work shown on the approved site plan within two (2) years from the date of endorsement of the Site Plan unless an extension of time is granted by the Planning Board."

The subject application is to construct 8 1-bedroom units, demonstrated on the plans as cabins 5A, 5B, 6A, 6B.

No representative was present, the project has been tabled to be heard on December 6, 2023.

Discussion Item: Engineering fees

The Planning Board discussed engineering fees, the planning department does not have an engineer to review projects such as Site Plan Review, which in some cases need engineering to be involved, with this conversation taking place, Mrs. Kienzle speaks about the thought of having the board make a decision prior to each TAC meeting for projects, to see if engineering shall be sought by the applicant on their project.

Staff Updates - Administrative Approvals:

- IV. Samich Lot Combination, case no. 23-220, 21408 Lakeview Dr, Garfield; 15-04865-000
- V. Flynn Minor Subdivision, case no.23-252, Dodd Rd, Garfield; 18-05526-000
- VI. Wooden Property Line Adjustment, case no. 23-336, W Hwy 12 & Fairmount Rd, Gentry; 18-10774-003
- VII. Tran Minor Subdivision, case no. 23-345, 10348 Phillips Cemetery Rd, Bentonville; 18-09334-000
- VIII. Leeman Lot Combination, case no. 23-346, Jims Trl, Rogers; 15-03641-002

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BOB GARRELL
CO. & PROBATE CLERK
GRAVETTE, AR

- IX. Kane Minor Subdivision, case no. 23-347, Kane Rd, Gravette; 18-15089-000
- X. Wilson Minor Subdivision, case no. 23-356, 17051 Stage Coach Rd, Gravette; 18-12313-002
- XI. Jowers Minor Subdivision, case no. 23-358, 10194 Benson Rd, Gravette; 18-15280-002
- XII. Coggins Property Line Adjustment & 2 Minor Subdivision, 10906 Jaybird Rd, Gravette; 18-16293-000
- XIII. Millsap Minor Subdivision, case no. 23-371, Floyd Moore Rd, Gentry; 18-14685-000

Meeting Adjourned: 8:41p.m.

Next Meeting: December 6, 2023

APPROVED THIS 6TH DAY OF Dec, 2023.

ATTEST:

PLANNING DIRECTOR

APPROVED:

PLANNING BOARD CHAIR or
VICE CHAIR

Digital voice recording may be made available upon written request to the Planning Department.