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

September 15, 2021

6:00 p.m.

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

DETSY HARRELL  
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, Mr. Bracy.

**Roll Call:** Bob Bracy, Sean Collyge, Theresa Neal, Terry Maienschein, Stephen Torrez, Bethany Rosenbaum and Rick Williams were present.

**Staff present:** Taylor Reamer – Director of Planning, Madison Kienzle – Senior Planner, Sandra Garza – County Planner

**Public Present:** See sign in sheet

**Disposition of Minutes:** September 1, 2021

Mr. Williams motioned to approve the September 1, 2021, Planning Board Meeting minutes. The motion was seconded by Mr. Maienschein.

Motion approved: 7 – 0

**General Public Comment:** None

**Old Business:** None

**New Business:**

- I. **Smith Major Replat, case no. 21-254, Timberlake Trail, Rogers, 15-07045-000**

Representative: Rob Caster, Caster & Associates

Staff gave presentation

Public Comments:

Robert Steiner, 12 Glenbrook, Bentonville, AR 72712

Comments he owns property in that subdivision and was told that covenants and setbacks will be changing and he was not notified, mentions he only knew about

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property lines changing and the size of the lots changing but not that there were going to be covenants or setbacks being changed.

Rob Caster comments that the change in the covenants is that the original subdivision did not allow for a permanent structure and now that the lots are increasing, that is the only thing changing in the covenants, for the subdivision to allow permanent structures. As far as setbacks, they are just county standard setbacks.

Mr. Bracy asks Mr. Reamer if the replat is subject to the setbacks

Mr. Reamer replies that the survey is to be revised to reflect county standard setbacks and that is no change to the original setbacks, that any permanent structure is subject to county standard setbacks similar with all properties in Benton County.

Dr. Rosenbaum asks if the permanent structure is related to camping? It's not a home it's a camping structure?

Mr. Reamer states that the restricted covenants that were once created for the subdivision due to the small size of lots did not allow for permanent structures to be built. The intent of this replat is to increase the lot size in order to be able to build.

Dr. Rosenbaum asks if the minimum getting permitted to build is on one acre lots, how are these lots being suitable for structures and septic tank. So how are we getting around that with smaller lots.

Mr. Reamer states the general rule is for the minimum to be one acre to contain a structure and septic, there are many situations in the county where this is not possible and the department of health can permit a single-family structure and septic system on less than one acre.

Dr. Neal asks if these replats are owned by just one person.

Mr. Reamer states that all lots involved with the replat are owned by one person.

Mr. Torrez motions to approve; Dr. Neal seconded the motion.

Motion approved: 7-0

II. **Bliss Lake Major Subdivision Preliminary Plat, case no. 21-277, Rocky Branch Rd, Rogers, 18-00853-000**

Representative: Phil Swope, 613 S. 58<sup>th</sup> Cr. Rogers, AR

Staff gave presentation

Mr. Bracy asks how this property gets included into Green Acres Subdivision.

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Mr. Reamer states that just the top parcel is the one connected to Green Acres and needs to get vacated out of that subdivision.

Mr. Bracy asks if the subdivision is developed.

Mr. Swope replies, "correct, I think they just split it for it to be three separate lots"

Mr. Reamer states that it looks like the only development created on the lots are a parking lot for the church across the road.

Mr. Bracy asks if part of the review would be for the board to approve the vacation.

Mr. Reamer explains the order of operations would be to make a decision tonight and prior to the legally subdividing the current proposal, they would have to vacate that lot out of the Green Acres Subdivision into essentially rural tract land again and part of the final plat application would be the true division of Bliss Lake Subdivision.

Mr. Bracy asks if all the owners of the Subdivision need to sign off on the vacation.

Mr. Reamer clarifies that the regulations in Benton County yes, all property owners within the subdivision need to sign off on a vacation.

Mr. Bracy asks if this has been done yet.

Mr. Reamer states it has not and that will only happen prior to the final plat submittal to the board.

Mr. Bracy asks, if that was denied what does that have to do with what we do, because if we are approving, we are approving it all but it's still subject to that approval.

Mr. Swope mentions then that is just at the developer's risk.

Mr. Reamer states that if that vacation does not go through, the project would not be able to continue with the actual subdivision.

Mr. Bracy asks about the proposed entrance to the subdivision, about it opposing

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the entrance of the unimproved subdivision on the other side is there a concern: 26  
about having the two entrances too close together or will you relocate the  
entrance?

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Mr. Swope replies they looked at the distance between and didn't see an issue so they aren't proposing a change on the entrance.

Mr. Torrez asks if there have been any revisions made since the last meeting.

Mr. Swope comments that he submitted a full response to every item listed.

Mr. Bracy asks about the lots, where they have the road crossing between the and the maintenance on them.

Mr. Swope comments that they took the decision on creating those tracts that way so that the property owner maintains both sides of the lot.

Public Comments:

Mark Martin, 8369 Campground Circle, Rogers

He has been told that the plan for this project is actually going to be an Airbnb situation and not a residential and will be a commercial style development, he doesn't know how that is being taken by the board. Another thing is, we have an easement that is not being shown on this property, we have a written easement signed by the former owner of that property. They've had that easement for approximately 40-50 years and they want to make sure they maintain that easement. The property that runs along the road has been used by the Hideaway Campground since probably the early 70s, late 60s and is used for storage, the requirement was that we maintain the easement, we have maintained it for over 40-years, they have propane on it, gas lines running through it, electric running through it as well so there is an easement there sitting.

Patricia Logan, 8093 Rockwood Ln, Rogers

I'm not quite sure that you guys are aware of the infrastructure out there but I am. We have the Phase 1 of the Carrol County Electric, the power goes out certain times, the company keeps saying they are going to increase but there is just no guarantee. She has spoke with the water department and the guy there doesn't know what exactly this project will hold, but he says his current customers will be the ones who will obtain the best service and they will not approve anything if they can't handle it. The other problem they have is internet service, the service is very low out there, very few of them have good service, she doesn't know how the kids are doing it out there while doing virtual work. You're very lucky if you even have

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internet out there. They are very concerned because they have elderly people out there, they may not even be able to afford generators when the power goes out. The road situation isn't great either, they have the marina and it is very narrow, two trucks side by side or a boat is very dangerous. So, we just want to know before you guys keep on approving all these projects to be aware of the utilities too. We thought maybe we can have a meeting with us at the fire station to talk about these situations because everybody has their issues, hopefully you guys can consider that before approving any more subdivisions in the area.

Robert Godfrey, 20329 Canary Dr, Rogers

I'm speaking for my grandparents that live on K Cove Rd, my parents that live on Dogwood Ln, our neighbors on Canary Dr, we do not want this out there. Like the lady just mentioned, we do not have the support in utilities or roads for this project, the utilities wouldn't be able to support it and there is already enough traffic as there is. There is too many people going out to the marina already, like she mentioned, the power goes out for no reason too, I just wanted to voice my opinion.

Billy Helms, 8034 Rockwood Ln, Rogers

The infostructure is a big deal out there but I want to get to another deal that I was personally been involved in. We have covenants that have been in the area since the early 60s at the end of Rockwood Ln, it's been quiet most of the time and are inundated with commercial properties and if this is going to be an Airbnb that is commercial by any definition. I've been around this my whole entire life, and understand how this all works and according to page 2 on your handout it says the current land purpose or use is Single Family Residential, you don't really know exactly what this will be, if this is a backdoor to put another commercial unit out there. We had one of those come into our covenant neighborhood, we had no help and had to go to court ourselves to get that resolved and they weren't allowed to do it. We had six boats out on my boat dock, had people out there cursing at my wife at 11-12 o'clock at night. People pulling up my neighborhood looking for all these other places, Tanglewood, Rocky Branch, there's Hideaway out there and a public use area, Rocky Branch itself and now that campground that just got approved. There are all these people running around, we don't know who they are, this is a residential neighborhood we can't know our neighbors, these people come in from all over the U.S. in the middle of the night they're lost. I don't own the public use area so I don't think you guys would want that going on in your neighborhood specially if it was established in the 60s. If they're going to put a nice neighborhood and there's guarantee that they will be residential homes, people have the right to do those types of things, if they have the infostructure to do it, but if this is going to be a backdoor for somebody to make big bucks and have more people running up and down my neighborhood bothering me off and on all day, and abusing my property, I am not for it. I had my next-door neighbor's door broken down by someone looking for a rental, had to call the Sherriff, it was a



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person from California and they had a felony and he was arrested and I have records of that if you need that. I had someone two weeks ago call me looking for a campsite at 11 o'clock at night going down to my boat dock, we have people in a narrow road at dark like that all the time coming down with their shiny headlights shining in your eyes that time of night, you don't know what they will do. Now I've been nice enough to be a tour guide out there for years but it just keeps getting more and more dangerous because of this and when this commission was established, I voted for it but I think that's what they said it was about, they said they were going to get rid of all the junk yards in the county and I haven't noticed too many of them leaving. This clearly says it in black and white that it is a Single-Family Use land, why would we need any more commercial use out there and what guaranteed do we have that it won't be an Airbnb Commercial Use.

Mr. Torrez comments to the Applicant that, it seems that the majority of the concern is what exactly is this, you have it listed as Single-Family Residential but you guys mentioned you will establish covenants, maybe you can discuss some of that.

Mr. Swope comments that he doesn't know of any commercial venture, the intent is to split the lots.

Denise Bugos, 4125 Caerleon Cir, Bentonville

The proposed business plan for this development is to develop the 37 some odd acres into 9 parcels, the land is split, the Rockwood side is gorgeous but complete cliff rocked so there's no development going on there. We're platting it into lots because you can't just leave land hanging in the air, so those will be shown as a lot but will not be developed, the left side will have five, three-acre homes and the top of the property will have two and the development on the highway side still is to be determined. The plan is to put in vacation rental homes in the area, there seems to be a lot of rental businesses in the area, right next door as well as down by the marina. I've grown up in this area and love Beaver Lake and I think it's a great place to highlight our state, I currently operate a BRBO personally up in Garfield and I'm very aware of what happens when you have bad renters, so I completely understand those concerns and of course we can't guarantee anything but my business plan is to not allow those renters in my facilities based on the amenities, price per night and marketing of the project. My picture is a Colorado Mountain Home Style Home, that when you're online and looking at the pictures, you're enticed in wanting to come stay, a lot of windows, decks, amenities inside, great soaps, families can enjoy, they can go rent a boat at our marinas, they can rent a kayak and enjoy the Beaver Lake area. I am super excited about it, typically there's a 40% occupancy level in the whole year, mostly during summer time, which is the rate at any rental facility in the Rocky Branch Area. I'm not concerned because of the traffic because I don't live there, and I do understand and do know that next to my property there is an RV campground that has twenty times the

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number of guests that mine will have, so I don't know that my several homes will be creating the traffic issue. AM 8:26

Mr. Bracy comments that there were concerns about utilities in the area, have you looked at the utilities in this area here.

Mrs. Bugos comments internet sucks in Garfield so she understands the lack of internet and she appreciates the concern, says she will look into it, "because if you can't get electricity and can't get internet then it won't work out so I will look into it".

Mr. Bracy states that in order to create a project you have to be sure to contact the utility companies to see if they can supply the property.

Mrs. Bugos says yes, sir.

Mr. Bracy asks if there is rural water here or are there wells?

Mrs. Bugos replies, there is rural water.

Mr. Swope comments they spoke to Steve Little, he came and met with us in the office and he didn't mention any concern of any kind for this location.

Mr. Reamer asks what about electric.

Mr. Swope replies, that they spoke to Carrol Electric about this area and they agreed to serve. We will live with the outages in the area, that's part of this service area, like anywhere.

Mrs. Bugos comments that if the guests are going to have outages, it would not fit her business, so it will be figured out. So, I don't know how the approval process goes, if you approve the project and fifty percent of the time there is an outage, I'm still not going to develop it.

Mr. Bracy asks about the easement on the first lot, adjoining the campground, from what he sees there is no proposal for this lot to build on.

Mrs. Bugos comments that the easement that Mr. Mark is talking about, as you know there are necessity easement and there are permissive easements. The thing that is filed is a permissive easement, is completely revocable by me or by him, if he doesn't want to continue to maintain the area, I do have a copy of the deed.

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Mr. Reamer states that that type of deed is essentially an agreement between two property owners.

Mr. Bracy asks, since the property owners are changing, does the agreement have to be revalidated?

Mr. Reamer states it would not, it continues to be an agreement until both parties re-negotiate.

Mrs. Bugos states the deed states it is completely revocable if agreed by either party.

Mr. Bracy asks for clarity on the understanding of the Single-Family dwellings, from what it looks like improvements, they will be Single-Family facilities and not Single-Family residence.

Mr. Torrez comments his concern is that they stated they would have covenants but now it is confusing because now it sounds like it will not be that typical neighborhood.

Mr. Reamer clarifies that a developer creates protective covenants until x amount of lots are sold, in a situation like this where lots may or may not be sold in the near future, the developer would assume the enforcement of the covenants presumably including maintenance.

Mr. Bracy states it is now confusing, if it's one owner, owning the whole property and they are looking to make individual multi acre lots, to put Single-Family structures on, that's a residential improvement. If the intent is that a corporation is going to commercialize, that wouldn't be available, this isn't a commercial area. Can we have an authority to approve something that is being presented as residential but ended up being a commercial?

Mr. Torrez states it is still Single-Family residential.

Mr. Reamer clarifies that there would not be an innovation to this board to limit on whom can take position of a subdivision lot. Similar to other residential areas, there may be an LLC that owns a Single Family residential in a subdivision, that would not be preventable.

Mr. Torrez asks the applicant, are you going to be the one building the seven homes or will you be selling the lots for someone else to build on their own?



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Mrs. Bugos comments, this is my third career, I spent 20-years working for Walmart, another 20-years selling into Walmart, retired from both and now this. I was a buyer at Walmart and enjoyed putting stuff out and watching the customers respond to it so I find that I enjoy that. As my third career I want to be able to have these homes and when I retire, sell a ready to go lake home. My idea is to have it platted, ready with all county specs with no issues, have them as rentals and slowly transition them into Single-Family residential as the time comes.

Dr. Rosenbaum asks Mr. Reamer about the lot lines not matching up with the road, would you mind explaining why the property lines go across the road.

Mr. Swope explains that the reason they split the lots that way is because through the center of the property there is a drop off which he calls a creek, and that's what made them decide on where the property lines will be, so they can be split by the creek and not the road. They can move the property line to the road but it will be the same issue, you will have to cross the creek to maintain the road anyway. It just makes more sense to split the property at the creek.

Mr. Reamer clarifies to Dr. Rosenbaum's question, if the lines are adjusted to the center of the road, you will then have most of the eastern side of the lots bisected to the creek, then to have maintenance requirements along the road.

Mrs. Bugos states, the way we are splitting the lots will just make it look more beautiful.

Mr. Torrez comments his concern on the grade being very steep.

Mr. Swope comments it is not all that steep.

Mr. Bracy states there are nine lots and they are from 3.0 acres up to 6.13 acres, part of this proposal is to define this to be a subdivision, there's going to be a home association assigned to it even though there is just one owner and there's no individual residents, what is the maximum size you can build on here, what square footage will these homes be for three acres.

Mrs. Bugos stated three thousand square foot homes.

Mr. Bracy comments that this is a commercial activity right now and it is trying to present its self as a Single-Family dwelling, it being a rental.

Mr. Reamer states that in Benton County, rentals being long term or short term, are still considered residential use, we do not have an ordinance that states they

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are commercial use.

Mr. Bracy comments that there are nine lots but only seven are being built on, what is preventing the other two to be built on?

Mrs. Bugos comments that the other two lots are completely cliff rock and are very steep, they are beautiful for people to hike around or climb on the rocks.

Mr. Bracy asks what lots are the ones they are not building on.

Mr. Swope comments the two that are east of the creek.

Mr. Reamer comments that there is nothing preventing them from building on those two lots in the future either.

Mr. Torrez comments, what they came to us with was to create this subdivision, on splitting the lots, how they operate this property in the future will be a whole different issue.

Mr. Reamer comments that it may or may not be subject for board review in the future.

Mr. Torrez states that this project is more for the split and not on what is being built or about utilities being slow, this could actually be good for the area and may improve the utilities.

Mr. Williams comments that is correct, when there are new builds there is always improvements, they build more power plants, water lines, road ways etcetera. To protect the properties, we have at least three agencies that do that. There is nothing in the fire code or building code that he is aware of, that prevents you from renting or leasing a property. There are cooperate homes, lease homes and gated communities all throughout Benton County.

Mr. Maienschein motions to approve; Mr. Williams seconded the motion.

Motion approved: 7-0

**TECHNICAL ADVISORY COMMITTEE**

**2. Call to Order**

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

4. **New Business:**

I. **Corwin Variance, case no. 21-291, 21554 Indian Creek Dr, Garfield, 15-02017-000**

Representative: Cheryl Corwin, 21554 Indian Creek Dr, Garfield

Staff gave presentation

Mr. Maienschein asks what the structure will be utilized for

Mrs. Corwin replies that the building will be used for her husband's shop as well as her craft shop. The septic was approved seven years ago and it is on the east side of the lot, the house will be below that new structure, the well is already there as well as for electric.

Mr. Bracy comments that the sketch doesn't show the setbacks being perpendicular to the road, so the correct setbacks wouldn't be the 37 feet and 42 feet.

Mr. Reamer asks Mrs. Corwin if she was doing the measurements herself out on the property, is that correct?

Mrs. Corwin states that is correct.

Mr. Reamer states he does not disagree with those dimensions, that just may be a sketching error.

Mrs. Corwin comments she asked the builder how they needed to do that, he said to go from the property line, we didn't notice there was a setback.

Mr. Bracy asks if the reason for not building the structure further down is because they will be building a home.

Mrs. Corwin states that right where the structure ends, to the north, there is a cliff there and our home will be sitting down below that, about 25-30 feet away and we can't go to the east side of the property because that is where the septic is.

Mr. Bracy asks if the picture is showing a structure there already.

Mr. Reamer clarifies that it is a foundation.

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Mrs. Corwin states it is a concrete foundation.

Mr. Maienschein asks if the septic has been installed.

Mrs. Corwin states it has been.

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5. **Other Business:** None

6. **Staff Updates - Administrative Approvals:**

- I. Landherr Lot Combination, case no. 21-112, 10423 Elzeys Rd, Rogers, 15-02770-000
- II. Wilkerson Property Line Adjustment, case no. 21-150, Rocky Ridge Ln, Rogers, 15-08945-000
- III. Nick Melton Minor Subdivision, case no. 21-193, Hidden Acres Rd, Gravette, 18-12339-000
- IV. Bill Melton Minor Subdivision, case no. 21-195, 10352 N AR 59, Gravette, 18-12336-000
- V. Owen Minor Subdivision, case no. 21-231, 12500 Lost Trails Ln, Lowell, 15-17807-000
- VI. Lewis Minor Subdivision, case no. 21-258, Sugar Creek Rd, Garfield, 18-01269-000
- VII. Jay Fletcher Minor Subdivision, case no. 21-261, 15077 Gann Ridge Rd, Garfield, 18-05447-002
- VIII. Gary Fletcher Minor Subdivision, case no. 21-262, 15148 Gary Fletcher Rd, Garfield, 18-05449-000
- IX. Sweat Minor Subdivision, case no. 21-267, Osage Hog Farm Rd, Gentry, 18-11014-002

7. **Discussion Item:** None

Meeting Adjourned: 7:37 p.m.

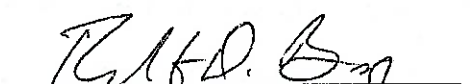
Next Meeting: October 6, 2021

APPROVED THIS 6<sup>th</sup> DAY OF Oct, 2021.

ATTEST:

  
PLANNING DIRECTOR

APPROVED:

  
PLANNING BOARD CHAIR or  
PLANNING BOARD VICE CHAIR