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

July 18, 2018

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, Bob Bracy.

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

Staff present: Taylor Reamer – Director of Planning, Derek Linn – Senior County Planner, Tracy Backs – County Planner, Marc Trollinger – Fire Marshal and Joshua Bryant – JP Planning Board Liaison were present

Public Present: 28 people signed the sign-in sheet.

Disposition of Minutes: June 20, 2018

Mr. Tucker motioned to approve the June 20, 2018, Planning Board Meeting minutes. The motion was seconded by Mr. Maienschein

Motion approved: 6 – 0

General Public Comment: None

Old Business: None

New Business – Items for Public Hearing:

- I. **Porter Setback Variance, #18-147, 9770 Little Spavinaw Road, Gravette;
18-12363-004**

Representative: Larry Porter, 9770 Little Spavinaw Road, Gravette

Staff gave a presentation on the Porter Setback Variance, #18-147, 9770 Little Spavinaw Road, Gravette; 18-12363-004

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TENA D'BRIEN
CO. & PROBATE CLERK
COURT COUNTY ARK

Mr. Bracy: Do you have anything to add to that, sir?

Mr. Porter: No, sir. We tried to center the shop so that we have enough room to get on both sides of the shop. We need to access the other end of it. Because of the hill on the northeast side being so steep that if we moved it any further in, I wouldn't be able to access it around the corner.

Mr. Bracy: Were you planning to put any vegetation between the roadway and the new building?

Mr. Porter: At the moment, sir, there is grass. If I need to put something there, I can. If not, the grass is suitable for myself.

Mr. Tucker: Is there a utility easement along the edge of the right of way or are all the utilities in the right of way?

Mr. Porter: I believe all the utilities are in the right of way. We couldn't find anything along the edge of the road on the other side of the fence line which is 12' off of where we are building. The property line actually goes to the center of the road.

Mr. Tucker: You don't know of any easements?

Mr. Porter: Not that I am aware of, no sir. We aren't going to plant any trees or anything along the road unless it is necessary.

Public Comment: None

Mr. Tucker motioned to approve the Variance. Mr. Homeyer seconded the motion.

Motion Approved: 6 - 0

II. Abel / Pyles Setback Variance, #18-149, 13926, 13928 Cloverdale Road, Rogers; 18-05154-000, 18-05156-000

Representative: John Abel, 11 Ulverston Drive, Bella Vista

Staff gave a presentation on the Abel / Pyles Setback Variance, #18-149, 13926, 13928 Cloverdale Road, Rogers; 18-05154-000, 18-05156-000

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Mr. Bracy: Do you have anything to add to that, sir?

TENA O'BRIEN
CO. & PRODUCE CLERK
SEVENTH COUNTY, ARK

Mr. Abel: Not really.

Mr. Tucker: One of the questions we had during the TAC meeting was, do you know how wide the electric easement is?

Mr. Abel: It was put in, from what I understand, before they put numbers on it. There was an agreement that, yes, you can have an easement through this property, but there are no numbers on record. So, they go back to a default 30', 15' each way. With the 50' setback gives me 12' - 15' in order to build without this variance.

Mr. Bracy: Are the utilities overhead or underground?

Mr. Abel: Overhead.

Mr. Bracy: Overhead is presently in place.

Mr. Abel: Yes. It's kind of a hazardous deal because it's going right over top houses. I am trying to address that with Carroll Electric also to maybe have it rerouted.

Mr. Bracy: And this proposal would keep you completely out of that easement?

Mr. Abel: Yes.

Public Comment: None

Mr. Tucker made a motion to approve the Variance. Mr. Maienschein seconded the motion.

Motion Approved: 6 - 0

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III. Fellows Site Plan Review, #18-148, 4916 North AR Highway 94 and 5034 North Second Street, Rogers; 18-07608-000, 18-07611-000.

TENA O'BRIEN
CO. & PROBATE CLERK
BENTON COUNTY, ARK

Representative: Ryan Fellows, 3207 SW Joshua Avenue, Bentonville

Staff gave a presentation on the Fellows Site Plan Review, #18-148, 4916 North AR Highway 94 and 5034 North Second Street, Rogers; 18-07608-000, 18-07611-000

Mr. Bracy: Do you have anything to add to that, sir?

Mr. Fellows: No, sir.

Mr. Tucker: I have a couple of questions about the access. I drove by the other day and I don't remember the south access point. Does it have a concrete apron where you turn off?

Mr. Fellows: It does, yes.

Mr. Tucker: Do you happen to know how wide that is?

Mr. Fellows: I have not measured it. I would say it's around 15' - 20' wide.

Mr. Tucker: With this being commercial, I would be more comfortable with widening that to 24' so that you have enough room when a car is stopped going out, another car doesn't have to stop to let them out to go in. You have good visibility but because there is a curve, a hill and potential for traffic to back up there, I would be more comfortable if that was 24' - 25' wide. Do you have any issue with that?

Mr. Fellows: No, I don't. We were planning to actually smooth that up a bit anyway. There's a little bit of a drop and it's kind of rocky too.

Mr. Tucker: Fire Department says 20'. Usually 22' - 24' is more standard for commercial because you have one car moving pretty quickly and one car stopped. The other question was, the driveway at the north, is that there or is that proposed?

Mr. Fellows: That is there. We are proposing to add a third one between the south and the north for emergency vehicle access.

Mr. Tucker: Have you contacted the State Highway Department?

Mr. Fellows: Not yet.

Mr. Tucker: They may or may not let you do that based on how close you are to your driveway. Did we get any comments from the Highway Department?

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TEMA O'BRIEN
CO. & PROBATE CLERK
CENTRAL COUNTY, ARK

Mr. Reamer: No, we haven't.

Mr. Tucker: They usually want 250' or more between those access points

Mr. Fellows: Okay.

Mr. Tucker: I think that's it. I couldn't even see the building. I think it's pretty well buffered.

Mr. Fellows: Yes, it is.

Mr. Bracy: At TAC, wasn't there a comment on the roadway coming in and out of there to be capable of handling a fire truck?

Mr. Fellows: Correct.

Mr. Bracy: Has that been satisfied?

Mr. Fellows: On the revised site plan, we have added that. Widening the north entrance and then adding that third entrance between the two. And then, widening the roadway within the property to 20'.

Mr. Bracy: That could be written into the requirements if we approve this project?

Mr. Reamer: Correct.

Public Comment:

Mayor Bob Stout, City of Little Flock, 4115 Highplains Drive, Little Flock
Focus of comments: per Mayor of Little Flock, Little Flock was not made aware of project; numerous road accidents on Highway 94

Rebecca Hedges, 74 Yocum Road and 4805 North Second, Rogers
Focus of comments: Traffic safety; speed limit too high; add another turn lane; damaging natural flora and fauna of Brush Creek

Brian Brown, 83 Yocum Road, Rogers
Focus of comments: Incompatible with single-family homes in the area; conduct a traffic study on Highway 94; traffic accidents; size limit of parties; alcohol served; additional parking allowed; ADA parking; noise; enforced hours; lighting; signage

Anita See, 2 Yocum Road, Rogers
Focus of comments: Blind curves on Highway 94; traffic accidents; noise; alcohol; additional people in the area; detriment to residential area

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Robert See, 2 Yocum Road, Rogers

Focus of comments: Noise in valley; added traffic flow

JENA O'BRIEN
CO. & PROBATE CLERK
BENTON COUNTY, ARK

Scott Hedges, 74 Yocum Road and 4805 North Second, Rogers

Focus of comments: Reduce speed limit; high risk traffic

Mr. Fellows: I appreciate hearing from the residents around there. Hopefully we can come up with solutions to kind of mitigate some of those. For instance, the lower south driveway, hopefully on that blind corner we can move the main entrance up between the north and south at the longer straight stretch there. Also, I heard alcohol pop up several times. We will not be serving alcohol; but, if a party did want to serve alcohol, we would require a license and certified bar tending service to come in there to provide that service. Regarding signage, we are not planning any signage. Basically, on the lower gates, have some type of branding but no signs.

Mr. Bracy: I can comment on the alcohol in Benton County. Do you have to have a license to drink/serve alcohol?

Mr. Reamer: But the State, you do.

Mr. Bracy: So, they would have to have a license?

Mr. Reamer: Correct.

Mr. Tucker: Alcohol is legal in Benton County. I personally don't think it's a good thing to do especially in a venue you might be driving away from. Do you plan on having this outside?

Mr. Fellows: There will be an outside portion as well as an indoor portion.

Mr. Tucker: So, how are you going to do music and outside PA? Do you plan on having something set up or is that up to the individual to bring their own?

Mr. Fellows: That would be up to the individual at this point.

Mr. Tucker: I am just trying to think of a way that we could craft a requirement. I hate to go toward over regulation. Being a good neighbor, especially because that is a valley, I can see loud outdoor PA systems projecting through the valley. We would like to encourage you to be a good neighbor but we don't have a noise ordinance either. We tried to pass one several times and it has not had appeal of the Quorum Court. I may have a difficult time with the next statement that if you were to subdivide this, you could build 75 - 80 houses on the property. I don't know if that's still a quantifiable traffic impact. Are you going to limit it to 40 people or do you have plans for overflow parking?

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Mr. Fellows: We initially just planned on 100 people or less. We want to keep it small and intimate.

TERESA BRICH
CO. & PROBATE CLERK
BENTON COUNTY, ARK

Mr. Tucker: So, you don't have seating or a place for more people than what you have parking for (40 parking spaces)?

Mr. Fellows: Correct.

Mr. Tucker: I've done a lot of traffic studies. I don't know that you could quantify 40 trips, especially against Highway 94.

Mr. Torrez: How do you limit the number of patrons. Do you have party rentals such as chairs and tables available on site or is the person who is hosting responsible for bringing in their own tables and chairs? If you do have tables and chairs, how many will you have on site?

Mr. Fellows: We would provide that. We don't have an exact number yet. Again, this is in the early stages. We would be providing that. If they want to go above and beyond that, they could bring their own.

Mr. Bracy: I live off 94 in another part of the city. 55 miles per hour is what the State has put up and you cannot go 55 miles per hour to get to my house unless you have a Corvette or something. Is there room to egress off of the highway to get into the entrance on either one of these access points (north and south)? That is, if you are going 45 - 55 mph and want to turn left into a driveway, I've got to slow down. To do that with other traffic you need to get off out of the right of way without just stopping in the middle of the highway.

Mr. Fellows: Exactly. There is no turn lane.

Mr. Tucker: I think with the DOT it's something like 300 trips before they will let you put in a turn lane.

Mr. Bracy: I know we come across that a lot of times on commercial storage places. This is a piece of property that is surrounded by city limits, both Rogers and Little Flock?

Mr. Reamer: That's correct.

Mr. Bracy: I'm curious why neither one of them wanted to take it over. It leaves the burden on us.

Mr. Torrez: I don't see this proposed venue as much different than what we approved previously: another event venue surrounded by residential and also with windy roads. We are having a very similar conversation this evening.

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Mr. Bracy: I guess one of the big concerns I would have with something like this being in a relatively rural area, is having an event with outside music. There is no ordinance, unfortunately, in Benton County. If it gets too rowdy, you can call the local constable and they can pay you a visit. But, that puts a lot of burden on our public services.

Mr. Tucker made a motion to approve this Site Plan Review with the condition that the south driveway is widened to no less than 20'. Mr. Torrez seconds the motion.

Mr. Bracy: Taylor (*Reamer*), if we approved this, that would have to be written into the requirements?

Mr. Reamer: Correct. That would have to be satisfied for both the permitting aspect and the development prior to a building permit.

Motion Approved: 5 - 1

**IV. Estrada Septic Waiver, #18-129, 2341 Patterson Road, Pea Ridge;
15-10870-000**

Representative: Sergio Estrada, 2341 Patterson Road, Pea Ridge

Staff gave a presentation on the Estrada Septic Waiver, #18-129, 2341 Patterson Road, Pea Ridge; 15-10870-000

Mr. Bracy: Do you have anything to add to that, sir?

Mr. Estrada: No, sir.

Mr. Maienschein: Is that property part of a platted subdivision?

Mr. Reamer: Yes, it is. That's correct.

Mr. Maienschein: Are there any restrictions, covenants that would affect this?

Mr. Reamer: That, I am not sure. Based on the property just to the left of this, it looks like there are two dwellings associated with that property. The covenants are out of the control of the County administration or the Planning Board.

Mr. Maienschein: Yes, that's a civil matter.

Mr. Reamer: Correct.

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Public Comment:

TENA O'BRIEN
CO. & PROBATE CLERK
CENTRAL COUNTY, ARIZ.

Clara Weston, 2435 Patterson Road, Pea Ridge

Focus of comments: Too many trailers on the property is not going to look right; applicant needs to clean up his place

Mr. Homeyer moves that the Waiver be approved.

Mr. Estrada: The comment she (*Ms. Weston*) had about moving more of my family in, this is a house for my parents. Whenever we all get together, we don't have enough space. That's the main reason. Down the road, I want to build a house or move a big trailer in; so, we could move the old one out. So, we can have more space.

Mr. Tucker seconds the motion.

Motion Approved: 6 - 0

TECHNICAL ADVISORY COMMITTEE

1. **Call to Order:**
2. **Old Business / Ongoing Applications:** None
3. **New Business:**
 - I. **Stoecker Septic Waiver, #18-157, 18280 Sugar Creek Road, Garfield; 18-01274-000**

Representative: Nina Stoecker, 18280 Sugar Creek Road, Garfield

Staff gave a presentation on the Stoecker Septic Waiver, #18-157, 18280 Sugar Creek Road, Garfield; 18-01274-000

Mr. Bracy: Do you have anything to add to that?

Ms. Stoecker: We are going to put the trailer home there. My mom is going to move into it when she retires. I am her only child so I will be taking care of her. There is plenty of space there. We don't want to dig up one septic tank and move it across the field when the home is completed. So, it is pretty straightforward.

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**II. Morrow Lot Size Variance, #18-161, 27 Puckett Road, Rogers;
18-00621-000**

TENA O'BRIEN
CO. & PROBATE CLERK
BENTON COUNTY, ARK

Representatives: Bob Matlock, 26 Puckett Road, Rogers

Staff gave a presentation on the Morrow Lot Size Variance, #18-161, 27 Puckett Road, Rogers; 18-00621-000

Mr. Bracy: Do you have anything to add, sir?

Mr. Matlock: I have maintained that little 90 square feet for about 20 years. Mr. Morrow said that he would just give it to me. So, that's what we are trying to do. Just to clear property lines. It's a little piece that's on the other side of the road. It looks like it's on my lot. But, technically, it's on his (*Mr. Morrow's*) lot. Being neighbors, he (*Mr. Morrow*) said that he will just give it to me (*Bob Matlock*).

Mr. Tucker: Prior to 2014, we would have had to had every signature of every property owner in the subdivision. So, I think this is a positive. Unfortunately, you have to come see us.

Mr. Matlock: Well, it's interesting you say subdivision. He's not in the subdivision but I am. His (*Mr. Morrow's*) lot and the next one are technically not in the subdivision. The Rivercliff Subdivision is what I am in.

Mr. Tucker: You are in Rivercliff and they are in a different subdivision?

Mr. Matlock: There's no subdivision. They are just in the County. It's just one of those weird things.

**III. Miser Septic Waiver, #18-174, 13689 Hardie Road, Rogers;
18-04367-000**

Representatives: Jordan Miser, 13689 Hardie Road, Rogers

Staff gave a presentation on the Miser Septic Waiver, #18-174, 13689 Hardie Road, Rogers; 18-04367-000

Mr. Bracy: Do you have anything to add to that, sir?

Mr. Miser: We plan to move into the new dwelling and the old dwelling will be unoccupied except on very limited occasions as a guest house. It just seemed easier to move in a new dwelling than to add on to the other one. My wife can't negotiate the stairs in our present house.

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**IV. Mahaffey Setback Variance, #18-182, 13406 Indian Bow Circle, Garfield;
15-03881-000**

TENA O'BRIEN
CO. & PROBATE CLERK
BENTON COUNTY, ARK

Representatives: Clayton Mahaffey, 13406 Indian Bow Circle, Garfield

Staff gave a presentation on the Mahaffey Setback Variance, #18-182, 13406 Indian Bow Circle, Garfield; 15-03881-000

Mr. Bracy: Do you have anything you would like to add, sir?

Mr. Mahaffey: This is a residence we want to expand so that we can move out to that location full time. The only place to do that expansion is in the front portion of the original house.

Mr. Torrez: He (*Mr. Mahaffey*) is encroaching with the 6.5' and the setback is 10'. Typically, we would allow a variance of 5', unless there are other extreme circumstances. I am just a little surprised that we are seeing a site plan coming in that tight to the property line.

Mr. Mahaffey: Actually, the foundation isn't that tight but if you look at the overhang of the roof, which is included in the setback, that's where the difference is.

Mr. Tucker: What is unusual about the site that you couldn't build on the back?

Mr. Mahaffey: We have a deck and eight large oak trees about 2' - 3' in diameter. We would have to eliminate those trees to expand back there. Of course, that's our view to the lake at that point.

Mr. Williams: What is the distance of the existing structure to the property line?

Mr. Mahaffey: The existing structure on the corner is 3' from the property line. The existing structure was built in '74 before there were any setback requirements.

Mr. Williams: So, it encroaches further than the proposed structure?

Mr. Mahaffey: Yes, sir, it does.

Mr. Williams: What's the distance of the new structure to the other property?

Mr. Mahaffey: The next house is approximately 35' away.

Mr. Tucker: Is there a retaining wall on the property line?

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CLERK OF DISTRICT COURT
SEVENTH JUDICIAL DISTRICT
SANTA FE COUNTY, ARIZONA

Mr. Mahaffey: Near the driveway at the front, near the garage, there is a small 2' retaining wall.

Mr. Tucker: It doesn't wrap around the corner?

Mr. Mahaffey: No, it does not. I've talked to all the adjacent property owners. Everyone is fine with it. The neighbor who the variance would affect most, said it looks a little too tall to him but didn't have an issue with the property line variance itself.

Mr. Torrez: Are you removing any vegetation between you and your neighbor where you are encroaching on the setback?

Mr. Mahaffey: I am not at this point; but, if that is a suggestion, I could certainly do that.

Mr. Torrez: No, it's not a suggestion. I am just asking.

Mr. Bracy: Are the utilities to your home and any of the others, underground or above grade?

Mr. Mahaffey: Mine is underground. The adjacent neighbor to the south is overhead. He intends to get that underground as well.

Mr. Bracy: So, between your property and the closest point of the new proposal to the property line and your neighbor's physical building and property, is there any utility above grade?

Mr. Mahaffey: No. There is a utility at the front corner of the property on the south side. There is a utility pole. My utilities go underground from that point. The neighbor's goes above ground.

Derek Linn points out the utility pole and two propane tanks on the site plan.

Mr. Bracy: They are existing propane tanks?

Mr. Linn: That's correct. Basically, everything on this survey is existing except for the pink poly lines.

Mr. Maienschein: Are you planning to relocate that propane tank?

Mr. Mahaffey: Yes, I am planning to relocate it and bury it.

Mr. Maienschein: I think it has to be a minimum of 10' from the house.

Mr. Bracy: There is a minimum propane tank from above structures. So, that would have to be relocated whether it's above grade or below grade. I am

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trying to understand the utilities or the utility easements between the two properties and adding another obstruction to restrict that 10'. If your electric comes on this property line into your and their property, the electric company is going to request 10' so that they can get a truck into that activity.

Mr. Mahaffey: You can see the utility pole on the plot. That's the only utility going into the property at that location from that utility pole.

Mr. Tucker: Where does it enter your house?

Mr. Mahaffey: On the south corner.

Mr. Tucker: Is there septic and water as well?

Mr. Mahaffey: Yes, there is. The septic tank is on the south side of the original structure toward the lake. Where you see the structure end it starts about there and goes toward the east.

Mr. Tucker: So, your lateral field is to the east?

Mr. Mahaffey: Yes.

Mr. Tucker: That would be a good reason not to build to the east.

Mr. Bracy: This is a three-story building.

Mr. Mahaffey: You see where the foundation is and then there is a 2' bump out on the second story. The roof line extends another foot beyond that. The footings for the additional structure will be within the original structure away from the property line.

Mr. Bracy: So, the edge of footing is how far from the property line?

Mr. Mahaffey's builder (name unknown): It would be inside the overhang of the third floor.

Mr. Bracy: I see a dimension here of 6'3". Is that the footing?

Mr. Mahaffey: No, that's the roof line. We are 3' from the property line now with the original structure. Then you take 2' for the bump out and 1' for the roof. That's another 3'. So, we will be approximately 6' from the property line with the new structure's footing.

Mr. Bracy: At the bottom of this exhibit is shows a 4'6" and a 3'6". Is that a footing corner there?

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Mr. Linn: Those are referring to the dimensions of the overhang of any of the roofs. The dashed lines are indicating roof overhangs and the solid are the walls.

CO. & PROBATE CLERK
BENTON COUNTY, ARK

Mr. Maienschein: That's labeled second level floor, not roof line.

Mr. Linn: That is correct.

Mr. Maienschein: The roof line is in addition to that.

Mr. Linn: Maybe you can see it better on this image. You can see that roof overhang is label here. Basically, I asked the applicant to tell me any parts of the building that will be closest to the property line whether it's part of a wall, roof or eave. We just want to know what it is. Any of those different parts. They clarified to me that it would get within up to 3' of the property line. The closest of those elements would be one of the roof overhangs. What can also be seen from the exhibit is the different floors and the different roof lines.

Mr. Homeyer: What about the property is the hardship that justifies the variance to put the building where you are proposing to put it? It looks like you can move it north toward the existing garage and meet the 10' setback.

Mr. Mahaffey: We want to have a walk way so that we can get to the front door which is beyond the garage. You see from the diagram that to have that walk way access, we really need room to be able to put what we think is an adequate square footage on the front end which is, right now, 2,000 square feet and three stories tall.

Mr. Torrez: What is the distance between the garage to the home for the walk way?

Mr. Mahaffey: Are you talking about the new, proposed addition?

Mr. Torrez: You said you wanted a walk way. What is the walk way walking to?

Mr. Mahaffey: I think the front entrance is indicated there, maybe not. But, you have to walk between the garage and the new structure to be able to get to the front entrance of the current home.

Mr. Torrez: To the existing home, right?

Mr. Mahaffey: The existing home. You see an arched walkway. It will be approximately 8' from the garage to the main structure.

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Mr. Torrez: I would be curious to know what that dimension is to address his (*Mr. Homeyer's*) point on why we couldn't go further in that direction to stay out of the setback.

Mr. Mahaffey: Well, you could get rid of the walk way but then you have to figure out some way to get to the main entrance of the house which is beyond the back of that garage.

Mr. Bracy: You have an 8' walk way. Why couldn't that be reduced to 5'? That's 3'.

Mr. Maienschein: It's more than 8'. More like 10'.

Mr. Torrez: I think it's more than 8' as well.

Mr. Bracy: The walk way looks like it's 8' but you have grass on each side.

Mr. Mahaffey: Where you see the walk way I am talking about between the garage and the three-story structure, there will be an archway and a deck above it. But the walk way itself should be 8'.

Mr. Torrez: The arch opening is 5'.

Mr. Homeyer: My point is, I'm not seeing anything that (i.e. steepness of the terrain, etc.) that would qualify as being unique or different from the adjoining properties. Therefore, I am not seeing a hardship.

Mr. Maienschein: Is that existing garage over the setback on the other side of it?

Mr. Linn: It looks like the back corner encroaches.

Mr. Mahaffey: The original property owners purchased a 5' strip on the adjacent lot so it doesn't encroach. Again, there was no setback rule back in '74.

Mr. Homeyer: Do we have an exhibit that shows contour lines?
Derek Linn pulls up a topographic map of the parcel.

Mr. Homeyer: Are the trees you were talking about behind the garage?

Mr. Mahaffey: No, they are behind the original house.

Mr. Homeyer: What prevented you from adding on the side where the main entrance is going back behind the garage?

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Mr. Mahaffey: I have a well directly behind the garage. There is a natural rock wall that would make it impossible to dig a foundation.

Mr. Tucker: The well is on the north side of the house and the east side of the garage.

Mr. Mahaffey: Yes.

Mr. Tucker: The septic is on the east side of the house.

Mr. Mahaffey: It's on the south side of the house toward the lake.

Mr. Torrez: I am looking at Google Maps right now. I am looking at your neighbor's driveway, your property and the existing site conditions. I recognize that your house is already encroaching which is fine. But, if you continue to add on, I don't understand why that needs to happen.

Mr. Mahaffey: Certainly, there is always the option to make it smaller but we wanted to make it adequate so that we could move out there full time. I would like to not have to go three stories; but, that is the only way to add the additional space we needed.

Mr. Torrez: I think you are on the right path. The question I think we are asking is, why do you need to encroach so much into the setback versus just moving the entire structure to the left?

Mr. Maienschein: Squeeze your distance between the garage and the house. If you could give a little there, it won't get you totally out of the setback.

Mr. Torrez: Plus, you are telling us that maybe you wanted a larger deck on the second story above the breeze way. Maybe that is what you are trying to accomplish. I don't know.

Mr. Mahaffey: We wanted to have something unique about this whole structure. That walk way with the archway and having a deck above it where you could walk out from the stairwell inside the structure and have a place where four or five people out and enjoy. This is something we wanted to do. Surely, we could reduce that 2' - 3'; but then, it's useless as far as anything else above it such as a deck.

Mr. Bracy: To me, and also living on Beaver Lake, it's a struggle what happened twenty years ago as contractors and builders have crammed so much into such small areas. I personally have a hard time finding hardship when you have over 8' between the new structure and your existing garage that you can't move this whole foundation at least 3' to the north. It would get you still in the setback but further away from your neighbor. And, the fact that this is a

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three-story building would give a little more view to the neighbor looking out to the front.

TERESA O'BRIEN
CO. & PROBATE CLERK
BENTON COUNTY, ARK

Mr. Mahaffey: Okay. I think that is a reasonable question. What would help us to work that option is to know how much of the setback we could legitimately be expected to have. Then we could go in and redo the plans and come up with another option.

Mr. Bracy: If they moved it 3', he's at 3' now. He'd be 4' into it. We've looked at other properties that were 5' or less. The other thing is that you have a lot of utilities between you and your neighbor on that side. It would be a benefit to both of you to move to within 4' instead of 6' that you are in. It would still allow you to have the aesthetics of that breezeway, the arch in there and, you may only now have a porch over there that three or four people could go out into and stand around or have a high-chair type activity. It wouldn't be as big. I don't think you will see that loss as great as you will find the benefit. Also, from an aesthetics of looking at it from the road, you are shifting your new structure closer to the garage which is the dominant portion to the left. You have a little staircase going instead of something high, a big gap and then going very high. It will make that three-story building look like a tower. This would break that aesthetic up a little bit.

Mr. Mahaffey: Okay.

Mr. Bracy: So, if you agree with what the Board is suggesting or recommending, I think when you come back, the Board would find that appealing.

Mr. Torrez: I would also add one point. Recognizing that your designing costs money, I would hope that you are working with your neighbor to the right so that your neighbor and you are in some kind of agreement. It would be a shame if your neighbor opposed this and brought up new reasons. Then we would have to continue the dialogue.

Mr. Mahaffey: Well taken. So, just to be clear, we are talking about 4'.

Mr. Bracy: You would encroach 4' instead of 7'. You are going to move your structure to where you are only 4' into the setback and that again is with the roof line. Your place is still going to be almost right on your easement.

Mr. Mahaffey: Okay.

V. Tricom / Adams Telecom Tower, #18-081, 12540 Collins Road, Gentry; 18-13539-000

Representatives: Tom Holiman, 978 County Road 1845, Huntsville, AR

18-13539-000

2018-2844

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Staff gave a presentation on the Tricom / Adams Telecom Tower, #18-081,
1254 Collins Road, Gentry; 18-13539-000

TERA D'BRIEN
CO. & PROBATE CLERK
SENTEGON COUNTY, ARK

Mr. Bracy: Do you have anything you would like to add, sir?

Mr. Holiman: I really don't. That's pretty comprehensive. My real estate company is Tricom. That's just me. The company building and owning the tower is BRT, LLC as on the plans. I wanted to mention who was who. The reason BRT wants to build a 325' tower is because they have already been contacted by at least three other carriers (one for sure and two others may follow suite pretty quickly). They need to be that tall to accommodate all of that.

Mr. Maienschein: Does part of that overlap surrounding property?

Mr. Holiman: No. That yellow square....

Mr. Reamer: That's just an area of interest polygon.

Mr. Holiman: That's just to show you the general location.

Mr. Reamer: You can see that the dashed line around the tower site in this graphic is well within the property lines of the property. This is all contained on this subject property. The area in which the easements are going to be located for the tower is on one piece of property.

Mr. Holiman: Our landowner actually owns the property to the north. He bought within the last 90 days, I think. I noticed on record that he is now showing up owning that northern parcel on the other side of that line.

Mr. Tucker: Could you tell us if this is telecommunications, business data, etc....

Mr. Holiman: Yes, it's for telecommunications like Verizon, AT&T, Sprint, T-Mobile

Mr. Bracy: Is the height of this in sight of Siloam Springs?

Mr. Holiman: That's a good question. I was out there yesterday and I drove out of Siloam Springs heading that way and there is another tower in the general area. I could not see that tower. Because of the foliage and the trees, you really can't see it until you get around that last mile before you get to Martin Pedro Road, approximately.

Mr. Tucker: You brought up the other tower. How close to the other tower are you?

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Mr. Holiman: It's at least a quarter of a mile to the north.

JENA O'BRIEN
CLERK & PROBATE CLERK
BENTON COUNTY, ARK

Mr. Tucker: And there wasn't an opportunity to co-locate these services on that tower?

Mr. Holiman: They did analyze that tower. What's happening in the industry just for your information, it's kind of unique actually. I've been doing this since 1993 so I've kind of seen the whole thing evolve over the country. What we are finding out is that there are thousands of towers across the country that are good towers but they've been there for 20 years. And the new equipment that is coming out that the carriers are using is changing; it is becoming heavier. A lot of the existing towers are maxed out structurally. So, they did do that. Another thing that you will notice on the plans, in the past you would see shelters at the base, a little building inside the fence. And now the carriers are moving away from buildings and doing outdoor cabinets. But to do that, they are putting heavier equipment (radios) up on the tower. It is causing more weight. So, towers have to be stronger and that's what dictating a lot of this.

Mr. Tucker: And as that stuff gets bigger, our ordinance is about the shedding of ice. So, as ice blows off of that equipment, it has a place to fall rather than fall onto something.

Mr. Holiman: Right.

Mr. Tucker: We are not so worried about the towers falling. That is you guy's business.

Mr. Holiman: Right, exactly. It is still all contained up there in and around the antennas. They are just putting radios back behind them, but they are heavy. It is just the way the industry is going.

Mr. Tucker: Not fewer, shorter towers?

Mr. Holiman: Well, they are doing that too. I could stand here two or three hours but to save time, you may have heard the word, 'small cell.' That's a new term in this industry. You still need all the macro towers that we are talking about today. In between the towers, especially in the cities, they are doing smaller applications on light poles and utility poles. But all that does is fill in the gaps. The demand is so intense. Nobody anticipated the demand that the new technology was going to generate. Nobody anticipated little five-year-old girls running around with I-Pads. I use that example but that is exactly what happened. The insatiable demand for data and video is just off the charts. They actually can't keep up with it. So, yes, they are going smaller but they still need the macro towers still out there on the landscape at this time.

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Mr. Bracy: Is that for communications in low frequency where you have to be more line of sight?

TENA O'BRIEN
SO. & PROBATE CLERK
BENTON COUNTY, ARK

Mr. Holiman: It's all line of sight, right.

Mr. Bracy: I understand there is a trend to broadcast video signals, etc. at lower frequencies which have a limit of 30 - 60 miles.

Mr. Holiman: I think it's generally all line of sight generated. I do know that there are still dropped calls. The demand that is driving all of this is far more than a telephone call; it's really the data. In general, you still need line of sight because if you go around a curve or if there are too many trees, it impacts the signal, still to this day. They haven't developed the technology to go through trees yet. I guess they will one of these days.

Mr. Bracy: Do you see any concern with fulfilling items 3, 4, 5 and 6?

Mr. Holiman: I do not.

Mr. Bracy: Before two weeks?

Mr. Holiman: Oh, before two weeks. We may already have the FAA determination by now and have the lease. I am not sure about the electrical service. There are a lot of things that we do once we get zoning approval. We start another whole process of stuff moving toward a building permit. Those things include utility coordination. We can provide a written statement of who we are going to use and how that is going to be handled. So, I am not sure about the written....

Mr. Maienschein: We just need a letter from them that they are going to provide you...

Mr. Holiman: Oh certainly.

Mr. Maienschein: You don't have a statement.

Mr. Holiman: Oh yes. I don't see a problem with any of that.

Mr. Bracy: The more you can get to the FCC, etc., before you go to Public Hearing, the better. Those restrictions will still apply even if we approve this.

Mr. Holiman: The FCC antenna registration, they call it the ASR, is the official FCC piece of paper. We typically don't get that until further down the road when our environmental due diligence is complete. We might be further along than I think on that too. So anyway, yes.

VI. BRT Group / Adams Setback Variance, #18-183, 12450 South Collins Road, Gentry; 18-13539-000

2018 2847

2018 AUG -6 PM 2: 53

Representatives: Tom Holiman, 978 County Road 1845, Huntsville, AR

JELLA O'BRIEN
CLERK
BENTON COUNTY, ARK

Staff gave a presentation on the BRT Group / Adams Setback Variance,
#18-183, 12450 South Collins Road, Gentry; 18-13539-000

Mr. Bracy: Anything additional, sir?

Mr. Holiman: You notice the height is not as tall as the other one. We are closer to town. It is still rural in nature. That is the height that we feel we can utilize, 240'. The reason for the variance is property driven. You'll notice on the site plan, it's not a square. It's a rectangle. We are wedged up against the property line of the next-door neighbor over there. Because of that, we don't have any room to go that way. That's why it is located where it is at which dictates the variance request. The reason we felt good about that is because, as Derek (*Linn*) just mentioned, the tower height is 240'. The distance to the paved road or highway is 258'. So, the tower height itself, even if it fell straight over, and it never does, would not hit the pavement of the highway. It's the 50' additional requirement that is causing us to ask for a variance. We encroaching into that extra 50' by 32'. So, that's why we are asking for the variance. We feel like it is reasonable because we can't go further the other way. And because of the way these towers are designed, even if they fell over, which they don't, it still is not going to hit the highway. It's 16' less than the highway already. We get fall zone letters on every site. Every single tower has an engineered fall zone letter. We get those specifically from our tower manufacturer. We don't have that generated yet because we don't start the big money process of the soil analysis and the Geotech that generates the tower drawings, that generates the fall zone until we get the zoning approval. We have to get to this point before we can get to the next point. In other words, we won't have the fall zone letter in two weeks on this particular site. We just did one in Saline County and we did one in Dallas County. Just so you know, they can design these towers now where they fall only 60' away from the base of the tower.

Even in the worst circumstance of an F-5 tornado, that's all that would do. They are designed to crinkle in on top of themselves. When the tornado came through, it wiped out every single thing in it's path down to the concrete slabs. There were two cell towers on either side of the interstate. One was a three-legged tower, like this, and the other one was a guyed wire tower. They technically failed but the bases were all still there. The bottom part of the tower did not move off the foundation. The top part just hung down falling onto itself. As devastating as that tornado was, that's all it did at those two towers. They weren't strung out all over the place killing people. We know that in our industry. So, when we come to a site like this, as ask for a variance, we feel very confident that it's a reasonable request. Especially in this case, it's only a 32' variance. We will end up providing a letter that will say it will only fall about 50' from the tower if it ever fell. The kind of

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emergency that happens and causes a tower to fail, most everything else around it is destroyed anyway, including people, I hate to say, if they are still there. So, we will get a fall zone letter; but I don't know if I can provide one in two weeks on this specific tower. It will be what you want to see when you see it.

Mr. Tucker: Our typical concern is less about the tower falling but more about ice, or a panel coming loose. Where is it going to land in a 10 – 20 mph wind? You are on the non-prevailing wind side so it would either go east or south likely if it fell. I am assuming the highway is outside of that fall zone as well.

Mr. Holiman: Oh yes. Again, as you know, there are thousands of towers right up against buildings and other structure all over the place.

Mr. Bracy: You are asking for a 32' variance. What is the hardship of moving that into the tree line 32'?

Mr. Holiman: That's somebody else's property.

Mr. Bracy: What is the hardship of them leasing you the property?

Mr. Holiman: It's somebody else. I don't know that they'd want it. We have to always be careful about the topography (i.e. ravines) as well.

Mr. Bracy: One of the criteria that the Board takes into account is, what is the hardship for a variance?

Mr. Holiman: Right. I understand. That kind of question on this specific property would be contingent on what the landowner would say. Whether he would want it or not want it.

Mr. Bracy: Looking where that road came off of 59, is that a building to the left there?

Mr. Holiman: Those are all chicken houses or former chicken houses.

Mr. Bracy: They are all chicken houses. So, you would be going through that property between the chicken houses with an access road?

Mr. Holiman: Yes. And that road is already there. That's our land owner's property.

Mr. Bracy: So, you are going through another property to get to this property?

Mr. Holiman: That part of the easement was on Adams property. While we were working with Adams on our tower site, they sold it. We all worked together to get the easements and the land agreement with Adams all at the

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same time. You are correct. That little section of the road is an easement across Stricker right through there.

TERA O'BRIEN
CO. & PROBATE CLERK
BENTON COUNTY, ARK

Mr. Bracy: Moving to the east would put the tower on the property where the road is.

Mr. Linn: About three pages in from the cover of the civil set of plans, it shows how Adams used to have the Stricker parcel on the east.

Mr. Holiman: That's what it was when we generated those plans.

Mr. Bracy: So, with the access road going through that parcel passed the chicken houses and curving back into another property, I am not sure I still understand what the hardship is to put it on the property where the road is.

Mr. Holiman: The only hardship would be if the land owner would not want it. If he said he didn't want the tower on his property.

Mr. Bracy: Have you asked him?

Mr. Holiman: We talked about it and his initial comment was, no. I can't make him.

Mr. Bracy: I am just asking, is there a hardship? And if there is, we would request that you notate that.

Mr. Holiman: Oh, absolutely. We will get an affidavit or wherever you want. I understand what you are saying.

Mr. Bracy: If you asked the question and got an answer, that's fine.

Mr. Holiman: Okay.

VII. Clover Community School, #18-187, 5101 Rocky Ridge Trail, Little Flock; 18-07569-002

Representative: Kimberly Parker, 68 West Champions Boulevard, Rogers

Staff gave a presentation on the Clover Community School, #18-187, 5101 Rocky Ridge Trail, Little Flock; 18-07569-002

Mr. Bracy: Is there anything additional you would like to add, ma'am?

Ms. Parker: No, I think he did a pretty good job covering it.

Mr. Bracy: Because this was residential and now will be institutional, are there any fencing requirements?

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Ms. Parker: Is there a fencing requirement for a school? The school code doesn't require a fence.

TEENA BISHOP
CO. & PROBATE CLERK
BENTON COUNTY, ARK

Mr. Reamer: The County ordinance does not.

Mr. Bracy: Are you going to put any fencing around it?

Ms. Parker: We have some fencing. We have goats and donkeys and they are fenced in. We have some steel pipe fencing along the edge of it. I think eventually we will look into fencing that is appropriate, mostly for animal control.

Mr. Bracy: My thoughts are not animal control but two-legged control.

Ms. Parker: If you look at the photographs, the actual buildings are pretty far off the road. We are fenced away from Highway 72. We had a lot of families come out there and take a look at the building. Everyone feels safe with how far back it is from Highway 72 and the fact that there is the actual goat fencing back in that area.

Mr. Tucker: Are you going to keep the goats?

Ms. Parker: Yes.

Mr. Bracy: Good education.

Mr. Torrez: I see that there is an upstairs. How does that work with ADA?

Ms. Parker: It's closed off. It's not part of our classroom environment.

Mr. Tucker: Will somebody continue to live there then?

Ms. Parker: No.

VIII. Carroll Electric-Herbaugh, #18-189, 12601 Herbaugh Road, Bentonville; 18-09956-002

Representative: Jeff Smalley, 920 Highway 62 Spur, Berryville

Staff gave a presentation on the Carroll Electric-Herbaugh, #18-189, 12601 Herbaugh Road, Bentonville; 18-09956-002

Mr. Bracy: Do you have anything additional you would like to add, sir?

Mr. Smalley: Gentlemen, I just want to thank you for hearing my application again. Last time, of course, the problem was the mitigation with my neighbors. To try to mitigate that, I have installed a 20' berm and cut the

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substation down 5' lower than it was before. I still employed the same landscape architect and he has submitted plans for this also. And, we are still growing. I guess my question to you all is, I need some guidance on what extreme measures are for neighbors. That's what I need.

Mr. Torrez: Taylor (*Reamer*), can you remind me from last time, how tall was the berm?

Mr. Reamer: 5'.

Mr. Torrez: So, he's 400%, quadrupled it.

Mr. Reamer: It has been enlarged. That's correct.

Mr. Smalley: Actually, Mr. Torrez, it's your suggestion, I believe.

Mr. Torrez: Yes, it's exactly what I said for something substantial, like 20'.

Mr. Tucker: I think that is fairly consistent with some of the warehouse projects we have reviewed. I challenge your landscape architect to look at the density and spacing of the plantings to make sure they are survivable. The plateau on top needs to be a certain width to get them to live. You may have already discussed this with him.

Mr. Smalley: I asked that very question. My question was to James was can this berm support vegetation. He assured me that it would.

Mr. Homeyer: Just a suggestion on these line of sight section views, they are all based on 6' above ground. A lot of these are going to be two-story houses, so you might do a line of sight from second floors.

Mr. Smalley: So, increase that to what height?

Mr. Tucker: 14'.

Mr. Smalley: Do an additional one at 14'?

Mr. Tucker: Yes. Put it on the same diagram. First story view and second story view.

Mr. Homeyer: It would be nice if you showed both.

Mr. Tucker: How tall will the light stations be in the corners?

Mr. Smalley: They are only going to be 20' - 25'. They will have a typical full-cut off LED light in them. It's like a 70-watt equivalent fixture. In my

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CO. & PROBATE CLERK
BENSON COUNTY, ARIZ

consideration, it won't be much. However, I understand what my neighbors may think.

Mr. Tucker: If you have a photometric plan, that would be helpful.

Mr. Smalley: I had that last time and I will get that to you.

Mr. Reamer: I have that. I can provide it to the Board at the next meeting.

Mr. Bracy: I think you proposed last time that there would be only one illumination above the service door. Now you come back and say that they will be in the four corners of the property. Will that lighting be on continuously or only when work is being conducted?

Mr. Smalley: That will be on continuously. With all the landscaping and everything going around it, I have security concerns. Also, with continued security concerns in our industry, there will be cameras and such, hence the needs to keep the lights on. These are the exact same ones we hang up if you call us up. We hang an LED fixture at your house.

Mr. Bracy: Do you have anything to present that would show any hardship if this project would be located elsewhere? Last time I think when I asked that question you told me that you had not did any study to show any hardships. What is the reason for picking this location?

Mr. Smalley: The reason for picking this location is that in our planning, we placed it to get it as close to our load as we possibly could.

Mr. Bracy: So, the load is your concern and hardship.

Mr. Smalley: Yes, sir.

Mr. Bracy: Is there any financial burden to the utility as far as relocating to another spot?

Mr. Smalley: Other than the expense that we have invested in the site right now, which is very extensive. So, I guess for my clarification, I do meet extreme measures? I just need a little feedback here.

Mr. Torrez: I stated something a month and a half ago. I see that you have taken my suggestion.

Mr. Tucker: You've closed off the north end, the west end and have done something substantial on the east side. It's tiered. The species that are shown look appropriate.

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Mr. Torrez: I personally would consider this extreme. This is much taller than a 5' berm.

TEHA O'BRIEN
CO. & PROBATE CLERK
RENTON COUNTY, ARK

Mr. Smalley: Thank you.

**X. Carroll Electric – Simmons, #18-190, 10190 Bredehoeft, Gentry;
18-11677-001**

Representative: Jeff Smalley, 920 Highway 62 Spur, Berryville

Staff gave a presentation on the Carroll Electric – Simmons, #18-190, 10190 Bredehoeft, Gentry; 18-11677-001

Mr. Bracy: Any to add on this one?

Mr. Smalley: Gentlemen, on this project, of course, it is a direct result of the Simmons plant that is going in. Where they placed the Simmons plant, we didn't even have three-phase power in the area. Therefore, building a feeder with that capacity that far, was not a viable option. The benefit of this to the members in that area, though, presently they were at the end of single-phase lines. Now they will be very near three-phase lines and very near a substation.

Mr. Bracy: How far would the Simmons project be?

Mr. Smalley: This substation actually is across the road. It's just across Bredehoeft from the Simmons property.

Mr. Maienschein: Simmons should have given you a spot on their 900 acres.

Mr. Bracy: This is the spot I have.

Mr. Maienschein: Did you suggest that?

Mr. Smalley: I wasn't in those negotiations.

Mr. Tucker: Will there be any impact to the rate the users pay with the advancement to three-phase power? Will they get better rates?

Mr. Smalley: No. That's under the rate schedule as far as your load goes.

Mr. Homeyer: How are you going to feed this substation? Where are you going to bring it in from?

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Mr. Smalley: We are bringing the transmission in from the east. It will basically go along Peterson Road and tie into an existing line we have now from Centerton to Highfill.

Mr. Homeyer: It will follow the roadways and not do easement across properties?

Mr. Smalley: No, sir. We had to get new easements across everyone. It's a transmission line. We have to get new easements.

Mr. Tucker: Did you receive any state or federal funding for the extension of power?

Mr. Smalley: We are a RUS borrower which means we do borrow from RUS (Rural Utility Service). I guess the answer to that is, yes, we got a loan from the government. We did not get a grant from the government. Does that answer your question?

Mr. Tucker: Simply, we did not receive a grant, was what we were looking for.

Mr. Smalley: Okay.

4. **Other Business:** None

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

I. Bartlett Minor Subdivision, 18-106, 12716 Whitetail Drive, Garfield:
15-15706-000

6. **Discussion Items:**

I. Board Chair / Vice-Chair Nominations

Mr. Reamer: It's up to the Board. First, we need a nomination for Chair and then a vote. Then we need another nomination for Vice-Chair and then another vote.

Mr. Tucker nominated Mr. Homeyer for the Chair. Mr. Maienschein seconded the nomination.

Nomination approved: 6 - 0

2018 2855

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Mr. Bracy volunteered as Vice Chair. Mr. Torrez nominated Mr. Bracy as Vice Chair. Mr. Williams seconded the nomination.

TENA O'BRIEN
CO. & PROBATE CLERK
BENTON COUNTY, ARK

Nomination approved: 6 - 0

Meeting Adjourned: 8:45 p.m.

Next Meeting: Wednesday, August 1, 2018

APPROVED THIS 1st DAY OF August, 2018

ATTEST:



PLANNING DIRECTOR or
SENIOR COUNTY PLANNER

APPROVED:



PLANNING BOARD CHAIR or
PLANNING BOARD VICE CHAIR

2018-2856

