



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

JENA O'BRIEN  
CLERK & PROCLAM CLERK  
BENTON COUNTY ARK.

September 19, 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, Ron Homeyer

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

**Staff present:** Taylor Reamer – Director of Planning, Derek Linn – Senior County Planner, Tracy Backs – County Planner

**Public Present:** 5 people signed the sign-in sheet.

**Disposition of Minutes:** September 5, 2018

Mr. Tucker motioned to approve the September 5, 2018, Planning Board Meeting minutes. The motion was seconded by Mr. Maienschein.

Motion approved: 6 – 0 (Mr. Collyge was not yet at the meeting)

**General Public Comment:** None

**Old Business:** None

**New Business:**

- I. **Centerton Water, Utility Water Storage Tank Site Plan Review, #18-224, 11671 + 11681 West Highway 72, Bentonville; 18-09802-000 + 18-09802-001**

Representative: Frank Holzkamper, 500 Keller Road, Centerton

Staff gave a presentation on the Centerton Water, Utility Water Storage Tank Site Plan Review, #18-224, 11671 + 11681 West Highway 72, Bentonville; 18-09802-000 + 18-09802-001

Mr. Homeyer: Do you have anything you wanted to add?

Mr. Holzkamper: No, sir.

**Board Comments:** None.

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Public Comments: None.

ILINA O'BRIEN  
CLERK OF SUPERIOR COURT  
BRANTON COUNTY, ARIZ.

Mr. Williams motioned for approval. Mr. Tucker seconded the motion.

Motion approved: 7 - 0

**II. Hubbard Septic Waiver, #18-227, 11616 Roupe Road, Gentry; 18-10691-000**

Representative: Taisy Haskins, 11612 Roupe Road, Gentry

Staff gave a presentation on the Hubbard Septic Waiver, #18-227, 11616 Roupe Road, Gentry; 18-10691-000

Mr. Homeyer: Do you have anything else you wanted to add?

Ms. Haskins: No.

Mr. Tucker: Are all three of the buildings trailers?

Ms. Haskins: No.

Mr. Tucker: So, one is a permanent residence and the other two are trailers?

Ms. Haskins: One is a permanent residence, the other is a trailer and there is nothing else there now.

Mr. Tucker: Will it be a structure or will it be a trailer?

Ms. Haskins: It will probably be a double-wide manufactured home.

Mr. Tucker: I just wanted to note that if you added three trailers, one more would make it a mobile home park. If you decide to go that route, there is a little bit different regulation.

Ms. Haskins: It's all family land. Family is the only ones that live there.

Mr. Tucker: I just wanted to bring that up. If there are three, you are at the limit.

Ms. Haskins: Okay.

Public Comment: None.

Mr. Tucker motioned to approve the waiver. Mr. Williams seconded the motion.

Motion approved: 7 - 0

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TENA O'BRIEN  
CLERK OF PROBATE CLERK  
BENTON COUNTY, ARK

**III. Camp Acacia Site Plan Review, #18-228, 9345 WPA Road, Gentry; 18-14519-000**

Representative: Scott Murphy, *address inaudible*, Riggins Construction, 1204 East Joyce Boulevard, #102, Fayetteville

Staff gave a presentation on Camp Acacia Site Plan Review, #18-228, 9345 WPA Road, Gentry; 18-14519-000

Mr. Homeyer: Do you have anything else you want to add?

Mr. Murphy: That about sums it up.

Board Comments: None.

Public Comments:

Shellie Smith, 9553 Wilmoth Circle, Gentry  
*Focus of concerns: water from pool draining into a septic versus draining directly into the area creek.*

Mr. Williams motioned for approval. Mr. Tucker seconded the motion.

Motion approved: 7 - 0

**TECHNICAL ADVISORY COMMITTEE**

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

**I. Verlo Variance, #18-235, Loch Mo'r Lane, Garfield; 15-04402-001**

Representative: Tony Royko, 2504 SW Calm Ridge Road, Bentonville (interested in purchasing property) for Mr. Terry Verlo, the current owner.

Staff gave a presentation on the Verlo Variance, #18-235, Loch Mo'r Lane, Garfield; 15-04402-001

Mr. Torrez: It appears that the current owner is asking for the allowance to split the lot in the future. But, what I heard one of the points brought up is that he is asking to be grandfathered in. When he bought the lot, I guess he could split it into .75 acres each. Now it is one acre. Are you asking to split it today or in the future?

Mr. Royko: I may have phrased that incorrectly. Terry Verlo is wanting to maintain the ability to break the lots up as it was when he purchased the property

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in 1993 - 2016, when the rule changed from .75 acres to 1 acre. He is kind of deferring the variance to me the buyer. The reason for that is to raise the value of the lot so that he can get a little more. I agree that it would make the lot more valuable. My interest up front, at this point, are not to subdivide the property. I am looking for a single, family residence with a potential for a four-bedroom. If I divided it into two lots, I have to go down to a three-bedroom or two two-bedrooms. It would not be qualified for two, four-bedroom homes. The other point is, because of the 100' distance from a well, to the leach lines, it would have to have one well servicing two lots versus a single well for each person. Separate septic deals but one well, is the only way it could be positioned on this lot.

Mr. Tucker: Can I address the "grandfathering", the previous issue? We issued public notice for almost a year, had hearings, notified everyone that this was going to happen over 2013 - 2014. Everybody who owned property had the opportunity to know that this was going to happen.

For us to have a valid application, we would have to have a survey that we could prove.

Mr. Royko: Yes, Gene Buescher did do a survey in 2013. I don't know if you have a copy of that.

Mr. Tucker: It would have to show the line as it was split. I think this is actually a good way to do it.

Mr. Royko: Sure.

Mr. Tucker: Because of what you are asking for would cause us to produce an unbuildable lot, essentially. I don't think that's any service to you.

Mr. Royko: I did call Gene Buescher and asked about getting it surveyed. He came back to me saying that he would have to have the layout of the home and the septic proposal from Corbitt. Corbitt can't move forward until the Board of Health until they have the actual house plan and all the number of rooms identified. So, it's kind of a cart before the horse, horse before the cart deal.

Mr. Tucker: Yes, it's a lot of work for something that is uncertain.

Mr. Royko: Yes.

Mr. Tucker: Would you be willing to subdivide it from the northeast corner of this drawing as we are looking at it now, (where it says Jeep Trail).

Mr. Royko: Jeep Trail and Pinchers Place are one and the same.

Mr. Tucker: So, from the word Jeep Trail, go diagonally, corner to corner.

Mr. Royko: Okay. I possibly am not understanding what you are saying.

Mr. Tucker: Then you would have septic areas that are not in the 100' boundary.

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Mr. Royko: It would make that lot a triangular-shaped lot so to speak. I could do that. I am really not interested, at this point, in subdividing. I would like to leave it just like it is. I could switch and do that.

JAMES H. HARRIS  
CLERK OF PROBATE  
BENTON COUNTY, ARK.

Mr. Torrez: I think my recommendation would be at this time, prior to purchasing, the lot should be divided as it is desired to be for the next fifty years, or whatever it may be. If it needs a slight line adjustment, we can look at something like that. I think to just continue to say, let's subdivide and continue with the next buyer, I think is where my little bit of a hang up is. If we are going to make a conditional approval or variance this time, I think we should know what we are saying 'yes' to. We've already said that the subdivision is going from 1 acre down to .75 acres. I don't think we should just continue on.

Mr. Linn: I spoke to Mr. Verlo on the phone for quite a while. After explaining to him if a request like this were to get approved, obviously that doesn't actually split the land. A survey would still have to be done and how this would run with the land, etc. if it were to be approved. Mr. Verlo clarified to me that this buyer that he had, which I believe is this gentleman here, really wanted to be able to split it. I said that I didn't know if it was feasible to split it or not. Is this the only kind of way that you can sell this Lot 26? Mr. Verlo opted to proceed with the application.

Mr. Tucker: I think it's a very difficult argument to split it based on this image. I would highly recommend that you seek legal advice before relocating that private drive. I don't know that we could unilaterally close a private drive.

Mr. Royko: What do you mean close it?

Mr. Tucker: If you were to subdivide this and build a house on one and a house on the other, and they couldn't use that driveway, that would be closing a driveway. If it's been there for seven years, they have prescriptive rights to continue to use it.

Mr. Royko: Right now, there is one house in the back side of the three lots that that driveway goes through. So, they would have access to that lot on the bottom. That red line is Pinchers Place gravel road.

Mr. Tucker: Yes, but if we do this and you build on it, it's foreseeable that you would build over that road.

Mr. Royko: I'm throwing all my cards on the table because you need that. To me, it doesn't matter either way. It helps him get more value out of the property. It actually hurts me. But, at the same time, it would raise the value of the property. So, it's a WIN WIN, LOSE LOSE. I am fine either way. But, I am here to support Mr. Verlo.

Mr. Homeyer: They can build a house in that flowage easement, they just can't put a septic in it, correct?

Mr. Reamer: Correct.

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CLERK OF PROBATE  
DEWITT COUNTY, IOWA

Mr. Homeyer: And you are wanting to build one house; so, the only purpose for this approval tonight is so the lots are more valuable and the gentleman gets more money when he sells it to you. Correct?

Mr. Royko: Correct.

Mr. Homeyer: You have no plan as to how you need to divide it at this point because you have no house plan or septic plan. Right?

Mr. Royko: My offer has been based on a single house, single lot. He, at the last minute, came up with this suggestion. He then called you (*Planning*) and got some direction. Then he submitted the variance request.

Mr. Homeyer: The land is steep but the variance statement doesn't really specifically indicate anything unique or unusual about the property that would justify granting the variance.

Mr. Bracy: Where is 1135? This shows 1134. The Corp's take is 1135.

Mr. Homeyer: It's half way between 1134 and the next line up.

Mr. Linn: It's just a couple feet off of that one.

Mr. Homeyer: They are really close together at 2' intervals.

Mr. Maienschein: I just finished getting a septic system designed on a 1-3/4-acre lot. And, believe me, you are going to need the whole thing.

Mr. Royko: Yes, I've talked to Rebecca Corbitt of Corbitt Environmental. It requires a dual tank, a pump system with an alarm on it. The soil condition, she said, is excellent. It goes up. Above the road, it goes from about a 2' increase to almost a 30 - 35 percent incline. It's pretty steep. But, the soil is supposed to be pretty good. So, you have to pump it up.

Then the well would have to go along the northeast side, somewhere away from the leach area.

Mr. Reamer: I would provide to the Board in considering this at a future date, at the next meeting scheduled for a Public Hearing, or at a later date, to have a survey grade document provided with house layout, septic layout, well layout, setbacks, 1135, setback from 1135 and any lot line to be proposed in order to accommodate two house sites, two septic as well as the well. Not impeding Pinchers Place. That's my recommendation to the Board to wait for that document before considering any decision.

Mr. Tucker: I don't know that we could legally sign anything without that. It's probably going to take more than two weeks.

Mr. Reamer: And the Hearing will be held. Just so the Board knows that that will be held and a decision will have to be made either approve, deny, table, etc.

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Mr. Homeyer: Unless he withdraws.

Mr. Reamer: Unless he withdraws, correct.

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

Mr. Royko: I did talk to a builder who was interested in building. There's a \$5,000 fee just to do the house design. It's again cart ahead of the horse and I am not even sure I have a lot yet. I just want to throw that in. I can't get a survey with house drawings and positions.

Mr. Torrez: Survey with an outline area of where your home set would go. This rectangle 150' x 100' homesite to be placed in this area.

Mr. Reamer: But, we do need full septic designs. That is critical.

Mr. Maienschein: I think if it's going to be two lots, you've got to have two wells or the ability to have. They might agree to sharing the water system but....

Mr. Royko: Rebecca Corbitt said that the tolerances would not accommodate two wells and two septics.

Mr. Tucker: I think that makes it pretty easy for us. It is really difficult to sell if you can't have two septics, two houses and two wells.

Mr. Royko: You can't have two wells. You can have two septics and two houses but only one well.

Mr. Tucker: A public well is actually favored.

Mr. Bracy: There's not city water accessible there?

Mr. Royko: No. It would be either public or private wells.

Mr. Tucker: What's the smallest lot in the subdivision? It's like .9, isn't it? It's pretty big.

Mr. Reamer: It's kind of tough to tell. Lot 11 is 300' x 200'. I would assume that they are all going to be over three-quarters of an acre.

Mr. Tucker: That would also cause us to have a lot that is much smaller than the average lot in this subdivision.

Mr. Maienschein: Are there covenants, Derek (Linn)?

Mr. Linn: Good question. The owner's letter was referencing covenants when he said that statement about when he thought originally, he could split it down to three-quarters of an acre. So far as I know, I don't think we have ever had a Benton County rule stipulating three-quarters of an acre. When he references that, he's referencing things that we can't enforce, things that were set up as covenants by the POA in his subdivision. I did get a call from the POA Chairman earlier in the

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week. He did say that he was concerned that the request included moving Pinchers Place. He said that that has been an item of contention in the past. While the three lots south of it do have legal access to the public road, the slope is so steep that he felt that it was in the community's best interest to maintain Pinchers Road where it is.

Mr. Royko: I did talk to Gary Harter (*spelling?*) who is the gentleman who I am sure you are referring to. I do have a copy of the covenants if you care to look at them. Gary Harter expressed to me the same concern. I do have an interest, if I get approval from the County Highway Department, to move that road back 20'. This would give us a little more property for a house on the lower portion. That is my interest. The reason for that, I found out late, after about a year of researching all of this, that there is a flood easement. The reference point goes 100' from where that 1135-point easement is. I would be interested in pursuing doing that. I told Gayle that I would be willing to put a concrete culvert in and put a concrete drain in the ditch that could be blown out with a leaf blower. Right now, it's got some stone in there, is eroding and is a disaster right now. It's actually eroding soil back about 3' from the road. At some point, it will be washing into that. I would repair that whole thing and put in a large culvert about 20' up from where it sits right now. The ground, 20' up, is probably 3' high and could be easily excavated. He seemed fine with that.

Mr. Homeyer: We will see you back in two weeks. Hopefully, you will have some more information to share with us.

Mr. Royko: Okay. So, my follow up take away is to get a survey of the lot showing a proposed house and an area with roughly 20' beyond what the proposed house would be. Right?

Mr. Reamer: In addition to septic layout and well location.

Mr. Royko: Regarding the septic layout, Susan Corbitt can't do that until she knows the house plans and submits to the Health Department.

Mr. Tucker: Well, she can give you a general size per the number of bedrooms and bathrooms.

Mr. Homeyer: If she's already analyzed the soil, she can tell you approximately how many feet of lateral line you are going to need. So, she can do what we are asking.

Mr. Royko: I have that but she did say it could not accommodate two four-bedroom homes. I do have her leach line requirements of 600 linear feet, 10' apart.

Mr. Linn: Let me make sure I understand that when we say come back with a survey showing x, y and z, is it okay that he uses this 2012 survey from Buescher that we have been basing these exhibits on tonight? You can't hire a surveyor to provide anything in a week.

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Mr. Maienschein: I don't see why he couldn't use that.

Mr. Homeyer: Except it doesn't have the 1135 contour line.

TERA O'BRIEN  
CLERK & PROBATE CLERK  
SOUTH COUNTY, ARK

Mr. Tucker: You can use the previous map.

Mr. Williams: Well, what the point of that if you're going to have to have two wells?

Mr. Maienschein: If you can't get two wells on it, I think....

Mr. Bracy: If you can't have two wells and two septics, you are fighting an uphill battle here.

Mr. Royko: For me, I am either way.

Mr. Bracy: I don't understand how it's felt that separating this would gain any financial benefit.

Mr. Royko: If he were to hold out and not accept my offer, it would make a difference in the value of the property because you could purchase a lake lot, spin off part of it and have a way of reducing your overall cost.

You do have 349' on the Corps line.

Mr. Tucker: I would bet that your septic system will almost completely fill the area that's not in the Corps line.

Mr. Royko: Yes, you are probably right.

Mr. Tucker: I think it's going to be a difficult thing to split. I think you're trying to put 20 pounds in a 5-pound bag. It's going to be tough.

Mr. Reamer: I think that's a good point, Mr. Tucker. The boundary along Loch is only 200'. He's going to have three lateral lines in this area plus the alternate lateral area. The area shown in the aerial here will almost be the entire septic system plus a well.

Mr. Tucker: Yes, two actives and two alternates. You have to have a primary; and when it fails in 20 years, you have to have a reserved area.

Mr. Royko: Oh, I didn't know that. That complicates it even more. Those are great points.

Mr. Homeyer: Evaluate it and if you think you can come up with some way to get two wells and enough for two houses with four septic leach fields in there, then you can come forward. We will act on it. But, if that's not going to happen, it is highly unlikely we will consider this for approval.

Mr. Royko: Gentlemen, I appreciate your time.

TERA O'BRIEN

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4. Other Business: None

5. Staff Updates - Administrative Approvals:

JENA O'BRIEN  
C.D. & PROBATE CLERK  
BENTON COUNTY, AR

- I. Laughlin Minor Subdivision, #18-214, 16505 Twin Hollows Lane, Garfield;
- II. Morrow/Matlock Property Line Adjustment, #18-220, 27 Puckett Road, Rogers; 18-00621-000
- III. Brake Tract Split, #18-231, 11010 Mill Dam Road, Bentonville; 18-09308-001

6. Discussion Items:

Mr. Homeyer: So, the septic waiver revision...

Mr. Reamer: That will be the last one you guys see.

Mr. Homeyer: So, that goes into effect Monday. The rest has gone through two readings so far?

Mr. Reamer: One. The second will be next Thursday, September 27, 2018. On a note on the septic compliance, or that elimination, we still have density controls. So, don't think that anybody can put as many septic as they want on a piece of property. If they have one acre, and want to put two houses, that will come before the Board. The density restriction is one unit per acre. That is the maximum, if you will. If they go below that density, it will still be before the Board. So, there are still some density controls within the regulation. But, the situation where there is 100, 50, 10 acres and there will be two houses, will be exempt. So, there is still some control over that density.

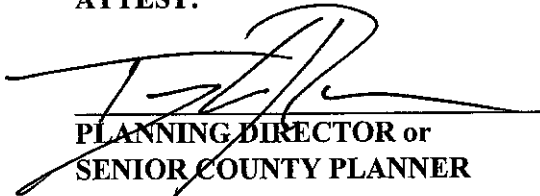
Mr. Homeyer: Perfect, thank you.

Meeting Adjourned: 7:00 p.m.

Next Meeting: Wednesday, October 3, 2018

APPROVED THIS 3rd DAY OF October, 2018

ATTEST:

  
PLANNING DIRECTOR or  
SENIOR COUNTY PLANNER

APPROVED:

  
PLANNING BOARD CHAIR or  
PLANNING BOARD VICE CHAIR

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