

Draft Regulations
Frequently Asked Questions – Chapter 5
Version 1.0 – April 5, 2013

Chapter V

Q: Section 5.3, APPLICABILITY, Section B. of the draft defines division of parcels (more than 2 tracts) of less than 25 acres as a subdivision. What is the logic for prohibiting divisions into tracts smaller than 25 acres? It is very common for owners to want to split or sell tracts of five (5) acres in size. Is it necessary to require a tract to be larger than 25 acres to avoid subdivision requirements? It seems that there is a gap in the requirements between an Informal Plat and a Subdivision which these smaller than 25 acre tracts fall in to.

A: The idea is to prevent the far too common practice of people trying to establish de facto subdivisions without going through the process and installing the required infrastructure. We do offer an Informal Plat for those who want a more rustic and less developed project at a lower cost. There are people who establish subdivisions of 25 acres or more in this part of the country and there is an aviation subdivision in Arizona of 50-acre lots.

Q: What exactly is Section 5.3, APPLICABILITY, Section D. referring to? In other words, what plat would you be referring to if you are drafting a new subdivision, tract split, or other type of survey?

A: Concerning the provision, *“No land may be subdivided through the use of any legal description other than with reference to a plat approved by the Planning Board in accordance with this Ordinance.”* Simply this is saying that subdivision requires a plat approved by the Planning Board.

Q: Section 5.11.C.3.a - Please define "correct" legal description. If the remaining portion of the parent tract is more than 10 acres and is not required to be surveyed, how do you prepare a "correct" legal description of the remainder without surveying it? The only way to provide a description of the remainder (if you don't survey the entire parent tract) is to use the existing legal description of the parent tract and add a LESS & EXCEPT for the portion being surveyed/split out, which would not be a "correct" legal.

A: The legal description would be textual and presumably already exist while the survey itself graphically would not be required. To split out the smaller tract, it is assumed that the legal description can be revised accordingly. Staff understands the point regarding the term “correct” and will look for alternatives

From Terry Booth: I think planning guidelines should avoid “correct” as a modifier. I don’t think it adds anything meaningful. I have enough trouble with “legal”. I don’t know any authority granted to County Administration to determine if a description is “legal”. All the Assessor’s office can do is determine if the description can be located, mathematically closes, and is separate from adjacent parcels for assessment purposes. If we need a definition of whatever modifier we use for description, I suggest using the language from the statutes governing the duties of the County Assessor.

Q: Section 5.11.B.2 - Should you add "unless the tracts being divided are each equal to or larger than 25 acres"? Without this language, it seems to conflict with Section 5.3B.

A: This is correct and will be added.

Q: Section 5.11.E.3 surveyors request elimination of the location map. They ask why a location map is necessary when you have detailed legal descriptions AND addresses of owners shown on the plat? They note that location maps are difficult to create due to lack of accurate and up-to-date maps, program compatibility with CAD program, paper space on the plat and are redundant since you already have legal descriptions and addresses.

Answer: Staff agrees. We think we can dispense with them on tract splits, lot line adjustments, etc. However, I believe it would be best to retain them for LSD and subdivisions.

From Terry Booth: Speaking as the mapping manager, I would agree the location map (sometimes called a vicinity map on plats) is not necessary for us to map a tax parcel. I think most of us doing GIS mapping look for parcels numbers to start with, or in the case of your plats, I just “go to” a coordinate pair.

Q: From Buckley Blew on December 21, 2012: I am not opposed to the idea. All of my crews are fully equipped with GPS. My concern is not for my company but for the entire surveying community. In your e-mail, you mention two surveyors that do not have/use GPS who work extensively in Benton County. This one requirement would essentially eliminate their ability to provide a large portion of their services in Benton County. You should not only be looking at the surveying companies that you know but at all the surveyors that are licensed to do work in Arkansas. A few questions:

Basic Response: There has never been a more accurate way to perform a land survey than GPS (Global Positioning System). Measurements with GPS are accurate to within 1/16th of an inch.

Q1: What is this data being used for?

A1: The primary purpose for requiring State Plane Coordinates is to allow the County to improve the accuracy of the parcel maps.

Currently when the public accesses the GIS maps on the Official Benton County website, it is a simple matter to display the parcel map layer or many other layers over the aerial photographs of the county. What quickly becomes apparent to the user is that the parcel boundaries do not “line up” with the aerial photographs. The reason for the mismatch is the result of the different origins for our image layers, i.e. aerial photographs, and our data layers, which includes Section maps, parcels, city limits, etc. Aerial photographs are georeferenced to the State Plane Coordinate System using surveyed ground control points located around the county which meet stringent accuracy specifications. The aerial photographs are the most accurate and precise layer we have. On the other hand, the Section-Township-Range layer which is the basis of most of the data layers was manually digitized from paper maps of various sources and vintages. Accuracy of the data layers varies widely throughout the county, but has been found to differ from aerial photographs by as much as 200 feet in the northeast part of the county.

Requiring state plane coordinates gives the county, and ultimately the public, a cost effective method of realigning our data layers to more accurately match our aerial photographs.

Q2: How does it benefit the public for us to provide this data?

A2: As outlined in A1: above, the public benefits by having more accurate maps of the county at their disposal. For example, when property owners in rural areas can see a good match between their tax parcel and their visible boundaries on aerial photos, they can have increased confidence that they are not being assessed for their neighbor's pole barn. With the current inaccuracies in our parcels layer, buildings are associated with the wrong parcel more than we would like.

Q3: How does it benefit the County?

A3: Nearly all departments of the Benton County government depend on the GIS maps developed and maintained by the county. As the County grows, the problems with the accuracy of our data layers are becoming more pronounced. By requiring survey plats to have ties to state plane coordinates, we have the ability to improve the quality of mapping data for GIS users throughout County governmental departments. The direct beneficiaries within the county include the Assessor, who is charged by law to *"make ... a correct and pertinent description of each tract or lot of real property in his county."*; the Sheriff's Office for mapping criminal activity; the County Clerk's office for keeping accurate maps of voting precincts, school district boundaries, city boundaries, and political subdivisions; the Health Department for location of septic systems on parcels; the Planning Department for flood plain management, [subdivisions], and other environmental issues; and 911 Administration for mapping street addresses.

In addition, governments for the 21 incorporated cities and towns in Benton County as well as Northwest Arkansas Regional Planning are direct consumers of county GIS data. As such, those entities also benefit from improved accuracy.

Q4: Who will be reviewing this data for accuracy?

A4: The GIS/Mapping Manager for the Assessor's office and the GIS Staff have the responsibility for incorporating cadastral and parcel boundary data into the County's databases and are charged with maintaining the integrity and availability of the data for the benefit of County government and the public.

As a practical matter, if a coordinate pair does not conform to other information on the plat or to our aerial photos, as in the case of a transcription error, we annotate the digital file of the plat, and attempt to notify the surveyor or our findings but we do not reject the plat. This is our current practice for any material error we encounter.

Q5: As I am sure you are aware there are numerous ways to collect this type of data. What order of accuracy will be required? Some of these ways are a lot less accurate than others.

A5: This is an important question. The County digital cadastral data is subject to the Cadastral Mapping Standard, SS-40, effective date 7/20/2004, published by the Arkansas State Land Information Board. The standard states, *"The relative accuracy of the 'digital representation' shall fall within 5% of the deeded or platted dimension."* As noted above, this level of accuracy (66' on a standard 40-acre quarter-quarter section boundary) is insufficient for the accuracy the County needs for the benefit of GIS users. We want the relative dimension accuracy to fall within 0.5% of deeded of the deeded or platted dimension, or approximately 6' on a standard 40-acre quarter-quarter section boundary. This is a much less stringent standard than the Standards of Practice for Property Boundary Surveys and Plats promulgated

by the State Surveyor. The working assumption is that a plat provided by a Registered Professional Surveyor exceeds our accuracy requirement.

Q6: Will you require us to report our scale factor, convergence angle, opus report, grid or ground distances, etc. or will you simply accept what numbers are on the plats?

A6: No. We do not require such information. We only need a statement of the basis of bearing, e. g., Arkansas State Plane Grid” which nearly all plats have. We prefer to have such information included, but it is not required.

Q7: Legally, the order of importance in survey monuments and calls puts coordinates at the very bottom. It becomes dangerous to ask us to provide this data and for us to publish this data without having some sort of common control to tie into. I have seen people use Google Earth to get a lat/long and then go to the NGS website and use vertcon to convert it to State Plane Coordinates, I've seen people use a handheld GPS, I've seen them use a GIS grade GPS to collect this information. None of these methods should be relied upon to publish data on a survey plat. However, there is no authority that could oversee and/or regulate this planning requirement. Another example is the Trimble network tower that Bentonville electric department has, (I believe your office uses this with a Trimble rover) it can reach all the way to Siloam Springs (20 miles) and provide you with coordinates for the points you shoot in. However, Trimble and the dealer that installed that specific unit would tell you not to use it for survey grade data farther then 5-7 miles from the base.

A7: We recognize that there are various sources and methods for collecting the data we are asking for. Please refer to the discussion of mapping versus survey standards. You have brought up a point that needs to be addressed. We may need to define a provision for a waiver of the requirement for State Plane Coordinates cannot be obtained due to tree canopy, multipath, or other problem.

Q8: If I can make a suggestion it would be this, try and establish some level of funding to be able to pay surveyors for true State Plane Coordinates on either controlling corners (section corners and 1/4 section corners) or pay them a fee to set control monuments. Have them provide you with a corner card which provides all of the information I talked about above. The State of Arkansas did this with state monuments; I believe they paid \$150 or \$250 for each monument. I bet if it was even a minimal fee you would have your control network established within a couple of years. Once control is readily available then you could make this a requirement. If you put this out to bid to do all at once, it would most likely be cost prohibitive.

A8: We think your suggestion is a good one, and will consider ways of compensating for surveyors such services.

General Answer: *These are good points raised and staff will conduct some additional research to determine justifications or alternatives. We look forward to working closely with surveyors and engineers to establish a reasonable system.*

Q: In §5.4(B) you describe criteria for unbuildable lands. How did you come up with these criteria because it appears arbitrary?

A: Because we wanted to. Based on good land use practices, best management practices, research and analysis by land use engineers and other experts, and comparable provisions in other communities.

Q: Why do subdivisions need to be a minimum of five (5) acres? (§5.4(E)(1))

A: With a three lot minimum (3 acres), plus road infrastructure (0.3 acres typically), plus right-of-way and stormwater detention facilities typical of a subdivision, five (5) acres was deemed to be a reasonable minimum to ensure that the proper infrastructure could be accommodated.

Q: Why are you prescribing minimum block lengths and other design standards for subdivisions? Isn't the market a better determinant of design and aren't you limiting creativity by being so rigid?

A: Minimum design standards for provisions like block lengths are informed by public safety and by traffic management and transportation engineering best practices and guidelines. These and other technical design criteria are often included to facilitate safety and security, the provision of adequate public services and utilities, and other factors that lead to a well-designed community.

Q: If I want to come in and discuss my subdivision in a pre-application review must I still have the jurisdiction authority sheet signed by the municipality? Why do I have to go to the city and then the county I don't understand why jurisdiction is so difficult to figure out?

A: Arkansas operates with ETJ areas. This means that five miles from a city's boundaries they still review subdivisions. These boundaries can be fluid due to annexations and the authority a city takes on. If a city has a road plan then they have the authority to review subdivisions in their ETJ. Smaller cities without a road plan will not review subdivisions in their ETJ. However the County may not always be informed when a city passes a road plan and develops the authority to review subdivisions. Thus, it is appropriate to check with cities before applying for a subdivision review. If this is not complete, the Planning Board may find that they do not have the authority to review a project much further in the planning process.

Q: My subdivision has a grade of 17% percent for three hundred feet. The rest of the road flattens out and has a grade of less than 10%. I have the approval of the local fire chief stating that he can get fire vehicles in and out of the subdivision. Why won't you consider a variance for anything over 15% if emergency vehicles can access the property?

A: International Fire codes prevent street grades of over 12%. We have made a provision to allow variances requests up to 15% for difficult to develop properties. We cannot allow variances to international fire code regulations. FYI Bella Vista only allows 12% variances

Q: I work for a bank. We required a property on which a preliminary plat was approved but no improvements were made. We would like to complete the subdivision now. Will be required to re file the preliminary plat? No extension was applied for.

Alternately Q: I work for a bank we recently acquired property in which the final plat was approved. No lots were sold and we acquired the property as a whole. The property was approved in the county and the bond was posted by the previous owner. The property has since been annexed into the City of Bella Vista. An extension was applied for and we are still in that extension period. Can we recover the bond if we complete all improvements agreed to in the final plat approval? Will we be required to bring the subdivision back through the City of Bella Vista Planning Department?

Q: I am a developer in the County and have used the Blue book all these years. I have concerns that the draft subdivision regulations are very length.

A: The draft subdivision regulations incorporate a number of criteria and guidelines. It amalgamated 9 existing chapters for ease of usage. This chapter has been organized to provide guidelines for subdivision design, subdivision layout and design, subdivision platting procedures, surety to warrant performance (new), and other types of subdivision, such as, informal plat subdivision, plat modifications, tract splits, Development Master Plan and Planned Unit Developments. Therefore, although the chapter is length, it is very comprehensive.

Q: Why is there a change in the minimum subdivision size?

A: The minimum subdivision size has been increased from 1 acre to 5 acres in keeping with the requirements of the Health Department for adequate provision of on-site septic tank and lateral fields and other safety considerations for a good subdivision design standard.

Q: As a developer I am, concerned with the Master Road Plan detailed in Table 5.3. – Minimum Design Standards for Subdivision Streets.

A: Table 5.3 has been substantially modified to suite the street typology in Benton County. In the Blue Book, this table was primarily based on Living Units and referenced to density. The reference to medium density or low density may be more suited to urban areas. While in the actual subdivision practice in the County, the street typology has been adopted, such as,

Primary Street (Type 1) - Residential Collector
Secondary Residential Street, Type 2- urban for >1 d.u/acre
Secondary Residential Street, Type 3- local/suburban for 0.5-1 d.u/acre
Secondary Residential Street, Type 4- local/rural for <0.5 d.u/acre

Further, the table provides clear information regarding maintenance, right of way width, lane width, traffic lanes, surface type, min. sight distances and other consideration. This provides a comprehensive road design guidelines and requirements that will help the developers in subdivision design.

Q: Why is a new section for Surety to warrant performance, added in the new draft? This is onerous.

A: This section has been introduced to address the gap in the current use of performance bonds. While a useful tool to ensure development occurs as approved, performance bonds have proved to be difficult to administer and follow up for release of bonds. Therefore, this new section outlines the process and requirements for ease of use.

Q: Why a requirement is added for Minimum standard for access in informal plat subdivisions? Why are easements or private drives not allowed anymore?

A: Easements and private drives have been very difficult to enforce and has resulted in law suits amongst property owners. Therefore, in order to prevent a situation where a property may be land locked, a standard for access has been introduced that requires a dedicated private road for access for more than 3 parcels.

Q: Why are you proposing a family split option? Can't families split their properties now without any restrictions?

A: Currently we have a provision in the regulations that states, "*Interfamily transfers from a parent to children shall be construed as a tract plait. Such conveyances shall not constitute the process of subdivision.*" In one sense this is