

October 21, 2009  
NOTICE OF REGULAR MEETING AND PUBLIC HEARING MEETING OF THE  
BENTON COUNTY PLANNING BOARD

WHEN: October 21, 2009  
TIME: 5:30 p.m. The Benton County Planning Board will meet to receive Public Comments on any of the proposed projects on the agenda.  
PLACE: Benton County Administration Building, 215 East Central Avenue  
Quorum Courtroom, 3rd Floor (Suite 324), Bentonville, AR 72712

**MINUTES FOR REGULAR PUBLIC HEARING**

1. **Call to Order**

2. **Roll Call**

The Benton County Planning Board members in attendance were Scott Borman, Jim Cole, Mark Curtis, Lane Gurel, Bill Kneebone, Ken Knight and Heath Ward. The Staff was represented by Karen Stewart and Teresa Sidwell.

3. **Disposition of the Minutes of September 21, 2009 public hearing meeting as distributed.**

*Mr. Ward made a motion to accept the meeting minutes as distributed; Mr. Knight seconded the motion. Mr. Borman, Mr. Cole, Mr. Curtis, Mr. Gurel, Mr. Kneebone, Mr. Knight, and Mr. Ward all voted in favor of the motion; the motion was passed.*

4. **Reports of Planning Board Members**

Mr. Curtis stated that the committee will be meeting within the next two weeks to finalize the commercial development matrix.

5. **Public Comment**

There was no public comment. The floor was closed for public comment.

6. **New Business:**

A. Variance from Setback – **Calvin Phillips** – 13426 Bryant Place, Rogers

Mr. Calvin Phillips represented the variance. Mr. Borman inquired if the home was a manufactured home; Mr. Phillips responded that it was a manufactured home. Mr. Phillips added that the home was placed on an existing slab and he believed that when the home was set that it was believed to be outside the setback because of the location of the fence. Mr. Knight asked if they would be willing to purchase some land to the south so that it would be out of the setback. Mr. Phillips stated that he doubted that would be an option

because it was a repossessed home. Mr. Phillips added that he would rather move the home rather than going to the added expense of purchasing more property. Mr. Knight inquired if it would be possible to move the slab to the north and move the home. Mr. Phillips stated that it would not be cost effective. Mr. Ward asked how long the structure had been there. Mr. Phillips speculated that it had probably been there since 1998. He added that he didn't know when the loan had originated and that he was only the remarketer. Mr. Gurel asked if an inquiry had been made regarding the purchase of property to the fence. Mr. Phillips stated that such an inquiry had not been made. Mr. Knight asked where the property was located. Mrs. Stewart stated that it was within the extraterritorial jurisdiction of the City of Pea Ridge but Tony Townsend of the City of Pea Ridge did not want to review the variance. Mr. Phillips stated that the home was located within a mobile home community.

*Mr. Ward moved to grant the variance from setback with the stipulation that if the mobile home is ever moved, any structure placed on the property must be within the setbacks and the stipulation must be noted on the plat and recorded with the Circuit Clerk's office; Mr. Knight seconded the motion. The Board voted unanimously to approve the variance with the stipulation.*

B. Variance from Setback – **Charles & Anita Tuggle/Arvest** – 10301 Jims Trail, Rogers

Doug Creekmore of Northstar Engineering represented the variance. Mrs. Stewart stated that the property was split and recorded with the Circuit Clerk's office but it was never approved by the planning department. She added that a house and a propane tank are within the setback and she would not be able to sign off on the plat until a variance was granted by the Board. Mr. Curtis asked when the tract split was recorded; Mrs. Stewart stated that it was recorded in 2008. Mr. Ward asked Mr. Creekmore to give the Board some background information. Mr. Creekmore stated that originally the Tuggles owned both parcels and occupied the one-story log house on tract 1. He added that the Tuggles had lived in a one-story framed house on tract 2 and then the Tuggles had the lot split done before the larger tract was repossessed and the Tuggles moved in to the home on the smaller tract of 0.78 acres. Mr. Creekmore stated that Northstar Engineering had not done the original tract split but were hired by Arvest to clear up the issues. Mrs. Stewart stated that the Tuggles are keeping the property on which the variance is being asked for. She stated that due to issues arising with a previous variance request with a garage in the setback, she did not want to sign off on the plat without Board approval.

Mr. Gurel asked if the driveway that goes toward tract 1 was paved; Mr. Curtis asked who uses the existing well. Mr. Creekmore explained that Mr. Tuggle put a pump under the one-story framed home and pumped the water from the well to the log house. Arvest has decided that the new owner of the log home will have to drill a new well. Mr. Gurel inquired if the setback issue was caused by the tract split. Mrs. Stewart stated that the tract split did not cause the issue with the setback, it just brought it to light. Mr. Curtis asked how the tract split was approved in the first place. Mrs. Stewart stated that it was not approved and usually the recorder's office is better about catching problems and will send the applicant to the Planning office. Mr. Gurel asked the age of the home; Mr. Creekmore stated that he really didn't know the answer to that question but he would guess late 70's or early 80's. Mr. Gurel asked if it would be possible that it would predate the county regulations. Mrs. Stewart stated that it would be entirely possible since the

regulations are from 1998. Mrs. Stewart added that the variance was to clear up the paperwork for future transactions.

*Mr. Ward made a motion to grant the variance as requested with the stipulation that if at any time the home or the propane tank is moved that no other item may be moved into the setback; Mr. Cole seconded the motion. The Board voted unanimously to approve the variance with the stipulation.*

## **7. Other Business:**

Mr. Borman advised that the PUD information sent by Staff in an email be downloaded and that the Board read through the document. He added that on his first review he had several questions. Mrs. Stewart stated that the project was just a conceptual plan and that Mr. Glass had advised her that it was not a PUD for the Board's approval, the applicant just wants to run it by the Board for thoughts, ideas, and feedback. Mrs. Stewart added that the Board didn't need to necessarily vote on a conceptual plan perhaps. Mr. Borman agreed that it was a concept and the applicant was coming before the Board for feedback but there would be no approvals until the Board received detailed engineered drawings. Mr. Ward said that we definitely want to avoid the situation with Lost Rock where it went back and forth. Mrs. Stewart stated that it needed to be made clear that no work is to begin until the applicant has Planning Board approval, no clearing of land, cutting of trees, nothing.

Mr. Gurel stated that he would encourage everyone to read what it says about PUDs in the ordinance. He commended Staff for catching the fact that PUDs are not separate from subdivision rules. He added that as a PUD request the applicant is suppose to bring the Board a list of items that they would like to vary from the subdivision rules. Mr. Gurel stated that he felt that the Board should vote as to whether the applicant should proceed as a PUD even at a conceptual stage. Mr. Borman added that he agreed up to the point where the Board should vote. He stated that it is a concept until they bring in something definitive with engineered drawings. Mr. Gurel stated that some time ago a project came before the Board where PUD was used because it wasn't large scale commercial and it wasn't subdivision either. Mr. Borman stated that he agreed with Mrs. Stewart's email too that the PUD has to go through the same subdivision requirements. He added that the PUD aspect of it would be if they need to make changes they would not need to go through the public hearing but would only need to bring the changes to the Board and would not need to go through the whole process every time they want to change something on the project. Mr. Gurel stated that it wouldn't be any different than subdivision regulations with the preliminary and final plats. Mr. Gurel stated that the applicant is saying "we don't want to invest money unless we have a project" and the Board is saying "you don't have a project until you show us a lot of detailed information that costs money to provide". Mr. Ward stated that the Board needs to tell the applicant that there is no guarantee that the project will ultimately pass, however the Board can give the applicant feedback that can be taken into consideration.

Mr. Borman asked if Mrs. Stewart had found out any new information on the replat issue. Mrs. Stewart stated that she had had sent the information to Mr. Glass but didn't have the chance to talk with him today. She stated that she had marked all the lots in the Cedar Hills Subdivision I and II that Mr. Symonds actually owns and which ones are encompassed by the plan that he submitted. Mr. Borman stated that he thinks it will require a replat. Mrs. Stewart stated that she believes that the lots in the subdivisions need to be taken out of the subdivisions so that they will not be part of a subdivision and part of a PUD.

Mr. Curtis stated that the history of PUDs started with people trying to put together projects that were part residential and part commercial. He added that the originality of a PUD was that it could combine both. He suggested that they have been morphed into a lot of different situations which has been refined to this day and used by developers all over the country to use in order to not follow all the rules of either the commercial or the residential. He added that he wants to take a close look at any PUD because they are the best of both worlds in a sense that they allow the developer to have some variances ahead of time so that they don't have to follow all the rules. He cautioned that the Board would have to carefully review the PUD application.

Mr. Ward stated that he got the impression from the last 2 or 3 projects was that the developer wanted to preserve some of the scenic beauty and try to fit in around Beaver Lake. Mr. Curtis stated that is one of the beauties of the PUD is that it allows you to do that. Mr. Gurel stated that he thought it should be used to foster creativity within the rules as opposed to providing a loophole in the regulations. Mr. Kneebone stated that he thought it was a one-story condominium project. Mr. Gurel stated that PUDs today are being called MUDs for Mixed Use Development such as condos within walking distance of shopping and office space. Mr. Borman stated that Bella Vista is a good example of a PUD. Mr. Kneebone stated that Lost Bridge is a PUD.

Mr. Knight asked about receiving a hard copy of the complete PUD application. Mrs. Stewart stated that she would check into getting those for the Board. The Board then discussed whether the applicant was supposed to provide the copies; they decided that the applicant should provide those copies.

Mr. Gurel asked if a letter was ever sent to the Attorney General for clarification on the extraterritorial jurisdiction issue from the County. Mr. Borman stated that the Board would have to ask Mr. Glass. Mr. Ward stated that it was going to be combined with another issue and then sent up; he added that the Board was told to not be too optimistic on the issue.

## **8. Adjournment:**

The meeting was adjourned at 6:15 p.m.