

May 20, 2009
NOTICE OF REGULAR MEETING AND PUBLIC HEARING MEETING OF THE
BENTON COUNTY PLANNING BOARD

WHEN: May 20, 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 following Benton County Planning Board members were present: Scott Borman, Jim Cole, Mark Curtis, Lane Gurel, Bill Kneebone and Heath Ward.

The following Benton County Planning Office staff members were present: Chris Glass, Ronette Bachert and Teresa Sidwell. Karen Stewart was not present.

3. **Disposition of the Minutes of March 4, 2009 TAC meeting and March 18, 2009 public hearing meeting as distributed.**

Mr. Kneebone made a motion to accept the meeting minutes as distributed; Mr. Curtis seconded the motion.

Mr. Borman, Mr. Cole, Mr. Curtis, Mr. Gurel, Mr. Kneebone and Mr. Ward all voted in favor of the motion; the motion was passed.

4. **Reports of Planning Board members**

Mr. Ward stated that Mr. Kneebone, Mr. Gurel and Mr. Cole have volunteered for the feedback committee. He added that at the next regular public hearing a vice chair would be selected and nominated. Mr. Ward stated that a gentleman has been approved by the quorum court to fill the vacant Planning Board member position and that the Board would be looking forward to the new appointment.

5. Public Comment

Mr. Jim Lafayette of Baton Rouge, Louisiana owns the property through which Justin Bulla accesses the property where the Arkansas Youth Adventures camp is proposed. He stated that he had concerns about liability issues surrounding clients and service vehicles accessing the Bulla property through his property as well as the peace and tranquility of his property. Mr. Lafayette added that there were 10 acres total and he purchased 5 acres in 2000 adjacent to the road from the gentleman that owned the rear 5 acres. He later sold the rear 5 acres to Mrs. Bulla, Justin Bulla's mother. He stated that Mrs. Bulla proposed to build a kitchen to prepare high-end candy to sell as well as catering. He stated that the latest proposal was for a youth camp. He added that there was not any legal access for the access road to Mrs. Bulla's property that passes through his property.

Ms. Bachert asked Mr. Lafayette if there was legal access through his property; Mr. Lafayette said that the road being used by the Bullas was not a legal access road. He added that there was an easement but the road that they use is not the legal easement. Mr. Lafayette stated that there was no legal document that showed the road being used as the legal access road. He said that it was written in a sketch in a letter to him from Mr. Bishop. Mr. Glass asked if Mr. Bishop was the original owner of the entire parcel. Mr. Lafayette answered yes. Mr. Glass stated that Staff would pull both land records from the county assessor's office because the normal practice is to reserve an easement when cutting out a parcel to sell. Mr. Gurel asked Mr. Lafayette for clarification on the location of the legal easement for the access road. Mr. Lafayette stated that it runs on the south border of the property. Mr. Glass stated that when property is split, all pieces must have a legal access. Mr. Lafayette added that the sketch submitted to the Board was not accurate.

Ms. Cindy Anderson of 17500 Highway 102, Decatur stated that she noticed the sheriff visiting the property where the Salinas Event Center was located. She added that she did not want a party house at the bottom of the hill. She asked if alcohol would be allowed at the facility. Mr. Ward stated that he did not know but as with many private establishments in the county, it may be a possibility. Ms. Anderson stated that if alcohol was involved she would oppose the project.

Mr. Gurel asked Ms. Anderson where she lived in relation to the proposed project. Ms. Anderson said that she her property shared the driveway with the proposed project and her property was at the top of the hill.

Mr. Borman stated that the Planning Board did not have any jurisdiction over whether the establishment could serve alcohol or not.

6. **New Business**

A. Variance from Large Scale Development – **Salinas Reception Hall** – 17494 West Highway 102, Decatur

The stipulations from the TAC meeting were as follows:

- Obtain the approval of the septic disposal system from the Health Department.
- Provide a site map showing the parking layout as well as ingress and egress from Highway 102.
- Obtain a letter from the Fire Marshal in regards to public safety issues such as maximum occupancy, emergency lights and emergency exits.
- The applicant must obtain a letter of hazardous chemical compliance from the Department of Emergency Management and submit a copy to Staff.
- Provide proof of insurance to Staff.
- The applicant's building must be inspected by a Benton County building inspector to determine if it meets current code.

Mrs. Olivia Salinas represented the project.

Mr. Glass stated that it was his understanding that the Fire Marshal had visited the project and had no issues to report to Staff. He added that Staff had not received Health Department approval for the water system. He stated that a rough sketch of the parking lot layout with ingress and egress routes had been provided. Mr. Borman asked about an email in regards to the septic approval. He added that the property was on a well. Mr. Glass stated that the well would need to be inspected and possibly treated because it would be a water source for the public at large.

Mr. Ward asked the applicant about the letter of hazardous chemical compliance. Mrs. Salinas stated that she has not filled it out and returned it yet. Mr. Ward asked about the proof of insurance. Mrs. Salinas stated that she was waiting to purchase insurance after she had all the other stipulations such as the septic and the water taken care of and the event center was ready to rent.

Mr. Curtis asked if Mrs. Salinas wanted the project to be tabled for a later date. Mr. Glass asked Mrs. Salinas how much time she felt she would need to get everything together. Mrs. Salinas wasn't sure how much time she would need. Mr. Ward stated that it was his opinion that there was still a lot of leg work to do.

Mr. Curtis asked if Mrs. Salinas was aware that her driveway was a shared easement with the adjoining property owner. Mrs. Salinas stated that she was aware of that. Mr. Gurel asked about alcohol consumption on the property whether served or sold. Mrs. Salinas said that she intended to put

in the contract that alcohol would not be allowed. Mr. Kneebone asked about the parking setup and access for emergency vehicles. Mrs. Salinas stated that there was plenty of room for emergency vehicles. Mr. Glass stated that once Mrs. Salinas supplied Staff with all the requirements the Staff would make sure to put the project back on the agenda.

Mr. Borman made a motion to table the project; Mr. Kneebone seconded the motion. Mr. Borman, Mr. Cole, Mr. Curtis, Mr. Gurel, Mr. Kneebone and Mr. Ward all voted in favor of tabling the project; the motion was passed.

B. Variance from Large Scale Development – **Outback Portable Toilets**
– 22375 Dorothy Lane, Gravette

The stipulations from the TAC meeting were as follows:

- The applicant must submit a site plan showing the existing structures and screening or landscape buffering - the current Benton County aerial photo may be used as a basis.
- The applicant must obtain a letter of hazardous chemical compliance from the Department of Emergency Management and submit a copy to Staff.

Mrs. Valinda Smith represented the project.

Mr. Glass stated that the applicant had met all stipulations.

Mr. Borman made a motion to approve the variance from Large Scale Development, Mr. Curtis seconded the motion. Mr. Borman, Mr. Cole, Mr. Curtis, Mr. Gurel, Mr. Kneebone and Mr. Ward all voted in favor of granting the variance from large scale development; the motion was passed.

C. Variance Request (future Lot Line Adjustment) – **Old Homestead Subdivision, Lot 15/16 & 17/18** – Royal Oaks Drive, Lowell

The stipulations from the TAC meeting were as follows:

- Staff will contact adjoining property owners regarding the proposed lot line adjustment.
- The applicant's building must be inspected by a Benton County building inspector.

The project was represented by Mr. Duane Penner.

Mr. Glass stated that he did not know if a lot line adjustment deals with the issue where the building is encroaching on a neighbor's property. He added that Mrs. Huisman (owner of the property being encroached upon) had stated in an email to the Staff and Board that she does not consent to the lot line

adjustment. Mr. Glass said that he had indicated to Mrs. Huisman that the building had been built on her property and it is a trespassing issue that would need to be handled amicably or through the legal process. Mr. Borman stated that he was in total agreement with Mr. Glass and added that it is a trespassing issue and the adjoining property owner must be in agreement with the applicant. Mr. Kneebone said that he suggested the applicant contact the builder (Sutherlands) because they are as much to blame as the applicant.

Mr. Penner stated that the Board needs to know that Mrs. Huisman is selling her property and she had already agreed to do a lot line adjustment. He added that she had typed up the letter and brought it to him. Mr. Penner said that he was trying to correct past mistakes made by a contractor. He stated that initially when the building was constructed it did not show that he was encroaching on her land. Mr. Penner added that when Mrs. Huisman did a survey to sell her property they found that one monument out of six was off. He stated that he didn't want to get into a law suit and that is why he came to the County for the variance.

Ms. Bachert asked if the applicant offered to purchase a portion of the property from Mrs. Huisman; Mr. Penner replied that he did offer to purchase a portion of the property. He stated that after recommendations from the Planning Commission, he decided to do a simple lot line adjustment.

Mr. Glass stated that he had spoken with Mrs. Huisman that day and the front corner is clearly shown to be a foot and one half over the property line on the County aerials. He added that if both parties were in total agreement the Board could exercise jurisdiction in terms of dealing with the lot line adjustment, but Mrs. Huisman is not in total agreement. Mr. Glass said that Mrs. Huisman suggested that this situation was hurting her ability to sell her property. He added that Sutherlands has a responsibility to correct the problem. Mr. Glass stated that the encroachment was a legal boundary issue. Mr. Penner replied that Mrs. Huisman had already agreed in writing to the lot line adjustment and he did not have funds to pursue the issue in court. Mr. Ward said that Mrs. Huisman had a change of heart and the Board could not approve the project.

Mr. Glass recommended that the applicant contact Sutherlands and let them know that they had built on the wrong property. Mr. Gurel stated that ultimately the applicant is responsible as the property owner and that Mrs. Huisman has no recourse with Sutherlands. He added that after Mrs. Huisman sells the property, the applicant may be able to negotiate a lot line adjustment with the new owner. Mr. Glass said that Mrs. Huisman had expressed her difficulty with perspective buyers because of this unanticipated problem.

Mr. Ward asked if Mr. Penner wanted to withdraw his request. Mr. Penner felt that it may be a better idea to table the project. Mr. Kneebone agreed

that it may be better to table so that the project would not have to be resubmitted.

Mr. Kneebone made a motion to table the project; Mr. Borman seconded the motion. Mr. Borman, Mr. Cole, Mr. Gurel and Mr. Kneebone all voted in favor of tabling the project. Mr. Curtis and Mr. Ward opposed the motion; the motion was passed.

D. Variance from Large Scale Development – **Arkansas Youth Adventures** – 11597 High Sky Inn Rd., Hindsville

- The Health Department must approve septic size for public occupancy; the applicant must submit documentation of this.
- Obtain a letter from the Fire Marshal regarding public safety issues such as maximum occupancy, emergency lights and emergency exits.
- Building codes for public access must be met.
- Proof of insurance must be submitted to Staff.
- Proof of property cleanup for public safety.
- The applicant must submit a site plan showing proposed parking and ingress/egress.
- Health Department approval for the kitchen must be provided to Staff.

Justin Bulla represented the project.

Mr. Ward asked Staff if the stipulations had been satisfied. Mr. Glass replied that the Health Department letter had not been submitted. He added that Staff had investigated and found that the camp is allowed to have portable toilets. Mr. Glass asked the applicant if he had met with the Health Department in regards to the kitchen. Mr. Bulla stated that he had faxed the documentation to Staff that day. Mr. Bulla added that he wanted to resubmit a site plan because he had made a mistake on drawing in the road.

Mr. Ward asked about proof of property clean up for public safety. Mr. Bulla said that they were working on clean up. Mr. Gurel asked about the status of Bulla's Kitchen. Mr. Bulla stated that in the winter they manufactured candy and the camp would only operate mid June through early August. Mr. Gurel asked the applicant if he was aware of the easement on the front of the property. Mr. Bulla said that he was unaware of the easement. Mr. Gurel asked if there was a representative of the kitchen. Mr. Bulla replied that there was not. Mr. Glass stated that Staff would like to see the information regarding the easement. He added that there may be issues with overburdening an easement used for commercial purposes. Mr. Glass said that the records should be pulled to look at the nature of the easement; Mr. Borman agreed.

Mr. Borman suggested tabling the project so that the easement issue could be resolved. Mr. Ward added that all the stipulations should be resolved before returning to the Board. He added that he would like to see photos of the post clean up of the property. Mr. Ward asked Mr. Lafayette about his primary concern. Mr. Lafayette stated that his primary concerns were that of liability and the tranquility of his property.

Mr. Borman made a motion to table the project; Mr. Gurel seconded the motion. Mr. Borman, Mr. Cole, Mr. Gurel and Mr. Kneebone all voted in favor of tabling the project. Mr. Curtis and Mr. Ward opposed the motion; the motion was passed.

7. Other Business:

Mr. Ward stated that there would be a committee meeting concerning the development of levels for large scale development projects. He invited all members that wanted to participate to attend.

Mr. Glass stated that there would be a meeting with area mayors on the 28th where he would have the opportunity to discuss the extraterritorial issues with the cities.

Mr. Glass said that he was able to obtain some information about the lumber mill. He found that apparently it was in the county prior to construction but now has been annexed into the town of Avoca. Mr. Glass added that Avoca is responsible for the planning and permitting of the project. He said that Avoca is required to give the county a 60-day comment period. Mr. Borman stated that he had discussed the project with people who live in the area and they had commented that they were never given a chance to voice their opinion. Mr. Glass said that he would be contacting the mayor and would inquire about a copy of the public meeting minutes. Mr. Gurel said that he did not believe Avoca had their first meeting yet. Mr. Glass said he believed that all the board members had been selected but he was not aware of the first meeting.

Mr. Ward asked about the clean up ordinance that the Planning Department was working on. Mr. Glass stated that the 1998 ordinance was in conflict with the Municode and that certain parts of previous ordinances remain on the books. He said that Judge Bisbee asked that Staff clarify the ordinances and possibly make modifications. He added that it is a sizable mess that requires someone who is historian, planner and legal investigator. Mr. Glass stated that he has tasked Staff to make necessary corrections and come back to the Board with a cleaned up ordinance in August. Mr. Glass said that he would brief the Judge and hand out packets to the Board for recommendations and review.

Mr. Glass stated that he will email out the résumé of the new Board member Mr. Ken Knight. He added that Mr. Knight lives outside of Siloam Springs, has served on the Siloam Springs Planning Board and would be appearing before the Quorum Court next Thursday.

Mr. Ward commented that Caleb Henry had been a respected Board member and was greatly appreciated. He added that his award would be sent to him because he now lives out of the area.

Mr. Ward asked about a date to meet with the committee of three to review and refine the large scale development criteria; he asked about using the meeting room in the Planning Office. Mr. Glass said that he hoped that the committee would meet weekly to carry out their important work.

8. Adjournment

The meeting was adjourned at 6:35.