

**Benton County Planning Board
Technical Advisory Committee Meeting Minutes
June 4, 2008, 5:30 p.m.**

Call to Order & Roll Call: The following Benton County Planning Board members were present: Scott Borman, Mark Gray, Caleb Henry, Bill Kneebone, Tim Sorey and Heath Ward present; Adele Lucas was absent. The following Benton County Planning Office staff members were present: Ashley Pope.

Ms. Pope announced that she had had a late afternoon request by Northstar Engineering to discuss the Grandview Heights project. Mr. Sorey asked if there were any objections to adding this item to the end of the agenda; there were no objections.

1. Large Scale Development Modification - **Treasure Cove** - 14321 Old Prairie Creek Road, Rogers - Northstar Engineering

Ms. Pope informed the Board that the project was simply intended to phase the existing project into two phases. Northstar Engineering's Doug Creekmore, of 1012 SE 3rd Street in Bentonville, represented the large scale development modification application.

Staff had no objections to the phasing of the project.

1. All requirements imposed by the City of Rogers and City of Rogers Utilities must be met
 2. The applicant must adhere to all stipulations from the previous approval
 3. The entrance infrastructure must be constructed during the building of Phase 1 (including drainage)
 4. The phase line must be moved to include the sanitary waste lateral lines for all of Phase 1
 5. A text description of Phase 1 must be placed on the plat.
2. Large Scale Development - **Osage Creek Pavilion** - 14948 Logan Cave Road, Siloam Springs - Johnson Troillett Architecture (conceptual only)

Gregory Smith, of 4606 East Valley Road in Fort Smith, represented the conceptual large scale development application.

Staff did not feel that approval of the project was possible without the approval of the Health Department and a drainage study.

The group discussed Mr. Smith's options for waste removal; Mr. Borman suggested that a decentralized system might prove to be the best solution for this project.

Mr. Smith stated that he was only asking for approval of the concept; Ms. Pope stated that for the applicant to receive large scale development approval, much more detailed information would have to be submitted.

1. Return of public comment on the project concept

3. Preliminary Plat - **Walker Meadows** - Walker Road, Siloam Springs - James Surveying

Leon Davis, of 2277 Dawn Hill Road in Siloam Springs, represented the project. He stated that Mr. James had to go out of state for an emergency.

1. Clarify whether roads are to be dedicated to the County or are proposed for private maintenance
2. Submit private road disclosure statement if roads are proposed for private maintenance
3. Submit road construction plans if roads are proposed for public maintenance
4. Submit access approval from the County Road Department
5. Submit a drainage report
6. Submit Health Department approval of the subdivision
7. Note adjacent landowners on the plat
8. Note setbacks on the plat
9. The plat must be signed by the surveyor
10. Submit a letter from the Lincoln Water Department acknowledging that they will provide water to the development
11. Correct the scale of the drawing from 1"/200' to 1"/100'.

4. Final Plat - **Whispering Woods** - East High Meadows Road, Avoca - Steadfast, Inc.

Randy Ritchie, of 12081 Centerpoint Church in Prairie Grove, represented the final plat application.

Mr. Ritchie noted that they would be able to submit a letter from Avoca Water shortly. He added that this phase of the project encompasses only lots 1 through 12.

1. Since the project is within their planning area, submit a letter of release or approval from the City of Rogers
2. Submit compaction test results

3. Submit approval from the Health Department
4. Add appropriate signature blocks to the plat
5. Submit a copy of the subdivision's covenants
6. Show only lots 1 through 12 on the plat
7. Show detail including existing rights-of-way, existing roadways, centerline of the road, surveyor's pins and bearings.

5. Final Plat - **City Lakeview Estates** - 14200 block of North Hico St., Siloam Springs - Civil Engineering, Inc.

Ron Homeyer of Civil Engineering (701 South Mount Olive Road, Siloam Springs) represented the final plat application.

Ms. Pope stated that this project is within the planning area of the City of Siloam Springs and had been granted the City's approval the previous evening; she added that compaction test results and Health Department approval of the water and waste disposal have all been submitted to Staff. She stated that everything appeared to be in order on this project.

Since access to the property is offsite, Mr. Gray asked how it is being handled; Mr. Homeyer stated that there is an existing right-of-way.

1. Submit asphalt core tests
2. Show the existing offsite right-of-way

6. Variance from Large Scale Development Regulations Request - **Cowboy Swap & Sell** - West Highway 72, Gravette - no surveyor listed

Norma and Frank Farrer represented the variance from large scale development regulations request.

Ms. Pope explained that the Board has seen this project before; this was a conceptual subdivision and mobile home park that was brought to the Board in October of 2007.

Mr. Borman noted the similarities between this project and the Spanker Creek Craft Fair; he stated that the applicant would be required to fulfill some of the large scale development requirements. He stated that he did not think granting a "blanket waiver" would be prudent. Mrs. Farrer stated that they did not want a "blanket waiver"; the applicants are requesting a variance from the large scale development requirements for 90 days in order to see if the business is viable; they are not constructing any permanent structures or altering the property in conjunction with this business.

Mr. Borman, Mr. Ward and Mr. Sorey all opined that the applicant would be required to submit some minimal requirements of the large scale development application. The Board discussed the proposed project and the applicant was asked to make public notification and show some details of the operation. The applicant will not be allowed to open for business until the requirements are met. Ms. Pope asked Mrs. Farrar to come in to the Planning Office to discuss what requirements would need to be met.

7. Mike & Peggy Lee - Discussion of **Walker Subdivision Informal Plat** (Hwy 12 East / Sheppard Place Road, Rogers)

Mike and Peggy Lee, of 11198 Sheppard Place Road, and Albert ____, of 11192 Sheppard Place Road were present for this discussion.

The Lees came to the Board to bring a complaint against Vic Bradford and his Walker Subdivision for utilizing a road on their private property. Mrs. Lee stated that they had never been notified of any of any impact to their property; Mr. Sorey explained that notification was not required by Benton County ordinance. Mrs. Lee stated that an access easement had been labeled as Sheppard Place Road and should not have been; she claimed that Mr. Bradford has routed traffic down the easement.

Mr. ____ stated that an unknown person went to his house and told him that his garage and shop are in the driveway and that they would be torn down.

Mr. Gray stated that he was currently involved in a County case regarding almost exactly the same situation; he did not know of any other solution than to have the County judge review the issue.

Mr. Sorey noted that the surveyor of record was present and asked him for some clarification on this issue.

Buckley Blew of Blew and Associates (2434 East Joyce in Fayetteville) introduced himself. He stated that this project had been before Benton County Judge Black, the Benton County Road Department, Benton County 911 Administration and former Benton County Planning Director Michelle Crain. He stated that the 40-foot easement that is being discussed had been labeled as Sheppard Place due to the Lees and others on that road having addresses on Sheppard Place. He acknowledged that the Lees have a 40-foot easement on the east side of their property that is contiguous with Mr. Walker's property. He stated that Mr. Walker "has no access, as per previous surveys, unless they have use of the 40-foot easement that is shown on the Lees' property..."

Mr. Blew stated that due to concerns from neighbors, a 30-foot easement was provided on the east side of Mr. Walker's west line on the plat. He stated that this easement has been "dozed in" and was intended to serve as the access for area residents, but apparently residents are still using the old easement. He stated that the Road Department has put in signage that indicates that the easement is part of Sheppard Place Road.

Mr. Sorey indicated that it was not made clear to the Board at the time of the subdivision's approval that residents of lots 5, 6 and 7 would be accessing Doe Run via a 30-foot easement. Mr. Blew gave his opinion that "the Walker Estate, which is now

Walker Subdivision, has rights to that 40-foot easement that's there by prescription and that's why we showed it that way."

Mr. Blew opined that this matter will probably have to be taken care of legally rather than by the Planning Board. Mr. Gray concurred.

Mr. Lee stated that he had a survey from 2003 that indicates "where Sheppard Place as a blue-sign road stops... from there downward, it says "ingress/egress"." He added that the original property owner of the land currently owned by Tommy Pruitt had granted a right-of-way to Vic Bradford. Mr. Lee stated that when he purchased his property in September of 2005, it was disclosed to him "that was a private road and we were told that we would have to maintain that ourselves and that's what we've done for the section that's on our property."

Mr. Lee said he received word that the ingress/egress easement that's now marked Sheppard Place Road with the blue signs, is going to be barricaded, and people would be forced to use Sheppard Place Road. He put a cable up with a lock on it, and provided keys to people that needed to use the road; he stated that that was agreed upon with the Board. He was never notified that anything was happening, or he would have been here sooner.

Mr. Sorey asked for Board comments; he stated that unfortunately the Planning Board does not have the authority to change, to intervene or to make a judgment call. He stated that the Lees' would need to pursue any recourse through the legal system.

Mrs. Lee questioned why the Board has the authority to approve the map, without confirming all the details, and then when the details are known, the people affected have to hire an attorney to defend their position - even though the Board approved it. Mr. Sorey acknowledged that there are flaws in all systems, and noted his regret for the Lees' situation. He stated that the Board's process has been done correctly, and as long as the survey process has been done correctly, then the records should indicate who should have access rights. The only way to resolve this is through the court system.

Mr. Kneebone asked whether the easement availability had previously been discussed by the Board. Mr. Sorey said that Ms. Pope could check previous meeting records. Ms. Pope stated that this is possible, if the condition of the cassette tapes permit.

Mr. Sorey said that the survey shows a public right-of-way, and the Board has done what it exists to do. He reiterated that the Lees would have to seek recourse through the courts.

8. **Grandview Heights** - Northstar Engineering

Doug Creekmore of Northstar Engineering, 1012 SE Third Street, Bentonville, represented the project.

Mr. Creekmore noted that the project is now two years old; due to the economy, the roads and storm drains are cut in, but that's as far as the project has progressed.

Mr. Sorey asked if the site is stabilized, and if ADEQ would approve it. Mr. Creekmore said that it was, to the best of his knowledge. He said there are new investors interested in acquiring the development, and he would like to obtain an extension for the new investors. He does not know if the new investors plan to develop condominiums, but reported that their development would not require any more area.

Ms. Pope reported that Courtney Little, the attorney for the project, had contacted her and requested a time extension. Mr. Creekmore added that the extension request is for six months. Ms. Pope stated that there is not enough information about what the project changes would be, and the project has already been allowed more than two years. The developers were given extra time due to a stay imposed by the County on the project during legal action.

Mr. Borman stated that the project was originally approved as a PUD, but if it substantially changes from the basic concept and footprint under the new ownership, it would need to be submitted as a new project.

Mr. Sorey said that a conceptual PUD was approved, and that the project was to move forward after obtaining Health Department approval, ADEQ approval, and architectural engineering documents.

Mr. Kneebone said it was his understanding that final approval was not given; only the concept of the condominiums was approved. The next step was to come back with a complete plan.

Mr. Sorey asked what had been done to date with regard to engineering, architecture, ADEQ approval, etc. Mr. Creekmore answered that Health Department approval has not been given; he stated that a stop-work order was issued by the Health Department. Ms. Pope said it was her understanding that ADEQ rejected the wastewater treatment system. Mr. Ward questioned why an extension would be beneficial. Mr. Sorey noted that the conceptual PUD was detailed, including the number of units, the height of the units, and the basic location of the units. He asserted that the developers are locked into those plans, and if they deviate significantly from those, then it could void the PUD.

Mr. Borman said the green space was a major issue with this PUD. Ms. Pope said that the request at this meeting is to get an idea of whether or not the Board would grant a time extension; the time limit on the project expires next month. Mr. Borman noted that the developers have already had two years with very little progress. Mr. Ward said that he did not see how a six-month extension would benefit the developers.

Mr. Gray asked if the project would be placed on the agenda for the public hearing meeting for this month or if they would have to wait until the July meeting; Mr. Borman answered that they would have to wait until next month.

Ms. Pope noted that this project has had many items questioned; she noted that if the Board follows the proper procedure, it will head off some headaches.

Mr. Henry said that a time extension should be granted for a specific purpose. Mr. Kneebone stated he does not support granting an extension. Mr. Gray asked whether an extension could be granted next month (July), and Ms. Pope indicated that it could still be granted at that meeting.

There was additional discussion about the likely changes in the project with new investors. Mr. Sorey said that he would support an extension if it is for the project as it was when the preliminary conceptual PUD was approved. He noted that it had been two years with almost no progress except road construction. Mr. Borman added that there had never been a public hearing for the discharge permit.

Ms. Pope noted that the regulations for a time extension require a "good cause," which is a subjective term. Time extensions granted in the past have been for "a different type of project that the viability was not too far in the future... until they were completed. As Staff, I would advise against a time extension for the project."

Mr. Ward asked when the developer should return with a formal request. Ms. Pope said that they could apply next month, with Mr. Little present. Mr. Kneebone said he could consider approving an extension if there was concrete proof that development will occur as presented and that definite progress will be made. Mr. Henry agreed, noting that an empty development is not in the best interests of the County.

Mr. Sorey said that his experience with extensions have not included re-doing plans. Mr. Borman stated that time extensions in the past have been granted to developers who have made some progress; he stated that that is not the case with this project.

Adjournment

The meeting was adjourned at 7:20 p.m.