

**Benton County Planning Board
Technical Advisory Committee Meeting Minutes
December 5, 2007, 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, and Heath Ward. Adele Lucas and Tim Sorey were absent. The following Benton County Planning Office staff members were present: Ashley Pope, Kathleen Davis and Karen Stewart.

Announcements:

Staff made no announcements.

Mr. Borman stated that he would move number one from Other Business up to be the first item of the agenda.

Other Business:

1. Computer Generated Plats, Site Plans, and Surveys – Elizabeth Bowen

Ms. Pope explained that Ms. Bowen is the head of the GIS section of Benton County's Information Systems department. She stated that Ms. Bowen would discuss with the Board the possibility of requiring that developers submit electronic copies of their plats or surveys after they have been finalized. Ms. Pope added that this is a requirement in several other jurisdictions and that it would be helpful to the County's GIS department.

Ms. Bowen stated that other jurisdictions are requiring surveyors, developers and engineers to provide the data that they are already submitting on paper in a digital format. Submitting the information digitally would prevent the County GIS department from having to redo work that has already been done.

Ms. Bowen handed out a sheet with the following statement: "A digital copy of plats, plans and surveys in ESRI Shapefile, AutoCad or a similar format at a 1"=100' scale with a minimum of two State Plane Coordinates must be submitted with your application, revisions and final submissions. All required information must be included in the electronic document. Questions concerning this requirement may be directed to Planning or GIS Departments." She stated that this could be added to Planning's "blue book" or added to the documentation that is given to applicants.

Ms. Bowen stated that the requirement of two State Plane Coordinates is standard; she then asked if there were any questions.

Ms. Pope asked at what point the GIS Department wanted the information, whether it should be submitted upon application or when plans are finalized. Ms. Bowen answered that the GIS Department currently maps information when the final plans are submitted, but left it up to Staff when it should be submitted. She added that if the electronic information is submitted during the application process for a building permit that GIS could speed up Planning's electronic process, but that for all other purposes the information could be submitted once the plans are finalized.

Ms. Pope asked the Board for their opinions. Mr. Borman stated that he believed that it was a good idea and felt that Staff should work on getting this requirement into the regulations. He added that he felt that the information should be submitted at final plat.

Mr. Henry concurred with Mr. Borman and asked about the timing of when the information is submitted. Ms. Pope stated that Staff did not need to have information on a project in its conceptual stages, but agreed that having the finalized information would be of benefit.

Mr. Kneebone stated that when the information is submitted should be left up to Staff to decide.

Mr. Gray said, "I was with you on everything up until you required the State Plane Coordinates." Ms. Bowen stated that surveyors in Arkansas are required to use the State Plane Coordinates; Mr. Gray disagreed. Ms. Bowen stated that she may have misunderstood Mr. Webb, but she thought that the State Plane Coordinates were required as of this year. Mr. Gray stated that the only one to require the State Plane Coordinates in this area is the City of Bentonville, but that "they provide the infrastructure to get you there, like a network of monuments throughout Bentonville." He stated that if Benton County required the State Plane Coordinates, a network of monuments throughout Benton County would have to be provided to the surveyors who do not have access to GPS. Ms. Bowen stated that she would contact Mr. Webb to clarify the requirements.

Ms. Pope asked for clarification of what coordinates surveyors in the State of Arkansas currently use; Mr. Gray answered, "You're either on State Plane Coordinates or you're on an assumed coordinate basis." He added that there is currently no legislation requiring surveyors to be on State Plane Coordinates.

Ms. Bowen suggested that they could add "if available" to the statement; Mr. Gray agreed that that would work.

Mr. Gray questioned the specification of the scale; Ms. Bowen stated that the scale stated was a standard scale, but stated that they could change the wording on it to include "as applicable," if necessary; she stated that they just needed the scale to be a known scale. Mr. Henry suggested changing the wording from "format at a 1"=100' scale" to "format at a set scale" to eliminate confusion.

Ms. Pope suggested she could work with Ms. Bowen to prepare a resolution on this matter to bring to the Board. Mr. Borman agreed. Ms. Pope stated that she would work with Ms. Bowen and have the resolution by the next meeting on December the 19th.

New Business:

1. Lot Split - **Panorama Park, 4th Addition** - Miller Road, Rogers - Gene Buescher

Gene Buescher of Survey 1 represented the lot split.

Ms. Pope stated that this project is a lot split in a subdivision, and then showed photographs of the site, including the new asphalt on Miller Road. She added that the applicant has met all requirements and that Staff recommended approval.

The Board had no questions or comments.

Ms. Pope stated that the terrain was fairly steep and asked if the applicant would be building on it; Mr. Buescher stated that they would be. He added that there is an existing septic tank on lot 3B that has been there for several years.

2. Informal Plat Subdivision - **Pine Branch Addition** - 17600 Posy Mountain Road, Rogers - Gene Buescher

Gene Buescher of Survey 1 represented the informal plat subdivision.

Ms. Pope showed photographs of the site and stated that the applicant had met all requirements.

Mr. Borman asked if the site has been supplied with potable water yet by Benton County Water District #1; Mr. Buescher stated that he was unsure.

Mr. Borman asked Mr. Buescher to have the applicant check on the water and show the water lines on the plat.

The Board had no other questions or comments.

- Check on whether or not the site has been supplied with potable water yet by Benton County Water District #1.
- Show the water supply lines on the plat.

3. Final Plat - **Sugar Hollow Acres** - 15628 Pleasant Ridge Road, Rogers - Crafton Tull Sparks

Mark Love of Crafton Tull Sparks represented the final plat application. He stated that the 10 lot, 41-acre project is owned by Ernie and Ronna Precure. He said that there is an existing house on lot 3 that will remain. He informed the Board that four of the lots have frontage on Pleasant Ridge Road; the other six lots will front on Sugar Hollow Lane, which is a new County road. He stated that each lot will have its own well and septic system. He added that the subdivision is within the City of Rogers' planning area, but they have waived jurisdiction. He stated that he had submitted letters of approval and acceptance to Staff from the Arkansas Health of Department, Benton County Road Department, Rogers Planning Commission, Benton County 911 Administration and the Beaver Lake Fire Department.

Ms. Pope showed photographs of the site. She stated that the Road Department has signed off on all of the road improvements and that the applicant has met all of Staff's requirements.

The Board had no comments or questions.

4. Large Scale Development - **Bed & Breakfast** - 10600 Highway 72 West, Bentonville
- Dennis Vinciguerra

Valory Vinciguerra represented the large scale development applicant; Dennis Vinciguerra was also present.

Ms. Pope stated she would show photographs of the site and then the Vinciguerras would show photographs of the inside of the building. She stated that the building that will house the proposed bed and breakfast is an existing single-family residence just outside of Bentonville. She added that the applicant had submitted all required items.

Mrs. Vinciguerra showed photographs of the inside of the house.

Mr. Borman asked if the residence had four bedrooms; Mrs. Vinciguerra answered that it has two more bedrooms upstairs. Mr. Vinciguerra stated that the bed and breakfast would be confined to the downstairs.

Mr. Borman remarked that the use of any bedrooms other than the four for which approval is being sought would require further review and approval by the Board.

Mr. Gray observed that the Board normally requires actual site plans from applicants; Ms. Pope pointed out that this project is "as-built" and that the four bedrooms could be occupied by family members. She stated that this project is simply changing the use of the property and is not a "normal" large scale development application. She added that the applicant has met all of Staff's requirements; they are just not in the form that the Board is used to. She added that the Board could require that the applicant have a site plan drawn up. She stated that the Fire Marshal had inspected the property; there is a fire letter in the applicant's file.

Mr. Ward stated that as long as safety requirements are met and Health Department approval has been given he did not have any issues with the application as it is; Mr. Borman agreed, but stated that if the Board wanted anything further to ask now. Mr. Gray stated that he just wanted to ensure that the Board was consistent.

Old Business:

1. Preliminary Plat Subdivision - **Lost Rock Ranch, LLC** - 7927 Lakeview Bay Road, Rogers - Community by Design

Brian Teague of Community by Design and developer Morgan Hooker represented the preliminary plat subdivision application.

Ms. Pope stated that some of the Board members would be taking a "field trip" to the site the following day. She stated that the Board has reviewed the submitted information and that the applicant is present to follow up with the Board. She then reviewed the outstanding stipulations:

1. The most up-to-date flood certification is required. The date needs to be corrected.
2. The road profiles, including slopes, are needed on the plat. The Board needs to know how the grades will be maintained.

3. The applicant must submit the petition to vacate the County road before the final plat will be approved. This needs to be submitted before construction.
4. A statement regarding "no adverse impact" is necessary on the drainage report.
5. The applicant should contact Benton County Environmental Services regarding erosion control at the site.
6. Submit information on the sanitary waste step system. Ms. Pope stated that Staff needed a copy of the ADEQ permit application to comply with this stipulation and the next one. Greenfield Capital will be maintaining the system.
7. Submit information on the bonding of the sanitary waste system.
8. Submit a copy of the Lost Rock Ranch covenants.
9. Correct "Tract A" labeling. This was corrected.
10. Add detail to plans regarding slopes, grades, and contours (notes and specifications).
11. Acquire surveyor's stamp on the plans.

Ms. Pope asked the applicants if they had been able to complete some of these items; Mr. Teague stated that all of these items had been submitted to Staff since the last meeting. He stated that the stamped survey had been submitted before the last Planning Board meeting and stated that he believed that the copy of the covenants was to be submitted to the Board by final plat. Ms. Pope stated that during the last meeting, the Board agreed that they needed to have a draft copy of the covenants to see how maintenance of the roads and the step system would be handled.

Mr. Borman asked to be reminded of how water would be supplied to the site; Mr. Hooker answered that water would be supplied by the newly-formed Pinetop Water District once they have executed the agreement between Pinetop and Lost Rock Ranch; he stated that this would be done once Lost Rock Ranch is done with the Planning process. Mr. Hooker added that maintenance of the step system would be part of the maintenance contract then asked what the Board needed.

Mr. Henry stated that the Board needed to know how the system would be maintained, who would be responsible for maintaining the system, as well as information on the bonding and timing of the system. Mr. Hooker then asked if that information needed to be turned in prior to approval or by final plat. Mr. Borman stated that all of the wastewater systems and requirements needed to be in place before the applicant proceeds. Mr. Hooker stated that the last time Lost Rock brought this project before the Board approval was contingent upon getting everything done. Mr. Borman informed him that much of the required information is in the ADEQ permit application and simply needs to be submitted to Staff; he added that the operation and ownership information would need to be submitted, as well as the documents of financial capacity.

Ms. Pope asked if the applicant had submitted a copy of their ADEQ permit to Staff; Mr. Teague answered that he would have to look. Mr. Borman added to the previous list that if there was a contract between Lost Rock and Greenfield Capital regarding the operation and maintenance of the wastewater system, Staff would need a copy of that for the file. Mr. Hooker assured him that the applicant has all of this information.

Mr. Hooker addressed the road situation, stating that the copy of the covenants that they currently have are very rough; he asked what the Board is looking for. Ms. Pope stated that they just need a draft of what the applicant has so far. Mr. Borman asked that the applicant simply mark it as a draft and stated that the Board would have the

understanding that the covenants will likely change before the final plat. Mr. Ward asked for "reasonable language" regarding how the roads would be maintained, stating that his two main concerns were the wastewater treatment and the maintenance of the roads.

Mr. Hooker stated that when they had received the Board's approval on their preliminary plat before, their documentation contained references to 20% grades on the roads, etc. He alluded to being confused as to why the roads are an issue now. Ms. Pope stated that the earlier documentation was not from a preliminary plat; Mr. Teague answered that it was for a planned unit development. Ms. Pope asked if the book he was referring to was the specification for the planned unit development; Mr. Hooker stated that the book contained information regarding the streets, grades, and the concept behind the PUD; he stated that all of this was approved conceptually. Mr. Borman stated that the larger issue was how the proposed steep grades would be maintained in the future; Mr. Borman clarified that as the applicant progressed from conceptual plan to actual plan, the Board required that more details be provided.

Mr. Gray noted that there was still an access easement shown on the Corps property on the site plan and stated that the Corps would have to sign off on it. Mr. Teague argued that there would not be any construction on Corps property. Mr. Hooker interjected that until the County road is vacated, the lots near that Corps line will be moved further up onto Lost Rock property. Mr. Gray expressed concern that it was shown on the site plan as a new access easement, but was not signed off on by the owner of the property.

Ms. Pope asked if the applicant needed to acquire a letter from the Corps of Engineers.

Mr. Hooker and Mr. Gray discussed the road and the easement; Mr. Hooker clarified that the easement in question already exists; Mr. Gray stated that a copy of that easement needed to be submitted to Staff. Ms. Pope stated that she would also attempt to get a letter from the Corps regarding this site.

Mr. Teague asked the vacation of the County road and moving the lots on the west side of the County road could be conditions of approval. Mr. Gray began by saying that his thinking regarding the Corps line was not to treat the Corps like a government entity, but as any other adjoining property owner; he asked if the Corps had been notified. Ms. Pope answered that she believed that they had, but that she would double check the notifications. She added that she would contact the Corps regarding a letter.

Mr. Teague asked if they did not get all of the details worked out before the Planning Board meeting if it was possible to receive conditional approval (1. If the County road is vacated, obtain an access easement from the Corps of Engineers.) Ms. Pope stated that she felt that they would know a lot more after the site review the following day.

Mr. Teague asserted that the applicant had submitted all of the requested items, except the operation and maintenance documents; Ms. Pope stated that she knew for certain that the applicant had submitted a new drainage report, but would have to go through the file to ensure that all other documentation had been submitted.

Mr. Teague asked if there was any feedback from the Board regarding the construction plans that had been submitted. Mr. Henry answered that he had reviewed the specifications that the applicant had submitted and felt that they were well-written and that they addressed quite a few of the concerns he had had previously. He added that he will know more once he has seen the site.

Mr. Gray asked about the source of the applicant's topographic information, whether it was from a field survey or if it was photographic; Mr. Teague answered that it was a combination of both: "it was a photographic survey but then the roads have been all topoed in in the field."

- The applicant should contact Benton County Environmental Services regarding erosion control at the site.
- Submit a copy of the ADEQ permit application to Staff.
- Submit a draft of the Lost Rock Ranch covenants, including information regarding the wastewater treatment system and the maintenance of the roads.
- Submit a copy of the contract between Lost Rock Ranch and Greenfield Capital regarding the operation and maintenance of the wastewater system.
- Submit a recorded copy of the access easement.
- Staff will check on whether or not the Corps received notification regarding this project.
- Staff will contact the Corps of Engineers and ask for a letter regarding this project.

2. Conceptual Large Scale Development - **Cotswold Village at Castleberry Point** - 8800 Kilpatrick Road, Rogers - FKF, Inc.

Billy Witcofski of 8557 Tanglewood Road represented the conceptual large scale development application.

Ms. Pope showed photographs of the site; she stated that, "the applicant has put together a pretty solid plan for how this is going to be laid out." She stated that the applicant was seeking feedback from the Board and from the public this month and would come back for approval next month.

Mr. Witcofski stated that he had met with the Benton County Fire Marshal and the local fire chief; he pointed out that the project had received a letter from the Benton County Fire Marshal. Mr. Witcofski stated that they had seemed pleased with the project and did not have any issues with any of the road grades. He added that he had received approval in email form from the State of Arkansas regarding the wastewater treatment system.

Mr. Witcofski informed the Board that he had received "Intent to Serve" letters from Carroll Electric and Benton County Rural Water; he stated that they were awaiting approval from 911 Administration. He added that they had lowered the number of units from 33 to 30 and that they would be installing individual sprinkler systems in each residence.

Mr. Borman asked who would provide water for the project; Mr. Witcofski answered that it would be provided by Benton County Water District #5.

Mr. Witcofski stated that they should have all required items by the end of the following week.

The Board was asked for any comments, but several members mentioned that they had not seen the plans; the Cotswold Village plans were submitted after information packets had already been sent out to the Board.

The Board took a few minutes to review the plans.

Mr. Borman asked if this project had already been brought before the Board; Ms. Pope answered that it had come before the Board as a conceptual plan, but that this was a more solid plan this time.

Mr. Borman asked if this project, once approved, would ever come back before the Board. Ms. Pope stated that if any changes were made to the project, such as adding units, that it would have to be brought back before the Board.

Ms. Pope stated that she would have a set of plans and the drainage report ready for the Board to review the next day when they met for the field trip.

Mr. Witcofski stated that they had a new addition to the plans and asked if he should bring a copy to Staff the next day; Ms. Pope stated that if it was possible to get the plans to Staff before 1 p.m. that would be best.

Mr. Borman asked if the applicant would be seeking approval for the project in January; Ms. Pope responded affirmatively, adding that the applicant is "finishing up their list of large scale items" and is interested in hearing public comment at the Planning Board meeting regarding the project.

Other Business:

2. Start of Planning Process & Status of Video

Ms. Pope informed the Board that she was trying to have a preliminary version of the public education video ready for them to view by the public hearing on December 19th. She clarified that it would not be the "finished products", but it would show that progress has been made.

Mr. Henry asked, "Where are we on the timeline?" Ms. Pope answered, "We haven't started."

Ms. Pope stated that she had had the opportunity to meet with the Northwest Arkansas Property Rights Association after Thanksgiving; she stated that they have issues regarding a land use plan, but seem supportive of the adoption of a master street plan, which she stated would allow the Planning Board to revise the subdivision rules and regulations. She asked the Board if they would prefer to begin the process incrementally, beginning with the Transportation element. She said that the Board has noted that the regulations are in need of revision; the Board would also like to have the support of the Quorum Court. She stated that the revision of the master street plan and the revision of the subdivision rules and regulations are likely to be supported by the Quorum Court and by citizens interested in the Planning process. She suggested to the Board that they begin with the Transportation element in January, rather than following the scope of work that she had previously submitted. She hoped this would "get people used to the planning process" and garner the necessary support to continue through the scope of work.

Ms. Pope stated that beginning with the Transportation element would yield a new set of concise regulations and then the Board could “move into land use after that because land use, as you know, is a more controversial topic.”

Ms. Pope stated that she understood that the Board wished to have the support of the Quorum Court for the Planning process. Since land use is such a controversial issue, that support might not be immediately evident.

Mr. Borman stated that if the Board needed to take the process in small steps, then that is what they should do. He pointed out that there are some groups of people in Benton County that will oppose any type of land use plan no matter how it is presented. Mr. Kneebone stated that the last time the Board tried to pass a land use plan, they “went too far, too fast, and we were not very successful.”

Mr. Borman reiterated that some people will not be in favor of a land use plan no matter how it is explained, adding that the justices of the peace who are elected by these people will respond to them. He felt that approaching the plan in the way Ms. Pope suggested made sense.

Mr. Ward felt that there were “pros and cons to both approaches, but taking it incrementally would probably be more acceptable.” He stated that the Board would at least be making some positive improvements to the current process, even if later measures were to fail.

Ms. Pope reiterated that she is still working on the video and stated that it will be presented at town hall meetings in each of the JP’s districts. She added that the Planning office’s website had been updated and that a zoning quiz had been added. She informed the Board that “The Benefits of Zoning” had been added to the website today.

Ms. Pope stated during her meeting with the Northwest Arkansas Property Rights Association, they mentioned that they would like to have their side of the zoning issue presented. Mr. Borman was not opposed to this idea, stating that it would likely make Planning’s case for zoning stronger.

Ms. Pope stated that she felt the fundamental issue was the role of government; Mr. Ward concurred and added that “it’s the fear of what government will do to the property, and that’s a natural fear for any citizen: ‘How much control am I going to give the government over my life and my property.’ There’s a natural resistance to that.” He felt that any plan should have definite limits and controls.

Mr. Borman agreed, stating that any plan should deal factually and honestly with the issues.

Mr. Henry asked what would happen if the Board goes through this process incrementally, but when they come to the land use plan, it fails. Mr. Ward answered that it was his understanding that, in that case, the Board would at least accomplish some of its goals and make some positive progress to show for its efforts.

Ms. Pope asked if the Board was amenable to showing the Northwest Arkansas Property Rights Association’s side of the issue in the video; Mr. Borman stated that “if they stick with the facts, I don’t have an issue with it.” Mr. Ward and Mr. Henry agreed that if they presented facts and truth, they would not have any problem with it.

Mr. Borman added that scare tactics and rhetoric would not be acceptable.

Ms. Pope stated that when she planned a video about the benefits of planning and zoning, she had not originally planned to show "what people hate about planning and zoning." Mr. Borman stated that "in the democratic process, you've got two sides of the coin," and reiterated that as long as what is presented is factual, he has no difficulty with showing both sides of the issue.

Mr. Ward suggested possibly having two videos; one depicting the benefits of planning and zoning and the second showing the pros and cons of planning and zoning. He pointed out that the County has grown exponentially and as it has grown, so has the need for regulation. He gave the example of shooting firearms out in the country being more acceptable, as opposed to shooting them within a more heavily populated area.

Mr. Henry suggested that property rights groups may have published or internet-based materials that Ms. Pope could reference when deciding on the content of the video. He gave the example of if they use a particular court case Planning could examine the facts of the case.

Ms. Pope felt that education regarding planning and zoning is very important and that the Board is delving into a deep philosophical issue: How much government is too much?

Mr. Ward felt that opening this debate is a good thing; the people of Benton County are being given the opportunity to decide "how much is too much." He pointed out that the County would not be zoned like large, urban areas and he felt that they were looking to adopt "reasonable rules and regulations."

The Board discussed how often people come before the Board to ask for relief from what a neighbor is doing, but that they are often the same people who don't want any regulations limiting what they can do on their property.

Adjournment:

The meeting was adjourned at 6:50 p.m.