



Benton County Planning Board

August 15, 2012

6:00 p.m.

Benton County Administration Building
215 East Central Avenue
Quorum Courtroom, 3rd Floor Suite 324

Meeting Minutes

PUBLIC HEARING

Call to Order: 6:00 p.m.

Roll Call: Jim Cole, Lane Gurel, Ken Knight, Starr Leyva, and Ashley Tucker were present.

Disposition of Minutes: 07/11/2012, 7/25/2012 and 8/1/2012

Ken Knight motioned to approve the minutes. Jim Cole seconded the motion. The minutes were unanimously approved.

General Public Comment: None

Old Business:

A. Safari Real Estate, LLC. – LSD # 12-203, JP District 11, 20948 Safari Rd., Gentry, AR 72734.

Represented by Jodie Wilmoth, Wild Wilderness Safari Park

Staff recommended that the Planning Board consider the following:

1. The applicant be granted approval of the two (2) requested waivers as follows;
 - a. The applicant requests a waiver from the engineered site plan due to the small scale nature of the project.
 - b. The applicant requests a waiver from the hard surface parking area requirement due to the fact that parking in the area is used for overflow parking and the site is rural in nature.
2. In regard to parking and access:
 - a. Handicap Parking;
3. The applicant should pave the handicap parking area.
4. The applicant should indicate handicap parking spaces and access islands with stripping according to ADA standards.

5. The applicant should provide signage indicating handicap parking. The applicant should delineate the parking area
6. The applicant may wish to provide privacy screening around the bathrooms in order to shield the entry way and sight lines into the bathroom facilities.
7. Should the applicant choose to expand any element of the park, including buildings, parking areas, and animal barns, in the future an amendment should be submitted to the Planning Board for review and approval.

There were no public comments on this project.

Staff indicated that the applicant has provided an updated site plan. Ms. McGetrick showed the aerial photo of the parking area. The overflow parking planned includes access both ingress and egress as well as handicapped parking. Ms. McGetrick stated the parking dimensions and square footage of the proposed parking areas meet county regulations.

Mr. Lane Gurel clarified that the existing lot was dirt, and the drawing shows the planned parking. Mr. Ken Knight asked about bus parking, overflow bus parking, and discharge areas. Ms. McGetrick said the bus parking would be confined to a specified area. The formerly planned area for overflow parking would not be used.

Mr. Ashley Tucker asked about the long access arrow on the drawing, and Ms. McGetrick explained that the arrows denoted ingress and egress. Mr. Gurel asked about the buildings. Ms. McGetrick explained that most of the buildings on the drawing had been removed and that the drawing was approximate.

The parking diagram indicated two (2) circulation patterns of parking, including handicapped parking and overflow parking. The existing parking area is separated from the planned addition by a rock wall and a terrace.

Ms. McGetrick stated that the requested waivers from an engineered site plan requirement and the hard surface parking area requirement were due to the planned parking being overflow parking, and also that the site was rural in nature. She said that staff recommendations were that the handicapped parking area be signed and the access islands be striped and that the handicapped parking is indicated with signage and meets all ADA standards. She stated that the board may wish to decide that the applicant should delineate the overflow parking area with boulders or railroad ties to show that it is a parking area. She stated that another area the board discussed in the TAC meeting was the privacy screening around the bathrooms. She suggested they consider discussing it as a stipulation. A fourth stipulation recommended by staff stated that if the applicant chooses in the future to expand any element of the park, including buildings, parking areas, or animal barns, that an amendment to the LSD application be submitted to the Board for approval.

Mr. Cole made a motion to approve the waiver for hard surface paving of parking lot requirement for the overflow parking area. The motion was seconded by Mr. Knight and the motion carried 5-0-0.

Mr. Cole motioned to approve the waiver for engineered site plan requirement. The motion was seconded by Mr. Tucker and the motion carried 4-1-0, with Mr. Tucker voting no, and Mr. Cole, Mr. Gurel, Ms. Leyva and Mr. Knight voting yes. The motion passed.

Ms. Leyva motioned for approval of the project with the stipulations recommended by staff. The motion was seconded by Mr. Cole. Before the vote, Mr. Tucker questioned the language “applicant may *wish* to have the bathroom area screened,” saying he takes issue with the word “wish,” because if they choose not to, the area will not be screened. Mr. Gurel stated that there is no ordinance requiring bathroom areas to be screened so it cannot be required. However, he stated the Planning Board can make a suggestion, as a stipulation that doesn’t have to be followed, as opposed to the others that do. He further stated that it is up to the Board whether it wishes to make a stipulation that does not have to be followed. Mr. Tucker then asked the applicant, represented by Jodi Wilmoth, whether the applicant intended to screen the bathrooms. She stated that after the TAC meeting the applicant had decided to follow the recommendation of planning staff to provide screening for the bathrooms. There being no further discussion, the roll was called.

The motion carried 5-0-0.

A. Springtown Seventh Day Adventist Church – LSD # 12-104, JP District 13, 12444 Fairmont Rd., Gentry, AR 72734. Represented by: Denny Williams, 22053 W. Highway 12, Gentry.

Staff recommended that the Planning Board consider the following:

Waiver: The applicant be granted approval of the one (1) requested waiver as follows;

1. The applicant requests a waiver from the engineered site plan due to the small scale nature of the project.
2. In regard to parking and access;
 - a. The applicant should delineate the parking area
 - b. Should the applicant choose to expand any element of the church grounds in the future an amendment should be submitted to the Planning Board for review and approval.

There were no public comments on this project.

Mr. Gurel stated that the proposed improvements were straightforward, simply adding bathroom facilities to the pavilion so that church members do not have to travel to the main church building to use restrooms there. Mr. Gurel asked staff to brief the Board on updates.

Ms. McGetrick stated that there were no updates to the project but that there were some items discussed in the last meeting that she wanted to mention:

1. It had been questioned during the previous TAC meeting on 8-1-2012, whether there were any previous large-scale improvements for the church building property or any permits. Ms. McGetrick stated that there were not, and that any future improvements or plans would have to come back through the Planning Board as an amendment to what is approved in this meeting. This is a stipulation the staff has requested be added to the record.
2. Ms. McGetrick presented a layout of the bathrooms as planned, showing a floor plan of the proposed improvements.
3. The Board had requested that the applicant submit a formal waiver of the engineered site plan requirement.

Mr. Knight said he knows from his experience as a developer that bathrooms are designed by the number of persons expected. He asked whether the number of users planned for were sufficient for the needs of the pavilion. The applicant, represented by Denny Williams stated that the pavilion bathroom addition contains more bathrooms than are present in the church. The primary purpose of the bathrooms was to accommodate a number of senior and handicapped persons in wheelchairs and walkers who had difficulty getting around.. Ms. McGetrick added that the bathroom plans had been approved by the Health Department.

Mr. Knight asked whether the Health Department used a formula in approving bathroom facilities. Ms. Levya stated that yes, the Health Department does use a formula, based on the number of persons the applicant states will be using the facility. If the number of persons using the facility is more than those stated, the application will fail to be approved.

Mr. Knight suggested that the bathrooms be designed with privacy screening. Mr. Williams agreed that this would be added to the plans. Mr. Knight pointed out that the drawings did not show these screens, and that the side wall should be extended to the corner columns, at a minimum; the second option would be to have two to three feet across the front. Mr. Williams agreed that this would be added to the plans.

Mr. Tucker asked whether approving this plan, which is a plan added to an existing structure that has not gone through a large-scale development review, would mean that the approval would extend to the church building and pavilion. Ms. McGetrick said she didn't believe so. Mr. Lane said the church building predates the requirement to have building permits, and probably also predates the 1998 creation of the planning ordinances. He questioned when the building

was constructed, and Mr. Williams said the building was put up 14 years ago, which would make it circa 1998. Mr. Gurel said that since the planning ordinance was just being created then, and there were no building permits. The proposed improvements are the only issues before the Board.

Mr. Tucker asked what events were held at the pavilion. Mr. Williams stated that weddings, church services, camping once a year, and other special events were often held at the facility. Mr. Gurel cautioned that if camping or overnight events were planned for 24 hours or more that a mass gathering permit might be needed from the Health Department.

Mr. Knight asked what a cowboy church is. Mr. Williams explained that the church is less formal and has a relaxed atmosphere.

There were no public comments on the matter.

Ms. Leyva made a motion to approve the waiver for an engineered site plan requirement. The motion was seconded by Mr. Tucker and the motion carried 5-0-0.

Mr. Cole motioned for approval of the project with these stipulations recommended by staff:

1. The applicant should delineate the parking area; and
2. Should the applicant choose to expand any element of the church grounds in the future an amendment should be submitted to the Planning Board for review and approval.

The motion was seconded by Mr. Knight. The motion carried 5-0-0.

New Business: None

The Public Hearing meeting was adjourned.

TECHNICAL ADVISORY COMMITTEE

Old Business: None

New Business:

A. Rhonda McKinney – Variance #12-206, JP District 1, 11600 Rolling Hills Dr., Rogers, AR 72757. **Represented by:** Rhonda McKinney, 11528 Rolling Dr., Rogers, AR 72757.

Staff reviewed the variance request:

- a. The applicant requests a variance from the 25' building setback due to the shape of the lot and the presence of utility lines on the property.
- b. The garage will be for personal use and storage of farm equipment.

Staff Comments:

Ms. McGetrick presented the request for a variance from the 25' county-mandated building per Chapter 11 Section 5 of the Benton County Planning regulations as follows; the following minimum building lines shall be used in all residential subdivisions. Affront building line shall be located at least 25' back from the right-of-way. The lot width at this building line shall be not less than 60'. The minimum yard dimensions free from accessory structures shall be: side yard, 10'; front yard, 25'; back yard, 25'; and street-side yard on a corner lot, 25' each. setback. The subject property is a 1.99-acre parcel located in an originally subdivided Rolling Hills subdivision. There are currently no covenants on the subdivided property recorded with the County. Presently the property is undeveloped and used for pasture land for horses. The surrounding parcels consist mostly of shop buildings, garage buildings, lean-tos and houses, being fairly rural in nature with most of the properties having their houses, shop buildings and other dwellings situated within the regulated 25' building setback.

The request asks for a variance from the setback. The purpose of the variance is to construct a home and a shop building. A specific location has not been identified but the applicant is willing to work with staff on a location there. In regard to the technical review from staff, the applicant is requesting a variance just to build the shop building, not the home building, due to the shape of the lot and the utility lines on the property. The power line going through the middle of the property has a 20' easement on either side of the power line, where the applicant cannot build. The applicant is also subject to the County 25' setback, which is shown on the diagram with a dotted line.

At the rear of the property is a ravine, so there is also going to be a problem building in that area. The applicant is asking to build about 15' into the building setback. Ms. McGetrick pointed out the plan submitted by the applicant, which shows the pump line and the septic field. Three potential shop locations have been identified on the plan, and each is located about 35' from the center line.

Neither a building size nor a building location has been indicated on the plan by the applicant. Ms. McGetrick stated that staff recommends that applicant work with staff to determine an actual building size and location so that the Board can approve the site and size of the building within the setback, in order to approve the variance.

Staff has concluded that due to the similar location of surrounding homes and the topography of the property, building within the setback will not create a sense of discontinuity in the neighborhood nor create any type of nuisance for surrounding property owners. Staff recommends approval for the variance application provided the following stipulations are met;

1. Staff recommends that the applicant provide staff with the exact location and size of the building on the property. Ms. McGetrick stated that staff has spoken with the applicant at length, and the applicant has agreed to sit down with staff and determine a location and the size of the building so that, should the variance be approved, the board will know the location and size
2. Staff recommend she applicant provide a topographic map to the Board.. She stated that staff is willing to work with the applicant in creating a topographic map that will show the variation in the property and the slope of the rear of the property.

Rhonda McKinney stated that at first the plan was to build a 30' x 50' foot structure; but it wouldn't work, so the plans were to be a 40' x 40', and they would like to expand at a later date. Even with a 40' x 40' foot building, the structure would encroach on the setback and utility easements and a variance would be required. Ms. McKinney stated that if the shop size were decreased to fit in the space within the easements, ingress and egress would still encroach across the sewer and sump pump lines. The utility easement is included in the 25' setback. The only place it can be built is where the horse shed is now located on the map.

Mr. Ken Knight asked if the building was a commercial building, and Ms. McKinney said no, it was only for working on old cars and for storage for use on the farm.

Ms. Levya asked if the applicant had a permit for the septic tank. Ms. McKinney stated that the property was acquired through a tax sale, and that an existing septic system was on the property. Also, there is a hold on the title because of the way it was acquired, and she is waiting on the title issues to be cleared so she can obtain permits for septic, etc. Ms. Levya asked if she would be using the existing system or putting in a new system. Ms. McKinney stated that she would be using the existing system with the sump pump that is there. Mr. Knight asked if she were using the existing tank with a new leach field and a new location. Ms. McKinney said that was correct, that the system was going to use a pump, and from there the lines go out to the valley, which is 30' deep. New lateral lines would not be run, but they are running a line across to use the old septic system. The old septic was approved years ago. Ms. Levya asked where the alternate area was located, and Ms. McGetrick said she would have to clarify that issue later; Ms. Levya asked when the subdivision was platted. Ms. McGetrick said it was platted in 1978.

Mr. Gurel asked if the applicant were going to create a new entrance to the property, and Ms. McKinney said she would be knocking out a fence to create an entrance from the existing road, which is a county road. Ms. McGetrick said if applicant were driving in with a boat or a truck, they cannot go over the lateral lines, so it is important to know where those are located and take those into account when they locate the shop building.

Mr. Gurel said that Carroll Electric would charge them to take the electric underground and that would not require as large an easement. Ms. McKinney said it would be cost-prohibitive to bury the lines. Mr. Gurel said that reason to do that would be to narrow the easement. Mr. Gurel said that in order to not come back to TAC, it would be good to have these issues pinned down by the next meeting. Ms. McKinney said that was understood.

A. Rockwood Point – Informal Plat #12-208, JP District 1, Rockwood Point Ln, Rogers, AR 72756.
Represented by: Derrick Thompson and Mitch Wiegler

Staff reviewed the proposal to subdivide the two current parcels with a combined acreage of 11.48 into 5 lots with four lots equaling 2.29 acres and one lot equaling 2.32 acres. Ms. McGetrick said this property may have been seen before, but the property owner has changed. The former request was under former owner Robert Winkleman.

Staff recommended the following;

1. Provide road construction details and cross-section addressing drainage and paving of roads which are at a 25% slope and will require concrete paving.
2. Provide letter of approval from Benton County Roads Department.
3. Provide water line extension plan and details.
4. Contact Rocky Branch Fire Chief Jerry Oliver regarding water extension plan and fire coverage.
5. Provide clarity in regard to access easement/ private road and ownership Show all required utility easements for water, electric, telephone, and cable.
6. Show all County required setbacks.
7. Provide Health Department approval of septic design.
8. Submit water line plans to ADH and Benton County Rural Water District #5 for approval.
9. If disturbance of the road and water line improvements creates over one (1) acre of disturbance, submit SWPPP documents for permit from ADEQ. Submit copies of SWPPP to Planning office. Inspections shall be carried out by County for land disturbance per SWPPP and county ordinances.
10. The applicant should address the bond requirement.
11. The applicant may wish to request waivers from the drainage requirements and the provision against a private road being used as the main access for an Informal Plat Subdivision.
12. The applicant should apply for a lot line adjustment in order to combined parcels 18-00862-000 and 18-00867-000 through the Benton County Planning Office.

Mr. Gurel asked for clarification about the plat and the owner; Ms. McGetrick said the plat map would

be updated for the next meeting. Ms. McGetrick stated there are two subject properties; and that the submitted plat was provided, and that Lot 6 is how the water access will come to the lower lots; further, that she has a copy of the Randolph Point covenants, which do not prevent running any water easements or utility across them.

Ms. McGetrick ran through the informal plat requirements and illustrated how the applicant either did or did not meet the regulations. She said the applicant was seeking to develop a portion of a parcel lying outside the subdivision in the subdivided area. The subject properties are located along Rockwood Point Lane, along the lake. Currently the only structure on the property is a small utility shed, which is described as being a cabin, but in reality is a dilapidated shed.

Access is through Rockwood Lane, which runs in front of the subdivided parcels. The property is accessed by the proposed Rockwood Point Lane, which is a dirt drive. The applicant wishes to subdivide the two current parcels into five lots; with four lots totaling 2.29 acres and one 2.32 acres. A few things that need to be noted on the actual plat is building setbacks and any proposed or existing utility easements on the property, and that would be the entire property, she said.

All the required items that should be shown on the recorded plat have been provided, including the covenant clauses restricting future lot splits, indicating the method of road maintenance (which would be the responsibility of the property owners) and a private road disclosure statement. Other comments from staff include the right-of-way, which have all been met; the applicant has been granted by 911, approval for the name for the road now called Rockwood Point Lane. In regard to access, regulations state that no access easement or private drive can be allowed to serve as the private road or primary access for an informal plat subdivision.

The applicant is asking that Rockwood Point Lane, which is accessed by Rockwood Lane by an existing 30' access easement, originally granted by a judge who signed a court order for the previous owner to have access to their property. Staff has printed off the easement order, and has provided it to the Board. Staff is not clear on who owns the easement and whether it, as a private drive, may be used as a private road for an informal plat subdivision due to informal plat regulations stating that private drives cannot be used as access to informal plat subdivisions because of regulations saying it cannot be used as a private access.

Mr. Gurel asked if the covenants restrict land use to single family homes. Ms. McGetrick said that is true. Mr. Gurel stated that he wanted the County attorney to review the covenants and make a determination whether the covenants do not prohibit the utility easements and drainage facilities and water lines, being as the covenants restrict land use to single family homes. The applicant responded that at 103' wide, the lot was sufficiently large to build a single family home on the lot, even if utility easements were present on 30' on the West side. Mr. Gurel said the Board could not supersede existing covenants. Mr. Gurel said he was under the impression that the lot was purchased for the sole purpose of bringing utility easements to the other lots in the subdivision.

Mr. Gurel stated that a road viewer went to the court in order to determine which lot could be used as access so the other lots were not landlocked. The applicant stated that this was not completely the case, that access to Lot 1 was through a curve on the road, and access to the other lots was granted from access through landowner number two, through a separate easement. Mitch Weigle, applicant representative, said that the owner of Lot 3 is deeding the easement that goes through his property to Rock Harbor, who will then abandon the easement. The road access on Rockwood Point Lane was granted by a judge through a court order, ordering the Attorneys to grant an easement to the other landowners. Mr. Weigle said it was deeded as a private roadway, not as an easement.

Ms. McGetrick stated that the attorney's opinion was still needed to clarify who owns the easement and whether it can be used for access. The applicant representatives stated that the new owner will be deeding the easement to Rock Harbor and it will then be abandoned. They said that the court order granted it as a private roadway. However, County regulations state that a private road cannot be used for access to an informal plat.

Mr. Gurel stated that two major issues need resolution before the Board can consider applicant's request:

1. One is the private road issue/ road detail plan; and
2. The lot line adjustment/water extension plan.

Ms. McGetrick stated that the lot line adjustment can be approved administratively before the next meeting; the applicant will just have to amend the plat to show the adjusted property line.

Mr. Gurel said there are times when the Board would want to see those, and it is not a matter which should be handled administratively.

Ms. McGetrick stated that no information has been provided for drainage of the proposed road. Applicant has indicated that they will provide this.

Mr. Gurel asked about the grade on the roadway.

Ms. McGetrick suggested a site visit for the Board to see how the grade slopes as it comes onto the property.

Mr. Gurel said he was not certain what limitations were given on informal plats and grade restrictions.

Ms. McGetrick said the applicant is willing to concrete the entire drive.

Mr. Gurel stated that if the grade went over the allowed 15 percent the concrete would be necessary.

Ms. McGetrick stated if the applicant decides to use concrete that the applicant will need to indicate that on the plan. The applicant will also need to obtain an official, written approval

from the County Road Department before intersecting with a County Road. Ms. McGetrick said Cindy Jones with the Road Department has thoroughly reviewed the application and has no issue with the intersection of Rockwood Lane and Rockwood Point Lane, that would prevent that and has comments if the Board wishes to go through those. The comments include a statement that anything having more than a 15% grade would need a hard surface and that the intersection is fine.

Another issue the applicant should address is the completion of all improvements. The regulations state that before an informal plat can be approved, the improvements must be complete or substantially complete. Failing this, a sufficient bond must be posted by the applicant before informal plat subdivisions shall be approved and any lots sold. The applicant must address this completion bond issue before any approval was issued.

The applicant's representative stated that the applicant plans to complete all improvements before approval, if given a list of requirements.

Mr. Gurel asked applicant if the improvements would be complete before the applicant comes back for approval. The applicant's representative stated that the applicant would request approval with stipulations.

Ms. McGetrick stated that In regard to fire department notification, Mike Trolinger, the Benton County Fire Marshal, and Gary Oliver, the fire chief for Rocky Branch, have both thoroughly reviewed the project. She said the Fire Marshal has requested that another fire hydrant be placed further on the property. Ms. McGetrick said she would send the Board all the comments she has received from other agencies.

The plat contains all the requirements for a cul-de-sac. She said both the Fire Marshal and Fire Chief stated that anything over 15% needed to be hard surfaced. The only thing the applicant would need to do is obtain an official letter from the Fire Department offering coverage.

Ms. McGetrick said other staff recommendations include a water extension plan showing where the water lines will be, and it needs to be approved by BC water district #5.

Mr. Gurel asked applicant representatives if they had engineered drawings of the water improvements.

Applicant representatives answered that they could get those.

Ms. McGetrick added that the staff would like to see a road detail map, and if there is any disturbance over one acre for the water lines, the applicant would need to get a permit through ADEQ, and applicant is aware of this.

Ms. McGetrick said the applicant could request a waiver for draining requirements, which include proper draining and curbing for any roads through the informal plat subdivision.

Mr. Gurel asked where the 16' requirement came from, and Ms. McGetrick said the road standard for informal plats was not 18' but 16'.

Mr. Gurel stated that fire department tankers are unable to pass on a 16' road. Ms. McGetrick stated that she would seek to have the Fire Department examine the road in person if the Board would like.

The Applicant representative stated that the existing road was 12' in width, paved. Mr. Gurel asked if that was put in before 1998.

The representatives further stated that the purpose of the request was not for commercial development to sell lots although that could be allowed; the purpose was for individual buyers have the ability to obtain financing to build homes.

MS McGetrick said the last thing to address is the lot line adjustment, which could be done administratively, because they are adjusting a lot line between two parcels, subject to board approval.

Mr. Gurel asked to clarify the lot line adjustment.

Ms. McGetrick explained that the applicant was simply asking to move lot lines. However, if they were asking to add a fifth lot, that would require a whole new application and plat approval. So she suggested that they go ahead and incorporate lot 5, to get everything done at once. She said applicant is taking a small section of the northern parcel and incorporating it into the flat; so there would be a lot line adjustment before any subdivision of the land takes place.

There was discussion to clarify the combining of two parcels to create Lot 5.

Applicant explained that the same owner owned both parcels being combined.

Mr. Gurel asked if the current landowners were paying for the improvements, and applicant representatives said yes.

Mr. Gurel said the lot line adjustment would have to happen first, and then the legal question regarding the roads would need to be answered before the Board would consider hearing the matter for approval or denial of the variance in determining whether this would be ready for public hearing at the next scheduled meeting. However, until the County Attorney gives an opinion on the road issue, additional engineering is not feasible and it would not be ready for public meeting.

Ms. Leyval asked about septic systems on all properties in this subdivision. The applicant representatives stated they would be obtaining Health Department approval for the septic tanks. The water lines will need to be put in before septic tanks will be installed.

Ms. Leyva stated that the subdivision is not approved by the health department; the subdivisions are approved by an office in Little Rock.

Ms. Leyva asked about the timing of public notice. The board determined that public notice was not required.

Discussion item:

John Young –lot split/replatting issue

The Board recognized Mr. John Young and Mr. Gene Buescher. Mr. Young lives in an area known as Indian Hills, Beaver Lake. He owns 5 acres and wanted to make it into two smaller lots. He hired Mr. Buescher to survey this change. After presenting his plan to the Planning Department staff he was told it could not be done. At one time, Indian Hills was a subdivision but the covenants have not been renewed. The Board discussed how to determine if it could be considered a subdivision and what rules might or might not apply. The conclusion was that it did not meet the current subdivision definition and the request did not violate any current rules. Based on that and further research by the staff, the decision could have been made administratively. However, the applicant has provided notice to the adjoining land owners of his request so this request will be on agenda for the September 5th public comment meeting.

Adjournment: 8:15 p.m.