



**Benton County Planning Board
Public Hearing
Technical Advisory Committee Meeting**

April 17, 2013

6:00 PM

Benton County Administration Building
215 East Central Avenue

Meeting Minutes

PUBLIC HEARING:

Call to Order: The meeting was convened at 6:00 PM by Planning Board Chair Mark Curtis.

Roll Call: Mark Curtis, Ken Knight, Starr Leyva, Jim Cole, Ashley Tucker, and Rick Williams were present. John Pate was absent.

Persons present in addition to the Board: Director of Planning and Environmental Services Christopher Ryan, Planning Coordinator M.J. McGetrick, Planning Assistant Matt Benton, and Administrator of General Services John Sudduth. Three (3) members of the public were also present.

Disposition of Minutes: Mr. Knight moved to approve the minutes. The motion was seconded by Mr. Tucker, to approve the April 3, 2013 Planning Board meeting minutes. The motion carried 6-0.

General Public Comment: None

Old Business: None

New Business: None

Public Hearing ended at 6:03 PM.

TECHNICAL ADVISORY COMMITTEE

Call to Order: 6:04 PM

Old Business: None

New Business: Center Point Contractors, LSD 13-259, 10316 East Highway 72 Bentonville

Represented by: Bill Platz of WR Consulting and Chris McDaniel of Center Point Contractors

Staff gave a presentation on the project. The site is located at 10316 Highway 72 East in Rogers and consists of two (2) separate parcels. The first parcel is 1.1 acres and contains the administrative offices of Center Point Contractors. The second parcel is vacant and consists of 3.11 acres.

The existing office building has been utilized since 2008, but never went through a review for large scale development. Staff informed the Board that since the existing structure had not gone through the planning process the entire project would be reviewed, not just the proposed new additions.

The proposed new building is a 7500 square foot commercial warehouse used for the storage of equipment

and materials associated with a contracting business. The applicant proposed adding two (2) new employees to the current work force of four (4) employees. A site plan, grading plan, development, and drainage plan were submitted. The proposed hours of operation are Monday-Friday seven (7) to five (5) PM.

The overall proposed project land area is 3.11 acres. The applicant proposes to incorporate a portion of the adjacent parcel (18-07615-000) into the property currently owned by Center Point Contractors. The adjacent parcel is undeveloped. Little tree cover exists on the property. The property slopes upward towards a small pond and the northern portion of the proposed incorporated parcel is heavily wooded with a small clearing. The site is situated amongst rural residences and agricultural operations.

The proposed site plan includes 12 parking spaces and one (1) accessible space on-site for a total of 13 dedicated spaces on-site.

Gravel lots are proposed to the north and south of the proposed building. Staff noted that all gravel parking areas should be labeled by use and that parking areas for equipment storage and loading and unloading should be labeled and dimensioned. Staff suggested the Board request clarification from the applicant regarding the use of the proposed gravel lot. Staff noted that outside work on the property might constitute some form of nuisance.

Staff informed the applicant that all building square footages on site, both proposed and existing, are required to be on the site plan.

Staff noted the applicant had indicated that trucks and heavy equipment would be loading, operating, and stored behind the proposed building. The applicant was informed that the location and dimensions of the proposed loading zones and loading bays should be indicated on the site plan.

Staff informed the applicant that parking flow would need to be indicated on the site plan. Staff suggested that the parking spaces be defined with railroad ties or concrete bumpers.

Staff noted the applicant did not propose any landscape or parking buffers, but that existing tree cover on site might constitute adequate screening of parking areas. The applicant was told to indicate on the site plan which vegetation area would remain. If the gravel lot to the north behind the proposed storage building was to be used for storage and use of heavy equipment, the applicant was informed that it should be screened from adjacent properties.

The applicant proposed four (4) separate accesses, two (2) existing and two (2) proposed. The existing access ingress/egress is from Highway 72 to an existing unused highway right-of-way property to the southeast of the property. The driveway connecting the property to the existing Highway 72 access runs through the right-of-way.

The applicant proposed two (2) additional accesses. The first is a 20 foot access from Highway 72 extending north and terminating at the proposed warehouse building. This access will require final approval from the Highway Department. The second access will be on the west side of the property line and serviced by an easement owned by the adjacent property. Staff requested a copy of the easement agreement. Staff noted the Benton County Road Department and the Benton County 911 office requested that the easement be dedicated as a private road. Staff felt the Board should require the applicant to provide proof of the access easement agreement in place of the dedication of a private road due to the rural nature of the area and the limited number of property owners utilizing the easement.

Mr. Knight asked if the proposed accesses would be gated. Ms. McGetrick responded that they would not.

Staff noted the applicant had not indicated the type, location, and intensity of lighting on site. The applicant indicated verbally to Staff that the site lighting would include only a building-mounted light at the rear of the existing structure. Staff informed the applicant that any additional lighting would need to be detailed on the site plan.

Staff stated no landscape buffer had been proposed on the site plan. Staff felt the rural nature of the property might have been acceptable for the existing vegetation on the site to provide adequate screening for parking areas and outdoor equipment storage and usage. Staff noted that all vegetation to remain on site should be labeled on the site plan. Staff stated that additional buffering or screening might be required depending on the level of vegetation to remain on the property and what may be determined from future site visits.

Staff stated the applicant had provided a drainage report and a drainage plan. Staff requested that several changes be made to the drainage plan:

- The removal of a proposed detention pond
- The calculation or drainage of the existing pond for runoff detention from both the subject property and the adjacent property to the north
- Additional details, including a cross section of the proposed retention pond and maintenance schedule

The applicant indicated the location of the septic system for the existing building on the site plan. The current system is approved for five (5) to six (6) employees. The applicant had not submitted approval of the commercial septic system tie in from the Health Department. Staff stated that an approved septic permit from the Health Department would be required for the new bathrooms. Staff also noted that any additional lateral fields or tanks should be marked on the site plan.

Staff noted the applicant had submitted a service agreement letter from Carroll Electric.

Staff noted a letter dated March 8, 2013 confirmed Pea Ridge Department would furnish fire protection. Benton County Fire Marshal, Mark Trollinger commented that a Knox box would be required on both buildings.

The applicant has not provided Staff with a solid waste disposal contract. A solid waste receptacle has not been located on the site plan. Staff stated that a copy of the solid waste removal contract and the location and screening of solid waste would be required.

The applicant has indicated to Staff that no hazardous chemicals would be stored or used on site. Staff requested that the applicant provide further clarification on whether waste oil or other hazardous chemicals would be used.

Staff stated that the application is deficient in a number of issues and that the proposed site plan is missing essential information. Some of the deficiencies identified by Staff include:

- Site lighting location and type need to be identified
- Traffic flow need to be indicated on site
- Outdoor equipment usage and storage areas should be labeled and dimensions added
- Loading zone location and dimension needs to be identified
- Square footage of existing building needs noted
- Dimensions of all access driveways needs noted
- Any proposed landscaping or vegetation to be used as buffering need to be labeled

Staff commented that a Highway Department permit would be required before issuance of certificate of occupancy should the project be approved. Approval of the private road name and recordation with the Benton County 911 office is required to be provided to Staff if determined to be required.

Staff noted several parking changes would be needed:

- All gravel parking areas should be labeled for use. Parking areas for equipment storage and loading and unloading should be labeled as such and dimensioned.
- Concrete bumpers or railroad ties should be indicated on site plan to define location of parking area.
- The applicant should indicate the location and dimensions of the proposed loading zone and loading bays on the site plan.
- The applicant should indicate parking flow on the site plan.
- Dimension of the accessible parking space.

Staff noted the type and use of outdoor equipment should be indicated on the site plan and defined in a narrative. Staff would need to determine if the proposed outdoor equipment posed a nuisance to surrounding properties. If so, Staff would propose nuisance litigation.

Staff noted that upon completion of the application review that the key outstanding issues were access approvals, usage of gravel lots, and drainage. Staff felt these issues should be addressed prior to the Public Hearing. It was Staff's opinion that if the applicant continued to work diligently, the application would be ready for the May 1, 2013 Public Hearing.

Comments from the Applicant: Mr. McDaniel acknowledged Staff's concerns with the road to the west of his parcel. He stated that he had spoken with Bobby Keaton of the Highway Department about the access.

Mr. McDaniel stated a percolation test for the alternative field had been performed. He said he expected the test to be complete within a matter of days.

Mr. McDaniel noted that trucks would load and unload once a week at the proposed building. He added some minor storage might occur at the far north end of the northern gravel lot. He said no semis or construction equipment would be parked outside.

Mr. Platz stated all existing trees would be maintained as a buffer.

Mr. McDaniel noted that the adjacent property to the south was constructing a new building. He stated he believed it was for a future a logging operation.

Mr. Platz stated the existing pond had been breached and wasn't holding much water. He stated he didn't want to use it. He planned to work with the owners of a proposed church on the adjacent property to decide the fate of the pond, but he stated he believed it would be filled.

Mr. McDaniel stated a screened dumpster was proposed for solid waste.

Mr. McDaniel stated a cross section of the proposed drainage would be supplied to Staff in the future.

Comments from the Board: Mr. Tucker asked the applicant to provide details regarding what the largest trucks coming to the site would be. The applicant replied that bobtail trucks would be the largest on site.

Mr. Knight asked Staff if the logging operation being constructed adjacent to the applicant's parcel would

have to go through the large scale development process. Ms. McGetrick replied that Staff would likely be visiting the operation the next day.

Mr. Knight asked the applicant what kind of construction business they were in. The applicant replied that they primarily dealt with commercial and residential development. Mr. Knight stated he had concerns about equipment used in commercial and industrial construction being stored on a gravel lot and causing contamination.

Mr. Knight asked the applicant what kind of materials would be stored on site. The applicant replied that they used a CAT lift on site. He stated that generally all products would be stored in the shop and that all fabrication would occur inside the shop as well.

Mr. Curtis asked Staff if there were any issues with the 911 address given the private road would be eliminated. Ms. McGetrick replied that the new building could share the 911 address with the existing one. She noted, however, that if operations were to move to the new building, the 911 office would need to be notified.

Mr. Knight asked the applicant if full cut-off lights would be used on site for security. The applicant replied that he would use full cut-off lighting.

Ms. Leyva asked the applicant what would be stored on the proposed gravel lots. The applicant replied that a cargo trailer might be occasionally parked on the lots. He added that there might be some miscellaneous building materials stored on the lots but that it would be neatly stacked. Ms. Leyva asked which lot would be used for storage. The applicant replied the northern end of the north lot.

Mr. Knight asked if the proposed new road would be gated. The applicant replied that it would not be gated. Mr. Knight informed the applicant that a Knox box would be required if a gate was ever put in place.

Mr. Curtis asked if customers would be coming to the front building. The applicant replied that if customers came on site, it would be to the existing building.

The Technical Advisory Committee adjourned at 6:40 PM.

STAFF UPDATES: Director's Report

Mr. Curtis announced that the fifth meeting of the Legislative Committee meeting had been completed the previous night. He commended Staff on their performance at all of the meetings. He stated the proposed regulation would be brought back to the Board for comment and then sent back to the Committee.

Mr. Ryan passed a compilation of comments to the Board from the Legislative Committee sessions. He stated that most of the requests from the Committee were reasonable and would be easy to accommodate.

Mr. Ryan commented on the Committee's discussion on easements. He felt that the definition of an easement needed to be cleared up as part of the subdivision regulations. He stated the County did not want to accept any more public streets due to budget reasons. He added that if more streets are to remain private that residents need to be protected in perpetuity.

Mr. Ryan requested the Board provide input on the subject of in-home occupations.

Mr. Ryan noted that Justice of the Peace Susan Anglin was very interested in agri-tourism during the Legislative Committee meetings. He noted the Committee wanted to create a mechanism to define these

operations. He told the Board that the issues would need to be discussed in the future.

Mr. Ryan commented on his discussion of family subdivisions with the Legislative Committee. He stated there had been many situations where a family wanted to create a compound and make individual lots for family members. He was concerned a developer would try to take advantage of the regulations to create a subdivision without infrastructure. He said the loophole allowing the creation of subdivision through tract splits would need to be closed. He noted the Legislative Committee voiced concern with changing the regulations on these types of subdivisions.

Mr. Ryan informed the Board that he recommended to the Committee the creation of a second appeals board. He stated it would be used to appeal building decisions and would provide an appeals process for the floodplain program. He stated he would like to take the Justices of Peace and the County Judge out of the process politically.

Comments from the Board: Ms. Leyva asked Staff if bed and breakfast operations would be considered in-home occupations. Mr. Curtis commented that Washington County has farm homes serving as bed and breakfast operations. Ms. McGetrick replied that further research would be needed.

Mr. Curtis commented that the topic of signs in the discussion of in-home occupations caused a lot of discussion among the Legislative Committee members. He stated the Committee felt strongly that individuals with in-home occupations have the right to a sign in the front of their properties.

Mr. Tucker asked Staff what the Committee's opinion was on the sign section of the proposed regulations. Mr. Ryan replied that the Legislative Committee didn't appear concerned about the section. Mr. Curtis added it was not technically a sign ordinance. Mr. Ryan stated that there are two types of in-home occupation types, rural and developed area. The developed area would be closer to the city limits and consist of primarily subdivisions and dense lots. No signs would be allowed in the developed area. Staff suggested a small sign may be permissible in rural areas.

Mr. Williams asked if an appeals board already existed for building and fire. Mr. Ryan replied that the building appeals would go the Planning Board. Mr. Williams replied that competing appeals boards could cause problems if there was ever a disagreement between them.

Mr. Tucker asked if the proposed appeals board would handle building appeals and the Justices of the Peace planning appeals. Mr. Curtis replied that they would. Mr. Ryan stated he was surprised that the County had not had an appeal of the building codes since 2006. He added that an appeal would eventually happen, so an appeals board needs to be in place.

Mr. Curtis remarked that he liked the idea of an appeals board consisting of experts and not Justices of the Peace. He stated, however, the public probably appreciates having elected officials making decisions rather than a board.

Mr. Sudduth stated that signage changes were not well received by the Legislative Committee. He added that no board of appeals could override the building code. He noted interpreting electrical, building, and mechanical codes is a huge responsibility. He believed the expertise of a board would be preferable to elected officials. He voiced his support for the appeals board.

Mr. Ryan commented that the codes are very technical, so potential for litigation should be emphasized.

Mr. Knight agreed that an appeals board was needed. He stated any proposed board would need knowledge in planning.

Mr. Tucker asked if it would be the responsibility of an appeals board to determine if the decision made by the Planning Board was reasonable based on available information. Mr. Ryan replied that the courts have gone in two different directions on that question. Mr. Sudduth commented that appeals boards usually determine degree of right and wrong versus strict interpretation of the codes.

Mr. Tucker stated he wanted the County to take no more liability than it already had.

Mr. Ryan stated at some point the proposed appeals board would have to make a decision that would give the County some liability. He stated that was the reason why the board would need experts with a good set of by-laws.

Mr. Tucker asked if any counties in Arkansas had a similar population growth pattern to Benton County. Mr. Ryan replied that Benton County had a unique growth pattern.

Mr. Curtis asked if the Board would be available to meet on May 4, 2013. Mr. Knight asked if the special session would be a called meeting. Mr. Curtis replied that it would. Mr. Knight asked if the time could be limited to the morning.

Mr. Tucker asked if media would be invited to the special meeting. Mr. Curtis replied that the media would have to be notified. He added that there didn't have to be any public comment.

Mr. Sudduth stated the he hoped a draft would be complete during the special meeting. Mr. Ryan added that the draft would be presented to the Legislative Committee as a final document.

Mr. Knight asked if the final document would go to the Quorum Court. Mr. Curtis replied that it would go to the Committee of the Whole. Mr. Knight asked if Staff expected any difficulties at the Committee of the Whole. Mr. Curtis replied that several members of the Committee were unfriendly to regulations. Mr. Ryan stated that these individuals should be identified, so that their issues could be accommodated ahead of time. Mr. Knight asked if the Committee members could be lobbied. Mr. Ryan stated that he could speak to individual members about their concerns.

Mr. Curtis asked if the Board would be willing to meet on May 4, 2013 at 8 AM. The Board agreed to meet at that time.

The meeting adjourned at 7:45 PM.