

**MINUTES
WASHINGTON COUNTY PLANNING BOARD
&
ZONING BOARD OF ADJUSTMENTS**

Mar 02, 2017

5:00 pm, Quorum Court Room, New Court House
280 N. College Ave.
Fayetteville, Arkansas 72701

DEVELOPMENTS REVIEWED:

ACTION TAKEN:

CONDITIONAL USE PERMIT HEARING

County

a: Janne Green Residential CUP

Approved

LAND DEVELOPMENT HEARING

County

**b: Variance for Janne Green Minor Subdivision &
Private Road Development (Encroachment)**

Tabled

County

**c: Variance for Janne Green Minor Subdivision &
Private Road Development (Driveway)**

Tabled

County

d: Janne Green Minor Subdivision & Private Road Development

Tabled

CONDITIONAL USE PERMIT HEARING

County

e: Mountain Cars CUP

Approved

1. ROLL CALL:

Roll call was taken. Members present include Robert Daugherty, Walter Jennings, Kenley Haley, Joel Kelsey, Daryl Yerton, and Philip Humbard. Randy Laney was not present.

2. APPROVAL OF MINUTES: *Kenley Haley made a motion to approve the minutes of Feb 02, 2017. Walter Jennings seconded. All board members were in favor of approving. Motion passed.*

3. APPROVAL OF THE AGENDA: *Daryl Yerton made a motion to approve the agenda. Walter Jennings seconded. All board members were in favor of approving. Motion passed.*

4. NEW BUSINESS

CONDITIONAL USE PERMIT HEARING

County

a. Janne Green Residential CUP

Conditional Use Permit Approval Request

Location: Section 26, Township 18 North, Range 29 West

Owners: Janne Green

Surveyor: Blew & Associates / Wes Luker

Location Address: 17476 Pleasure Heights Rd

Approximately 1.18 acres/ 2 lots. Proposed Land Use: Single Family Residential

Coordinates: Latitude: 36.20761913, Longitude: -94.03991345

Projects: 2016-434 Planner: Nathan Crouch email: ncrouch@co.washington.ar.us

CURRENT ZONING: Project lies within the County's Zoned area (Agriculture/Single-Family Residential 1 unit per acre).

PLANNING AREA: This project is not located within a planning area. It is located solely within the County's jurisdiction.

QUORUM COURT DISTRICT: District 5, Joe Patterson **FIRE SERVICE AREA:** Nob Hill Rural VFD
SCHOOL DISTRICT: Springdale

INFRASTRUCTURE: **Water-** Springdale Water HillsCorp **Electric-** Ozarks Electric **Natural Gas-** Black
Telephone- AT&T **Cable-** N/A

BACKGROUND/ PROJECT SYNOPSIS:

Janne Green Residential CUP is requesting a Residential Conditional Use Permit approval to allow a parcel of land that is approximately 1.18 acres in size to be split into 2 residential lots, each less than 1 acre. As this project is located in an area where the zoning is for one unit per acre, they must request a Conditional Use Permit to allow a density that is higher than that allowed by right.

The applicant/owner of this property is Janne Green. The surveyor is Wes Luker, with Blew & Associates. The property is located east of Springdale, off Pleasure Heights Road, WC 36.

There are two existing residences (17476 & 17482 Pleasure Heights Rd), each with an existing septic system.

If this project receives CUP approval, the proposed split must then receive Variance and Minor Subdivision approval as well. All conditions of Washington County's approval must be completed.

TECHNICAL CONCERNS:

Water/Plumbing/Fire Issues:

Springdale Water currently provides water to this property. No comments have been provided by Springdale Water.

The Washington County Fire Marshal had no comment. The Nob Hill Fire Department stated they wouldn't need to bring a fire truck down the driveway. They would just extend a fire hose down the 200 ft. driveway if needed.

Sewer/Septic:

A septic permit dated 1-23-2003 has been submitted for Tract 1, and an existing septic system check was conducted on both systems on January 19, 2017. The existing system checks yielded no visible problems with either of the systems.

Tract 1 (the northern residence): The Designated Representative noted that she found the septic system cleanout assembly while on site, but the location of the tank and lateral lines was not obvious.

Tract 2 (the southern residence): The Designated Representative noted that the system on Tract 2 is fitted with a diversion valve. The DR stated, "Since this valve has been buried it is important to have it located so that it can be turned every six months as it was designed. The lower setting that bypasses the upper two laterals should be used from April to October and the upper setting that utilizes all four lines should be used from October to April, during the wet time of the year."

If approved, this adjustment of the septic diversion valve will become an ongoing condition of approval.

Planning Staff asked the surveyor why the applicant chose the specific location of the split line. The surveyor responded, saying it is his understanding the split is being done so the daughter, who lives in the northern residence (Tract 1) can refinance the property, and that they are splitting the property following the existing fence which they have used as a possession line to this date.

Electric/Gas/Cable/Phone:

Ozarks Electric has overhead power lines on this property. Staff is requiring utility easement to be dedicated in the location of the overhead power lines, 15 feet in overall width, centered on the power poles.

AT&T is the telephone provider; they provided no comments.

Black Hills Corp (gas utility) services this area; they provided no comments.

Roads/Sight Visibility/Ingress-Egress/Parking:

This property accesses Pleasure Heights Rd, WC 36. The Road Department provided no comments. The County Contract Engineer will not require a traffic study due to the expected minimal impact.

Drainage:

A full drainage study was not required for this project due to the expected minimal impact.

Environmental Concerns:

No stormwater permit is required by Washington County at this time; however, applicant must comply with all rules and regulations of the Arkansas Department of Environmental Quality. www.adeg.state.ar.us

Signage/Lighting/Screening Concerns:

No signage, lighting, or screening is proposed. Staff does not feel that a recommendation for screening is necessary due to the siting of the house on this property.

COMPATIBILITY CONCERNS:

Surrounding Density/Uses:

Adjacent densities range from 1 unit/ 0.66 acres to 1 unit/ 5.29 acres, and densities in the general vicinity range from 1 unit/ 0.31 acre to 1 unit/ 10+ acres. The requested density is 1 unit/ 0.41 acres, in an area zoned at 1 unit/ acre.

The surrounding area is a mix of Agricultural and Single-family residential.

The Washington-Benton County line is adjacent to this parcel's north property line.

Staff feels that while the requested density is higher than the density allowed by right, it is within the range of densities both adjacent and within the surrounding area. Therefore, this project will be compatible with the surrounding area.

County's Land Use Plan (written document):

According to the County's Land Use Plan

SECTION III. PHYSICAL DEVELOPMENT

A. LAND USE CONSIDERATIONS

1. RESIDENTIAL

- a. To provide for development of residential areas at appropriate densities. **Staff feels that the proposed density is compatible with the surrounding densities in the area.**
- b. Update, administer and enforce subdivision regulations; and develop, adopt, and enforce zoning and related regulations and codes;
- c. Require development to be connected to utilities and utilize zoning as a means to guide the progression of development; **Utilities are available, and currently active.**
- d. Protect the character and integrity, and property values, of single-family, residential areas; as both residences already exist, **Staff feels that the proposed split will be compatible with the character of the surrounding area.**
- e. Protect residential neighborhoods from inappropriate non-residential influences through the use of regulatory controls; **the proposed use is a residential use.**
- f. Ensure land use and development patterns which provide for the most efficient and effective use of available utilities and services, including fire protection; **utilities are available in this area; fire protection is available and adequate.**
- g. Maintain an adequate county road plan and standards to guide and accommodate traffic movement; to develop differing categories of roads; and to protect rights-of-ways for planned, future roads. **The Washington County Road Department voiced no issues with a proposed split at this location.**

Future Land Use Plan

This portion of the County's Future Land Use Plan was extrapolated from the City of Fayetteville's adopted Future Land Use Plan for this area. The Future Land Use Plan for this area shows that it is "Low Density Residential (1-4 units per acre)". The County categorizes this future land use as:

Residential use- rural in nature (large tracts) combined with a strong emphasis on agricultural use in addition to conservation and preservation of woodlands, grasslands, and agricultural lands that are sparsely settled.

While this is not a large residential lot, staff has concluded that it is compatible to the surrounding densities/uses. There are several large Rural Area Residential lots that also serve agricultural purposes in this area, but there are also several residential lots with a higher density (the highest at 1 unit/0.20acres). Therefore, this use is not out of character in the area with the request of 1 unit/0.41 acres. Compatible does not mean that the use must be identical, just that it can exist in harmony with the surrounding existing and permitted uses in the area.

SITE VISIT:

A site visit will be conducted prior to the meeting; no concerns are anticipated. **Staff will update the Board at the meeting.**

NEIGHBOR COMMENTS/CONCERNS:

All neighbors within 300 feet of the boundary of this property were notified by certified mail of this proposed project.

At the time of this staff report, one (1) comment has been received "in-favor" of the proposal. **Staff will update the Board at meeting if any additional comments are received.**

STAFF RECOMMENDATION: Staff recommends approval of the proposed Janne Green Residential Conditional Use Permit with the following conditions:

Septic Conditions:

1. The septic diversion valve must be located (and shown on the plat) so that it can be turned every six months as it was designed. The lower setting that bypasses the upper two laterals should be used from April to October, and the upper setting that utilizes all four lines should be used from October to April, during the wet time of the year.

Roads/Sight Visibility/Ingress-Egress/Parking Conditions:

1. Any work to be completed in the County Road Right-of-Way requires a permit from the Road Department prior to beginning work. Any tile that may be needed must be sized by the Road Department. The Road Department may be reached at (479) 444-1610.

Environmental Conditions:

1. No stormwater permit is required by Washington County at this time; however, applicant must comply with all rules and regulations of the Arkansas Department of Environmental Quality.
www.adeg.state.ar.us

Utility Conditions:

Ozark Electric Conditions:

General Conditions:

1. Any damage or relocation of existing facilities will be at the owner's expense.
2. Developer must provide Ozarks Electric with a digital copy (AutoCAD 2004) of the Final plat as well as a hard copy.
3. All Utility Easements to be cleared of all trees, brush, dirt piles, buildings, and debris so that the easement is accessible with equipment. If easement is not cleared, developer may be subject to extra charges.

Standard Conditions:

1. Pay neighbor notification mailing fees (\$27.37) within 30 days of project approval. Any extension must be approved by the Planning Office (invoice was mailed to applicant on 12/29/16).
2. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
3. This CUP must be ratified by the Quorum Court.
4. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.
 - a. This project does not require additional Planning Board review. Therefore, all conditions of this CUP approval must be completed within 18 months of this CUP project's ratification.

Washington County Planner, Nathan Crouch, presented the staff report for the board members.

Walter Jennings, Planning Board member, asked about the septic. "Is the property large enough for its leach field?"

Nathan Crouch, County Planner, replied, "Yes, I'll be addressing that in the minor subdivision proposal."

Kenley Haley, Planning Board member, asked if the other lots there under 1 acre. "Were those approved by the planning board?"

Nathan Crouch answered, "They never came through. I assume they have probably been there before 2006. They're older than our zoning laws."

Daryl Yerton, Planning Board member, asked, "Is the conditional use permit just for that split that is less than 1 acre."

Joel Kelsey, Planning Board member, asked, "How long does the conditional use permit last for?"

Nathan Crouch answered, "Its Indefinite."

Kenley Haley asked, "Would you recommend approval for these if the other residents that were under the minimum? If they weren't there would you still have the same recommendation?"

Nathan Crouch stated, "Being that this is an existing condition helps. I believe so. We have tabled them a couple of times in order to get more soil work done and they have. Everything came back okay. I don't have a problem with this project at all."

No Public comments.

Public Comments Closed.

Kenley Haley made a motion to approve the **Janne Green Residential CUP** subject to staff recommendations. Walter Jennings seconded. Randy Laney was not present. Board Members Daryl Yerton, Robert Daugherty, Walter Jennings, Joel Kelsey, Philip Humbard, and Kenley Haley were in favor of approving. Motion passed.

LAND DEVELOPMENT HEARINGS

County

b. Variance for Janne Green Minor Subdivision & Private Road Development (Encroachment)

Variance Approval Request

Location: Section 26, Township 18 North, Range 29 West

Owners: Janne Green

Surveyor: Blew & Associates / Wes Luker

Location Address: 17476 Pleasure Heights Rd

Approximately 1.18 acres. Proposed Land Use: Single Family Residential

Coordinates: Latitude: 36.20761913, Longitude: -94.03991345

Projects: 2017-005 Planner: Nathan Crouch email: ncrouch@co.washington.ar.us

REQUEST: The applicant is requesting two Variances, and Preliminary and Final Minor Subdivision Approval of Janne Green Minor Subdivision and Private Road Development. The request is to split a 1.18 acre parcel, which will result in the creation of 2 parcels at less than 5 acres each, thereby triggering the Minor Subdivision requirement.

The two requested Variances are to allow a.) the existing home on (proposed) Tract 2 to remain within the building setback, and across the property line approximately 8 inches, and b.) the Private Road (driveway) to remain its current as-built width of approximately 12 feet.

CURRENT ZONING: Project lies within the County Zoned area (Agricultural/Single-Family Residential 1 unit per acre).

PLANNING AREA: This project is not located within a Planning Area. It is located solely within the County's jurisdiction.

QUORUM COURT DISTRICT: District 5, Joe Patterson.

FIRE SERVICE AREA: Nob Hill Rural VFD – comments were received from Nob Hill Volunteer Fire Department. Dennis Ledbetter, Washington County Fire Marshal, does not review Minor Subdivisions (4 lots or less).

SCHOOL DISTRICT: Springdale

INFRASTRUCTURE: **Water**– Springdale Water **Electric**- Ozarks Electric
Natural Gas– Black Hills Corp **Telephone**- AT&T **Cable**- Cox

BACKGROUND/ PROJECT SYNOPSIS:

The property owner and applicant is Janne green. The surveyor is Wes Luker, of Blew & Associates. The applicant is requesting Minor Subdivision and Private Road Development approval to divide a 1.18 acre residential parcel, thus creating 2 parcels at less than 5 acres each.

This proposed property division could not be processed administratively because county ordinance dictates splits may only create 1 parcel at less than 5 acres.

Parent Tract: 001-18385-000, 1.18 acres, with 2 existing houses.

Proposed Tracts:

- Tract 1: 0.77 acres; 1 existing house
- Tract 2: 0.41 acres; 1 existing house

Additionally, since (proposed) Tract 1 does not have public road frontage, the access easement (driveway) will be considered a Private Road, and the development will be considered a "Private Road Development".

The issues with this proposal include:

Issues requiring Variances

1. **The home on (proposed) Tract 2 encroaches across the western property line approximately 8 inches.**
2. **The existing driveway (proposed Private Road) is approximately 12 feet wide. Upgrading the driveway to the required width is cost prohibitive, and not practical due to an existing retaining wall on one side and existing trees on the other.**

Septic Issues

3. **The septic field for (proposed) Tract 2 is located on (proposed) Tract 1.**

Minor Subdivision approval is contingent upon receiving Conditional Use Permit approval, as well as approval of both Variances (encroachment & driveway width).

Staff has no concerns regarding this Minor Subdivision Replat proposal.

TECHNICAL CONCERNS:

Sewer/Septic:

A septic permit dated 1-23-2003 has been submitted for Tract 1, and an existing septic system check was conducted on both systems on January 19, 2017. The existing system checks yielded no visible problems with either of the systems.

Tract 1 (the northern residence): The Designated Representative noted that she found the septic system cleanout assembly while on site, but the location of the tank and lateral lines was not obvious.

Tract 2 (the southern residence): The Designated Representative noted that the system on Tract 2 is fitted with a diversion valve. The DR stated, "Since this valve has been buried it is important to have it located so that it can be turned every six months as it was designed. The lower setting that bypasses the upper two laterals should be used from April to October and the upper setting that utilizes all four lines should be used from October to April, during the wet time of the year."

If approved, this adjustment of the septic diversion valve will become an ongoing condition of approval.

Planning Staff asked the surveyor why the applicant chose the specific location of the split line. The surveyor responded, saying it is his understanding the split is being done so the daughter, who lives in the northern residence (Tract 1) can refinance the property, and that they are splitting the property following the existing fence which they have used as a possession line to this date.

Electric/Gas/Cable/Phone:

Ozarks Electric has overhead power lines on this property. Staff is requiring utility easement to be dedicated in the location of the overhead power lines, 15 feet in overall width, centered on the power poles.

AT&T is the telephone provider; they provided no comments.

Black Hills Corp (gas utility) services this area; they provided no comments.

Water/Plumbing/Fire Issues:

Springdale Water currently provides water to this property. No comments have been provided by Springdale Water.

The Washington County Fire Marshal had no comment. The Nob Hill Fire Department stated they wouldn't need to bring a fire truck down the driveway. They would just extend a fire hose down the 200 ft. driveway if needed.

Addressing

Both existing homes are addressed. No new homes are proposed.

Environmental

No stormwater permit is required by Washington County at this time; however, applicant must comply with all rules and regulations of the Arkansas Department of Environmental Quality. www.adeq.state.ar.us

Roads/Sight Visibility/Ingress-Egress/Parking:

This property accesses Pleasure Heights Rd, WC 36. The Road Department provided no comments. The County Contract Engineer will not require a traffic study due to the expected minimal impact.

Variances

When any land development occurs whether it is a split or lot line adjustment, or a larger more intensive development like a subdivision, the building setback requirement is applied at that time.

Since the structures this Variance cover were existing before building setbacks were applied, Staff recommends approval of both Variances. However, any new or replacement structures must comply with the building setback requirement.

Variance 1 (Agenda Item B): Existing home on (proposed) Tract 2 encroaches into the building setback by at least 10 feet, and across the western property boundary by approximately 0.74 feet. This Variance is to allow those encroachments.

Variance 2 (Agenda Item C): The existing driveway will be converted to private road. This Variance is to allow the private road to remain at the as-built width of approximately 12 feet. Upgrading the driveway to the standard private road width of 30 feet is cost prohibitive, and not practical due to an existing retaining wall on one side and existing trees on the other.

SITE VISIT:

A site visit will be conducted prior to the meeting; no concerns are anticipated. **Staff will update the Board at the meeting.**

NEIGHBOR COMMENTS:

All neighbors within 300 feet of the boundary of this property were notified by certified mail of this proposed project.

At the time of this staff report, one (1) comment has been received "in-favor" of the proposal.

Staff will update the Board at meeting if any additional comments are received.

CHECKLIST:

*Please note that if an item is marked inadequate, staff will usually recommend tabling or denial of a project.

Important Information Checklist			
	Inadequate	Acceptable	Complete
City/Planning Area Issues			N/A
Planning Issues/Engineering Issues			✓
Road Issues			✓
Fire Code Issues			✓
Utility Issues			✓
Health Department Issues		✓	
Other Important Issues			
General Plat Checklist			
	Inadequate	Acceptable	Complete
General Information			✓
Existing Conditions			✓
Proposed Improvements			✓
Info to supplement plat			✓

STAFF RECOMMENDATION:

Agenda Item B – Variance 1: to allow existing structures to remain within building setback

Staff recommends approval of Variance 1, for Janne Green Minor Subdivision and Private Road Development with the following conditions:

1. Allow the existing home to remain in the building setback.
2. If the structure is ever removed, any new or replacement structures must be placed with respect to established building setbacks.

Agenda Item C – Variance 2: to allow existing driveway to remain at its as-built width

Staff recommends approval of Variance 2, for Janne Green Minor Subdivision and Private Road Development with the following conditions:

1. Allow the existing driveway (proposed private road) to remain at its as-built width (approximately 12 feet).

Agenda Item D – Minor Subdivision Replat

Staff recommends Preliminary and Final Minor Subdivision approval of Janne Green Minor Subdivision and Private Road Development with the following conditions:

Septic Conditions:

1. The septic diversion valve must be located (and shown on the plat) so that it can be turned every six months as it was designed. The lower setting that bypasses the upper two laterals should be used from April to October, and the upper setting that utilizes all four lines should be used from October to April, during the wet time of the year.

Roads/Sight Visibility/Ingress-Egress/Parking Conditions:

1. Any work to be completed in the County Road Right-of-Way requires a permit from the Road Department prior to beginning work. Any tile that may be needed must be sized by the Road Department. The Road Department may be reached at (479) 444-1610.

Environmental Conditions:

1. No stormwater permit is required by Washington County at this time; however, applicant must comply with all rules and regulations of the Arkansas Department of Environmental Quality. www.adeg.state.ar.us

Utility Conditions:

Ozark Electric Conditions:

General Conditions:

1. Any damage or relocation of existing facilities will be at the owner's expense.

2. Developer must provide Ozarks Electric with a digital copy (AutoCAD 2004) of the Final plat as well as a hard copy.
3. All Utility Easements to be cleared of all trees, brush, dirt piles, buildings, and debris so that the easement is accessible with equipment. If easement is not cleared, developer may be subject to extra charges.

Standard Conditions:

1. Pay neighbor notification mailing fees (\$27.37) within 30 days of project approval. Any extension must be approved by the Planning Office (invoice was mailed to applicant on 12/29/16).
2. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
3. This CUP must be ratified by the Quorum Court.
4. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.

- This project does not require additional Planning Board review. Therefore, all conditions of this CUP approval must be completed within 18 months of this CUP project's ratification.

Washington County Planner, Nathan Crouch, presented the staff report for the board members.

Kenley Haley, Planning Board member, asked, "Can we do that without a deed?"

Nathan Crouch replied, "The gentlemen that I spoke with that lives on this side. In order to get even an easement. He said absolutely not. He has already spoken with his mortgage company and they were requiring him to sell it. He and his wife are friends of the family. In addition, they did not want to put that burden on them. He said just to let it go. I have not seen an encroachment across a property line but I've seen them encroach into the building setback plenty of time. That is the conditions that we always used that if it's taken down than any replacement structure would have to be built with respect to the setbacks lines."

Robert Daugherty, Planning Board Vice Chair, asked "Is it possible to get something in writing from him saying that he's fine with that. To me that would at least be something we can have."

Nathan Crouch replied, "Based on his attitude on the phone. That wouldn't be a problem at all."

Robert Daugherty added, "I do see some of these out in the county. The structures are over sometime and you will have to deal with that down the road. If he can get something now it would help him down the road later in case it changes ownership. I entertained the idea of doing that. Our county attorney may have better advice. I think at this point it would be advisable to have something written between the two of them."

Daryl Yerton, Planning Board member, asked, "Do we have authority as a planning board under the ordinances of the county to permit something like this to be done across the property line?"

Nathan Crouch replied, "I would have to look at it. Pull the ordinances."

Daryl Yerton replied, "In my 8 years I don't recall us having an issue where we approved a variance across an existing property line that was not deeded."

Nathan Crouch added, "Just to reiterate its just 8 inches."

Kenley Haley stated, "We've seen a lot of lawsuits. We are just being cautious. The county attorney may have further guidance."

Brian Lester, County Attorney, "I'll have to look into it a little bit more. I see potential for the problems. Let me look into it."

Robert Daugherty stated, "For the protection down the road. I think it would be advisable to have it written. I see these issues where everybody is fine now but it doesn't take a one problem to cause a lawsuit. I know that it has to be done with the boundaries of their mortgage company. I think the agreement between the two where they can buy the 8 inches or whatever. It'll be nice to have it resolve because it's going to be an issue down the road whenever you sell. The title company is going to catch it."

No Public comments.

Public Comments Closed.

Daryl Yerton made a motion to table the project until the county attorney has an opportunity to review the stipulations so we can protect the rights and privileges of both property owners.

Nathan Crouch asked, "Would we still hear the next variance on the minor subdivision contingent upon on this variance being resolved?"

Daryl Yerton stated, "I can't see that we can move forward with either."

Joel Kelsey, Planning Board member, stated, "I feel better having it tabled it too. Strictly for the county's benefit too."

Robert Daugherty added, "I think we need to give the county attorney time to check into this. I know that for protection down the road they will probably need to look into this. It may delay what you are trying to do but it might be advisable at this time."

Daryl Yerton made a motion to **Table** the **Variance for Janne Green Minor Subdivision & Private Road Development (Encroachment)**. Joel Kelsey seconded. Randy Laney was not present. Board Members Daryl Yerton, Robert Daugherty, Walter Jennings, Joel Kelsey, Philip Humbard, and Kenley Haley were in favor of approving. Motion passed.

County

c. Variance for Janne Green Minor Subdivision & Private Road Development (Driveway)

Variance Approval Request

Location: Section 26, Township 18 North, Range 29 West

Owners: Janne Green

Surveyor: Blew & Associates / Wes Luker

Location Address: 17476 Pleasure Heights Rd

Approximately 1.18 acres. Proposed Land Use: Single Family Residential

Coordinates: Latitude: 36.20761913, Longitude: -94.03991345

Projects: 2017-006 Planner: Nathan Crouch email: ncrouch@co.washington.ar.us

Tabled by the Planning Board.

County

d. Janne Green Minor Subdivision & Private Road Development

Preliminary and Final Minor Subdivision & Private Road Development Approval Request

Location: Section 26, Township 18 North, Range 29 West

Owners: Janne Green

Surveyor: Blew & Associates / Wes Luker

Location Address: 17476 Pleasure Heights Rd

Approximately 1.18 acres/ 2 lots. Proposed Land Use: Single Family Residential

Coordinates: Latitude: 36.20761913, Longitude: -94.03991345

Projects: 2016-436 Planner: Nathan Crouch email: ncrouch@co.washington.ar.us

Tabled by the Planning Board.

CONDITIONAL USE PERMIT HEARINGS

Greenland Planning Area

e. Mountain Cars CUP

Conditional Use Permit Request

Location: Section 16, Township 15 North, Range 30 West

Owner: Richard Price

Applicant: Patricia Hollingshead

Location Address: 6210 S. Hwy. 71

Approximately 0.68 acres Proposed Land Use: Commercial Car Lot / Wrecker Service

Coordinates: Latitude: 35.97195649, Longitude: -94.16559671

Project #: 2016-246 Planner: Nathan Crouch email: ncrouch@co.washington.ar.us

REQUEST: Conditional Use Permit approval to allow a car dealership and wrecker service on a parcel that is approximately 0.68 acres in size.

CURRENT ZONING: Project lies within the County's Zoned area (Agriculture/Single-Family Residential 1 unit per acre).

PLANNING AREA: This project is located within the City of Greenland's planning area. The City submitted no comments.

QUORUM COURT DISTRICT: District 14, Ann Harbison

FIRE SERVICE AREA: West Fork

SCHOOL DISTRICT: Greenland

INFRASTRUCTURE: Water- Fayetteville Water

Electric- SWEPCO

Natural Gas- Black Hills Energy

Telephone- Windstream

Cable- Cox Communications

BACKGROUND/ PROJECT SYNOPSIS:

The owner of this property is Richard Price, the applicants are Tracy and Patricia Hollingshead. This property is located in between Greenland and West Fork off S. Hwy. 71.

This CUP request is to allow the operation of a car dealership and wrecker service on a property zoned for Agricultural/Single Family Residential uses, by right, on approximately 0.68 acres.

This project was previously operating under a Temporary Use Permit. That permit has expired, and in order to continue operating on this property, the applicant's Conditional Use Permit request must be approved.

The applicant wishes to use an existing concrete pad and gravel area for the vehicle sales lot (approximately 45 feet x 50 feet according to the submittal letter). There is an existing house that is proposed for the office use at this time.

The "wrecker pen" is proposed to be located in the southeast corner of the lot, behind the office building and the privacy fence (both currently existing). The applicant did state that they plan to construct another office building on the existing pad that is approximately 13 feet x 30 feet in size. Additionally, there is another travel trailer/residence (used as a residence) located on the back of the property.

The applicant has stated that they will have approximately 5-10 customers per day. Hours of operation are from 8:00 am to 5:00 pm, Monday-Friday, and Saturday from 8:00 am to 1:00 pm. There are 4 employees (3 are family and one of the family members lives on the site).

There is some concern over the property line location for this site; staff has required the applicant to provide a legal survey showing the south boundary line to confirm this location.

This has not been completed. This must be submitted and adequate prior to staff recommending approval of this project.

Please see the attached letter from the applicant and site sketch for further information.

There have been many issues with this project. There is concern about the existing septic system, and the location of the alternate area. There is concern about the property line location, especially on the south side since the proposed temporary office may not be entirely on the subject property. And there has been concern from neighbors about the compatibility of this proposal.

TECHNICAL CONCERNS:

Water/Plumbing/Fire Issues:

This property is serviced by Fayetteville Water. They did not submit comments.

The Fire Marshal and West Fork Fire Department met onsite to look at the existing drive. West Fork had no concerns, and there is a hydrant nearby to provide fire flow in case of emergency.

The Fire Marshal will require that fire lane signs be placed to ensure that the drive remain clear for emergency vehicles. He also inspected the Temporary Office and required that it be finished out with sheetrock, and place a fire extinguisher and exit lighting for the front door. **The Fire Marshal will inspect the office before the applicant may begin operation.**

The layout for the proposed 13x30 foot office building was submitted. The Fire Marshal stated that it will be ok, but he will need to inspect prior to that building being used for an office.

Sewer/Septic/Decentralized Sewer:

The applicant stated that two septic systems exist on this site. The travel trailer/residence is connected to an existing septic system. The temporary office building has a restroom, but it is not currently connected to any septic system. This may not be used unless it is approved to be connected to a septic system. Planning asked that an inspection of both systems be completed, and that alternate area locations be identified. There was evidence that the soil was being evaluated, but no report has been submitted. Additionally, the area the applicant has designated as an alternate area has been disturbed. Typically, the alternate area must be in an area that has not been disturbed.

The primary and alternate areas identified must be marked off so that they are not damaged and remain undisturbed. Staff has been informed of future plans for this property, and we have concerns that the alternate area would be disturbed further if the applicant moves forward with an addition in the future.

The septic system report must be submitted and found adequate prior to staff recommending approval of this proposal.

Electric/Gas/Cable/Phone:

SWEPCO, Black Hills Energy, Cox Communication, and Windstream Communications did not submit any comments for this project. Generally, any damage or relocation of existing facilities will be at cost to the developer.

Roads/Sight Visibility/Ingress-Egress/Parking:

This project accesses off S. Hwy 71. There are two existing entrances. These must be paved with a minimum 20 foot apron to avoid tracking gravel on to the Highway. Jimmy Vaught, Arkansas Highway and Transportation Department (AHTD), met with Planning Staff and the applicant onsite to discuss. He stated that AHTD requires a minimum 24' width on paved aprons and that the applicant will need to contact him to get the proper permits for this work.

The applicant provided a statement about traffic impact. They expect 5-10 customers per day, and only have 4 employees (1 lives on the site currently).

Drainage:

The Washington County Contract Engineer has no comments on this proposed project.

Environmental Concerns:

At this time, no stormwater permit is required by Washington County; however, the applicant must comply

with all rules and regulations of the Arkansas Department of Environmental Quality (ADEQ).

Signage/Lighting/Screening Concerns:

The applicant has stated that they wish to place one additional outdoor security light. All outdoor lighting must be shielded from neighboring properties. Any lighting must be indirect and not cause disturbance to drivers or neighbors. All security lighting must be shielded appropriately.

There is currently an existing dumpster on site. It appears to be within the Highway Right-of-Way (ROW), so it must be moved back. It also must be screened with opaque material on all sides, including the gate.

The applicant has installed a privacy fence and stacked personal building material behind it. Staff has no concerns with this.

City of Greenland Concerns:

This project is within the Planning Area for the City of Greenland. No comments were submitted by the City.

COMPATIBILITY CONCERNS:

Surrounding Density/Uses:

The surrounding uses are single family residential (one larger subdivision directly across the highway), agricultural and commercial. This site contains one residence and one unfinished residence proposed to be used as an office.

This site has operated previously as different commercial uses (computer store, antique store). The building that was there was removed sometime in 2013-2014, and the old home that was onsite burned sometime in 2014. This left the concrete foundation. Just to the north, is a large commercial salvage yard (J&L Auto Salvage).

There are some similarities and differences between the previous uses and the proposed use. The proposed use is much more visible which can impact the aesthetic, but the traffic impact should not be much different than previous uses. There are also similarities and differences between the auto salvage to the north and this proposal. All of the vehicles in the auto salvage are behind opaque fencing, and only the building front is seen. There could be less day to day traffic as well. But it is commercial, and there will be traffic generated because of the commercial use that is different than that of a residence.

This project was previously operating under a Temporary Use Permit that has now expired. There have been several complaints from neighbors (across the highway in the Homestead Addition Subdivision). The complaints are mostly about the aesthetic of the site, the noise (there have been after hours complaints of music, engines revving, and general loudness), and property values.

Staff feels like this use could potentially be made compatible with conditions, but has concerns that the conditions to make it compatible may be beyond what the applicant is comfortable accepting. The applicant has been somewhat responsive to staff's concerns, and we have seen some improvement at the site.

County's Land Use Plan (written document):

According to the County's Land Use Plan,

"2. LIGHT COMMERCIAL

Continuing with the primary goal of retaining the rural characteristics of Washington County, light commercial uses should be allowed if:

- a. *Not incompatible with adjacent residential and agricultural uses; or by conditions placed on such to mitigate its impact. Together with community facilities and compatible residential uses, this use typically serves as a buffer between general commercial and strictly residential uses".*

Staff's Comments:

As presented, staff feels that this is not in line with the County's Land Use Plan. It is not offering a buffer between the residential area and general commercial areas because of the high visual impact. Staff feels that it could potentially be made compatible with conditions.

Future Land Use Plan

The future land use plan for this area shows "Residential (compatible with surrounding densities)".

This use is not residential, but could potentially be made compatible with residential neighbors through conditions.

SITE VISIT:

Several site visits have been completed by staff. Some of those site photos are attached.

NEIGHBOR COMMENTS/CONCERNS:

All neighbors within 300 feet of the boundary of this property were notified by certified mail of this proposed project.

Staff has received several phone calls opposed to this project (even when it was operating as a Temporary Use Permit). Staff has received 2 public comment forms opposed to the proposal, and 1 in favor. As was stated earlier, most of the complaints involve the aesthetic of the site, the noise (there have been after hours complaints of music, engines revving, and general loudness), and property values.

One other neighbor (directly to the south) called in. He has no concern about the proposed use, but had concerns about the location of the building that is proposed as the temporary office. It is very close to the property line. He is the neighbor whose property line boundary is of concern to staff (he is not concerned with the property line, just the proximity of the building to the line).

The applicant has agreed to move the building to the north, away from the property line.

Staff will update the Planning Board at the meeting if any additional comments are received.

STAFF RECOMMENDATION:

Although Staff still has reservations about some of the technical issues with this project, including moving the building, bringing it into compliance with fire code, as well as health department regulations, Staff recommends approval of the Mountain Cars CUP proposal, contingent upon several conditions of approval being met before either business may begin operation, and before either office building may be occupied.

Water/Plumbing/Fire Conditions:

General Conditions for the site:

1. The Fire Marshal will require that fire lane signs be placed to ensure that the drive remain clear for emergency vehicles.

Conditions for the Proposed Office Building:

2. This building must meet Fire Code, and is required to have the proper fire extinguishers, hard-wired smoke detector, and exit lighting.
3. The Fire Marshal will inspect prior to the proposed office building being used for an office.
4. The Temporary Office is required to be finished out with sheetrock, and place a fire extinguisher and exit lighting for the front door. The Fire Marshal will inspect the office before the applicant may begin operation.
5. No wooden wall paneling is allowed.
6. If employees are going to be sleeping in the back of the proposed office building, Fire Code requires a secondary means of egress. This can be a door or window. If a window is preferred, the size must meet Fire Code.
7. No bars are allowed over the windows.

Sewer/Septic/Decentralized Sewer Conditions:

1. The primary and alternate areas identified must be marked off so that they are not damaged and remain undisturbed. Staff has been informed of future plans for this property, and we have concerns that the alternate area would not be left undisturbed if the applicant moves forward with an addition in the future.
2. The DR needs to submit a sketch showing the locations that must be protected.
3. If the existing septic crosses the east property line, a septic easement will be required.
4. No parking is allowed on any portion of the septic system including the alternate area. (No overflow parking either).
5. The existing septic tank, existing septic field, and designated alternate area must be demarcated with landscaping or large stones to prevent accidental damage to any of the systems.

Roads/Sight Visibility/Ingress-Egress/Parking Conditions:

1. The Arkansas Highway Department requires an apron to connect entrance drives to the highway. The apron(s) must be paved (asphalt or concrete) at least 24' wide, and the drive must be constructed to their standard. This must be completed within 6 months of Planning Board Approval. Any extensions must be approved by AHTD.
2. All entrance drives and parking areas must support 75,000lbs in all weather conditions.
3. Any work to be completed in the AHTD Right-of-Way requires a permit from the Highway Department prior to beginning work.

Drainage Conditions:

1. Any additional hard surface material will require additional review.

Environmental Conditions:

1. At this time, no stormwater permit is required by Washington County; however, the applicant must comply with all rules and regulations of the Arkansas Department of Environmental Quality (ADEQ).

Utility Conditions:

1. Any damage or relocation of utilities will be at the expense of the owner/applicant.

Signage/Lighting/Screening Conditions:

1. Signage cannot be placed in the AHTD Right-of-Way.
2. Any outdoor lighting must be shielded from neighboring properties. Any lighting must be indirect and not cause disturbance to drivers or neighbors. All security lighting must be shielded appropriately. Please refer to the diagram in the staff report attachments.
3. There is currently an existing dumpster on site. It must be moved to a location outside of the highway Right-of-Way (ROW). It also must be screened with opaque material on all sides, including the gate.
4. No inoperable vehicles may be visible from the Highway.
5. All outdoor storage (other than vehicles to be sold), must be screened.

Planning Conditions:

1. No outdoor amplified music is allowed on site.
2. The site must remain generally neat and organized.
3. All landscaping must be well maintained (grass mowed on a regular basis).
4. For Sale Vehicles may not be parked in the AHTD Right-of-Way (ROW).
5. AHTD ROW must be kept clear, to include signage, farm implements (decorative or otherwise), and anything else that may hinder the highway crew while performing maintenance.
6. The Proposed Office Building must be moved north, to a location within the property boundary recognized by the Assessor.
7. The Proposed Office Building must be placed with respect to building setback boundary, as measured from the property boundary recognized by the Assessor.
8. After the Proposed Office Building moved north, it must meet Fire Code and Health Department regulations before it may be occupied.

9. Both businesses must adhere to 10:00pm quiet hours, as set by Arkansas State Law.
10. All of the conditions must be met before either business may operate.

Standard Conditions:

1. Pay neighbor notification mailing fees (\$62.30) within 30 days of project approval. Any extension must be approved by the Planning Office (invoice was emailed to applicant on 2/24/2017).
2. Pay engineering fees (to be calculated once Planning receives all invoices from Contract Engineer) within 30 days of receipt of invoice. Any extension must be approved by the Planning Office.
3. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
4. This CUP must be ratified by the Quorum Court.
5. It is the applicant's responsibility to contact the Planning Office/Fire Marshal when inspections are needed.
6. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.

This project does not require additional review. Therefore, all conditions of this CUP approval must be completed within 18 months of this CUP project's ratification.

Washington County Planner, Nathan Crouch, presented the staff report for the board members.

Joel Kelsey, Planning Board member, asked, "In reference to the car lot and wrecker service, what's the storage limit? How many vehicles can he sell or have there on the property?"

Tracy Hollingshead, Applicant of the project, replied, "Approximately 20 on where the wrecker service will be fenced off. We had 25 out there when we had the temporary permit. No more than 30 for sell. The wrecker service cars will only be there 6-8 days. I have another property to move them to. They're not going to be sitting there."

Daryl Yerton, Planning Board member, asked, "You're not using the wrecker service to bring in cars that are salvaged that you are working on?"

Tracy Hollingshead replied, "We're not salvaging. It is just for the wrecker service. You bring accidents and park them in the lot. Insurance does their deal; it takes 5-8 days to process the claim. The car is going to the salvage company. I have done my wrecker business for 13 years and car lot business for 25. After 6-8 days is when you start the paper work for the automobile that does not have insurance or abandoned vehicles. We'll break into them, check the car, and look up addresses. Then car becomes ours. We will either get a title or junk it. We're removing it from the property when we do that. I have another 5 acres that I can move them on. We are going to keep it the way it needs to be kept. We're not going to have any drainage issue. Most of the time when the car has been hit all the oil has already drained out on the pavement. There's very seldom leaking anywhere. It's the same thing with a car lot. I have a garage in Winslow that we're going to doing mechanic work from. Customer's going to be 15-20 minutes inside the building process the paperwork. We do have a stipulation for the overnight thing. We are not going to have people staying there. They just have to be there with 10-15 minutes if we impound a car from the city of Fayetteville. They passed ordinances for wreckers on Dickson street years ago. They want you to be there 10-15 minutes to release it. If we impound 2 or 3 in the middle of the night someone has to be there to be able to release it. We're not staying there to sleep there. The reason we have the things on the property was because we're doing a lot of construction. I owned this property for almost 4 years. It took me about 50 loads to clean it up. That process took a year and half."

Kenley Haley, Planning Board member, asked, "So the temporary permit has expired?"

Tracy Hollingshead replied, "Yes."

Kenley Haley replied, "So there is no business of operations until all the conditions are meant?"

Tracy Hollingshead stated, "The building has to be moved, septic, and fire safety will be looked at it."

Robert Daugherty asked if there was a survey for the property.

Tracy Hollingshead replied, "No sir we haven't done a survey. The new way they do these surveys is off the aerial photos. Why pay for a survey when you have the lines already there. We have no problems with any neighbors. Including the one next door who claims that is his property line. He has stakes in the ground. I did not know that and we big argument out of the thing for a little bit. They were right and we were wrong."

Robert Daugherty asked, "Was there a survey for this property? How do we know absolutely that there's a problem there?"

Tracy Hollingshead replied, "There are no issues with any of the neighbors at all."

Robert Daugherty asked, "Is there a survey somewhere that shows the adjoining property?"

Tracy Hollingshead answered, "We have the lines, yes. We have lines from previous surveys. Jannel has a survey that he gave me."

Robert Daugherty asked, "So he's north of you?"

Tracy Hollingshead answered yes.

Robert Daugherty asked, "So the building encroaches on the property south of you?"

Tracy Hollingshead stated, "We were measuring everything off the wood fence. Which is where his paper work says it is aligned. That meets me. The fence that meets right on it. We measured off it. We come off the measurement of the exact lines that are drawing here. The stakes on the highway is there on the south end. There is a metal stake there that comes to the red line. The neighbor to the south took me out there and showed me all this markers, 3 sets of stakes next door to me. He said that they were put in by the county almost 70 years ago. He said the county did it this way because it makes the property line straight down the street with those markers. That is where we got into this conflict of the yellow and red lines. Richard Price is the owner and I'm the contractor. He said that exact same thing."

Robert Daugherty added, "From a personal preference if I owned the property I want get it surveyed."

Tracy Hollingshead replied, "I have no reason for a survey."

Joel Kelsey asked, "That was my question. Are doing this off the red box or yellow box? What does his piece of property of said that he has says he has?"

Nathan Crouch, County Planner, stated, "Our GIS mapping tech mapped the red lines based off the legal description on the deed."

Joel Kelsey asked, "What type of required fencing do they need? Will this be a wood screening or chain link fences, etc.?"

Nathan Crouch replied, "He needs to screen his outdoor storage. I assume there will be some sort of security component so those will be going in the wrecker the pins. The dumpster will be screened as well to include the gate."

Tracy Hollingshead answered "Privacy fence."

Joel Kelsey asked, "With used car lot and wrecker service there will this be compatible with the zoning?"

Nathan Crouch replied, "The compatibility is being addressed through the conditional of approvals. The lot is zoned agricultural / single family residential by right. Any other use would be granted by way of conditional use permit."

Joel Kelsey asked, "Who's going to make sure everything on this list gets done before actual operations?"

Nathan Crouch replied, "Myself, our Planning Director Jim Kimbrough, the fire marshal, and Jimmy Vaught from the Arkansas Highway Transportation Department."

Joel Kelsey asked, "Is there signage required for the business?"

Nathan Crouch stated, "It's not required but it's allowed. The signage would be limited to 24 sq. feet roughly 4x6 feet. Down lit so as to not affect the drivers or the neighbors."

Daryl Yerton asked, "Nathan, you brought up the question about zoning. Is the property to the north of where Janell is, is it still zoned agricultural or is it conditional use?"

Nathan Crouch responded, "I don't believe it has conditional use on it, but it has been there forever".

Robert Daugherty agreed, "It's grandfathered in by this point."

Daryl Yerton continued "And the property to the south?"

Nathan Crouch replied, "Same, agricultural single family residential."

Tracy Hollingshead agreed, "Yeah, the property to the south and my property, have been Razorback Computers and the washer and dryer deal. It's always been commercial right there on those three for years but it has not been zoned that".

Kenley Haley questioned, "You feel like the complaints from the subdivision across the street there was due to your children?"

Tracy Hollingshead answered, "My step-daughter, yes."

Robert Daugherty inquired, "So you're willing to address all those issues plus the appearance?"

Tracy Hollingshead replied, "It will be cleaned up, taken care of, yes. All has been addressed."

Robert Daugherty responded, "Other questions for the proponent, comments, before I ask for the public? Okay, is there anyone here from the public that would like to. Okay, if you would allow them to come forward."

Ann Harbison, Justice of the Peace District 14, stated, "I'm Ann Harbison and I'm JP for that area. And I also live in that area in that neighborhood. That piece of property has been commercial probably for last 20 or 30 years. There's a strip of land, of properties, there that you didn't identify the storage buildings north of the J and L Salvage but there are storage buildings in there that are obstructed with bushes and stuff, I don't know exactly. And J and L also have storage buildings. And then you have this piece of property it was a Baptist ford furniture shop for many years and it was there before the subdivision went in. And then it went to a computer shop, and then it went to an antique collection, junk collection, and that's what Tracy bought. Really what I want to speak on this issue is I feel I need to represent Mrs. Harrison who is 93 years old, that owns the property back of there and that has not been surveyed. I think there have been some line disputes with former property owners about where that line is. And I feel that to have everything up and up, I think it needs to be surveyed. I really do. Because we're going to have these continued line disputes unless it's surveyed. I know they don't think where the fence is, is their line, I do know that. I didn't realize that I would be speaking to this particular issue. But if they follow all the CUP regulations, and there is no noise, and no pollution from that area, which will have to be evaluated, I don't

have a problem. I know the people across the street do. But we kind of got a little commercial strip there that's been there for some time. And with our zoning, technically, our zoning along major highways is commercial. I know particularly when we did that in the zoning because of the large agricultural piece of land there belonging to the Wilson's, the decision was made to go on and keep that as agricultural residential. So, we got spot up and down 71 clear to West Fork, businesses of different kinds. So, you know, these things were there before zoning came into effect. So, you might could say it would be grandfathered in, but know when new businesses come in we need to make them compatible with the neighborhood. Thank You."

Kenley Haley asked, "And where does she live the..."

Ann Harbison responded, "They own that piece of property right behind which will be the north/south line on the east side..."

Robert Daugherty asked, "So that's where all the timber is?"

Ann Harbison agreed, "Yeah, it's this property right here. This east line."

Kenley Haley questioned, "Right there?"

Ann Harbison answered, "Yeah, see it goes the complete length of that property".

Robert Daugherty asked, "Has her property been surveyed, Ann?"

Ann Harbison replied, "No it hasn't."

Robert Daugherty responded, "See that goes back to the point I was trying to comment on a while ago. Is that I've had enough experiences and sometimes these maps are off and when you get an actual survey, you may or may not have a problem. And so the problem lies sometimes in the fact that when you get a survey, if you're in a disagreement with your neighbor, then that can end up in court but you don't really know until you get an official survey."

Ann Harbison added, "You know, I know that she got a letter and I have not talked with her about her feeling. I just know that this line has been in dispute in the past with previous land owners."

Robert Daugherty stated, "Yeah, and I see it all the time both ways. I mean you can notice problems by looking at the map but then sometimes the map is not entirely accurate. It's as accurate as it can be, but I mean it's not entirely accurate."

Ann Harbison responds, "Thank you".

Rebecca Atwood, neighbor across the project, stated, "I'm Rebecca Atwood, and I'm in the subdivision across the highway. I'm the very first house as you enter the subdivision. So their business would be across the street from me. My husband and I both sent independent emails to Nathan. I won't repeat the comments that we made in there. But since we have been discussing several things in here, I also, it dawned on me that there was another piece of information that I wanted to share with y'all. And that is that we have an active homeowners association. There are several pieces of property in our subdivision, which is set up for 80 units, but there are several pieces that do not have houses on them and their owners elect not to take care of them. So the subdivision, individuals within the subdivision, and the homeowner's association, paid to have those pieces of property mowed, edged, trash taken out of them, roots, trees, stumps, not trees, but stumps, things like that removed, in an effort to try to keep our subdivision looking nice and also to help with the property values. Of course when everyone's property values dropped several years back, ours did too and we worked hard to ensure that we're doing things in the subdivision to increase property values. I feel that locating this directly across from the entrance into the subdivision, there's supposed to be two entrances in and out of every subdivision. I had a long discussion with the previous fire chief when we moved in here about how come we only have one, its split

into two but it's still only one road that goes in and out of that subdivision. So anybody that comes and looks at a house in that subdivision will see what's across the street from them. I just feel that it's going to have a negative effect on the neighbor as whole, decrease homeowner values within the subdivision, and I also wanted y'all to consider that. Thanks very much."

Robert Daugherty responds, "How does this compare to what you've been looking like throughout the years? Is it better now than it was?"

Rebecca Atwood replied "When we purchased our homes, which was about 8- 9 years ago. We knew the gentleman across the highway who owned Razorback Computers. He was not active, he was dealing with his wife dying from cancer and trying to raise his children so he wasn't running an active business out of there. It was a building; I don't know what was inside of it. It was just there. Then the next thing that happened eventually he moved out, and someone purchased the property. The next thing that happened that we were aware of was in the middle of the night the house that used to be there burned up. Then all of this other business started going on. Used car lots came up with the cars on the edge of the road right there. And people coming and going. And in the front part of our house, my office is the front part of the house, where I tend to work late at night sometimes, I would hear all of this racket, reviving truck engines, cars out there hooked up to battery chargers, peeling out in the middle of the night, and that went on for a very long time. We made complaints. There's nothing anybody can do."

Robert Daugherty responded, "So with the cleanup and requirements that they are going to require, do you feel that it will be better now?"

Rebecca Atwood replied, "As one of the other things that my husband stated in his comments is that this is going to increase the load of traffic, particularly at rush hour in the evening and morning. We have nothing but a stop sign in the subdivision. We have to get out to go either way in the morning and you wait and wait and there's a long line of cars. Any additional business back and forth across the street like that is going to increase the load. There's already several accident. I testified for a lady, she was coming from the south side and was trying to turn left into the subdivision and got rear-ended by a truck. I think there will be more issues with more traffic. As you increase the occupancy of the subdivision, which is expected, and the business across the street, is going to add more traffic."

Robert Daugherty asked, "But from an appearance standpoint, do you think it is better than it was in the past?"

Rebecca Atwood replied, "No, I don't. Because that house that was originally there had a big fence across there which pretty much hid a lot of stuff. I can't say 'yes' to that question."

Walter Jennings, Planning Board member, asked "If there is a possible boundary dispute, I'm wondering how that affects us and what decisions we can make."

Brian Lester, Washington County Attorney, responded, "I think as far as considering whether to allow this conditional use permit I don't think the boundary has anything to do with the planning board. I mean your task here would be to make sure its proper pursuance to Washington County Code. This is another of the instances best practices to have survey and everybody will know what the boundaries are but then the question comes: whose responsibility is that? I certainly understand that issue. That would be good for everybody if maybe the property owners could split the cost of a survey but I don't know if that's a decision for this board."

Robert Daugherty added, "I don't think we require but I definitely feel like if I were the property owner I would like that survey. I've seen too many variances from what we see on the map."

Nathan Crouch added, "I will say the CUP application, requires a site sketch or plan but doesn't make mention of a survey."

Walter Jennings responded, "We are requiring them to move a building based on a property line but we're not exactly sure where the property line is."

Robert Daugherty continued, "That's the problem I have. And of course I understand if there's a complaint with the neighbor then that battle may end up in court. I don't know how you know for sure if this building needs to be moved or not without a survey, but I guess that's the property owner choice if he wants to move it."

Nathan Crouch added, "Another thing is the property line that we have delineated on the diagram was drawn from the legal description and it was the applicant's idea offering to move the building."

Robert Daugherty replied, "If I were the property owner, I would spend the money to get a survey."

Nathan Crouch continued, "I also understand that Tracy reached out to a surveyor and he quoted a very high number. It may have been a little cost prohibitive for the number that he was quoted for the size of the property. I'm not sure what the surveyor's reasoning was behind the high number was, but it seemed very high."

Walter Jennings asked, "How does county enforce setbacks in a situation like this? And what will you be measured to?"

Nathan Crouch answered, "We will go out there, we are using a drone these days that can give xy coordinates, and we will plug in those coordinates from the legal description, find those corners and measure ten feet."

Daryl Yerton questioned, "Were you addressing that or were you addressing the 50' from the centerline? My recollection was the 50' setback from the centerline."

Nathan Crouch replied, "We need to keep basically the ditch line up to the power polls, roughly, but it can be measured from the centerline 50."

Daryl Yerton added, "With the traffic issue that might be a problem".

Nathan Crouch agreed, "No doubt!"

Kenley Haley: "Nathan, you probably mentioned this but visibility is not even an issue in that area, there are no curves."

Nathan Crouch added, "Roughly 500' of required site distance."

Robert Daugherty commented, "So at this point we looking at just the conditional use whether we are going to approve it."

Public Comments Closed.

Kenley Haley made a motion to approve the **Mountain Cars CUP** subject to staff recommendations. Walter Jennings seconded. Randy Laney was not present. Joel Kelsey was not in favor of approving. Board Members Daryl Yerton, Robert Daugherty, Walter Jennings, Philip Humbard, and Kenley Haley were in favor of approving. Motion passed.

5. Other Business

- Discussion of Current Development and Planning Department Activities.
- Discussion of 2017 schedule.
- Reminder of upcoming Planning Board meetings:
 - April 6
 - May 4
- Any other Planning Department or Planning Board business.

6. Old Business

7. Adjourn

*Daryl Yerton moved to adjourn. Walter Jennings seconded. Motion passed.
All Board members were in favor of approving.*

Planning Board adjourned.

Minutes submitted by: Phuong Pham

Approved by the Planning Board on:

_____ Date: _____
Randy Laney, Planning Board Chairman