

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

January 14, 2019

11:30 am- 1:00 pm, Road Department Conference Room,
Washington County Operations and Maintenance Center
2615 Brink Drive
Fayetteville, Arkansas 72701

- 1. Roll Call**
- 2. Approval of the agenda**
- 3. New Business**

Items for Discussion:

a. Planning 101

Randy Laney, Planning Board Chairman, began, "Thank you all for taking time to come to a special meeting. This is not without precedent, we have done this before. Particularly when we had new members, but it also worked out that we wanted to talk about some changes. This will allow for a more, relaxed environment, if you will, to discuss those changes and talk about some of the future that we are contemplating. I wanted to first, before I give it to Nathan, give you a perspective of where we come from in Washington County. When I first came on the Planning Board there were limits as to the number of splits that we put on a property and maybe a couple of other things, but that was about it for any kind of Planning. The then County Judge appointed myself and a Justice of the Peace to lead a working committee to come up with a plan or no plan, if that was what we come up with, for changing that. We conducted county wide sub-committees, county wide hearings and the result of all that is the plan that we have today which at first may seem overly simple but, I think its genius has been in its simplicity and its directness. It comes from a position of property rights but in Washington County you have an opportunity to develop your land for a home if you have an acre or more and you have the right to use it for agricultural purposes. That was from the beginning unlike a lot of schemes of cities where you will have specific areas that are pre-determined to be industrial, manufacturing, educational or whatever the case may be. Then the notion of working out compatibility with all other kinds of projects that wanted to take place in those environments. We have matured over time. I am going to let Nathan go over a summary of what it is we consider when we talk about compatibility and why it is important. I have asked him to walk us through a typical day in their life and how often the subdivision thing comes up and the reason for asking for some simplicity, to not just make our meetings more expedient and to not ask citizens to come to a meeting in an evening when it maybe not necessary. We will decide if we think that is appropriate or not. Nathan, I am going to pitch you the ball and you can go into the background further."

Nathan Crouch, Washington County Planning Director, addressed the Board, "Mostly what I wanted to talk about is procedural and how we operate around the office here. Then get into some questions and answers. After that, move on to a couple of the items that I wanted to talk about including the Minor Subdivision changes. We have a lot of projects that are going to qualify for permitting requirements to come to the Planning Board. A big portion of those are going to be land development proposals that are non-conforming with the zoning designation of agricultural/single family residential uses at 1 unit per acre which are allowed by right. If you had an acre and a half and you wanted to put 2 residences on there well, that if non-conforming and you would have to come through for our Residential CUP. Anything commercial or high impact is going to require a CUP as well. With the CUP requirement if you are developing in excess of one acre that is going to trigger large scale development permitting. Just a couple of the higher impact developments would trigger the high impact large scale development permitting requirement which mostly just increases the notification buffer from 300 ft. to ½ mile. On a normal project we might notify anywhere from ½ dozen to a dozen and a half home owners in the vicinity of the subject property. In the case of the Heritage Farms Dirt Pit that we have going on right now for

example, we notified 96 neighbors. Anytime there is any sort of change in scheduling whenever it gets tabled and put back on the agenda every time, we are sending our neighbor notifications through certified mail to 96 people. With that being said the big deal about the Conditional Use Permit is that it's our only subjective permit. All of our other permits are completely objective. You hit all those checklist items then we will recommend approval unless there are other circumstances that didn't come up in the review we will recommend for approval and the County Planning Board will vote to approve it. Not such the case with the Conditional Use Permit since its subjectivity is assessing compatibility with the neighbors existing uses. That is hard to put on a checklist. What we end up doing is whenever there are compatibility issues we are going to ask the applicant to address those issues. Sometimes they do it very simply and easily and sometimes it is not so simple and easy. Sometimes it couldn't be as simple and easy as you would like it to be but we are always going to ask the applicant to address those issues. Whether it was a sufficient way of addressing those compatibly issues that would be up to the Planning Board. It is definitely up to the neighbors and they will definitely let you know when they think it's not been sufficiently addressed. Compatible doesn't mean the same, it means that they could live together. They could coexist given a good list of conditions of approval and that is what we are trying to do in this office is to come up with good conditions of approval in order to make some of these CUPs as good as we can get them. Again not all CUPs are going to be approved. We have got our small projects and we have got our large ones and the large ones are typically always going to have a Conditional Use Permit associated with it. A majority of the times an applicant is going to ask to bring the CUP and Large Scale Development Permit through together. I prefer to do them together that way we don't hold onto projects for months at a time. Sometimes the applicant would rather see if the use is going to be approved by the Planning Board before they go and spend money because a Large Scale Development set of plans could get pricey."

Randy Laney requested, "Fully staffed, I know it always varies, but give me a timeline for a normal CUP."

Nathan Crouch detailed, "Our review cycle is a 5 week cycle. We take submittals the day after Planning Board and we are going to review it for 5 weeks until the next Planning Board. A CUP is a little bit different in that it addresses a zoning change. Zoning was enacted by the Quorum Court in 2006. Any change to the zoning will have to go back to the Quorum Court for them to ratify the change including the conditions of approval. The Quorum Court is going to meet every 3rd Thursday of the month. We used to be alternating Thursdays with the Quorum Court but sometimes there is going to be a little overlap in which case we will delay our meeting and have a little bit of a longer cycle that way the Quorum Court doesn't have to reschedule. We have to take our CUPs that are approved by the Planning Board to the Quorum Court to be heard and then ratified and it could be 1 week to 3 or 4 weeks later. It could take anywhere from 6 weeks to maybe 10." After the CUP is approved by the Planning Board and ratified at the Quorum Court then they could open for business.

Randy Laney asked, "Do you think our process is cumbersome compared to other Planning Departments or is it okay?"

Nathan Crouch answered, "I feel that it is okay and completely within our capability. We could definitely change it up but we need to know how to change it. One of the things that we are looking at changing up is the Minor Subdivision code in order to bring fewer Minor Subdivisions and ultimately no more Minor Subdivisions to the Planning Board. It is one of those completely objective permits that if they meet all the requirements from the checklist by ordinance we are to recommend approval and you are approve it."

Randy Laney gathered, "As far as the timeline, you have been on for a while, have you gotten any feedback as to if we should look for ways to streamline it, or is it reasonable or cumbersome. You said 6 to 10 weeks? I was just trying to get feedback if anybody had any on the process."

Nathan Crouch continued, "I was just going through the process of going through a Planning Board project. Indeed we are on a 5 week schedule and we have that little scheduling issue with the Quorum Court. In that we are not on a regular 1st Thursday of the month like we used to be and then they were on the 3rd or however it lied. We would definitely take any sort of recommendations or suggestions as far as a streamlined way."

Randy Laney asserted, "I am not aware of any, but that is what this is all about, seeing if anybody has any."

Philip Humbar, Planning Board Member, stated, "As somebody who has worked with a lot of different Planning Boards, as long as you have a schedule and you know what it is going in, it is not really a problem. It is just when you get into it and its tabled or a surprise. You feel like it could have been worked out and you don't get it worked out and you gotta come back. That is another delay, another schedule and another cycle."

Randy Laney commented, "We are trying to balance out the right of people to develop their land with the concerns of the neighbors. I have seen that go too far one way or the other. I just wanted to make sure we are still balancing that."

Walter Jennings, Planning Board Member, related, "I may be jumping ahead a little bit but, the biggest feedback I get are questions about enforcement. Basically from my understanding it's complaint driven enforcement. If a neighbor thinks there is an issue they come to you and then you send the Fire Marshal out?"

Nathan Crouch specified, "Yes, Fire Marshal, Health Department, County Attorney. The Planning Office is not an enforcement body we are a regulatory. We will make recommendations that so and so is doing x and we recommend that they don't until they get permitting in place. But sometimes it comes down to it and our folks over this office would prefer to not shut people down and allow them to keep developing their property. Then if there are changes required by the fire code, health code or even county land development code then that would have been on them and they will still need to make those changes. As far as the enforcement side it is something that we run into quite often and people aren't too happy whenever they hear that we are not the enforcement folks. We send them to the County Attorney at that point. From what I understand, and coming from the County Attorney, it would be a Judicial Judge that would shut people down. As far as our County Attorney he has sent some cease and desist orders. I think the latest one was a cease and desist from doing any and all illegal activity. Not necessarily pinpointing what the people were doing but what they were doing was not in line with what is allowed by right with the County development code. But indeed that is one that we hit quite often. Any questions so far?"

Joel Kelsey, Planning Board Member, inquired, "My question would be in looking at the stream line and everything. Do you have complaints now that it is not fast enough? Or the time frame of running with the offset of the two meetings, is that causing an issue?"

Nathan Crouch replied, "Not specifically. With the timing and everything, a lot of developers don't want to have to go through a process. Depending if it's one week or a month or whatever, but we are going to bring them through the process. If they are a non-conforming use. Just a year ago or so we went from a 4 week to a 5 week cycle and we have definitely gotten some benefit out of that. Before that we were sending our initial submittal out to the neighbors and then we would get our resubmittal after it had been vetted through Tech Review and they made the changes. We would be sending the first submittal to the neighbors and the neighbors would have issue with that and they would come to the Planning Board Meeting. Well we are showing the second submittal to the Planning Board members and the neighbors say well this isn't what I saw. That is just one reason why we have changed over to a 5 week process and feel that it's working better in that regard."

Randy Laney stated, "I think the most common complaint I get and it really comes back to what you are outlining which a lot of these things are subjective. No matter how often you disclose, you are not us, and they are taking away a feeling from you all and they get the board and it was something different. That is the most common complaint I hear and I think it's circled around that it is subjective and they often take away what it is they hope you all said then when we have other questions they are surprised and then want to complain about it."

Nathan Crouch understood, "Right and as long as we can have the same information and get it out to everybody it seems to work a little bit better."

Randy Laney pointed out, "The other complaint I get most often is just the "You wouldn't want this either". Then you have to re-explain that that is not what we are about. We are about applying the law which has been prepared by the Quorum Court. It is not about what I would like and that is the most common complaint I get."

Nathan Crouch affirmed, "As soon as one motivated person doesn't want something in their neighborhood the "not in my back yard" is the most common one that we hear but that is whenever they start taking a petition to church and have everyone sign on that petition well that is kind of getting outside the box there and no doubt all those public comments are valid. The way they were obtained is a little bit different. So now that I have gone over the different types of permits our review process is pretty simple. We have deadlines every week whenever we get our submittals the first few days of that week we are going to put together a tech review packet in order to explain the project and attach all the plans and a couple of maps we generate in house for location purposes. We send those out to everybody with the jurisdiction and we ask that our jurisdictional reviewers let us know what their requirements and concerns would be. These would be all the utilities, the Health Department, the Fire Marshal, even the School Superintendent and the Sheriff's Department. Then if any of the other ones that aren't on our typical list are applicable, we send them a tech packet. After we send out those tech packets we receive those tech comments and we present those to the applicant at the tech review meeting. We give them a week to turn it around and address those comments. Sometimes they are very simple, like if the electrical company wants a utility easement on the plan then now it is a requirement. But, they are not always quite that simple. Once we get the resubmittal back we will notify the neighbors. Then we will put together a staff report in order to prep the Planning Board on the project. Then we will take a few days to put together a presentation, and once we get to the Board we've been through it a good number of times and are ready to speak on this project on behalf of the applicant. Luckily the applicant has the opportunity to speak on their own behalf. As far as the review process as I was saying the Conditional Use Permit will go to the Quorum Court after that. According to what I've said about the review process and the different types of permits we have, what do you think we could do to make it better? We have some ideas and one of the ideas is in this packet that I've put together here and they are notes on the Minor Subdivision changes."

b. Discussion of proposed Minor Subdivision Ordinance changes

Randy Laney communicated, "Not to make it too simple for anybody but what always trips me up is in my every day vernacular subdivision means a housing division of 20 or 30 houses. In our vernacular subdivision means something different. I call it the big S and the little s."

Nathan Crouch continued, "In the biz you might consider it just subdividing land. We have a couple different kinds of subdivisions. When we have a full blown subdivision we have 5 lots or more. Well, anything 4 lots or less is going to be considered a Minor Subdivision. We have several ways we can exempt that minor sub from going to Planning Board and that is what we are wanting to do. Family splits, planning area splits, mortgage splits sometimes court ordered, that is not to say that we don't want to take minor subs to Planning Board. That is not it at all, but with all of those exemptions exempting

minor subs from going to the Board that leaves two ways that the minor sub is actually going to make it to the Planning Board. That is if they are proposing to create multiple lots at less than 5 acres, or if they are replatting an existing subdivision lot. What we are proposing to do is change those triggers and change some wording and some code in order to come in line with the Health Department requirement and Fire Code requirement. The Health Department is only going to look at what their triggers are and their trigger is that if you are creating 3 lots at less than 3 acres. At that point they are going to send it to the engineering section down in Little Rock and have them take a look at it as a subdivision. It is going to get the same subdivision review as ten 5 acre lots would. Typically the Fire Marshal and County Engineer haven't looked at minor subdivisions. Now that we have a new Fire Marshal in office what we are doing is that any lot split yielding 3 lots or more is going to go to the Fire Marshal for his review. The review would be between that property owner and the Fire Marshal. It's not in our code. There has been talk about adopting different portions of the fire code in the past but it hasn't been done. What we are proposing to do is change the Minor Subdivision triggers from multiple lots less than 5 acres, or replatting a subdivision to 3 under 3. Replatting a subdivision lot which would normally automatically go to the Planning Board we would like to take care of that in house and just take it to Tech Review. We are not going to notify neighbors and we are not going to take it to Planning Board. We are going to take it to Tech Review then after all these jurisdictional folks take a look at this we are going to present those comments and concerns to the applicant. Give them a week to turn it around and give it back. At that point that is the plat that we are going to be reviewing and approving. Indeed. It will have to go to Little Rock for the Health Department and it will have to go across the street for the Fire Marshal to review. In house according to our code it would be 3 under 3. No Planning Board and the existing subdivision lots will be treated the same way if they are splitting it. They have to have soilwork on the new lot, they would have to have an existing septic system inspection on the remainder. ”

Randy Laney inquired, “Will you be approving something under an acre?”

Nathan Crouch replied, “No, that would still need a CUP. Zoning is still going to be a thing. Our zoning designation allows for one acre minimums. Three lots at one to 3 acres would be our sole trigger for the Minor Sub.”

Robert Daugherty, Planning Board Vice-Chairman, asked, “So what would the Fire Marshal be looking at on these now?”

Tyler McCartney, Washington County Fire Marshal, answered, “The code says anytime there is more than 3 R3 type use structures on any property it requires fire code. It gives us little bit of leeway there because technically what the code says is if you have more than three buildings at that point you've got to meet fire code. Well I know I have three sheds on my property. Technically I need to meet fire code that is accessory buildings as well. I feel like we can't do that, that's not right. What I do is if you are splitting off the lot more than 3 times and it is going to be 3 houses we are going to require the fire code. At that point we have ingress egress issues, water supply issues and stuff like that. Another one we have been enforcing pretty heavily as well is the 3,600 sq. ft. rule. If you cannot supply more than 1,000 gpm to a structure then at that point your maximum allowed square footage you can build is 3,600 sq. ft. If you go out and you buy 40 acres and you are not splitting it off yet you can put whatever you want out there. But if you are going to be splitting it off more than 3 times and are planning on have 3 different properties with 3 different houses on it at that point you will be required to provide ingress egress with your road and fire flow stuff like that.”

Neil Helm, Planning Board Member, questioned, “Will there be a new rule on shared easements? Currently it is 2 for every 30 feet.”

Nathan Crouch answered, “Currently we will allow up to 2 lots to access off of a private drive. Anything more than that would then likely require road upgrades. Over 5 to 10, I believe, you would have to build

it up to 30 feet and actually build the road up to the standard but currently as far as just a regular access easement it is a 30 foot access and utility easement on any landlocked property. We won't be changing that. We would entertain some suggestions and run it through our system for sure."

Neil Helm inquired, "How many properties can a 30 ft. access address?"

Nathan Crouch replied, "Two. That is just an access utility easement on paper, it could still be the two tire tracts going through the field but if it is over 2 homes that are accessing off that that is going to be a road and it is going to need to be built to a certain standard."

Robert Daugherty stated, "We are trying to apply some type of common sense to most of what we do. I think there are definitely times those need to be enforced but as long as we don't go overboard with it."

Tyler McCartney explained, "Yes, and like I said if they are trying to split off quite a few acres into little things it is still going to be and the intended use is still going to be farming and stuff like that, no big deal. When you are putting a house out there, at that point we have a concern of life safety and that is when we are going to kick in."

Randy Laney asked, "Now, I am not a builder, so when you are using flow language I am kind of out. I was just wondering if the portions of the County that is on Washington County Water, or whatever that one in Elkins is called, would most of them be able to supply that or is that a pretty serious restriction?"

Tyler McCartney answered, "It is pretty serious because a lot of the structures we are looking at 2 inch or 3 inch waterlines out there and the smallest we have ever seen is maybe on a 6 inch or once in a blue moon you might see a hydrant on a 4 inch. When we get down to these 2 inch and 3 inch there is not enough there for fire flow so now we are looking at the tanker support. We do have a really good tanker support with the fire departments and stuff and so what we generally say is 3,600 sq. ft. is your maximum if you want to do more than that we are going to be looking at more tankers support. Whether it be adding on other departments and actually doing some hard calculations on flow to see exactly what your square footage can be."

Robert Daugherty stated, "To be fair a lot of those lines won't support."

Randy Laney pointed out, "That is where I was going. I assumed especially the one in Elkins. What is it called? They have got a lot of 1 inch."

Tyler McCartney responded, "Mount Olive."

Walter Jennings, Planning Board Member, recounted, "That leads us to a situation we had last year where there was something out in Knob Hill and it was too big. They talked to the Fire Chief out there and they could build it but they basically would have to buy a new tanker for Knob Hill."

Tyler McCartney explained, "There are quite a few options out there. We have ponds, we have underground tanks, and there are tons of options. Now they may cost some money but the answer is not always no. There are other options out there for people to get those flows. I mean we have a \$1.5 million pond out in Morrow that we use for fire flow so the options are there."

Randy Laney inquired, "Assuming this went through how would the Planning Board and ultimately the Quorum Court, because I assume they look at our record if you will to see what we have done, what would you contemplate as far as a recording or some kind of a summary to the Planning Board saying we did this many administrative subdivisions and they were here and they were there? If you haven't matured the thought just give me what your preliminary thoughts are. How would we know what's

happened and the scope of it?”

Nathan Crouch replied, “We could definitely put the numbers together.”

Joel Kelsey questioned, “How did we get to this point that we want to do this?”

Nathan Crouch responded, “The reason we got to the point where we want to make the change is because these Minor Subdivisions are glorified lot splits. We would rather not take them through the five week review cycle and spend so many hours.”

Robert Daugherty remarked, “I can answer that a majority of my calls are about Minor Subdivisions. I mean complaining they don’t want a subdivision next to them. Well it’s not a subdivision.”

Joel Kelsey asked, “Would there be any issue with the impact of not notifying they neighbors?”

Randy Laney answered, “I think it is a balance again we have had this on the drawing board for 4 or 5 years. We are going to have to do something different because at some point the meetings would have 12 items on it and they would all appear to us to be administrative if you will. That is why I was going back to accountability and feedback. I don’t think we should say here it’s administrative and don’t ever bother us again. That is why I was looking for a rhythm on how they would report to us what was done etcetera, etcetera.”

Philip Humbarb inquired, “What is the neighbors’ recourse if they felt like they were wronged? Is it to go to the Quorum Court?”

Brian Lester, Washington County Attorney, replied, “Therein lies a problem too. We were looking at what our notice to the neighbors states because I feel like at this point we have gotten to where neighbors feel like it is their decision. They show up and think it is their decision when in fact it’s not. I’ve had to have this conversation with lots of them who have called upset about things and saying you don’t really have a say in this is all what the Planning Department and the Planning Board and the Quorum Court does. I think we have given some people some false hope that if everybody shows up then this won’t happen and a lot of the times the JP’s are going to vote something down if it is highly unpopular.”

Nathan Crouch added, “The neighbor comment form isn’t a ballot.”

Brian Lester continued, “Right, exactly. That is an issue that we have been looking into.”

Robert Daugherty clarified, “The Planning Board often times we vote based on the rules we are given. I call it the ‘mob mentality’. It’s not supposed to affect our vote or how we consider the project. Where if you are an elected official it can sway, because that is how they get elected. I mean it can, I am not saying it does, but it can. One thing that we have always been striving to do is if we couldn’t change our rules we could go from a Minor Subdivision and name it Estates or something. Just the name subdivision.”

Joel Kelsey inquired, “Why could you not just change it to a lot split and take the subdivision completely out?”

Philip Humbarb suggested, “Lot modification.”

Nathan Crouch replied, “It is in the code. We just need to change the code.”

Robert Daugherty stated, “I have said that forever. They see subdivision and they don’t look at anything else.”

Joel Kelsey recalled, "I can remember the first meeting I sat in on and that was on there. That is the first thing I thought of."

Nathan Crouch recounted, "A lot of the times when I am talking to people on the phone the first time I actually utter the word 'Minor Subdivision' I say 'minor subdivision of land'."

Randy Laney stated, "If they listen."

Nathan Crouch went on, "Good point. But you know, just to soften it a little bit. Then you got to go through the spiel this doesn't mean curb and street light."

Randy Laney agreed, "I am in favor of it. I think the way our current system is set up we are going to be doing what we do in or CUP's. That is our principal to take that heat to make that decision on is it compatible or not compatible. If we can administratively do some of the other things I think that would be beneficial for the citizens which is what this is all about."

Carl Gales Washington County Chief of Staff, detailed, "The big thing that you are looking at is if you are working with the Health Department is this an existing line? If you are just setting meters, then it's a no brainier. If you are building a new water line or if you are building an extension on a sewer line, then you will get into all kinds of reports and calculations."

Randy Laney addressed the Board, "Did you all want to get into any other specific proposals?"

Joel Kelsey summarized, "Make the modifications and change the name."

Nathan Crouch inquired, "To change the name or to make the modifications and change the name?"

Robert Daugherty replied, "Ever since I've been on here we have dealt with this issue."

Brian Lester added, "I think the Quorum Court would be very receptive to that. When we are saying Minor Subdivision and people think that a subdivision is going in. We are just trying to change it so that we don't give people this idea of something that is not happening. Anything we change will have to be approved by the Quorum Court and I think that that will be a fairly easy one a kind of common sense. We can certainly come up with some language to differentiate."

Neil Helm referred, "On section 11-117 you were talking about minor encroachments."

Nathan Crouch explained, "I copied and pasted in the entire code and that exception. Then I highlighted the portion of the code that I wanted to talk about. Minor encroachments having to do with the building being in the setback. It is a good faith thing if we feel like the property owner built their shed or their home into the setback. Frankly if we feel like they did it on purpose we are going to take the Variance to the Board. If we feel like they did it accidentally we will process it administratively."

Neil Helm asked, "The problem that I have seen is the property gets subdivide and the building is on two sides of line. Who owns that building? Then when the buyer or the seller gets ready to do something with it then you create title problems."

Nathan Crouch answered, "That is a good question. For a clouded title, I would say whichever's property is listed on the assessors' card. That is where I would go first."

Neil Helm inquired, "I understand what you are saying but the biggest issue is getting past the title people. If you've got an encroachment why can't you require an easement to allow that encroachment to

stay in place?”

Nathan Crouch replied, “That is not something we have done, but that is definitely something we can entertain. I think the easiest way to treat that would be not to approve that split.”

Robert Daugherty pointed out, “If you caught it that would be the easiest thing. What you are dealing with are existing problems. I do think with a modern day surveyor you get more accurate surveys now than you did in the past probably so in some cases we are realizing problems now that we didn’t know existed.”

Neil Helm expressed, “Another one is septic lines may be over across the line.”

Nathan Crouch replied, “We have done septic easements.”

Neil Helm detailed, “See there you solved it with a septic easement. My point is that once this property conveys again it’s a barrier and it could have been solved by the surveyor on the initial act.”

Nathan Crouch affirmed, “I agree.”

Carl Gales stated, “We get a lot of cases where they expect us as the County to be the authority. Where it is actually a civil matter encroachment kind of thing. We are not the enforcement officer on that and they are looking at him.”

Neil Helm reiterated, “If you require an easement before you allow the split you’ve got it covered by title.”

Robert Daugherty added, “If you get it before but, you see a lot of times the problems occur afterwards from way back.”

Carl Gales divulged, “We will field them and advise them of where to go. Then we get a lot of these regarding access roads.”

Brian Lester detailed, “We get the access because the law provides that you go to the County Judge if you have land locked property and so that is why we get a lot of those because that is still within the purview of the County Judge.”

Robert Daugherty inquired, “What is that process? Do you have to apply to go before the County Judge?”

Brian Lester replied, “You file just like you would with the County Clerk’s Office. They send it up to us and from there we set a hearing date. The Judge has a hearing it is not as formal as a preceding as a Circuit Court case where you’ve got the bailiff and the Judge comes in. It is a conference more than anything; we notify all of the parties, and the Judge hears it and makes a ruling based on the law and follows that. From there people can appeal.”

Carl Gales explained, “A lot of these cases that are filed you have the deeds and abstracts they read what the intent was and it’s handled within the paperwork it’s just a lack of knowledge of what they bought and what they got, sometimes it’s different.”

Neil Helm communicated, “One of the other things is the adverse position that it puts the two parties into. Even though we’ve got new good law on that repossession the Judge is going to always follow the law, but if they will do it on the survey and make the survey read it. Once that survey is filed then it helps us a

lot on trying to convey a piece of property.”

Nathan Crouch asked, “Anything else on Minor Subdivisions?”

Sita Nanthavong, Washington County Senior Planner, specified, “I had one thing just to give you guys an idea, last year on 2018 we had a total of 14 Minor Subs. 5 of those were lots under 4 and the rest were all replats. Replats are also under Minor Subdivision. I would like to see replats be replats and not replats be Minor Subdivisions. Replats sometimes combine properties and it is more than just a Minor Subdivision. It is not always a split.”

Randy Laney agreed, “Correct.”

Carl Gales expressed, “For years we have addressed replats because they have to go back through the formalities surveying. When we replat property there are a lot of things in replatting that come into play. Property owners within that Subdivision.”

Philip Humbarb pointed out, “We have very rarely had people complaining about my defining a line between two lots. Very few people have ever stood up and made comment on that.”

Carl Gales went on, “Unless you are taking that and putting it into commercial, in a Subdivision. But then surveyors get involved in the replat accuracy and the whole process on that is a lot more formal.”

Philip Humbarb affirmed, “Yeah, because there is a plat actually involved.”

c. Discussion regarding possibly setting a parking requirement for the County

Randy Laney commenced, “I was just wondering since we were having this meeting, Walter, you actually had said something regarding parking and allocations and I asked that it be put on the agenda since it was fresh.”

Nathan Crouch disclosed, “If you would like to look at the back page of the packet is a table and from a bit of research that was done 10 years ago. Any time the parking count “requirement” we would always just look back to this one having set the precedent on projects in the past. They didn’t have a problem using this and without any push back from a developer or anyone else. It was an in house policy. This is the parking multiplier that we have used in the past. This is brought over from Springdale and the one that came from Fayetteville just had to do with a one parking space for every 200 sq. ft. This is the one that was used more often and actually had a call out in there for the handicap spaces. So this is the one I brought to you. Thoughts on parking count requirements as far as across the Board?”

Philip Humbarb inquired, “My question is; are we as a Board supposed to protect people from themselves? If they want to build a facility and have inadequate parking and so forth are we the ones that say no that is not going to work?”

Randy Laney replied, “We are narrowing it down just to be clear and bringing it under compatibility. That is the only legal reason we have to review it and we are reviewing it because it impacts our consideration of its compatible use and that would be our current reason for doing it.”

Walter Jennings detailed, “I think that as far as compatibility you could make a case that having less parking and more green and more in a rural nature for the county. I think in design in general over the last 20 years we have been doing smaller and smaller parking lots. People are scared to do Evelyn Hills or Fiesta Square again where it is a huge parking lot and it is sized for a peak that may never occur.”

Robert Daugherty specified, "I think it depends on the use sometimes. That is where I had a problem with the one the other night was typically the way it was presented, people are not going to car pool. The other thing is that if they didn't have more land to park if say each person drove to the game and you have multiple games they would be parking on the road. I was looking at it from public safety, but also from that individual. They need to put that in their planning process to protect them, because they are looking I am sure at their budget. In order to protect them they need to know that they might have to purchase additional land for parking or limit. However they want to do it but who enforces the parking?"

Philip Humbarnd responded, "The Fire Marshal is going to be the one that deals with it."

Robert Daugherty continued, "Typically, I like to go with the Planning Director and what they suggest. Which they suggested for approval of it and I like that except in this venue that was what my doubt was and that is the reason I wanted further explanation."

Joel Kelsey recounted, "For me and my decision the other night you basically had two types of things that were going to happen. The training process and so forth for what they were wanting to do there was plenty of parking. But when you got into the idea that you are going to have 4 teams they've got 10 people and if this team wins and they don't have any plan on leaving or going anywhere until the next time they play they are there those parking spots aren't rotating. It was just two different things the one was adequate and the other one was nowhere near what it needed to be."

Robert Daugherty affirmed, "I agree with Walter except for in this particular case. I am just trying to use common sense in my judgment process and I am thinking this is going to be an issue if we don't address it now. We might eliminate some headaches on down the road."

Philip Humbarnd suggested, "I think the thing to do is say you know this is fine but you are going to have to limit your audience to 42 people or whatever it had to be."

Neil Helm remarked, "It never will happen."

Randy Laney asked, "I would say for future though do we want to do any more than have this guide line? Do we want to start having a ratio requirement? We wouldn't decide it today we would just put it in the process and see."

Tyler McCartney answered, "It is a big issue I have personally ran on a fire where I have done \$25,000 worth of damage on a truck. We lost a life and almost lost a second one. When we have that issue we can put fire lane no parking signs up there in strips we all know that people disobey those and it is very difficult for a County Sheriff to go out and enforce those all the time. In the County we do have those larger lots and we are looking at tanker trucks coming in sometimes. It would be nice to have something because the fire code doesn't have anything in there stating you are required this many spots. Now we can say for example during the day you have an occupancy load of 237 people in that one building. That is a lot of people and that could frankly be a lot of cars. How to enforce that? I don't know, but I feel that from a public safety standpoint it really does need to be addressed. That way we don't run into the fact of not being able to get apparatus and emergency vehicles in there."

Philip Humbarnd stated, "We require the applicant to present a parking scenario."

Brian Lester advised, "If you are going to go down that road we need to have a rule. I think that when you start getting into 'we are going to require it, but there's no rule'. Then we get into well, are we being arbitrary?"

Nathan Crouch specified, "Setting a certain occupancy type to the building and then that would trigger the parking requirement."

Brian Lester maintained, "Whatever you do, I would base it on what other people have done on average, or look at something like that. Then it's not unreasonable if that were something you were going to do then ask the Quorum Court to enact something like that."

Randy Laney reiterated, "We would have to go that route that is why I was asking for feedback on how we wanted staff to move ahead. To take a crack on coming up with something that is use focused and some scale that we are not concerned about. It has got to be some scale of significance."

Philip Humbarb recalled, "It seemed like we had one other issue where we were worried about the number of parking spaces because it was a church gathering or something here recently."

Joel Kelsey responded, "I think the people that already had the building that run their business out of there and they were doing the small group meeting. Here is my question, Nathan, based off of this sheet right here how much of that main building the other night was actually considered assembly area. It was over 11,000 sq. ft. that was going to be that and if you are doing 1 per 40, I mean, my gosh, that is 180-200 parking spots and they had 37."

Carl Gales added, "The leading towns of our County have established these rules. That's 50% of our population."

Randy Laney stated, "Fayetteville did away with church ratios. That is why I wanted Walter to articulate more of the new view. It was strange for the City of Fayetteville to be presenting private property rights, but they went that way with the notion of free enterprise which is that it would take care of itself over time. The business would go out, I hate to articulate that position, but that is kind of the theory right?"

Walter Jennings agreed, "Right. My building in Fayetteville basically has no parking, it has a couple of parking spots."

Carl Gales established, "What our cities are doing is what I think we should be doing as a County. This one is in Farmington's planning area. It is important for us to recognize planning areas are going to eventually become the city area. We are really trying to get the planning areas involved. We have a real problem out east of Fayetteville with the cases that we have over here that Brian gets to represent us from in planning areas."

Randy Laney averred, "I was going to get in a general discussion of planning areas in a minute, so hold that thought particularly. On this parking, I am trying to get any consensus that we want to pursue."

Walter Jennings expressed, "The other thing, and I have been thinking about this a lot is, I would hate to limit a business owner if they have a business that has high traffic Monday, Tuesday and Thursday nights and there is a church next door and they could share parking or do their overflow parking at a neighbor's hayfield or something. I would hate to size parking areas for peak use."

Philip Humbarb added, "Churches are sized for peak use because they meet there once a week."

Robert Daugherty noted, "I've seen that done a lot. I mean it could be done but just like in this case we were talking about."

Nathan Crouch pointed out, "They can be revoked too."

Walter Jennings affirmed, "Yes. I just hate to limit the business owner and then not be able to make efficiencies or do something innovative."

Randy Laney acknowledged, "I think I hear unanimity around the idea of pursuing the least restrictive way as possible to do it for certain types of uses and staff you can 2 weeks from now show us your plan on that."

Nathan Crouch communicated, "I am curious to see what the cities say and I am curious to see what yall have to say as far as requiring what the biggest city requires or requiring what that adjacent city would require. If this was Farmington planning area what Farmington require. We would go by what the Fire Marshals determination is on that occupancy type."

Philip Humbarad suggested, "Let's look at whose planning district it is in, then use that parking requirement."

Randy Laney declared, "Make a draft, then we can talk about that. I did want to cover the topic that Chief was bringing up which is small cities. It has ebb and flowed on my 15 plus years on how small towns what to take care of their business. Some of them would say here and then we inherit a problem 15 years later because they wouldn't do their stuff. So I just wanted to get sort of a state of the union if you will how is it going now with these new, to me, 1 and 2 mile rule which changed a few years ago because of all the problems."

Nathan Crouch responded, "I don't know that much has changed. There are a couple of spots along 412 up there that for example are diamonds in the rough. There are probably a dozen properties up there that have no county zoning. People grab ahold of them and they don't want to let go of them. That is beside the point. I am not seeing really any change in the planning areas."

Randy Laney inquired, "Have you had any issues working with them? What I mean is that some of the smaller communities have trouble fielding players to accomplish that."

Nathan Crouch replied, "A lot of times we are going to have to reach out a second time specifically and deliberately to the city to get their comments because they don't really comment too much or sometimes it doesn't seem fully. They could've commented a little more specifically."

Robert Daugherty stated, "Some the smaller cities aren't quick to respond."

Nathan Crouch agreed, "Yes. We are not seeing it."

Carl Gales observed, "I think one of the changes we are seeing with the growth that we have gotten so tremendously in Washington and Benton County is that some of our smaller cities are going to become Class A's. Class A's are a different form and we see that they are starting Planning Boards. We are becoming a metroplex whether we like it or not."

Randy Laney assessed, "Smaller cities look to our Planning Department for some guidance. You are right, there are bigger and bigger cities, but there are still some of these areas that are locked without staff and people."

Carl Gales went on, "Right, but they are plowing ahead and if they were to get more revenue and could get a Planning Board. Planning Boards are very economical they are really the most underpaid people we've got."

Randy Laney asked, "Okay, anybody else got anything about our ability to work with small towns?"

Nathan Crouch answered, "I don't think it is difficult to work with the cities. I don't think they are initially making it difficult or anything like that. It's just that being outside their city limits I don't think it's not on their radar."

Carl Gales pointed out, "One of the things that we have initiated is trying to align with them. We really have gone forward with that here under Nathans administration. As the head of that department, he is working closer with our cities in the planning growth area. Assuring that we are not creating something adverse to what they want. That has a lot of impact to it. Some of these projects that we have get very expensive as far as the tech review, expenditures, the time and effort people put in them. Some more notable ones are some of our Dirt Pits that are out in the County. They really get costly to our people and the time and effort that we put I them. It is taking the bulk of our time."

Philip Humbarnd inquired, "Can there be a different fee schedule for a Dirt Pit?"

Nathan Crouch replied, "Well, you know the last item on my list is an increase in fees."

Randy Laney added, "I was going to in a different way bring up Dirt Pits, traditionally called Quarries."

Nathan Crouch communicated, "Oh, I have been corrected a Quarry is where there is blasting."

Randy Laney asked, "So what were you thinking, Nathan as far as fees? Do we have to make a recommendation to the Quorum Court then they actually review the fee or can we do it?"

Nathan Crouch answered, "We have to make a recommendation. We raised them a little bit a year ago, but we are definitely not in line with the other cities and what they are charging. Not terribly sure we need to be changing equal fees, but we sure could. The amount of hours we put into these projects, no doubt we are definitely coming out on the low end on this. We are paying more than we are taking in on these."

Randy Laney recommended, "I think we can request of you a draft schedule and decide on what other jurisdictions are charging and we could do that under Other Business."

Nathan Crouch assured, "Yes, we can definitely do that."

Randy Laney continued, "The challenge that Bob and I have seen over the years particularly with dirt pits and quarries, or whatever, is you can't have a quarry where there's not rocks. I keep telling people 'Well you can't put it in the Fayetteville Industrial Plant because there is not the right rock there and there is not the right dirt there to quarry'. To me that is the number one challenge of quarries and dirt pits. They have to go where the red dirt is in order to be successful and that just creates a bazillion challenges."

Brian Lester stated, "If you don't have them, you won't be able to get enough roads. I get it nobody wants to live next to a rock quarry or a dirt pit, but the fact of the matter is they are a necessity. The County needs them. Part of our obligation constitutionally is providing adequate roads for people and that takes dirt and rock. It just becomes a real double edge sword."

Robert Daugherty acknowledged, "It becomes a real issue. I am beginning to wonder if I am ever going to see another one pass the way the people show up and all the difficulties you deal with trying to make the decision to place it."

Philip Humbarnd gathered, "You've got a certain number of people that are against it just to be against it. It's not because it is affecting them too much."

Robert Daugherty added, "Normally it's the traffic safety and that is the biggest problem."

Carl Gales disclosed, "Where our administration is with our Planning Board is that we stress that they give the Planning Board all of the technical facts and not opinions. We want to research and get all of the facts to you to make the best decision possible. We've looked at some of these protest letters there is a boundary given, which is a ½ mile radius on a Dirt Pit. The people within that ½ mile radius, they need to be heard. For instance there was one on Harmon Road. I live 5 miles from it and they came and wanted me to protest it years ago. I live about a mile and a ½ from the landfill. I didn't protest that either, because every Friday I put my trash out. If we want the service we have got to have the things that provide it."

Brian Lester provided, "That is going to be an interesting thing to look into. You know we've got some legal challenges going on right now. Again, my thought is for some reason people have this mindset of 'We are the neighbors and we have a say in this'. I am not saying that they don't, but your say is typically through your elected official and not you personally. We could get some interesting instructions from the courts on some of these. One of which is a Wedding Chapel that we are waiting to hear back from the Court of Appeals. We will see what happens."

Robert Daugherty recalled, "Back in the old days when we didn't have the rules we could tell them 'Hey we don't have any rules to turn it down'. Now since we've got some rules and regulations and they show up. Then it has been a real difficult task to get them approved."

Brian Lester continued, "Right. I think from Judge Woods' standpoint if we are going through and we are looking at have they met all of our requirements. Then that should get approved. Regardless of what project it is because that is what we have set out for people. If you do this then you can do this on your land, then we get a bunch of protest. Then it's well I did everything you asked me to do and you said no. It lessens the blow. The Wedding Chapel is one where the Planning Department said yes and you all said yes and the Quorum Court said no. We will see how that one comes out."

Randy Laney added, "You have mentioned people that live beyond the dispute area. We also have a lot of those houses that preceded. People actually bought their home with the pit next door. Then it wants to expand or change its hours and they say it's going to decrease the value of their property. Wait a minute I happen to know you bought that with the pit already there and you have to consider those. We just have to be polite and listen to them."

Nathan Crouch inquired, "I am curious, Mr. Helm, coming from the real estate profession can you touch on property value in proximity to a Dirt Pit?"

Neil Helm replied, "Well, not a whole lot Bob probably could better because he owns half of the County, he has property near the Dirt Pit over by Morrow. I don't think that we have seen anything negative in the other Dirt Pit over by Dutch Mills. There is another one up north of Cincinnati and there is nothing negative in that area."

Robert Daugherty explained, "It depends on where it is."

Joel Kelsey affirmed, "I would say that and attending some meetings it would depend on who does the study."

Randy Laney recounted, "I was pulled into the Westside Sewer Plant with the City of Fayetteville. I was around for that big fight. It was going to ruin everybody's property value and they are building subdivisions across the street as fast as they could build them. They are moving to the other thing that was going to destroy everybody's property value."

Brian Lester agreed, "That seems to be the big issue that we see. If it's near a highly populated area, that is usually the fight. When you talk about Morrow there is nobody out there so there is no fight. The big one we have dealt with a lot is the Hunt Rogers Quarry out near Farmington. Now that Fayetteville is growing out that way it's become a big deal. I think that is just going to be the nature of the business as time goes on and the County grows."

Robert Daugherty expressed, "So we've got to be able to allow them to expand, but we haven't been able to approve one. I don't know how long it's been since we've approved one. That is a concern I've had in the back of my mind."

Randy Laney asserted, "It has been a good give and take on the ones that we've allowed to expand. Most of them went in before there were any rules and we've got them to comply with our current regulations. I think that has been a benefit."

Robert Daugherty communicated, "I don't really promote more rules, but the one we had where we had multiple commercial buildings going in on that one parcel. We didn't have any rules to control that. Of course, I recused myself because I got friends on both sides of that and they call me and chew me out all the time. Bottom line is we don't have anything to really guide us through that process. I don't know how you do that. We have always been able to put a commercial building in the County with some residential and make it work. When you put multiple buildings in a residential area without knowing the uses. That was the one I was struggling with in my mind, granted I didn't say anything. I didn't vote and they still chewed me out for not voting."

Philip Humbard added, "Any building in the County can go into an unknown use once somebody moves out of it."

Brian Lester confirmed, "I thought about that a lot too. At one point we've gotten Tobin to say 'we will tell you before we do something and we will let you approve it.' We don't need to be in that business and we don't have any mechanism to where we have any teeth on that. I think it's just a new project. We just don't have people moving out to the County to build multi-tenant commercial. This was the first time so my thought was we should address that at some point. That one is being appealed also by the way. Nathan has been working on a compatibility chart. The Judge has him looking into some other aspects of that based off of what Benton County has got a matrix. The Judge is wanting to know over the last two years how many would we have given the green light and how many projects would we have said no to. Just to see if it would've had any impact on what's gone on or not. As far as compatibility is concerned that is one of those things that you hate even in the law because there is so much ambiguity when it comes to what is compatible? Well I don't know but what the law says. We don't know either but we will tell you what it is not and what it is not is you don't have to have a white 'A frame' house next to a white 'A frame' house and that is it. As lawyers we like it because it generates business, but for people that have to live in it it's like you are not helping me out here by telling me what it is not. Tell me what it is. That is kind of where we are."

Philip Humbard offered, "Noise, traffic, all of the issues that you have with the structure is whether or not it is compatible to the next door neighbor."

Randy Laney agreed, "That is why our emphasis has been on encouraging people to come up with ways of modifying and improving the designs. To make it less incompatible to your design or barriers."

Robert Daugherty stated, "We don't discuss these problems amongst ourselves or between us. You can call for texts or emails or whatever. I never know until I get to that meeting how the other people are going to vote. I assured him that that decision was not made beforehand. The comment was made that night, but I said you can check it out and subpoena those. You will find that we have no record of

communicating amongst ourselves we just don't. That is the way we need to keep it because that keeps us out of trouble in the future."

4. Other Business

- Discussion of Current Development and Planning Department activities

Carl Gales in closing, "I know that Brian, Nathan and I, really appreciate this meeting. In our administration this is where we need to be with new members. To do justice for the County and do the just thing we have got to look at all the aspects of all of our citizens. We've got 253,000 here and we are looking in 10 years to have about 400,000. We've got along ways to go and a lot of responsibilities."

Robert Daugherty "That brings up another point the Judge called me one day and asked me if we needed more rules and I said I don't know how to answer that for sure. It seems like for every rule we make somebody circumvents it. Then we need another rule. There are cases where we may need it but we tried our best to accommodate the neighbors to the best of our ability."

Philip Humbarnd understood, "Sometimes you don't know if there is a rule, but there is common sense."

Robert Daugherty went on, "Right, and I think we have done a pretty good job of balancing that out. That is what I try to maintain."

Carl Gales affirmed, "I think you have too."

Brian Lester stated, "Judge Woods' big goal and his idea is to continue for Washington County to be a destination County where people want to move and live. In doing that we want them to bring business. We want people to want to be here. So you are in this balancing act of if I am too overbearing then people will move away and if I am not I've got other people that will then move away. I think that ya'll are doing a great job. It is a hard job. Our job and our goal from the County perspective is to make it as easy for you as possible by adding more regulations and rules for people. So that we can say okay here is what you got to do and we are going to make sure that we try our best to have everybody in some sort of harmony with this. You all may have a new board member by next meeting. The Judge would have to nominate someone and put them on Quorum Court meeting for this week. It maybe March before you have a new member. I just thought I would let you know that."

5. Old Business

6. Adjourn

Joel Kelsey moved to adjourn. Robert Daugherty seconded. All Board members present were in favor of approving. Motion passed.

Planning Board adjourned.

Minutes submitted by: Juliana Mendoza

Approved by the Planning Board on:

_____ Date: _____
Robert Daugherty, Planning Board Vice-Chairman