

**MINUTES**  
**WASHINGTON COUNTY PLANNING BOARD**  
**December 10, 2020**  
5:00 pm, via Zoom

DEVELOPMENT REVIEWED:

ACTION TAKEN:

County

**a. Hunt Rogers Quarry Expansion HI CUP**

**Tabled**

**CONDITIONAL USE PERMIT HEARINGS**

Fayetteville Planning Area

**b. Ruby Graham Residential CUP**

**Approved**

Springdale Planning Area

**c. Custom Lawn Care & Landscaping CUP**

**Approved**

County

**d. Phillips Minor Subdivision CUP**

**Approved**

**LAND DEVELOPMENT HEARINGS**

County

**e. Phillips Minor Subdivision**

**Approved**

County

**f. Replat Lots 19 & 20 Tony Mountain Subdivision**

**Approved**

County

**g. Kirby & Kathy Walker Minor Subdivision**

**Approved**

County

**h. Harry Rodriguez Minor Subdivision**

**Approved**

County

**i. Replat Tract 6 Honey Hollow Subdivision**

**Approved**

County

**j. Hunt Rogers Quarry Expansion HI Pre-LSD**

**Tabled**

County

**k. Hardwood Preliminary Subdivision**

**Tabled**

1. ROLL CALL: *Roll call was taken. Members present include Walter Jennings, Robert Daugherty, Joel Kelsey, Jay Percy, Philip Humbard and Neil Helm. Randy Laney was not present.*

2. APPROVAL OF MINUTES: *Walter Jennings made a motion to approve the minutes of November 5<sup>th</sup>, 2020 as written. Neil Helm seconded. All board members were in favor of approving. Motion passed.*

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

4. OLD BUSINESS

*Joel Kelsey, the Planning Board Chairman recused himself. Randy Laney, the Planning Board Vice Chairman was not*

present. Robert Daugherty as the oldest member at point of service shall act as Chairman for items a. Hunt Rogers Quarry Expansion HI CUP and j. Hunt Rogers Quarry Expansion Hi Pre-LSD.

County

**a. Hunt Rogers Quarry Expansion HI CUP**

***High Intensity Conditional Use Permit Request***

Location: Section 26, Township 18, Range 29

Applicants: Bates & Associates

Location Address: 21636 High Lonesome WC 4589

Approximately: +/- 244.5 acres / 5 parcels

JP District: Patrick Deakins, District 5

Coordinates: Latitude: 36.20338390, Longitude: -94.04047415

**Project #: 2019-301**

**Planner: Nathan Crouch email: [ncrouch@co.washington.ar.us](mailto:ncrouch@co.washington.ar.us)**

**APPLICANT'S REQUEST**

The applicant is requesting **High-Impact Conditional Use Permit and High-Impact Preliminary Large Scale Development** approval to allow expansion of the existing rock quarry. The existing area of the Hunt-Rogers Springdale Quarry is approximately 238.5 acres, and the proposed area is approximately 150 acres. This CUP application is requesting **land-use approval**. If this CUP request is approved the High-Impact Preliminary Large Scale Development request, which addresses the **site plan and stormwater drainage**, will follow it on the agenda. This CUP was heard and tabled at the Jan 23, 2020 and the Nov 5, 2020 Planning Board meetings. It was tabled at the Nov 5, 2020 Planning Board meeting to allow additional time for the conditions of approval received from the Rogers Group, JB Hunt, LLC, Beaver Water District, and Washington County Planning to be combined into one list. This hearing is to review the CUP conditions of approval. The applicant's letter states the original submission has been revised by removing both the re-designation of 35 acres from stockpiling to mining north of our pit and the addition of 34.5 acres from to the south of our pit for spoil storage and eventual stockpiling. The plan now calls for the addition of approximately 150 acres of additional mining area to the north and east of our existing pit and roughly 29 acres of stockpiling room along N Parsons road.

The applicant has submitted the following supportive documents, which are attached to this report:

1. Large Scale Development site plan
2. Stormwater Drainage Report
3. Jurisdictional Water Assessment (Dec. 2015)
4. Understanding Blast Vibration and Airblast, their Causes, and their Damage Potential
5. Quarry Operations and Property Values: Revisiting Old and Investigating New Empirical Evidence
6. Blast Array results- dated 4-8-2020 & 4-9-2020
7. Sound Study results- dated 4-8-2020 & 4-9-2020
8. Dust Monitor Report- dated 7-25-2020 to 9-25-2020
9. Dust Abatement Plan

**SITE INFORMATION**

Land Owner:	JB Hunt, LLC	Planning Area:	None
Site Location:	N. Parsons Rd (WC-91)	QC District:	5, Patrick Deakins
Acreage:	388.5	School District:	Springdale
Current Zoning:	CUP, 2012-136	Fire District:	Nob Hill Rural VFD
FIRM:	05143C0085F, 05143C0095F	Watershed:	Beaver Lake

Wetland: No

Parcel Numbers: 001-18379-000, 001-18411-000,  
001-18413-000, 001-18668-000  
001-18669-000, 001-18410-000

001-18412-000, 001-18452-000  
001-18650-001

## UTILITIES

Electricity:	Ozark Electric	Gas:	Black Hills Corp.
Cable:	Cox	Phone:	AT&T
Water	Springdale Water		

## BACKGROUND/SYNOPSIS

The Hunt-Rogers Quarry off Parsons Road, east of Springdale, is requesting approval for the existing quarry to expand eastward into additional company-owned property. No new structures, public roads, or utility service are being requested with this CUP. The existing quarry received CUP approval in 2012. In 2006 when zoning ordinances were adopted by Washington County, roughly 3.5 acres of the subject (expansion) property was being used for quarrying operations. Then when the existing quarry received CUP approval in 2012 and the "CUP" zone was established on the county zoning map, approximately 11.5 acres of the subject expansion property was indicated as CUP as well. The Planning Board tabled the Conditional Use Permit at the January 23, 2020 Planning Board meeting, **requesting the applicant resubmit a phased plan** where the permitting would only extend 40 acres at a time, or for 5 years at a time, for example, rather than requesting an approval that could potentially extend the lifetime of the quarry another 50 years. Additionally, the neighbors that spoke at the 1-23-2020 meeting requested a 3<sup>rd</sup> party compatibility assessment to address compatibility criteria #6, also that the rock crushers shut down at a reasonable time of day, and that the CUP shouldn't give blanket permission for 50+ years of quarrying activities. The HI-CUP and HI-LSD submittals currently under review make no mention of a phased approach.

## Dust Abatement Plan

The applicant has submitted a Dust Abatement Plan. The following are the key elements in the plan.

- The rock crushing plant at this facility follows the same general operation procedures outlined in the air permit issued by ADEQ.
- A water truck is used to control emissions on the unpaved haul roads and are wetted as needed.
- A water truck is also used to wet down stockpiles that may have dried out resulting in excess emissions during loadout.
- Trucks departing the site are required to pass through a mechanical wheel wash that removes accumulated particulate matter from the tires of exiting trucks/visitors.
- Water sprayers are inspected and documented on a pre-shift inspection each day before the plant begins operation.
- Water sprayers are monitored throughout the day and adjusted according to aggregate moisture, wind speed, and wind direction.
- If a malfunction occurs or repairs are needed the plant is shut down and repairs are made to maintain compliance.
- The operation uses water captured and treated on site to supply water to the plant and the water truck to apply throughout the day to control emissions. Two large wells help to make up evaporation loss during the dryer seasons.
- Between the pre-shift and the day shift applications there are approximately 100,000 gallons of water being applied for emission suppression each day the plant is in operation. This schedule varies during periods of the year with higher amounts of precipitation.
- A self-contained wheel wash system has been installed to help pre-clean customer truck tires prior to leaving the quarry site.

## COMPATIBILITY

### Surrounding Land Use and Zoning

<i>Direction from Site</i>	<i>Land Use</i>	<i>Zoning</i>
North	Agricultural & Residential	Ag/SF Res 1 unit/ac
South	Agricultural & Residential	Ag/SF Res 1 unit/ac
East	Agricultural & Residential	Ag/SF Res 1 unit/ac

West	Agricultural & Residential	Ag/SF Res 1 unit/ac
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**Existing Condition of Property**

The subject property is zoned Ag/SF Res 1 unit/acre, but has an active Conditional Use Permit for quarrying operations. It is in an area that is heavy with agricultural uses, low density residential, and very little commercial.

**Washington County Land Use Plan**

According to the County’s Land Use Plan:

SECTION III. PHYSICAL DEVELOPMENT

A. LAND USE CONSIDERATIONS

4. INDUSTRIAL

The chief goals for industrial development are:

- a. Provision of sites which are located adjacent to major thoroughfares or other adequate transportation facilities;  
**The proposed quarry expansion area is located adjacent to the existing quarry, which is adjacent to the major thoroughfare.**
- b. Allocate land in sufficient quantity, where infrastructure exists, or will exist, so that industrial growth can be accommodated to benefit both industry, and the county. This will ensure that industrial land is protected from encroachment by non-industrial uses; and,  
**The expansion area is proposed on property the applicant already owns, directly adjacent to the existing quarry. Many residential properties have been developed since the beginning of the existing quarry. Whether the quantity of land allocated for this purpose is sufficient is subjective and the neighbors argue it is inadequate.**
- c. Provide for ample utilities and services to support industrial development.  
**Utilities are already in place.**

The subject area is located within a part of the county that is heavy in agricultural uses.

**Future Land Use / Zoning Designation**

The parcel is not in a city planning area, but there is a Future Land Use designation for the project area. Washington County’s Future Land Use Plan shows this expansion area partially inside the “Heavy Industrial” land use zone that is associated with the existing quarry, but also inside the “Low Density Residential (1-4 units per acre)” land use zone. The current zoning for the project parcel is Ag/SF Res 1 unit/acre, but there is an existing, active CUP (2012-136) for quarrying on a portion of the subject property. This CUP is to expand the quarrying operation to several new parcels. If the project is approved, the zoning will stay the same, but the conditional use area will grow.

**Neighbor Comments and Concerns**

Pursuant to Sec 11-204(b), Sec 11-71 (2a), and Sec 11-101b of the Washington County Code of Ordinances, all neighbors within one-half mile of the boundary of this property were notified by certified mail of this CUP request. 202 notification letters were mailed out 30 days prior to the January 23, 2020 Planning Board meeting, the last time this project was heard. 113 responses in opposition (phone, mail, email) were received prior to that meeting. 225 notification letters were mailed out 30 days prior to the upcoming November 5, 2020 Planning Board meeting. 10 responses in opposition (phone, mail, email) have been received to date. Opposition is based on many aspects of compatibility including, but not limited to: Road Safety, Road Conditions, Volume of Dump Truck Traffic, Noise, Property Values, Dust, Ecology, Water Quality, Quality of Life, Health, Hours of Operation.

**Update: Staff has received a number of additional comments in opposition to this CUP request, since the Nov 5, 2020 Planning Board meeting, and no comments in support. Attached at the end of this Staff Report is a report written by a neighbor to the east, Michael Butler, who asked for it to be included. Planning Staff has not verified the accuracy of the claims in Mr. Butler’s report.**

**Criteria for Conditional Uses**

According to Sec 11-200(a) Criteria for allowance of conditional uses:

The Board shall hear and decide requests for a conditional use and may authorize such if it finds:

<i>Criteria</i>	<i>Staff Comments</i>
1 That a written application has been filed with the Planning Office and the appropriate fee has been paid.	Submitted and Paid.
2 That the applicant has provided proof that each property owner as set out in section 11-204 has been notified by return receipt mail.	Planning Staff mailed neighbor notification packets out on October 6, 2020.
3 That adequate utilities, roads, drainage and other public services are available and adequate or will be made available and adequate if the use is granted.	All utilities, roads, and drainage are existing, and considered adequate by the relevant agencies.
4 That the proposed use is compatible with the surrounding area.	The existing quarry received Conditional Use Permit approval in 2012, and was considered compatible with the surrounding area at that time, with the conditions that were approved. This current quarry expansion request is to increase the area of that existing quarry. Since a quarry already exists at this location, compatibility has already been discussed and approved. However, many neighbors disagree with the compatibility of this CUP request, and are requesting denial based on many factors such as their location in relation to the quarry and the distance of separation will decrease if the quarry expands its footprint.
5 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.	The requested use is already established with the existing quarry. This CUP request is an expansion of the existing quarry, on adjacent property that was owned by the applicant when zoning was established in 2006, that was partially being used for quarry operations at that time.
6 That the conditional use will not be injurious to the use and enjoyment of other property in the surrounding area for the purposes already permitted, nor substantially diminish and impair property values within the surrounding area.	As this request is to expand an established quarry that received CUP approval in 2012, Planning Staff feels the expansion will not impact the other properties in the surrounding area any differently than the existing quarry has.
7 That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding area for uses permitted in the zone.	As this request is to expand an established quarry that received CUP approval in 2012, Planning Staff feels the expansion will not impact the other properties in the surrounding area any differently than the existing quarry has.

**SUMMARY OF AGENCY COMMENTS – TECHNICAL REVIEW**

**Ozarks Electric**

1. Any damage or relocation of existing facilities will be at owner’s expense.
2. Any power line extension that has to be built to this property will be at the owner’s expense. The cost will be determined after the owner makes application for electric service and the line has been designed.
3. All off site easements that are needed for Ozarks to extend electrical service to the property must be obtained by developer and easement documentation provided to Ozarks before work begins. On site easements must be shown on plat and recorded with the county.
4. Please contact Ozarks Electric if you have any questions. Wes Mahaffey At (479)263-2167 Or [wmahaffey@ozarksecc.com](mailto:wmahaffey@ozarksecc.com)

**Springdale Water**

No comments.

**AT&T**

No comments.

**Black Hills Corp**

No comments.

**County Contracted Engineer- regarding stormwater management**

From the applicant's letter: "As stormwater collects in the quarry basin, it gets used for wetting conveyor belts, loaded trucks, etc. When the volume of water in the quarry basin becomes full it is treated and allowed to sit until the particulate matter can settle out. Once the treated water reaches the allowable levels it is pumped out of the quarry basin into the natural drainage area to the east. Then the water flows to the lake."

The Washington County Contract Engineer provided questions and requests for more detail. The project engineer answered the questions and adequately addressed the request for more detail.

The County Engineer has reviewed this quarry expansion request and is satisfied with the submittal.

**County Engineer's Comments**

1. Describe/ show the BMP's that will be implemented to control the erosion and sediment being released downstream.
2. Please provide information regarding sediment basins that stormwater will pass through before exiting the site. Volume of basin? Outlet structure of basin? Provide specifics and not vague generalities.

**Project Engineer's response**

1. There is zero runoff leaving the site. It is all contained in the quarry. Once or twice per year, after the particles have settled, they may pump some of the water out.
2. Also, they have a very detailed SWPPP plan. I have attached a couple things for your use including the storage volume of the sediment basin.

**County Engineer's follow up response**

1. This satisfies my previous comments as Mr. Bates stated there will not be any runoff leaving the site except with controlled pumping releases a couple times a year. Therefore I have no further comments.

**Beaver Water District**

The quarry expansion area will be located in Beaver Water District's (BWD) Source Water Protection Zone and will have the potential to adversely impact the water quality of Beaver Lake. To the extent that the County Planning Office and the Planning Board support the requested CUP, BWD suggests consideration of the following:

**Beaver Water District- Conditions submitted for the Jan 23, 2020 Planning Board meeting**

1. Detention should be looked at again as a means to reduce stormwater runoff, especially during surface disturbance periods when the quarry is being developed. The overburden in this area likely has elevated soil nutrient concentrations. The initial clearing of this land and subsequent erosion of materials could result in transport of sediments and nutrients to the Lake.
2. The plans indicate that most drainage will be contained on-site within the quarry. These mines, however, will need to be pumped to reduce water levels for quarry operation. A water quality monitoring program should be conducted with oversight from the Arkansas Department of Energy and Environment, Division of Environmental Quality ("DEQ") to ensure that any drainage water pumped to the Lake and any stormwater runoff is free of contaminants.

3. In accordance with the Arkansas Forestry Commission, Streamside Management Zones should be maintained according to the Arkansas Forestry Commission Best Management Practices for Water Quality Protection. Requirements include but are not limited to:
  - a. Maintain Vegetation in Non-ephemeral Streams
    - i. Slopes <7% - 35 ft on each side of stream
    - ii. Slopes 7-20% - 50 ft on each side of stream
    - iii. Slopes > 20% - 80 ft on each side off stream
  - b. Ephemeral Streams
    - i. Maintain overstory vegetation with minimal channel disturbance.
4. A permanent conservation easement should be considered in critical areas in order to create a buffer between the quarry operations and the Lake.

**Beaver Water District- Conditions submitted for the Dec 10, 2020 Planning Board meeting**

1. The landowner, JB Hunt, LLC, shall grant to a qualified land trust a permanent conservation easement of a scope and with terms mutually agreeable to Beaver Water (BWD) and JB Hunt, LLC. The conservation easement shall include conditions that provide water quality protections for Beaver Lake. The conservation easement shall encompass, at a minimum, the lakeside area shown in BWD's November 5, 2020, letter to the Washington County Planning Board and the areas for conservation shown on the map presented by the Washington County Planning Director at the November 5, 2020, meeting of the Planning Board.
2. The boundaries of the property to which the HI-CUP approval applies and the area boundaries for each of the sequential mining phases shall be correctly specified in a stand-alone legal description, all references to or representations of the boundaries in the applicant's prior submissions (including maps and drawings) shall be corrected and dated, and the total area encompassed by the boundaries shall not exceed approximately one-hundred fifty (150) acres of mining area and approximately twenty-nine (29) acres of stockpiling room.

**Fire Marshal**

No comments.

**Health Dept (sewer/septic)**

This quarry expansion request is not proposing any new utility service or structures. No water service is requested, and no sewer or septic is required.

No comments were received by the Arkansas Department of Health.

**Roads/Sight Visibility/Ingress-Egress**

This quarry expansion proposal is not requesting any new permanent public roads. All roads will be private and will shift locations as needed. Only authorized vehicles are permitted into the quarry area.

As no new entry/exits are proposed, sight distance was not evaluated.

**Environmental Affairs**

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**

1. No new signage is proposed.
2. All outdoor lighting must be shielded from neighboring properties.
3. Any lighting must be indirect and not cause disturbance to drivers or neighbors.
4. All lighting must be shielded appropriately.

**SITE VISIT**

A site visit was conducted by planning staff on January 8, 2020. No new entrance/exits are being proposed, so sight distance was not evaluated.

**RECOMMENDATION & CONDITIONS OF APPROVAL**

Planning Staff has presented the request and submittal documents, and recommends the Planning Board consider the

following conditions of approval:

\*The below conditions of approval are shown in red font to call attention because they were not yet finalized at the Nov 5, 2020 Planning Board meeting.

**General Conditions:**

1. Trucks departing the site are required to pass through a mechanical wheel wash that removes accumulated particulate matter from the tires of exiting trucks/visitors.
2. Final LSD Plan must include all items from the Large Scale Development Plan Checklist.

**Drainage Conditions:**

1. All operations must be in compliance with ADEQ's regulations.

**Signage/Lighting/Screening Conditions:**

1. New signage is not proposed at this time. At such a time new signage is desired a sketch of the sign must be presented to the Planning Dept for review and approval.
2. Signage cannot be placed in the County Right-of-Way.
3. 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.

**Springdale Water Utility Conditions:**

1. The owner/developer shall be responsible for the cost of any required adjustments to the existing water and sewer facilities due to site grading, paving, lot line adjustments or other matters.
2. Field locate and verify the location of existing water and sanitary sewer facilities located on proposed Lots. Indicate the location of these facilities on the drawing and provide adequate easements, on-site and off-site, acceptable to the Springdale Water Utilities. Easements shall be established such that a minimum 10-foot space shall be provided between the utility and any permanent structure and easements shall be provided such that a minimum of 10' is between the utility and easement line. Please show the existing easement for the 8-inch water line running parallel along N. Parsons Road. Please show the existing easement for the 6-inch water line running parallel along Ponderosa Drive. Please provide book and page numbers for any existing water and sewer easements.
3. Any water taps to be installed on existing facilities shall be installed by Springdale Water Utilities at the owner or developer's expense.
4. Please be advised that private water meter service lines cannot cross adjacent properties in order to access services or be located and running parallel within a public utility easement.

**Beaver Water District Conditions:**

1. Detention should be looked at again as a means to reduce stormwater runoff, especially during surface disturbance periods when the quarry is being developed. The overburden in this area likely has elevated soil nutrient concentrations. The initial clearing of this land and subsequent erosion of materials could result in transport of sediments and nutrients to the Lake.
2. The plans indicate that most drainage will be contained on-site within the quarry. These mines, however, will need to be pumped to reduce water levels for quarry operation. A water quality monitoring program should be conducted with oversight from the Arkansas Department of Energy and Environment, Division of Environmental Quality ("DEQ") to ensure that any drainage water pumped to the Lake and any stormwater runoff is free of contaminants.
3. In accordance with the Arkansas Forestry Commission, Streamside Management Zones should be maintained according to the Arkansas Forestry Commission Best Management Practices for Water Quality Protection. Requirements include but are not limited to:
  - c. Maintain Vegetation in Non-ephemeral Streams
    - iv. Slopes <7% - 35 ft on each side of stream
    - v. Slopes 7-20% - 50 ft on each side of stream
    - vi. Slopes > 20% - 80 ft on each side off stream
  - d. Ephemeral Streams
    - ii. Maintain overstory vegetation with minimal channel disturbance.

4. A permanent conservation easement should be considered in critical areas in order to create a buffer between the quarry operations and the Lake. Contact Beaver Water District and Northwest Arkansas Land Trust for discussion regarding the details of establishing a conservation easement.
5. The landowner, JB Hunt, LLC, shall grant to a qualified land trust a permanent conservation easement of a scope and with terms mutually agreeable to Beaver Water (BWD) and JB Hunt, LLC. The conservation easement shall include conditions that provide water quality protections for Beaver Lake. The conservation easement shall encompass, at a minimum, the lakeside area shown in BWD's November 5, 2020, letter to the Washington County Planning Board and the areas for conservation shown on the map presented by the Washington County Planning Director at the November 5, 2020, meeting of the Planning Board.
6. The boundaries of the property to which the HI-CUP approval applies and the area boundaries for each of the sequential mining phases shall be correctly specified in a stand-alone legal description, all references to or representations of the boundaries in the applicant's prior submissions (including maps and drawings) shall be corrected and dated, and the total area encompassed by the boundaries shall not exceed approximately one-hundred fifty (150) acres of mining area and approximately twenty-nine (29) acres of stockpiling room.

**Standard Conditions:**

1. Pay neighbor notification mailing fees (will be calculated once all invoices have been received) within 30 days of project hearing. Any extension must be approved by the Planning Office. Invoice will be emailed to applicant once all postal invoices are received.
2. Pay engineering fees within 30 days of project hearing. Any extension must be approved by the Planning Office. Invoice will be emailed to applicant once all engineering invoices are received.
3. Any further splitting or land development not considered with this request must be reviewed by the Washington County Planning Board.
4. This CUP (approval or denial) must be ratified by the Quorum Court.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
6. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.
  - o This project requires additional review (High-Impact Large Scale Development), and therefore, the applicant must submit for Preliminary project review within 12 months of this CUP project's ratification.
7. All plats/plans for land developments approved by the Washington County Planning Board shall be contingent upon receipt by the Developer of any Federal, State or local permits or approvals, if any, whether known or unknown to the Board or the Developer.

**Additional Conditions:**

1. Include the legal description with bearings and distances of the existing permitted quarry site, the expansion area, and the combined overall quarry area to be permitted, on the site plan.
2. Plans must all reflect the same intent— boundaries and acreages shown on the site plan drawing and the legal descriptions shall all match, with no discrepancies.
3. Communicate with the public how to obtain blast notification emails prior to blasts, and provide public notification 24 hrs prior to each blast.
4. Implement an effective wheel washing system and require its use by all loaded trucks leaving the quarry.
5. Periodically re-evaluate noise levels and implement noise reducing measures.
6. Ensure dust levels remain within the criteria for the applicable regulations.
7. Shield and/or orientate all on-site lighting such that it does not cause a distraction to drivers or disturbance to the surrounding community.
8. Adjust hours of operation to a schedule that is mutually agreeable between the quarry and the surrounding community.
9. Work with the county to fund a regular "patch and repair cycle" on the surrounding roads.
10. Consult with Beaver Water District and Northwest Arkansas Land Trust and establish a conservation easement of an appropriate size between the quarry and expansion area, and Beaver Lake and Hunt's Lakeside Estates Subdivision.
11. High Lonesome Road, WC-4589, must be completely vacated from the point it begins at Ponderosa Road, WC-584. Contact the Washington County Road Department for assistance.
12. Construct and maintain berms and evergreen vegetative screening sufficient to minimize the impact to the surrounding neighborhoods.
13. Neighborhood committee shall continue to meet over the lifetime of the quarry.

### Conditions added by Mrs. Hunt

1. Upon approval of the Hunt-Rogers Expansion request as proposed, Mrs. Hunt has committed to the Friendship community and surrounding neighbors to incorporate the remaining acreage east of the expansion and adjoining Beaver Lake to a Preservation Area to allow for additional measures of protection for the Beaver Lake Watershed, to insure the community of future land use, while allowing for aesthetically pleasing panoramic views.
2. Mrs. Hunt and her family are willing to make the above a condition of the expansion. Mrs. Hunt agrees that all commitments offered by her, will be completed, and fully implemented, prior to the start of any new mining in the requested Hunt-Rogers quarry expansion area.
3. This agreement not only preserves the land in its present state, but, ensures the surrounding community that the land will only be utilized for livestock and other natural utilization. Mrs. Hunt and her family are committing to this perpetual agreement to confirm that the property will not be used for building subdivisions, or other structures for commercial uses other than domesticated livestock production.
4. At the request of some of the community members, Mrs. Hunt and her family are agreeable with respect to naming the Preservation Area for the benefit of the community.
5. Mrs. Hunt and her family are agreeing if any third party agreements are made with Beaver Water District (BWD) or other affiliations associated with BWD, it will not in any way effect or limit any amenities or access to the boat dock; the established paved parking area located west and south of the low water bridge; the dirt road leading from the paved parking area to the Beaver Lake Corp Boundary Line; and surrounding area.
6. As an additional condition, Hunt-Rogers Materials and Mrs. Hunt and her family have mutually agreed in a joint effort to promote vegetation efforts in the newly designated Preservation Area to plant a variety of evergreen and deciduous species of trees to create a vegetative barrier. The tree planting will be placed as best suitable for the community to provide aesthetically pleasing views for years to come. The newly designated Preservation Area will be continuously monitored and managed to be a viable asset to the community and Northwest Arkansas for years to come.

*Washington County Planning Director, Nathan Crouch, presented the updated conditions for the Board Members.*

### *Public Comment*

*James Crouch, Attorney for the Matthews family, addressed the Board, "I have been before you before. I won't plow the same ground. I went back and looked at what I could find of the previous meetings from 2003 to present. I couldn't find anything from 2006, but the same complaint from the neighbors keep coming up. It's the dust, blasting, roads and it's all those things. They come up every time. Actually, something interesting I found, and I don't know if anybody else noticed this from 2012, one of the ways that it appeared to me that this was approved was a representation from the quarry that they would only blast six to seven months a year if they were granted the CUP that they got then. You'll have to hear from the neighbors whether that's occurred. Really what I want to address is this, the conditions. You know lawyers worry about whether something is enforceable, and whether it's definite enough to be enforced. While these conditions are not necessarily bad, we still opposed the entire CUP. I just don't think the conditions that have been discussed are enforceable. I would refer you first to what Nathan talked about with the Beaver Water District. They say that there'll be a water quality monitoring program. Well, when I look through the entire packet I don't find anything that defines that. Then they say 'Well which by the way that is to be overseen by the ADEQ'. In my experience with ADEQ is that they are reactive. They only react to complaints. Again, in my experience they don't oversee. So there is really no one to oversee that, but more importantly there is no program that has been proposed for water quality monitoring. Same thing with the best practices of the Arkansas Forestry Commission; there is no one there to oversee. There's no way to enforce it. Even more difficult to enforce are the proposals or conditions that everybody from Beaver Water District, to the Hunt's, to the staff have put on. I want to refer you to the additional conditions of the Planning Department. Number 5 periodically reevaluate noise levels and implement noise reduction measures. That's just too vague to be enforceable. The law in Arkansas, and probably everywhere is that you can't enforce something unless it is definite enough. You also cannot have an agreement to agree, that's no agreement. At all. There's no consequences from not complying with these conditions. Evaluate noise levels, what if they are too high? What does that mean? There's nothing there to enforce. Number 6 ensure dust levels remain within the criteria. The applicable regulations. Well again, there is nothing to enforce. There is no definition. I understand the County can't enforce these. They can't oversee these. That's understandable. That should be decided now. It should have been decided before the Hunt Rogers Quarry should have come and said 'We'll do this, and this, and this' and that should be part of these conditions. It is not.*

Number 10 consult with the Beaver Water District about this conservation easement. Which this is a good idea, but consult with the Beaver Water District, that doesn't mean anything there's no way to enforce that. What if all you do is consult, but you don't come to an agreement? There needs to be definition to this and some enforcement measure. Also, by the way it completely cuts out the neighbors. My sense was that this conservation easement was not so much to please Beaver Water District, but to please the neighbors who are going to be disturbed by blasting inside and dust. Number 13 construct and maintain a berm and evergreen vegetative screening sufficient for impact. Well, it's just there's no way to enforce that, because it's not defined. You don't say 'Put trees every 10 ft., put evergreens every 10 ft. and by the way go out and look at the berm on Parson's Road.' Which this berm was required to be vegetated before and there is nothing there. That is my point gentlemen. There's no way this can be enforced. There's no consequences of them not complying with it so I think the whole thing should be denied completely, but it certainly should be denied until unless they get some definition of these. Thank you for your attention."

Andrew Effinger, Attorney for Hunt Rogers, addressed the Board, "I think James brought up a really good point across a lot of these conditions. Some of these conditions definitely are agreeable to us and you in the abstract, but could use a little specificity. I've gone through these and I've got some comments. I guess Nathan the first question is these additional conditions is the default now that all of these are included unless we argue against them or are these just available for the Board to add to the ones that you had already included in the additional conditions?"

Nathan Crouch responded, "Well these are the conditions that I am proposing to the Board. If they choose to accept all of these conditions then yes, they are all in. They can choose to eliminate some or add some, or however they would like to do it."

Andrew Effinger continued, "The first issue that I think we need to get clear on some of these Beaver Water District conditions if you can go there is that certain of these conditions were raised prior to our last January meeting. I believe that is correct Nathan. Number 1-4 and to put it bluntly Beaver Water District didn't really understand and it's on us for this. They didn't really understand the scope of the planned mining or the methods that we use. We've had some clarifying conversations with them since. I think it's evident in some of these comments like when you hear these mines, there were never going to be more than one mine. When they talk about it being pumped. We had some clarifying conversations with them so that they understood that we stay above the water line or the ground water level so that we really don't have to pump out our mine. I really think that number 1, 2, 3, and 4 were brought up and we had conversations with about ADEQ and their permitting process. Our NPDES permit that regulates our water discharges. I think 5 and 6 are the conditions that they submitted for this go around. Number 3 for example, there are no non-ephemeral streams so some of this is just things that they wanted you guys to look at. If you look at number 1 it says should be looked at again. These are their recommendations for Nathan to kind of do his due diligence on this, but I'm not sure they should be conditions, if that makes sense. That's my first issue is that I think Beaver Water District there's some there that are really no longer applicable. The other one that I think we need to talk through is the water quality mining that James just brought up. We have an NPDES permit. ADEQ does monitor us. We self-report our water quality before we discharge. We are not allowed to discharge any water that isn't of proper quality, but there is a water quality monitoring process in place. It's just not through the County. As to noise levels there are always common law nuisance claims, if there's enough noise to be a problem. The blasting noise over air pressure is regulated. We stay within those limits. That's managed by the state. Again, the dust levels, same kind of thing. There are regulatory agencies. As to his question about the hours, if you remember in my presentation I did show a restriction of the hours that we were committing to. I've actually got a few slides here that I could go through on some of these recommendations if you don't mind. It looks like you've already removed the Northwest Arkansas Land Trust from the conservation easement. Here are the hours of operation. What we committed to at our neighborhood committee in some of the open houses and meetings we had was that we would not operate at night, outside of Monday through Thursday. On Friday's we would be shut down by 5 pm. On Saturday we would be shut down by noon. We are not going to run on Sundays. I didn't put that in here as a bullet point, but I can add it or you can add that. This is all subject to our ability to load trucks and sell when necessary. If the County's got a job that needs to be done at night or on the weekend we just need that carve out to load trucks, but we won't be running the plant. That's the agreement we've come to with the neighbors. Another one that we had some questions on is the road maintenance. I think the issue of funding a road program on the surrounding roads, that's a little ambiguous. We propose that we will take care of any potholes on the roads between Sonora Road and Pleasure Heights. If there are any potholes or degradation to the road we'd get out there and fix it, but with the clarification that regular resurfacing is still a county obligation that we're not 100% liable for the whole road. Another issue that was brought up was the screening having the trees, the vegetative screening along with the eastern neighborhood conservation and the Beaver Water District conservation easement. One thing that we'd like to propose is you can see here this is from the presentation last month. Off to the east are the white lines where we propose to build the tree screening. What we are willing to commit to is until that screening is up and 20 foot tall and satisfactory we'll stay out of this blue area. Which is the area

*with the ridges that they'll see from their backyards if the screening isn't up."*

*Nathan Crouch inquired, "Can you clarify one thing for me Andrew? I understood that you're going to vegetate the entire area over there rather than just a line of screen trees."*

*Andrew Effinger replied, "Well, I do think the Hunt family has agreed to let that go back to nature, for lack of a better word. I don't know what their plans are outside of the screens. I know they are going to build these screens and I know they're going to preserve this area. I think one of the things that has yet to be debated about the details of that conservation easement. There are things like can you still have cattle out there that we don't know. We are willing to restrict the development. No residential structures. No commercial development, but we need to get through this process and start working on the details of that. Generally speaking that area is going to become a more natural environment. What we had showed in the last meeting was those white lines. The reason we drew those white lines is if we create a 20 foot tall buffer there it keeps the neighbors from seeing these ridges that are going to be eventually taken out the high points inside of our mining area. I think you're right that there's going to be some additional vegetative screening, but this is what needs to be done along those lines to keep them from seeing those ridges being dug out from their area of their neighborhood. I don't think that there is any problem with Ms. Hunt's condition about exactly how she worded what's going to happen to that area. That is going to be put in place for the neighborhood to stay in here. I am fine with that. My issue is more that I think a lot of the neighbors talk about phasing and wanting to know when we are going to be where. I think this is one of their biggest concerns. They don't want us to plant 5 foot tall trees get trees and then go straight into these areas that they'll see. The idea is to get trees tall enough to screen this. If we can't get them tall enough we are going to have to get it right before we go into this blue area. Also, I didn't mention this earlier, but the berm along Parsons Road needs to begin before we use the stockpiling area to the west as well. The other thing that we brought up that I didn't hear you guys mention was the ombudsman. That's an open conversation that we left from the last meeting."*

*Nathan Crouch detailed, "Well, that's one thing that I hadn't brought up yet, that I planned to, was that ombudsman was kind of outside the scope of County Planning regulatory activity. If the neighbors were to want an ombudsman that would be between the quarry and the neighborhoods. Another issue that I hadn't mentioned yet was that the Planning Board had discussed was wanting a phasing plan and we don't have a phasing plan. If you would like to discuss either one of those."*

*Andrew Effinger responded, "I do think there has been a lot of conversation about the phasing plan. The devil is in the details. We've shown this plan to the neighborhood. We showed this to you guys in the last meeting. Our intentions are to go north into phase 1, then go east into phase 2, then drive south into phases 3, 4 and 5 over time. What we also talked about last time was that this is a natural deposit we haven't done 100% of our investigation of every square foot of this land. We do not have a precise acre by acre analysis of what exists underground. The scenario that played out for a lot of people is if we go north into phase 1 and there's a lot of bad material we may need to go over here into phase 3 for a shot or two while we clean out some garbage, and then keep moving north. This is generally our mining plan though. I just don't understand how that could be a condition, because we don't know exactly how many years it's going to take to get through any of these. Especially when you get into the longer term forecasting. Our proposal was this to alleviate that concern there was to make sure that when we get to this screened area, the way I've drawn it on this other map there is sufficient screening to the east. I think most of these neighbors when they talk about phasing they just don't want us getting over to the Friendship area before there is sufficient screening. That is kind of the major issue that we heard in our feedback. Any questions on that from the Board?"*

*There were no questions for Mr. Andrew Effinger from the acting Chairman, Robert Daugherty, or any other Board Member at the time.*

*Greg Gough, Neighbor at 21694 Friendship View Drive, addressed the Board, "I am also representing not only myself but my neighborhood. I am also representing 62 signature signees of a petition that were all opposed to this quarry expansion. Before we get into it I would like to number one thank you for this opportunity to speak and present this material to you tonight. Number 2 thank Mrs. Hunt for her graciousness and just setting aside this conservation area so the community especially our neighborhood is very pleased with this and looking forward to that occurring here in the future. Thank you Mrs. Hunt. If you start looking on the internet you can find a lot of stuff about everything, but if you look at quotes there are a bazillion quotes on trust. The thing I have always looked to on trust is that it is extremely hard to gain somebody's trust and so easy to destroy it. I can tell you based on our history with the quarry is we just have that lack of trust. What the quarry says they're going to do and what they are actually going to do. We are just really looking for transparency on their side. We are really looking for them to comply with what the Planning Board ultimately determines to be the path forward. The commitment to being a good neighbor is more than just listening and then doing whatever is easiest for you. The vegetation,*

we are glad to see that on there now. You know that they have verbally said that they're not going to mine into areas 4 and 5. Finally we are not in the camp of wanting a phased type of expansion plan. I think Jim teed it up perfectly in the very beginning, the Devil is in the details right? If all these things aren't written down now then there is no assurance that any of them will be followed in the future. I heard it loud and clear during the last meeting that the Planning Board is not an enforcement agency. We should do our best and I would ask for our Planning Board to really be mindful of all the little details that goes into this process. Where our frustration really lies is back in the January 23<sup>rd</sup> Planning Board Meeting, I know it's been a little while back, like nine months or so now it seems like 2 or 3 years with Covid going on. That meeting ended with this project being tabled and very specific recommendations from the Board and Philip Humbarb pointed out 'this expansion is a vast amount of new ground'. He was very supportive of and recommended doing it in a phased approach. Then Robert Daugherty chimed in and agreed with that and said that he would 'feel more comfortable if it was done in phases'. This discussion went on for quite a while if you look back in the minutes. Phil again detailed out some things and then for clarification Tim Gorman from the quarry said 'So the request is what?'. Then it was detailed out some more as you can see here. Last month the meeting came and they presented basically the same plan that they presented in January with no phasing, no acknowledgement of the request by the Board. The Board really didn't push them. Frankly, our neighbors, as neighbors we don't feel like this quarry should be rewarded for blatantly ignoring the Planning Board. Guys I know we have all been in school and we have all written book reports. If you turn that into your teacher and they look at you and go 'you know this isn't really complete. You need to go home and do some more work on this'. Then they send it home with you and you come back and do nothing, you get an F. That's where the trust really breaks down. It's like you guys did the right thing. You recommended a phased approach. We feel like the Rogers Group at this point is trying to get all of this land and tie up 50 years of mining to avoid environmental restrictions happen in the future. We just think it's very reasonable that they commit to exactly what they're going to do. All the little details in writing. One other thing they can do if they really want to be a good neighbor is they can conduct these blast surveys that I've researched. Basically, residents that are close, they set a point in time, which is now, and they go out and look at their properties, and record everything that's going on with them. Then every 3 to 5 years they go back and see what happened from all this blasting. I think that's a reasonable request. It also will protect the mine because the mine continues to say 'Hey these blasts and over pressure it's really nothing, there's no ground vibration'. You know how do you know? Protect yourself and protect us. Finally, we went away from the meeting last month very, very frustrated and concerned. We had one member in our community, Mike Butler, who is into the details, very investigative, and who did fantastic work. I know you all received the packet of his information. Since we couldn't get the Rogers Group to actually bring us a phased plan or what the 50 years looks like, he did the work for them. If you look at it, it's very detailed. I read all of that and from that I took a recommendation that I wanted to present to you guys tonight. Some of it's been incorporated because I shared it with Mrs. Hunt's attorneys and they shared it with the quarry already. That is where that hashed area comes in, that screened area, if you look at this plan. If we just approved them to go into areas 1, 2 and 3 plus the area that they currently have to mine right now that's a 33.5 year expansion. I would just ask the Board to be mindful of the future and think about how long down range you are looking at here. I don't think it is inappropriate to ask for this phase to come in 1, 2 and 3 and then while the trees are growing up and so forth let's see if they are actually good stewards. Let's see if they're actually going to do what they say they are going to do for the community, and listen to us, and perform as expected. Have them come back for 4 and 5 for re-approval. With that I just continue to say thank you for your time and thank you for listening to us and I hope you make the right decision."

Sherry Main, Neighbor at 15574 Riches Road, addressed the Board, "I don't live by this quarry, but I know quite a bit about quarries. I know quite a bit about Hunt Rogers quarries. I have one in the back of my property that they blast at. I just wanted to mention some things they were saying about good stewards and they want to know if Hunt Rogers was going to do what they say. In my experience of living with the exiting quarry they have on Hamestring Road in Fayetteville, that is adjacent to my property in the back, they do come and put a monitoring device at my property every time they blast. They do this because I have complained about the blasting and the damage to my home that I feel has occurred due to the blasting. There has been no stating 'These cracks were here before we started blasting'. They were blasting when I moved here in 2012. There's nothing for me to really prove that all the cracks are in my house was from the blasting prior to living here, but I knew the couple that lived here where I bought the house from. I'm really kind of knowledgeable on this situation in a lot of different areas so I do want to speak on behalf of Roger's Group as being a neighbor to me since 2012. Dwayne Gabbard, is my main contact at that party, and any time I call he answers my phone call. He doesn't blow me off or disregard me. If I have a complaint that's valid, which most of mine are, he listens. He tries to accommodate any complaints that I might have. I'm not trying to sway the Board either way or the other, because mining is mining, red dirt is red dirt, blasting is blasting. It's all hauled in trucks. It's all noise, its dust, it all kind of fits in the same basket, but that's it. Also, they are an existing grandfathered in mine. I agree with the phasing rather than giving them an open blanket to move into all these areas at their will by doing core drilling to see which is better. As far as limestone they want to blast. They will go to 5 instead of 3 because the limestone is better there and we don't have to go as deep or so forth. By the drilling they can determine that. On their mining plan they can by core drilling determine which section they want to move to and where would be in the best interest of

*the mining plan. They have the capabilities of doing that. I think that is something you do need to consider because an open blanket for just you know, if it doesn't work here we'll advance over there. 50 years on out this will be here way past our lifetime, so you as a Planning Board need to be a good steward. You need to make sure that you just don't give them an open permit and say 'Okay ya'll are permitted, let's do it'. There are too many loopholes in all of the conditions. I have been following this back since January. There needs to be firm conditions. They need to be understood. They need to be in writing and everybody needs to be on the same page. Rather than, just they need to follow up and deal with them. I deal with ADEQ on a weekly basis. It's on a complaint basis. They don't come out and monitor these sites. If they get a complaint they send an investigator out and they investigate the complaint. That's how they work because they're monitoring over 100 of these all over the State of Arkansas. They don't have time to sit and monitor these so it is on a complaint basis. They should have a good storm water management system in place and they can automatically report to ADEQ. That is a requirement for Rogers Group. They should be doing that. There are monitoring stipulations on all this stuff and Rogers Group should be doing it. They have a dust permit, an air permit, and they should be monitoring that somehow. They should be saying to the neighbors 'How are ya'll monitoring that? What do you do?'. There's questions that are not answered and there are things that's in place. If they would explain it better on the Rogers Group end I think the neighbors would maybe feel more comfortable that yes this is being monitored. Yes, we are in compliance. Yes, somebody is policing us. We're not just out here going rampant, digging holes, and blasting. We are under stringent conditions. They are. I wouldn't say that if it wasn't true, because I have a quarry in my backyard. I follow up and I make sure that they are all within the limits of the conditions that they are supposed to be. With that said I just want to say that I hope the Planning Board takes everything into consideration and listens to the neighbors. Rogers Group and the Hunt Group can listen to the neighbors as well and maybe meet in the middle to make everyone semi-understanding the whole system of what's going on in the expansion phases over 50 years. That's a long time to have something behind your house or right next to you blasting constantly. Unless you live by it or you experienced it you have no idea what it's like to have blasting going on right beside your house. That is all I have to say. Thank you for listening."*

*Andrew Effinger stated, "I thank the individuals that gave those comments here. I do want to say, I think this is the first request we've had for this that I know of but, we are more than happy to do what Mr. Gough requested and do pre-blast surveys of all the houses over in Friendship or anywhere near our quarries. If you live by the one over near Farmington bring that up with Dewayne and I'm sure we can get that done. You can't do one back in time but, you can do one now. We're happy to do those on Friendship that is a reasonable request, Nathan, for you do add a condition that we do some pre-blast surveys of all the neighboring properties. I do think that Sherry brought up that maybe I am not doing the best job presenting it, I know there are a lot of different permits that we're required to comply with. I know we are in compliance with them. We've done a lot of explaining to the neighbors at our open houses here over the last, almost a year. When it comes to the noise, and the blasting, dust, water and the discharges there are a bunch of regulations that we do comply with. There are numbers that the neighbors can call with complaints. There are visits we get based on those complaints and we work through those issues from time to time."*

*Colene Gaston, Staff Attorney for Beaver Water District, addressed the Board, "Thank you Nathan and Members of the Planning Board. I think I am the only one from Beaver Water District online right now. I want to clear up a few things. Mr. Effinger is correct the last two conditions under the Beaver Water District conditions were our more recent ones. My copy of the staff report doesn't, and maybe I got an earlier copy because it's not quite numbered the same. Nathan, can you pull those up if possible?"*

*Nathan Crouch responded, "Yes, just a second."*

*Colene Gaston continued, "They are numbered 5 and 6 on these and these were drafted to be immersable they use the terms shall. The first one has to do with a permanent conservation easement. A conservation easement is a term of art. It's a legally binding document between a land owner or donor and a qualified land trust under state statue. That is a binding agreement. Of course we don't yet have that conservation easement but, that is our understanding in terms of what Mrs. Hunt is willing to. We greatly appreciate that. That is our primary objective here. We submitted a couple of letters going back to mid-January or February but, those are incorporated in the records. Mr. Effinger said that there were errors in some of the statements and maybe they weren't worded exactly as the facts actually are on the ground, but I will say that they are still things that are important to us. For example the conditions for protections of ephemeral and non-ephemeral streams. Mr. Effinger said that there are no non-ephemeral streams on this property. And again, I don't know for certain, but all I know is that I looked at their jurisdictional water assessment that's part of their plan. It's also in the staff report, Nathan, I don't know if you could scroll down to it, but basically there is a finding that there's at least 210 linear feet of intermittent streams. Those are non-ephemeral streams. That's from September 18<sup>th</sup>, 2019, again submitted by the applicant. Maybe there's a little issue with some of the details here. I think we could talk and work them out but, I can't at this point say that Beaver Water*

District doesn't care about the earlier requests we had made. This brings me around to where Mr. Crouch was going, that there are a lot of conditions that have been presented. Some of them I agree with them that they are not written in language that is legally binding or enforceable. For those conditions that the Board actually wants to apply and be enforceable it probably needs some wordsmithing. Also, there's the issue on the things that are important to the Beaver Water District. Again, the conservation easement. We are at any time happy to work with the neighbors. We want to protect the water quality of the lake, but we certainly want them to present what they believe is important for them. We are happy to work with them on it. I would say that again, the legally binding way of doing that is with a permanent conservation easement and we would suggest that. This gets me back to saying there's a lot of information here. It's up to the Board how you choose to handle it tonight, but as a lawyer I would say one thing that might make sense is to listen to the comments. Have the Board express its wishes. Then have some wordsmithing. Put it in writing so that it's clear and everybody gets a chance to look at it and understand what the exact conditions are before there is a vote taken to either approve or deny it. That would be my recommendation. Thank you."

Bill Lloyd, Member of the public, addressed the Board, "I want to start with a couple of positives that's been going on out here. First of all the 72 acres that Mrs. Hunt has agreed to do the Beaver Lake Watershed, that's an obvious positive. The additional 129 acres that are to the west of Friendship View with the JB Hunt Estates Subdivision those are great positives. Primarily all those are done by Mrs. Hunt. I and Mike Butler met with Chris Godsey and Dewayne Gabbard about the vegetative barrier. Chris has already told me that they had reserved 150 8-12 foot trees already and that Mrs. Hunt has either paid or will be paying for those. They were hoping to be able to plant those this winter. We discussed the size and the scope of this vegetative barrier based on some of the ones that I've seen in Kansas where they are 40 to 50 yards wide. That needs to happen. There's not just going to be a single tree line. It has to be one tree line that faces the quarry, the boundary there. Then another tree line that is viewed by the subdivision. In between there's going to be more trees, smaller trees that will grow in between those. I believe that over a period of time that will greatly help with the noise, with the dust, and yes there is dust. I've taken pictures every day. It looks like a scene from Sahara out there in the late afternoon there is so much dust in the air. We got to get that under control. Now, the problem that we've been having is that we're not seeing enough specifics. I want to talk about that. When we talk about the vegetative barrier it needs to be 40 to 50 yards wide. It doesn't need to be a single row of trees. We need to have that in writing somewhere or in an agreement somewhere. We've talked about phase 1, phase 2, and phase 3. Mr. Effinger talks about the devil is in the details. Well, you know I asked the question at the last meeting that here in 2020 if you've been mining and been in the mining business for decades you should know what you are going to go into. There's plenty of technology that'll tell you what you have. I have a feeling that they already know and that's why they want to jump to phase 3 as soon as possible. If that's the case that's fine but, they need to be transparent and up front about that. If it's not then they go to phase 1 and they might need to work a little harder over these next 5 to 7 years. If they go to phase 3 directly that's going to cut this 50 year plan quickly to 30 years because that's going to speed up the timeline on that. When it talks about the details this Board, the Planning Board you don't need to pull a Pelosi here and say that we need to approve the plan to find out what's in the plan. You need to know what's in the plan. The Rogers Group needs to be specific in detail to tell you what's in the plan and they need to tell us what's in the plan. I'm just looking at one other thing that I want to get to and I guess we can do the ADEQ at the end of the meeting. I can always come back to that if I need to but, I know there were nine violations back in February concerning that and about the water and all that stuff. The discharge water, I saw some pictures of what that looked like and it looked like a milky white substance that nobody would want anywhere. The last thing I want to mention is the roads. I counted today on my way home from 412 and Sonora to the turnoff to go to the asphalt plant, 13 sections on that road that are in need of repair. I'm going to tell you I don't think that the residents of Washington County especially the ones that live around here need to deal with flat tires, bent rims and front-end alignments for the next 50 years. Those potholes they are not caused by weather. They are not caused by Covid-19. They are not caused by anything but dump trucks. All this talk about we're going to do this road plan, well that should have already been in the works. We should have already seen patching and repairs on these roads. The County, the quarry and the dump truck owners they need to get together and prove and show the residents of Washington County that they're actions are going to speak louder than words."

Andrew Effinger commented, "First, I want to jump back and thank Colene for joining us here. If my comment was inartful earlier I apologize. The ephemeral streams that were in that assessment that was done are outside of our mining area. The area of all this property that we plan to mine. That's what I meant by saying there weren't any, we aren't going to disturb any, I guess is a better way to say it. I appreciate her perspectives on those first ones. I do think that we worked through some of those issues, and some conversations it makes those in my mind a little bit irrelevant, but if they need to remain in there they need to remain in there. They are fine with us. I would just appreciate a little clarity on this process here. The Conditional Use Permit was approved subject to this negotiation about these conditions. Now we've had a whole lot of public comment. Some of it has some bearing on some objective conditions that might be reasonable to add if you guys are interested in adding those. We've got this list of I think a total of 46 right now. One of the challenges we had between the last

meeting and this meeting is that there could be some conversations hashing this thing out between myself and Nathan directly but, that doesn't necessarily meet the requirements of the conversation between the Board. I understand his presence to do this. It's just in this setting trying to go through all of these and get these things pinned down, I am not clear on what the process here is. I think a lot of these, at this point given what Nathan said you guys aren't really an enforcement agency. It's true that some of these are commitments that we are making that need to be fleshed out later. To Bill's point about a 40 to 50 yard wide tree line being necessary to being a screen. You may be right. What we are saying is you we're going to put enough trees in there to make a screen. We are trying to give that commitment here to get the commitment from you guys to allow us to have this mining area. We haven't invested in somebody to design that all the way through. It would be silly for us to invest a bunch of design work on something that's not approved yet. The same goes for all of this phasing. That is what I was trying to get to earlier is we think we understand the phasing. We generally have shown a phasing plan to you guys and the neighbors, but it's going to depend on further analysis, and further investigations, and the results of our actual mining. I don't think at this point for this approval we need to understand every minute detail of everything that's going to happen over the next 50 years. That's a high bar to try to put into conditions on this thing. I am just unclear where we are here."

Nathan Crouch detailed, "Well, I might just contribute that the Conditional Use Permit addresses the compatibility with the neighborhood and the Large Scale Development addresses the site plan and the technical issues of the project."

Andrew Effinger continued, "I am fine with a condition that says subject to further professional investigation or something like that. I don't think we are going to get to an agreement on how exactly to design a screen in this setting. I'm not sure how we proceed through these. We are willing to make commitments and we are willing to work with you on wording. If the Board thinks that there is a problem with the way these are worded now. I am just interested in some feedback along those lines."

Neil Helm, Planning Board Member, commented, "During the course of the last 9, 10, 11 and 12 months we've made some significant move and progress. I feel that at least for a short term that things are in the right direction. I can appreciate the fact that there are no specific points, but these are very reachable with the attitude. The change that I've seen during the course of these last couple of months. I would say that I think the Planning Board has done well. The players have done well to respond accordingly. Thank you."

Public Comment Closed

Philip Humbar, Planning Board Member, stated, "The whole idea of a phased development was not so much to come up with a day by day plan on how we would do it but, to put stop measures in to have the public have a way of slowing things down or stopping things if the quarry was not doing what they agreed to do. I thought the idea of the ombudsman was a good idea in that could be a continuous process instead of a multi-year process. I still think that there needs to be some mechanism that if the quarry is being a bad actor or there is some egregious thing happening that they can be reined in or stopped. I am just worried that if we give them a 50 year area to work in that we're going to have problems that we can't have adequately addressed in the future. I thought the idea that they came up with to have a paid monitor, or whoever was going to do it, could continuously be a force or someway of stopping or addressing those items to the satisfaction of people then it could happen but, there needs to be something in place to be able to ensure the public that they operate in the manner that they agreed to. Thank you"

Jay Percy made a motion to approve the **Hunt Rogers Quarry Expansion HI CUP** subject to staff recommendations with the additional conditions regarding the hours of operation presented by Andrew Effinger, the vegetation on Parsons Road be addressed and the patch and repair of potholes, with the added ombudsman requirement. Philip Humbar seconded.

Nathan Crouch called into question, "Pardon me for interrupting. If we are talking about the ombudsman, I had a discussion with the County Attorney about that, and I'm not sure if the County is able to require that. I'm not sure if that would be a County position, which I doubt, or if that would be a position that the quarry would need to hire somebody for, or if that would be a member of the community. Maybe Mr. Lester can talk to this just a little bit but, it seems to me that we might need to flesh out the ombudsman condition just a little bit before we move on."

Brian Lester, County Attorney, stated, "I talked to Nathan about the ombudsman position and my concern with that is, and it goes back to what Jim Crouch was talking about earlier, that's a condition that I don't see as enforceable. I don't know who would enforce that. An ombudsman is typically an individual that's hired and paid for by the government to oversee governmental operations and make sure that things are going correctly and being done properly. In this case we're talking about an ombudsman type of person who would actually oversee the quarry. I don't know who would hire this person, who they would answer to. They wouldn't be overseeing for compliance with any County regulation necessarily because you can't

really do that other than to let the neighbors know that there is an issue. Then the neighbors could bring a civil lawsuit. It just kind of gets into one of those situations where I have a difficult time saying "Hey this is a good idea and this'll work", because when it comes down to it. I just don't see how that would work. It that's an expectation that anyone would have that the County would utilize. Now, if the neighbors and the applicant wanted to get together and come up with some sort of contract or agreement for this type of service whereby the individual in question actually answered to the neighbors and the applicant then that's a viable option. I don't know that we could require that by CUP but, that is certainly something that they could consider doing on their own."

Robert Daugherty responded, "Well could we vote on this? I'd like to see it happen but, if we can't require it I don't know how to handle that."

Neil Helm, Planning Board Member, inquired, "Since this is a Conditional Use Permit could we impose a term of use on our vote? For instance could it be 1 year, 5 years, 3 years, 15 years, 20 years or whatever the comfort of the Board is. It appears to me that the only this is going to be revisited again is if it has to come back for the permit to be an issue."

Brian Lester, County Attorney, replied, "I don't think you can put a time limit on a conditional use. The purpose of a conditional use to allow some use that isn't granted by right. To say that we are going to allow you to do something for 5 years at the end of 5 years we're going to come in and we could change that, I think would be unconstitutional on our part because what we are saying to the applicant is you may be doing good and well and we come in and shut you down and you can no longer do that. It's kind of the reason that we've treated non-conforming uses, that existed prior to 2006 when the County enacted zoning, we've treated those as grandfathered in uses because we would have a real legal challenge, us being the County, to come in and say 'Everybody that had something going on at that time you have to stop your business altogether and end it'. That's why we've handled it that way. I do not think that we could put terms on the conditional use."

Neil Helm explained, "The reason I brought it up is because there is really no control. If we vote for this other than the credibility of the people that are asking for it. I see no real teeth or enforceable points that we can talk about."

Brian Lester responded, "That's true so we treat these conditional uses as kind of a zoning. That's probably what we're doing here is really more of a zoning request. With a zoning request if someone were to come in and ask for a rezone and it were to be rezoned then that's the zone. It's not a temporary zoning. It's permanent in nature until someone else comes in and asks to change it to something else. For that reason this can't just be a temporary situation that ends on a certain date."

Philip Humbarth withdrew his second on the previous motion to approve the **Hunt Rogers Quarry Expansion HI CUP** subject to staff recommendations with the additional conditions regarding the hours of operation presented by Andrew Effinger, the vegetation on Parsons Road be addressed and the patch and repair of potholes, with the added ombudsman requirement. Jay Percy amended the previous motion to remove the added ombudsman requirement. There was no second. The Motion failed.

Philip Humbarth suggested, "I would like to see a motion in it that had something in it that would put some kind of time frame on it that would be agreeable to both the applicant and the Board to have them come back at some point and request additional area to work in. I don't know if that's a doable thing for them or even reasonable for us to request, but it seems like we don't need to open-handedly approve the whole area."

Andrew Effinger specified, "I wanted to speak a little bit about the ombudsman there and then also to the term issue that Brian addressed a little bit there. Brian, to be clear where we've had an ombudsman in the past the way that's worked is that hiring the ombudsman and paying the ombudsman has been on us as the permit holder. It's been a condition of the permit that we maintained that position or that we kept that person. You have to replace them if that person retired so forth and so on. We would pay the individual. They would be a third party typically like an attorney or a civil engineer. We actually talked to a local engineering firm down there that the proposal made sense to them. The idea that there is an individual that a citizen can contact, a neighbor can contact, and that would notify you as the Board if we become in violation of one of our conditions. What you guys would then do with it or what the neighbors would do with it if the ombudsman determined that we were in violation of a condition, like you said it might be a civil action, it might be a mandamus action, and it might be you guys doing some kind of enforcement. If it's some kind of gross violation. To Philip's point it gives you guys some recourse or some confidence that someone who is a third party is looking at these conditions, at what we are doing and finds that we are still compliant on a regular basis. That's the idea behind the ombudsman. I think you're right on the term. I think this also applies to the point of trying to give us an approval for only a certain number of years. We've actually run into that in other jurisdictions where we've received a time framed limited Conditional Use Permit and when we went back at the end of the

*term the attorneys for the jurisdiction didn't know what to do with us at that point because there's no re-application process. There is no update or conditional use permit that you have previously processed and it was determined that we had the Conditional Use Permit and that term on it was impermissible. The Conditional Use Permit stayed in place. From the last meetings if you think about an RV Park or something like that, when this Board approves it, they approve it. There's not a term on it. It's outside of the purview of this conditional use permit to think in terms of how long the permit is good for. It's simply not that kind of permit. This is more of a permanent decision. To the point about teeth, I think that these conditions are the teeth. If we violate any of these conditions that means that the land use permit is no longer valid. Right? If there's a problem there you guys would have recourse against us, the County would and third parties would have recourse for you guys to enforce the rules. Now whether each one of these is easily ascertainable or whether we're in compliance with each one of these conditions or not, yeah it's up to some argument, but there would be no argument in the case of some kind of gross violation of the condition that was brought up. If there's some kind of a gross violation where say we were to go outside of our permitted mine boundaries or something like that. We would have to fix it, and stop whatever and get back inside of our permit boundaries or risk losing the permit. I think the ombudsman is a good idea. I think we can find somebody down there to keep an eye on us. I think this set of conditions is good that I hear people adding, but I'm still not clear on if that gets added on top of all these 40 that are on the power point or on the staff report or that gets added to the 13 that you had. I think in either scenario we can work through these."*

*Brian Lester asked, "Andrew, are you proposing that for this ombudsman position that it would be someone that would not just hear a complaint, but they would go in and actually investigate?"*

*Andrew Effinger answered, "Yeah, if you had an engineering firm. One of these conditions is we're giving you a legal description of our boundary. An engineering firm could look at our aerial photos that we do every once in a while or look at the County's aerial photos and overlay it and look where we are and make sure that we're staying inside our boundaries. They could do a quick search of the ADEQ record or any other agency's record if we still have our permits. If everything is still on the up and up there. They could also field calls from neighbors and resolve issues. What we found here is a lot of the noise complaints that people brought up ended up being the asphalt plant next door and not us. Sometimes you just need somebody to investigate something that's going on and see what's really going on out there. Then demand a response from us if necessary to do so. That's kind of the role they would play. They need to have some technical background to be able to do this. That's why I think an engineering firm is a good idea."*

*Brian Lester inquired, "Okay, and so that would be someone hired and chosen by the Hunt Rogers Group, is that correct?"*

*Andrew Effinger replied, "Well, I am willing to have a conversation about it. We could mutually agree on some kind of an engineering firm that comes in front of you guys regularly. I think they talked to ESI. Does that make sense? Do you guys know that name? I think that's who the Hunt people talked to someone. I think it was ESI. I'm okay with that. I'm okay with the recommendation. I'm okay with the Board approving it. I'm okay with Nathan approving it. We just need somebody with a good professional standing in the area."*

*Brian Lester affirmed, "I appreciate that."*

*Robert Daugherty asked for clarification, "Brian, could we approve this with the 3 additional requirements and make the recommendation that we would like to see them hire this independently individual or firm?"*

*Brian Lester advised, "I can imagine given the amount of individuals and land owners that are in opposition to a lot of this I think you would probably see an appeal filed pretty quickly. The Quorum Court won't take it up knowing there is a lot of opposition. In my opinion only, and it has nothing to do with any of the rest of it. I would be of the opinion that this be something that you have completely firmed up if you are looking to pass with these recommendations up and that they mesh. I know that there was some discussion between Colene and Andrew that those issues are taken up. If you are going to look at utilizing something like this then that issue be resolved completely and we know who it is that would be in that position and we could define exactly what their responsibilities are before making a decision to move forward, because if not it's just going to be muddied up even more when it gets to the Quorum Court."*

*Robert Daugherty affirmed, "Thank you Brian, that's my desire too. I'll leave it up to the Board for their opinions or motions, but I would like to see this all ironed out to the best of our ability before we vote because we know where this is probably headed down the road, but I'll bring it back to the Board for further discussion or motions."*

*Philip Humbar made a motion to table the **Hunt Rogers Quarry Expansion HI CUP** to give the applicant and the staff*

adequate time to make additions to conditions until the January 14, 2020 Planning Board Meeting. Neil Helm seconded. All Board Members present were in favor of approving. Motion passed.

## 5. NEW BUSINESS

### CONDITIONAL USE PERMIT HEARINGS

#### Fayetteville Planning Area

#### **b. Ruby Graham Residential CUP**

##### ***Residential Conditional Use Permit Request***

Location: Section 36, Township 17, Range 31

Applicant: Ruby Graham

Location Address: 4797 W. Weir WC 94

JP District: Sam Duncan, District 7

Approximately: +/- 1.75 acres / 1 lot

Coordinates: Latitude: 36.11062763, Longitude: -94.23075581

Project #: 2020-311

Planner: Nick Little email: [nlittle@washingtoncountyar.gov](mailto:nlittle@washingtoncountyar.gov)

#### **APPLICANT'S REQUEST**

The applicant is requesting residential conditional use permit approval to place a second dwelling unit onto a piece of property that is less than two acres in size. The project parcel is zoned for agricultural and single-family residential use at a density of one unit per acre. Adding another dwelling to the property would exceed the density that the zoning calls for, thus Conditional Use Permitting is required.

#### **SITE INFORMATION**

Land Owner:	Steve Shoemaker	Parcel Number:	001-17610-000
Site Location:	4797 W Weir Road, WC#94	Planning Area:	Fayetteville
Acreage:	±1.75 acres	QC District:	7, Sam Duncan
Current Zoning:	Agriculture/Single-Family Residential 1 unit per acre	School District:	Fayetteville
FIRM:	05143C0205F	Fire District:	Wheeler Rural - 108
Wetland:	No	Watershed:	None

#### **UTILITIES**

Electricity:	Ozark Electric	Gas:	Black Hills Natural Gas
Cable:	Cox	Phone:	AT&T
Water:	Fayetteville Water		

#### **BACKGROUND/SYNOPSIS**

The applicant, Ruby Graham, is requesting a residential CUP in order to add a second dwelling to a property that is less than two acres. The zoning is for Agricultural and Single Family Residential uses with a maximum density of one (1) residential unit per acre. The addition of the second home will make the property more dense than what the zoning allows, triggering the requirement of a Conditional Use Permit. The proposal is located on the southern side of Weir Road WC#94. There is one residential structure on the property currently at 4797 W Weir Road WC#94. There seems to be a parked RV between the existing home on the property and the road, as well. The new dwelling will be placed in a cleared area in the northeastern corner of the project parcel. The new dwelling will utilize a second driveway that will be placed about 170' east of the existing driveway. Another septic tank will be installed to accommodate the new home, with the lateral fields sitting directly to the south of the new home and to the east of the existing home.

#### **COMPATIBILITY**

##### **Surrounding Land Use and Zoning**

<i>Direction from Site</i>	<i>Land Use</i>	<i>Zoning</i>
North	Residential	Ag/SF Res 1 unit/ac

South	Agricultural/Vacant	Ag/SF Res 1 unit/ac
East	Residential	Ag/SF Res 1 unit/ac
West	Residential	Ag/SF Res 1 unit/ac

**Existing Condition of Property**

The subject property is zoned Ag/SF Res 1 unit/ac and has a residential use. The project property has one residential unit on it. Current aerial imagery and a site visit display the condition of the property to be well kept. There is quite a bit of wooded area on the project parcel, but the new dwelling will be placed in a clearing right off of Weir Road WC#94.

**County’s Land Use Plan**

According to the County’s Land Use Plan:

*Article VI. - ZONING*

***Sec. 11-196. – Conditional Uses.***

*All other proposed uses in said zones, other than those specifically permitted therein, are hereby declared to be conditional uses and may be permitted based upon the factors set forth below.*

*(Ord. No. 2006-66, Art. 6, 11-9-06)*

This area of Washington County is heavy with residential uses and some agricultural uses. There are several smaller lots that are strictly used for agricultural purposes, but some of the larger lots, including the lot directly south and east of the project parcel, are mainly used for agricultural purposes.

**Future Land Use / Zoning Designation**

The parcel is within Fayetteville’s Planning Area. The future land use for this property is listed as Rural Area Residential with no set density. The current zoning for the project parcel is Ag/SF Res 1 unit/ac. If the project is approved, the zoning will stay the same, but with a conditional use allowance for the density issue.

**Neighbor Comments and Concerns**

Pursuant to Sec 11-204, Sec 11-71 (2a), and Sec 11-101b of the Washington County Code of Ordinances, notifications were sent by certified letter to all adjoining property owners within 300 feet. To date, Staff has not received comments voicing opposition or favor of the project. One call was received from a neighbor who received the notification and wanted an explanation of what the purpose of the project was. Planning Staff will update the Board should any further comments be received.

**Criteria for Conditional Uses**

According to Sec 11-200(a) Criteria for allowance of conditional uses:

The Board shall hear and decide requests for a conditional use and may authorize such if it finds:

<i>Criteria</i>	<i>Staff Comments</i>
1 That a written application has been filed with the Planning Office and the appropriate fee has been paid.	The applicant has submitted an application and the review fee pertaining to this project.
2 That the applicant has provided proof that each property owner as set out in section 11-204 has been notified by return receipt mail.	Notifications of public hearing was sent via certified receipt. Staff has copies of the certified receipts as proof.
3 That adequate utilities, roads, drainage and other public services are available and adequate or will be made available and adequate if the use is granted.	Adequate utilities are available or will be made available at the applicant or property owner's expense.
4 That the proposed use is compatible with the surrounding area.	The proposed use is compatible with the area. The property will retain its residential use, but will be more dense than the property size allows.
5 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.	In this case, the establishment and operation of the conditional use will not be a detriment to general welfare. The only change to the surrounding area will be the addition of another home and driveway on Weir Road.
6 That the conditional use will not be injurious to the use and enjoyment of other property in the surrounding area for the purposes already permitted, nor substantially diminish and impair property values within the surrounding area.	The addition of another dwelling onto this property shouldn't effect enjoyment of property or diminish property values to surrounding properties. Despite this Conditional Use Permit, the proposed use of the project parcel will still be residential.
7 That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding area for uses permitted in the zone.	This permit will not impede the orderly development of the surrounding area. The future land use plan for this area is classified as "rural area residential" and will continue to follow that trajectory, even with this CUP.

#### **SUMMARY OF AGENCY COMMENTS – TECHNICAL REVIEW**

From Ozarks Electric

1. Any damage or relocation of existing facilities will be at owner's expense.
2. Any power line extension that has to be built to this property will be at the owner's expense. The cost will be determined after the owner makes application for electric service and the line has been designed.
3. All off site easements that are needed for Ozarks to extend electrical service to the property must be obtained by developer and easement documentation provided to Ozarks before work begins. On site easements must be shown on plat and recorded with the county.
4. Please contact Ozarks Electric if you have any questions.  
Wes Mahaffey At (479)263-2167 Or [wmahaffey@ozarksecc.com](mailto:wmahaffey@ozarksecc.com)

Washington County's Contracted Engineer had a question about the driveway potentially impeding the natural drainage flow along Weir Road, but the applicant didn't think that the addition of gravel as the driveway would cause any significant impedance or drainage issues.

#### **RECOMMENDATION & CONDITIONS**

Staff recommends the following conditions of approval for this project:

##### **Engineering Conditions**

1. Driveway must be constructed in a manner to which it does not impede natural drainage along Weir Road WC#94

## Standard Conditions for All Projects

1. Pay neighbor notification mailing fees within 30 days of project approval. Any extension must be approved by the Planning Office (fees will be calculated once the info is available from the post office). This total will be calculated for this project once all invoices are received.
2. Pay any engineering fees. This total will be calculated for this project once all invoices are received.
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. All CUPs must be ratified by the Quorum Court.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
6. Per Washington County ordinance Sec 11-75 (7): All plats for land developments approved by the Washington County Planning Board shall be contingent upon receipt by the Developer of any Federal, State, or local or approvals, if any, whether known or unknown to the Board or the Developer.
7. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.

*Washington County Planner, Nick Little, presented the staff report with updates for the Board Members.*

### *Public Comment*

*Ruby Graham, Applicant for the proposed project, addressed the Board, "To start with the concern about the existing problem with the sewage. That sewage was a backed up line that has been already taken care of and addressed. The gal that came out and did the septic run in order to do the plan, we asked her if there was any problem with what was laid out there already, and she said 'no' that there wouldn't be any conflict between the two because of where we are placing it by comparison to where the other one is. The run off area is all trees. As you can tell from where the houses lie. The bottom line is there's two people in the one trailer and then there would be me. They have a 500 gallon tank. I'll have a 1,000 gallon tank. Any kind of off sewage from that is virtually none."*

### *Public Comment Closed*

*Philip Humbarnd inquired, "What was the total acreage on this tract?"*

*Nick Little replied, "1.75 acres, I believe, not quite 2."*

*Philip Humbarnd made a motion to approve the **Ruby Graham Residential CUP** subject to staff recommendations. Walter Jennings seconded. All Board Members present were in favor of approving. Motion passed.*

### Springdale Planning Area

#### **c. Custom Lawn Care & Landscaping CUP**

##### *Conditional Use Permit Request*

Location: Section 28, Township 18, Range 29

Engineer: Earthplan Design Alternatives, PA

Location Address: 4551 E. Monitor WC 91

JP District: Patrick Deakins, District 5

Approximately: +/- 33.64 acres / 1 parcel

Coordinates: Latitude: 36.20525905, Longitude: -94.07895655

**Project #: 2020-310**

**Planner: Sita Nanthavong email: [snanthavong@washingtoncountvar.gov](mailto:snanthavong@washingtoncountvar.gov)**

## APPLICANT'S REQUEST

The applicant is requesting conditional use permit approval to allow the development and operation of a lawn care and landscaping business.

## SITE INFORMATION

Land Owner:	Top Notch Rentals LLC	Parcel Number:	001-18461-000
Site Location:	4551 E Monitor Rd WC 91	Planning Area:	Springdale
Acreage:	33.64 acres +/- per survey	QC District:	5, Patrick Deakins
Current Zoning:	Agriculture/Single-Family Residential 1 unit per acre	School District:	Springdale
FIRM:	05143C0080F	Fire District:	Nob Hill Rural

Wetland: No

Watershed: Beaver Watershed

**UTILITIES**

Electricity:	Ozark Electric	Gas:	None
Cable:	Cox Communications	Phone:	AT&T
Water	Springdale Water		

**BACKGROUND/SYNOPSIS**

The applicant, Daryl Ohaviano, is requesting conditional use permit approval to allow the development and operation of a lawn care and landscaping business. The zoning is for Agricultural and Single Family Residential uses with a maximum density of one (1) residential unit per acre. The project parcel is in the City of Springdale Planning Area. The proposal is located between E Monitor Rd WC 91 and N Scott Hollow Rd WC 575. The project parcel is approximately 33.64 acres. The applicant intends to utilize only the northern portion of the property that is already cleared for their development. The total disturbed area will be approximately 6.3 acres. The applicant intends to construct two buildings in phases. The first building will be approximately 9,600 sq ft. The second building will be smaller and constructed at a later date. The hours of operation will be Monday through Friday, from 7:00am to 6:00pm with occasional Saturdays and after-hours work. It is estimated that there will be around 30-35 employees with Phase 1. The applicant does not intend to have on-site customers. If the applicant receives its conditional use permit, they must return for the large scale development review. Some more technical items not covered within this CUP must and should be covered during the large scale development portion.

**COMPATIBILITY**

**Surrounding Land Use and Zoning**

<i>Direction from Site</i>	<i>Land Use</i>	<i>Zoning</i>
North	Residential/Agricultural	Ag/SF Res 1 unit/ac
South	Residential/Agricultural	Ag/SF Res 1 unit/ac
East	Agricultural	Ag/SF Res 1 unit/ac
West	Residential/Agricultural	Ag/SF Res 1 unit/ac

**Existing Condition of Property**

The subject property is zoned Ag/SF Res 1 unit/ac and has an agricultural use. It is in an area that is mixed with agricultural and residential uses. The property is vacant. The northern portion of the property, where the development will actually occur, is mostly cleared of trees and other plants. The southern portion is very wooded. The access to the development will be from the north, E Monitor Road. The applicant has no plans to develop the wooded area so the south.

**County’s Land Use Plan**

According to the County’s Land Use Plan:

SECTION III. PHYSICAL DEVELOPMENT

- B. LAND USE CONSIDERATIONS
  - 2. LIGHT COMMERCIAL

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

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.

The proposed Conditional Use Permit is to allow the applicant to development and operate their lawn care and landscaping business. The business will mostly be utilized for storing materials and to be a “home base” for employees when they leave for their work day. They would leave their vehicles at the site, and utilize company vehicles to service their clients. The applicant does not intend to have a steady stream of customers or visitors. Aside from employees and material delivery, there should not be any further “business” that would severely impact the area.

**Future Land Use / Zoning Designation**

The parcel is in the Springdale Planning Area. The Washington County Future Land Use map indicates that the area the project parcel is situated in is designated for a future residential zoning. The current zoning for the project parcel is Ag/SF Res 1 unit/ac. If the project is approved, the zoning will stay the same, but with a conditional use allowance.

**Neighbor Comments and Concerns**

Pursuant to Sec 11-204, Sec 11-71 (2a), and Sec 11-101b of the Washington County Code of Ordinances, notifications were sent by certified letter to all adjoining property owners within 300 feet. To date, Staff has not received comments voicing opposition or favor of the project. Planning Staff will update the Board should any further comments be received.

**Criteria for Conditional Uses**

According to Sec 11-200(a) Criteria for allowance of conditional uses:

The Board shall hear and decide requests for a conditional use and may authorize such if it finds:

<i>Criteria</i>	<i>Staff Comments</i>
1 That a written application has been filed with the Planning Office and the appropriate fee has been paid.	The applicant has submitted a written application and tendered the appropriate fee.
2 That the applicant has provided proof that each property owner as set out in section 11-204 has been notified by return receipt mail.	Notifications of public hearing was sent via certified receipt. Staff has copies of the certified receipts as proof.
3 That adequate utilities, roads, drainage and other public services are available and adequate or will be made available and adequate if the use is granted.	Adequate utilities are available or will be made available at the applicant or property owner’s expense.
4 That the proposed use is compatible with the surrounding area.	Lawn care and landscaping contain an element of agricultural/residential use. The development will contain up to two large warehouse style buildings that should not seem too out of place or too commercial for the area. The business will be for storing material to be used at landscaping and lawn care projects. The site will serve as a “home base” for employees.
5 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.	The proposed location is in a quiet area. The proposed development, aside from the construction phase, should not be considered detrimental to the public health, safety, morals, comfort or general welfare. There will not be heavy equipment utilized on site on a daily basis.

<p>6 That the conditional use will not be injurious to the use and enjoyment of other property in the surrounding area for the purposes already permitted, nor substantially diminish and impair property values within the surrounding area.</p>	<p>The southern portion of the parcel is extremely wooded and provides a dense buffer. The northern part of the property is mostly cleared. To assist with visual mitigation, Staff will require opaque screening around the northwestern portion of the property where E Monitor Rd borders the property boundary.</p>
<p>7 That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding area for uses permitted in the zone.</p>	<p>The conditional use request should not impede with the normal and orderly development and improvement of the surrounding area. East Monitor Rd WC 91 is asphalted and should be able to handle an additional 20-30 vehicles in the morning and in the evening when the work day is complete.</p>

**SUMMARY OF AGENCY COMMENTS – TECHNICAL REVIEW**

From Ozarks Electric

1. Any damage or relocation of existing facilities will be at owner’s expense.
2. Any power line extension that has to be built to this property will be at the owner’s expense. The cost will be determined after the owner makes application for electric service and the line has been designed.
3. All off site easements that are needed for Ozarks to extend electrical service to the property must be obtained by developer and easement documentation provided to Ozarks before work begins. On site easements must be shown on plat and recorded with the county.
4. Please contact Ozarks Electric if you have any questions. Wes Mahaffey At (479)263-2167 Or [wmahaffey@ozarksecc.com](mailto:wmahaffey@ozarksecc.com)
5. Ozarks will need a 30 ft UE along existing overhead line.

From Washington County Environmental Affairs

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.adeq.state.ar.us](http://www.adeq.state.ar.us)

From Washington County 911 Addressing Dept. of Emergency Mgmt.

1. A physical 911 address may be required. Please complete the Address Application, if needed.

From the Washington County Engineer

1. There are no comments concerning the CUP. However, the engineer is anticipating that the site distance on the west drive entrance to be an issue that will have to be resolved in the LSD. Also, with the amount of impervious area being added, it is probably safe for the applicant to assume detention will be required.

From Washington County Planning

Please provide or update the following from the CUP checklist:

1. Soil analysis from a DR has not been received. Please submit this or a date of when the analysis is to be performed.

**RECOMMENDATION & CONDITIONS**

Staff has reviewed the CUP submittal documents and feels that the proposed use can be made compatible with the following conditions:

## **Utility Conditions**

### Electricity – Ozarks Electric

1. Any damage or relocation of existing facilities will be at owner's expense.
2. Any power line extension that has to be built to this property will be at the owner's expense. The cost will be determined after the owner makes application for electric service and the line has been designed.
3. All off site easements that are needed for Ozarks to extend electrical service to the property must be obtained by developer and easement documentation provided to Ozarks before work begins. On site easements must be shown on plat and recorded with the county.
4. Please contact Ozarks Electric if you have any questions. Wes Mahaffey At (479)263-2167 Or [wmahaffey@ozarksecc.com](mailto:wmahaffey@ozarksecc.com)

### Phone – PG Telco

1. Please contact PG Telco for telephone concerns and questions.

### Water – City of Springdale

1. The owner/developer shall be responsible for the cost of any required adjustments to the existing water and sewer facilities due to site grading, paving, lot line adjustments or other matters.
2. Field locate and verify the location of existing water and sanitary sewer facilities located on proposed Lots. Indicate the location of these facilities on the drawing and provide adequate easements, on-site and off-site, acceptable to the Springdale Water Utilities. Easements shall be established such that a minimum 10-foot space shall be provided between the utility and any permanent structure and easements shall be provided such that a minimum of 10' is between the utility and easement line.
3. Any water taps to be installed on existing facilities shall be installed by Springdale Water Utilities at the owner or developer's expense.
4. Please be advised that private water meter service lines cannot cross adjacent properties in order to access services or be located and running parallel within a public utility easement.

## **Fire Safety Conditions**

### Fire Marshal

1. Please contact the Washington County Fire Marshal for fire safety concerns and questions.

### Nob Hill Rural Fire Department

1. Please contact the Nob Hill Fire Department for fire safety concerns and questions.

## **Sewer/Septic Conditions**

1. A soil analysis conducted by a designated representative of the Arkansas Department of Health must be provided before final approval may be given.

## **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.adeq.state.ar.us](http://www.adeq.state.ar.us)

## **Drainage/Engineering Conditions**

1. The engineer is anticipating that the site distance on the west drive entrance to be an issue that will have to be resolved in the LSD. Also, with the amount of impervious area being added, it is probably safe for the applicant to assume detention will be required.

### **Signage Conditions**

1. All signs must be out of the right of ways.
2. Signs may not exceed 24 square feet in size and 8 feet in height.
3. Signs shall not be directly lit.
4. Signs may not be placed in the County Right of Way.

### **Lighting Conditions**

1. 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.

### **Screening Conditions**

1. All outdoor storage areas and dumpsters, to include the gate, must be screened with opaque material of a uniform type.
2. Care should be taken to leave as much of the wooded areas intact.
3. Uniform opaque screening along Monitor Road must be included in the Large Scale Development review. Screening must, at minimum, shield the development from nearby residences or be the entire length of the northern boundary that parallels Monitor Road. Due to the nature of the proposal, plants may be utilized in lieu of fencing. Should the applicant wish to utilize plants, they should work with the Planning Department to assist with researching non-invasive native species to install.

### **Road Conditions**

1. A permit from the Washington County Road Department will be required prior to any work being completed in the right-of-way.
2. Any tile that may be needed must be sized by the Road Department.

### **Addressing Conditions**

1. A physical 911 address may be required. Please complete the Address Application, if needed.

### **Planning Conditions**

1. The Conditional Use Permit is specifically to allow a lawn care and landscaping business only. Any future land uses not allowed by the current zoning must come before the Planning Board/Zoning Board for conditional use permit approval and ratified by the Quorum Court.
2. If the CUP is approved, the applicant must continue this project through the Large Scale Development (LSD) process.

### **Standard Conditions for All Projects**

1. Pay neighbor notification mailing fees within 30 days of project approval. Any extension must be approved by the Planning Office (fees will be calculated once the info is available from the post office). This total will be calculated for this project once all invoices are received.
2. Pay any engineering fees. This total will be calculated for this project once all invoices are received.
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. All CUPs must be ratified by the Quorum Court.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.

6. Per Washington County ordinance Sec 11-75 (7): All plats for land developments approved by the Washington County Planning Board shall be contingent upon receipt by the Developer of any Federal, State, or local or approvals, if any, whether known or unknown to the Board or the Developer.
7. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.

*Washington County Senior Planner, Sita Nanthavong, presented the staff report with updates for the Board Members.*

*No Public Comment*

*Public Comment Closed*

*Robert Daugherty made a motion to approve the **Custom Lawn Care & Landscaping CUP** subject to staff recommendations. Jay Pearcy seconded. All Board Members present were in favor of approving. Motion passed.*

County

**d. Phillips Minor Subdivision CUP**

***Conditional Use Permit Request***

Location: Section 10, Township 14, Range 32

Applicant: Blew & Associates

Location Address: 14388 Tyree Mountain WC 14

JP District: Willie Leming, District 13

Approximately: +/- 10.31 acres / 3 lots

Coordinates: Latitude: 35.90593911, Longitude: -94.37043781

**Project #: 2020-306      Planner: Sita Nanthavong      email: [snanthavong@washingtoncountyar.gov](mailto:snanthavong@washingtoncountyar.gov)**

**APPLICANT'S REQUEST**

The applicant is requesting conditional use permit approval allow the split of a parcel in which one of the parcels will result in a density of less than one (1) acre in size in an area that is zoned for agricultural/single family residential uses with a maximum of one (1) unit per acre.

**SITE INFORMATION**

Land Owner:	Jeffrey Phillips & Lisa Phillips	Parcel Number:	001-04665-001
Site Location:	14388 Tyree Mountain Rd	Planning Area:	None
Acreage:	10.315 acres +/- per survey	QC District:	13, Willie Leming
Current Zoning:	Agriculture/Single-Family Residential 1 unit	School District:	Lincoln
FIRM:	05143C0340F	Fire District:	Lincoln Rural
Wetland:	No	Watershed:	None

**UTILITIES**

Electricity:	Ozark Electric	Gas:	Black Hills
Cable:	None	Phone:	PG Telco
Water	Lincoln Water		

**BACKGROUND/SYNOPSIS**

The applicants, Lisa Phillips and Jeffery Phillips, are requesting residential conditional use permit and minor subdivision approval to allow a 10.315 acre property to be split into three tracts and allow one (1) of the proposed tracts to be at a density that is less than one (1) acre per residential unit. The zoning is for Agricultural and Single Family Residential uses with a maximum density of one (1) residential unit per acre. The project parcel is not in a planning area. The proposal is located east of Tyree Mountain Rd WC 14. The project parcel is approximately 10.315 acres and contains two existing residences.

Sec 11-191.1 (a) of the Washington County Code of Ordinances state that single-family residential uses shall have a tract or parcel size of no less than one (1) acre in size. The proposed minor subdivision will leave a tract at a density of less than one (1) acre in size.

Sec. 11-79 (b)(2) of the Washington County Code of Ordinances state that the split may be exempt from Planning Board

review if “The division of land into an unspecified number of tracts, each of which are at least forty (40) acres, more or less, in size.

What the applicant proposes does not qualify for exemption and therefore must be reviewed by the Planning Board. The CUP must be ratified by the Quorum Court.

**Original Tract**

001-04665-001 – 10.315 acre, two residences

**Proposed**

Tract 1 – 7.664 acres with residence Tract 2 – 1.908 acres, vacant

Tract 3 – 0.743 acres with residence

**COMPATIBILITY**

**Surrounding Land Use and Zoning**

<i>Direction from Site</i>	<i>Land Use</i>	<i>Zoning</i>
North	Residential/Agricultural	Ag/SF Res 1 unit/ac
South	Residential/Agricultural	Ag/SF Res 1 unit/ac
East	Residential/Agricultural	Ag/SF Res 1 unit/ac
West	Residential/Agricultural	Ag/SF Res 1 unit/ac

**Existing Condition of Property**

The subject property is zoned Ag/SF Res 1 unit/ac and has an agricultural use. It is in an area that is mixed with agricultural and residential uses. The property contains two residences, one located at the northern end and the other at the southern. The property is surrounded on the northern, southern, and eastern sides by trees and other vegetation. The western boundary abuts Tyree Mountain Rd WC 14. Across the county Road is pasture and farmland.

**County’s Land Use Plan**

According to the County’s Land Use Plan: SECTION III. PHYSICAL DEVELOPMENT

A. LAND USE CONSIDERATIONS

1. RESIDENTIAL

To achieve these objectives, it is essential to:

- 1. To provide for development of residential areas at appropriate densities.

*The requested density for the proposed Tract 3 is 0.74 acres per residential unit. Though there are not very many similar parcels, a handful do exist where residential parcels are under the required one (1) acre. The residence is already existing. There should not be issues with this residence being on a parcel that is less than one (1) acre in size.*

- 2. Update, administer and enforce subdivision regulations; and develop, adopt, and enforce zoning and related regulations and codes;

*Per current County zoning, any non-conforming use or size must be granted a conditional use permit. The applicant understands that this request must be approved by the Planning Board and receive Quorum Court approval.*

- 3. Require development to be connected to utilities and utilize zoning as a means to guide the progression of development;

*Proposed Tracts 1 and 3 already are connected to utilities. In general, should the property owner of Proposed Tract 2 desire utilities, the applicant/developer must obtain property permits from the provider and connect/extend the utility line/s at their own expense.*

- 4. Protect the character and integrity, and property values, of single family, residential areas;

*The applicant is requesting minor subdivision approval to allow the split of the parent tract into three (3) smaller parcels. Two of the three already have existing residences. The proposed Tract 2 will be approximately 1.9 acres in size. The parcel size for a residential unit conforms to current County zoning and to the area.*

- 5. Protect residential neighborhoods from inappropriate non-residential influences through the use of regulatory controls;

*The proposed use for the CUP is residential. Residential uses are already granted by the current County zoning.*

- 6. Ensure land use and development patterns which provide for the most efficient and effective use of available utilities and services, including fire protection; and,

*The entire western side of the parent tract abuts with the County Road for ease of access for first responders. Generally, utility lines lay near or within the County ROW. Connecting or extending utility lines, which already exist in the area, should be difficult.*

- 7. 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 proposal will potentially add one extra residential unit. This may generate an extra vehicle or two on the County Road. The extra two vehicles should not be detrimental to the traffic movement within the area.*

The proposed Conditional Use Permit is for a residential use to allow the split of Tract 3 to be less than one (1) acre in size. The use is already granted by the current County zoning.

**Future Land Use / Zoning Designation**

The parcel is not in a city planning area. There is not a Future Land Use for the project parcel. The current zoning for the project parcel is Ag/SF Res 1 unit/ac. If the project is approved, the zoning will stay the same, but with a conditional use allowance.

**Neighbor Comments and Concerns**

Pursuant to Sec 11-204, Sec 11-71 (2a), and Sec 11-101b of the Washington County Code of Ordinances, notifications were sent by certified letter to all adjoining property owners within 300 feet. To date, Staff has not received comments voicing opposition or favor of the project. Planning Staff will update the Board should any further comments be received.

**Criteria for Conditional Uses**

According to Sec 11-200(a) Criteria for allowance of conditional uses:

The Board shall hear and decide requests for a conditional use and may authorize such if it finds:

<i>Criteria</i>	<i>Staff Comments</i>
1 That a written application has been filed with the Planning Office and the appropriate fee has been paid.	The applicant has submitted a written application and tendered the appropriate fee.
2 That the applicant has provided proof that each property owner as set out in section 11- 204 has been notified by return receipt mail.	Notifications of public hearing was sent via certified receipt. Staff has copies of the certified receipts as proof.
3 That adequate utilities, roads, drainage and other public services are available and adequate or will be made available and adequate if the use is granted.	Adequate utilities are available or will be made available at the applicant or property owner’s expense. Proposed Tracts 1 and 3 already have residences on them. It will be at the developer’s expense to extend the utility lines to a future residence on Proposed Tract 2.
4 That the proposed use is compatible with the surrounding area.	The proposal is compatible as the use granted by current County zoning is not changing. The use is for a residential use at a lesser density than one (1) acre. Being that the residence already exists, the lesser density should not be harmful to surrounding properties.
5 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.	The lesser density should not be harmful to surrounding property owners. The residence is already in existence.

6	That the conditional use will not be injurious to the use and enjoyment of other property in the surrounding area for the purposes already permitted, nor substantially diminish and impair property values within the surrounding area.	The residence on Proposed Tract 3 already exists. A tract at an acreage of less than one (1) acre should not be injurious to the use and enjoyment of surrounding property owners. Property owners should still be able to use their land how they wish to despite there being a nearby property that's less than one (1) acre in size.
7	That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding area for uses permitted in the zone.	The conditional use request should not impede with the normal and orderly development and improvement of the surrounding area. The proposal calls for a total of three smaller tracts. Two of these tracts already have residences on them. The addition of another residence in the future should only bring an additional vehicle or two into the existing flow of traffic. The proposed Tract 3 should not hamper any nearby future developments or improvements.

### SUMMARY OF AGENCY COMMENTS – TECHNICAL REVIEW

#### From Ozarks Electric

1. Any damage or relocation of existing facilities will be at owner's expense.
2. Any power line extension that has to be built to this property will be at the owner's expense. The cost will be determined after the owner makes application for electric service and the line has been designed.
3. All off site easements that are needed for Ozarks to extend electrical service to the property must be obtained by developer and easement documentation provided to Ozarks before work begins. On site easements must be shown on plat and recorded with the county.
4. Please contact Ozarks Electric if you have any questions. Wes Mahaffey At (479)263-2167 Or [wmahaffey@ozarksecc.com](mailto:wmahaffey@ozarksecc.com)
5. Ozarks will need a 30 ft UE along existing overhead line.

#### From Washington County Environmental Affairs

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.adeq.state.ar.us](http://www.adeq.state.ar.us)

#### From Washington County 911 Addressing Dept. of Emergency Mgmt.

1. A physical 911 address may be required. Please complete the Address Application, if needed.

#### From Washington County Planning

Please provide or update the following from the CUP checklist:

1. Item 5 - Submit Traffic Statement or Traffic Study (impact development is expected to have based on increase in vehicle traffic).
2. Item 6 - Submit a Drainage Statement explaining the expected impact. A full Drainage Report may be required. Please refer to the attached Drainage Checklist.
3. Item 7 - Submit the GPM fire flow. All fire flows must meet minimum State Fire Code standards. A flow test or engineered hydraulic study may be required.
4. Item 8 - Submit a copy of the Soil Work performed by a Designated Representative (D.R.) of the Health Department.
5. Item 9 - Submit a letter of explanation stating the requested use and all pertinent details of the project.

Please provide or update the following from the Minor Subdivision checklist:

1. Include and label contours.
2. Per item 8 - Names of adjacent land developments and ownership of adjacent property including corresponding deed book and page number. Include parcel numbers.
3. Per item 9 - All plats presented to the planning board and filed for record shall note the uses of adjacent property. The determination of said use shall be the responsibility of the developer. (sec. 13-1)

4. Per item 19 - Proposed use of all land within the development.
5. Per Item 21 – Drainage plan for entire area.
6. Please add the following signature blocks:
  - a. Signature Block 2
  - b. Signature Block 3
  - c. Signature Block 8
  - d. Signature Block 7
  - e. Signature Block 4
  - f. Signature Block 10
  - g. Signature Block 5
  - h. Signature Block 11
  - i. Signature Block 6, if applicable
7. Add the following notes on plat:
  - a. “Each individual lot developer shall obtain approval of septic system from the Washington County Health Department Sanitarian Division.”
  - b. “Any further splitting, use or land development not considered with this approval must come before the Planning Board for a separate approval.”
  - c. “Review of these plats is limited to general compliance with Washington County codes and regulations and does not warranty the engineer’s design or relieve the developer of any requirements, even if error, omissions or any inadequacies are discovered after plat approval. The County’s requirement shall govern over any conflicts with the plans or specifications. Any conditions determined in the field that require changes shall be subject to further review and corrective action to be paid for by the developer.”

## **RECOMMENDATION & CONDITIONS**

Staff has reviewed the CUP submittal documents and feels that the proposed density can be made compatible with the following conditions

### **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](http://www.adeg.state.ar.us)

### **Road Conditions**

1. A permit from the Washington County Road Department will be required prior to any work being completed in the right-of-way.
2. Any tile that may be needed must be sized by the Road Department.

### **Addressing Conditions**

1. A physical 911 address may be required. Please complete the Address Application, if needed.

### **Planning Conditions**

1. All plat corrections must be addressed.
2. If the CUP is approved, the applicant must continue this project through the Minor Subdivision process.

### **Utility Conditions**

Electricity – Ozarks Electric

1. Any damage or relocation of existing facilities will be at owner’s expense.
2. Any power line extension that has to be built to this property will be at the owner’s expense. The cost will be determined after the owner makes application for electric service and the line has been designed.
3. All off site easements that are needed for Ozarks to extend electrical service to the property must be obtained by developer and easement documentation provided to Ozarks before work begins. On site easements must be shown on plat and recorded with the county.
4. Please contact Ozarks Electric if you have any questions. Wes Mahaffey At (479)263-2167 Or [wmahaffey@ozarksecc.com](mailto:wmahaffey@ozarksecc.com)

5. Ozarks will need a 30 ft UE along existing overhead line.

#### Gas – Black Hills

Please contact Black Hills for any gas service concerns.

#### Phone – PG Telco

1. Please contact PG Telco for telephone concerns and questions.

#### Water – City of Lincoln

1. Please contact the City of Lincoln for water concerns and questions.

#### **Fire Safety Conditions**

##### Fire Marshal

1. Please contact the Washington County Fire Marshal for fire safety concerns and questions.

##### Lincoln Rural Fire Department

1. Please contact the Department for fire safety concerns and questions.

#### **Sewer/Septic Conditions**

1. A soil analysis conducted by a designated representative of the Arkansas Department of Health must be provided before final approval may be given.

#### **Standard Conditions for All Projects**

1. Pay neighbor notification mailing fees within 30 days of project approval. Any extension must be approved by the Planning Office (fees will be calculated once the info is available from the post office). This total will be calculated for this project once all invoices are received.
2. Pay any engineering fees. This total will be calculated for this project once all invoices are received.
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. All CUPs must be ratified by the Quorum Court.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
6. Per Washington County ordinance Sec 11-75 (7): All plats for land developments approved by the Washington County Planning Board shall be contingent upon receipt by the Developer of any Federal, State, or local or approvals, if any, whether known or unknown to the Board or the Developer.
7. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance

*Washington County Senior Planner, Sita Nanthavong, presented the staff report for the Board Members.*

*Philip Humbard asked, "Do they have a purpose for the smaller lot?"*

*Sita Nanthavong answered, "I did ask that to the applicant's representative and did not receive a response."*

*Philip Humbard stated, "I was just wondering why they couldn't have made that a little bigger."*

*Sita Nanthavong agreed, "I was wondering that too."*

*Joel Kelsey, Planning Board Chairman, inquired, "Sita, let me ask you this. If I am looking at this right up here that house that you showed in that one picture is actually sitting on what's going to be on the smaller tract, is that correct?"*

*Sita Nanthavong replied, "That's correct yes. The one that right here to the south. The applicants' representative is here."*

*Public Comment*

Amanda Hallmark, Blew & Associates representing the applicants, addressed the Board, “The smaller acre with the house on it, I believe they are actually selling it, and the gentleman that is buying it didn’t want it to be any bigger than what we are showing. That is the reason we are having to do the conditional use because of the acreage amount. I did ask him. Even Lisa asked him if he could just make this bigger so she didn’t have to pay for the Conditional Use unfortunately he was dead set on making it that size. That is all I have to say regarding that question.”

Philip Humbar asked, “Is there some sort of feature that he was trying to go to or stay out of?”

Amanda Hallmark answered, “I have no idea. I don’t know what his reasoning behind it. He was dead set. I was just like ‘Okay, I hope you understand that it’s going to be a longer process than what you think it’s going to be.’”

Philip Humbar inquired, “What is the acreage on that tract again exactly?”

Amanda Hallmark replied, “It is .743 acres.”

Public Comment Closed

Philip Humbar made a motion to approve the **Phillips Minor Subdivision CUP** subject to staff recommendations. Walter Jennings seconded. All Board Members present were in favor of approving. Motion passed.

**LAND DEVELOPMENT HEARINGS**

County

**e. Phillips Minor Subdivision**

***Preliminary and Final Land Development Requests***

Location: Section 10, Township 14, Range 32

Applicant: Blew & Associates

Location Address: 14388 Tyree Mountain WC 14

JP District: Willie Leming, District 13

Approximately: +/- 10.31 acres / 3 lots

Coordinates: Latitude: 35.90593911, Longitude: -94.37043781

**Project #: 2020-307      Planner: Sita Nanthavong      email: [snanthavong@washingtoncountyar.gov](mailto:snanthavong@washingtoncountyar.gov)**

**APPLICANT’S REQUEST**

The applicant is requesting minor subdivision approval allow the split of a parcel into three separate tracts; with each tract being less than five (5) acres in size in an area that is zoned for agricultural/single family residential uses with a maximum of one (1) unit per acre.

**SITE INFORMATION**

Land Owner:	Jeffrey Phillips & Lisa Phillips	Parcel Number:	001-04665-001
Site Location:	14388 Tyree Mountain Rd	Planning Area:	None
Acreage:	10.315 acres +/- per survey	QC District:	13, Willie Leming
Current Zoning:	Agriculture/Single-Family Residential 1 unit per acre	School District:	Lincoln
FIRM:	05143C0340F	Fire District:	Lincoln Rural
Wetland:	No	Watershed:	None

**UTILITIES**

Electricity:	Ozark Electric	Gas:	Black Hills
Cable:	None	Phone:	PG Telco
Water	Lincoln Water		

**BACKGROUND/SYNOPSIS**

The applicants, Lisa Phillips and Jeffery Phillips, are requesting residential conditional use permit and minor subdivision approval to allow a 10.315 acre property to be split into three tracts and allow one (1) of the proposed tracts to be at a density that is less than one (1) acre per residential unit. The zoning is for Agricultural and Single Family Residential uses with a maximum density of one (1) residential unit per acre. The project parcel is not in a planning area. The proposal is located east of Tyree Mountain Rd WC 14. The project parcel is approximately 10.315 acres and contains two existing residences.

Sec 11-191.1 (a) of the Washington County Code of Ordinances state that single-family residential uses shall have a tract or parcel size of no less than one (1) acre in size. The proposed minor subdivision will leave a tract at a density of less than one (1) acre in size.

Sec. 11-79 (b)(2) of the Washington County Code of Ordinances state that the split may be exempt from Planning Board review if “The division of land into an unspecified number of tracts, each of which are at least forty (40) acres, more or less, in size.”

What the applicant proposes does not qualify for exemption and therefore must be reviewed by the Planning Board. The CUP must be ratified by the Quorum Court.

**Original Tract**

001-04665-001 – 10.315 acre, two residences

**Proposed**

Tract 1 – 7.664 acres with residence

Tract 2 – 1.908 acres, vacant

Tract 3 – 0.743 acres with residence

**PROPERTY CHARACTERISTICS**

**Surrounding Land Use and Zoning**

<i>Direction from Site</i>	<i>Land Use</i>	<i>Zoning</i>
North	Residential/Agricultural	Ag/SF Res 1 unit/ac
South	Residential/Agricultural	Ag/SF Res 1 unit/ac
East	Residential/Agricultural	Ag/SF Res 1 unit/ac
West	Residential/Agricultural	Ag/SF Res 1 unit/ac

**Existing Condition of Property**

The subject property is zoned Ag/SF Res 1 unit/ac and has an agricultural use. It is in an area that is mixed with agricultural and residential uses. The property contains two residences, one located at the northern end and the other at the southern. The property is surrounded on the northern, southern, and eastern sides by trees and other vegetation. The western boundary abuts Tyree Mountain Rd WC 14. Across the county Road is pasture and farmland.

**Future Land Use / Zoning Designation**

The parcel is not in a city planning area. There is not a Future Land Use for the project parcel. The current zoning for the project parcel is Ag/SF Res 1 unit/ac. If the project is approved, the zoning will stay the same, but with a conditional use allowance.

## Neighbor Comments and Concerns

Pursuant to Sec 11-204, Sec 11-71 (2a), and Sec 11-101b of the Washington County Code of Ordinances, notifications were sent by certified letter to all adjoining property owners within 300 feet. To date, Staff has not received comments voicing opposition or favor of the project. Planning Staff will update the Board should any further comments be received.

## SUMMARY OF AGENCY COMMENTS – TECHNICAL REVIEW

From Ozarks Electric

1. Any damage or relocation of existing facilities will be at owner's expense.
2. Any power line extension that has to be built to this property will be at the owner's expense. The cost will be determined after the owner makes application for electric service and the line has been designed.
3. All off site easements that are needed for Ozarks to extend electrical service to the property must be obtained by developer and easement documentation provided to Ozarks before work begins. On site easements must be shown on plat and recorded with the county.
4. Please contact Ozarks Electric if you have any questions. Wes Mahaffey At (479)263-2167 Or [wmahaffey@ozarksecc.com](mailto:wmahaffey@ozarksecc.com)
5. Ozarks will need a 30 ft UE along existing overhead line.

From Washington County Environmental Affairs

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.adeq.state.ar.us](http://www.adeq.state.ar.us)

From Washington County 911 Addressing Dept. of Emergency Mgmt.

1. A physical 911 address may be required. Please complete the Address Application, if needed.

From Washington County Planning

Please provide or update the following from the CUP checklist:

1. Item 5 - Submit Traffic Statement or Traffic Study (impact development is expected to have based on increase in vehicle traffic).
2. Item 6 - Submit a Drainage Statement explaining the expected impact. A full Drainage Report may be required. Please refer to the attached Drainage Checklist.
3. Item 7 - Submit the GPM fire flow. All fire flows must meet minimum State Fire Code standards. A flow test or engineered hydraulic study may be required.
4. Item 8 - Submit a copy of the Soil Work performed by a Designated Representative (D.R.) of the Health Department.
5. Item 9 - Submit a letter of explanation stating the requested use and all pertinent details of the project.

Please provide or update the following from the Minor Subdivision checklist:

1. Include and label contours.
2. Per item 8 - Names of adjacent land developments and ownership of adjacent property including corresponding deed book and page number. Include parcel numbers.
3. Per item 9 - All plats presented to the planning board and filed for record shall note the uses of adjacent property. The determination of said use shall be the responsibility of the developer. (sec. 13-1)
4. Per item 19 - Proposed use of all land within the development.
5. Per Item 21 – Drainage plan for entire area.
6. Please add the following signature blocks:
  - a. Signature Block 2
  - b. Signature Block 3

- c. Signature Block 8
  - d. Signature Block 7
  - e. Signature Block 4
  - f. Signature Block 10
  - g. Signature Block 5
  - h. Signature Block 11
  - i. Signature Block 6, if applicable
7. Add the following notes on plat:
- a. "Each individual lot developer shall obtain approval of septic system from the Washington County Health Department Sanitarian Division."
  - b. "Any further splitting, use or land development not considered with this approval must come before the Planning Board for a separate approval."
  - c. "Review of these plats is limited to general compliance with Washington County codes and regulations and does not warranty the engineer's design or relieve the developer of any requirements, even if error, omissions or any inadequacies are discovered after plat approval. The County's requirement shall govern over any conflicts with the plans or specifications. Any conditions determined in the field that require changes shall be subject to further review and corrective action to be paid for by the developer."

## RECOMMENDATION & CONDITIONS

Staff recommends approval of the proposed minor subdivision with the following conditions:

### Utility Conditions

Electricity – Ozarks Electric

1. Any damage or relocation of existing facilities will be at owner's expense.
2. Any power line extension that has to be built to this property will be at the owner's expense. The cost will be determined after the owner makes application for electric service and the line has been designed.
3. All off site easements that are needed for Ozarks to extend electrical service to the property must be obtained by developer and easement documentation provided to Ozarks before work begins. On site easements must be shown on plat and recorded with the county.
4. Please contact Ozarks Electric if you have any questions. Wes Mahaffey At (479)263-2167 Or [wmahaffey@ozarksecc.com](mailto:wmahaffey@ozarksecc.com)
5. Ozarks will need a 30 ft UE along existing overhead line.

Gas – Black Hills

1. Please contact Black Hills for any gas service concerns.

Phone – PG Telco

1. Please contact PG Telco for telephone concerns and questions.

Water – City of Lincoln

1. Please contact the City of Lincoln for water concerns and questions.

### Fire Safety Conditions

Fire Marshal

1. Please contact the Washington County Fire Marshal for fire safety concerns and questions.

Lincoln Rural Fire Department

1. Please contact the Fire Department for fire safety concerns and questions.

### **Sewer/Septic Conditions**

1. A soil analysis conducted by a designated representative of the Arkansas Department of Health must be provided before final approval may be given.

### **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.adeq.state.ar.us](http://www.adeq.state.ar.us).

### **Road Conditions**

1. A permit from the Washington County Road Department will be required prior to any work being completed in the right-of-way.
2. Any tile that may be needed must be sized by the Road Department.

### **Addressing Conditions**

1. A physical 911 address may be required. Please complete the Address Application, if needed.

### **Planning Conditions**

1. All plat corrections must be addressed.
2. If the CUP is approved, the applicant must continue this project through the Minor Subdivision process.

### **Standard Conditions for All Projects**

1. Pay neighbor notification mailing fees within 30 days of project approval. Any extension must be approved by the Planning Office (fees will be calculated once the info is available from the post office). This total will be calculated for this project once all invoices are received.
2. Pay any engineering fees. This total will be calculated for this project once all invoices are received.
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. All CUPs must be ratified by the Quorum Court.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
6. Per Washington County ordinance Sec 11-75 (7): All plats for land developments approved by the Washington County Planning Board shall be contingent upon receipt by the Developer of any Federal, State, or local or approvals, if any, whether known or unknown to the Board or the Developer.
7. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.

*Washington County Senior Planner, Sita Nanthavong, presented the staff report for the Board Members.*

*No Public Comment*

*Public Comment Closed*

*Philip Humbarb made a motion to approve the **Phillips Minor Subdivision** subject to staff recommendations. Walter Jennings seconded. All Board Members present were in favor of approving. Motion passed.*

County

**f. Replat Lots 19 & 20 Tony Mountain Subdivision**

*Preliminary and Final Land Development Requests*

Location: Section 24, Township 15, Range 31

Applicant: Blew & Associates

Location Address: 10007 Smokey WC 2070

JP District: Ann Harbison, District 14

Approximately: +/- 10.31 acres / 3 lots

Coordinates: Latitude: 35.96746912, Longitude: -94.21730004

**Project #: 2020-308      Planner: Sita Nanthavong      email: [snanthavong@washingtontyvar.gov](mailto:snanthavong@washingtontyvar.gov)**

**APPLICANT’S REQUEST**

The applicant, MFLP Investments LLC, is requesting a replat of the tract known as Part of Lot 19 and Part of Lot 20 in the Tony Mountain Subdivision where one tract will be split into three.

**SITE INFORMATION**

Land Owner:	MFLP Investment, LLC	Parcel Number:	496-02316-000
Site Location:	Smokey Ln WC 2070	Planning Area:	None
Acreage:	10.315 acres +/- per survey	QC District:	14, Ann Harbison
Current Zoning:	Agriculture/Single-Family Residential 1 unit per acre	School District:	Greenland
FIRM:	05143C0355F	Fire District:	West Fork Rural
Wetland:	No	Watershed:	None

**UTILITIES**

Electricity:	Ozark Electric	Gas:	None
Cable:	None	Phone:	Windstream Communications
Water:	Washington Water		

**BACKGROUND/SYNOPSIS**

The applicant, MFLP Investments LLC, is requesting a replat of the tract known as Part of Lot 19 and Part of Lot 20 in the Tony Mountain Subdivision where one tract will be split into three. The zoning is for Agricultural and Single Family Residential uses with a maximum density of one (1) residential unit per acre. The project parcel is not in a planning area. The proposal is located almost at the end of Smokey WC 2070. The project parcel is approximately 10.168 acres and is vacant. Per Appendix D of the Washington County Code, “Replat: The process of changing a previously approved land development either by alteration of a lot, parcel, or tract, or the placement of another type of development on a lot or tract different from the one previously contemplated when originally approved or by other changes made to the original plat. All replats must go through the planning process as set out in section 11-51 et seq. or may be done administratively if it qualifies for such.”

Sec 11-117 of the Washington County Code states that replats within a Planning Area may be processed administratively and be exempt of Planning Board review. This project is not within a Planning Area and therefore must be reviewed by the Planning Board.

**Original Tract**

Part Lot 19 & Part 20, 496-02316-000 – 10.168 acres, vacant

**Proposed**

Proposed Tract 1: 3.014 acres, vacant

Proposed Tract 2: 3.581 acres, vacant

Proposed Tract 3: 3.574 acres, vacant

## PROPERTY CHARACTERISTICS

### Surrounding Land Use and Zoning

<i>Direction from Site</i>	<i>Land Use</i>	<i>Zoning</i>
North	Residential/Agricultural	Ag/SF Res 1 unit/ac
South	Residential/Agricultural	Ag/SF Res 1 unit/ac
East	Residential/Agricultural	Ag/SF Res 1 unit/ac
West	Residential/Agricultural	Ag/SF Res 1 unit/ac

### Existing Condition of Property

The subject property is zoned Ag/SF Res 1 unit per acre. The property contains is vacant and is very wooded. The property is surrounded by residential parcels that are also very wooded.

### Future Land Use / Zoning Designation

The parcel is not in a city planning area. There is not a Future Land Use for the project parcel. The current zoning for the project parcel is Ag/SF Res 1 unit/ac. If the project is approved, the zoning will stay the same, but with a conditional use allowance.

### Neighbor Comments and Concerns

Pursuant to Sec 11-204, Sec 11-71 (2a), and Sec 11-101b of the Washington County Code of Ordinances, notifications were sent by certified letter to all adjoining property owners within 300 feet. To date, Staff has not received comments voicing opposition or favor of the project. Planning Staff will update the Board should any further comments be received.

## SUMMARY OF AGENCY COMMENTS – TECHNICAL REVIEW

From Ozarks Electric

1. Any damage or relocation of existing facilities will be at owner's expense.
2. Any power line extension that has to be built to this property will be at the owner's expense. The cost will be determined after the owner makes application for electric service and the line has been designed.
3. All off site easements that are needed for Ozarks to extend electrical service to the property must be obtained by developer and easement documentation provided to Ozarks before work begins. On site easements must be shown on plat and recorded with the county.
4. Please contact Ozarks Electric if you have any questions. Wes Mahaffey At (479)263-2167 Or [wmahaffey@ozarksecc.com](mailto:wmahaffey@ozarksecc.com)
5. Qzarks will need a 30 ft UE along existing overhead line.

From Washington Water Authority

If water service is desired for the new lots created by the Replat, please submit a Request for Water Service to the WWA office for each property. The form can be found on the WWA website ([www.washingtonwater.org](http://www.washingtonwater.org)).

From Washington County Environmental Affairs

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.adeq.state.ar.us](http://www.adeq.state.ar.us)

From Washington County 911 Addressing Dept. of Emergency Mgmt.

1. A physical 911 address may be required. Please complete the Address Application, if needed.

From Washington County Planning

Please provide or update the following from the Minor Subdivision checklist:

1. Per item 7 - Original and proposed topography at ten-foot contour intervals.

2. Per item 8 - Names of adjacent land developments and ownership of adjacent property including corresponding deed book and page number. Include parcel numbers.
3. Per item 9 - All plats presented to the planning board and filed for record shall note the uses of adjacent property. The determination of said use shall be the responsibility of the developer. (sec. 13-1)
4. Per item 19 - Proposed use of all land within the development.
5. Per Item 21 – Drainage plan for entire area.
6. Please add the following signature blocks:
  - a. Signature Block 2
  - b. Signature Block 3
  - c. Signature Block 8
  - d. Signature Block 7
  - e. Signature Block 4
  - f. Signature Block 10
  - g. Signature Block 5
  - h. Signature Block 11
  - i. Signature Block 6, if applicable
7. Add the following notes on plat:
  - a. “Each individual lot developer shall obtain approval of septic system from the Washington County Health Department Sanitarian Division.”
  - b. “Any further splitting, use or land development not considered with this approval must come before the Planning Board for a separate approval.”
  - c. “Review of these plats is limited to general compliance with Washington County codes and regulations and does not warranty the engineer’s design or relieve the developer of any requirements, even if error, omissions or any inadequacies are discovered after plat approval. The County’s requirement shall govern over any conflicts with the plans or specifications. Any conditions determined in the field that require changes shall be subject to further review and corrective action to be paid for by the developer.”.

## RECOMMENDATION & CONDITIONS

Staff recommends approval of the proposed minor subdivision with the following conditions:

### Utility Conditions

Electricity – Ozarks Electric

1. Any damage or relocation of existing facilities will be at owner’s expense.
2. Any power line extension that has to be built to this property will be at the owner’s expense. The cost will be determined after the owner makes application for electric service and the line has been designed.
3. All off site easements that are needed for Ozarks to extend electrical service to the property must be obtained by developer and easement documentation provided to Ozarks before work begins. On site easements must be shown on plat and recorded with the county.
4. Please contact Ozarks Electric if you have any questions. Wes Mahaffey At (479)263-2167 Or [wmahaffey@ozarksecc.com](mailto:wmahaffey@ozarksecc.com)
5. Ozarks will need a 30 ft UE along existing overhead line.

Phone – Windstream Communications

1. Please contact Windstream Communications for telephone concerns and questions.

Water – Washington Water Authority

1. If water service is desired for the new lots created by the Replat, please submit a Request for Water Service to the WWA office for each property. The form can be found on the WWA website ([www.washingtonwater.org](http://www.washingtonwater.org)).

### **Fire Safety Conditions**

#### Fire Marshal

1. Please contact the Washington County Fire Marshal for fire safety concerns and questions.

#### West Fork Rural Fire Department

1. Please contact the Fire Department for fire safety concerns and questions.

### **Sewer/Septic Conditions**

1. A soil analysis conducted by a designated representative of the Arkansas Department of Health must be provided before final approval may be given.

### **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.adeq.state.ar.us](http://www.adeq.state.ar.us)

### **Road Conditions**

1. A permit from the Washington County Road Department will be required prior to any work being completed in the right-of-way.
2. Any tile that may be needed must be sized by the Road Department.

### **Addressing Conditions**

1. A physical 911 address may be required. Please complete the Address Application, if needed.

### **Planning Conditions**

1. All plat corrections must be addressed.

### **Standard Conditions for All Projects**

1. Pay neighbor notification mailing fees within 30 days of project approval. Any extension must be approved by the Planning Office (fees will be calculated once the info is available from the post office). This total will be calculated for this project once all invoices are received.
2. Pay any engineering fees. This total will be calculated for this project once all invoices are received.
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. All CUPs must be ratified by the Quorum Court.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
6. Per Washington County ordinance Sec 11-75 (7): All plats for land developments approved by the Washington County Planning Board shall be contingent upon receipt by the Developer of any Federal, State, or local or approvals, if any, whether known or unknown to the Board or the Developer.
7. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.

*Washington County Senior Planner, Sita Nanthavong, presented the staff report for the Board Members.*

*No Public Comment*

*Public Comment Closed*

*Walter Jennings made a motion to approve the **Replat Lots 19 & 20 Tony Mountain Subdivision** subject to staff recommendations. Philip Humbar seconded. All Board Members present were in favor of approving. Motion passed.*

County

**g. Kirby & Kathy Walker Minor Subdivision**

*Preliminary and Final Land Development Requests*

Location: Section 07, Township 17, Range 31

Applicant: Blew & Associates

Location Address: Where Blue Springs Road WC 70 meets Hilton WC 70

JP District: Patrick Deakins, District 5

Approximately: +/- 9.72 acres / 3 lots

Coordinates: Latitude: 36.15631149, Longitude: -94.00155328

**Project #: 2020-309      Planner: Sita Nanthavong      email: [snanthavong@washingtoncountyar.gov](mailto:snanthavong@washingtoncountyar.gov)**

**APPLICANT'S REQUEST**

The applicants, Kirby & Kathy Walker, are requesting minor subdivision approval to allow a tract of land to be split into four tracts.

**SITE INFORMATION**

Land Owner:	Kirby and Kathy Walker	Parcel Number:	001-13748-000
Site Location:	Blue Springs Rd WC 70	Planning Area:	None
Acreage:	10.315 acres +/- per survey	QC District:	14, Ann Harbison
Current Zoning:	Agriculture/Single-Family Residential 1 unit per acre	School District:	Springdale
FIRM:	05143C0095F	Fire District:	Nob Hill Rural
Wetland:	No	Watershed:	Beaver Lake Watershed

**UTILITIES**

Electricity:	Ozark Electric	Gas:	None
Cable:	None	Phone:	AT&T
Water	None – Well Water		

**BACKGROUND/SYNOPSIS**

The applicants, Kirby & Kathy Walker, are requesting minor subdivision approval to allow a tract of land to be split into four tracts. The zoning is for Agricultural and Single Family Residential uses with a maximum density of one (1) residential unit per acre. The project parcel is not in a planning area. The proposal is located between Beaver Lake on the western side and Blue Springs Road WC 70 on the eastern side. The project parcel is approximately 9.722 acres and is vacant.

Sec. 11-79 (b)(3) states “the division of land into four (4) parcels, three (3) of which must be at least five (5) acres, and one which may be at least one (1) acre.” The proposal does not meet the requirements to be exempt from Planning Board Review. The applicant is proposing a division of land into four (4) parcels which will all be under five (5) acres.

**Original Tract**

001-13748-000 – 9.722 acres, vacant

**Proposed**

Proposed Tract 1: 1.700 acres, vacant  
Proposed Tract 2: 3.022 acres, vacant  
Proposed Tract 3: 1.500 acres, vacant  
Proposed Tract 4: 3.500 acres, vacant

**PROPERTY CHARACTERISTICS**

**Surrounding Land Use and Zoning**

<i>Direction from Site</i>	<i>Land Use</i>	<i>Zoning</i>
North	Residential	Ag/SF Res 1 unit/ac
South	Residential	Ag/SF Res 1 unit/ac
East	Residential	Ag/SF Res 1 unit/ac
West	Beaver Lake	Ag/SF Res 1 unit/ac

### Existing Condition of Property

The subject property is zoned Ag/SF Res 1 unit per acre. The property is undeveloped. Its western border runs along Beaver Lake. Its eastern border runs parallel with Blue Springs Road. The properties adjacent are primarily residential in use.

### Future Land Use / Zoning Designation

The parcel is not in a city planning area. There is not a Future Land Use for the project parcel. The current zoning for the project parcel is Ag/SF Res 1 unit/ac. If the project is approved, the zoning will stay the same, but with a conditional use allowance.

### Neighbor Comments and Concerns

Pursuant to Sec 11-204, Sec 11-71 (2a), and Sec 11-101b of the Washington County Code of Ordinances, notifications were sent by certified letter to all adjoining property owners within 300 feet. To date, Staff has not received comments voicing opposition or favor of the project. Planning Staff will update the Board should any further comments be received.

### SUMMARY OF AGENCY COMMENTS – TECHNICAL REVIEW

From Ozarks Electric

1. Any damage or relocation of existing facilities will be at owner's expense.
2. Any power line extension that has to be built to this property will be at the owner's expense. The cost will be determined after the owner makes application for electric service and the line has been designed.
3. All off site easements that are needed for Ozarks to extend electrical service to the property must be obtained by developer and easement documentation provided to Ozarks before work begins. On site easements must be shown on plat and recorded with the county.
4. Please contact Ozarks Electric if you have any questions. Wes Mahaffey At (479)263-2167 Or [wmahaffey@ozarksecc.com](mailto:wmahaffey@ozarksecc.com)

From Washington County Environmental Affairs

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.adeq.state.ar.us](http://www.adeq.state.ar.us)

From Washington County 911 Addressing Dept. of Emergency Mgmt.

1. A physical 911 address may be required. Please complete the Address Application, if needed.

From Washington County Planning

Please provide or update the following from the Minor Subdivision checklist:

1. Per item 7 - Original and proposed topography at ten-foot contour intervals.
2. Per item 8 - Names of adjacent land developments and ownership of adjacent property including corresponding deed book and page number. Include parcel numbers.
3. Per item 9 - All plats presented to the planning board and filed for record shall note the uses of adjacent property. The determination of said use shall be the responsibility of the developer. (sec. 13-1)
4. Per item 19 - Proposed use of all land within the development.
5. Per Item 21 – Drainage plan for entire area.
6. Please add the following signature blocks:
  - a. Signature Block 2
  - b. Signature Block 3
  - c. Signature Block 8
  - d. Signature Block 7
  - e. Signature Block 4
  - f. Signature Block 10

- g. Signature Block 5
  - h. Signature Block 11
  - i. Signature Block 6, if applicable
7. Add the following notes on plat:
- a. "Each individual lot developer shall obtain approval of septic system from the Washington County Health Department Sanitarian Division."
  - b. "Any further splitting, use or land development not considered with this approval must come before the Planning Board for a separate approval."
  - c. "Review of these plats is limited to general compliance with Washington County codes and regulations and does not warranty the engineer's design or relieve the developer of any requirements, even if error, omissions or any inadequacies are discovered after plat approval. The County's requirement shall govern over any conflicts with the plans or specifications. Any conditions determined in the field that require changes shall be subject to further review and corrective action to be paid for by the developer."

**RECOMMENDATION & CONDITIONS**

Staff recommends approval of the proposed minor subdivision with the following conditions:

**Utility Conditions**

Electricity – Ozarks Electric

- 1. Any damage or relocation of existing facilities will be at owner's expense.
- 2. Any power line extension that has to be built to this property will be at the owner's expense. The cost will be determined after the owner makes application for electric service and the line has been designed.
- 3. All off site easements that are needed for Ozarks to extend electrical service to the property must be obtained by developer and easement documentation provided to Ozarks before work begins. On site easements must be shown on plat and recorded with the county.
- 4. Please contact Ozarks Electric if you have any questions. Wes Mahaffey At (479)263-2167 Or [wmahaffey@ozarksecc.com](mailto:wmahaffey@ozarksecc.com)

Phone – AT&T

- 1. Please contact AT&T for telephone concerns and questions.

**Fire Safety Conditions**

Fire Marshal

- 1. Please contact the Washington County Fire Marshal for fire safety concerns and questions.

Nob Hill Rural Fire Department

- 1. Please contact the Fire Department for fire safety concerns and questions.

**Sewer/Septic Conditions**

- 1. An updated soil analysis must be provided before final approval can be given. The soil analysis provided is for only three (3) lots, not the proposed four (4) lots.

**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.adeq.state.ar.us](http://www.adeq.state.ar.us)

### Road Conditions

1. A permit from the Washington County Road Department will be required prior to any work being completed in the right-of-way.
2. Any tile that may be needed must be sized by the Road Department.

### Addressing Conditions

1. A physical 911 address may be required. Please complete the Address Application, if needed.

### Planning Conditions

1. All plat corrections must be addressed.

### Standard Conditions for All Projects

1. Pay neighbor notification mailing fees within 30 days of project approval. Any extension must be approved by the Planning Office (fees will be calculated once the info is available from the post office). This total will be calculated for this project once all invoices are received.
2. Pay any engineering fees. This total will be calculated for this project once all invoices are received.
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. All CUPs must be ratified by the Quorum Court.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
6. Per Washington County ordinance Sec 11-75 (7): All plats for land developments approved by the Washington County Planning Board shall be contingent upon receipt by the Developer of any Federal, State, or local or approvals, if any, whether known or unknown to the Board or the Developer.
7. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.

*Washington County Senior Planner, Sita Nanthavong, presented the staff report for the Board Members.*

*No Public Comment*

*Public Comment Closed*

*Walter Jennings made a motion to approve the **Kirby & Kathy Walker Minor Subdivision** subject to staff recommendations. Jay Percy seconded. All Board Members present were in favor of approving. Motion passed.*

### County

#### **h. Harry Rodriguez Minor Subdivision**

##### ***Preliminary and Final Land Development Requests***

Location: Section 11, Township 17, Range 29

Applicant: Blew & Associates

Location Address: 19614 Westside Drive WC 1037

JP District: Patrick Deakins, District 5

Approximately: +/- 5.23 acres / 3 lots

Coordinates: Latitude: 36.15379264, Longitude: -94.03760975

**Project #: 2020-304**

**Planner: Nick Little email: [nlittle@washingtoncountvar.gov](mailto:nlittle@washingtoncountvar.gov)**

### **APPLICANT'S REQUEST**

The applicant is requesting minor subdivision approval in order to split their 5.23-acre parcel into 3 new tracts: Tract 1 at 1-acre, Tract 2 at 1-acre and Tract 3 at 2.98 acres. This can't be done administratively due to the creation of multiple lots at less than five acres.

## SITE INFORMATION

Land Owner:	Harry and Rebekah Rodriguez	Parcel Number:	001-14917-004
Site Location:	19531 Westside Drive WC#1037	Planning Area:	N/A
Acreage:	5.23 acres	QC District:	5, Patrick Deakins
Current Zoning:	Agriculture/Single-Family Residential 1 unit per acre	School District:	Springdale
FIRM:	05143C0095F	Fire District:	Nob Hill Rural - 119
Wetland:	No	Watershed:	Beaver Water District

## UTILITIES

Electricity:	Ozark Electric	Gas:	Black Hills Natural Gas
Cable:	Cox	Phone:	AT&T
Water:	Springdale Water		

## BACKGROUND/SYNOPSIS

The applicant, Harry Rodriguez, is requesting minor subdivision approval in order to split his 5.23-acre parcel into three new tracts. Tracts 1 and 2 will both be 1-acre, while Tract 3 will be the largest newly created tract at 2.98-acres. The zoning is for Agricultural and Single Family Residential uses with a maximum density of one (1) residential unit per acre. This zoning will apply to the newly created tracts. The project is not located in a planning area. The proposal is located in the southwestern corner of the intersection of Sherry Road WC#399 and Westside Drive WC#1037. Tracts 1 and 2 both have frontage onto Sherry Road WC#399, while Tract 3 fronts both Sherry Road and Westside Drive WC#1037. Tracts 2 and 3 both contain existing single family homes. There are no known plans of construction of any kind on Tract 1.

## SUMMARY OF AGENCY COMMENTS – TECHNICAL REVIEW

From Ozarks Electric

1. Any damage or relocation of existing facilities will be at owner's expense.
2. Any power line extension that has to be built to this property will be at the owner's expense. The cost will be determined after the owner makes application for electric service and the line has been designed.
3. All off site easements that are needed for Ozarks to extend electrical service to the property must be obtained by developer and easement documentation provided to Ozarks before work begins. On site easements must be shown on plat and recorded with the county.
4. Please contact Ozarks Electric if you have any questions.  
Wes Mahaffey At (479)263-2167 Or [wmahaffey@ozarksecc.com](mailto:wmahaffey@ozarksecc.com)
5. Ozarks will need a 30ft. U.E. along existing overhead line
6. Ozarks will need a 15ft. U.E. along existing underground line.

## RECOMMENDATION & CONDITIONS

Staff recommends the following conditions of approval for this project:

### Septic Condition

1. Final approval is contingent upon Planning Staff's reception of suitable septic inspection/soil work forms from a certified Designated Representative of the Arkansas Health Department for each tract.

### Standard Conditions for All Projects

1. Pay neighbor notification mailing fees within 30 days of project approval. Any extension must be approved by the Planning Office (fees will be calculated once the info is available from the post office). This total will be calculated for this project once all invoices are received.
2. Pay any engineering fees. This total will be calculated for this project once all invoices are received.
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. All CUPs must be ratified by the Quorum Court.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
6. Per Washington County ordinance Sec 11-75 (7): All plats for land developments approved by the Washington County Planning Board shall be contingent upon receipt by the Developer of any Federal, State, or local or approvals, if any, whether known or unknown to the Board or the Developer.
7. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.

*Washington County Planner, Nick Little, presented the staff report for the Board Members.*

*No Public Comment*

*Public Comment Closed*

*Walter Jennings made a motion to approve the **Harry Rodriguez Minor Subdivision** subject to staff recommendations. Jay Pearcy seconded. All Board Members present were in favor of approving. Motion passed.*

County

**i. Replat Tract 6 Honey Hollow Subdivision**

*Preliminary and Final Land Development Requests*

Location: Section 25, Township 14, Range 31

Applicant: Blew & Associates

Location Address: 10099 Honey Hollow WC 2035

JP District: Ann Harbison, District 14

Approximately: +/- 20.21 acres / 2 lots

Coordinates: Latitude: 35.86574381, Longitude: -94.22034968

**Project #: 2020-305**

**Planner: Nick Little**

**email: [nlittle@washingtoncountyar.gov](mailto:nlittle@washingtoncountyar.gov)**

**APPLICANT'S REQUEST**

The applicant is requesting minor subdivision approval in order to split their 20.213-acre platted subdivision lot into two new tracts: Tract 1 at 1.610 acres and Tract 2 at 18.602 acres. This split couldn't be handled administratively due to the fact that the parent parcel is a platted subdivision lot in Honey Hollow Subdivision.

**SITE INFORMATION**

Land Owner:	Edith Bessette	Parcel Number:	252-01232-000
Site Location:	10099 Honey Hollow Road WC#2035	Planning Area:	N/A
Acreage:	20.213 acres	QC District:	14, Ann Harbison
Current Zoning:	Agriculture/Single-Family Residential 1 unit per acre	School District:	West Fork
FIRM:	05143C0525F	Fire District:	West Fork Rural - 112
Wetland:	No	Watershed:	None

**UTILITIES**

Electricity:	Ozark Electric	Gas:	N/A
Cable:	N/A	Phone:	Windstream Communications
Water:	Washington Water Authority		

**BACKGROUND/SYNOPSIS**

The applicant, Edith Bessette, is requesting minor subdivision replat approval in order to split her 20.213-acre platted subdivision lot into 2 new tracts. Tract 1 will be 1.610 acres and is positioned at the northeastern corner of the parent parcel. Tract 2 will be 18.602 acres and will be the remainder tract. The zoning is for Agricultural and Single Family Residential uses with a maximum density of one (1) residential unit per acre. The project is not located in a planning area. The proposal is located inside of the Honey Hollow Subdivision. The project parcel is located just southeast of Honey

Hollow Road WC#2035. There is a 50' road easement that connects the project parcel and Honey Hollow Road. Tracts 1 and 2 both contain existing single family homes. Septic inspections have not been received by Planning Staff at the time of this Staff Report. Final approval of this project will be contingent upon Staff's reception of such.

#### SUMMARY OF AGENCY COMMENTS – TECHNICAL REVIEW

From Ozarks Electric

1. Any damage or relocation of existing facilities will be at owner's expense.
2. Any power line extension that has to be built to this property will be at the owner's expense. The cost will be determined after the owner makes application for electric service and the line has been designed.
3. All off site easements that are needed for Ozarks to extend electrical service to the property must be obtained by developer and easement documentation provided to Ozarks before work begins. On site easements must be shown on plat and recorded with the county.
4. Please contact Ozarks Electric if you have any questions.  
Wes Mahaffey At (479)263-2167 Or [wmahaffey@ozarksecc.com](mailto:wmahaffey@ozarksecc.com)
5. Ozarks will need a 30ft. U.E. along existing overhead line

From Washington Water Authority

1. Both existing structures currently have active water services with WWA. The meters for each reside along the ROW of Honey Hollow Road, on the west side of the intersection of the access drive and Honey Hollow Road. The subsequent water service lines most likely run along the access drive to each respective house. **Please verify the alignment of the existing water service to 10099 Honey Hollow Road with the property owner and ensure it will reside within a 10' min U/E through "Tract 1." The owner of "Tract 2" may have future legal difficulties if this service is not within an easement as a result of this plat.**

#### RECOMMENDATION & CONDITIONS

Staff recommends the following conditions of approval for this project:

##### Septic Condition

1. Final approval is contingent upon Planning Staff's reception of suitable septic inspection forms from a certified Designated Representative of the Arkansas Health Department for each tract.

##### Standard Conditions for All Projects

1. Pay neighbor notification mailing fees within 30 days of project approval. Any extension must be approved by the Planning Office (fees will be calculated once the info is available from the post office). This total will be calculated for this project once all invoices are received.
2. Pay any engineering fees. This total will be calculated for this project once all invoices are received.
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. All CUPs must be ratified by the Quorum Court.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
6. Per Washington County ordinance Sec 11-75 (7): All plats for land developments approved by the Washington County Planning Board shall be contingent upon receipt by the Developer of any Federal, State, or local or approvals, if any, whether known or unknown to the Board or the Developer.
7. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.

*Washington County Planner, Nick Little, presented the staff report for the Board Members.*

*No Public Comment*

*Public Comment Closed*

Walter Jennings made a motion to approve the **Replat Tract 6 Honey Hollow Subdivision** subject to staff recommendations. Philip Humbarnd seconded. All Board Members present were in favor of approving. Motion passed.

County

**j. Hunt Rogers Quarry Expansion HI Pre-LSD** **(tabled by the Planning Board)**

***High Intensity Preliminary Large Scale Development Request***

Location: Section 26, Township 18, Range 29

Applicants: Bates & Associates

Location Address: 21636 High Lonesome WC 4589

Approximately: +/- 244.5 acres / 5 parcels

JP District: Patrick Deakins, District 5

Coordinates: Latitude: 36.20338390, Longitude: -94.04047415

**Project #: 2019-302**

**Planner: Nathan Crouch email: [ncrouch@washingtoncountvar.gov](mailto:ncrouch@washingtoncountvar.gov)**

County

**k. Hardwood Preliminary Subdivision** **(tabled at the request of the applicant)**

***Preliminary Land Development Request***

Location: Section 04, Township 17, Range 28

Applicant: Engineering Services Inc.

Location Address: 20387 Hardwood WC 381

JP District: Patrick Deakins, District 5

Approximately: +/- 25.74 acres / 14 lots

Coordinates: Latitude: 36.17405081, Longitude: -93.96214865

**Project #: 2020-263**

**Planner: Nick Little email: [nlittle@washingtoncountvar.gov](mailto:nlittle@washingtoncountvar.gov)**

6. OTHER BUSINESS

- Discussion of Current Development and Planning Department activities
- Rick Barry will present information regarding the implementation of a U of A Planning Major
- Discussion regarding the upcoming 2021 Planning Board & ZBA Meetings Yearly Calendar
- Reminder of upcoming regular Planning Board Meetings:
  - January 14<sup>th</sup>, 2021

7. ADJOURN

Philip Humbarnd moved to adjourn. Neil Helm seconded. All Board members were in favor of approving. Motion passed.

Planning Board adjourned.

Minutes submitted by: Juliana Mendoza

Approved by the Planning Board on:

\_\_\_\_\_ Date: \_\_\_\_\_  
Joel Kelsey, Planning Board Chairman