

MINUTES
AGENDA
WASHINGTON COUNTY PLANNING BOARD
&
ZONING BOARD OF ADJUSTMENTS

April 5, 2012

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

DEVELOPMENTS REVIEWED:

ACTION TAKEN:

LAND DEVELOPMENT HEARING

County

a. Replat of Tract "B" Forbis-Lacy Subdivision

Approved

1. ROLL CALL:

Roll call was taken. Members present included: Randy Laney, Daryl Yerton, Robert Daugherty, Walter Jennings, Kenley Haley, Chuck Browning.

2. APPROVAL OF MINUTES: (from the January 5, 2012 meeting)

Kenley Haley made a motion to approve the minutes as presented. Walter Jennings seconded. Motion passed. All were in favor; none opposed. Motion passed.

3. APPROVAL OF THE AGENDA:

Robert Daugherty made a motion to approve the agenda as presented. Kenley Haley seconded. All in were in favor; none opposed. Motion passed.

4. NEW BUSINESS

County Planning Area

a. Replat of Tract "B" Forbis-Lacy Subdivision

Preliminary/Final Plat Approval Request

Location: Section 16, Township 16 North, Range 29 West

Owner/Developer: Wilma J. Forbis

Engineer/Surveyor: Alan Reid & Associates

Location Address: 14307 Jasper Lacy Rd., Fayetteville, AR 72701

23.87 acres and 2 lots / Proposed Land Use: residential

Coordinates: Longitude: 94°3'11.869"W Latitude-36°3'27.2"N

Project #: 2012-026 Planner: Courtney McNair e-mail at cmcnair@co.washington.ar.us

REQUEST: The applicant is requesting Preliminary and Final Minor Subdivision Replat Approval of the Replat of Forbis-Lacy Subdivision Tract B. The request is to split a 23.88 acre parcel into two tracts.

- **Tract B-1: 2.55 acres, accessed via 30' Access & Utility easement off of Lake Sequoyah Road (WC # 50)**
- **Tract B-2: 21.32 acres, accessed via Jasper Lacy Road (WC # 199)**

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

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

QUORUM COURT DISTRICT: District 9, Butch Pond

FIRE SERVICE AREA: Round Mountain-no comments were received from Round Mountain Fire Department. Dennis Ledbetter, Washington County Fire Marshal, does not review Minor Subdivisions (4 lots or less).

SCHOOL DISTRICT: Fayetteville-no comments were received.

INFRASTRUCTURE: **Water-** Fayetteville **Electric-** Ozarks Electric **Natural Gas-** Arkansas Western Gas **Telephone-** AT&T **Cable-** Cox Communications

BACKGROUND/ PROJECT SYNOPSIS:

The property owners are Norma Harrelson and Wilma Forbis. The surveyor is Alan Reid of Alan Reid and Associates. The request is to split a 23.88 acre parcel into two tracts.

The proposed project could not be processed administratively due to the fact that it is located in a previously platted subdivision and is therefore considered a replat.

Forbis-Lacy Subdivision was originally platted in 1996 as per Plat filed in Plat Book 15 at page 67 of the Land Records of Washington County. A replat was completed in 2011, changing the acreage of Tract B from 24.48 acres to 23.88 acres.

There is an existing barn on Tract B-2.

This Minor Subdivision Replat will create 2 tracts:

- **Tract B-1: 2.55 acres, accessed via 30' Access & Utility easement off of Lake Sequoyah Road (WC # 50)**
- **Tract B-2: 21.32 acres, accessed via Jasper Lacy Road (WC # 199)**

TECHNICAL CONCERNS:

Sewer/Septic

Septic- Staff is waiting on a copy of the soil work completed on Tract B-1. This must be received prior to approval of this project.

Tract B-2 is not required to have soil work completed due to its size and because it is to be retained by the owner.

Electric/Phone/Gas

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

Water

Fayetteville water services this property. They submitted no comments.

Environmental

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

Road Information

Any work done in the County road right of way requires a permit from the road department. Any tile that may be installed will need to be sized by the road department.

Tract B-2 has 636.99 feet of public road frontage onto Jasper Lacy Road (WC #199).

In regard to the right-of-way on Jasper Lacy Road, there is 30' dedicated right-of-way from the center-line of the road as per filed Forbis/ Lacy Subdivision plat. This was a requirement as per the County Master Plan and the Regional 2020 Plan in place at the time of its review and approval in 1996.

Tract B-1 has no public road frontage, and is proposed to be accessed through adjacent property to the north also owned by Norma Harrelson (owner of the proposed Replat), connecting to Lake Sequoyah Road WC # 50. A separate access easement document must be completed prior to the plat being signed. The easement must be filed with the Circuit Clerk before or concurrent to the Final Replat being filed.

Location/ 911 Addresses

Neither tract currently has a physical address. Both tracts must be addressed after the home locations are known.

NEIGHBOR COMMENTS:

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

One neighbor called to ask for clarification about what was proposed. He fully understood and had no comments following conversation with staff.

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

CHECKLIST:

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

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

Soil work for Tract B-1 must be submitted prior to staff recommending approval of this project. Staff feels that this information will be submitted prior to the meeting and will update the Board when this information is received.

Courtney McNair said the individual who owned this property also owned the property through which an access and utility easement must be granted; so, there should be no issue with the applicant obtaining the easement. Courtney McNair was waiting on that documentation and the applicant would be required to file the easement agreement when the final plats were filed. Courtney McNair said it was standard practice to approve projects with conditions.

One neighbor contacted the Planning Office with questions regarding some of the language in the neighbor notifications and about some 911-addressing questions. Staff felt that after speaking with the neighbor, that his questions were answered and his concerns resolved.

Septic Conditions:

1. The septic system must be approved, installed and inspected by the Health Department prior to occupation of the residence.

Utility Conditions/Road Conditions:

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

Environmental Conditions:

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

Road Conditions:

1. Any work to be completed in the County Road Right-of-Way requires a permit from the Road Department prior to beginning work. Any tile that may be needed must be sized by the Road Department. The Road Department may be reached at (479) 444-1610.
2. A separate 30' access and utility easement document for Tract B-1 must be completed prior to the plat being signed. The easement must be filed with the Circuit Clerk before or concurrent to the Final Replat being filed.

Location/ 911 Addresses

1. Tract B-1 and B-2 must be addressed at the home locations are known.

Standard Conditions:

1. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
2. Any general plat checklist items must be corrected (two signature blocks are incorrect).

3. Once all plat corrections have been completed, submit corrected plat to Washington County Planning for review prior to obtaining signatures.
4. Have all signature blocks signed on 11 Final Plats - 2 for filing in the Circuit Clerk's office, 7 for the County Planning office, remainder for the developer. The Circuit Clerk is not accepting plats over 18" x 24" in size.

Courtney McNair said there had been two changes to the conditions of approval since the Planning Board Staff Reports were mailed. The soil work had been completed and submitted to Planning Staff, and the applicant's mailing fees had been paid.

Daryl Yerton asked if there was anyone in attendance to discuss the project. No one was present to discuss.

Robert Daugherty made a motion to approve Replat of Tract "B" Forbis-Lacy Subdivision subject to Staff recommendations. Walter Jennings seconded. All were in favor; none opposed.

5. Other Business

- Discussion of Current Development.
Juliet Richey said the Planning Board members had a copy of the current development in their packets that let them know all the administrative items that had come through the Planning Office in the past month.
- Discussion of the status of Big Red Dirt Farm and Rogers Group Court cases.
Juliet Richey said she passed out a copy of the settlement for the Big Red Dirt Farm in case the Planning Board members wanted to talk about it that night, and had also sent it out earlier to the Planning Board members. She reminded everyone that George Butler was at this meeting in case anyone had questions about the settlement. Juliet Richey said she had met with the two applicants/developers of the farm last week and they were getting ready to proceed with Large Scale Development now that the Conditional Use Permit had been settled with the neighbors. Right now the applicants were hoping to be heard at the late June meeting.

Kenley Haley asked Juliet Richey what this all meant and if there were concessions on both sides?

George Butler said that there were some concessions. He said it went to the Supreme Court on a procedural issue and the Supreme Court ruled that when the Quorum Court acted on the specific ordinance on CUPs that the Quorum Court acted in a legislative manner. Therefore, it changed everything. Instead of it going to a jury trial, now the burden was on the land owners who opposed it in order to prove that the decision of the Quorum Court was arbitrary, capricious, unreasonable, and with no rational basis. George Butler said he had spoken with attorney Jim Crouch. Mr. Crouch said they had basically run out of money and couldn't fight anymore. George Butler said there were therefore some concessions.

George Butler said that the Rogers Group case was the one where the Quorum Court upheld the denial and of course would now be governed by that same rule. They now had to prove that what the Quorum Court did was arbitrary, capricious, and absolutely had no rational basis. The case had been set for April but was now set for June. He got with the attorney a month before and mentioned that the case was set to go to trial soon and there was a lot to be done; they ended up getting the trial date reset. George Butler said he had not heard from him in quite some time but had just gotten off the phone with him today. He said that some of the Planning Board members who were on the Board at that time could be called to Court but it was doubtful. Mainly it would be members of the Quorum Court, and Juliet Richey. He said that the manner in which the Planning Board proceeds had changed drastically.

Cheryl West asked what it meant for the Planning Board in the future?

George Butler said the County had amended its ordinance because when Judge Lindsay had made the ruling, he decided that what they had done was legislative in nature (this decision was based on another Supreme Court decision from about one year ago). The County therefore amended its ordinance to automatically send all CUPs to the Quorum Court for ratification and that this was what was done now and would continue to be done. He said that 99.99% of the time, nobody was going to appeal something the Planning Board did, so business as usual would continue for the Planning Board and the Quorum Court would ratify the projects. He said the County would continue to send applicants on to the Quorum Court and people still had the right to appeal if they wanted.

Randy Laney said that was a good case law because the idea of having a de novo hearing would have a lot of people appealing and it would have been a circus.

George Butler agreed and said he had looked at Planning and Zoning cases that had gone to jury trials.

Randy Laney inquired if the case would be going through in June?

George Butler and Juliet Richey said it was June 18th.

George Butler said there would be no jury and they would have to prove it would be arbitrary, capricious, unreasonable and having no rational basis. In his reading of the law there also had to be no conceivable rational basis. He thought they had a tough burden to overcome.

Robert Daugherty stated that it would go before a judge and asked if they could appeal that ruling?

George Butler said yes and that it could go to the Supreme Court again once they had that trial.

Randy Laney inquired as to which quarry it was.

Juliet Richey responded that Rogers Group was the one with the trial date set for June 18th.

George Butler said it was the project where an expansion was being requested.

Juliet Richey said it was the large project where the Planning Board did a site visit.

Randy Laney asked if it was the one with the lease underway already.

Juliet Richey and George Butler said it was and was after the Big Red Dirt Farm and that the Planning Board had denied them both. The Quorum Court had approved Big Red Dirt Farm and upheld the Planning Board's denial of Rogers Group.

Randy Laney asked if there were any more questions? There were none.

- Discussion of CUP phasing ordinance that was passed at the March Quorum Court Meeting. Juliet Richey said she had sent them a copy of the CUP phasing ordinance. She said this ordinance came about in order to find a way to respond to the changing market conditions when people were wanting to do a large scale development or subdivision in order to allow them to build a phasing timeline into the CUP process. Basically, applicants would present their phasing timeline with their CUP and the timeline would need to be something that was reasonable with that type of project. Through meeting with developers, this had come about as something they needed and so Planning wanted to be sure this tool was in place for them. Juliet Richey said she didn't expect any issues with it; it would just be something they had not dealt with in the past.
- Reminder of upcoming Training Planning Board meeting April 11, 2012. Juliet Richey said she had passed out an agenda for this meeting and had sent it out to the press. She asked that if anyone had anything specific they would like added to let her know and she

could have it amended. Lunch would be provided at this meeting.

- Reminder of upcoming regular Planning Board meeting May 3, 2012.
Juliet Richey reminded everyone of the next Planning Board meeting.
- Recent and upcoming staff training:
 - Sarah Geurtz attended the week long course “Managing Floodplain through the National Flood Insurance Program” in March. She also took the test to become a Certified Floodplain Manager.
Juliet Richey announced that Sarah Geurtz had just learned she had passed this test.
 - Courtney McNair will attend the National American Planning Association Conference in April (in California).
 - Sonya Tomlinson will attend the Arkansas Floodplain Association Spring Floodplain workshop in April. She will also be taking the test to become a Certified Floodplain Manager.
- Any other Planning Department or Planning Board business.
Brief discussion about the different locations of these courses/conferences ensued.

6. Old Business

5. Adjourn

Robert Daugherty made a motion to adjourn. Daryl Yerton seconded. All were in favor; none opposed. Motion passed.

Planning Board adjourned.

Minutes submitted by: Sarah Geurtz

Approved by the Planning Board on:

_____ Date: _____
Randy Laney, Planning Board Chairman