

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

**May 01, 2014**

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

DEVELOPMENTS REVIEWED:

*ACTION TAKEN:*

**LAND DEVELOPMENT HEARINGS**

County

**a: Owens Subdivision**

(staff recommends this be tabled due to lack of resubmittal)

**Tabled**

County

**b: Sassafras Springs Vineyard Expansion Final LSD**

**Approved**

Fayetteville Planning Area

**c: Gulley Addition Final Subdivision**

(staff recommends this be tabled due to lack of construction completion)

**Tabled**

**CONDITONAL USE PERMIT HEARINGS**

Fayetteville Planning Area

**d: Kerry Pitts CUP (Residential)**

**Approved**

Fayetteville Planning Area

**e: W. Wheeler Cell Tower CUP**

**Approved**

County

**f. B& R Meat Taxidermy Shop Expansion CUP**

**Approved**

Fayetteville Planning Area

**g. Eastern Park Subdivision CUP**

**Tabled**

**1. ROLL CALL:**

*Roll call was taken. Members present include Robert Daugherty, Chuck Browning, Randy Laney, Walter Jennings, and Kenley Haley. Cheryl West and Daryl Yerton were not present.*

**2. APPROVAL OF MINUTES:** *Kenley Haley made a motion to approve the minutes of April 03, 2014. Walter Jennings seconded. All board members were in favor of approving. Motion passed.*

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

**4. NEW BUSINESS**

## LAND DEVELOPMENT HEARINGS

### County (TABLED)

#### **a. Owens Subdivision**

##### ***Preliminary and Final Replat Approval Request***

Location: Section 15, Township 15 North, Range 33 West

Owners: James Owens

Applicant: Blew & Associates / Scott Blackshers

Location Address: 21840 Summers Mountain Road

Approximately 39.83/ Proposed Land Use: Residential/Agricultural

Coordinates: Longitude: -94.47585311"W, Latitude: 35.97590285"N

**Project #: 2014-046 Planner: Juliet Richey e-mail at [jrichey@co.washington.ar.us](mailto:jrichey@co.washington.ar.us)**

*Kenley Haley made a motion to approve the agenda with Item A tabled. Walter Jennings seconded. All board members were in favor of approving. Motion passed.*

### County

#### **b. Sassafras Springs Vineyard Expansion Final LSD**

##### ***Conditional Use Permit Approval Request***

Location: Section 22, Township 17 North, Range 29 West

Owner: Long Family Revocable Trust

Applicant: Gene and Cheryl Long

Location Address: 6461 E. Guy Terry Road

Approximately 15.03 acres. Proposed Land Use: Event Center and Winery Expansion

Coordinates: Longitude: -94.0675, Latitude: 36.1267

**Project #: 2014-014 Planner: Courtney McNair e-mail at [cmcnair@co.washington.ar.us](mailto:cmcnair@co.washington.ar.us)**

**REQUEST:** The applicant is requesting Final Large Scale Development (LSD) plan approval for the approved Sassafras Springs Vineyard Expansion CUP (CUP 2014-014) that includes: an additional deck to be added to the previously approved Winery (CUP 2013-120), remodel of an existing barn into an Event Center, construction of "chapel ruins" for an outdoor wedding venue, parking, and a septic system to service the proposed Event Center. The Preliminary LSD was approved on April 3, 2014.

**CURRENT ZONING:** Project lies within the County's Zoned area (Agriculture/Single-Family Residential 1 unit per acre). Conditional Use Permits 2013-120 and 2014-014 were approved for Sassafras Springs Vineyard (and expansion).

**PLANNING AREA:** This project is located solely in the County.

**QUORUM COURT DISTRICT:** 15, Butch Pond    **FIRE SERVICE AREA:** Goshen (Fayetteville also responds)    **SCHOOL DISTRICT:** Fayetteville

**INFRASTRUCTURE:** Water- Fayetteville    Electric-Ozarks Electric    Natural Gas- SourceGas  
Telephone- ATT    Cable- Cox

### **BACKGROUND/ PROJECT SYNOPSIS:**

The owner of this property is The Long Family Revocable Trust. The applicants are Gene and Cheryl Long. This property is located off of Guy Terry Road (near the intersection of Guy Terry Road and Habberton Road), WC #92.

The applicant is requesting Final Large Scale Development approval to allow the expansion of the Sassafras Springs Vineyard. The expansion project includes an event center (remodeled existing barn), parking area and driveway, and associated septic system. An additional deck has been attached to the

winery building. "Chapel Ruins" have been constructed as an outdoor wedding venue. The event center and winery will be connected with a paved walkway. The "Chapel Ruins" will be connected to the winery with a paved walkway. The Conditional Use Permit allowing this use expansion was approved in March 2014 (2014-014).

**Event Center "Stables at the Winery" (existing barn that is being renovated):**

Hours of operation for the event center will generally be 10:00 a.m. to 11:00 p.m. According to the applicant's CUP letter dated 2/20/2014, large events will be required to have a security person on premise for traffic control. The events will be catered. Occupancy for the Event Center will be approximately 200 patrons. The applicant has stated that all activities for the Event Center will be indoors with the exception of occasional tents if a larger event is to be held. The fire marshal will be notified prior to this type of event.

The Event Center request approval to allow the possibility of wine making in the future with the approved CUP; the Health Department has comments regarding this type of use. A Wine Manufacturing kitchen must be plumbed separately to meet Health Department Regulations. There will be a small two- acre vineyard located behind the center.

**Winery (existing building previously approved with CUP#2013-120):**

The applicant has stated that the additional deck will not increase the total number of patrons to the winery (the previously approved CUP allowed for approximately 25 patrons with occasional larger groups up to 100 patrons). The letter states that the proposed deck will allow for a private space for groups.

Chapel Ruins (faux ruins constructed on an existing foundation between the winery and events center): The "Chapel Ruins" proposed for the outdoor wedding venue will have no utilities or facilities, is open air, and accessible via a paved walkway from the winery building.

**General:**

(Please see attached site plans **B-27-32**).

The State Alcohol Beverage Control (ABC) Board will regulate all conditions that deal with the consumption, import and distribution of alcohol for the proposed small farm winery and any additional conditions for the proposed event center/wine making area. Washington County Planning will require that the applicant abide by all conditions made by the ABC Board and that the applicant will provide Planning Staff with copies of all correspondence and permits issued to them by the ABC Board.

**At the time of this staff report, this project is under construction. The Washington Fire Marshal and Planning Department will inspect prior to the meeting. Additional or revised conditions may be presented at that time.**

The project should be developed as stated in the applicant's CUP letter (**B-10-12**) with additional conditions proposed by staff. All conditions approved with CUP projects 2013-120 and 2014-014, and Preliminary LSD 2014-025, shall apply to this project. (**B-14-24**).

**TECHNICAL CONCERNS:**

**Water/Plumbing/Fire Issues:**

This property is serviced by Fayetteville Water and is in the Goshen Volunteer Fire Department Fire Service Area. There is a waterline existing to the site. The existing hydrant has adequate gpm fire flow (1093 gpm)

All access roads and parking area drives must be a minimum of 20' wide, have a 28' turn radius, and support 75,000lbs in all weather conditions. Must all follow Road Department conditions (20' paved apron required). Fire lanes along the drive and within the parking area must be marked (can be signage-if the drive and lots are gravel; or paint-if the drive and lots are paved).

A "warming only" kitchen is proposed. The building must meet Arkansas State Fire Code. Exit lights/emergency lights and fire extinguishers are required. Architectural plans were submitted and

approved. The occupancy (determined by the architect) must be posted for the Event Center. The applicant must comply with any Health Safety/Fire Code recommendations made by the Architect.

**The Fire Marshal will inspect all improvements prior to the building being occupied.**

**Sewer/Septic/Decentralized Sewer:**

The event center will utilize an individual septic system. Soils work has been completed, and is under review with the Health Department. The system must receive approval from the Health Department. It must then be installed. The system will be inspected by the Health Department prior to occupation of the proposed building.

The septic system (primary and alternate area) must be delineated (landscaping/fencing/blocking) to prevent anyone from parking or driving in this area. No parking is allowed on any portion of the septic system including the alternate area. The alternate area must remain undisturbed.

As long as all events are catered, the Health Department will not require a Retail Food Service Permit. The Health Department does not have any concerns with the deck expansion.

**Staff has not received information on the Final Inspection for the septic system by the Health Department. Staff will update you at the meeting.**

**Electric/Gas/Cable/Phone:**

The utility companies servicing this property were contacted, no comments were received. On the previously approved project, Source Gas had comments informing the applicant of the high pressure gas line that runs parallel and adjacent to Guy Terry Road.

Generally, any damage or relocation of utilities will be at the expense of the owner/applicant.

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

This property accesses off Guy Terry, WC #92. The Road Department requires 20' (width and length) hard surface pavement at any entrances to the site as it connects to a paved County Road. Culverts were installed by the Road Department. A permit was obtained by the developer for the paving required in the County ROW.

**The paved entrances must be installed by the developer, and then inspected by the Road Department prior to operation. Staff will update the Board at the Meeting if the entrances were inspected and approved.**

Generally, the path from the parking to the Event Center must be ADA compliant. No signage or parking is allowed within Washington County's road right-of-way (ROW). The connection from the handicapped parking to the building entrance must be ADA compliant.

**Drainage:**

The drainage report was approved by the Washington County Contracted Engineer. However, staff needs signed copies for the file. The engineer must provide these prior to staff signing the Final Plat.

**Environmental Concerns:**

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

**Signage/Lighting/Screening Concerns:**

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.

The applicant has proposed signage that will be no larger than 16 sq. ft. No additional signage is allowed to be placed. If the applicant chooses to use lighting for the sign, it must be indirectly lit.

The proposed dumpster must be fenced. This fencing (and the gate) shall be opaque material. Washington County Planning will inspect the fencing.

Staff is not recommending additional screening at this time. The barn exists and is rural in nature, the proposed parking is to be gravel, and the “Chapel Ruins” will not be visible from surrounding properties. Staff feels that these uses are not going to be out of context in a rural setting.

**Addressing Concerns:**

911 Addresses are shown on the plans.

**Sheriff’s Office Concerns:**

The Washington County Sheriff’s Office reviewed these plans and commented that the applicant must comply with all requirements and regulations of the State Alcohol Beverage Control Division (ABC).

**NEIGHBOR COMMENTS/CONCERNS:**

(All neighbors within 300 feet of the boundary of this property were notified by certified mail of this proposed project at the Conditional Use Permit and Preliminary Large Scale Development phase. Notification is not required for Final Large Scale Development.)

Planning has not received any comments. Staff will update you at the meeting if any comments are received.

**CHECKLIST:**

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

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

**STAFF RECOMMENDATION: Staff recommends approval of the proposed Sassafras Springs Vineyard Final Large Scale Development with the following conditions:**

**Water/Plumbing/Fire Conditions:**

1. Fire lanes along the drive and within the parking area must be marked (can be signage-if the drive and lots are gravel; or paint-if the drive and lots are paved). **Please place signs (or paint on fence as discussed at the site visit).**
2. If there is a “wine manufacturing” area, it must be on a separate septic system.
3. The applicant must comply with any Health Safety/Fire Code recommendations made by the Architect.

**Septic Conditions:**

1. No parking is allowed on any portion of the septic system including the alternate area. The alternate area must remain undisturbed. (No overflow parking either).
2. If additional Health Department permits are required, those must be obtained and submitted to Planning Staff prior to operation

**Environmental Conditions:**

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

**Utility Conditions:**

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

**Signage/Lighting/Screening Conditions:**

1. 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.
2. Proposed signage must be approximately 16 sq. ft. as stated in the applicant's letter, and located approximately (not within the County ROW) as shown on plans. **No signage currently. If installed in the future, the applicant will adhere to this condition and notify staff for inspection.**
3. No additional signage is allowed to be placed. If the applicant chooses to use lighting for the signs, all signage must be indirectly lit.

**Additional and Standard Conditions:**

1. Pay engineering fees. Staff will prepare a statement once all invoices are received. If less than one hour of review, there will be no billed charges. **Staff has received all invoices and will calculate.**
2. Pay mailing fees of \$37.35 (an invoice was emailed to the applicant on 3/28/14). **This can be paid at the same time as engineering fees.**
3. The applicant must comply with the Alcohol Beverage Control board and submit copies of all permits issued by the ABC for this project. **Please submit updated copy as per discussion at site visit.**
4. All conditions approved with CUP projects 2013-120 and 2014-014, and Preliminary LSD 2014-025 shall apply to this project.
5. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.

*Washington County Senior Planner, Courtney McNair, presented the staff report for the board members.*

*No Public comments. Public Comments Closed.*

*Robert Daugherty made a motion to approve the **Sassafras Springs Vineyard Expansion CUP Final LSD** subject to staff recommendations Walter Jennings seconded. Daryl Yerton and Cheryl West were not present. Board Members Randy Laney, Walter Jennings, Robert Daugherty, Chuck Browning, and Kenley Haley were in favor of approving. Motion passed.*

**Fayetteville Planning Area (TABLED)**

**c. Gulley Addition Final Subdivision**

***Final Subdivision Approval Request***

Location: Section 32, Township 17 North, Range 29 West

Owner/Applicant: JRJC, LLC/Jay McLelland

Location Address: no location address

4.77 acres/ 4 lots

Proposed Land Use: Single Family Residential  
Approximate Coordinates: Longitude: -94.088381 Latitude: 36.105795  
**Project #: 2014-029, Planner: Courtney McNair email [cmcnair@co.washington.ar.us](mailto:cmcnair@co.washington.ar.us)**

*Kenley Haley made a motion to approve the agenda with Item C tabled. Walter Jennings seconded. All board members were in favor of approving. Motion passed.*

## **CONDITIONAL USE PERMIT HEARINGS**

### **Fayetteville Planning Area**

#### **d. Kerry Pitts CUP (residential)**

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

Location: Section 3, Township 16 North, Range 31 West

Owners: Kerry and Melissa Pitts

Applicant: Joesph Kerry Pitts

Location Address: 6234 W. Jess Anderson Rd

Approximately 1.20 acres, 2 lots/ Proposed Land Use: Tract A-Single Family Residential, Tract B- personal shop building

Coordinates: Longitude: -94.25032226" W, Latitude: 36.09148073" N

**Project #: 2014-042 Planner: Juliet Richey e-mail at [jrichey@co.washington.ar.us](mailto:jrichey@co.washington.ar.us)**

**REQUEST: Conditional Use Permit approval to allow the creation of two lots less than one acre in size; one lot wil house an existing residence, the other lot (currently vacant) will be for the use of a personal shop building.**

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

**PLANNING AREA: This project is located within Fayetteville's planning area. The City submitted no comments.**

**QUORUM COURT DISTRICT: District 7, Rick Cochran**    **FIRE SERVICE AREA: Wheeler VFD**

**SCHOOL DISTRICT: Fayetteville**

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

### **BACKGROUND/ PROJECT SYNOPSIS:**

**Kerry Pitts CUP** is requesting Conditional Use Permit approval to allow a residential lot and a lot for a personal shop; each less than one acre in size. The parcel is currently zoned for Agricultural or Single Family Residential Uses with 1 unit per acre.

The applicant owns a property that is 1.2 acres in size, there is one existing residence located on this parcel. The applicant is proposing to split the property into 2 lots:

- o Tract A: 0.695 acres with the existing residence
- o Tract B: 0.505 acres to remain vacant with the possibility that the applicant will construct a personal use shop building in the future.

### **TECHNICAL CONCERNS:**

#### **Water/Plumbing/Fire Issues:**

No comment received from Fayetteville Water. No issues anticipated.

The Washington County Fire Marshal had no comment.

**Sewer/Septic/Decentralized Sewer:**

A D.R. performed soil work on this property and found the soils to be adequate for the proposed uses of each lot (see attachments D9- D11).

**Tract A:**

The existing home utilizes a septic system; this system has passed inspection (conducted by a Designated Representative of the Arkansas Health Department).

The best area for an alternate septic area for the home is on the northeastern corner of the property- to the rear of proposed Tract B. While the alternate area could have been preserved via a septic easement, Planning Staff felt it was more likely that the area would be preserved or future septic use (if ever needed) by making it an actual part of Tract A. The resulting lot layout of Tract A is therefore a bit unconventional, but functional for the purpose needed.

**Tract B:**

Due to its size and soils, Tract B is not suitable for a residence, but is suitable for a personal shop building (The applicant's proposed use). A D.R. tested the soils on this lot and found that it is suitable for a septic system near the front (southeastern side) of Tract B.

**Electric/Gas/Cable/Phone:**

AT&T Telephone, Source Gas, Cox, and Ozarks Electric have no comment. Generally, any damage or relocation of utilities will be at the expense of the owner/applicant.

**Road Conditions:**

There is an existing drive to the residence on Tract A. If a new drive is installed on Tract B, any work in the ROW must be permitted through the Road Department.

**Environmental Concerns:**

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

**COMPATIBILITY CONCERNS:**

**Surrounding Density/Uses:**

The surrounding uses are single family residential and agricultural. The site contains one permanent residence and the potential for an additional shop building.

Although the proposed lots are smaller than other surrounding lots due to the nature of the request (one lot for a residence and one lot for a shop building), the nature of the site will be similar to other lots in the area that contain a residence and a home. Therefore Planning Staff feels that the applicant's request is compatible with the surrounding area.

**County's Land Use Plan (written document):**

According to the County's Land Use Plan,

**SECTION III. PHYSICAL DEVELOPMENT**

**A. LAND USE CONSIDERATIONS**

**1. RESIDENTIAL**

- A. To provide for development of residential areas at appropriate densities. Staff feels that the proposed density fits the surrounding densities in the area.
- B. Update, administer and enforce subdivision regulations; and develop, adopt, and enforce zoning

and related regulations and codes;

- C. Require development to be connected to utilities and utilize zoning as a means to guide the progression of development; It appears that utilities are available.
- D. Protect the character and integrity, and property values, of single-family, residential areas; Staff feels that one additional shop building will be compatible with the character of the surrounding area.
- E. Protect residential neighborhoods from inappropriate non-residential influences through the use of regulatory controls;
- F. Ensure land use and development patterns which provide for the most efficient and effective use of available utilities and services, including fire protection; and,
- G. Maintain an adequate county road plan and standards to guide and accommodate traffic movement; to develop differing categories of roads; and to protect rights-of-ways for planned, future roads. The lot split as proposed will dedicate ROW and utility easements for both lots, as well as institute appropriate building setbacks.

**Future Land Use Plan**

There is no future land use designation for this portion of the County.

**SITE VISIT:**

A site visit was conducted by planning staff on April 21, 2013.

**NEIGHBOR COMMENTS/CONCERNS:**

No written comments have been received.

One neighbor (to the north of the property- behind the two proposed lots) called to express some possible concern regarding existing drainage patterns through Tract B and the possible placement of the shop building. It appears that the water that runs through this portion of the site is primarily just sheet flow (as there is no defined channel). Planning Staff discussed it with the County Engineer, and do not feel that there will be issues if the shop is built with the sheet drainage taken into consideration.

**STAFF RECOMMENDATION: Staff recommends *approval* of the proposed Kerry Pitts Conditional Use Permit with the following conditions:**

**Septic Conditions:**

- 1. The septic system must be approved by the Arkansas Health Department (ADH), installed, and then inspected by ADH prior to occupation of the shop.
- 2. Tract B may not be used for residential purposes.
- 3. No parking is allowed on any portion of the septic system areas, including the alternate areas.

**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.

**Environmental Conditions:**

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

**Utility Conditions:**

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

**Standard Conditions:**

1. Pay neighbor notification mailing fees within 30 days of project approval. Any extension must be approved by the Planning Office.
2. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Office or Planning Board/Zoning Board of Adjustments.
3. This CUP must be ratified by the Quorum Court.
4. It is the applicant's responsibility to contact the Planning Office when inspections are needed.

*Washington County Planning Director, Juliet Richey, presented the staff report for the board members.*

*Chuck Browning, Planning Board Member asked what is the purpose of splitting this property?*

*Juliet Richey, Washington County Planning Director, answered, "So that Mr. Pitts can sell the lot with the house off separately and keep his shop on a different lot."*

*Public comments.*

*Kerry Pitts, Property Owner, states that he is here to answer any questions or concerns.*

*Layth Lane Jr., property owner across from house, stated, "Mr. Pitts took a house that was an eyesore for many years about 10 years and turned it into what is it now. Anything that Mr. Pitts builds on the second of the part of the property will be a plus for the neighborhood."*

*Public Comments Closed.*

*Robert Daugherty made a motion to approve the **Kerry Pitts CUP** subject to staff recommendations Walter Jennings seconded. Daryl Yerton and Cheryl West were not present. Board Members Randy Laney, Walter Jennings, Robert Daugherty, Chuck Browning, and Kenley Haley were in favor of approving. Motion passed.*

**Fayetteville Planning Area**

**e. W. Wheeler Cell Tower CUP**

***Conditional Use Permit Request***

Location: Section 25, Township 17 North, Range 31 West

Owners: Seletha Bilderback

Applicant: Westower Communications / John Beacham

Location Address: 3293 W. Weir Road

Approximately 26.97 acres/ Proposed Land Use: Cell Tower

Coordinates: Longitude: -94.24051151" W, Latitude: 36.11277845" N

**Project #: 2014-041 Planner: Juliet Richey e-mail at [jrichey@co.washington.ar.us](mailto:jrichey@co.washington.ar.us)**

**REQUEST:** **W. Wheeler Tower CUP (AT&T Cellular Tower)** is requesting Conditional Use Permit approval to construct an approximately 150 foot tall monopole wireless communications tower facility. The tower will not be lit. This property is in a zoned area where the use of Single Family Residential (maximum of 1 unit per acre) or Agricultural, is allowed by right, and all other proposed uses must be reviewed as Conditional Use Permit Requests by the County Planning Board/ Zoning Board of Adjustments.

**CURRENT ZONING:** Agriculture/Single-Family Residential 1 unit per acre.

**PLANNING AREA:** This project is located in the City of Fayetteville's Planning Area. The City did not comment on this project.

**QUORUM COURT DISTRICT:** District 7, Rick Cochran

**FIRE SERVICE AREA:** Wheeler VFD

**SCHOOL DISTRICT:** Fayetteville

**INFRASTRUCTURE:** Water- Fayetteville    **Electric-**Ozarks Elec.    **Natural Gas-** SourceGas  
**Telephone-** AT&T    **Cable-** Cox

**BACKGROUND/ PROJECT SYNOPSIS:**

**W. Wheeler Tower CUP (AT&T Cellular Tower)** is requesting Conditional Use Permit approval to construct an approximately 150 foot tall monopole wireless communications tower facility. The tower will not be lit. Please see **pg E-11** for a visual example of a monopole-type tower.

The tower will be constructed on parcel 001-17317-000 (26.97 acres). A proposed 30 foot wide access and utility easement will provide access from Adams Road WC# 707 to the tower site. The tower will be located on a 75'x75' lease area with a proposed shelter and generator. It is presumed by staff that additional generators, shelters, and meter banks will be added in the future with future antenna co-locations.

The plans state that this facility will be unmanned and the only reoccurring traffic will be light trucks for equipment maintenance technicians. Please see the attached traffic statement letter.

The applicant has provided a letter of explanation (**pgs E-10 through E-16**) and many supporting documents for this tower request. Please review this application and the construction plans attached.

If this CUP is approved, then this tower must go through Washington County's communications tower approval process as an Administrative Tower review or be reviewed by the Planning Board for Full Tower Review. To qualify for Administrative approval, the owners of all residences within 550' of the tower must sign a letter stating that they do not object to the tower.

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

In his submittal letter, the applicant explains that the initial search ring that AT&T gave the site acquisition specialists (the applicant) to work with was in a more urban setting; therefore the applicant requested that a revised search ring in a more rural area be located to lessen the impact on surrounding property owners. This application is the result of that revised search.

Staff has been out to the site and observed that it is fairly remote and situated in a way that minimizes the aesthetic impact for some of the neighbors. Please see the attached residence proximity map on **pgs E-9**. Please keep in mind that these distances are approximate.

The closest residence is approximately 394' from the site. This residence belongs to the owner of the property on which the tower is proposed to be located. The tower site is on the top of a hill and therefore the terrain acts as a buffer to several of the surrounding homes. When staff visited the site it appears that the residence most likely to be impacted by the tower (visually) is the residence to the southwest (shown to be approximately 549' from the tower site). This is due to the residence also being located on a hill at approximately the same height as the tower site.

All neighbors within 300' of the exterior boundary of the parcel were notified. No neighbors have submitted comments for or against the CUP at this time.

The applicant has submitted several maps showing the improvement in coverage of the area if this tower is approved. **Please see pgs E-19 through E-26.**

**APPLICABLE FEDERAL LAW IN REGARD TO REVIEW OF CELL TOWERS:**

Items we *cannot* consider- as per federal regulation:

Sec 704 (a)(iv) of the FCC Act of 1996 prohibits us from making decisions about the possible environmental impacts of cell towers based on radio frequency emissions, etc. This includes health-related concerns in regard to radio frequency emissions.

There is a maximum amount of radiation allowed by Federal regulation. As long as the tower does not exceed that amount, then you may not use this as a reasoning to not allow the tower.

In November of 2009, the FCC issued a Declaratory Ruling clarifying portions of the FCC Act. This clarification states the following:

- Local governments have 150 days to review and act upon tower siting applications. If the County fails to act in that period of time, the applicant can bring action against us in court, and we will bear the burden of explaining why the delay was reasonable.
- The County cannot deny an application solely because “one or more carriers serve a given geographic market,” as in doing so, the County would be engaging in unlawful regulation that “prohibits or has the effect of prohibiting the provision of personal wireless services.” In other words- just because one provider (i.e. AT&T, Verizon, etc) has existing good service in an area is not grounds to deny a tower from being placed in that area.

### **TECHNICAL CONCERNS:**

#### **Fire Issues:**

The Fire Marshal has reviewed the plans and spoken with the applicant. He just has a few comments that will need to be addressed with the final set of construction plans and at the Tower Approval stage.

1. Access road must be at least 20' wide and support 75,000 lbs in all weather conditions.
2. Existing cattle guard must also support 75,000 lbs or be bypassed
3. Access road must have a turnaround with 28' radii.
4. Existing overhead electric must have appropriate clearance for fire trucks.
5. Any additional generators or tanks must be reviewed by Fire Marshal.
6. Please put a NFPA placard on the generator tank.

#### **Electric/Gas/Cable/Phone:**

No utility comments have been received at this time.

#### **Roads/Ingress-Egress:**

The project site accesses off of an existing driveway on Adam's Road (WC 707). This driveway will need to be widened and improved to serve as the cell tower access road.

The Road Department had the following comments:

1. Any work that may be done in the County road right-of-way will require a permit from the Washington County Road Department.
2. No new utility lines may be in the existing county road right-of-way and must be at least 30 feet from the center of any county road.
3. Prior to any construction taking place, the landline phone utility (AT&T) must set up a meeting with Washington County Road Department to discuss route of any new or updates to utility lines.
4. Must give right-of-way for county roads that touch effected parcel. The right-of-way may be needed on both sides of one side of road.

#### **Drainage:**

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

#### **Environmental Concerns:**

No stormwater permit will be required by Washington County, at this time. Must comply with all ADEQ rules and regulations. [www.adeq.state.ar.us](http://www.adeq.state.ar.us)

### **COMPATIBILITY CONCERNS:**

#### **County's Land Use Plan (written document):**

According to the County's Land Use Plan,

## **SECTION II. SUMMARY OF MAJOR CONSIDERATIONS**

In an effort to attain the type of development desired by county leaders and citizens alike, the following matters should be considered.

1. *Retain the agricultural nature and rural residential character of the county through proper development regulations; while at the same time recognizing the need for industrial land uses, principally where adequate utilities, roads, and other infrastructure exists or will exist. This will allow the industrial and commercial uses and rural residential lands that choose to locate in the county, as well as help to insure that incompatibility with agricultural, residential, and other uses is minimized.*

Staff Comments: **There appears to be a number of valid reasons that the tower has been requested in this region, and at this particular location and height. The applicant presented maps showing the need for better cellular coverage in this area of the County. One cannot deny the aesthetic impact of a tower; however, Staff feels that this tower's placement in a less populated area of the County, its placement in the terrain, the type of tower (monopole), and the lack of tower lighting, help to mitigate its appearance and does not inherently impact the rural and agricultural nature of the County. With these items taken into full consideration, Staff feels that this cellular facility should be allowed at this location.**

2. *Commercial development, though necessary, must be weighed according to its impact on agricultural and residential areas.*

Staff Comments: **Staff recognizes that a tower at this location might impact the aesthetics of some surrounding properties but it would also provide increased cellular reception to this rural area for both general and emergency cellular service.**

3. *The protection and preservation of agricultural lands through the proper use of regulatory mechanisms is critical to retain the rural nature of the county.*

Staff Comments: **Staff feels they have carefully considered and addressed (to the best of their abilities and knowledge) the protections and preservation of agricultural lands using the regulatory mechanisms at their disposal (primarily the Conditional Use Permit Process).**

To address the concerns listed above, staff has given consideration to a number of factors related to this proposed use such as:

- residential structure proximities,
- the proposed tower type and height,
- fire and emergency vehicle access,
- screening of the compound area
- and all other items discussed in this Staff Report.

#### **Future Land Use Plan**

There is no future land use designation for this portion of the County.

**NEIGHBOR COMMENTS/CONCERNS:**

All neighbors within 300' of the exterior boundary of the parcel were notified. No neighbors have submitted comments for or against the CUP at this time.

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

**STAFF RECOMMENDATION: Staff recommends approval of the proposed W. Wheeler Cell Tower Conditional Use Permit with the following conditions:**

**General Conditions:**

1. The project shall generally adhere to the plans submitted.

**Fire Conditions:**

1. Access road must be at least 20' wide and support 75,000 lbs in all weather conditions.
2. Existing cattle guard must also support 75,000 lbs or be bypassed
3. Access road must have a turnaround with 28' radii.
4. Existing overhead electric must have appropriate clearance for fire trucks.
5. Any additional generators or tanks must be reviewed by Fire Marshal.
6. Please put a NFPA placard on the generator tank.

**Roads/Ingress-Egress Conditions:**

1. Any work that may be done in the County road right-of-way will require a permit from the Washington County Road Department.
2. No new utility lines may be in the existing county road right-of-way and must be at least 30 feet from the center of any county road.
3. Prior to any construction taking place, the landline phone utility (AT&T) must set up a meeting with Washington County Road Department to discuss route of any new or updates to utility lines.
4. Must give right-of-way for county roads that touch effected parcel. The right-of-way may be needed on both sides of one side of road.
5. County Road Dept. staff will inspect the site immediately post construction to evaluate whether any damage to the road has occurred. If so, the applicant or tower company will be responsible to remedy the situation.

**Environmental Conditions:**

1. No stormwater permit will be required by Washington County, at this time. Must comply with all ADEQ rules and regulations. [www.adeq.state.ar.us](http://www.adeq.state.ar.us)

**Utility Conditions:**

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

**Signage/Lighting/Screening Conditions:**

1. All outdoor lighting must be shielded from neighboring properties. Any lighting must be indirect and not cause disturbance to drivers or neighbors.
2. All security lighting must be shielded appropriately.
3. The compound area should be screened by using opaque material or privacy fencing a minimum of 6' in height.

**Standard Conditions:**

1. Pay neighbor notification mailing fees within 30 days of project approval. Any extension must be approved by the Planning Office.
2. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
3. This CUP must be ratified by the Quorum Court.
4. It is the applicant's responsibility to contact the Planning Office when inspections are needed.

5. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.
  - a. This project requires additional review (Communications Tower Approval), and therefore, the applicant must submit for Communication Tower Approval within 12 months of this CUP project's ratification.

*Washington County Planning Director, Juliet Richey, presented the staff report for the board members.*

#### *Public Comments*

*Steve Shaw, property owner North of Adams road, stated that he has no opposition for the tower but is concerned about the road access. Pointing to map, just to the right of the proposed tower is Adams Rd and he states that there is no other access from the north. So for his property and all the other landowners living there they would have to proceed from the south to Adams Rd. Adams Rd has quite a slope to it. Every spring it washes out and requires the neighbor to use their farm equipment to maintain the road. He voiced concerns with regards to the roads, the installation of the tower, and the traffic that would be associated with the maintenance of it. We don't know if it's part of the Planning Board's task to evaluate the use of the road and what type of construction would be used to maintain the road. As a neighbor to the north of Adams Rd, and having no other access to that road we ask the Planning Board to consider how the recommendations would go regarding the road maintenance and repair. It really needs culverts at least on the west side for the drainage. Because what happens is the water comes down half way and swings across the road. The proposed access road into the site of the cell tower is about half way up. In order to make sure the road is secure, whatever type of improvements to the road would have to go to the top of the hill.*

*Randy Laney, Planning Board Chairman, asked if the staff visited the site and checked the road.*

*Donnie Coleman, Washington County Road Superintendent, replied that he has been on that road a lot. "There is no place for the water to go but down hill. Nobody wants water on the road. We can take another look at it."*

*George Butler, County Attorney, asked if that is a county road or residential drive.*

*Juliet Richey, replied it's a county road.*

*Juliet Richey stated that there is not an existing culvert there right now. "The applicant could probably address the traffic issue better than I can. But there shouldn't be much traffic after the tower is built. Initially when they put it in there will be some larger vehicles. Donnie, correct me if I am wrong, but if those vehicles do anything to damage the road then they are responsible, correct?."*

*Donnie Coleman, stated that he have been around a lot of tower constructions. "They go in there with a one piece of equipment like a crane. They set up, set the tower, and then drive off. They are in and out in like a month."*

*Juliet Richey, replied that the applicant might want to address the frequency of traffic.*

*Nathanial Lewellen, Representative of AT&T, stated "as for as initial construction, it will require a concrete truck to pour the foundation, a semi-truck to carry the steal, and a crane to erect the tower. That usually takes 5-7 days. Once it's a built we send a technician truck, light duty vehicle every 12-15 weeks. Usually these days you don't see anybody but once a quarter with these antennas. It's a minimal impact on traffic once the tower is constructed."*

*Randy Laney, asked "As a good neighbor would you work with the Mr. Shaw and monitor the roads if you do damage?"*

Nathaniel Lewellen, replied, "Certainly, AT&T is the owner and operator of this site. The actual general contractor is out of Arkansas, WestTower Communication in North Little Rock. They are much more receptive and responsive than a nationwide company, especially on these issues."

Juliet Richey, noted that we can add conditions that stated, "Upon construction we can assess that no damage has been done to the roads".

Kenley Haley, Planning Board Member, asked if it is a county road.

Juliet Richey replied yes.

Juliet Richey added some verbage to the conditions stating that "County road construction staff will inspect the site immediately post construction to evaluate any damages to the road has occurred. If so the applicant (the applicant for the construction of the tower) or the tower company will be responsible to remedy the situation."

Robert Daugherty, Planning Board member, asked, "how many feet would they have on the county road?"

Juliet Richey answered maybe a quarter of a mile. It looks about 600-700 feet.

Robert Daugherty stated, "that most cell towers have great access and improves to them. It would behoove them make sure it is as good as it now or work with county to maintain the road."

Robert Daugherty made a motion to approve the **W.Wheeler Cell Tower CUP** subject to staff recommendations Chuck Browning seconded. Daryl Yerton and Cheryl West were not present. Board Members Randy Laney, Walter Jennings, Robert Daugherty, Chuck Browning, and Kenley Haley were in favor of approving. Motion passed

## County

### **f. B& R Meat Taxidermy Shop Expansion CUP**

#### **Conditional Use Permit Approval Request**

Location: Section 11, Township 13 North, Range 30 West

Applicant: B&R Meat Processing (Scott and Earl Ridenoure)

Location Address: 633 N. Devils Den Road, Winslow, AR 72759

2.71 acres/ 1 new building and addition to existing building

Proposed Land Use: New Building: Commercial Taxidermy Shop, Addition: expanded storage space for meat processing facility

Coordinates: Longitude: 94° 8 '35.8" W Latitude-35° 48' 33.69" N

**Project #: 2014-047 Planner: Juliet Richey e-mail at [jrichey@co.washington.ar.us](mailto:jrichey@co.washington.ar.us)**

**REQUEST:** The Conditional Use Permit Request is to allow the expansion of the existing CUP 2013-039 for a meat processing facility (granted last year) **to allow the addition of a hide shed, a storage area (connected to the rear of the existing building), and the addition of a taxidermy shop** in an area where the use of Single Family Residential (maximum of 1 unit per acre) or Agricultural, is allowed by right, and all other proposed uses must be reviewed as Conditional Use Permit Requests by the County Planning Board/ Zoning Board of Adjustments.

**CURRENT ZONING:** CUP 3013-039 (allowing the existing meat processing facility) and Agriculture/Single-Family Residential 1 unit per acre.

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

**QUORUM COURT DISTRICT:** District 14, Ann Harbison  
VFD

**SCHOOL DISTRICT:** Greenland

**FIRE SERVICE AREA:** Boston Mountain

**INFRASTRUCTURE:** Water- Winslow Link **Cable-** N/A **Electric-**OG&E **Natural Gas-** N/A **Telephone-** Century

### **BACKGROUND/ PROJECT SYNOPSIS:**

B & R Meat Processing is requesting permission to build:

- 32'x 50' Taxidermy Shop building behind (southwest) of the current establishment,
- 20' x 30' addition to the west side of the existing building for additional storage space
- 18' x 18' hide shed on the west side of the existing gravel drive, west of the existing building

All improvements are proposed to be built on their existing 2.71 acres (Tract1 on the attached plan). Please note that access from the site to Devil's Den Road (HWY 74) is via an easement through the adjacent site (Tract 2).

As per the CUP submittal letter, B & R Meat Processing is requesting permission to build a Taxidermy Shop behind current (meat processing) establishment. There will not be a customer entrance to this building, no added odors or smells, and only a minimal traffic increase, as customers are already dropping off their deer and other game for processing at the existing meat processing facility.

B& R Meat Processing is also requesting permission to build a 20' x 30' addition to the west side of the existing building for additional storage space.

B& R Meat Processing is also requesting permission to build an 18' x 18' hide shed behind the existing building (on the west side of the existing gravel drive) for storing green hides that have been salted and preserved to be picked up by a furrier. This will not give off any odors. The hides are currently being stock piled on an open trailer and the shed will give the hides protection from the weather and help prevent the possibility of any hides spoiling do to exposure to the elements. These hides are currently being picked up on a monthly basis.

The existing operation handles the slaughter and processing of beef and pork, and the processing of deer. There is no general retail aspect to this establishment. Customers drop off their livestock or deer and return later to pick up the packaged products.

Please see the attached letter from the applicant(**pgs F-8 and F-9**) and site plans (**pgs F-11 through F-15**) for further information.

### **TECHNICAL CONCERNS:**

#### **Water/Plumbing/Fire Issues:**

This request and all floor plans were reviewed by the County Fire Marshal. All Fire comments have been addressed at this time.

There will be no restroom facilities in the taxidermy shop; only a hand washing sink. The Health Department has no issue with this, and connection of the additional hand washing sink to the existing septic system should not pose any capacity issues.

#### **Sewer/Septic/Decentralized Sewer:**

Tract 1 has two existing (ADH Approved) systems:

- A standard septic system
- A special septic system which includes a grease trap (similar to the type a restaurant would have in place) and several other pieces of specialized equipment. This special system is required by ADEQ in order to process the water coming from the butchering operation

**Electric/Gas/Cable/Phone:**

No utility comments have been received at this time.

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

The existing interior roads are shown on the plan. These roads and radii meet the specifications needed for fire purposes.

Parking appears to be adequate for their low-traffic needs.

This project accesses off HWY 74, Devil's Den Road. The sight visibility at this existing entrance is adequate.

**Drainage:**

The Washington County Contract Engineer has no comments on this proposed project. An updated drainage report will be required at Preliminary LSD.

**Environmental Concerns:**

No stormwater permit will be required by Washington County, at this time. Must comply with all ADEQ rules and regulations. [www.adeq.state.ar.us](http://www.adeq.state.ar.us)

There is an existing industrial stormwater permit in place through ADEQ. Applicant should check to see if this permit needs to be altered to reflect the additional structures at Preliminary LSD stage

**Signage/Lighting/Screening Concerns:**

The applicant has requested the ability to place a sign no larger than 2' x2' either on or near the taxidermy shop building. There will be no additional signage near the road.

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.

**COMPATIBILITY CONCERNS:**

**Surrounding Density/Uses:**

The surrounding uses are single family residential and agricultural.

While the use of a meat processing facility and these related buildings does differ from traditional agricultural and residential uses (allowed by right in the area), Planning Staff feel that the following characteristics of this proposed use make this use compatible with the neighboring properties:

- the low traffic volume of this use
- the proposed development will look primarily rural in nature (metal shop-like buildings matching the existing structure)
- there should be no non-agricultural smells or noises pertaining to this use
- multiple proposed conditions regarding health and safety.

**County's Land Use Plan (written document):**

According to the County's Land Use Plan:

**SECTION III. PHYSICAL DEVELOPMENT**

**2. LIGHT COMMERCIAL**

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

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

**Future Land Use Plan**

There is no future land use designation for this portion of the County.

**NEIGHBOR COMMENTS/CONCERNS:**

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

One neighbor submitted a written comment in favor of this CUP (**see pg F-10**).

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

**STAFF RECOMMENDATION:** Staff recommends *approval* of the proposed Conditional Use Permit with the following conditions:

**General Conditions:**

1. The project shall adhere to the general plans submitted.

**Water/Plumbing/Fire Conditions:**

1. Fire Marshal will need to approve the final plans for each building prior to construction.
2. Fire Marshal will need to inspect locations of fire extinguishers, exit signs, etc at the LSD stage.

**Sewer/Septic/Decentralized Sewer Conditions:**

1. No parking is allowed on any portion of the existing septic systems including any alternate areas. (No overflow parking either).

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

1. Applicant must utilize existing entrance drive and easement to HWY 74.

**Environmental Conditions:**

1. No stormwater permit will be required by Washington County, at this time. Must comply with all ADEQ rules and regulations. [www.adeg.state.ar.us](http://www.adeg.state.ar.us)
2. There is an existing industrial stormwater permit in place through ADEQ. Applicant should check to see if this permit needs to be altered to reflect the additional structures at Preliminary LSD stage

**Utility Conditions:**

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

**Signage/Lighting/Screening Conditions:**

1. The applicant has requested the ability to place a sign no larger than 2' x 2' either on or near the taxidermy shop building. There will be no additional signage near the road.
2. All outdoor lighting must be shielded from neighboring properties. Any lighting must be indirect and not cause disturbance to drivers or neighbors.
3. All security lighting must be shielded appropriately.
4. No outdoor storage may be associated with this expansion
5. Any dumpsters must be screened by opaque screening- including the gate. A dumpster location must be approved by staff.

**Standard Conditions:**

1. Pay neighbor notification mailing fees within 30 days of project approval. Any extension must be approved by the Planning Office.
2. Must adhere to all previous CUP and LSD Conditions of B&R Meat Processing LLC Projects.
3. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
4. This CUP must be ratified by the Quorum Court.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
6. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.
  - This project requires additional review (Large Scale Development), and therefore, the applicant must submit for Preliminary project review within 12 months of this CUP project's ratification.

*Washington County Planning Director, Juliet Richey, presented the staff report for the board members.*

*Public comments.*

*Walter Jennings, Planning Board Member, asked if there is screening between neighbors and the buildings. "For some reason I thought we did that."*

*Juliet Richey, replied, "We did approve some screening and they did they plant some. The neighbor who wrote in this time is the neighbor that lives to the front of the south property. In the past the neighbor that complained was this owner to the west. We did put in screening there and we have not heard from him. But there is no screening between her neighbor to the north property and their property."*

*Bart Petray, 3D surveying and representative for B&R meat processing, is available to address any comment or questions.*

*Chuck Browning, Planning Board Member, asked to see the survey again.*

*Chuck Browning noted that he was the one that pushed for screening along the road. "What did they do?"*

*Juliet Richey replied they planted some bushes and some trees along this side. They are fairly small. They did plant them. "I went out there and inspected them. We did discuss that this spring I was going back out to see how many might of died during the past summer and what needed to be replace. They did plant them as specified by the board".*

*Walter Jennings asked, if the proposed building will be behind the existing building.*

*Juliet Richey replied "Yes, none of the proposed building should be any closer to this lady's property. (Pointing to presentation), Here is the existing building, driveway, and that's her property. Here's the new taxidermy shop. She shouldn't be able to see it well from her property. It will be further back and behind the existing building. It is closer to the guy that we screened in the past. He's not here tonight and we get anything from him. The hide shed is directly behind the existing building and I don't think it'll be hardly visible at all, it's pretty small."*

*Robert Daugherty, Planning Board Member, stated that the objection was more to having a commercial business rather than the view.*

*Juliet Richey replied that the neighbor said that she felt like her view and privacy were compromised.*

*Public Comments Closed.*

*Robert Daugherty made a motion to approve the **B&R Meat Taxidermy Expansion CUP** subject to staff recommendations Kenley Haley seconded. Daryl Yerton and Cheryl West were not present. Board*

Members Randy Laney, Walter Jennings, Robert Daugherty, Chuck Browning, and Kenley Haley were in favor of approving. Motion passed

**Fayetteville Planning Area**

**g. Eastern Park Subdivision CUP**

***Conditional Use Permit Approval Request***

Location: Section 32, Township 17 North, Range 29 West

Owner: Joyce McGuire

Applicant: Fred Patrick

Engineer: Bates and Associates

Location Address: 4436 E. Mission Blvd

Approximately 7.66 acres/ 19 lots. Proposed Land Use: Single Family Residential (17 residential lots, one lot for septic and one lot for detention)

Coordinates: Longitude: -94.097156, Latitude: 36.097785

**Project #: 2014-018 Planner: Courtney McNair e-mail at [cmcnair@co.washington.ar.us](mailto:cmcnair@co.washington.ar.us)**

**REQUEST: Conditional Use Permit approval to allow a residential subdivision with 17 residential lots, 1 lot for a decentralized sewer system, and one lot for drainage. The overall density proposed is 2.3 units per acre.**

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

**PLANNING AREA:** This project is located within Fayetteville's planning area. The city has submitted comments (**G-48-49**).

**QUORUM COURT DISTRICT:** District 15, Butch Pond **FIRE SERVICE AREA:** Goshen VFD

**SCHOOL DISTRICT:** Fayetteville

**INFRASTRUCTURE: Water-** Fayetteville **Electric-**Ozarks Electric **Natural Gas-** Source Gas

**Telephone-** AT&T **Cable-** Cox Communications

**BACKGROUND/ PROJECT SYNOPSIS:**

This property is owned by Joyce McGuire. The applicant is Fred Patrick, and the engineer is Geoff Bates with Bates and Associates. The property is located east of the City of Fayetteville and is within approximately ½ mile of the City Limits of Fayetteville.

**Eastern Park Subdivision** is requesting Conditional Use Permit approval to allow a residential subdivision with 17 residential lots to be placed on a property that is approximately 7.66 acres in size. Two additional lots are proposed to be used for drainage (0.58 acres) and a decentralized sewer system (0.43 acres). The requested density is 2.3 units/acre. Residential lots range in size from 0.24 acres to 0.33 acres.

One entrance off Highway 45 (E. Mission Blvd) is proposed to access this development.

According to the letter submitted by the applicant (**G-30**), screening in the form of a privacy fence is proposed along a portion of the property line. Some tree preservation is also proposed.

**TECHNICAL CONCERNS:**

**Water/Plumbing/Fire Issues:**

This property is serviced by City of Fayetteville water. There is an existing waterline located on Hwy 45 (E. Mission Blvd.). The nearest hydrant is located at Hwy 45 and E. Ashley Lane, which is approximately ¼ mile to the west of the proposed entrance to this property. The gpm fire flow for that hydrant is 974 gpm. A new hydrant is proposed near the entrance of the subdivision, and two additional hydrants are proposed

to be located within the development.

No comments were received from City of Fayetteville water.

The Washington County Fire Marshal asked that an engineered fire flow for the proposed hydrants be submitted at Preliminary Subdivision review. He also stated that all hydrants must be shown on the plans (and labeled or indicated on the legend). Information was provided to the applicant regarding road width (**G50-51**). No parking will be allowed on the side of the street where the hydrant is located. The hammerheads shown appear to be adequate.

Full review for compliance with the State Fire Code will be required at Preliminary Subdivision review.

**Sewer/Septic/Decentralized Sewer:**

Soil work was submitted for this project (**G-7**). Test pit locations are shown on the plats within the Decentralized Sewer System lot. The applicant is proposing a gravity-feed system that can be connected to City of Fayetteville sewer in the future if necessary. All review and permitting of this system must be completed at Preliminary Subdivision review.

**Electric/Gas/Cable/Phone:**

No comments were received by ATT, Source Gas, or Cox Communications. Ozarks Electric provided general comments to the applicant.

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

One entrance is proposed off Hwy 45 (E Mission Blvd). As this is a state highway, the applicant will be required to obtain proper permits from AHTD before constructing the entrance. No direct access on to Hwy 45 will be allowed. In addition, there is a small residential drive, Trough Springs Drive, to the north of this property. No access will be allowed on to that road.

Sight distance appears adequate, and a statement verifying the sight distance will be required at Preliminary Subdivision review. It must meet minimum County standards.

The Washington County Road Department requires that the right-of-way (ROW) carry through the proposed hammerhead turn-arounds. They also stated that with current proposed plat, the streets will be classified Class II residential, per county regulations. The latest plan shows the Sewer Line within the County ROW, this is not allowed and must be removed. No utilities, signage, lighting, or structures may be placed in the County ROW.

**Drainage:**

The Washington County Contract Engineer has no comments on this proposed project at this time. A full drainage study will be required at Preliminary Subdivision review.

**Environmental Concerns:**

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

**Signage/Lighting/Screening Concerns:**

Some street lights are shown on the plats; these must be maintained by the POA. Washington County will not maintain street lights. 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.

A sign easement is shown on the plat. The applicant has not provided details on the requested signage. Staff recommends monument type signage, approximately 60 sq ft or less in size, that is indirectly lit (if lit). The signage will not be allowed to be placed in the County ROW. The proposed signage must be approved by Planning Staff.

At this time, the applicant is proposing a six (6) foot privacy fence along portions of his property line (**see**

**attached plat G-56).** He has also made an agreement with a neighbor to the south to maintain certain large trees. Staff is in agreement generally with the applicant's proposal. Staff is going to require that privacy fencing be placed along the neighboring property line along the entrance drive (on the west side) as well as what the applicant is showing on the plats (**see staff's sketch G-33**).

**City of Fayetteville Concerns:**

The City of Fayetteville submitted comments. According to the letter submitted by the City of Fayetteville (**G-48-49**), generally, the proposed density is incompatible with the City of Fayetteville Future Land Use Plan, and incompatible with surrounding rural residential properties. Mitigation to lessen the impact of this density should be considered.

This project is located within approximately ½ mile of the city limits.

**COMPATIBILITY CONCERNS:**

**Surrounding Density/Uses:**

The surrounding uses are single family residential and agricultural. The site contains one residence and one barn which are proposed to be removed. The proposed density of the project is 2.3 units/acre (1 unit per 0.4 acres). The adjacent average density is 0.14 units/acre (1 unit per 7.125 acres); with lots ranging from approximately 1.25 acres to 24 acres in size.

In the vicinity, there is more dense development (**G-54**). Subdivisions in the general area range from 1 unit/3.39 acres to 1 unit/0.3 acres. There is also a storage facility in the near vicinity. Additional commercial uses are within ¼ mile of the proposed development.

The applicant has proposed some mitigation efforts for adjacent neighbors, and several adjacent neighbors appear to be unopposed to the project (**see attached signed statements provided by the applicant G-42-47**). There are some neighbors opposed to the project as presented.

**County's Land Use Plan (written document):**

According to the County's Land Use Plan,

**SECTION III. PHYSICAL DEVELOPMENT**

**A. LAND USE CONSIDERATIONS**

**1. RESIDENTIAL**

- a. To provide for development of residential areas at appropriate densities. **The proposal is a very high density for this area. The only densities that are similar are in the Holiday Hills Homes SD. These homes are cottage type and several are duplexes. Most other subdivisions in the general area have lots that average ½ acre or more.**
- b. Update, administer and enforce subdivision regulations; and develop, adopt, and enforce zoning and related regulations and codes; **the proposal will be required to meet minimum County Subdivision standards and the lot sizes as shown are in compliance with these standards. The proposal does not meet current zoning which is why the applicant must request Conditional Use Permit approval.**
- c. Require development to be connected to utilities and utilize zoning as a means to guide the progression of development; **Utilities are available to service this development.**
- d. Protect the character and integrity, and property values, of single-family, residential areas; **The proposal is for single family residential use.**
- e. Protect residential neighborhoods from inappropriate non-residential influences through the use of regulatory controls; **the use proposed is residential.**

- f. Ensure land use and development patterns which provide for the most efficient and effective use of available utilities and services, including fire protection; and,
- g. Maintain an adequate county road plan and standards to guide and accommodate traffic movement; to develop differing categories of roads; and to protect rights-of-ways for planned, future roads. **This development takes access from a state highway. All interior roads will be constructed to at least minimum County standards.**

**Future Land Use Plan**

The future land use for this area (derived from the City of Fayetteville adopted Land Use plan) is Rural Area Residential. Rural Area Residential is defined as 1 unit/15 acres. Most of the adjacent properties do not conform to this future land use designation (see above section with acreages). This development is not compatible with the future land use designation.

**NEIGHBOR COMMENTS/CONCERNS:**

All neighbors within 300 feet of the boundary of this property were notified by certified mail of this proposed project. In addition, the applicant visited with many of his neighbors in person. Five (5) neighbors signed statements prepared by the applicant stating they have no objection to the proposal (G-42-47). Staff received four (4) opposed comments (2 were from the same neighbor) (G-34-41). Concerns were mostly in regard to the decentralized sewer system (DCS), though one neighbor voiced concern about the deviation from the current zoning of the property. It is staff’s understanding that the applicant is setting up a meeting with the developer of the DSC and his neighbors in an attempt to address those concerns.

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

**STAFF CONCLUSION:**

This project is proposing a high density for this area. While it is located very close to the City of Fayetteville which has similar densities, the project is incompatible with the Future Land Use plan and with properties directly adjacent to the site. Staff is still considering neighbor input and compatibility concerns as well as proximity to the city limits. **Staff will present the recommendation and conditions at the Planning Board Meeting.**

*Washington County Senior Planner, Courtney McNair, presented the staff report for the board members. Staff does recommend to table the project to get a better understanding of the design that will include tree preservation. Staff included some conditions because we did not feel that this project as design will be detrimental to public health, safety, and welfare. It’s clearly a compatibility issue and that why we’re asking for the tree preservation. If the board does decide to approve it, staff has written a set of conditions that we like you to approve with it.*

*Kenley Haley, Planning Board Member, asked, “On the north side where that backs up to Trough Springs, are there trees through there too?”*

*Courtney McNair, Washington County Senior Planner, answered that she couldn’t get back there. “On the aerial photo it does look like there are a lot of trees.”*

*Kenley Haley, asked, “How much distance is between the proposal and the residential drive Trough Springs?”*

*Courtney McNair replied, “It is actually unclear. Part of the mix up is with the deed information not being filed. The Assessor stated that were several oddities in the parcels in this area. The Assessor said that those do not look right. The Assessor would have to remap and fix them to try figure out what’s going on. I’m not sure how close that property line is to the road. On the developer’s survey you can see it’s fairly close but it’s really hard to accurately tell at this time.”*

## Public Comments

Geoff Bates, Engineer for the project, "stated right now this is just a Conditional Use Permit, we're just trying to get permission to make this size lot and density. Once we do a plat some of them may not even work. We haven't designed it yet. We've got to put in a detention decentralized system, get all the utilities in, and then at that time when we submit our plat we'll decide where to put fences, shrubs, and trees. We haven't done a topography survey yet that locates all the trees. Just seems like we're getting the cart before the horse. Once we get in and do the design then they can require fencing and all other details. For now we are just trying to get permission to have this density and size lots. Once we get to designing, it may not work. At that time you cannot approve the plat."

Randy Laney, Planning Board Chair, stated that this type of density is what we did not want to happen. "The cart is not really before the horse because you are asking for a big deviation. I understand in order to mitigate that, I understand the way you prefer it to work which is not spend money until you see that kind of density. Without a whole lot of work, your chance of getting this kind of density from me is little to none for my vote. You might want to spend the money or lower your density."

Walter Jennings, Planning Board Member, stated that he has concerns about the density. "It is way too dense for where it is."

Geoff Bates, asked what would the board feel more comfortable with? "Does the board have something in mind for what size lots?"

Randy Laney replied, "I think it has to do with working with staff on mitigation efforts. What can you do besides the density issue? We have seen projects that are dense but they have gone out of their way to have street designs, pulled the porches to the front property line, those kinds of planned community looks. There were also sufficient screening, berming, and other things going on made the project worked out."

Geoff Bates asked, "so the board wants the a full design, of even what the houses looked like?"

Randy Laney, replied, "I don't know. That's what I saw done."

Kenley Haley, Planning Board Member, asked if we can give an example of area that we approved that's high density.

Robert Daugherty, Planning Board Member, noted that there's one right up the road. How big were those lots? They were an acre or more weren't they?

Juliet Richey, Planning Board Director, responded "For the one at Chapel View, all lots were over an acre in size, we did not do a conditional use permit for those. For a subdivision that is somewhat similar, a third to a half an acre lot, was the Buffington Subdivision conditional use permit that was on the corner of Oakland Zion and Gulley. We had similar conditions for tree preservation. Unfortunately they did not decide to go forward with that project. The only other dense subdivision that we reviewed was Hughmount Subdivision on the west side of town. We talked about many similar issues. They did a connective green space between all their homes and they had some different styles and types of homes. It was a very different project because it was a lot bigger scale, 140 lots vs. 17 lots."

Randy Laney added that it Hughmount Village was next door to some dense things.

Juliet Richey, noted that we are just now starting to see more dense subdivision being proposed since passing zoning and the market decline. The Buffington Subdivision was similar and we asked them to look at similar things. We understand what you are saying Mr. Bates, upfront that you don't want to do all these things. But the way our codes work is if we don't address it on the front end then we cannot address it as it subdivision. We don't have the latitude to deny a plat if we don't have those things worked out on the front end in CUP.

Geoff Bates replied, "That's what it seemed like to me. This was more of a concept phase and platting when you get into more detail requirements".

Randy Laney added, "That is correct, it is concept phase. But from our point of the view the concept is not very good. In order to sell the notion that you can have more density, that'll fit into the neighborhood. We're going to need a little more help."

Geoff Bates, replied "That's fine. I am just the middle man trying to help. I'm not trying to get between the board and the developers."

Robert Daugherty, asked about the about decentralize system. "Doesn't the system have to be bonded? What are the guidelines for that?"

George Butler, Washington County Attorney, stated they have to get a permit from ADEQ and the health department.

Robert Daugherty, asked if that bond takes care of it. "For example the POA's broke or the owner's broke and it'll end up in the bank's hand."

George Butler replied that we have to look at the state legislation. "A bond to ensure they comply, and another bond put for nature of reserves for repairs."

Robert Daugherty stated that he knows one system that was never completed yet and it's in the bank's hand. That is the reason why he asked that questions

Fred Patrick, Property Owner, stated "I would like for the septic representative to come and speak."

Kathy Bartlett Representative for NWA utilities stated "We operate and maintain waste water system such as these here in the NWA. The bond that you made reference to is actually a financial assurance requirement that the ADEQ places on any permit applications. When Mr. Patrick applies for a permit for the system he will be required to post that financial assurance mechanism which will be equal to five years operation and maintenance on the system. The money can be posted in a variety of methods, whether it be a letter of credit, a bond, insurance, or just money in the bank. Typically they apply for a letter of credit with the bank and they use that. The ADEQ will be listed as the beneficiaries of that letter of credit, that financial assurance. What that does is that it allows for that developer to have the funds set aside to operate and maintain that plant for the term of the permit. The financial assurance needs to be equal to five years of operation and maintenance for that plant. When the permit is renewed in the five years the financial assurance has to be renewed with it. I believe the County no longer has oversight or regulations over these. They allowed it to maintain that oversight by the state ADEQ. They will maintain that oversight."

Robert Daugherty asked if the POA eventually takes ownership of it at some point.

Kathy Bartlett, answered, "It could. It depends on how the developer sets that up in his bill of assurance and in the protective covenants. If the developer sets it up where the POA will be deeded that property then they will own it. That will transfer over to them."

Robert Daugherty asked if somebody will inspect and make sure the system is maintained properly?

Kathy Bartlett replied "Yes. ADEQ will require that the plant be maintained and operated by a certain class operator and those reports need to be sent in a monthly bases to the state for review."

Juliet Richey added that the County did retain a little bit of our regulation. "Not in regards to the financial part but we do require that it be gravity feed in this area and in relation to how the cities want it done. Also we require them to some telemetry on them. So if an alarm goes off that it actually calls somebody and it's just a light blinking on a building."

Yume Rudzinski, Architect in Fayetteville, stated that she has no stake in this project. "Mr. Patrick is using an architect out of Tulsa who is designing these homes. She stated that she does not like working for developers because of things that happened in this area. But when Mr. Patrick showed me what he was doing, at least someone is doing something that as little bit of density. I lived in the first planned unit development in Fayetteville in Huntingdon Subdivision. I have an fifth of an acre lot, it's located west of Crossover, north of Old Wire, and out of Paradise Valley. It's a beautiful walkable neighborhood. On my fifth of an acre I have 17 mature trees. All my neighbors have trees. My 14 year son has friends that live out towards the East of side where all the coaches live. I went by the subdivision called Ridgemonte Estates, they're five acres lots. When you put up a 3,000 sq ft house in a five acre lot with two trees, I drove by there yesterday, it's embarrassing. Spending all that money on that lot and a big house and you cannot afford to put 30 thirty trees. I have more trees on my fifth acre lot compared to these lots. The reason I am here is I want to encourage people to have a little bit of density but instead of using the big land and spending your money on big lots. I think it's okay to have smaller lots and have a more quality lot with a better quality of life, having a lot of trees. Instead of putting a big house on the lot and calling an architect to come out "saying it's really hot out here in the summer and can you put in some canopy for me?" Why do you just plant some trees? It's just the idea of trying to retrofit a house because you're just thinking about fixing up things and not using nature. But I think if the developer can have smaller lots and I encourage them to put trees on their lots. A couple of trees on a quarter acre lots look a lot better than a couple of trees on a five acre lot. If you have a chance just drive by Huntingdon's Subdivision, it's a nice neighborhood and all my neighbors have matures trees. We don't have big giant lots where you can be fried in the summer time. It just feels like a nice neighborhood. If developers were doing something like this I would applaud them. Mr. Patrick came to me with the house plans and I said I do not do McMansions, I looked at the plans and it looked nice. Mr. Patrick is doing something that has a lot of character and with a lot of trees. It's got to be the quality of the subdivision. If you cannot put trees in there you're not going to have a type of development where people want to live. Mr. Patrick agrees it's about the character of the neighborhood. You can put sidewalks in, green spaces, and nice trees. I think that's a better way of growing a town then encouraging people to get five acres lots and flopping a house on there with two trees. It's not a bad thing to have small lots. We should encourage a more community feel neighborhood than encourage these McMansions".

Tom Bartlett, NWA Utilities representative, stated that he will be available to answer board's questions regarding the decentralized sewer system.

Public Comments Closed.

Robert Daugherty made a motion to Table the **Eastern Park Subdivision CUP**. Chuck Browning seconded. Daryl Yerton and Cheryl West were not present. Board Members Randy Laney, Walter Jennings, Robert Daugherty, Chuck Browning, and Kenley Haley were in favor of tabling. Motion passed

## 5. Other Business

- Discussion of Current Development.
- Update from Juliet Richey regarding her attendance of the National Planning Association Conference in Atlanta, GA.
- Reminder of upcoming regular Planning Board meetings **May 29, 2014**, and **June 26, 2014**.
- Reminder special meeting date to discuss code updates planned for the Communication Tower Ordinance.
  - **June 5 lunch meeting** Update on East Prairie Grove Tower CUP.
- Update on new Planning Department database software.
- Any other Planning Department or Planning Board business.

## 6. Old Business

## 7. Adjourn

Chuck Browning moved to adjourn. Robert Daugherty seconded. Motion passed.

*All Board members were in favor of approving.*

*Planning Board adjourned.*

Minutes submitted by: Phuong Pham

Approved by the Planning Board on:

\_\_\_\_\_ Date: \_\_\_\_\_  
Randy Laney, Planning Board Chairman