

**MINUTES
WASHINGTON COUNTY PLANNING BOARD
&
ZONING BOARD OF ADJUSTMENTS
Oct 08, 2014**

6:00 pm, Quorum Court Room, New Court House
280 N. College Ave.
Fayetteville, Arkansas 72701

DEVELOPMENTS REVIEWED:

ACTION TAKEN:

CONDITIONAL USE PERMIT HEARINGS

Fayetteville Planning Area

a: Witter Family CUP

Approved

County

b: Cane Hill Historic Structures CUP

Approved

County

**b: Rich Red Dirt CUP (TABLED AT THE
REQUEST OF THE APPLICANT)**

Tabled

1. ROLL CALL:

Roll call was taken. Members present include Robert Daugherty, Daryl Yerton, Randy Laney, Cheryl West, Walter Jennings, Chuck Browning, and Kenley Haley.

2. APPROVAL OF MINUTES: *Cheryl West made a motion to approve the minutes of June 5, Aug 7, and Aug 26, 2014. Robert Daugherty seconded. All board members were in favor of approving. Motion passed.*

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

4. NEW BUSINESS

Juliet Richey, Washington County Planning Director, clarified the ordinances and definitions for zoning.

CONDITIONAL USE PERMIT HEARINGS

Fayetteville Planning Area

a. Witter Family CUP

Conditional Use Permit Approval Request

Location: Section 29, Township 17 North, Range 30 West

Owner: Morris and Kathryn Witter

Applicant: Morris Witter III

Engineer: Bates & Associates, Inc.

Location Address: east of 3576 Salem Rd, Fayetteville, AR 72703

Approximately 1.79 acres / 2 lots (less than 1 acre each). Proposed Land Use: Single Family Residential

Coordinates: Latitude: 36.11372003, Longitude: -94.20893001

Project #: 2014-185 Planner: Courtney McNair email cmcnair@co.washington.ar.us

REQUEST: Conditional Use Permit approval to allow the division of a 1.79 acre tract into two parcels (each less than one acre in size).

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

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

QUORUM COURT DISTRICT: District 8, Barbara Fitzpatrick
SCHOOL DISTRICT: Fayetteville

FIRE SERVICE AREA: Wheeler

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

BACKGROUND/ PROJECT SYNOPSIS:

The owners of this property are Morris and Kathryn Witter. The applicant is Morris Witter. The surveyor on this project is Bates & Associates. The property is located west of Fayetteville just outside of Fayetteville's City Limits line off West Salem Road WC #894.

A project on the same property was heard and denied at the Planning Board/Zoning Board of Adjustments Meeting on September 4, 2014 (project 2014-144). With that project the applicant requested the same division, but did not address impact on adjacent properties.

This new Conditional Use Permit Request is to allow the division of a 1.79 acre tract into two parcels (each around 0.895 acres in size) in an area where a maximum of 1 unit per acre is allowed by right and any higher density must be reviewed as a Conditional Use Permit Request by the County Planning Board/ Zoning Board of Adjustments. With this submittal, the applicant has relocated the driveways, shown building footprints more accurately, and added buffering for the neighboring properties. **(Please see the plans A-24 and applicant's letter A-11).**

There are no existing homes on the property; the applicant wishes to construct a home on each parcel. If this CUP is approved, a property division is required to process through the City of Fayetteville and be approved before the Washington County Planning Office will review the tract split as an Administrative Exempt Tract split.

There have been no issues with this project except for a neighbor who contacted staff with concerns.

TECHNICAL CONCERNS:

Water/Plumbing/Fire Issues:

Fayetteville Water can provide water to this property. The water main is located along the north side of West Salem Road.

The Washington County Fire Marshal had no comment. The Wheeler Fire Department did not comment on this project.

Sewer/Septic/Decentralized Sewer:

Melissa Wonnacott-Center of the Arkansas Department of Health (ADH) reported that, according to soil information submitted by Reba Bailey, the soils in this area are suitable for a standard septic system design. However, full information cannot be accessed until permits are submitted to ADH. A full permit will be required at the time of split through Fayetteville and it must be shown to be sufficient. This is a condition of approval **(A-13)**.

Electric/Gas/Cable/Phone:

Ozarks Electric reported that they have an existing power line on the property that has an existing thirty-

foot wide easement. They also said that any damage or relocation of existing facilities will be at the owner's expense and that any extension of a line that has to be built specifically to feed this property will be at full cost to the owner.

AT&T is the providing telephone company; they had no comments.

SourceGas and Cox Cable Communications service this area; they had no comments.

Roads/Sight Visibility/Ingress-Egress/Parking:

This property accesses W. Salem Road WC #894. The only comments the Road Department had were that if a tile is needed, Washington County Road Department will size it and that any work done in the right-of-way will need a permit from the Washington County Road Department.

Drainage:

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

Environmental Concerns:

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

Signage/Lighting/Screening Concerns:

The applicant is proposing a 5-10 foot buffer from the neighboring properties and both driveways. These buffer areas will be planted with vegetation to offer privacy. Staff has included our vegetative screening policy and recommends that the applicant follow this policy as a condition of this Conditional Use Permit (A-14).

City of Fayetteville Concerns:

Fayetteville submitted no comments regarding this project.

COMPATIBILITY CONCERNS:

Surrounding Density/Uses:

Adjacent densities range from 0.80 units/acre to 0.52 units/acre (excluding agricultural properties with no residences. Across W. Salem Road (north), there is a residential lot with 1 unit/1.5 acres and a commercial storage facility. Directly east, there is a lot with 2 units/2.49 acres. South is agricultural property, no residences, and directly west is a property with 1 unit/1.92 acres.

Within approximately ¼ mile, the surrounding densities range from 0.34 units/acre to 3.1 units/acre. The applicant is requesting 1.2 units/acre.

The City of Fayetteville city limits line is within 295' of this proposed CUP.

There are several subdivisions in the surrounding area:

County-The Estates at Dogwood Canyon: 0.47 units/acre

County-The Estates at Salem Hills: 0.55 units/acre

County-Lewis Estates: 0.34 units/acre

County-Kenwood Hills: 0.49 units/acre

City-Rockhaven Subdivision: 3.1 units/acre

City-Crystal Springs Ph 1: 2.93 units/acre

City-Cobblestone Subdivision Ph 1: 3.05 units/acre

In addition, there are a few residential lots in the surrounding ¼ mile (and in the unincorporated county) that are higher density. (A-23) Those range from 1.51 units/acre to 1 unit/acre.

Staff feels that while the requested density is higher than the directly adjacent properties and the subdivisions located in the County, this is an area that is transitioning to higher density development, and the addition of two single family residences will be very low impact. There are comparable and even higher

density lots within ¼ mile. Therefore, staff feels that with conditions, this proposed density can be compatible with the surrounding densities.

County's Land Use Plan (written document):

According to the County's Land Use Plan,

SECTION III. PHYSICAL DEVELOPMENT

A. LAND USE CONSIDERATIONS

1. RESIDENTIAL

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

Future Land Use Plan

This portion of the County's Future Land Use Plan was extrapolated from the City of Fayetteville's adopted Future Land Use Plan for this area. The Future Land Use Plan for this area shows that it is "Rural Area Residential". The County categorizes this future land use as:

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

Due to the low impact nature of the proposed residential use where each tract will occupy approximately 0.895 acres, staff feels this project will be compatible with the surrounding uses.

SITE VISIT:

A site visit was conducted with the previous project. No immediate concerns were noted. Staff does intend to go out one more time and take additional photos of some areas that neighbors were concerned about. Staff will update the Board at the meeting.

NEIGHBOR COMMENTS/CONCERNS:

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

At this time, two neighbors have contacted Staff with concerns. One neighbor stated that her concerns for last time are still not adequately addressed. The other does not like the general trend of development in the area. **(A-15-17)**

With project 2014-144, a neighbor sent information regarding some waste on the site. Staff contacted the Environmental Affairs Office and the Environmental Affairs Officer was assigned to the property. He conducted visits and determined that the waste must be cleaned up and disposed of properly. This has been completed and the waste complaint is closed.

Staff will update the Planning Board at the October 8th Planning Board meeting if any additional comments are received.

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

Planning Conditions:

1. This property split must be processed through both the City of Fayetteville and the County. Fayetteville's approval is required before the County can process this split administratively.
2. This CUP is for allowing the division of a 1.79 acre parcel into two tracts smaller than one acre each in an area when acreages must be at least one acre in size to be allowed by right with current zoning.
3. The buffer area, driveway locations, and home locations must be generally as shown on the submitted plans.
4. The applicant must adhere to the vegetative screening policy:
5. Vegetative screen must be approximately 4' in height upon planting, and must be made up of plants that will reach 6'- 8' in height upon maturity.
6. A planting plan schematic (drawing showing types of vegetation and spacing) must be approved by the Planning Department prior to the installation of the vegetation. Staff has attached a list of suggested plants, but the applicant can propose alternatives.

Sewer/Septic/Decentralized Sewer Conditions:

1. Septic: The septic system(s) must be approved by the Arkansas Health Department (ADH), installed, and then inspected by ADH prior to occupation of the residence(s).
2. Septic: submit septic permits to ADH in order for ADH to fully access the site for standard septic system design. A full permit will be required at the time the property division processes through Fayetteville and the permit must be found to be sufficient.

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

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

Environmental Conditions:

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

Utility Conditions:

1. Ozarks Electric: Any damage or relocation of existing facilities will be at owner's expense. Any extension of line that has to be built specifically to feed this property will be at full cost to the owner.
2. Ozarks Electric Ozarks has an existing power line on the property that has an existing thirty-foot wide easement. Please contact Greg McGee at (479) 684-4634 or gmcgee@ozarksecc.com if you have any questions.

3. Fayetteville Planning & Engineering: Lotsplit within the Fayetteville "planning area" will be required to submit lotsplit application through City of Fayetteville Planning office and be required to meet all applicable code requirements. This includes proper road frontage and access to public water.

Standard Conditions:

1. Pay neighbor notification mailing fees (\$33.20) within 30 days of project approval. Any extension must be approved by the Planning Office (invoice was mailed to applicant on 10/2/2014).
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. Lots that are over one-half acre in size will need to be addressed after the home location is known.
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.
 - i. This project does not require additional Planning Board review. Therefore, all conditions of this CUP approval must be completed within 18 months of this CUP project's ratification.

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

Public comments.

Tim West, Bates and Associates Surveyor, wanted to point out that the property is located within the city planning area and that it will be developed in the future. "It's 1.79 acres. We split the property in half. Looking at the requirements from the conditional use permit we have compatibility. Mr. Witter is proposing to build 2,000 sq ft homes on each piece. They're going to be custom homes. They are not going to be cookie cutter homes. The city limit line is south of the property. It's approximately 265 ft away. That distance is shorter than the whole length of his property. Mr. Witter can stand on the south line of his property and be closer to RSF zoning in the city that would allow 0.18 acres. The tracts that he is proposing are five times the size of the tracts that would be allowed through the city. We have compatibility, utility, road frontage, public health, and safety. The only thing we're missing is the 1/10th of an acre. The average person can go out and stand on these lots and couldn't tell you if it's 0.90 acre or 1.00 acre. A 1/10th of an acre is very minute when you're looking at a full acre. I'll be glad to answer any questions the board may have."

Ross Odom, previous property owner, stated, "I wouldn't enter into an agreement with Mr. Witter knowing that it would devalue my property. I had many requests about selling the property. They wanted to put duplexes, fourplexes, and an apartment complex on it. I did not sell it those people, but I could have. I would have gotten more money. But I looked at my property value and those around me and choose to take less money. Mr. Witter has built several custom homes that I worked with him on. I've know Mr. Witter for several years. I cannot see anything that he's proposing to do or will do that will have a negative impact on anybody's property. If I thought that for a New York second, I wouldn't have sold him the land."

Christine Bell, neighbor off West Salem Road, stated, "I appeared before your committee about a month ago when the first CUP request was submitted. At the time I stated back in 2007 the county has enacted zoning for the growth areas that stated 1 resident, 1 acre or more per property. Mr. Witter has requested to build 2 residences on less than 1 acre each. The zoning board, after hearing discussions in regards to this request voted for denial. One of the reasons stated in denial is that the adjacent property was not being protected from this project. Now I am before you once again with the same CUP with one change. Mr. Witter has said that he will put a buffer zone at the boundary lines of his property. However, this is still not in keeping with the zoning laws of 1 acre 1 resident. My husbands and my objections are not just for our property but for the neighborhood as a whole. Most of us have properties that are 1 acre or more. If not, then most of the homes were built before the zoning laws or were in the city limits. When the zoning law was enacted it stated, 'As development blooms in the rural areas of the county, it has become evident that there needs to be some protection for people's sense of home and the ability to enjoy the rural and residential property. Zoning provided a way to ensure that the property value of the surrounding areas

can be taken into consideration when new and non-rural uses are proposed. The zoning ordinances require that the proposed use be examined and heard to ensure compatibility with the surrounding uses as well as the ability of the others to continue enjoy to their property'. Therefore I hope that the board will once again vote to deny this request because it is not in keeping with our neighborhood."

Judy Jane Toualbo, stated, "I think it would be an improvement overall for him to build the homes there."

Derrick Calhoun, neighbor off Hayfield Circle, stated, "I had an opportunity to look at this and think about it. I wanted to know what the other neighbors in these three proposals had to say. I did not have a chance to read it. There were three that thought it was good and three that said they didn't. I've spoken with the Witters about the development. My only initial concern was I didn't want a situation where we ended up with rental properties that would affect the values. Mr. Witter and his wife have assured me that they're going to occupy the residences, one with themselves and the other with their daughter. If it became a situation where the daughter moved on they would take good care of the property. I don't agree with the numbers on the lot sizes. I think that the lots are a little big bigger than what is there. Nonetheless I couldn't sit there and tell you that one lot is one acre and one lot is .90. Mr. Witter purchased the property. He has the right to build one home. If he's going to build a home that's concurrent with the values of the surrounding homes I think it should fine. I would ask him and his family to do the things they said they are going to do. As long as the property value doesn't go down I'm in support of the project

Justin Moore, neighbor off Estates of Salem Hills, stated, "I respect the concerns of the direct neighbors, even though I'm a little a bit further away. I am in favor of the proposal. I do think it will increase the value of the area. I've seen Mr. Witter's work. He actually did the addition to my home and brought it up to par with houses around it. Also, this area of town has had a lot of changes in the past few years. One thing I haven't heard discussed is Fayetteville City Council has a plan to put a 4-lane parkway through the Estates of Salem Hill. It'll be about 200-300 yards from Mr. Witter's property. So these adjoining property will be a 4 lane park way that will extend from the mall area down to Martin Luther King. It's a long connection with potentially a lot of traffic. There are going to be a lot of changes in the near future. I don't have any opposition with the property as stated."

Dan Wolfenbarger, neighbor south of the project, stated, "My family has been out there when it was all dirt roads and three farm houses. Our house was one of the farm houses. I've seen a lot of changes. He's not going to do anything except increase my property value. If the land issue is an issue, I will give Mr. Witter some of my property to the south to where it'll be two full acres. So that is not an issue. Mr. Witter has been a very friendly and helpful neighbor to me. I had two open heart surgeries and he checks on me a lot. Whatever I can do to convince you let me know. Good neighbors are hard to come by. It's a crying shame that a working man saves his money and wants to build a home for him and his family. He has to go through something like this. What we need are good neighbors in that community. Not people that are causing a ruckus. I'll be proud to have him for a neighbor."

David Bell, neighbor directly next to the project, stated, "Good neighbors are hard to find. I have nothing against Mr. Witter at all. What I am concerned about is that the city is just down the hill from here. They are putting four houses per property. I know that we are in a growth area and eventually they will overtake our property. But we're not in the city right now. That area is on top of the hill. We have built these houses and I'm a working a man. I've worked hard and it took me a lot of time to buy my property. I'm just trying to protect it. If Mr. Witter can get an acre that'll be great. I'm just concerned that other developers will build smaller lots. It'll open the floodgates and the next thing you know it just changes. You can't stop it once it starts. If we can stick to the one acre that will be awesome, but it's up to the board members. I'm just looking at the rules. When they didn't have any regulations at all, the person inherited that property and put in a storage unit. That's how that happened. I'm just asking to keep the one acre so they do not overtake us."

Bart Brown, neighbor east of West Salem Road, stated, "I'm here in support of Mr. Bell to maintain the one acre minimum. I personally bought my lot because of the wide open spaces. Almost all the houses along the block are more than one acre. We're all happy to have a new neighbor. The one acre does help protect the size of the neighboring lots around it and protect their property values. One house there would

improve the neighbor's value. Two houses would lower the neighbor's value. It does matter. It's not that we don't want a neighbor or development. It's the size of the lot that matters. I'm in support of Mr. Bell and the county's zoning that it should be at least one acre. I bought a four acre tract next to my five acre to keep a buffer. I value the idea of having space. It is valuable to individuals."

Susan Hunnicutt, neighbor off West Salem Road, stated, "We bought our houses over 25 years ago. We choose that area because we did not want to live in a suburb, we didn't want to live in a town, and we didn't want to have a lot of rules and regulations. We didn't want to live that way. That's why we moved there. When we bought our houses, there were only the Bells and the Gabbard's house out there. There were two houses on East Salem road. There was nothing below the ridge. There were no schools or subdivision. There was nothing across the street from us except cows. There was nothing to the west of us except cows; nothing to the south of us but cows. We've seen changes in the last few years that have impacted us very negatively in our living choice. We chose to live out in the county. We wanted to be in the country. We didn't want to live in the subdivision. Everybody thinks that the pretty McMansion has increased the value of everybody's land but they decreased our way of living. We feel squeezed in already. We feel that our feelings have never been addressed by the board. We were totally against the storage unit when it was proposed. The storage unit proposal was rushed before we knew it was happening. By the time we came before the board to express our views against the storage unit it was being built. That was the end of that. I don't mind if the Witter's have a house on the acre. It's almost city like. It makes us feel crowded. We don't have anything that we originally wanted anymore. We are completely surrounded by subdivisions. We are in opposition to the Witter's proposal of building two houses. Even one house would be kind of pushing it. It was a nice buffer for the Bells and the rest of the neighborhood. Quite frankly cows make good neighbors."

Kathy Witter, property owner of the project, stated, "We're the unfortunate people that bought the property after the storage facility. I think a lot of the neighborhood have this negative feeling towards any development in the area that requires a CUP because of what they went through with the storage facility. I understand their feelings because we debated on buying the property because of that storage facility. It's directly catty corner from the property. It was definitely an issue for us since we were questioning if we wanted to build our home next to the facility. Mrs. Hunnicutt mentioned not wanting POAs and regulations. We don't either. That's why we didn't buy property in a neighborhood. We want the freedom that the county offers. We felt that by splitting this property to 9/10th of an acre we weren't asking too much deviation from the county rules. A few of the neighbors mentioned the integrity of the county and look of the area. The houses that we are planning to build on the property will be set back 100 ft from the road. That means the front of our houses will start behind the Bell's and Hunnicutt's house. We would actually be offering more green space, more rural setting than their homes. We're willing to put our houses back. We want a rural setting. I just want to make this clear that we do not want to a neighborhood where it looks like a subdivision. We yearn for a rural setting. When you're on West Salem road looking on to our property you're going to see a larger expanse of green and trees than surrounding neighbors. When you take that into consideration with their concerns we're not adding to it. We're not trying to make that area look like a neighborhood. We want to keep it a beautiful country area. I just wanted to make that clear. If it was one acre that we are wanting split into a half acre, we wouldn't even be here. That's not what we're looking for. We want a rural setting for me and family. We're empty nesters. We don't want to build a big house. Both of our children are out of the home. We wanted to build a house under 2,000 sq ft on our property. On the other side is my daughter and her husband. They're newlyweds with no children and not lot of money. They're not going to build a large house on that property. We're going to build 1,800 sq ft. We understand and sympathize with the neighbor's concerns. We will take that into consideration when we build these two new homes. My husband is a professional builder. These aren't going to be homes that are hastily built. These are going to be very well built custom homes. I can't imagine how two well built custom would in any way lower the value of any of the surrounding homes in that area. I really appreciate the board's time. I just wanted the board to know where we are coming from."

Terry Martin, neighbor of East Salem Road in Lewis Estates, stated, "The properties in Lewis states are 2.5 acres. I've been out there for 26 years. I was one of the two houses Ms. Hunnicutt mentioned that was east. I watched a lot of the growth that has come through the area. It has been fairly well managed under the county's ordinances. Most of the new lots that have been built are 1.5 acres. There's always a line

somewhere and the line for the city is below the hill. I urge you to consider to maintain what the county ordinances are. It will be more compatible in that area. If the gentleman wants to give Mr. Witter the extra acre to make it a full acre that would meet the county zoning and it would be okay. I'm a bit confused on square footage of the house. Earlier I heard 2,000 sq ft and now I heard 1,800 sq ft. I'm not sure about the size of the house that is going in there. I'm just a little bit confused on what the plans are. I heard a lot of different things from hog farms to houses. I'm not sure what the plans are. I just urge the board to stick with the ordinances that the county has. It's maintained and it's well managed. It made a good neighborhood in that area. I urge the board not to approve the lot split."

Tim West, Bates and Associates Surveyor, stated, "I think what we're getting into here is feelings and rights. If Mr. Witter chose to build a 900 sq ft home or 9,000 sq ft home he can do that. I think the niche here is that the neighbors do not want any kind of development. The neighbors couldn't tell you if it's 9/10th of an acre or 1 acre. This is just their niche to come and fight the development. They're not fighting the lot size. They're fighting the development of two homes. If I was the neighbor I would love for two homes to come in because 10 years from now when it gets annexed into the city of Fayetteville, you're looking at 10 homes on these two acres instead of 2. It could be 10 homes that are cookie cutters that can be turned into rent homes. That's just my opinion if I was a neighbor. Thank you."

Public Comments Closed.

Cheryl West made a motion to approve the **Witter Family CUP** subject to staff recommendations. Robert Daugherty seconded. Board Members Randy Laney, Walter Jennings, Daryl Yerton, Robert Daugherty, Chuck Browning, Cheryl West, and Kenley Haley were in favor of approving. Motion passed.

County

b. Cane Hill Historic Structures CUP

Conditional Use Permit Approval Request

Location: Section 08, Township 14 North, Range 32 West

Owner: Historic Cane Hill, Inc

Applicant: Bobby Braly

Location Address: 14335 and 14327 S Hwy 45

Approximately 1 acre combined (3 parcels less than one acre each). Proposed Land Use: Museum and Community Gathering Space

Coordinates: Latitude: 35.90883218, Longitude: -94.39685934

Project #: 2014-175 Planner: Sarah Geurtz email sgeurtz@co.washington.ar.us

REQUEST: Conditional Use Permit approval to allow a change in use of two historic structures in Cane Hill to the uses of a museum and a community gathering space.

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

PLANNING AREA: This project is located solely within the County's jurisdiction.

QUORUM COURT DISTRICT: District 13 Ron Aman

FIRE SERVICE AREA: Lincoln Fire

SCHOOL DISTRICT: Lincoln

INFRASTRUCTURE: Water- Lincoln Water Electric-Ozarks Electric Natural Gas- N/A

Telephone- Prairie Grove Cable- N/A

BACKGROUND/ PROJECT SYNOPSIS:

The owner of these two parcels is Historic Cane Hill Inc. The applicant is Bobby Braly who is the Executive Director of the Historic Cane Hill Inc. Executive Board. Mr. Braly has told staff that Historic Cane Hill Inc. is a state non-profit and federally-recognized 501c3 organization (**B-**). The property is located in downtown Cane Hill off S. Hwy 45 (**B-13 through B-15**).

This Conditional Use Permit Request is to allow a change in use of two historic Cane Hill structures to the uses of a museum and a community gathering space (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.

These two structures were recently acquired by Historic Cane Hill Inc. with the intent to repair and preserve them for their historic value to Cane Hill and the broader Northwest Arkansas Community. **See the applicant's letter on pages B-23-24 and the old photographs on B-35 and B-36.**

While the Historic Cane Hill College building (which is not a part of this CUP) to the north is undergoing a complete restoration and renovation over the next year, activities that are usually housed within the College building need to be temporarily relocated to the two structures being heard with this CUP request. This would involve the College's museum being moved (likely permanently) to the proposed Museum building. Likewise, the community gathering activities usually held in the old College building would be temporarily relocated to the Carroll building proposed with this CUP.

Historic Cane Hill Inc. has removed a later addition to the Carroll Building; they have also carried out repair work that will ensure the structures do not fall into disrepair and basic interior work. Major modifications to these structures are not proposed with this CUP.

14335 S. Hwy 45 is not currently listed on the National Register but the Historic Cane Hill organization has plans to pursue a Historic Places designation; 14327 S. Hwy 45 *is* listed on the National Register of Historic Places **(B-25)**.

The two structures:

- A. R. Carroll Building, 14327 S. Hwy 45 (called the "Carroll Building" hereafter in this report) (B-10, B-19, & B-20):

This building was constructed around 1900; it is listed on the National Register of Historic Places as being worthy of preservation. The interior layout of the structure is remaining unchanged. There is a deck area on the north western side of the building.

It will house the monthly Historic Cane Hill Board meetings and other small community gatherings (such as the monthly quilting circle meeting) that are held in the College Building. 14327 S. Hwy 45 will not be open to the general public on a daily basis or have any sort of retail or restaurant uses associated with it. There are two floors. The bottom floor will be utilized for meetings. The top floor may be utilized on occasion. It is accessed through a separate door on the side of the building and an enclosed staircase provides access. Staff is requiring that this upstairs space not be open to the general public. On average, this building will only be used for several hours each week.

This building's main entrance and exit is on the east side of the building facing the highway.

- 14335 S. Hwy 45 (called the "Museum" hereafter in this report) (B-10, B-18):
This building was constructed somewhere around 1920-1930. It is not currently listed on a Historic Register but the applicant is in the process of trying to get it listed. It will house the small Cane Hill museum currently housed in the College Building. The Museum houses artifacts from the area of Cane Hill. The Museum would be open to the public for approximately one day per week (likely on Saturdays). The interior layout of the building is remaining unchanged with the exception of partitions for the display areas in the Museum.

This building will have two entrances – one off S. Hwy 45 and an ADA entrance on the south side of the building facing Patterson Rd.

Parking for the two structures will primarily be on parcel 725-00004-000 to the south of Patterson Rd. **(B-14 & B-21)**; this parcel is also owned by Historic Cane Hill Inc. Two ADA accessible parking spots will be provided along Patterson near the Museum building's entrance door on the south side of the building. No parking is allowed along S. Hwy 45.

Both structures are located partially within a floodplain. However, the work done to the two structures does not constitute fifty percent of the structures' value so the buildings are not required to be updated to current floodplain code.

There have been no primary issues with this project.

TECHNICAL CONCERNS:

Assessor's Issues:

The Assessor's maps show some odd parcel boundary lines in the area around the subject properties. Staff contacted the Assessor's Office about this matter. Staff was told that the Assessor's Office was aware of these issues in the Cane Hill area. They said that a group of property owners in Cane Hill has hired the surveyor Eddie Gore to survey the town. Hopefully the survey work will correct the parcel gaps. The survey work has not been completed yet.

Water/Plumbing/Fire Issues:

Neither structure has running water and staff has been told that there are no plans to have running water installed. Lincoln Water Authority is believed to be the water service provider in this area; they submitted no comment on this project.

The Washington County Fire Marshal is considering both structures under the Arkansas State Fire Code's Historic Structures section requirements (**B-25**). If a structure is classified by a state or local jurisdiction as a historic structure, State Fire Code provisions relating to alteration, repair, and restoration is not mandatory to be followed if it is determined that the buildings do not constitute a distinct hazard to life or property. It is the Washington County Fire Marshal's, Mr. Dennis Ledbetter, opinion that the Drugstore building which is listed in the National Register of Historic Places, does not constitute a distinct hazard to life or property for the low impact uses presented. *However*, Mr. Ledbetter requires there to be an *approved* fire protection plan. This plan has been discussed with Mr. Braly; requirements are detailed in a condition on this project.

The Museum building is not currently identified or classified by a state or local jurisdiction as being a historic building. However, Mr. Braly feels that it has characteristics that potentially make it eligible for future historic designation. He is in the process of submitting this structure for eligibility review for the National Register of Historic Places or for the Arkansas Register of Historic Places. The Fire Marshal is treating the Museum structure the same way as the drugstore building is being treated in regard to State Fire Code. Staff is requiring that they be kept informed of the progress of the Museum building as it processes through the Review Boards. If the structure ends up not being accepted as a historic structure, the Fire Marshal's office and the Planning Office are required to be notified; new requirements might apply at that time. It is possible that a revised CUP would be required and that the building might be subject to the standard Arkansas State Fire Code and any upgrades/changes/renovations would be required by this code then.

Sewer/Septic/Decentralized Sewer:

These two structures do not have running water and there are no toilets; an ADA-accessible portable toilet has been placed on the property for use of visitors. Melissa Wonnacott-Center of the Arkansas Department of Health (ADH) has told staff that this situation will be adequate considering the low intensity of the planned uses.

In the future, visitors might also use bathrooms in the old Masonic Lodge to the north. Ms. Wonnacott-Center told staff that she had no requirements regarding this situation because the use of the toilets would be low and because the lodge structure should have been reviewed by her office already. Planning Staff requires that if the old Masonic Lodge's restrooms are utilized, an ADA-compliant toilet is available.

Electric/Gas/Cable/Phone:

Both structures are serviced by Ozarks Electric Cooperative and Prairie Grove Telephone. Sourcegas

does not service them. While these structures are located within the Lincoln Water service area, neither structure has water service. No utility providers had comments on this project.

Roads/Sight Visibility/Ingress-Egress/Parking:

Both properties are primarily accessed off S. Hwy 45. However, the museum building also has access off the Residential Drive to the south known as Patterson Rd WC# 4764.

The Arkansas Highway and Transportation Department (AHTD) reported that they have twenty-five feet of Right Of Way (ROW) on the western side of the S. Hwy 45 centerline, that it appears that there is not room to construct a driveway access for parking in front of the buildings, and that parking is prohibited on AHTD's ROW (**B-15**). AHTD also reported that, due to this road being a rural road and having a speed limit of 45 mph, parallel parking would not be allowed (places where parallel parking can be considered by AHTD are typically roadways with curb and gutter with speed limits less than 30 mph). While AHTD said that they would not require "no parking" signs to be installed unless they observe parking to be an issue, Mr. Braly has installed a "no parking" sign.

Two ADA-accessible parking spots will be provided near the southern side door to the Museum building along Patterson Rd. The Washington County Road Department had not commented on this because they have no ROW along Residential Drives (Patterson Rd is a Residential Drive).

Parcel 725-00004-000 to the south of the properties will be utilized for parking (**B-14**). The applicant has stated that parking will be very intermittent and low volume.

Drainage:

The Washington County Contract Engineer had no comments on this proposed project. Drainage is not expected to be impacted because no construction will be occurring that would affect drainage.

Environmental Concerns:

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

Signage/Lighting/Screening Concerns:

Mr. Braly reported to staff that there would be no outdoor lighting installed. Mr. Braly told staff that signs would not be mounted on the buildings since the structures were historic. Signs are going to instead be mounted on poles. These signs must be approved by Staff.

If lights happen to be installed, 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:

This CUP is not requesting a change in density.

The surrounding uses are single family residential, residential/agricultural, and community. The sites contain two historic buildings.

Staff feels that the applicant's request is compatible with the surrounding area and land uses because these properties are in the historic Cane Hill downtown area, there are other community-use buildings in the vicinity, and because these two structures have been at this site since the early 1900s being used for a variety of commercial as well as residential uses.

County's Land Use Plan (written document):

According to the County's Land Use Plan,

SECTION III. PHYSICAL DEVELOPMENT

A. LAND USE CONSIDERATIONS

2. LIGHT COMMERCIAL

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

- 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.

Planning Staff feels that since these two structures have existed at this location since the early 1900s ,because these two structures are part of the what is considered "downtown Cane Hill" near a church, the historic college, and the Cane Hill post office, and because the two structures will not be used more than several day per week, that they are not incompatible with the surrounding residential uses.

Future Land Use Plan

There is no future land use designation for this portion of the County. As no future land use designation exists for this property, staff generally evaluates based on the current and surrounding zoning. This project's proposed uses would continue to be used to serve the community as the two buildings have in the past and there are other community structure to the north (the post office building is only seventy five feet to the north). Staff feels that this project is compatible with the surrounding uses.

SITE VISIT:

A site visit was conducted by planning staff on September 22, 2014 **(B-)**.

NEIGHBOR COMMENTS/CONCERNS:

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

Three neighbors contacted staff in support of this project. Two neighbors were in support and one was in opposition.

Support: **(B-27 & B-28)** One neighbor who lives directly behind both structures said that the refurbishment of the buildings has improved the community and that due to the work Cane Hill Historic Inc has done in the community, this is the best she has seen Cane Hill since 1965 when she became part of the Cane Hill community. A neighbor who lives across the highway from the two buildings feels that the restoration and improvements would benefit Cane Hill. He also feels that the restorative work and increased awareness of Cane Hill would likely increase property values.

Opposition: **(B-29 through B-34)** A neighbor who lives on acreage across the highway was concerned about the applicant's original plan to have parking in front of the buildings. Parking in front of the two buildings is not being allowed and the applicant has put up "no parking" signs. The neighbor also voiced concern that parking will occur on her property along the highway during the annual Cane Hill Festival and when the Museum building is used as a polling place in the future. Voting is an activity that is not regulated by our office. Also, the Cane Hill Festival has been occurring since before there was zoning in the County and therefore does not fall under our department's regulations.

Mr. Braly has told our office that although some of the indoor festival activities will take place at the buildings on HWY 45, festival parking will be still be available north of the Cane Hill College Building and on the parcel south of Patterson Rd where parking has been available in past years.

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

STAFF RECOMMENDATION: Staff recommends *approval* of the proposed Historic Cane Hill

Historic Structures Conditional Use Permit with the following conditions:

Planning Conditions:

1. This CUP is for the use of a museum at 14335 S. Hwy 45 and for the use of a community gathering space at 14327 S. Hwy 45. If, in the future, it is desired to use these structures for uses different from those proposed with this CUP and those uses are not brought up in this CUP project, a new CUP might be required to be requested from the Washington County Planning Office.
2. If the portable toilet is located within the FEMA-determined floodplain, it shall be moved outside of the floodplain.
3. If, in the future, the old Lodge's restroom facilities are used for the Historic Cane Hill Inc buildings proposed with this CUP, the Planning Office requires a letter from the old Lodge's property owner granting Historic Cane Hill Inc permission to utilize the restroom facilities.
4. If the portable toilet is not located on or will be moved onto property not owned by Historic Cane Hill Inc., a letter from that property owner granting permission for the portable toilet's location shall be submitted to Staff.

Water/Plumbing/Fire Conditions:

1. Both structures will be considered through the Historic Structures State Fire Code requirements.
2. Since the 14335 S. Hwy 45 structure is not yet listed as a historic structure, but Historic Cane Hill Inc is in the process of trying to get it listed, the Fire Marshal's office and the Planning office will need to be kept informed of the progress through the State Review Board for this building. If it ends up not being accepted as a historic structure, contact both the Fire Marshal's Office and the Planning Office for what requirements might then apply. It is possible that a revised CUP would be required at that time and that the building would be subject to the standard fire code and any upgrades/changes/renovations required by that code.
3. A fire protection plan including the below items is required for both structures:
 - a. Each structure has an occupancy number limited to no more than fifty (50) occupants.
 - b. Lit exit signs/lights as required per Arkansas State Fire Code above the main door in each structure.
 - c. Fire extinguishers as required per Arkansas State Fire Code.
 - d. Keep general public from going upstairs.
 - e. The A.R. Carroll building shall have a caution sign at the top of the stairs to warn people going down the stairs since the stairs are not built to modern code.

Sewer/Septic/Decentralized Sewer Conditions:

1. An ADA-accessible portable toilet is acceptable by ADH as long as the buildings have no public water service.
2. The old Masonic Lodge structures may be utilized for restrooms as long as there is an ADA-compliant toilet is available.

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

1. No parking may occur in front of either structure off S. Hwy 45; no parking may occur in AHTD's ROW.
2. There shall be two ADA parking spots as indicated outside the museum's southern exit. Each spot shall be properly designated as being an ADA parking spot.
3. A sign (to be approved by Planning staff) shall be placed on parcel 725-00004-000 explaining that this parcel is for parking for the Museum building and the Drugstore. Likewise, a sign shall be placed in front of each building directing people to where they can park.

Environmental Conditions:

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

Utility Conditions:

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

Signage/Lighting/Screening Conditions:

1. Signage cannot be placed in the County or State Right-of-Way.
2. Any outdoor lighting must be shielded from neighboring properties. Any lighting must be indirect and not cause disturbance to drivers or neighbors. All security lighting must be shielded appropriately.
3. Designs for the signs to be installed shall be submitted to staff for approval.

Standard Conditions:

1. Pay neighbor notification mailing fees (\$62.70) within 30 days of project approval. Any extension must be approved by the Planning Office (invoice was mailed to applicant on 10/2/2014).
2. Pay CUP review fee of \$100 within 30 days of project approval.
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. Lots that are over one-half acre in size will need to be addressed after the home location is known.
5. This CUP must be ratified by the Quorum Court.
6. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
7. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.
 - This project does not require additional review. Therefore, all conditions of this CUP approval must be completed within 18 months of this CUP project's ratification.

Washington County Planner, Sarah Geurtz, presented the staff report for the board members.

Bobby Braly, Executive Director for the Historic Cane Hill Project, stated, "I would like to thank the board for taking the time to hear about the project. We are a historic preservation group. The built environment is one of our main concerns and managing these historic properties. We also have to consider cultural traditions. That's what we're trying to do here. We're trying to create a place where they can continue to have monthly meetings, quilting, and festivals. We wanted some place while the college is under construction for people to get together and not change any of their practices they had after several decades. Thank you."

No Public comments.

Public Comments Closed.

*Robert Daugherty made a motion to approve the **Cane Hill Historic Structures CUP** subject to staff recommendations. Daryl Yerton seconded. Board Members Randy Laney, Walter Jennings, Daryl Yerton, Robert Daugherty, Chuck Browning, Cheryl West, and Kenley Haley were in favor of approving. Motion passed.*

County

c. Rich Red Dirt CUP

(To Be Tabled At The Request of The Applicant)

Conditional Use Permit Approval Request

Location: Section 05, Township 16 North, Range 31 West

Applicant: Benny Holtzclaw

Location Address: 15792 Harmon Road

122.00 acres

Proposed Land Use: Open Pit Red Dirt/Clay/Gravel Extraction

Coordinates: Longitude: -94.28545281" W Latitude 36.08850625" N

Project #: 2014-124 Planner: Juliet Richey e-mail at jrichev@co.washington.ar.us

Daryl Yerton made a motion to approve the agenda to table Rich Red Dirt CUP. Robert Daugherty seconded. All board members were in favor of approving. Motion passed

5. Other Business

- Discussion of Current Development and Planning Department Activities.
- Reminder of upcoming regular Planning Board meetings **November 6, 2014**, and **December 11, 2014**.
- Update on East Prairie Grove Tower CUP (if any updates are available).
- 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