

**MINUTES**  
**WASHINGTON COUNTY PLANNING BOARD**  
**&**  
**ZONING BOARD OF ADJUSTMENTS**  
**Nov 06, 2014**

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

DEVELOPMENTS REVIEWED:

*ACTION TAKEN:*

**LAND DEVELOPMENT HEARINGS**

Fayetteville Planning Area

**a: Hughmount Village Subdivision Final Plat**

**Approved**

**CONDITIONAL USE PERMIT HEARINGS**

Fayetteville Planning Area

**b: Baldwin Cell Tower CUP**

**Approved**

County

**c: Rich Red Dirt CUP**

**Denied**

**1. ROLL CALL:**

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

**2. APPROVAL OF MINUTES:** *Cheryl West made a motion to approve the minutes of September 04 and October 08, 2014. Daryl Yerton 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. Cheryl West seconded. All board members were in favor of approving. Motion passed.*

**4. NEW BUSINESS**

*(Page number citations within the minutes document are usually in reference to the original staff report packets distributed to the Planning Board members)*

**LAND DEVELOPMENT HEARING**

*Agenda items order changed. Item C will go first.*

County

**c. Rich Red Dirt CUP**

***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 [jrichey@co.washington.ar.us](mailto:jrichey@co.washington.ar.us)**

*Washington County Planning Director, Juliet Richey, presented the staff report for the board members. (The below black text is taken from the original staff report document issues to the Planning Board approximately a week prior to this meeting. The portions of red text within the document show updates to that report after its initial issuance and at the meeting)*

**REQUEST: Conditional Use Permit Approval for Rich Red Dirt CUP to transition existing agricultural/residential property to open pit red dirt/clay/gravel extraction operations.**

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

**PLANNING AREA:** This project is located solely within the County,

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

**BACKGROUND/ PROJECT SYNOPSIS:**

The applicant is requesting Conditional Permit approval for Rich Red Dirt Pit to transition existing agricultural/residential property to open pit red dirt/clay/gravel extraction operations. This property is owned by Mark Rich.

This operation proposes the construction of a haul road and red dirt pit operations- extraction of clay and gravel (This application does not include a request for quarrying of rock). The proposed haul road from Harmon Road will connect to a proposed open cut mining area (the mining area is proposed to be approximately 9.3 acres in size).

The entrance is proposed to be located near the existing home (owned by Mark Rich) at 15792 Harmon Road, Fayetteville, AR, 72704. Please see the attached letter from the applicant and concept site plans for further information (**pgs C12-C20**).

**This project was initially heard and tabled at a Planning Board/Zoning Board of Adjustments meeting on August 7, 2014. Subsequent to that meeting, an informational meeting was held onsite (at the Rich property) on August 26, 2014. Since that time, the project has been tabled at the September and October 2014 Planning Board Meetings.**

**At this time staff is making a recommendation of denial for this proposed Conditional Use Permit.**

**The primary reasons for denial include:**

- **Safety concerns in regard to the proposed location of the haul road intersection with Harmon Road**
- **Issues of compatibility**
- **The high likelihood that this project will be injurious to the use and enjoyment of some of the other property in the surrounding area for the purposes already permitted, and substantially diminish and impair some property values within the surrounding area.**

If a CUP for this project is approved, this project will be subject to all applicable Washington County Large Scale Development Regulations.

At CUP we are evaluating whether or not this proposed use is appropriate for this site (in the manner it is proposed) - or if it could be made appropriate/compatible with the addition of any conditions. As per our zoning ordinance, we must evaluate the proposed use using the below criteria:

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

- (1) That a written application has been filed with the Planning Office and the appropriate fee has been paid. **Received 7-2-14**
- (2) That the applicant has provided proof that each property owner as set out in section 11-204 has been notified by return receipt mail. **Completed 7-7-14 (all subsequent tablings and scheduling of hearings have been announced at public meetings and staff has followed up with a courtesy mailing).**
- (3) That adequate utilities, roads, drainage and other public services are available and adequate or will be made available and adequate if the use is granted. **There are still questions of whether the proposed location of the haul road's intersection with Harmon will provide for a safe situation for traffic on Harmon Road. Discussed below.**
- (4) That the proposed use is compatible with the surrounding area. **Staff has concerns in regard to compatibility due to portions of the proposed site being close to neighboring property lines and only relatively small buffer areas being proposed at this time. Additionally, there will be an industrial use added to an area that does not currently have industrial type noise and traffic within this close of a proximity to it. Although there is mining nearby (even until a few years ago on Mark Rich's land), the areas that have been mined in the past and are currently being mined are geographically removed (by distance and /or elevation and terrain changes) from the currently proposed location. Additionally, the other existing mining sites route traffic via Hamestring Road to HWY 16- not onto Harmon Road. This CUP proposes to add an industrial/mining type use in an area that has not experienced such a use in such a close proximity. Discussed in depth below.**
- (5) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare. **The sight distance visibility in regard to left hand turns (onto Harmon Road from the site) may be a health/safety issue. Even after a significant amount of information has been submitted, and staff has spent a significant amount of time analyzing the issue, there is still doubt remaining regarding the safety of the proposed location of the intersection of the Haul Road and Harmon Road. Discussed below.**
- (6) That the conditional use will not be injurious to the use and enjoyment of other property in the surrounding area for the purposes already permitted, nor substantially diminish and impair property values within the surrounding area. **There is much concern from neighboring property owners in regard to property values, quality of life, and other similar issues. Additionally, staff has concerns about the affect of this use on neighboring properties due to the limited buffering of haul roads and the mining area from surrounding residences. Discussed below.**
- (7) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding area for uses permitted in the zone. **Staff feels that due to a lack of buffering from surrounding properties, the development and improvement of surrounding areas (especially neighboring properties) could be impeded in regard to agricultural and residential growth and development. Discussed below.**

(b) If it is determined that there exist conditions that could be imposed by the Board that would significantly lessen the impact of the aforesaid, then the Board has the power to impose said conditions which shall be specifically set forth.

**Primary Concerns and Issues:**

**1. Sight visibility and safety in regard to truck traffic and Harmon Road**

The sight distance visibility and safety aspect regarding the proposed entrance point onto Harmon Road for this project have been issues of high concern since this project was initially submitted.

This portion of Harmon Road is posted at a 45 mph speed limit. There is a curve advisory sign (25 mph) preceding the curves south of the proposed entrance, however, the County uses the posted speed limit (45 mph) to determine the intersection sight distance needed unless actual design speeds are available.

The County uses a table from our code Chapter 11, Article IV- Appendix A (adopted from AASHTO Standards) to determine the minimum sight distance visibility needed for an intersection at certain speeds:

HORIZONTAL SIGHT DISTANCE AT INTERSECTIONS		
Design Speed (mph)	Intersection Sight Distance Left Turn Movements (ft.)	Intersection Sight Distance Straight Across/Right Turn (ft.)
25	280	240
30	335	290
35	390	335
40	445	385
45	500	430
50	555	480
55	610	530
60	665	575
65	720	625
70	750	670

As mentioned above, the posted speed limit is 45 mph. The posted speed limit is the number we use if no design speed is available. As per our code, minimum sight distance required for this speed is 500' for left turning movements; 430' for right turning (or straight) movements.

It became evident early in the process that the applicant did not have 500' of sight visibility to the South (in order to be able to safely make left turning movements onto Harmon Road). The below options were given to the applicant to address the sight visibility issue in regard to their proposed access point onto Harmon Road.

**Option A: Pursue an alternate drive location that meets required sight distance for the posted speed limit.**

**Option B: Determination of Design Speed for this Stretch of Harmon**

Harmon Road is posted at a speed of 45 mph. This speed limit will stand unless you can prove this is too high of a speed for this section of this County Road as per AASHTO's "A policy on Geometric Design of Highways and Streets, 6th Edition" (also known as the Green Book). You must consider the horizontal and vertical curve alignment and superelevation. Only after you submit all information, findings, etc., as per these standards will the County consider any differing speed limit designation.

### **Option C: Clearing/Offsite Easement option**

The applicant chose to pursue **Option B** and their Engineer, Mike Kelly, P.E., submitted documentation of that via a plan and profile sheet showing a series of "design speeds" for 1800' feet of Harmon Road (**pg C-13**).

This plan and profile sheet was reviewed by the County Engineer, Clay Grote, P.E. Additionally, The County Engineer Mr. Grote, P.E., County Planning Staff, and County Road Department Staff made several site visits to compile our own observations and perform some technical checks of the information submitted by Mr. Kelly, P.E.

On October 28, 2014, Mr. Grote sent a letter and notations to Planning Staff (**see pgs C-21 – C-29**) in regard to the plan and profile sheet submitted by Mr. Kelly, P.E. In this letter and the accompanying notations, Mr. Grote, P.E. states his findings after review of the documents and subsequent site visits (please see his attached letter attached for his full comments). At the end of the letter he states, "...*In conclusion, my results differ from the results Mr. Kelly's. I found the superelevation to be greater than what Mr. Kelly found it to be and there are three ways to look at the vertical curvature design. This can be subjective in the determination of a designated design speed. It is not an exact science, it's a guideline. I will be happy to meet with you and staff to determine a recommendation for this project.*"

In addition, upon further investigation into intersection sight distance requirements, Assistant County Road Superintendent, Shawn Shrum and I found some additional information and calculations that we feel are relevant to the Rich Red Dirt CUP project.

We found that according to ASSHTO's "A policy on Geometric Design of Highways and Streets, 2004," consideration should be given to scenarios where the predominant amount of traffic utilizing the sight visibility at an intersection situation like the one before us (where the truck traffic is turning from a minor road; the haul road, onto the larger road; Harmon Road), a different value should be utilized to accommodate the slower acceleration of trucks.

When using the value prescribed by the manual for truck traffic, the distances needed to provide for safety at an intersection increases.

Using the time gap value appropriate for the proposed type of truck traffic at this site, Staff calculates that the sight distances needed (for left hand turning movements from the proposed Haul Road onto Harmon Road) should be as follows:

- 35 mph: 488.78' of sight distance needed
- 40 mph: 558.6' of sight distance needed
- 45 mph: 628.4' of sight distance needed
- 50 mph: 698.25' of sight distance needed

The County Road Department Superintendants and the County Planning Director then looked at the information submitted by Mr. Kelly, P.E. in combination with the comments and notations of County Engineer Clay Grote, P.E. The combined information shows that the area where the proposed centerline of the haul road intersects Harmon Road (Station 21 + 50) to be located within an area of the plan profile sheet where the design speed can be figured at 35 mph, 40 mph, or 50 mph respective to which applicable AASHTO table you are using to evaluate that stretch of Harmon Road (**see pg C-24**).

Mr. Kelly also submitted intersection sight distances (for both left and right turning movements). The distances submitted were as follows (see attached **sheets pg C-19 and C-20** for additional information):

- Sight distance to the south (to accommodate left turning movements): 423.65'
- Sight distance to the north (to accommodate right turning movements): 366.07'

Mr. Kelly also submitted **revised** intersection sight distances (for both left and right turning movements). The distances submitted were as follows:

- Sight distance to the south (to accommodate left turning movements): 446.36'
- Sight distance to the north (to accommodate right turning movements): +500.00'

Sight distances needed to accommodate left hand turns are as follows (using the truck scenario):

- 35 mph: 488.78' of sight distance needed
- 40 mph: 558.6' of sight distance needed
- 45 mph: 628.4' of sight distance needed
- 50 mph: 698.25' of sight distance needed

Therefore, at this time, the applicant does not meet the needed sight distance (for safe left hand turns) for 35 mph (or any higher speeds). Staff feels that this further solidifies the safety issues with this CUP as proposed.

**According to the minimum sight distance chart, both of these sight distances (to the north and the south) will accommodate a 35 mph speed limit, but not 40 mph or 45 mph.**

While staff has looked at and considered that the sight distance to the south does partially encompass the lower design speed, staff still has some concerns regarding the safety of this intersection.

The Assistant County Road Superintendent, Shawn Shrum, sent Planning Staff the following statement regarding this project on October 31, 2014:

*"I do not believe the Road Department has been provided with information that would deem a recommendation for the approval this project. Between the project engineer and the county engineer, we have been given a range of numbers to review. The County has this stretch of Harmon Road posted at a speed limit of 45 mph. We have the curve just to the south of the project's proposed driveway location with a recommended speed of 25 mph. This 25 mph recommended speed is within what has been presented by the project engineer and our County engineer. Keep in mind this is a recommended speed limit and the posted speed limit is 45 mph.*

*Harmon Road is one of the County's major collector roads. The 45 mph speed limit is an adequate speed limit for this road. As with the Arkansas Highway and Transportation Department, Washington County posts an entire stretch of road with a speed limit and uses advisory signage to advise drivers of curves or other situations. We do not assign a lower a speed limit for a stretch of roadway with approaching curves and then raise the speed limit back up once out of the curve situation. This is the purpose of advisory signage. These advisory signs are a recommended speed based on average conditions. A driver may safely take a curve at a faster speed than posted by the advisory sign. This is my reasoning for not using an "advisory speed" for determining a sight distance.*

*We have also been provided with design speed information at various locations near the driveway and Harmon Road intersection. While it is important to take into account the curve speed to the south, it is also important to consider the speed at the intersection and all speeds within the required sight distance area. As I mentioned before, with the*

*information provided, I do not believe the Road Department can support a recommendation for this project due to the possibility of safety concerns”*

**Due to all of the reasons listed above, Planning Staff still feels that there is reasonable doubt regarding the safety of the location of the proposed drive.**

Staff also had some concern regarding trucks backing up onto Harmon while waiting to turn into the site. The applicant has stated that they propose to place the location of the gate to the site 100' back off of Harmon Road to mitigate this issue.

**2. Buffering from surrounding Properties in regard to noise, quality of life, property values, and incompatibility of uses.**

Planning Staff still has concerns regarding the lack or minimal width of proposed buffers onsite- especially in the area of the proposed Haul Road. The applicant has attempted to move the haul road away from the neighboring property line as much as they can, but the haul road is still within the 35' or less from the neighboring property line for approximately 400'. While 28'-35' may seem like a substantial width of land, staff feels that with the impact of 100 dump truck trips per day further buffer may be needed for surrounding properties.

The applicant has also offered to place a 3' berm (with cedar trees on top of it) for the first 230' along the haul road. Staff feels that a berm could be effective, but feels it should likely be taller than 3' in height and extend to at least 400' in length. Additionally, the location of the berm should be considered carefully, as none of the existing fence line vegetation should be disturbed (so that the existing vegetative screen remains in place).

While the mining site itself appears to primarily be tucked away from the sight of the general public, there are two adjacent property lines to the south and west that are owned by other parties. Staff did note that both of these areas contain a high amount of existing vegetation, so the planting of additional vegetation is likely not needed if existing vegetation is left undisturbed. However, Staff recommends that a 150' buffer be proposed between these properties and all parts of the operation. The addition of berms could also be beneficial. At present the applicant is proposing only a 50' buffer from the southern property line (which borders the Casey property and the University of Arkansas' property). Additionally, more buffering or berming along the western property line (bordering the Elkins' property) should also be explored.

Due to the intensity of the traffic and operations of a dirt pit, staff is hesitant to recommend less than 100'-150' wide buffers along all adjoining property lines. 100'-150' is in line with what has been recommended in the past for other industrial/mining CUPs.

**3. Concern regarding impact to Harmon Road and the possible need for Road Improvements to accommodate the proposed use.**

If a CUP is approved, staff recommends that a formal Traffic Study be required at the Large Scale Development Stage. The below information was given to the applicant at the County's technical review.

A formal traffic study will be required at Preliminary LSD if a CUP is approved. The applicant would be required to pay for any needed improvements specified in the study as well as acquire any needed ROW. The traffic study should cover (but not be limited to) the following elements:

- a. Directional division of proposed truck traffic (north and south)
- b. Level of service
- c. Impact to the intersection of HWY 16
- d. Impact on and interactions with the existing Wedington Woods intersection (WC 2161, Dogwood) to the North
- e. Change in percentage of trucks vs. car traffic on Harmon

A pavement analysis (for Harmon Road) will be required once formal traffic loading has been determined.

Harmon Road belongs to City of Fayetteville for the first ¼ mile (from the intersection of HWY 16). Discussion of any improvements needed must be coordinated with the City for their portion at Preliminary LSD.

**4. Concern regarding debris and tracking on Harmon Road- especially during inclement weather situations.**

County Staff is concerned about this issue- especially due to the amount of traffic that currently travels Harmon Road. The applicant has specified that they will build a tire wash onsite to help mitigate this issue, but this is not shown on the current plans (that staff can see).

The applicant has made several statements in their plan that they will not track and will shut down in inclement weather, however staff needs more details and a more fully defined policy/plan from the applicant to review in regard to safeguards against trucks tracking on Harmon.

**5. Environmental Concerns**

o **Concern regarding proximity to U of A site on Harmon.**

Planning Staff contacted the U of A regarding any possible environmental issues that could arise in regard to this dirt mining proposal's proximity to the U of A's land on Harmon Road (adjacent to the south of this site). As per staff's conversation with U of A Staff we understand that all radioactive materials that were on this site in the past have now been removed and the site has been cleaned up. The only restriction remaining on this site is a Deed Restriction stating that a water well cannot be drilled on the University's property. This is not due to any radioactivity concerns, but due to a small amount of chemical contamination in the perched ground water on a location on this specific site. The University does not want someone drilling through the perched water and into the aquifer. This deed restriction and the concerns to the perched water are specific only to the U of A's parcel of land; not to any surrounding properties.

It was understood from this conversation that there should not be any concerns from the University, but Planning Staff is still awaiting written confirmation from the U of A staff regarding this matter. **(This update from the U of A should be available by November 6, 2014.)**

**UPDATE:**

***"The University is happy to make documentation regarding the Harmon Road property available for the inspection and review of county officials (including any deed restrictions). The University, however, does not believe that it should make any type of blanket warranties or representations regarding any of its property or any adjacent properties. As I understand it, ADEQ worked with the University as officials of the institution oversaw the clean-up of the Harmon Road site, and that process was completed some time ago.***

***As you may know, the University has taken a neutral position on the permit issue currently pending with Washington County.***

***- T. Scott Varady, Office of the General Counsel, University of Arkansas"***

**Additionally staff has spoken with the ADEQ Hazardous Waste Division since our last meeting. ADEQ did not feel that there was a high chance of there being any contamination issues on surrounding properties).**

**Other environmental concerns brought up by property owners in the area:**

- o **Drainage**

- **Wildlife**
- **Storm water**

**Neighbor comments and proximity**

As you will see from the lengthy document attached- there have been numerous comments on this project. Staff has attached the comments in a separate packet and has also created a map to show the proximity of the commenters to this CUP (see pg C-34) and a spreadsheet showing their general concerns and whether they were in opposition or in favor of this project (see pgs C35-C41)

**INFRASTRUCTURE: Water** –Washington Water Authority.

**Other Utilities** - The lot is in the service area of Ozark Electric, AT &T Telephone, Arkansas Western Gas, and Cox Communications.

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**Additions and information presented by the applicant or his/her representative:**

*Mike Kelly, the applicant’s engineer, and registered engineer in Arkansas and Oklahoma, stated, “In the original submittal there was not enough sight distance off the ground. I submitted revised drawings to the staff and they have ample time to review it. In Mrs. Richey’s denial they outline three points; first is the site design, second is compatibility, and third is property value. I’m going to address each of the three points”*

*Mr. Kelly located the site using Google earth. Using the path feature Mr. Kelly outlined the area of the proposed pit for the board members. Mr. Kelly plotted out the road entrance to the pit as well.*

*“Item A on the objection point, high likelihood that this project would be injurious causing harm, hurt, damages, or distress to the use and enjoyment to some of the properties in the surrounding areas for the purposes that are permitted and substantially diminish and impair some property values within the surrounding area. I want to remind the board that is a temporary project. It’s got a 5 year life. The plan is to leave the site in good condition or equal to/better than with better buildable potential. The best case end scenario of the knoll removal or the terracing would leave a fairly flat plain. Looking it at from the aerial view it’s not going to look any differently from the air. Once we’re done we’re going to flatten it back out and add grass again. It’s going to look just like it does now. No change. Or you can envision best case scenario is leaving it as a flat plain and be split with a future residential cul-de-sac. That’s why I drew the line in there earlier. It could be a future residential cul-de-sac. If you notice it looks similar to the streets over here with houses and cul-de-sacs.”*

*“The remaining haul road between the entrance and site can be developed into a residential street winding up the hill and the remaining valley can be made into lakes; all with careful planning and engineering of course. The worst case product from the terracing would leave a relatively flat grassy plain with a 20-year two lane paved road leading off of Harmon road that just dead-ends. So those are two different scenarios that explained what would happen after 5 years. I don’t claim to be an expert in property values in this region or how to predict the affect this development would have on property. But I am a seasoned civil engineer with good common sense. I do own property in NWA and Oklahoma. In my opinion the scenarios above would both be a short term non-positive impact, but would render a long term positive impact. The biggest non-positive impact would be the 50 trucks a day using Harmon road. Again this is temporary. There are no trucks currently using Mr. Rich’s previously ADEQ permitted site today that were 10 years ago.”*

*“Mr. Kelly pointed to the map showing the bookmark icon for Mr. Holtzclaw’s excavation site. Mr. Kelly noted that Mr. Rich owned that site up until July 1 of this year. Using Google Maps Mr. Kelly made a point at the densest residential area near the project. Then he made a line to Mr. Holtzclaw’s site from the point. The distance is 1,367 ft. Now I am going to draw a circle of compatibility, basically making a circle from the radius. I’m going to show who is all being affected by this project. After drawing the circle Mr. Kelly noted that the only area that is affected is Mr. Rich’s rent house, a neighbor’s property line, Martha Richie’s*

house, Mr. Elkin's house, Sherry Main's property, and Mr. Casey's property (who was a proponent for the project). Compatibility means harmonious, able to exist, live, or work together without conflict. There may be some conflict. There might be some trucks for a period of 5 years but it is only temporary."

"Now let's talk about the last item- safety; not to be confused with convenience. We do not ever risk safety for convenience. There were a lot of comments about convenience-such as speeding. I was directed to the 6<sup>th</sup> edition Green book posted in 2011. That was what I was told to use. I went out and performed a survey on Harmon road. Mr. Kelly pointed to the survey equipment, a robotic total station costs between \$15,000 to \$20,000, a 360 degree prism (\$3,000), which plugs into a data collector and communicates with robotic station. It'll give me readings in 3 dimensions, X, Y, Z which is northern, eastern, and elevation. I went out and shot about 200 points. This chart shows all the points and I plotted it on the PMP sheet. All the X's are the points I've collected, 200 of them. I've sent Mr. Grote the point file. So they have access to all these points as well. I want to zoom in and show you guys the contour. A Contour is a level line. If you can imagine a lake or pond how it's never just square perfectly. It follows a contour. Water seeks level. Water is level. A level line is a contour line. These are contour lines that are generated off of surveys shots conducted in the field. Water runs perpendicular to contour lines. Let's look at the curve is that was analyzed by both engineers. These dash lines are the pc and pt of the curve. That's where the curve starts and the curve end. You're supposed to be in super elevation from 50 ft from this line going this way and 50 ft from this line going that way. Super elevation from your guideline for 45 mph should be 8% in Oklahoma. Now I want to look at these contour lines. This contour line reflects about 8%. If you look at this other lane it doesn't. It's got flat contour. Water from this will go straight over here. This lane was at 8% super elevation. This contour line would go straight on up at the same angle as it was going. This is how the curve should look if it was properly built and designed to 45 mph. Now those point numbers, I pulled those points and I put them in a spreadsheet and I calculated the percent of slope on those curves for both lanes. The ER1 is going to be the south or the west edge of road. In Mr. Grote's analysis that he used to check me by, he used a digital level, which is about \$200 at Lowes. Mr. Grote found nothing less than 5.6% slope."

Mr. Kelly showed the discrepancies with Mr. Grote's percent of slope on the northbound lane.

"The southbound lane doesn't even have 4%. This point has negative super elevation. We call that inverse super elevation. That's going to throw you off the road if you're going into that curve. It's going to throw you outside the curve. None of the northbound lane has proper super elevation. Mr. Grote said he checked it every 10 ft. Reading from Mr. Grote's report, 'In conclusion my results differ from Mr. Kelly. I found super elevation to be greater than what Mr. Kelly has found.' Here's an old photo that I presented to the planning staff. In this photo I wanted to show them that we had site distance all the way up to curve."

Mr. Kelly wanted to point out that we're in the curve were the shadow line is.

"It should have super elevation on both lanes. You can see the super elevation from the picture. But you can tell it crowns and goes back over on the other lane. There is not super elevation on that road. I also wanted to point out the vertical curve issues under the planning staff's suggestions. This Mr. Grote's letter to me and how he said that I took information from the Greenbook. I use table 3-26 the design control for a vertical curve and that information is wrong. I did use table 3-26 but I used the 6<sup>th</sup> edition of the Greenbook. This is what I want to point out to you guys. All of his information and your staff's information is from a different Greenbook (edition). They're using the 2001 and 2004. Even the one Mrs. Richey represented. That's not the Greenbook (edition) I was told to design with. I'm told to design with the 6<sup>th</sup> edition; the 2011 one. Like Mark Rich would say, I don't mind being beat with a stick but beat me with the same stick you're going to beat everybody else with. Let's compare, you can even see that this is C-27. The main thing I want to point out is that the exhibit he used interpolate his vertical curves is not even in the 2011 6<sup>th</sup> edition Greenbook. That chart is not even in the Greenbook. They're comparing me to something different than what they told me to design to. Now I'd like to look at Mr. Shrum's letter. I agree with Mr. Shrum when he said that we cannot design sections of road to drop down in speed limit when there is a curve, sight distance issues, or vertical curve issues. It's my opinion that a drive with less than preferred sight distance is not any different than a curve with a less than proper radius. Like the 25 mph curve there. It doesn't have a proper radius for a 45 mph design. He didn't change the speed limit. He put a warning

sign up for 25 mph. That's what we do with less than perfect drives. You put flashing signs up for trucks ahead or trucks turning out. There are ways of solving without totally objecting it and saying 'no, you don't meet the 500 ft sight distance' we're not going to work with you. You're close, we're about 40-50 ft but we're not going to consider it.' With that being said I went out and took some pictures of some sight distances. Mr. Kelly presented the pictures of the sight distances. Here's the road looking to the north. It has more than 500 ft of sight distance. Here's the road looking to the south. It has 446 ft of sight distance. The trees and vegetation on Mr. Elkin's property is an easement owned by Ozark Electric. They will let us get in there and clear it out. Mr. Elkins would not commit to giving us an easement but Ozark Electric will. Even if they do not I don't see the sight distance issue as being that critical. We do plan to clean it out. Our goal and my directions to the property owner and contractors are to clear it out and get as much sight distance we can get it. I want this to be as safe as a project we can have. Let's look at Wedington Woods to the north. Wedington Woods does not have proper sight distance. I submitted a drawing to Mrs. Richey but she failed to bring it up. Wedington Woods only has 453 ft of sight distance. They do not meet the criteria. So far all those drives in this area do not meet the proper sight distance. I went ahead and examined Martha Richie's driveway. Looking from the north you're lucky if there's 300 ft. She has a very dangerous sight distance. One alternative solution would be a three way stop at Wedington Drive. It would improve the safety of the residents, especially during the winter time when they slide down the hill and can't stop. At least the traffic on Harmon will stop so the incoming cars can slide past them. Another solution would be to let us have truck entering signs. We'll make them solar and with LED flashers on them. There will be timers on them so they won't be interrupting people and wildlife at night."

In summary, first I do not feel that the property value would decrease. I disagree that the project would substantially diminish property values. This is a temporary project. It's going to be in effect for 5 years. It's liable to become a residential development which does fall into compatibility. There are existing pits in the area now. We are compatible in the temporary use and compatible with the final phase of the project. Secondly, from the circle of compatibility I feel like I have provided sufficient reasoning for compatibility for both short term mining and long term agriculture/residential. There were 5 houses that were affected by the circle of compatibility. Two of the houses are owned by Mark Rich. Third, we just want to be treated fairly. We'll follow the rules that everyone has to follow. We are not asking for any favors. As outlined in the 6<sup>th</sup> edition of the Greenbook which I was told to use for all my designs, I feel like I have definitely proved that section of Harmon road does not meet 45 mph. You can't use any of the findings Mr. Grote came up with or any of the things that Mr. Richey came up with because they're using a different Greenbook. I feel like I prove that it meets 45 mph design. I know it has. I've been doing this for 35 years. If the county can get back with advance warning signs for 45 mph curve. Then we should be to advance warn for less than 45 mph site distance. Please keep in mind that the intent is clear that corner for safety. I even offered suggestions to reduce the county tort liability with existing poor site distance on Wedington Drive. At this time Mr. Chairman and board members, I respectfully request the board to approve our CUP as submitted with the proposed buffers, typical sections, and site distances. With the understanding that we will clear vegetation as much as possible allowed with the provisions that Rich Red Dirt will supply stop signs for erection on Harmon Road and Wedington Woods intersections or erect solar powered trucks entering advance warning signs with LED flashers in accordance with current county placement standards. That's what we would like to happen this evening. Thank you."

Mark Rich, property owner, stated "I lived here all of my life. John David Lindsey talked me into mining red dirt off 40 acres of my property. He signed a 10 year contract to mine red dirt with me 8 months before he filed for bankruptcy. I did not inherit my farm. When my parent's passed away I bought my brother and sister's part. Then I bought the 12 acres with the rent house. I got 20' driveway easement with the rent house. I did it to get more room for a drive way. After John David filed bankruptcy, I had a big land payment. I just did not know that once you mined red dirt your land becomes commercial property. I was even taxed as commercial property. I cannot get a loan. I didn't realize that once something becomes commercial property you are not eligible for a 15 or 30 year loan. It is a 2 year loan renewed every 2 years. In 2010 I filed chapter 13. My place was worth a lot more than I owed. I was advised by an attorney. I am now in the 5<sup>th</sup> year. All I want to do is sell enough red dirt to pay off my loans, pay the bank, and remove the knoll. I didn't put this material there. God put it there. If I do not get to mine this then somebody else will go after this material. A big company will move in and the whole circle around my property will be mined. There were core samples taken from the 40 acres. It's a better material. It's stake grade A limestone. The Mains

and myself have ADEQ pulled and gotten the reclamation bond. They have reclaimed the Crumely's but haven't reclaimed my 40 acres. As long as it remains unclaimed it's considered an active site. Benny never had a permit on that. Roger's group had to deal with it for years and paid so much a month for the rights for the limestone. They stopped paying after they had a change of management. They're waiting for me to go bankrupt. If I cannot mine red dirt a year from now the bank will repossess my farm. There's other people that contacted me, Benton County Stone, McGeorge Constructions, and etc. I grew up here. I don't want this area to turn into one big mining corporation. We all need red dirt. Everything starts with red dirt. There will be no construction here without Red Dirt. As we have projects coming in and Fayetteville starts to grow again. The first thing a contractor does when they come to town is locate materials and how close it is. If there is not red dirt accessible the bids will be significantly higher. These owner and operators that we have working will be scrutinized more than any dump truckers in the industry. I will also check the operations myself after work. I will do my best. I called Ozark Electrics and they said they cleaned that fenced line. That's their right of way. Where that fence is their gate and access. One call from the road superintendent and they'll send a crew out there to clean it. They have the right to do it. We do not need to involve Mr. Elkins. I feel bad for Mr. Elkins. We've talked a few times about the project. I'd let you know my own finance situation. I have a good job but not good enough to pay a commercial loan. I understand these people concerns. I always respected Martha Richie. This will only be temporary. I just want to sell enough red dirt to get my bank paid off. I have a son that's in the Marine Corp that will be out in a couple of months. I also have a 9 year old daughter. We're all that's left of the Rich family. I know that it will cause inconveniences to some people. I can remember when Wedington Woods was being built. I don't like to throw rocks at somebody else. But there's a business at the main entrance of Wedington Woods. Don Johnson has a rock business there. Cars stop on Wedington on the driveways to look at the rocks. I made this statement when Mrs. Richey came out to visit the site. I went down and measured Les Rogers and a truck can't even get off the road when the gate shut. His pavement is only 28 ft wide. It is 250 ft long. Mrs. Richey explained to me that this project came on and the rules change as the county learned more about pits. I'm a pretty simple person. It's pretty simple if I don't get to do it someone else will. There is a lot of material there. I don't want to mine all of it. I just want to mine enough to pay off my bank loans. Money is not a great big thing anymore but security for my family is. I just want to sell enough of my farm to keep the reset of it. Thank you for your time."

### **Public Comment Period**

Ron Aman, Quorum Court member JP District 13 (speaking as a member of the public), stated "The Quorum Court votes on these projects after the Planning Board looks at them. From what I heard today which is the first time I listened in. I personally think we should approve it. Mr. Rich has some property there and the product that the community can use. Truck drivers need jobs and people need red dirt. I think with signage and if Ozark Electric cleared the vegetation the safety issue is not a big deal. You can't stop speeders. People are going to speed anyways. I've driven that road a lot of time and I've always drove slow. I really think we should approve it for the Rich family. Let's allow him to do business and not burden on him and his family. Thank you."

Paul Osmon, neighbor off Dogwood circle, asked, "Is 5 years is temporary? If you're hanging off a side of a window 5 minutes is not temporary. Even if you are 71 years old, 5 years is not temporary. It's a long time. The purpose of zoning is to separate properties into proper zones. What we have here is an infiltration of industrial and residential. That's what it is. If you approved this project that's what you are doing, you have failed as a board. The board did not separate industrial and residential. You devalue my property. I had paid \$190,000 two years ago. I will not be able to sell it for a \$100,000 if you pass this CUP. That's what you will have done to me."

Bill Roberson, neighbor off Wedington Woods, number 30 on the map, stated, "I want to discount Mr. Aman's statement that you can't stop speeders. That's exactly true but the fallacy in that is they're going to speed whether you put up signs or not. As far as signage goes, I'm sick and tired of seeing signs on the highway and county roads. Especially during the political seasons. I am a certified appraiser for the last 35 years. I'm not an expert but it does mean that there are valuations out that will change. They definitely will decrease. The safety issue is the issue here. As the only person who can see the road besides Martha in the winter time when cars are coming down there. Lord help us if we put this project in. I hope that everybody here has common sense and it'll prevail. Thank you."

Dick Johnson, neighbor off Pin Oak road, number 32 on the map, stated "I wanted to make a point that hasn't been heard yet. There's been a lot said about Mr. Elkins. Don Elkins is a real gentlemen and honest person. I've spent several hours with Mr. Elkins talking about the project. The sub story about Mr. Elkin is that he moved out here to retire. The story that Mr. Rich told a few minutes about the inevitability of industry being in Mr. Elkins back yard is a story he has heard before. Mr. Elkins has stopped all his plans because he felt like any hope for a life that he hopes to have here will be gone regardless of what happen. I will take issue with the statement that he has a lot of pressure from the neighbors of Wedington Woods. I can tell you this. I've spoke with him for several hours. I know Maratha Richie has too. We respect his opinion to make whatever decisions his heart tells him to make. Mr. Elkins will tell you that if you ask him. All of these that we talked about, all the engineering, and etc, the argument about numbers I can't speak to. But I can speak to the 4 years going back and forth from that road. I can tell you that indeed it's a dangerous place. I would like to say thank you the board member for visiting the site. One comment about the inevitably about industry moving next to Mr. Elkins. It wasn't mention that the good people of Washington County have to approved what goes in there. That inevitably is only going to happen when we don't have people like you that will listen to all sides and make the best decisions for the county."

Susan Jones, neighbor off Dogwood, stated "I don't mind Mr. Rich making a living. We all have our property and don't want to be devalued. My question is why Mr. Rich can't go the other direction through Roger's group. Does this board have any influence on a company?"

Randy Laney, Board Chairman, replied "no".

Mark Rich, replied "I sued Roger's group for the easement that I used the whole time. I learned that corporations moved all these cases to Federal court because they are out of state corporations. They moved it from Fayetteville Court to Federal court. They basically denied me the easement. They did come across and say something about trading for a 40 ft easement beside their fence, but then their attorney withdraws it. The new management for Roger's group stopped talking to me. I can't go out there."

Jerry Freitas, neighbor off Hickory Trace, stated, "I came from California 2 years ago. I was in the trucking business. I haul hazardous material for 22 years and 30 years trucking. The truck pulling up that hill is going to drop material out of the back. It's hazardous, it's silica. There's no way you can get away from it. I wish they had a way to go through the other dirt pit. It just makes better sense. It's not going to be a good thing even for five years."

Martha Richie, neighbor directly across the project, stated, "This has turned into an emotional struggle. I'm not going to be judgmental or consider the financial dilemma Mr. Rich is in because that's not the issue here. The problem is we have a request for a dirt pit that's going to put 100 dump trucks on Harmon road. It's going to be hard for the road, hard on the neighbors and devalue our property. So many things have been said that are not relevant to this issue. The Planning Board and Planning staff has worked very hard on this. Mrs. Richey has done her due diligence on this project. They have made some solid recommendations on this project. This is not a safe stretch of road. It will devalue my property and put in a financial bind. I don't know what the trade off is here. I don't wish Mr. Rich ill harm. But consider the rest of us. We've been here a long time. We matter too. This isn't a short term project. At my age 5 years is not short term. At the end of the 5 years how do we have a guarantee it won't become long term? Please make a good judgment here. Thank you."

Mark Rich replied, "The material won't be silica. That's what the pavement is for. Before the pavement there'll be a B-stone which will get it off the tires. That's one thing I had talked about. After work I will check. We will not operate during inclement weather. First of all jobs won't run. As Benny said, he'll crack the whip. I believe in owner and operators. It helps the economy. I want to keep this small and the best for the community. They may not believe me. I didn't put the material there. But somebody's going to get go after it since its good material. I just want sell enough to take knoll off and save the farm. Thank you for your time."

Mike Kelly, added, "I have heard nothing but safety, safety, safety. The 3-way stop on Wedington drive is going to be the safest thing anyone can implement. It doesn't meet sight distance. It will solve all the sight distance problems for all the drives there. Not just the one we're proposing."

Randy Laney asked Juliet Richey if she had anything to add.

Juliet Richey, Planning Board Director, replied "We can talk about the different versions of Greenbook if you wish. The County Engineer and Road Superintendent are here. We can go recalculate all the sight distances (with the newest edition). I'm not sure that it matters because the one that Mr. Kelly calculated at 35 is still going to be short using the calculation we had today."

Clay Grote, Washington County Engineer, replied "The table that Mr. Kelly is referring to is the same table (as other editions), but a different page number."

Juliet Richey asked (Clay Grote) "The calculation we used for the factor for the truck, is that still valid? Because if we match with his 35 mph. then they are still deficient; everything else aside."

Clay Grote replied "Yes."

Mike Kelly asked, "Are you sure it's in the 2011 6<sup>th</sup> Edition Greenbook?"

Clay Grote responded that it's a basic calculation in every one.

Kenley Haley, Planning Board member, asked "Is this an enough of a concern?"

Juliet Richey replied, "First of all we didn't intentionally tell Mr. Kelly to use one (edition) and then use a different edition. We were referencing the edition that we had (on hand) when we were looking at the issues. When I was writing the letter to Mr. Kelly on how to calculate sight distances, I just cited the most recent edition (of the Greenbook). So there was not any intention of misleading anyone. We were trying to cite the most recent edition, but when we were doing research we just referenced the two editions we had (on hand). Clay (Grote) had the 2001 and Shawn (Shrum) had the 2004 on different days when were looking things up. So there was no intention to mislead. My feeling is they are probably very similar with minor changes from edition to edition. If you're more comfortable tabling it, we can re-run the numbers. Or I can download the 2011 edition and recalculate the time gap for trucks (using the table in that edition). I can download the book. It'll take about 3 minutes if you guys want to break."

Clay Grote replied, "All the site distance tables are based on that equation for passenger cars. Then you use that equation to add the extra lag time for a truck. The tables are the same but they're just listed as different label number exhibits. But the background geometric design is the same."

Walter Jennings, Planning Board member asked, "Are the green books adopted by the County or State code? Is there a specific one that we reference?"

Clay Grote, replied "The green books are put together by an association of state highway officials. It's a guideline for a policy. It's a guideline of geometric design for designing new roadways. We're essentially using that book to recreate the existing roads. The charts in the book are what you used to figure sight distances. It's an adopted book that every state agency uses."

Mark Rich replied "One phone call from the road superintendent and Ozarks Electric will go clear the vegetation. They won't do it unless they have permission."

Kenley Haley noted that in the packet Ozark Electric had no comment.

Juliet Richey replied that they did not have any comment. "I called them and asked them if they had anything to say and they said no."

Kenley Haley, asked about the 3-way stop.

Shawn Shrum, Assistant County Road Superintendent, replied "No. That road is a major collector. We do not put 3 way stops on major collectors."

Juliet Richey noted "That there are lot of things on the existing county roads that are not designed in a certain way. That's not what we are here to talk to about."

-----Planning Board Meeting Break-----

Juliet Richey stated that she downloaded the 2011 6<sup>th</sup> edition Greenbook (during the break). The equation is exactly the same (as the previous version cited) and the time gap for single unit truck is 9.5 seconds; which is exactly the same (as the previous version cited). The case we were using B1, left turn for minor roads, is the same. Therefore our recommendation has not changed based on the 35 mph recommendation for the intersection and sight distance.

Public Comments Closed.

Robert Daugherty made a motion to deny the **Rich Red Dirt CUP**. Cheryl West seconded. Chuck Browning was not present. Daryl Yerton abstained. Board Members Randy Laney, Walter Jennings, Robert Daugherty, Cheryl West and Kenley Haley were in favor of approving the motion for denial. The motion for denial passed.

Fayetteville Planning Area

**a. Hughmount Village Subdivision Final Plat**

**Final Subdivision Plat**

Location: Section 31, Township 17 North, Range 30 West

Owner: Hughmount Village LLC

Applicant: Kim Hesse, Earth Plan Design Associates, PA

Location Address: Across the street from 2680 Hughmount Rd.

Proposed Land Use: Single Family Residential, 137 lots (128 Residential Lots and 9 Greenspace lots) on 56.28 acres.

Coordinates: Longitude: 94°13'39.98"W Latitude-36°6'4.97"N

**Project #: 2013-024 Planner: Juliet Richey e-mail at jrichey@co.washington.ar.us**

Washington County Planning Director, Juliet Richey, presented the staff report for the board members. (The below black text is taken from the original staff report document issues to the Planning Board approximately a week prior to this meeting. The portions of red text within the document show updates to that report after its initial issuance and at the meeting)

**REQUEST:** The applicant is requesting Final Subdivision Approval of Hughmount Village Subdivision to create a subdivision with 128 single family residential lots and 9 greenspace lots; located on 56.28 acres. The total density is 2.27 residential units per acre.

**CURRENT ZONING:** Project lies within the County Zoned area (Agricultural/Single-Family Residential 1 unit per acre) however, the CUP for this project was approved in November 2011 (CUP 2011-103) and revised in November 2013 (CUP 2013-155). The Preliminary Subdivision Plat was approved in May 2013. A revised Preliminary Plat (to reflect the revised CUP 2013-155) was reviewed administratively. **(Please see attached approval letters on pgs A6- B15).**

**PLANNING AREA:** This project is located within the City of Fayetteville's Planning Area. Fayetteville approved the Preliminary Plat on 3.11.2013, and a modification to the Plat on 4.08.13. The City will approve the Final Plat administratively, approval has not yet been granted. Approval must be granted by both the City and the County.

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

**FIRE SERVICE AREA:** Wheeler (Fayetteville also responds)

**SCHOOL DISTRICT:** Fayetteville

**INFRASTRUCTURE:** Water– Fayetteville Water   **Sanitary Sewer-** City of Fayetteville  
**Electric-** Ozarks Electric   **Natural Gas–** SourceGas   **Telephone-** AT&T   **Cable-** Cox

**BACKGROUND/ PROJECT SYNOPSIS:**

The applicant is Earthplan Design Associates. The property owner is Hughmount Village LLC.

The applicant is requesting Final Subdivision Approval of Hughmount Village Subdivision to create a subdivision with 128 single family residential lots, and 9 greenspace lots on 56.28 acres. Their total density is 2.27 single family residential units per acre.

This subdivision originally received Preliminary Plat approval from the City of Fayetteville and Washington County in 2005 (under the name of Cherry Hills Subdivision, prior to County Zoning being passed). The developers proceeded to construct a majority of the street and utility infrastructure for phase one (originally 138 lots, each approximately ¼ acre in size, and the sewage treatment area- no additional green space proposed). In the following years, however, they never final platted the subdivision, nor did they request an extension from the City before the subdivision expired. Therefore, all approvals for this plat expired, and County zoning (allowing a minimum lot size of 1- acre by right) became applicable.

In the fall of 2011, the applicant submitted a CUP application for the subdivision, and proposed a revised layout. A Conditional Use Permit (CUP) was approved in November 2011 to allow the proposed density on this project's property (project #2011-103). The CUP was slightly revised in November 2013 (CUP 2013-155). The Preliminary Subdivision Plat was approved in May 2013. A revised Preliminary Plat (to reflect the revised CUP 2013-155) was reviewed administratively. **(Please see attached approval letters on pgs A6-A15).**

The applicant is also required to obtain Final Subdivision approval from the City of Fayetteville (because the development is located in the City's Planning Area) and Washington County. **Prior to November 6, staff must receive written approval of the final plat from the City of Fayetteville, or a letter in writing stating that the City is ok with the County approving the final plat contingent upon their approval.**

As a part of this subdivision, offsite improvements were required to be made to Hughmount Road (from the Subdivision to the intersection of Hughmount Road and Wheeler Roads). Additionally, some reconfiguration of the intersection of Hughmount and Wheeler was required to improve the safety of turning movements at this intersection. These improvements have been completed and inspected.

Improvements were also required to some of the drainage system and interior streets of the subdivision. At the time of this staff report a Final Inspection by the County Road Department has not yet taken place, but *is scheduled* for Monday, November 3, 2014. Staff will update you at the meeting as to whether the subdivision passes its final inspection or if there will be any additional conditions related to the results of that inspection.

**Staff has received no neighbor comments on this project.**

**The Road Department performed the final inspection today, and there were only some small items not addressed. The Road Department is comfortable with moving ahead with approval with conditions.**

**Planning Staff received a letter from the City of Fayetteville giving to go ahead to move ahead with Final Approval.**

**TECHNICAL CONCERNS:**

**Sewer & Public Utilities**

**The City of Fayetteville has granted this subdivision the right to connect to the City's sanitary sewer system. The space originally slated to hold the community sewer system for this project will now be green space within the project.**

**Electric/Phone/Gas**

Ozarks Electric: No comment was received from Ozarks Electric.

AT&T: No comment was received from AT&T.

Cox Cable: No comment was received from Cox Cable.

SourceGas: No comment was received from SourceGas

**Roads and Drainage:**

The following items are still needed:

- As-builts must be submitted
- All test results must be submitted
- All HIP reflectivity signs must be installed throughout subdivision
- Bond or LOC must be in place (must be a 3 year maintenance bond or LOC)
- All inspection fees must be paid
- Final Inspection must be completed and all elements must pass

**Water & Fire**

City of Fayetteville Water: City of Fayetteville Water Utility services this property. All water main lines along the interior subdivision streets are currently in place and active.

Fire: The Fire Marshal has reviewed the plans for the proposed layout. All of his concerns have been addressed.

In general, all fire code issues have been addressed, all fire lane signage has been noted on the proposed plat, all currently installed hydrants are properly placed, and fire flow with the addition of tanker support is adequate.

**Lot Line Adjustments**

A lotline adjustment is required prior to the final platting of this project. This lotline adjustment must be approved by both the City and the County. Staff has not received the administrative lot line adjustments that must occur for this Subdivision. This will be a condition of final plat approval.

**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	X		
Planning Issues/Engineering Issues		X	
Road Issues	X		
Fire Code Issues			✓
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			✓

**STAFF RECOMMENDATION:**

Prior to Staff making a recommendation on this project, staff must receive written approval of the final plat from the City of Fayetteville, or a letter in writing stating that the City is ok with the County approving the final plat contingent upon their approval. In addition, the subdivision must pass its final inspection (with the County Road Department) on November 3, 2014, or receive confirmation from the County Road Department that any items that did not pass inspection are minor enough to be placed as conditions of approval for this project. Staff will update you with a recommendation at the meeting.

**Staff has received no neighbor comments on this project.**

**The Road Department performed the final inspection today, and there were only some small items not addressed. The Road Department is comfortable with moving ahead with approval with conditions.**

**Planning Staff received a letter from the City of Fayetteville giving to go ahead to move ahead with Final Approval.**

**Staff recommends approval with the conditions below:**

**Planning Conditions:**

1. Washington County will not maintain sidewalks or streetlights.
2. Washington County will not maintain common areas or park areas.
3. Approval of the lot line adjustment must be acquired through both the City of Fayetteville and Washington County prior to the signing of the final plat.
4. All CUP conditions must be adhered to.
5. Pay any remaining neighbor notification and mailing fees or engineering review fees within 30 days of project approval. Any extension must be approved by the Planning Office.

**Road and Drainage Conditions:**

1. As-builts must be submitted

2. All test results must be submitted
3. Any remaining HIP reflectivity signs must be installed throughout subdivision
4. Bond or LOC must be in place (must be a 3 year maintenance bond or LOC)
5. All inspection fees must be paid
6. Any remaining punch list items from the Final Inspection must be completed and all elements must pass.

**General Conditions:**

1. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
2. All general plat checklist items must be corrected.
3. Once all plat corrections have been completed, submit corrected plat for review.
4. Must have City of Fayetteville Approval prior to County Staff signing the final plat.
5. Have all signature blocks signed on 11 Final Plats - 2 for filing in the Circuit Clerk's office, 7 for the County Planning office, remainder for the developer. The Circuit Clerk is not accepting plats over 18" x 24" in size.

*No Public comments. Public Comments Closed.*

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

**CONDITIONAL USE PERMIT HEARINGS**

Fayetteville Planning Area

**b. Baldwin Cell Tower CUP**

***Conditional Use Permit Approval Request***

Location: Section 19, Township 16 North, Range 29 West

Owner: Jack and Betty Knox

Applicant: Dave Reynolds

Location Address: north of 5060 AR Hwy 16/Huntsville Rd

Approximately 31.62 acres. Proposed Land Use: Cell Tower

Coordinates: Latitude: 36.05144119, Longitude: -94.09025678

**Project #: 2014-205 Planners: Sarah Geurtz & Courtney McNair emails: [sgeurtz@co.washington.ar.us](mailto:sgeurtz@co.washington.ar.us) & [CMcNair@co.washington.ar.us](mailto:CMcNair@co.washington.ar.us)**

*Washington County Planner, Sarah Geurtz, presented the staff report for the board members. (The below black text is taken from the original staff report document issues to the Planning Board approximately a week prior to this meeting. The portions of red text within the document show updates to that report after its initial issuance and at the meeting.)*

**REQUEST:** Baldwin Cell Tower CUP 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:** Agricultural/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 15, Butch Pond      **FIRE SERVICE AREA:** Round Mountain FD  
**SCHOOL DISTRICT:** Fayetteville

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

**BACKGROUND/ PROJECT SYNOPSIS:**

**Baldwin Cell Tower CUP** is requesting Conditional Use Permit approval to construct an approximately 150 foot tall monopole wireless communications tower facility. The tower will be unlit. Please see **pgs B-25 through B-29** for visual simulation examples of the proposed monopole-type tower at this location.

The tower will be constructed on parcel 001-10671-000 (29.48 acres) and a proposed 40 foot wide access and utility easement will provide access from East Highway 16/Huntsville Road across parcel 765-13073-000 (3.67 acres) to the tower site (**B-13 through B-15; B-18**). Both parcels are owned by Betty Knox. The tower will be located on a 70'x70' lease area. It is presumed by staff that additional generators, shelters, and meter banks could be added in the future with future antenna co-locations.

The applicant's explanation letter states that the facility will be unmanned and that the only reoccurring traffic will be light trucks for equipment maintenance technicians. You may read the applicant's letter of explanation on **pg B-21 & B-22**.

If this CUP is approved, then this tower is expected to be reviewed by the Planning Board for Full Tower Review.

Please see the attached letter from the applicant (**B-21 & B-22**), site plan (**B-18**), and maps (**B-13 through B-15**) for further information.

Staff has been out to the site and observed that because it is surrounded with tree lines, it seems to be situated in a way that minimizes the aesthetic impact for some of the neighbors. Also, the existing high voltage transmission lines on this property visually make a cell tower at this location less obtrusive than it might be in a strictly agricultural setting (**B-19 and B-20**).

See the site plan which shows residential home proximities to the proposed tower's location (**B-18**). The closest residence will be approximately 238.50 feet from the base of the tower's proposed location; this residence's address is 5080 Huntsville Road and belongs to Laurence and Sallie Hill. The next closest residence is 241.55 feet from the tower's base; this residence's address is 5060 Huntsville Road and is owned by the owner of the two parcels (Ms. Betty Knox) on which the tower is proposed to be constructed.

**There have been no outstanding issues with this project.**

**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 and Water 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 at the Tower Approval stage.

The access drive accesses off East Highway 16/Huntsville Road within Fayetteville's City Limits. While no overhead power lines were seen in the area of the proposed drive, there are trees and vegetation. They must be cleared so there is enough vertical clearance for fire apparatus along the proposed access and utility easement. This access drive must be at least twenty six feet in width and be able to support 75,000 lbs in all weather conditions. The gate that will be installed in the existing fence row must be at least 26 feet in width. The tower compound must have a 20 foot wide gate installed in it in order to accommodate emergency vehicles. **See site visit photos on pg B-19.**

Dennis Ledbetter reported to staff that the GPM of the nearest hydrant is 1220; the Fayetteville Water Department told Mr. Ledbetter that there is plenty of water at this project location for fire flow.

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

Ozarks Electric's Baldwin substation is located to the south of this proposed tower site. High voltage transmission lines run from this substation north across the two parcels involved in this CUP. Ozarks Electric reported to staff that their Engineer in charge of transmission lines reviewed this cell tower CUP and saw no problems. Ozarks Electric's high voltage transmission poles on this project's parcels are 60-70 ft in height **(B-20)**.

SourceGas, AT&T, and Cox Communications submitted no comments on this project.

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

Since this project will access off East Arkansas State Highway 16 (also known as Huntsville Road) within Fayetteville's City Limits, the Washington County Road Department had no comment. The Arkansas Highway and Transportation Department (AHTD) reported that a Utility Access Driveway Permit must be obtained prior to any access drive being constructed off East Highway 16. The applicant is aware of this requirement.

#### **Drainage:**

The Washington County Contract Engineer has no comments on this proposed project. The applicant submitted a statement to staff saying that the proposed tower's facility construction will not appreciably change the grade or slope of the existing terrain and would not cause the diversion or any other appreciable

change to the storm water runoff either to or from the proposed site.

**Environmental:**

The proposed site of the tower is *not* located within a floodplain.

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

**City of Fayetteville:**

Fayetteville Engineering told staff that any applicable permits must be obtained through the City of Fayetteville Planning Office. However, Fayetteville's Planning Office's only comment on the project was that there was an incorrect note on the plat about there not being a stream on the property. The applicant since corrected this note.

**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:** *Staff has been out to the site and observed that because it is surrounded with existing tree lines and tree groupings, it seems to be situated in a way that minimizes the aesthetic impact for some of the neighbors. Also, the high voltage transmission lines on this property (B-20) visually make a cell tower at this location less obtrusive than it might be in a purely agricultural setting. Its placement in the terrain, the type of tower (monopole), the height of the tower (153 feet), the lack of tower lighting, and staff's requirement that the tower compound be surrounded with opaque privacy fencing, all help to mitigate the tower's appearance and do 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 (B-19).*

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 the impact is expected to be minimal based on the tower location, tower height, tower type, and the existing high voltage transmission lines. There appears to be good buffering using existing vegetation.*

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**

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."

The parcels involved with this CUP application are not being proposed to be divided; the total acreage is 31.62 acres. The presence of this cell tower will not preclude this property from being farmed. Also, the proposed location of this tower on property already crossed by transmission lines and with much floodplain seems to be a good use of this site. In addition, due to the low impact nature of the proposed cell tower on 31.62 acres on property where there are existing high voltage transmission poles 60-70 feet in height, staff feels that this project will be compatible with the surrounding uses.

### **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. One neighbor called wanting information about the distance between Hester Cemetery and the tower location; this neighbor did not voice complaints.

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

**Three additional neighbors have contacted staff since staff reports went out. All written comments submitted to staff have been given to you.**

**STAFF RECOMMENDATION: Staff recommends *approval* of the proposed Baldwin Cell Tower Conditional Use Permit with the following conditions as stated in your Staff Reports but with **one change:****

### **General Conditions:**

1. The project shall generally adhere to the plans submitted.
2. Any applicable permits must be obtained through City of Fayetteville Planning/Engineering.

### **Fire and Water Conditions:**

1. There must be enough vertical clearance along the access and utility easement for fire apparatus.
2. The gate to be installed along the easement shall be 26 ft in width to accommodate emergency vehicles.
3. The access drive must be 26 ft wide and be able to support 75,000 lbs in all weather conditions.
4. A 20 foot wide gate will be required on the tower compound fencing in order to accommodate emergency vehicles.

**Roads/Ingress-Egress Conditions:**

1. A Utility Access Driveway Permit must be obtained from AHTD prior to any access drive being constructed off Highway 16.
2. The proposed easement crossing parcel 765-13073-000 shall be created.

**Environmental Conditions:**

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

**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 privacy fencing a minimum of 6' in height.
4. **Evergreen vegetation shall be planted along the northern and eastern tower compound sides and also along the southern tower side on either side of the gate. The plant choice shall be evergreen trees or shrubs that grow at least 15 feet tall and will offer screening. Staff must approve of the plant choice and spacing. The plant sizes shall be at least 3 feet tall at planting.**

**Standard Conditions:**

1. Pay neighbor notification mailing fees of \$144.90 within 30 days of project approval. An invoice was emailed on 10.28.2014. Any extension must be approved by the Planning Office.
2. Pay Engineering Fees (if there are any) within 30 days of project approval. Any extension must be approved by the Planning Office.
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.
  - a. This project requires additional review (Regular Communications Tower Review), and therefore, the applicant must submit for Regular Communication Tower Review within 12 months of this CUP project's ratification.

*Daryl Yerton, Planning Board member, asked "What is the linear distance between the site and the mid-span of the transmission line going north?"*

*Sarah Geurtz, replied "I've checked it out and it was over the tower height. They (the Electrical Utility, Ozarks Electric Cooperative) didn't submit a comment so I contacted them because I was concerned about the location of the line."*

Daryl Yerton, replied "It looked like it was 350 ft based on this aerial view. Which would be plenty sufficient since it's out of the fall range."

Dave Reynolds, Applicant and Representative for Smith Communications, stated, "We agree with staff and their recommendations. We've done our best to place this in an area it'll work and be as inconspicuous as a possible. There's been some concern about property value and we contacted a licensed property assessor. They show no evidence that a cell tower will have an automatic decline in property value. If you have any questions I'll be glad to answer."

No questions.

No Public comments.

Public Comments closed.

Robert Daugherty made a motion to approve the **Baldwin Cell Tower CUP** subject to staff recommendations Daryl Yerton seconded. Walter Jennings abstained. Chuck Browning was not present. Board Members Randy Laney, Daryl Yerton, Robert Daugherty, Cheryl West and Kenley Haley 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 **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

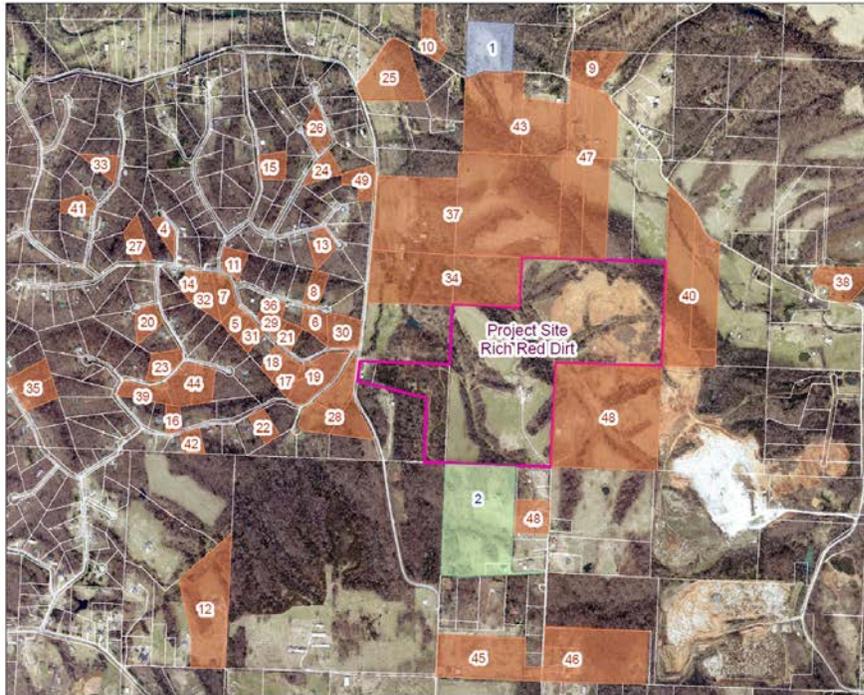
Cheryl West moved to adjourn. Robert Daugherty seconded. Motion passed. All Board members were in favor of approving.

Planning Board adjourned.

Minutes submitted by: Phuong Pham

Approved by the Planning Board on:

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



## Neighbor Comments

### Rich Red Dirt

Total Neighbor Comments: 49

- In-Favor Comment Received
- Neutral Comment or Question Received
- Opposing Comment Received

### Neutral Comments or Questions Received From:

1. 001-17519-000 - Hutchinson, Laura and Margaret

### In-Favor Comments Received From:

3. 001-11578-000  
001-11578-001 - Casey, Jerome

### Opposing Comments Received From:

- 536-03079-000 - Anderson, Cynthia (15)
- 532-03040-000 - Audiss, William and Terri (39)
- 001-11585-001 - Bale, Patricia (45)
- 532-03009-000 - Baudino, Gloria (8)
- 532-03025-000 - Brown, Arthur and Kristine (31)
- 536-03049-000 - Carr, Gary (13)
- 536-03054-000 - Cook, Ronnie (49)
- 001-11484-000 - Crumley, Edwin and Mary (40)
- 001-11484-004 - Crumley, Edwin and Mary (40)
- 001-17503-000 - Dalton, Gardie (10)
- 548-03175-000 - Davis-Beaupre, Terri (41)
- 532-03000-000 - Erstine, Kimberly (27)
- 532-03023-000 - Garrett, Deloris Revocable Trust (18)
- 001-11488-000 - Gooding, Charles and Ladema (37)
- 001-11508-000 - Gooding, Charles and Ladema (37)
- 001-11496-000 - Gray, Roma and Michael Luna (38)
- 536-03074-000 - Grimsley, Donna C. Trust (26)
- 532-03038-000 - Hawkins, James, Lydia Baumgartner (44)
- 532-03039-000 - Hawkins, James, Lydia Baumgartner (44)
- 532-02995-000 - Henderson, Joel and Deborah (20)
- 532-03027-000 - Herrn, Mary (7)
- 532-03013-000 - Hester, Lloyd and Virginia (6)
- 532-03028-000 - Johnson, Dick and Julie (32)
- 532-03017-000 - Jones, Phillips (29)
- 001-11494-000 - Jorgenson Trust (34)
- 001-11507-000 - Jorgenson Trust (34)
- 001-11509-001 - Jorgenson Trust (34)
- 001-17526-000 - King, Evelyn and Pamela Klein (9)
- 536-03059-000 - Kinion, Ronnie and Tammy (24)
- 001-11543-002 - Kwan, Timothy (12)
- 001-11579-000 - Main, Sherry and Alford (48)
- 001-11495-000 - Main, Sherry and Alford (48)
- 001-11580-000 - Main, Sherry and Alford (48)
- 536-03108-000 - Miller, Pauletta and Lloyd (4)
- 540-03120-000 - Morgan, Glenn and Linda (35)
- 540-03121-000 - Morgan, Glenn and Linda (35)
- 532-03018-000 - Nicholas, Patti (21)
- 532-03020-000 - Osmon, Paul and Bonita (19)
- 532-03021-000 - Osmon, Paul and Bonita (19)
- 532-03015-000 - Presley, Rebecca (36)
- 532-03022-000 - Pulliam, Jenny and Benjamin (17)
- 001-11590-000 - Purcell, Floyd and Patricia (46)
- 001-11590-002 - Purcell, Floyd and Patricia (46)
- 532-02970-000 - Ritchie, Martha (28)
- 532-02971-000 - Ritchie, Martha (28)
- 532-02972-000 - Ritchie, Martha (28)
- 532-03012-000 - Roberson, Bill (30)
- 548-03171-000 - Smith, Christina (33)
- 532-02980-000 - Specie, Roy and Loretta Childs (42)
- 532-03004-000 - Stokes, Jerry and Nancy (11)
- 001-11491-000 - Sullivan, Kenneth (47)
- 001-11492-000 - Sullivan, Kenneth (47)
- 001-17528-000 - Sullivan, Kenneth (47)
- 001-17529-000 - Sullivan, Kenneth (47)
- 532-03043-000 - Tustin, William (16)
- 001-17521-000 - Ward, Walter and Janas (43)
- 001-17522-000 - Ward, Walter and Janas (43)
- 532-03030-000 - Warren, Robert G. Trust (14)
- 532-02976-000 - Wenger, Christopher and Mandy (22)
- 532-03026-000 - Williams, Sherri (5)
- 532-02993-000 - Yankelovich, Martha (23)
- 001-17501-000 - Yerton, Randall (25)