

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
SPECIAL MEETING
MARCH 22, 2011

The Jefferson County Planning Commission met on Tuesday, March 22, 2011, with the following Commission members present: Thomas Trumble, President; Daniel Hayes, Vice-President; Morgan Eppers, Secretary; Gene Taylor, John Maxey, Kelly Baty, Eric Smith and Arnold Dailey. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Stephen Groh, Assistant Prosecuting Attorney; and Julie Quodala, Office Manager.

Mr. Walt Pellish was absent with notification.

Mr. Trumble called the meeting to order at 7:05 PM.

- 1. Planning Commission direction given in response to the Concept Plan Review for Paynes Ford Station (PC File #10-12). This property is located at the intersection of Paynes Ford Road and Bowers Road. This project consists of a residential subdivision that includes 36 residential lots, a residue parcel, open space parcel, storm water management parcel, right-of-way dedications and internal roadways on 141.6 acres located in Tax District: Middleway; Tax Map: 6; Tax Parcel: 8.**

Mr. Trumble asked legal counsel if this item was to be discussed by the Planning Commission only or if the public would be allowed to speak and if so, would it be all of the public or just the public in part. Mr. Groh responded that, from his recollection of the last meeting, it was to be a discussion between the Planning Commission and that if the public were to be allowed to speak, it should be all of the public not just part of the public. Mr. Trumble then asked how this item was noticed to the public. Ms. Brockman confirmed that the notice stated that the public workshop had been closed and no public comment would be taken. Mr. Trumble stated that his intent was to have only Planning Commission discussion. Mr. Mark Dyck, the applicant representative, stated that it was his understanding at the March 8th meeting, that staff would compile the public comment and that he would be given a chance to respond to those comments. Ms. Brockman attested that a copy of the comments report was sent to the applicant for review, as requested by the Planning Commission at the March 8th meeting. Mr. Trumble raised concern that the notice had stated no public comment would be received and that allowing the applicant to speak may violate the Open Meetings Act by not allowing opposition to speak. Mr. Groh confirmed that the most appropriate action would be for discussion to occur between just the Planning Commission. Ms. Brockman suggested permitting the applicant to waive the 14 day requirement to allow proper notice to reopen the public hearing if the applicant would like to respond. Mr. Dyck stated that there would be nothing new for the public to comment on and reiterated that there was open discussion in which he was allowed to speak after the close of the public work session at the March 8th meeting. Additionally Mr. Dyck stated that he was under the assumption that open discussion would continue at this meeting. He confirmed that the developer would follow the Subdivision Regulations and would not voluntarily place any more conditions on the property than outlined in the regulations.

Mr. Rivard briefly explained the comments table that was compiled by staff and provided to the Planning Commission in their agenda packets. He suggested that any comment marked as “not in the purview of the Planning Commission” or “already included in the Subdivision Regulations” be eliminated from discussion. Mr. Trumble confirmed that only comments marked as “should be discussed by the Planning Commission” would be discussed.

The first comment discussed was: *Is the Voluntary Remediation Program for the entire property or is it limited to the development in the North?* This question was asked by Scott Chapman at the March 8, 2011 public workshop. There was discussion regarding whether a Voluntary Remediation Plan had been enacted. Mr. Trumble remembered that a plan of that nature had been submitted when this project was originally presented to the Board of Zoning Appeals. Mr. Hayes suggested making the plan a part of the preliminary plat submission. Mr. Hayes moved to request the applicant to provide the Voluntary Remediation Plan to include the limits of the remediation. Mr. Smith seconded the motion. Mr. Maxey offered a friendly amendment to request information demonstrating adherence to a time frame for the plan. Mr. Trumble offered a friendly amendment that instead of a Voluntary Remediation Plan, to request a Remediation Plan that includes a schedule of specific tasks, which the Planning Commission will ensure are adequate. Mr. Hayes stated that the currently prepared plan would be adequate for preliminary plat submission and should be left as a Voluntary Remediation Plan. Ms. Brockman raised concern that if there was any content in the Voluntary Remediation Plan report that would be submitted with the preliminary plat which could possibly affect the approval of the project, the Planning Commission should request to review that report before preliminary plat submission in order for the applicant to amend the project as needed. She also stated that the applicant would need to follow state regulations. Mr. Hayes clarified his motion to require that the applicant submit the Voluntary Remediation Plan with the preliminary plat to define the extent of remediation. Mr. Trumble called to question. The motion carried 7 for and 1 opposed (Mr. Dailey).

The second comment discussed was: *Will the Developer be working with Comcast to preinstall cable facilities as outlined in the Jefferson County Cable Franchise Agreement?* This question was asked by Jennifer Syron at the March 8, 2011 public workshop. Mr. Hayes moved to not make any recommendations to the applicant due to Appendix B, Section 3.2 of the Jefferson County Subdivision Regulations which require all utility transmission lines to be placed underground. Mr. Smith seconded the motion which carried unanimously.

The third comment discussed was: *If Karst is discovered on a particular site will the potential home buyers be notified?* This question was asked by Jennifer Syron at the March 8, 2011 public workshop. Mr. Hayes moved that the Planning Commission not apply direction to the applicant on this issue. There was discussion regarding sinkholes. It was determined that sinkholes have requirements within the Subdivision Regulations. Mr. Dailey seconded the motion which carried unanimously.

The fourth comment discussed was: *If Karst is found, what efforts will be made by the developer or the builder during construction to minimize potential damage to the houses?* This question was asked by Jennifer Syron at the March 8, 2011 public workshop. Mr. Maxey moved that the applicant be directed to follow Subdivision and Land Development

Regulations with regards to sinkholes. Mr. Baty seconded the motion which carried 6 for and 2 opposed (Mr. Dailey and Mr. Hayes).

The fifth comment discussed was: *Will there be separate entrances/exits to the development in each county?* This question was asked by Jennifer Syron at the March 8, 2011 public workshop. Mr. Hayes moved to give no direction to the applicant regarding entrances because the applicant had provided a Concept Plan showing the entrance in Jefferson County and an approved plat in Berkeley County that had an entrance already constructed. Ms. Eppers seconded the motion which carried unanimously.

Mr. Maxey moved to combine two of the comments. Mr. Taylor seconded the motion which carried unanimously. The last two comments discussed were: 1) *Will the residue be purified of chemicals and then an appeal be filed to build more homes on that residue?* This question was asked by Barbara Fuller at the March 8th public workshop. 2) *Neighbors were under the impression that the lot sizes would also be increased to greater than 3 acres so that houses would not be bunched in one area. Since that is not the case, will the residue be developed in the future to include more houses?* This question was asked by Mark Eddy at the March 8th public workshop. Ms. Brockman clarified that the Supreme Court decision of *Jefferson Orchard, Inc. v. Jefferson County Board of Zoning Appeals Civil Action No. 06-C-388* stated that the property was to have a maximum density of 37 homes. She stated that staff suggested having a note on the plat that states only one additional home may be built on the residue for a total of 37 homes. Mr. Maxey moved to require the applicant to place a note on the plat that would follow through to the final plat specifically requiring that no further development be done on the residue parcel and stating that such development would violate the Conditional Use Permit (CUP) for the original subdivision. Mr. Baty seconded the motion. Mr. Groh suggested adding language to that note to state that no lot in the subdivision could be further subdivided subject to CUP #Z02-02. Mr. Maxey agreed and accepted Mr. Groh's suggestion as a friendly amendment to his motion. Mr. Hayes asked for clarification as to whether the note would limit the applicant's rights in the future, if the zoning requirements were to change or if the CUP were lifted. Mr. Groh confirmed that the note would only enforce the Supreme Court decision and restrictions already in place with the CUP and that if the hypothetical need for the CUP were eliminated in the future, the note would not supersede the new regulations. Mr. Hayes offered a friendly amendment that the CUP number and the Supreme Court Case number be included in the note on the plat. Mr. Maxey restated his motion to request that the Planning Commission Attorney draft the plat note which staff will require limiting the density as per the CUP and the Supreme Court case. Mr. Baty seconded the motion which carried unanimously.

Mr. Hayes moved to approve the Concept Plan with the discussed direction. Mr. Baty seconded the motion which carried 7 for and 1 abstention (Mr. Maxey abstained stating that he did review the meeting, but did not feel comfortable voting on the approval of the Paynes Ford Station Concept Plan because he had been unable to have dialogue the applicant during the public workshop held at the previous Planning Commission meeting).

2. Discussion and vote on Finding of Fact and Conclusions of Law for the denial of a requested time extension for Far Away Farms.

Ms. Brockman reviewed the events of the December 14, 2010 Planning Commission meeting, which the Planning Commission denied a requested time extension for Far Away Farms. Mr. Groh presented the Findings of Fact and Conclusions of Law for the decision made regarding Far Away Farms. Mr. Maxey moved to approve the Findings of Fact and Conclusions of Law as written. Mr. Baty seconded the motion which carried 6 for and 2 abstentions (Mr. Dailey and Ms. Etters).

3. Presentation of Draft Policy Neutral Zoning Ordinance Amendments in preparation for a public hearing on April 12, 2011.

Ms. Brockman stated that the goal for the meeting was to review the amendments and to vote to allow this version to be posted for public review. Mr. Barney reviewed the amendments for the Planning Commission.

Mr. Trumble asked if there would be a “searchable” version of the document available to the public. Mr. Barney confirmed importance of having searchable documents on our website and assured the Planning Commission that attempts were being made to make all of the Planning Department’s documents searchable.

With regards to Article 5.7(A)(30-33), which were taken from Article 2.2 Definitions, Mr. Trumble raised concern that these terms should be left with the definition of agricultural use. Ms. Brockman had suggested referencing Section 5.7 in the related definition. Mr. Maxey agreed with this suggestion. Mr. Trumble stated that he still felt these terms should be included in the definitions section of the Zoning Ordinance.

Ms. Brockman explained that the soil names and values in Section 6.3 would be corrected.

Mr. Trumble suggested that the word “perceived” in Section 5.8, first line, be removed.

Mr. Hayes moved to approve the amendments for public release with the changes suggested and to schedule a public hearing for April 12, 2011. Mr. Maxey seconded the motion which carried unanimously.

Mr. Hayes reported that he had received an e-mail from Linda Losey thanking Mr. Rivard, Mr. Barney and Mr. Saunders for their hard work. He also expressed gratitude to Mr. Maxey for his service on the Planning Commission.

Mr. Trumble announced that he would not be reapplying for a Planning Commission position and that this would be his last meeting.

Mr. Trumble adjourned the meeting at 8:40 PM. A detailed transcript of the meeting may be found on our website. This meeting was recorded by Julie Quodala, Office Manager. These minutes were prepared by Amy Puetz, Planning Clerk.