

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
AUGUST 25, 2009

The Jefferson County Planning Commission met on Tuesday, August 25, 2009, with the following Commission members present: Arnold Dailey, President; Robert Reynolds, Vice-President; Ed Dunleavy, Ellen May, John Maxey, John Sidor, Jim Surkamp and Thomas Trumble. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Jennifer Snyder, Acting Zoning Administrator; Jonathan Saunders, Engineer; Rebecca Burns, Bonding Administrator; Mason Carter, Ordinance Compliance Officer and Jennilee Hartman, Planning Clerk.

Ms. Lynne Deming was absent with notification.

Mr. Dailey called the meeting to order at 7:00 PM.

1. Approval of minutes.

The following corrections were recommended by the Commission:

- a. Page 2, item 8, fifteenth line down, after the sentence that reads, "Mr. Trumble had a concern about misleading the PSD regarding build out timeframes." add "*This issue was addressed.*"
- b. Page 3, item 11, first line down, change "*Dunleavy*" to "Sidor."

Mr. Maxey moved to approve the minutes of the August 11, 2009 Planning Commission meeting as amended. Mr. Trumble seconded the motion, which carried unanimously.

2. Citizen Communications. None.

3. Requests for postponement. None.

4. Final Plat Public Hearing for the Shepherdstowne Estates Subdivision (PC File #07-24). The property is to consist of 9 Single-Family Lots and 1 Single-Family Residue Lot on 97.436 acres. Ms. Hartman read from her staff report, though withheld the recommendation at the request of Mr. Dailey. Michael Shepp with Dewberry was present to answer Commissioners' questions. Mr. Dailey opened the public hearing. There were no comments from the public. Mr. Dailey closed the public hearing. Ms. Hartman recommended approval of the final plat contingent upon the applicant securing a bond and recording the final plat within 90 days. Mr. Saunders recommended approval of the final plat. Mr. Dunleavy moved to approve the final plat. Mr. Maxey seconded the motion, which carried unanimously.

5. Request by James and Barbara Gibson for a variance to extend the bonding and recordation period of 90 days for a period of one year for the Allstadt's Corner Subdivision (PC File #07-10). The 90-day provision ends on October 12, 2009. The applicant is requesting an

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extension of this provision until October 12, 2010. Michael Shepp with Dewberry was present to answer Commissioners' questions. Mr. Maxey asked if Dr. Gibson had approached the National Park Service (NPS) regarding a sale of the property. Mr. Shepp stated that while Dr. Gibson had hosted a private open house for the NPS that because the property was not in the acquisition boundary established by the National Park Service (NPS) that the NPS would not be able to purchase the property at this time. Mr. Dailey opened the public hearing. Scott Faulkner, resident, stated this request was a self-imposed hardship because in 2002-2004 the applicant adamantly contested being placed in the acquisition boundary. Mr. Faulkner questioned the applicant's motives in requesting the extension. Mr. Faulkner argued that the Commission would be setting a precedent if they approved the extension request. Mr. Trumble stated that precedent would not be set because each variance request is decided based on its own merits.

Barbara Humes, resident, stated she felt the applicant did not meet the four criteria of Subdivision Ordinance Section 17.

Beth Haney, resident, stated she believed the applicant was using the interest of the National Park Service to buy time to record the final plat. Ms. Haney argued that if the applicant were granted more time to record the plat, the land would be more valuable in a year, thus providing the applicant the opportunity to get more money once the economy picked up.

Mr. Shepp stated Dr. Gibson currently has the ability to write a check for the bond, record the plat and begin construction of the development. Mr. Shepp stated the applicant's intent for requesting additional time was not contrived or made up. The actual basis for the request was to investigate the sale of the property. Mr. Sidor asked if anyone had offered to purchase the property. Mr. Shepp stated a reasonable offer had not yet been made. Mr. Dunleavy asked if there was any written documentation from a third party or the National Park Service stating an interest in negotiating the purchase of the property. Mr. Shepp stated there was none.

Ms. Hartman read the following recommendation from her staff report:

“The issues related to the difficulties in meeting the 90-day bonding and recording requirement found in the 1979 Subdivision Ordinance have been brought to the Planning Commission's attention over the last few years. In light of these issues, the Subdivision and Land Development Regulations adopted on October 9, 2008 (2008 Subdivision Regulations) were drafted to allow for a 6-month period to bond and record a Final Plat in order to better meet the needs of the developer, the public, and the County. However, the Allstadt's Corner Subdivision is required to adhere to the 1979 Subdivision Ordinance requirements due to its vested status. Additionally, it appears that the Planning Commission, and the public, support having the site historically preserved. Based on these facts, Staff recommends granting the variance with the following condition in order to provide the applicant adequate time to explore this avenue. Written progress reports will be required at

6 months and 9 months. If the Department determines that no substantial progress has been made, the PC may request the applicant to present an oral status report.”

Mr. Saunders read the following recommendation from his staff report:

“The extension of time for bonding and recording a final plat is a processing issue. The County Engineer defers to the County Planner on a recommendation. However, if a time extension is granted for bonding and recording of the final plat, the bond estimate shall be based on the unit prices in effect at the time of posting the bond and recording the final plat.”

Ms. Burns stated the unit cost that had been approved by the Engineering Department and confirmed that the office had not yet received any financial information from the bank.

Mr. Surkamp moved to deny the extension request because he did not find the request to be in the public interest. Mr. Surkamp stated the applicant asserted that the public interest would be served because the purchasing cost of the property would be lower if the applicant were not made to record to subdivision. Mr. Surkamp stated that this assertion has not been proven in the form of written documentation. Ms. May seconded the motion. Mr. Dunleavy stated he believed this was a self imposed hardship because the applicant chose to submit the proposed subdivision in 2007 when the housing market was decreasing. In addition, Mr. Dunleavy stated he believed there was a self imposed hardship borne by the applicant because they were seeking to negotiate with a third party. Mr. Maxey stated he felt that all four criteria of the Subdivision Ordinance must be met. Mr. Sidor stated that he is inclined to believe the applicant’s reason for needing a variance is to negotiate with a third party and therefore would suggest amending the motion to granting the applicant a 90-day extension. The proposed amendment to the motion could not be entertained because it would be changing a denial to an approval. Mr. Dailey called the motion to deny the variance, which passed 5 for and 3 opposed (Mr. Trumble, Mr. Dailey and Mr. Sidor).

6. Director’s Report. Ms. Brockman spoke about the following topics:
 - a. Updating the Planning Department webpage to clearly differentiate between the zoning ordinances.
 - b. The Addressing Department will be handing out information cards pertaining to the existing and proposed zoning ordinances at a booth at the County Fair.
 - c. Creating a list of key changes between the current and proposed zoning ordinances.
 - d. Update on the interview process for the vacant positions.
7. County Commission Liaison Report. None.
8. Planning Commission Exchange. Discussion ensued among the Commissioners.
9. President’s Report. None

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10. Reports from Legal Counsel and legal advice to PC.

- a. Briefing from legal counsel on recent land use litigation. The Commission was in receipt of the briefing from Mr. Casimiro, Assistant Prosecuting Attorney. Mr. Reynolds stated he would like a resolution drafted for each item the Commission must act on in order to provide a clear record for the file.
- b. Vote on written decisions for Jane Stone variance requests. Mr. Reynolds moved to approve the written Decision Denying Variance Application of Jane Stone, May 12, 2009. Mr. Dunleavy seconded the motion, which passed 4 for and 2 abstentions (Mr. Sidor and Mr. Trumble). Mr. Reynolds moved to approve the written Decision Denying Variance Application of Jane Stone, June 9, 2009. Ms. May seconded the motion, which passed 4 for and 2 abstentions (Mr. Surkamp and Mr. Trumble).

11. Actionable Correspondence. None.

Mr. Reynolds moved to adjourn the meeting at 8:21 PM. Mr. Dunleavy seconded the motion, which carried unanimously. A detailed transcript of the meeting may be found on CD #____. These minutes were prepared by Jennilee Hartman.