

DRAFT MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
OCTOBER 27, 2009

The Jefferson County Planning Commission met on Tuesday, October 27, 2009, with the following Commission members present: Arnold Dailey, President; Lynne Deming, Secretary; John Maxey, John Sidor, Jim Surkamp and Thomas Trumble. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Jennifer Snyder, Zoning Administrator; Jonathon Saunders, County Engineer; Stephen Groh, Assistant Prosecuting Attorney; Jennilee Hartman, Planning Clerk; and Amy Puetz, Office Assistant.

Ms. Ellen May and Mr. Robert Reynolds were absent with notification. Mr. Edward Dunleavy was absent without notification.

Mr. Dailey called the meeting to order at 7:03 PM.

1. Approval of minutes from October 13, 2009 meeting. Mr. Maxey moved to approve the minutes of the October 13, 2009 meeting. Mr. Trumble seconded the motion which carried 3 for and 3 abstentions (Mr. Dailey, Mr. Surkamp, and Ms. Deming who were not present for that meeting). Since there was not a quorum, this item will be reviewed at the November 10, 2009 meeting.
2. Citizen Communications. None.
3. Requests for postponement. Mr. Andy Ferretti, with Loiederman Soltesz Associates, was present on behalf of B.C. Partners and requested postponement of item #5, Final Plat Hearing for Breckenridge East, Phase 1A Subdivision (PC File # 07-31) due to staff providing an insufficient amount of time for the final review to be approved before this meeting. Mr. Ferretti stated that they should be able to address staff comments this week and resubmit at the beginning of the following week in time for the November 10, 2009 meeting. Mr. Sidor moved to approve postponement. Ms. Deming seconded the motion which carried unanimously.
4. Final Plat Public Hearing for the Cambridge Subdivision, Section 4, Phase 4 (PC File #09-21). The property is to consist of 2 double-wide mobile home lots and 1 residue lot on 27.0671 acres.

Mr. Rivard read from his staff report and recommended approval. Mr. Saunders read from his staff report and recommended approval.

Mr. Dirk Stansbury, with Stansbury Engineering, representing Cambridge was available for questions from the Planning Commission. Mr. Maxey was concerned that the length of time to complete the project may be too long. Mr. Surkamp asked if sewer was available for these lots to which Mr. Stansbury confirmed there is available sewer. Discussion ensued on why leased lots were being presented as a final plat. Ms. Brockman commented that the history of this project has been to submit phases as final

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plats but that staff could research that issue. Mr. Stansbury suggested that, to his understanding, a final plat needed to be submitted in order for the lots to be taxable.

Mr. Dailey opened the public hearing. There was no comment from the public. Mr. Dailey closed the public hearing.

Mr. Maxey moved to deny the final plat on grounds that it is not consistent with the approved Community Impact Statement. Discussion ensued with regard to whether the Community Impact Statement would still be valid if the project were to take the maximum allotted time given to it under the Subdivision Regulations that it processed under. Mr. Surkamp seconded the motion. Motion failed 2 for, 4 opposed.

Ms. Deming moved to approve with no conditions and with the language written in the staff proposed motion (attached). Mr. Trumble seconded the motion.

Mr. Maxey moved to amend the motion by adding: Now therefore be it approved that the Jefferson County Planning Commission approves of the Final Plat for the Cambridge Mobile Home Park Subdivision, Section 4, Phase 4 (PC file #09-21) of a total of 6 phases. Mr. Surkamp seconded the motion. Mr. Dailey opened for discussion. Mr. Trumble asked how many phases are anticipated.

Mr. Dave Tyson, property manager for Cambridge, addressed the Commission and explained that impact fees and the economy have slowed the building process and future progress will depend on economic growth and that Cambridge is motivated to get the project built out. Mr. Kent Ritter, co-owner of Cambridge, also approached the podium clarifying to Commissioners that all profits deriving from this subdivision has been placed back into the building efforts.

Mr. Dailey asked for clarification on Mr. Maxey's amendment. Mr. Maxey expounded that the motion would allow the project to have two more phases after this one giving the project a total of 6 years to be built out completely.

The Commissioners voted on Mr. Maxey's motion for amendment. Motion failed 2 for, 4 opposed.

Mr. Maxey moved to amend the staff proposed motion (attached) to strike the word "recommends" from the last paragraph and replace with the word "approves". Mr. Surkamp seconded the motion which carried unanimously.

The Commissioners then voted on Ms. Deming's original motion to approve the final plat. The motion carried 5 for, 1 opposed.

5. Final Plat Public Hearing for the Breckenridge East, Phase 1A Subdivision (PC File #07-31). This phase is to consist of 23 single-family lots and 1 single-family residue lot on

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99.21 acres. This item was postponed until the November 10, 2009 meeting as detailed in Item # 3.

6. Final Plat Public Hearing for the Beallair Subdivision- Phase 3 (PC File #08-21). This phase is to consist of 1 Commercial Lot and 1 Single-Family Residue Lot on 76 acres.

Mr. Rivard read from his staff report and recommended approval. Mr. Saunders read from his staff report and recommended approval.

Mr. Mike Wiley, Vice-President with Beallair Homes, LLC, was available for questions.

Mr. Dailey opened the public hearing. There was no comment from the public. Mr. Dailey closed the public hearing.

Mr. Maxey moved to approve the final plat with the language written in the staff proposed motion (attached). Mr. Trumble seconded the motion which carried unanimously.

7. Request by Beallair Homes, LLC for a variance to extend the current time period for approval of the first final plat for a period of 12 months for Beallair West (aka The Community of Beallair Phase 6) (PC File #07-30). The 24 month period after the Staff Review Conference on the CIS ends November 16, 2009. The applicant is requesting an extension of this deadline for 12 additional months.

Mr. Rivard recommended approval and provided reasoning for approval. Mr. Saunders read from his staff report and deferred to the Planner for recommendation.

Mr. Mike Wiley, Vice-President with Beallair Homes, LLC, approached the podium and explained the current status of the project and why a time extension was necessary, then addressed questions by the Commissioners.

Mr. Dailey called for a recess at 8:20 PM to allow staff to change the CD. Mr. Dailey called the meeting back to order at 8:24 PM.

The Commission continued to ask questions which were addressed by Mr. Wiley. Mr. Surkamp requested a letter be obtained by the Charles Town Sewer Plant to guarantee sewer availability.

Mr. Trumble moved to approve the variance with the language written in the staff proposed motion (attached). Ms. Deming seconded the motion. Mr. Surkamp offered a friendly amendment to include the condition that a letter from the Charles Town Utility Manager stating availability be submitted. There was no second; therefore motion for amendment died. Mr. Trumble added to his original motion that receipt of the letter from the Charles Town Utility Manager be listed under the potential delays portion of the

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attached document. Mr. Surkamp seconded the motion. A discussion developed related to whether the letter from the Public Service District, already on file, was sufficient in assuring sewer availability. Mr. Trumble then withdrew his amendment. The vote on the original motion passed 5 for, 1 opposed.

8. Director's report.
 - a. Ms. Brockman spoke about the staff activity calendar provided in the packets.
 - b. Zoning Ordinance update. Ms. Brockman gave a synopsis of the outreach efforts for the upcoming vote on the Zoning Ordinance.
 - c. Update on the quarry clearing. Jennifer Snyder passed out a written report to the Commissioners on the actions and inquiries that have been taken on Mr. Faulkner's complaint of a possible violation.
 - d. Mr. Rivard spoke on an EPA meeting to be held in Martinsburg on November 4, 2009 at 6:00 PM and that he plans on attending.
9. County Commission Liaison Report. Mr. Surkamp reported that the County Commission did not take a position on the support of the proposed Zoning Ordinance. Mr. Surkamp said he would like to write an opinion piece in the newspaper as an informal way of educating the public on the ordinance.
10. Planning Commission Exchange. Mr. Sidor suggested that more research be put into time extensions so that the Commission is not approving more time than necessary. Discussion followed concerning possible changes that need to be made to ensure predictability.

Ms. Deming departed from the meeting at 9:31 PM.

Mr. Maxey stated the National Fish and Wildlife Foundation sent an e-mail to explain how to retrieve the official paper work needed for the grant for the Mountain Study. Mr. Maxey affirmed that he would be in the office to show Mr. Rivard how to recover these documents.
11. President's Report. None.
12. Reports from Legal Counsel and legal advice to PC. Vote on the Findings of Fact and Conclusions of Law for the James and Barbara Gibson variance decision dated August 25, 2009, which had been postponed from the October 13, 2009 meeting. Mr. Groh provided the Commission with a draft template, which included Findings of Fact and Conclusions of Law, to be used when making a decision on a variance. The Commission held a discussion on the Findings of Fact and Conclusions of Law for the James and Barbara Gibson variance.

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Mr. Dailey called a recess at 9:43 PM to allow staff to change CD. Mr. Dailey called the meeting back to order at 9:44 PM.

Discussion continued on the Gibson variance. Mr. Surkamp moved to accept the submitted version of the Findings of Fact and Conclusion of Law for the James and Barbara Gibson variance. There was no second therefore the motion failed. Mr. Trumble moved that the case be reheard. There was no second therefore the motion failed. Mr. Maxey moved to approve the Findings of Fact and Conclusions of Law with an amendment to strike, "Based upon the all evidence presented at the hearing, which is incorporated herein by reference..." from page 2 so that the paragraph will begin, " The Planning Commission passed the following motion to deny the variance...". Mr. Sidor seconded the motion, which carried unanimously.

13. Actionable Correspondence. None.
14. Non-actionable Correspondence. None.

Mr. Surkamp moved to adjourn the meeting. Mr. Trumble seconded the motion which carried unanimously. Meeting adjourned at 9:55 PM. A detailed transcript of the meeting may be found on CD # & #. These minutes were prepared by Amy Puetz.