

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
JANUARY 8, 2008

The Jefferson County Planning Commission met on Tuesday, January 8, 2008 with John Sidor as President presiding. Robert Reynolds, Vice President, Lynne Deming, Secretary, Ellen May, Jim Surkamp, Tom Kane, Arnold Dailey and Ed Dunleavy were present. Staff members present were Tony Redman, Director of Planning, Sherry Kelly, Deputy Director of Planning, Damien Davis, County Engineer, and Jennilee Hartman, Clerical Support.

Todd Baldau was absent with notification.

Mr. Sidor called the meeting to order at 7:00 p.m.

1. Election of Officers. Mr. Reynolds moved to elect Mr. Sidor as President. Ms. May seconded the motion, which carried unanimously. Mr. Sidor was elected as President.

Mr. Surkamp moved to elect Mr. Reynolds as Vice President. Ms. Deming moved to elect Mr. Dailey as Vice President. The motion was called, five votes for Mr. Reynolds and three votes for Mr. Dailey. Mr. Reynolds was elected as Vice President.

Ms. May moved to elect Ms. Deming as Secretary. The motion carried unanimously. Ms. Deming was elected as Secretary.

2. Approval of Minutes. Ms. May abstained from voting on the minutes because she was not present at the last meeting. Mr. Kane moved to approve the minutes of the December 11, 1007 Planning Commission meeting with the following changes:

- a) Page 1, #3, 2<sup>nd</sup> line, add the word "the" so that the sentence reads, "Mr. Reynolds took the Chair."
- b) Page 1, #3, 4<sup>th</sup> line, correct the spelling of "location."
- c) Page 1, #3, 9<sup>th</sup> line, insert Mrs. Sidor's name, Judith.
- d) Page 2, #3, last line, add the word "the" so the sentence reads, "Mr. Sidor returned to the room and took the Chair."
- e) Page 2, #4, 10<sup>th</sup> and 11<sup>th</sup> line, correct "Normal Isner" to "Norma Eisner."
- f) Page 2, #4, 14<sup>th</sup> line, remove "the lot were to change to a commercial or multifamily lot..." to "changed to anything other than a single family lot..."
- g) Page 2, #4, 15<sup>th</sup> line, correct the spelling of "utilize."
- h) Page 2, #6, through entire paragraph, correct the spelling of "Buyer" to "Byrer."
- i) Page 3, #6 continued, 3<sup>rd</sup> line, change "contact" to "contract."
- j) Page 3, #6 continued, 7<sup>th</sup> line, add an apostrophe and an "s" so the sentence reads, "Mr. Kane stated he shared Mr. Baldau's concerns."

Mr. Reynolds seconded the motion, which passed 7 for and 1 abstention (Ms. May).

3. Requests for postponements. Ms. Kelly stated the following Final Plat applicants had asked for postponement and waiver of the 60-day rule: Jason C. Taylor Minor Subdivision; Douglas and Drew Stolipher Minor Subdivision; and, Stolipher Acres Subdivision. Mr. Reynolds moved to grant the postponements until January 22, 2008 based on the written requests of the applicants. Mr. Kane seconded the motion, which carried unanimously.

Mr. Surkamp asked the Planning Commission to allow Item #17, variance for B.C. Partners on behalf of the school board, to be heard first because of the number of members of the school board present. The Planning Commission agreed to move the variance up to the beginning of the agenda after Item #4.

4. Declaration of violation of the Salvage Yard Ordinance for Warren and Sheila Dunbar for two unlicensed vehicles and debris on property designated as Parcel 18.11, on Tax Map 19 of the Middleway District. Ms. Kelly stated this Item could be removed from the agenda per Mason Carter, Ordinance Compliance Officer's staff report due to the fact that the property is now in compliance.
17. Request by B.C. Partners, Inc. for a variance to allow B.C. Partners Inc./Breckenridge Subdivision to give a proposed 15+/- acres to the Jefferson County School Board for the purpose of building a new intermediate school. Ms. Kelly read the follow conclusion from her staff report:

CONCLUSION: There is no hardship. The request would not be contrary to the public interest, but Staff notes that a school site was not proposed when Breckenridge North's CIS and plats went through the subdivision process. However, the public has opportunity to comment tonight regarding this request. Therefore staff recommends approval with the condition that a deed accompanied a plat prepared by a licensed surveyor or engineer be submitted for review and approval by Staff, in a manner similar to that required for parent to child transfers, and that the deed and plat note that no further development rights exist for the residue under current County regulations.

Mr. Davis deferred to the Planner/Zoning Administrator. Mr. Dunleavy asked if the entire site were deeded to the Board of Education (BOE) could it be further subdivided? Ms. Kelly stated it could not because it has used up its development rights. Peter Dougherty, President of the BOE, stated the elementary school would accommodate 500 students, 200 of which would be from the overcrowding of 2 surrounding school districts. Mr. Dougherty explained the need of such a variance in the fact that they must have the land contracted in order to "score points" to obtain funding from the State Building Authority. Mr. Reynolds asked why the site was 15 acres. Mr. Dougherty said 15 acres has been determined by the State to be the optimal acreage. Mr. Sidor questioned the location of the school and the fact that Job Corps Road is not a major roadway. Mr. Dougherty stated the property's location and bus routes were taken into consideration when they were looking for property. Mr. Dougherty also mentioned that a number of public meetings would be held prior to the erection of the elementary school. Mr. Sidor asked for public comment. Pat Masters stated he was a

neighbor to the proposed site and although he was in favor of the variance he did have concerns about Job Corps Road, the use of the remaining residue parcel (a suggestion of a public park was made) and whether or not the school would be on public water and sewer. Mr. Dougherty stated the BOE took the safety of the children and teachers into account when choosing the location of the school and that they felt that Job Corps Road would be suitable. Mr. Dougherty also stated they hoped to have public water and sewer available to the site. Mr. Surkamp suggested the possibility of installing deceleration and acceleration lanes. Mr. Redman also suggested the possibility of having the State Building Authority to pay for the road improvements. Mr. Dougherty said this suggestion is not typical.

Sarah Kleckner, citizen, spoke in opposition to the variance stating an unsafe intersection, bad road conditions and suggested the use of the property across from the old high school on Flowing Springs. Ms. Kleckner also asked about any additional studies to be done regarding sinkholes. After Ms. Kleckner's concerns were addressed Mr. Sidor closed the public hearing.

Mr. Surkamp moved to grant the variance to give a proposed 15+/- acres to the Jefferson County School Board for the purpose of building a new intermediate school, with staff conditions. Ms. Deming seconded the motion. Mr. Reynolds stated he recognized the need for a school but was that need greater than the need for open space? Ms. Kelly stated the proposed property (the residue of Breckenridge) was not designated as open space. Mr. Kane asked that an amendment to the motion be made to include a condition that the school must obtain public water and sewer. Mr. Surkamp accepted the amendment. Mr. Dougherty stated the condition of public water and sewer would, in essence, stop the project because the State Building Authority would not look highly on such a condition. Ms. May stated it could be quite a while before public water and sewer are extended to that location. Mr. Dailey pointed out that 4 of the existing schools are on well and septic and they have not had any problems. Ms. Deming did not second the amendment so the original motion remained. The motion passed 7 for and 1 opposed (Mr. Kane).

5. Final Plat Public Hearing for the Jason C. Taylor Minor Subdivision Lots 1, 2 & 3-Residue. See Item #3.
6. Final Plat Public Hearing for the Douglas L. and Drew C. Stolipher Minor Subdivision, Lot 1, 2 & 3-Residue. See Item #3.
7. Final Plat Public Hearing for the Stolipher Acres Subdivision. See Item #3.
8. Community Impact Statement Public Hearing for the Jefferson Crossing II, Re-Subdivision of Lots 1 and 2. Ms. Kelly stated all staff issues have been addressed and therefore recommended acceptance. Mr. Davis stated the applicant had provided the information required and also recommended acceptance. Annette van Hilst with Dewberry was present to answer Planning Commissioner's questions. John Callow with Patton, Harris Rust & Associates, Traffic Engineer, was also present to answer Planning Commissioner's questions.

Mr. Sidor opened the public hearing. There was none. The public hearing was closed. Mr. Reynolds moved to approve the CIS. Mr. Dunleavy seconded the motion, which carried unanimously.

9. Site Plan Approval and Issuance of the Improvement Location Permit for the SPARC Training Pad (#S07-13). Ms. Kelly stated the site plan meets the technical requirements of the ordinances and recommended approval and issuance of the Improvement Location Permit. Mr. Davis concurred. Kristen Ringstaff with W.H. Gordon Associates was present to answer Planning Commissioner's questions. Mr. Sidor opened the public hearing. There was no public comment. The public hearing was closed. Mr. Reynolds moved to approve the site plan and issuance of the Improvement Location Permit. Mr. Dailey seconded the motion, which carried unanimously.

10. Site Plan Approval and Issuance of the Improvement Location Permit for the Church of Jesus Christ of Latter-Day Saints. Ms. Kelly stated the site plan meets the technical requirements of the ordinances and recommended approval and issuance of the Improvement Location Permit. Mr. Davis concurred. Mr. Reynolds asked Mr. Davis if the ordinances had specific lighting requirements. Mr. Kelly stated lighting was a zoning issue and not an engineering issue. Ms. Kelly said the ordinance simply states that glare cannot have any adverse affect on adjacent properties. Mr. Dunleavy asked why there seemed to be more parking spaces than need under the parking regulations. Rachael Dailey with Painter-Lewis was present to answer Planning Commissioner's questions. Ms. Dailey stated the original site plan for the church was done in 1997 and said that the expansion of the church and the parking lot were shown on the site plan. Mr. Reynolds asked if any new calculations were performed or if this site plan were simply a repeat of the original site plan. Ms. Dailey stated the plan was exactly what was proposed in 1997. Ms. Dailey answered other Planning Commissioner's questions by explaining that the church was in need of additional parking and that is why the parking calculation was greater than the parking requirements of the County. The need for all-day lighting to be used as a security measure was also mentioned. Ms. Dailey also said that the proposed light poles were approximately 100 feet from the rear property line and that due to the parking area not meeting certain setbacks that they will be providing a 6 foot opaque fence along the property boundary as well as evergreen trees.

Mr. Sidor opened the public hearing. Tom Cardamone provided a handout to the Planning Commissioners. Mr. Cardamone stated the current church lighting shone directly into his backyard lighting it up extensively. Mr. Cardamone was deeply concerned about additional lighting from both the light poles as well as vehicular lights. Mr. Cardamone also stated the trees currently on the property were sparse. Mr. Cardamone also expressed concerns over water flow and the inaccuracy of the plat to survey the existing well location. The public hearing was closed. Ms. Dailey stated the existing trees would be replants with 6 foot evergreens and again mentioned the 6 foot opaque fence to help eliminate headlight glare. Mr. Reynolds moved to approve the site plan and issuance of the Improvement Location Permit. Mr. Kane seconded the motion, which carried unanimously.

The CD was changed during Mr. Cardamone's presentation.

11. Site Plan Approval and Issuance of the Improvement Location Permit for Steeler Development, LLC. Since the property had recently been annexed into the City of Ranson Mr. Reynolds asked if they were supposed to deny the request. Ms. Kelly stated the office had not received any letters regarding the closing of the file and suggested that the Planning Commission motion to close the public file. Ms. Hartman mentioned that the office was currently in litigation with the applicant due to the previous declaration of violation on the site. James Casimiro, Assistant Prosecuting Attorney, stated the lawsuit was dismissed due to the fact that the County no longer had jurisdiction over the property. The Planning Commission took no action on this Item.
12. Request by Annette van Hilst on behalf of Michael and Sarah Shveda for a variance to allow the existing house and outbuildings to retain the existing entrance drive from Kearneysville Pike. Ms. Kelly recommended granting the variance due to the fact that it was not contrary to public interest and that similar variances had been granted in the past. Mr. Davis recommended approval contingent upon the applicant obtaining approval from the WV Division of Highways. Annette van Hilst with Dewberry was present to answer Planning Commissioner's questions. Mr. Dunleavy asked why the applicant could not use the internal subdivision road. Ms. van Hilst stated the residue lot with the existing house would continue to be farmed and the purpose for obtaining the variance would be to limit the amount of farm equipment being run through the proposed development. Mr. Dunleavy questioned why this could not happen. Ms. van Hilst stated that typically farm equipment is loud, muddy/dirty, and bales of hay, or other debris, could fall off the equipment. Ms. Deming also stated farm equipment would lead to the degradation of the road. Mr. Kane moved to grant the variance with staff contingencies. Ms. May seconded the motion. The motion passed 7 for and 1 opposed (Mr. Dunleavy).
13. Request by Joe Kent with Dewberry on behalf of Robert and Debby McCoy for a variance from providing roadside improvements in order to comply with the Division of Highways. Ms. Kelly deferred to the County Engineer for recommendation. Mr. Davis stated the Division of Highways had denied the necessary road improvements required by the Jefferson County Subdivision Ordinance and therefore recommended granting the variance. Joe Kent was present to answer Planning Commissioner's questions. Mr. Kane moved to grant the variance. Ms. May seconded to motion, which carried unanimously.

Mr. Sidor called for a break at 9:08 p.m. and the meeting resumed at 9:13 p.m.

14. Request by Greenbrier Investments, LLC for a variance to allow an existing commercial cell tower to remain on the residue parcel, and maintaining the property's eligibility for Minor Subdivision. Ms. Kelly read the follow conclusion from her staff report:

CONCLUSION: Since the variance also prohibits the applicant from proceeding via the minor subdivision process, staff wishes to clarify that the subdivision will not be

processed as a minor subdivision, but will instead be treated as a conventional subdivision. The second variance request to proceed directly to final plat will afford the owner to proceed in a manner similar to that of a minor subdivision, but it is not technically considered to be a minor subdivision. There is no hardship. The request is not contrary to the public interest since the cell tower is already in existence. Staff recommends granting of the variance with the condition that a note is added to plat stating that an additional variance would be required for more than one principal use on a lot should the owner of the residue wish to build a single-family residence on the property.

Mr. Davis deferred to the County Planner/Zoning Administrator. Matt Powell with Greenbrier Investments, Inc. was present to answer Planning Commissioner's questions. Mr. Sidor asked for public comment. Karen Provost and Mike Ryan had concerns regarding the road use and maintenance, water flow and whether further subdivision of the residue lot would be permitted. Mr. Powell and Ms. Kelly answered the questions of the public. Ms. Kelly mentioned that the office is currently investigating road ownership, whether it is deemed a private road or state owned. It was determined that if the Division of Highways would provide the applicant with a highway entrance permit, as required by the Jefferson County Subdivision Ordinance, that the applicant could then proceed as a minor subdivision. Mr. Sidor closed the public comment period. The condition which was placed upon the applicant by staff was dropped. Mr. Reynolds moved to grant the variance. Mr. Dailey seconded the motion, which carried unanimously.

15. Request by Greenbrier Investments, LLC for a variance to allow advancement to the final plat stage as a minor subdivision. If the prior variance (Item #9) is approved the property will lose its minor subdivision eligibility. Ms. Kelly read the follow conclusion from her staff report:

**CONCLUSION:** Staff wishes to clarify that the request to proceed directly to final plat will afford the owner to proceed in a manner similar to that of a minor subdivision, but it is not technically considered to be a minor subdivision. There is no hardship. The request is not contrary to the public interest since the proposed subdivision otherwise meets the criteria set forth for minor subdivisions in terms of the number of lots and access. As discussed in the other variance request, there is also the issue regarding the principal permitted use on the residue lot. Therefore, Staff recommends granting of the variance with the condition that a note is added to plat stating that an additional variance would be required for more than one principal use on a lot should the owner of the residue wish to build a single-family residence on the property.

Mr. Davis deferred to the County Planner/Zoning Administrator. Matt Powell with Greenbrier Investments, Inc. was present to answer Planning Commissioner's questions. Mr. Sidor asked for public comment. John Provost and Karen Provost had concerns regarding the finality of the subdivision. The Planning Commission clarified that this was only a variance to allow advancement to the final plat stage and not an actual approval of a final plat. Dustin Grafton had a concern about his house not being shown on the sketch plat submitted for the variance. It was stated that since he was not an adjacent property owner

that his house was not needed on the plat. Mr. Reynolds moved to grant the variance. Mr. Kane seconded the motion, which carried unanimously.

15. Request by Paul E. Dailey, et al, for a variance to allow a parent to child transfer to process through the office while the deed is in the name of the family estate owners, Paul and Arnold Dailey and Clara Carroll. Mr. Dailey left the room because he was a family member of the applicant. Ms. Kelly read the following conclusion from her staff report:

CONCLUSION: A similar variance was granted to the applicants in May 2006 to transfer a lot to Paul Dailey's other child. The request is not contrary to the public interest. Normally, the owner would be able to transfer a lot to his child; however, because there are three owners, it creates a unique situation that prohibits the owners from transferring a lot to one of the children. Recommend granting of the variance.

Mr. Davis deferred to the County Planner/Zoning Administrator. John Dorsey was present to answer Planning Commissioner's questions. There was no public comment. Mr. Surkamp moved to grant the variance. Mr. Kane seconded the motion, which carried unanimously. Mr. Dailey returned to the meeting room.

17. Request by B.C. Partners, Inc. for a variance to allow B.C. Partners Inc./Breckenridge Subdivision to give a proposed 15+/- acres to the Jefferson County School Board for the purpose of building a new intermediate school. This Item was previously discussed at the beginning of the meeting.
18. Director's Report on office activities and questions. Mr. Redman stated he would combine Items 20, 21 and 22. Mr. Redman provided the Planning Commission with a timeline schedule that he planned to introduce to the County Commission at their upcoming meeting. Mr. Redman told the Planning Commission that they would have their copy of the revised Subdivision Regulations by January 16, 2008. After discussion regarding dates the Planning Commission opted to have a workshop on the Subdivision Regulations at the January 22, 2008 meeting. At that time it will be determined when the Planning Commission will set up a meeting to discuss the proposed ordinances. Mr. Davis left the room for the evening since the rest of the meeting did not pertain to Engineering issues.
19. Planning Commission Exchange. None.
20. Planning Commission Report to County Commission on Zoning Ordinance. Previously discussed under Item #18.
21. Discussion of PC action on zoning and subdivision rewrites. Previously discussed under Item #18.
22. Planning Commission Steps Re: Subdivision Draft. Previously discussed under Item #18.

23. Reports from Legal Counsel. Mr. Casimiro provided the Planning Commission with a handout of an Advisory Opinion regarding emails between members of the Planning Commission. Mr. Casimiro stated emails relative to anything that would at some point require a vote should not be discussed via email. In order for Mr. Reynolds and Mr. Sidor to meet with Mr. Redman regarding the report on the proposed ordinances it was suggested that a Committee be formed.

Mr. Casimiro stated he needed to meet with Planning Commission in an executive session to discuss the Shenandoah School matter on the Circuit Clerk's docket for January 15, 2008. Ms. Deming moved to go into executive session at 11:18 p.m. Mr. Dunleavy seconded the motion, which carried unanimously. Mr. Redman, Ms. Kelly and Ms. Hartman left the room for the evening.

24. Legal Advice to PC. See Item #23.

25. Actionable Correspondence. None.

26. Non-Actionable Correspondence. None.

Ms. Deming, Secretary to the Planning Commission, provided the following information.

Mr. Dunleavy moved to leave executive session at 11:37 p.m. Mr. Surkamp seconded the motion, which carried unanimously. Mr. Dunleavy moved to adjourn the meeting at 11:37 p.m. Mr. Surkamp seconded the motion, which carried unanimously. A detailed transcript of this meeting may be found on CD # \_\_. These minutes were prepared by Jennilee Hartman.