

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
MARCH 25, 2008

The Jefferson County Planning Commission met on Tuesday, March 25, 2008 with John Sidor as President presiding. Robert Reynolds, Vice President, Tom Kane, Arnold Dailey, Lynne Deming, Jim Surkamp, Ellen May, Todd Baldau and Edward Dunleavy were present. Staff members present were Tony Redman, Director of Planning; Damien Davis, County Engineer; and, Jennilee Hartman, Clerical Support.

Due to a nonfunctioning web cam the meeting was not recorded. Mr. Sidor called the meeting to order at 7:06 p.m.

Mr. Baldau took a moment to thank the staff for all of their patience and hard work stating that it is sometimes overlooked. Mr. Sidor presented Mr. Baldau with a Certificate of Service, thanking him for his years on the Planning Commission.

1. Approval of Minutes. Mr. Baldau abstained from voting on the minutes because he was not present at the last meeting. Mr. Kane moved to approve the minutes of the March 11, 2008 Planning Commission meeting with the following changes suggested by Mr. Dunleavy:
 - a) Page 1, first paragraph, add a semicolon behind, “Director of Planning;”, “County Engineer;”, Landscape Architect/Planner;”.
 - b) Page 1, first paragraph, last sentence, add a comma after the word, “and”.
 - c) In items #3, 6, 7, 10, 11, and 13, replace the sentence, “*There were none.*” to “*There were no comments from the public.*” Continue to use this format from now on.
 - d) Page 2, Item #6, first sentence, add, “(ILP)” after the word ‘Permit’.
 - e) Page 3, Item #10, eleventh sentence, change the word, “*located*” to “*location.*”
 - f) Page 4, third paragraph, first sentence, change the word, “*purposed*” to “*purpose.*”
 - g) Page 4, Item #12, change the sentence from, “*Joe Hankins, Chairman for Jefferson County Public Service District, feels the Planning Commission should be fully aware of the aspects of the variance and feels more information is needed before granting a waste load allocation that is good for six months.*” to “*Joe Hankins, Chairman for Jefferson County Public Service District, feels the Planning Commission should be fully aware of the aspects of the variance and feels more information is needed before granting a variance because the waste load allocation ~~that~~ is good for only six months.”*
 - h) Page 5, Item #14, add to the end of the last sentence, “*their regulation of land use to the County*” remove the words, “*to ordinance*” that follow.
 - i) Page 6, Item #22, second paragraph, first sentence add the word, “House” in front of the word, “Bill.”
 - j) Page 6, Item #22, second paragraph, second sentence, change, “*8a77*” to “*8A-7-7.*”
 - k) Page 6, Item #22, second paragraph, second sentence, change, “*8a78*” to “*8A-7-8.*”
 - l) Page 6, Item #22, second paragraph, last sentence, add, “*8A-7-13 and*” before the words ‘answered questions presented...’
 - m) Page 6, Item #22, fifth paragraph, change, “*Section 8a*” to *Section 8A.*”

- n) Page 6, Item #22, sixth paragraph, first sentence, change, “*zoning*” to “*Zoning*”;
- o) Page 6, Item #22, sixth paragraph, first sentence, add the word, “*Ordinance*” after the word ‘*Zoning.*’
- p) Page 6, Item #22, sixth paragraph, first sentence, delete the words “*in line with.*”

Mr. Reynolds suggested the following change as well, Page 4, Item #12, ninth sentence, change, “Mr. *Reynolds* moved to...” to “Mr. *Surkamp* moved to...”

Mr. Reynolds seconded the motion, which passed 8 for and 1 abstention (Mr. Baldau).

2. Request for postponements. Final Plat Public Hearing for the Eastland Subdivision, Section V-C, Lot 123 & Residue. Mr. Reynolds moved to postpone the Eastland final plat until the April 8, 2008 Planning Commission meeting. Mr. Dunleavy seconded the motion, which carried unanimously.
3. Final Plat Public Hearing for the Timothy & Robin Grams Minor Subdivision, Lots 1, 2 & 3-Residue. Ms. Kelly and Mr. Davis recommended approval of the final plat. Peter Lorenzen was present to answer Planning Commissioner’s questions. Mr. Sidor opened the public hearing. There were no comments from the public. The public hearing was closed. Mr. Sidor recommended the use of the term “access easement” instead of “right-of-way.” Mr. Lorenzen agreed to make the change. Mr. Reynolds moved to approve the final plat with the recommended change. Ms. May seconded the motion, which carried unanimously.
4. Final Plat Public Hearing for the Eastland Subdivision, Section V-C, Lot 123 & Residue. Postponed under Item # 2 until April 8, 2008.
5. Community Impact Statement (CIS) Public Hearing on the Aspen Greens Subdivision (PC File #07-15). Ms. Kelly recommended acceptance of the CIS. Mr. Davis recommended acceptance of the CIS. Mr. Surkamp questioned the density of the project. Ms. Kelly stated the applicant had an approved Conditional Use Permit, which allowed for greater density. Fred Gates with Gates Associated gave a presentation to the Planning Commission. Mr. Dunleavy questioned the use of the aspen tree stating it was an invasive tree whose root system could potentially destroy surrounding concrete/asphalt. Mr. Dunleavy also had concerns regarding the life of the tree. Mr. Gates stated from the research they performed they did not believe they would have issues with the tree though they are looking into using other poplar species. Ms. Sue Lawton, Director of the Public Service District (PSD), confirmed their ability to service section one and their intention to service the entire proposed subdivision. Maurice Gladhill, developer, went into further detail regarding the agreement with the PSD and 5 other nearby developers. Mr. Gladhill discussed upgrading the pumping station through Walnut Hills Subdivision. John Callows with Patton, Harris, Rust and Associates described the traffic study.

Mr. Sidor called a break at 8:26 p.m. in order to change the CD. The meeting resumed at 8:30 p.m.

Lee Snyder with Jefferson Utilities stated all the lots would be served with water from the wells in the Walnut Hills Subdivision. Mr. Dunleavy asked about the impact on the Elk Run. Mr. Gates stated it would have a low impact on Elk Run. Mr. Gladhill stated he believed the subdivision would have a 20-year build out. Mr. Sidor opened the public hearing. Budge Blake with the Elk Run Study Group thanked the Planning Commission and staff on their work with the proposed ordinances. Ms. Blake questioned the sanitary sewer system and whether or not Walnut Hills had any intention of further subdividing. Ms. Blake requested the Planning Commission deny the CIS due to lack of sufficient information. Ms. Blake made mention of a failed treatment facility that was illegally dumping into the Shenandoah River. Mr. Snyder stated he was responsible for the construction of the treatment facility Ms. Blake mentioned and wanted to go on record as stating he was opposed to her remark and that the plant cost \$4,000,000.00 to build and that it was one of the best facilities in Jefferson County. Mr. Gates stated all sewer and water concerns would be addressed at the preliminary plat stage. Mr. Dunleavy stated that according to the CIS, the development was designed to be integrated with the topography, however, the design seems to ignore the topography of the contiguous property to the southeast. That property is 30 to 40 feet higher than the property in your development, which implies storm water issues within Mr. Baldau stated he was opposed to the development due to traffic concerns and overcrowding in the schools. Mr. Surkamp stated he was in objection to the development because of its density but that if he were the swing vote that he would then vote for the development. Mr. Dailey moved to accept the Community Impact Statement for the Aspen Greens Subdivision. Mr. Dunleavy seconded the motion, which passed 7 for and 2 opposed (Mr. Baldau and Mr. Surkamp).

6. Request by J. Michael Cassell on behalf of Ryans Glen (PC File #05-23) to remove the dry hydrant tank from the Preliminary Plat. Mr. Baldau recused himself from this item due to pending litigation and left the meeting room. Ms Kelly deferred to the County Engineer for recommendation; however, noted the condition of approval should also be lifted from the CIS. Mr. Davis stated that the office had received a letter from James Watson, President of the Independent Fire Co. No. 1, Inc. that stated their approval of the request. Mr. Davis recommended removing the requirement until such time that the County adopts uniform standards and specifications for the construction and maintenance of dry hydrant tanks. Mike Cassell, Attorney, was present to answer Planning Commissioner's questions. Mr. Sidor stated he did some research and came across many specifications for dry hydrants and asked why it could not be done in this instance. Mr. Cassell stated the nearest fire department was only 7 minutes from the site and that maintenance of the dry hydrant could be cumbersome to the development because it was a small subdivision of only 12 lots. It was also mentioned that if the dry hydrant were to fail that the fire department would not be adequately prepared for a rescue call. Mr. Sidor opened for public comment. There were no comments from the public. Mr. Kane moved to remove the requirement of a dry hydrant from the preliminary plat and to remove the condition of approval from the Community Impact Statement. Mr. Reynolds seconded the motion, which carried unanimously. Mr. Baldau returned to the meeting room.

7. Director's Report on office activities and questions. Mr. Redman stated a meeting would be arranged between Tom Hall, Landscape Architect/Planner, and Jeremy Camp, Acting City Manager of Charles Town, to gather agenda items for discussion. Mr. Redman informed the Planning Commission of the past three County Commission meetings regarding the edits to the Zoning Ordinance. Mr. Redman also explained the purpose of the next three meetings to be held on April 7th, 8th and the 14th and the topics of discussion as well as possible deadlines. Discussion regarding House Bill 4511 also took place on the appropriate legal citation of the ordinance as whether to call it a 'rewrite' or an 'amendment.' Mr. Redman also mentioned how much work there was left to do on the Subdivision Regulations. Mr. Redman suggested the Planning Commission review the County Commission meetings from the web cam so as to be kept up to date.
8. Planning Commission Exchange. Ms. May wanted to make a statement regarding Planning Commission members speaking at public hearings and whether or not they are speaking as a private citizen or as a member of the Planning Commission. Ms. May asked that if a member were to speak at any public meetings, regarding a vote taken at a public Planning Commission meeting, that the speaking member provide the rest of the Planning Commission with a transcript, minutes or audio recording of said meeting. Ms. May mentioned that Ms. Deming spoke at a budget meeting and that it was unclear as to whether she was speaking for herself or as a representative of the Planning Commission. Ms. Deming stated she spoke on her own behalf as a private citizen concerned about the County budget. After a brief discussion it was decided that Planning Commission members would not have to present the other members of the Planning Commission with written or audio recordings of meetings at which they are speaking for themselves.
9. Discussion of PC action on zoning and subdivision rewrites. None.

Mr. Sidor called a break at 9:46 p.m. in order to change the CD. The meeting resumed at 8:52 p.m.

10. Proposed amendment to the current Zoning Ordinance. Mr. Dunleavy moved that the Jefferson County Planning Commission advise and encourage the County Commission of Jefferson County to delete from the current Jefferson County Zoning Ordinance: 1) Article 6. Development Review System; and, 2) Article 7. Procedural Requirements For Review (See handout for additional information). Mr. Baldau seconded the motion. Mr. Casimiro stated he would be before Judge Steptoe on Monday, April 1, 2008 to ask for stay on his decision while processing an appeal. The Planning Commission questioned why Articles 5, 6 and 7 should be completely removed verses attempting to reinstate the previous 2005 amendments recently over turned. Mr. Casimiro and the Planning Commission discussed House Bill 4511 and the certified mailings. Mr. Surkamp moved to table this discussion until the April 8, 2008 Planning Commission meeting. Mr. Dailey seconded the motion, which passed 8 for and 1 opposed (Mr. Sidor).

11. West Virginia Code, Chapter 19, Article 19. Mr. Dunleavy stated this dealt with the preservation of agricultural uses and therefore should be the basis for the proposed ordinances.
12. Reports from Legal Counsel. Mr. Casimiro discussed the County Commission's position on deeming the proposed ordinances as traditional verses non-traditional zoning. Mr. Casimiro also updated the Planning Commission on the status of the Shenandoah School case.
13. Legal Advice to PC.
14. Actionable Correspondence.
15. Non-Actionable Correspondence

Mr. Baldau moved to adjourn the meeting at 10:27 p.m. Mr. Reynolds seconded the motion, which carried unanimously. A detailed transcript of this meeting may be found on CD # __ . These minutes were prepared by Jennilee Hartman.