

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
JULY 8, 2008

The Jefferson County Planning Commission met on Tuesday, July 8, 2008, with Commission members John Sidor, President; Robert Reynolds, Vice President; Ellen May; Jim Surkamp; Edward Dunleavy and John Maxey present. Staff members present included Tony Redman, Director of Planning; Sherry Kelly, Deputy Director of Planning; Damien Davis, County Engineer and Jennilee Hartman, Administrative Assistant.

Tom Kane, Lynne Deming and Arnold Dailey were absent with notification.

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

1. Approval of Minutes. Mr. Dunleavy moved to approve the minutes of the June 24, 2008 Planning Commission meeting with the following changes:
 - a. Page 1, Item #1, third sentence, the date of the minutes approved should be June 10, 2008, and not May 27, 2008.
 - b. Page 2, Item #4, sixth sentence from the bottom of the paragraph, change the word "FIRM" to "HUD."
 - c. Page 2, Item #6, change Mr. Powell to Mr. Shepp.
 - d. Page 2, Item #7, second to last sentence, change the word Condition to Conditional.
 - e. Page 2, Item #8, add a period at the end of the paragraph.
 - f. Page 3, Item #12, after a brief discussion regarding the motion and vote of this item, Mr. Redman stated he would review the audio and web recording to determine if a vote was taken or not.

Mr. Reynolds seconded the motion, which carried unanimously.

2. Requests for postponement. None.
3. Final Plat Public Hearing for the Rippon Commons Minor Subdivision. Ms. Kelly and Mr. Davis recommended approval of the final plat. Mr. Dunleavy questioned Staff on Note #11 of the final plat, which used the term "pro rata" and asked for clarification as to which lots would be required to maintain the road. Michael Cassell, attorney for the applicant, was present to answer Planning Commissioners' questions. Mr. Cassell stated Note #11 would be reworded to state that the owner of Lot 3 would be required to maintain the road. Mr. Sidor opened the public hearing. There were no comments from the public. The public hearing was closed. Mr. Dunleavy moved to approve the final plat with the condition that Note #11 be revised to state that Lot 3 will be solely responsible for the maintenance of the road. Mr. Reynolds seconded the motion, which carried unanimously. Mr. Redman noted that staff would reconsider the language used to assure road maintenance in future subdivisions and recommend changes to the Planning Commission.

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4. Postponed from the May 27, 2008 Planning Commission meeting. Community Impact Statement Hearing for the King's Crossing Subdivision. Ms. May recused herself and left the meeting room because she had spoken out about this project in the past. Ms. Kelly read the following from her staff report, "The CIS was previously postponed due to an issue regarding sewer service to the site. Also, a previous CIS was disapproved by the PC in 2005 based upon the following: (1) the proposed density would aggravate traffic conditions on Route 9; (2) require additional information to mitigate groundwater contamination issues; (3) lack of reasonable assurance from the City of Charles Town regarding wastewater capacity; (4) need additional information regarding the adequacy of emergency services; (5) additional information regarding adequacy of public water. The applicant has addressed these issues in the new CIS. The CIS has addressed ordinance requirements for CIS submission. However, staff met with Mike Shepp of Dewberry, representative for the applicant, and expressed the need for improved future connectivity to adjacent parcels, particularly vehicular connection to the Catholic Church, and better connectivity and traffic flow within the subdivision and to adjacent sites. Staff also recommended changes in design that would create a hierarchical road system and reduce the number of cul-de-sacs. Staff was informed today (July 3rd) that the sewer issue has been resolved, so the applicant will need to provide more detail to the Planning Commission at the public hearing. Staff was also informed that the applicant is willing to reconsider possible changes in road system layout and connections to adjacent properties subsequent to CIS approval but prior to preliminary plat submission. Based upon this, staff is recommending acceptance of the CIS contingent upon resolution of the sewer service issue and meeting with staff prior to the preliminary plat submission to discuss the suggested design changes." Mr. Davis stated the developer had provided the information required and would recommend acceptance of the CIS. Mr. Dunleavy asked why the roadways on the concept plan were labeled "future." Mr. Dunleavy questioned the wording in the CIS in reference to apple and pear trees and what soil analysis had been provided. Mr. Sidor asked which boundary lines were adjacent to the City of Charles Town and what their zoning was. Mr. Maxey had concerns regarding emergency services and groundwater protection. Staff deferred the questions to the applicant. Annette van Hilst with Dewberry was present to answer Planning Commissioners' questions. Ms. van Hilst stated the Crosswinds section adjacent to the site was in the County; the Catholic Church and Norborne Glebe were located in the City of Charles Town; and, that Norborne Glebe's zoning is NR, Neighborhood Residential. Ms. van Hilst explained that the connection roads on the adjacent properties had not been built yet but once they have then the "future" roads would be connected to them. Ms. van Hilst informed the Planning Commission that Dan Ryan Builders would be planting a 30' landscaping buffer on Norborne Glebe's property as per an agreement with Arcadia. Ms. van Hilst stated a traffic study and a geotechnical study had been provided even though they were not required at the time. Mr. Dunleavy asked why the proposed parks were situated so far from the first 40 single-family lots. He was concerned about children of these lots having to cross the main subdivision road to access the parks. Dan Ebersol with Dan Ryan Builders stated the parks were planned closer to the town house lots because the single-family lots have their own backyards. Ms. van Hilst stated there have never been apple or peach trees on the site and the reference made in the CIS was general language used to describe various soil conditions. Ms. van Hilst also stated that the impact

fees that are taken in from the construction of the home sites would help pay for the emergency services. Mr. Maxey stated the County Commission cut funding for emergency services and is attempting to form a committee to discuss the implementation of fire and ambulance fees, as allowed by state law. Mr. Maxey stated that, while the location of the proposed subdivision is in line with the density allowance, the timing of the development was not good. Joe Mehra with MCV Associates was present to answer the Planning Commissioners' questions regarding the traffic study. Mr. Mehra stated that the four intersections outlined in the study were chosen by the Department of Highways (DOH). Mr. Mehra also explained from where the figures in the report were taken. Mr. Surkamp voiced a number of concerns, particularly the large amount of money involved in the construction of the Evitts Run/Highland Farms wastewater treatment plant. Ms. van Hilst stated that the plant would be paid for and built by the developers; after the completion of the plant, it would be deeded over to the Public Service District (PSD). Until the plant is built, the wastewater would be directed to the Charles Town facility which has the capacity. All agreements between the developers and the PSD are to be finalized by the preliminary plat stage of the project. Mr. Sidor questioned how the installation of the traffic signals could improve the traffic grading from an F to an A. Mr. Mehra explained that the traffic lights would give people the ability to turn left off of Kabletown thereby increasing traffic flow. Mr. Maxey asked why the study did not include the dangerous intersection of Route 9 and Mission Road. Mr. Mehra stated the DOH told them which intersections to study and that particular intersection was not one of them. Mr. Maxey asked questions regarding the PSD agreement and made mention that because of a certain change that the agreement would have to be reviewed again. Mr. Redman stated that he had a conversation with Mike Shepp of Dewberry regarding a resolution to the sewer issue and that Ms. Kelly had spoken with Sue Lawton of the PSD. While the sewer issues had yet to be formally addressed, these issues should not be a basis for denial of the CIS because the formal agreement must be completed by the preliminary plat stage. If a resolution to the sewer issue is not found by that time, the project will be denied. Mr. Sidor questioned the density of the project. Ms. van Hilst stated that density of the site is calculated to be 3.21 units per acre as opposed to the 6 units per acre that the Ordinance allows. Brad Reynolds with Triad Engineering was present to answer Planning Commissioners' questions regarding karst and other geological aspects of the site. Brad Reynolds also mentioned that there are some depressions on the site but that they won't know much information about them until a complete study is done. The study will not happen until the preliminary plat stage of the project. Brad Reynolds also mentioned that the groundwater could be mitigated using good stormwater management measures.

Mr. Sidor called for break to change the CD at 8:20 PM. The meeting resumed at 8:25 PM.

Mr. Maxey asked if the developer thought it was a good idea to continue constructing more home sites when the foreclosure rate is 3 times higher than the previous year. Ms. van Hilst stated the development would potentially see the first 30 homes built in late 2009, or possibly 2010. By that time, they are expecting the market to "come back."

Mr. Sidor opened the public hearing for King's Crossing. Don Miller with Arcadia discussed, in detail, the agreement Arcadia had with Dan Ryan Builders to plant a 30' landscaping buffer in the Norborne Glebe Subdivision. Mr. Miller also stated that the roads within Norborne Glebe were not designed to handle the additional traffic from King's Crossing if the connecting roads were built. Rachael Fluke, Katherine Smith, Jane Rissler, Dick Latterall, and Kelly Baty all voiced concerns regarding the negative impact the development would have on traffic, emergency services, the Route 9 bypass funding being cut, community debt, ecological deficit and geological issues. Ms. Rissler and Mr. Baty provided written comments to the Planning Commission (see file for handout). Mr. Sidor closed the public hearing. Ms. van Hilst rebutted some of the comments made during the public hearing.

Ms. van Hilst reiterated that certain concerns would be addressed at the preliminary plat stage. Mr. Mehra stated that during the traffic study it was found that 30% of the traffic was heading south and the other 70% was heading north. Brad Reynolds addressed the stormwater concerns stating that there are many options available for purifying the groundwater, but those options had not been fine tuned because a thorough study of the site would be done during the preliminary plat stage. Mr. Redman addressed the Planning Commission with alternative ideas for the design of the subdivision. Mr. Redman mentioned that the density proposed was less than the allowable density for the Residential Growth district, and keeping connectivity within the subdivision to adjacent properties, including the church, would help with traffic flow.

James Casimiro, Assistant Prosecuting Attorney, arrived at 9:25 PM to address the Planning Commission's questions regarding the basis for approval or denial of a Community Impact Statement (CIS). Mr. Casimiro stated that using the term "public health, safety and welfare" was too broad of a basis for denial. Mr. Casimiro also mentioned that stating the Ordinance as being "too vague" was also not a basis for denial. If the Planning Commission had specific reasons to deny the acceptance of the CIS then they needed to outline those reasons. Mr. Surkamp moved to deny the acceptance of the CIS based on the questionable reliability of sewage capacity; lack of emergency services (fire, rescue and ambulance); and serious traffic concerns in light of the funding being withdrawn for the construction of the Route 9 Bypass. Mr. Maxey seconded the motion. Mr. Dunleavy stated that sewer concerns should not be used as a basis of denial because sewage issues are not meant to be dealt with during the CIS stage. Mr. Sidor believed the project was too dense for this area of the County, even though it was proposed in the correct zone. Mr. Sidor called the vote, and the motion passed 3 for and 2 opposed (Mr. Dunleavy and Mr. Reynolds), resulting in a Commission decision to deny acceptance of the CIS.

5. Postponed from the May 27, 2008 Planning Commission meeting. Request by Damien Davis, County Engineer, for direction from the Planning Commission regarding several significant changes between the Community Impact Statement and the Preliminary Plat for the Chriswood Subdivision. (See also Item #12, Actionable Correspondence.) Mr. Reynolds asked where in the Ordinance the item was required to come back before the Planning

Commission. Ms. Kelly stated it has been an office policy that if the preliminary plat seems to have changed drastically from the CIS that the issue be brought before the Planning Commission for direction. In Mr. Davis' memo to the Planning Commission, dated May 1, 2008, he requested the Planning Commission take one of three options: 1) Have applicant update the CIS and present it to the Planning Commission for approval during a public hearing; 2) Bring the preliminary plat into compliance with the approved CIS for their next submission; or 3) Allow the applicant to continue the project on their existing course. The major change presented is a reduction in the number of entrances from 2 to 1 (Venice Way). Michael Cassell was present to answer Planning Commissioners' questions.

Mr. Cassell stated that after speaking with staff, the applicant would be keeping the sidewalks, bike trail and landscaping as originally proposed in the CIS. Mr. Cassell also stated that the applicant would be willing to connect the proposed cul-de-sac named Pompeii Place to Emerald Lane, if the road was developed. Mr. Cassell stated that the only real impact of the change would be the entrance, which is the preferred design by the Department of Highways. Mr. Cassell commended the staff on the vast amount of time and research that was put into the list of questions submitted by Fred Gates. Mr. Sidor opened the public hearing for the Chriswood Subdivision. Carolyn Kerr, adjacent property owner, stated there was no bike trail for the development to connect to. Mr. Dunleavy stated the funding for the bike trail to be extended to the subdivision was cut. Mr. Cassell stated that if and when the proposed bike trail was built that the developers would connect to it. Jeff Hertrick, adjacent property owner, stated that Venice Way was his only access to Route 45. Mr. Hertrick had concerns regarding stormwater and felt that, as long as it was addressed by staff, having a new CIS prepared and another public hearing would be an unnecessary burden. Fred Gates, adjacent property owner, provided some clarification to the Planning Commission to a comment made by Mr. Cassell regarding previous ownership of the Chriswood parcel. Mr. Gates stated that he believed a new CIS and public hearing were not needed. Mr. Gates stated his issue with the change in road design was that it went against the covenants and that open ditching may create drainage issues. Mr. Gates also asked that staff apply the hillside regulations found in the Ordinance to the proposed subdivision since the site had some steep slopes. Mr. Cassell stated that he and his client did not believe they were in violation of the covenants and that it was simply a difference in interpretation. David Kerr, adjacent property owner, had concerns regarding the stormwater management because his property was located below the proposed site. He was worried about excess runoff. Mr. Reynolds moved to allow the applicant to continue with the preliminary plat review with the following conditions: 1) sidewalks are included in the design; 2) connectivity to the bike trail when available; 3) landscaping design meeting staff approval; 4) connectivity of the northern cul-de-sac with Emerald Lane when the lane is built; and 5) stormwater is addressed to meet County standards regarding hillside development. Mr. Dunleavy seconded the motion, which carried unanimously.

6. Request by the Jefferson County Commission for a variance to waive the site plan requirements for a proposed 60' x 20' concession stand at Sam Michael Park. Ms. Kelly deferred to the County Engineer for recommendation. Mr. Davis read the following from his

staff report, "The applicant is requesting a waiver from site plan requirement to construct a 1200 sq. ft. concession stand. The original site plan for Sam Michael's Park (approved in Dec. of 2000) proposed a 1000 sq. ft. concession stand near the proposed location. This concession stand was never built. Since the original site plan was design with a concession stand the new concession stand will not adversely affect stormwater, will not require additional parking and not adversely affect the site. I recommend granting the variance." Tim Barr and Brendan Fitzgerald were present to answer the Planning Commissioners' questions. Mr. Sidor asked if any members of the public were present to speak regarding the variance. There were no comments from the public. Mr. Surkamp moved to grant the variance to waive the site plan requirements for a proposed 60' x 20' concession stand at Sam Michael Park. Mr. Maxey seconded the motion, which carried unanimously.

7. Request by Recreational Adventures Campground for a variance to waive the site plan requirements for a proposed 45' x 75' tent to cover an existing bounce pillow. Ms. Kelly deferred to the County Engineer for recommendation. Mr. Davis stated that since the tent construction would require minimal disturbance of the land, he recommended granting the variance. Dale Brechlin with K.O.A. was present to answer Planning Commissioners' questions. Mr. Sidor asked if any members of the public were present to speak regarding the variance. There were no comments from the public. Mr. Dunleavy moved to grant the variance to waive the site plan requirements for a proposed 45' x 75' tent to cover an existing bounce pillow. Ms. May seconded the motion, which carried unanimously.
8. Request by the Board of Trustees of Asbury United Methodist Church for a variance from the condominium subdivision requirements for the placement of three temporary 24' by 60' mobile classroom buildings. Ms. Kelly deferred to the County Engineer for recommendation. Mr. Davis read the following from his staff report, "The applicant is requesting relief from Section 9.2.a of the Subdivision Ordinance. Asbury United Methodist Church plans to install three temporary classroom trailers (donated by Jefferson County Board of Education) on their property for use during construction. Due to the limited space, they are unable to meet the distance requirements between buildings set forth by the ordinance. The Planning Commission has granted the applicant a variance to waive the site plan requirement with the stipulation the trailers remain on the property no more than 30 months. I recommend granting the variance." Michael Pratt with Keller Engineers was present to answer Planning Commissioners' questions. Mr. Sidor asked if any members of the public were present to speak regarding the variance. There were no comments from the public. Mr. Reynolds moved to grant the variance from the condominium subdivision requirements for the placement of three temporary 24' by 60' mobile classroom buildings. Ms. May seconded the motion, which carried unanimously.
9. Director's Report on office activities and questions. Mr. Redman stated that the public hearing for the proposed Zoning Ordinance and Map would be held on July 21, 2008. He also mentioned that the Draft Comprehensive Plan Consistency Report, dated July 1, 2008, would be posted on the County's webpage.

10. Planning Commission Exchange. Mr. Redman left the meeting room. Mr. Reynolds stated that he wished to speak about the annual salary for the reclassified position of Tony Redman. Mr. Reynolds referred to a draft recommendation letter from the Planning Commission addressed to the County Commission. The letter stated that Mr. Redman was initially hired as the County's Long Range Planner, and that, shortly after, he was made the Director of Planning and Zoning. The letter reads that Mr. Redman's salary be increased by \$10,000. Mr. Reynolds moved to approve the letter and to forward the recommendation of a salary increase to \$90,000 to the County Commission. Mr. Surkamp seconded the motion. Mr. Reynolds stated he had an appointment to meet with the County Commission on Thursday, July 10, 2008, regarding this matter. Ms. May stated she was not aware of this action falling under the authority of the Planning Commission. Ms. May asked about the possibilities of retroaction in pay. The Planning Commission decided not to discuss that possibility at this time. It was decided that in the seconded paragraph, the first sentence change from, "*...has advised the Planning Commission that he will accept an annual salary of \$90,000 as fair and equitable compensation for his duties.*" to "*...has advised the Planning Commission that he believes an annual salary of \$90,00 is fair and equitable compensation for his duties.*" Mr. Sidor called for a vote on Mr. Reynolds motion, which passed unanimously. Mr. Redman returned to the meeting room.
11. Reports from Legal Counsel and legal advice to PC. Mr. Casimiro mentioned the "Motion to Dismiss" document regarding the Winston Threadgill lawsuit and asked if the Planning Commission wanted to discuss the issue in an executive session. They declined. Mr. Sidor asked for clarification of the Planning Commission's role on salaries for the Planning Department. Mr. Casimiro stated that the Planning Commission is to be involved in the annual budgeting process, and salary adjustments would be an extension of that authority.
12. Actionable Correspondence.
 - a. Postponed from the May 27, 2008 Planning Commission meeting. Letter from Jeff Hertrick & Eric Johnson regarding a request to re-open the public hearing for the Chriswood Subdivision Community Impact Statement. This item was discussed during Item #5.
13. Discussion and decision regarding the timing of forwarding the Zoning Ordinance, Zoning Map & Subdivision Regulations to the County Commission. Mr. Dunleavy moved to have the Planning Commission forward the proposed Zoning Ordinance and draft Zoning Map to the County Commission as soon as possible after the public hearing, and subsequently forward the proposed Subdivision Ordinance two weeks following. Mr. Surkamp seconded the motion. Mr. Redman stated that 8A had specific public hearing requirements that the County Commission must adhere to for the proposed Zoning Ordinance, draft Zoning Map and proposed Subdivision Ordinance. Since there are different notice requirements, the two proposed Ordinances would more than likely need to be handled separately. Mr. Redman mentioned that it may be best left up to the County Commission on how to proceed. Mr. Surkamp agreed with Mr. Redman and withdrew his second. The motion died for a lack of a second. It was decided that "Deliberation and possible action regarding draft Subdivision

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Regulations and draft Zoning Ordinance and Zoning Map” be added to the next Planning Commission meeting.

Mr. Dunleavy moved to adjourn the meeting at 10:55 PM. Mr. Surkamp seconded the motion, which carried unanimously. A detailed transcript of this meeting may be found on CDs #___ & ___. These minutes were prepared by Jennilee Hartman.