

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
JULY 22, 2008

The Jefferson County Planning Commission met on Tuesday, July 22, 2008, with Commission members John Sidor, President; Robert Reynolds, Vice President; Lynne Deming, Secretary; Ellen May; Jim Surkamp; Tom Kane; Edward Dunleavy; Arnold Dailey and John Maxey present. Staff members present included Tony Redman, Director of Planning; Sherry Kelly, Deputy Director of Planning; Damien Davis, County Engineer; James Casimiro, Assistant Prosecuting Attorney and Shannon Hayden, Administrative Assistant.

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

1. Approval of Minutes. Mr. Kane, Mr. Dailey and Ms. Deming abstained from voting because they were not present at the July 8, 2008 Planning Commission meeting. Mr. Sidor moved to approve the minutes of the July 8, 2008 Planning Commission meeting with the following changes:
  - a. Page 1, Item #3, eighth sentence, correction to the word "*public*."
  - b. Page 2, Item #4, nineteenth line from the bottom of the page, before the word "provided", delete the word "*were*."
  - c. Page 3, Item #4, third sentence from the bottom of the page; add an "*s*" to the word "*time*."

Mr. Dunleavy seconded the motion, which carried unanimously.

2. Requests for postponement. None.
3. Final Plat Public Hearing for the Woods at Wheatland Subdivision. Ms. Kelly recommended approval of the final plat. Mr. Davis recommended approval of the final plat. Mr. Sidor asked about the earlier dispute over deceleration and acceleration lanes. Mr. Davis confirmed that there was an issue. However, it was resolved with a letter from the Department of Highways (DOH), which he provided to the Commissioners along with an email from Roger Goodwin, Chief County Engineer. Mr. Dunleavy referenced Item #13 on the final plat which states that no driveway culverts were proposed; however, there was a computation for driveway culverts. Mr. Redman deferred to the applicant for clarification. Kristen Ringstaff and Mark Dyck with William H. Gordon & Associates were present to answer Planning Commissioners' questions. Ms. Ringstaff explained that there were no culverts currently but, as stated on the final plat, culvert computations were determined and included for future reference to the homeowners. Mr. Dailey expressed concern that no deceleration lane was provided, and that given the traffic on the 340 corridor, he felt such a lane is warranted. Ms. Ringstaff explained to the Planning Commission that DOH would not approve acceleration/deceleration lanes due to safety concerns and the low volume of traffic in the area. There was some question about moving the entry in order to obtain DOH approval. Ms. Ringstaff stated that several options were discussed with the DOH and none were acceptable for their approval. The Commission expressed concern regarding the

language in the denial letter from DOH. Mr. Casimiro addressed the Planning Commission and informed them that he spoke with DOH regarding the language and was assured that the language meant DOH approval would not be given. Mr. Dyck expressed concern that the acceleration/deceleration issue was not addressed during the community impact statement process or the preliminary plat process, he stated that the final plat hearing was not the time to address this. Mr. Redman agreed with Mr. Dyck that the issue should have been addressed and dealt with prior to the Final plat hearing. Mr. Redman offered to take charge of the issue and discuss it with DOH to obtain a clearer explanation of denial to try to establish a better working relationship with DOH in the future for review of development proposals. Mr. Reynolds opened the hearing for public comment. There was no comment from the public. The public hearing was closed. Mr. Kane moved to approve the final plat. Ms. May seconded the motion, which carried unanimously.

4. Site Plan Approval and Issuance of the Improvement Location Permit for the Charles Town Races & Slots Maintenance Building. Ms. Kelly and Mr. Davis recommended approval of the site plan and issuance of the Improvement Location Permit. Mr. Sidor asked if springs were being capped as referenced in General Note #11. Mr. Davis stated that the note was a standard note and that there were no springs noted in the site plan. Chris Waddell with Greenway was present to answer Planning Commissioners' questions. Mr. Sidor moved to approve the site plan and for issuance of the Improvement Location Permit. Mr. Maxey seconded the motion, which carried unanimously.
5. Request by Paul Chamblin for a variance to waive the site plan requirements for a temporary fire department in an existing farm structure and to waive the principal building definition. Ms. Kelly deferred to the County Engineer for recommendation regarding site plan requirements. Ms. Kelly recommended granting the variance for waiver of the principal building definition and read the following from her staff report:

“Staff recommends granting the variance for the second principal use provided the fire station ceases operation at the site two years from the date the variance is granted. This provides the fire company with enough time to process a site plan and relocate the station to a new location. Should the fire company need additional time, it would need to request an extension from the Planning Commission.”

Mr. Davis deferred to the County Planner for recommendation regarding the waiver of principal building definition. Mr. Davis recommended denial of the site plan and read the following from his staff report:

“Under Section 4.10 of the Zoning Ordinance a site plan is required for all new commercial townhouse and multi-family residential, industrial and institutional land uses in any district and for all major additions or expansions of existing uses as defined in Article 2. The County requires site plans to demonstrate the new use meets County requirements, including stormwater management, parking,

landscaping, etc. Bakerton Fire Dept. requested a similar variance in July of 2007 and was denied.”

Mr. Redman recommended a variance from the site plan requirement since no new structure was proposed and use of the site for vehicle storage would be temporary. Mr. Dailey pointed out that the variance filed by the Bakerton Fire Department was for a permanent location, not a temporary location. Michael Kanehl was present on behalf of the applicant to answer Planning Commissioners’ questions. Mr. Kanehl gave a short statement and provided a petition with signatures from adjoining and surrounding property owners that were in support of the temporary fire department in this location. Mr. Sidor and Ms. Deming questioned the possibility of adding more equipment at a later date if the variance was granted. Mr. Kanehl stated that the fire department may try to acquire one more engine and may look into purchasing an ambulance in the future. Mr. Kane asked if two years would be enough time to acquire a permanent facility. Mr. Kanehl stated that two years was not enough time considering that the process of purchasing land and the designing and building of the facility would take longer than two years. Mr. Dunleavy stated that in two years an extension may be granted if acceptable progress was being made to establish a permanent location. Mr. Reynolds opened the public hearing. Kim Saladini, Postmaster for the Summit Point Post Office and a former volunteer, gave a statement in support of this temporary fire department. The public hearing was closed. Mr. Kane moved to grant the variance to waive the principal building definition for a period of two years. Ms. Deming seconded the motion, which carried unanimously. Mr. Kane moved to deny the waiver of site plan. The motion died for lack of a second. Mr. Dunleavy moved to grant the variance to waive the site plan requirement. Mr. Dailey seconded the motion, which carried 8 for and 1 opposed (Mr. Kane).

6. Request by John T. & Robin Staubs for a variance to waive the site plan requirements for an existing 16’ x 28’ garage bay for a non-conforming use auto repair center. Ms. Kelly read the following from her staff report:

“The property currently has an existing, non-conforming auto repair shop. The applicant began construction of the addition without obtaining county approvals. Staff notes that the applicant must also seek a variance from setback requirements and an expansion of a non-conforming use through the Board of Zoning Appeals. The variance noted in the application was a variance approved in 1995 to re-establish the non-conforming use which was a grocery store. A change in a non-conforming use (from a store to the auto repair shop) was also granted in 1995. As of the date of this report, no variance application has been submitted to the Board of Zoning Appeals. Planning Staff defers to the County Engineer for recommendation regarding the site plan but asks that, if the Planning Commission grants the variance, it be conditioned upon the applicant submitting an application for the Board of Zoning Appeals variances and BZA approval for the expansion of a non-conforming use and setback encroachments.”

Mr. Davis recommended denial of the variance and recommended that the applicant submit a Limited Site Plan. John Staubs and Fred Gates were present to answer Planning Commissioners' questions. Mr. Staubs stated that he believed his structure was still in line with his use and did not know that he needed a site plan.

Mr. Reynolds called a break at 8:15 PM in order to change the CD. The meeting resumed at 8:23 PM.

Mr. Redman stated that he was of the opinion that no site plan would be required due to the fact that the buildings already existed. Mr. Reynolds opened the public hearing. There was no comment from the public. Mr. Reynolds closed the public hearing. Mr. Surkamp asked Mr. Davis if he had visited the site. Mr. Davis stated that he had not visited the site. Mr. Sidor moved to grant the variance with the condition that a limited site plan be filed and the proper variances be sought from the Board of Zoning Appeals, as referenced by Ms. Kelly in her staff report. Ms. Deming seconded the motion, which carried 8 for and 1 opposed (Mr. Dailey).

7. Request by Tetra Investment Group 15, LLC for a variance to waive the Community Impact Statement requirements for a Condominium Subdivision. The applicant was not present at the meeting. Mr. Kane moved to deny the variance request. Ms. May seconded the motion, which carried unanimously.
8. Directors report. Mr. Redman discussed with the Planning Commission the possibility of him meeting with the Department of Highways (DOH) in order to discuss the current language used in the response letters denying DOH approval. The Planning Commission agreed that Mr. Redman and Mr. Casimiro should look into that matter in order to prevent any issues with future interpretations of DOH approval or denial letters. (See Item #3)
9. Consideration of Vacancies - Planning Commission Officers. Mr. Sidor stepped down as Planning Commission President. Mr. Maxey nominated Mr. Reynolds for President. Ms. May seconded the motion, which carried unanimously. Mr. Reynolds was elected as President. Mr. Sidor nominated Mr. Dailey as Vice President. Mr. Maxey seconded the motion, which carried unanimously. Mr. Dailey was elected Vice President.
10. Planning Commission Exchange. The Planning Commission commented on the great process and location of the July 21, 2008 Public Hearing that was held at the Jefferson High School. Mr. Reynolds informed the Commission that a letter he prepared was presented to the County Commission regarding Mr. Redman's title reclassification and salary. He stated that Mr. Corliss made a motion to approve; Mr. Surkamp seconded the motion; Mr. Manuel objected and moved to table the item until a budget hearing. This item is on the County Commission agenda for July 24, 2008.

11. Deliberation and possible action regarding draft Subdivision Regulations. Pursuant to a motion made in Item #12, this item will be scheduled for the August 12, 2008 Planning Commission meeting.
12. Deliberation and possible action regarding draft Zoning Ordinance and Zoning Map. Mr. Maxey moved to extend the acceptance of public comments until Monday, July 28, 2008. Mr. Sidor seconded the motion. Discussion ensued. Mr. Reynolds called for a vote on Mr. Maxey's motion, which failed 1 for (Mr. Maxey) and 8 opposed. Discussion regarding the acceptance of public comment continued. Mr. Kane moved to place review of public hearing comment on the proposed ordinance on the August 12, 2008 Planning Commission meeting. Mr. Sidor seconded the motion, which passed unanimously. The Planning Commission and Mr. Redman discussed revising the consistency report.
13. Presentation by Stephanie Grove, Assistant Prosecuting Attorney, of court order granting approval of Faraway Farms conditional use permit pursuant to West Virginia court and remanding to the Planning Commission. Mr. Dunleavy recused himself due to personal involvement and left the room. Ms. Grove presented the Planning Commissioners with a letter explaining the details of the case, an Order Granting Conditional Use Permit and a copy of the Supreme Court of Appeals of West Virginia decision. Ms. Grove gave a detailed explanation of the history of the case. Mr. Surkamp recused himself due to testimony given to the Senate Committee in regards to this matter. Mr. Kane moved to have this item placed on the August 12, 2008 Planning Commission meeting agenda. Mr. Sidor seconded the motion, which passed 7 for and 2 abstentions (Mr. Surkamp and Mr. Dunleavy).  
  
Mr. Reynolds called a break at 9:37 PM in order to change the CD. The meeting resumed at 9:42 PM. Ms. Deming left at 9:42 PM due to other responsibilities. Mr. Dunleavy returned to the room.
14. Reports from legal counsel. There was discussion among Mr. Casimiro, Ms. Grove, Mr. Redman and the Planning Commission with regards to the proper process in which to continue the draft Zoning Ordinance recommendations to the County Commission.
15. Actionable correspondence. None.

Mr. Kane moved to adjourn the meeting at 9:58 PM. Mr. Dunleavy seconded the motion, which carried unanimously. A detailed transcript of this meeting may be found on CDs #87, 88 & 89. These minutes were prepared by Shannon Hayden.