

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
AUGUST 26, 2008

The Jefferson County Planning Commission met on Tuesday, August 26, 2008, with Commission members Robert Reynolds, President; Arnold Dailey, Vice President; Lynne Deming, Secretary; Ellen May; Jim Surkamp; John Sidor; Tom Kane; 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 Shannon Hayden, Administrative Assistant.

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

1. Approval of Minutes. Mr. Kane moved to approve the minutes of the August 12, 2008 Planning Commission meeting with the following changes recommended by Commission members:
 - a. Page 1, Item #3, change “*Mr. Reynolds ordered*” to “*It was the consensus of the Planning Commission that.*”
 - b. Page 2, Item #4, sixth line down from the top, change “*equally shared*” to “*shared equally.*”
 - c. Page 2, Item #7, change the vote from “*carried unanimously*” to “*8 for and 1 abstention (Mr. Maxey).*”
 - d. Page 5, Item#16, second line down from the top, remove the “.” after the word “*duress*” and replace with a comma to make one sentence.
 - e. Page 5, Item #16, second paragraph, third line down change the word “*Commission*” to “*Commissioners.*”

Mr. Dunleavy seconded the motion, which carried unanimously.

2. Citizen Communication. Mr. Reynolds asked if any members of the public wished to speak. There were no comments from the public.
3. Requests for postponement. Due to insufficient posting, Peter Chakmakian requested a postponement for the two variances requested for Wild Goose Subdivision. Mr. Dunleavy moved to have the Wild Goose Subdivision variance to waive the definition of a lot postponed until the September 23, 2008 Planning Commission meeting and to continue with the variance to waive the requirement that lots must be served by internal subdivision roads unless otherwise approved by the Planning Commission. Mr. Surkamp seconded the motion, which carried 6 for and 3 opposed (Mr. Dailey, Mr. Reynolds and Mr. Sidor).
4. Postponed from the August 12, 2008 Planning Commission meeting. Community Impact Statement (CIS) Hearing for the Wild Goose Subdivision. Annette van Hilst with Dewberry was present, as well as Christopher Shultz, owner. Ms. van Hilst stated the owner was aware of the public concerns and because of these concerns he held neighborhood meetings

to address any questions adjoining property owners may have had. During these informational meetings, the public expressed concern with the entrances to the subdivision. Thus, an alternative entrance plan was designed for consideration. Mr. Sidor asked if the paddocks shown on the concept plan were already in existence and if there were presently horses on the property. He also asked what the purpose for the paddocks and horses was. Mr. Shultz stated that two-thirds of the paddocks existed and there were presently horses on the property for the purpose of riding. Mr. Reynolds asked if a site plan would be submitted for the equestrian center and if there was an awareness of storm water issues. Ms. van Hilst confirmed the knowledge of this information. Mr. Maxey asked when a site plan would be submitted for the equestrian center. Mr. Shultz stated they plan to submit the site plan at the same time as the preliminary plat. Ms. Kelly recommended approval of the CIS. Mr. Davis recommended approval of the CIS. Mr. Maxey asked if lighting from the equestrian center would affect surrounding homes. Mr. Redman stated that the lighting should not reflect far enough to cause a disturbance. Mr. Reynolds opened the public hearing. John Lehman, adjoining property owner, expressed concern with storm water management and misinformation stated in the Declaration of Wild Goose Proposed Covenants within the CIS. Scott Gordon, local resident, submitted an email to the Planning Department expressing his concerns and was present to speak. Mr. Gordon wanted to thank the Planning Department for a quick response to his email. However, Mr. Gordon did express concern about storm water management and possible traffic issues that may be caused by a cluster development and equestrian center in the area. Patience Wait, adjoining property owner, stated that some of her earlier concerns had been addressed through earlier statements from the applicant. Ms. Wait still had concerns regarding the proposed vineyard causing traffic issues and the equestrian center causing noise issues. Ms. Wait also asked if a CIS would be required for the equestrian center or the vineyard. Mr. Redman stated that no CIS would be required for either. John Wilkins, neighboring resident, was present on behalf of his parents Van and Maris Wilkins adjoining property owners. Mr. Wilkins made reference to an email previously sent to the Planning Department expressing concerns over the Wild Goose Farm Subdivision. The Planning Commission expressed concern over the misinformation contained in the CIS. Mr. Redman submitted, for the record, emails submitted to the Planning Department prior to the Planning Commission meeting expressing concerns over the Wild Goose Farm Subdivision.

Mr. Reynolds called a break at 8:12 PM to change the CD. Mr. Reynolds called the meeting back to order at 8:20 PM.

Mike Shepp with Dewberry stated the proposed covenants do contain incorrect information. However, the proposed covenants will be corrected and submitted with the preliminary plat. Mr. Shultz intention is to continue to reside in the historic Wild Goose Manor House to continue to use it as private residence and to provide for its preservation and continued noncommercial use and to use the proposed vineyard for personal use only. With regard to road maintenance, Mr. Shepp stated that Mr. Shultz will provide for the maintenance of the roads. Mr. Dunleavy moved to accept the Wild Goose Subdivision CIS. Ms. Deming seconded the motion, which carried unanimously.

5. Final Plat Public Hearing for the Notting Hill Subdivision. Kristen Ringstaff with William H. Gordon & Associates was present to answer Planning Commissioners' questions. Ms. Kelly stated the plat met the technical requirements of the ordinances and also recommended approval. Mr. Davis stated the final plat met the requirements of the ordinance and recommended approval. Mr. Reynolds opened the public hearing. George Whalen, President of the Swallow Subdivision HOA, was present to express concerns with the on-site sewage system. The Planning Commission questioned the applicant with regards to alternative sewage maintenance. The applicant stated the on-site sewage system had been determined to be the best option available. The public hearing was closed. Mark Dyck with William H. Gordon & Associates stated the preferred option for the sewage system was to hook into the Shepherdstown sewage plant; however, the on-site system was determined to be the least expensive option available. The Planning Commission asked if the on-site system meets County requirements. Mr. Dyck confirmed that County requirements were met. Ms. Deming moved to approve the final plat. Mr. Dailey seconded the motion, which carried unanimously.
6. Final Plat Public Hearing for the Sandra K. Armstrong Minor Subdivision, Lots 1, 2 and 3-Residue. Pete Lorenzen was present to answer Planning Commissioners' questions. The Planning Commission questioned Note #12 of the final plat for clarification of where the 40 foot access easement was located. Mr. Lorenzen clarified the location for the Planning Commission. Ms. Kelly read Note #12 and stated that lot 3-Residue should be included in the note; Mr. Davis concurred. Mr. Reynolds opened the public hearing. There was no comment from the public. The public hearing was closed. Mr. Sidor moved to approve the final plat with the condition that Note #12 be edited to include lot 3-Residue. Mr. Dunleavy seconded the motion, which carried unanimously.
7. Request by J. Michael Cassell on behalf of Sunnyside, LLC for a variance to re-open the Chriswood Subdivision and to extend the Community Impact Statement deadline for a period of 12 months. J. Michael Cassell was present to answer Planning Commissioners' questions. Ms. Kelly read the following from her staff report:

“The request is not contrary to the public interest. The project is in its second review of the preliminary plat stage. If the variance request is denied, the applicant would have to start over with the subdivision process, beginning at the CIS stage, thus creating an unnecessary burden.”

Ms. Kelly recommended granting the variance. Mr. Davis deferred to the County Planner for recommendation. Mr. Reynolds opened the public hearing. Jeff Hertrick, adjacent property owner, distributed and read a statement prepared by himself and Eric Johnson, adjacent property owner. Mr. Reynolds closed the public hearing. Mr. Dunleavy moved to grant the variance for an extension until August 17, 2009. Ms. May seconded the motion, which passed 6 for and 3 opposed (Ms. Deming, Mr. Dailey and Mr. Surkamp).

8. Request by The Community of Beallair for a variance to extend Phase 3's final plat deadline for a period of 12 months. Mike Wiley with The Wormald Companies was present to answer Planning Commissioners' questions. Mr. Sidor asked if the financing for this project was "lined-up." Mr. Wiley stated that the financing had been "lined-up." Mr. Surkamp asked if the delay of process was due to sewer service issues. Mr. Wiley stated the sewer service issue was partly responsible for delays. At this point the service would come from Charles Town with the understanding that other avenues would be pursued for future service. Ms. Kelly read the following from her staff report:

"The request is not contrary to the public interest. The original CIS was approved on November 26, 2002. The preliminary plat for Phase 3 has been submitted and is scheduled for staff review on 9/5/08. If the variance request is denied, the applicant would have to start over with the subdivision process, beginning at CIS stage, thus creating an unnecessary burden."

Ms. Kelly recommended granting the variance. Mr. Davis deferred to the County Planner for recommendation. Ms. May stated that since the original CIS was approved in 2002, she felt that by the time Phase 6 is reached, the CIS information would no longer apply. Ms. Kelly stated that when the preliminary plat is filed current traffic and other information would be required. Mr. Reynolds opened the public hearing. There was no comment from the public. Mr. Reynolds closed the public hearing. Mr. Kane moved to grant the variance for an extension until August 26, 2009. Mr. Dunleavy seconded the motion, which carried 6 for and 3 opposed (Ms. May, Mr. Maxey and Mr. Sidor).

9. Request by Tetra Investment Group 15, LLC for a variance to waive the Community Impact Statement requirements for a Condominium Subdivision. David Durant with Tetra Investment Group 15, LLC was present to answer Planning Commissioners' questions. Mr. Durant stated the original CIS for Burr Industrial Park contained the information for the condominiums. Ms. Kelly read the following from her staff report:

"The project has already received all county approvals. However, the owner now wishes to sell the buildings individually but cannot do so until the project is reviewed for compliance with the condominium requirements. A CIS is required under the condominium requirements. It would be unnecessary at this point to require a CIS since the project is already built."

Ms. Kelly recommended granting the variance. Mr. Davis deferred to the County Planner for recommendation. Mr. Reynolds opened the public hearing. There was no comment from the public. Mr. Reynolds closed the public hearing. Mr. Surkamp moved to grant the variance. Mr. Kane seconded the motion, which carried unanimously.

10. Request by Annette van Hilst on behalf of Wild Goose Subdivision for a variance to waive the requirement that lots must be served by internal subdivision roads unless otherwise approved by the Planning Commission. Annette van Hilst with Dewberry was present to answer Planning Commissioners' questions.

Mr. Reynolds called a break at 9:32 PM to change the CD. Mr. Reynolds called the meeting back to order at 9:39 PM.

Ms. Kelly deferred to the County Engineer for recommendation. Mr. Davis read the following from his Engineer's report:

"The Planning Commission has in the past granted similar requests. (Ex. Spruce Hill Subdivision and Allstadt's Corner Subdivision) In the past we have asked the applicant to obtain a highway entrance permit from West Virginia Division of Highways for the existing driveways, as part of the subdivision preliminary plat process. The Engineering Department is unaware of any site access issues and/or concerns from citizens."

Mr. Davis recommended granting the variance. Mr. Reynolds opened the public hearing. Scott Gordon, adjoining property owner, stated there was confusion due to wording in the variance request but after clarification he had no further objection to the variance at this point. John Wilkins addressed the Planning Commission regarding his dissatisfaction with the length of time the public had to wait for this item due to misinformation provided in the Wild Goose Subdivision CIS (see Item #4) and confusion related to the need of a variance. Mr. Reynolds closed the public hearing. Ms. van Hilst explained that, through conversation with Planning Department staff, it was unclear whether the variance would be required or not. However, the variance was filed in the event that it was required. Mr. Kane expressed concern that the existing access would also serve the equestrian center and suggested that a condition be placed to commit the use of the road for residential use only. Mr. Redman concurred. Mr. Kane moved to grant the variance with the condition that the road will not be used in the future for any equestrian center traffic. Ms. May seconded the motion, which passed unanimously.

11. Request by Twin Oaks Subdivision for a variance to extend the Community Impact Statement (CIS) deadline for Town Run Commons. Peter Corum was present to answer Planning Commissioners' questions. Mr. Corum stated that Highway Department and CIS approval have already been received. Ms. Kelly read the following from her staff report:

"The request is not contrary to the public interest. The project is in the final plat stage now and has received CUP, CIS and preliminary plat approvals. If the variance request is denied, the applicant would have to start over with the subdivision process, beginning at the CIS stage, thus creating an unnecessary burden."

Ms. Kelly recommended granting the variance. Mr. Davis deferred to the County Planner for recommendation. Mr. Kane asked if the same plan was in the original CIS. Mr. Davis confirmed that it was. Mr. Reynolds opened the public hearing. There was no comment from the public. The public hearing was closed. Mr. Dunleavy moved to grant the variance. Ms. Deming seconded the motion, which carried 8 for and 1 opposed. (Mr. Surkamp)

12. Subdivision Text Change Approved by County Commission on August 21, 2008, for Planning Commission consideration. Mr. Redman gave the Planning Commission a summary regarding text changes scheduled dates for the upcoming public hearings, which are as follows:

Saturday, September 13, 2008, at 11:00 AM, in the auditorium of Wright Denny Intermediate School, located at 209 Congress Street in Charles Town.

Monday, September 15, 2008, at 7:00 PM, in the cafeteria of Blue Ridge Elementary School, located at 18866 Charles Town Road past Mission Road.

Wednesday, September 17, 2008, at 7:00 PM, in the auditorium of Jefferson High School, located at 4141 Flowing Springs Road in Shenandoah Junction.

Mr. Surkamp moved to approve the public hearing dates and times. Mr. Dunleavy seconded the motion, which carried unanimously.

13. Director's Report on office activities and questions. Mr. Redman had nothing to report.
14. President's Report. Mr. Reynolds discussed with the Planning Commission two newspaper articles printed in The Journal.
15. Planning Commission Exchange. Mr. Maxey gave an overview of his appearance in front of the County Commission regarding the *Statement to the Jefferson County Commission* that he presented on August 21, 2008.
16. Reports from Legal Counsel and legal advice to PC. None.
17. Discussion on the Kaufman Case/responsibilities of the Planning Commission.
Mr. Casimiro discussed and gave explanation of the summary of the facts in this case with the Planning Commission.
18. Actionable Correspondence. None.

Mr. Sidor moved to adjourn at 10:42 PM. Mr. Dunleavy seconded the motion, which carried unanimously. A detailed transcript of this meeting may be found on CDs #96, 97 and 98. These minutes were prepared by Shannon Hayden.