

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
SEPTEMBER 9, 2008

The Jefferson County Planning Commission met on Tuesday, September 9, 2008, with Commission members; Arnold Daily, Vice president; Ellen May; Jim Surkamp; Tom Kane; Edward Dunleavy; John Maxey and John Sidor present. Staff members present included Sherry Kelly, Deputy Director of Planning; Damien Davis, County Engineer and Jennilee Hartman, Clerical Support.

Robert Reynolds, President, and Lynne Deming, Secretary, were absent with notification.

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

1. Approval of the minutes. Mr. Kane moved to approve the minutes of the August 26, 2008 Planning Commission meeting with the following changes recommended by Commission members:
  - a. Page 1, item #3, second sentence, change from, "...Peter Chakmakian requested a postponement for one of the two variances requested for Wild Goose Subdivision" to "...Peter Chakmakian requested a postponement for the two variances requested for Wild Goose Subdivision."
  - b. Page 1, Item #4, last line, change the word, "public" to "neighborhood."
  - c. Page 3, Item #5, fourth line from the bottom, change the word, "best" to "least expensive."
  - d. Page 3, Item #7, change the last sentence on the page from, "Ms. May seconded the motion, which carried unanimously." to "Ms. May seconded the motion, which passed 6 for and 3 opposed (Ms. Deming, Mr. Dailey and Mr. Surkamp).

Ms. May seconded the motion, which carried unanimously.
2. Citizen Communication. Mr. Dailey asked if any members of the public wished to speak. Joe Hankins with the Public Service District (PSD) addressed the Planning Commission. Mr. Hankins stated there was growing concern over the gap between public sewer systems and private septic systems. Mr. Hankins also stated that cluster systems are becoming more prevalent, yet there are no maintenance requirements for the systems. The Planning Commission discussed various options with Mr. Hankins who suggested that a workshop be set up between the PSD and the Planning Commission to discuss various options for approving cluster systems.
3. Postponements. Peter Chakmakian, attorney for the applicant, requested a postponement of Item #6: Request by Jane Stone, Owner – Buckeye Development LLC, Developer for a variance to extend the Community Impact Statement deadline from November 16, 2008, to May 16, 2009, for the Stonecrest Subdivision (PC File #06-35). Mr. Sidor moved to postpone Item #6 until the September 23, 2008 Planning Commission meeting and for the

item to be clarified on the agenda. Mr. Dunleavy seconded the motion, which carried unanimously.

4. Community Impact Statement Public Hearing for the Sloan Square Apartment Complex. The property is to consist of 13 single-bedroom apartments and 24 two-bedroom apartments in five separate one-story garden style apartment buildings on 6.96 acres. Dick Klein with Alpha Associates was present to answer Planning Commissioners' questions. Mr. Klein made a brief presentation to the Planning Commission. He stated the applicant would upgrade Patrick Henry Way from its intersection with Route 340 through the second intersection within Patrick Henry Estates (PHE) and would fix the lift station for the City of Charles Town if the Sloan Square project was approved. The Planning Commissioners had questions regarding the number of handicap apartments, the proposed walkway to Walmart and the number of houses in Patrick Henry Estates. Mr. Dailey opened the public hearing. The following residents of Patrick Henry Estates spoke: Betina Peyton, Homeowner's Association (HOA) President, Susan Pipes, Susan Williams, Jamie Pate, Sherry Clem, Robert Morris and Edward Frye. The residents expressed the following concerns:

- a. The fact that Dr. Miller had not deeded the roadways of PHE to the HOA.
- b. The poor maintenance of Beauregard Boulevard.
- c. The impact of Sloan Square Apartment's traffic on the internal subdivision roads of PHE.
- d. The future maintenance of the Sloan Square Apartment Complex.
- e. Potential vandals using the proposed walkway to Walmart.
- f. Whether or not Sloan Square Apartments would contribute to the maintenance of Beauregard Blvd.
- g. The restrictive covenants of PHE limiting lot usage to single-family lots only; therefore, Lot C-1 of PHE should not be used as an access for Sloan Square Apartments.
- h. The increased traffic within PHE could potentially cause emergency use complications.
- i. The fact that Plat A of the PHE was not recorded.
- j. Property values would decline because Sloan Acres Lane is to be located so close to existing homes.
- k. The location of the mailbox pod and lighting.

The residents requested that if Sloan Square Apartments be approved, the following conditions be met:

- a. A 6' privacy fence be built along the boundary between Sloan Square Apartments and PHE.
- b. The PHE covenants be revised to allow the homeowners' adjacent to the proposed accesses for Sloan Square to build fences in their front yards.

- c. The Gates Way access be the primary access for the project and that the Sloan Acres Lane access be gated and locked until an emergency arises.

The residents of PHE provided the Planning Commissioners with a petition of sixty-four signatures to oppose all plans for Dr. Gerald Miller and/or assigns to build a right-of-way for Sloan Square Apartments through PHE. The residents also presented the Planning Commissioners with pictures of the existing road conditions and a Certificate of Incorporation of the HOA for PHE.

Dr. Miller explained that he was only a 20% owner/partner at the time that PHE was created. He was responsible for the platting of sections C & D. Dr. Miller stated he did not feel he was responsible for the maintenance of Beaugard Boulevard because he has not received HOA dues. Additionally, he stated that he attempted to have the State Highway Department adopt the PHE roadways but the residents of PHE opposed the action. Dr. Miller stated that within the covenants of PHE it stated that he had the right to change the use of any lot he owned. Dr. Miller expressed that if the project was approved that he would replace Patrick Henry Way and would be willing to replace any portion of Beaugard Blvd. as needed. He commented that since the construction of Beaugard Blvd was newer, it did not merit being replaced. Dr. Miller stated Sloan Square Apartments would be required to contribute maintenance fees.

Mr. Dailey asked for staff's recommendations. Ms. Kelly recommended the Planning Commissioners either reject the Community Impact Statement or postpone it for the following reasons: 1) The proposed accesses may not meet county standards; 2) To determine if the final plat for PHE restricts Lot C-1 to a single-family use; 3) To determine whether or not Plat A of PHE was officially recorded; and 4) To address the setback issues that would occur for the lots adjacent to Lot C-1. Mr. Davis recommended accepting the Community Impact Statement and stated that the access issues would be addressed at the preliminary plat stage.

Mr. Dailey explained to the public what would happen if the Planning Commission accepted or rejected the Community Impact Statement.

Mr. Dunleavy moved to postpone the Community Impact Statement until the September 23, 2008 Planning Commission meeting in order for staff to research Ms. Kelly's concerns. Mr. Surkamp seconded the motion. Mr. Kane stated that he disagreed with the motion, was appalled at the conditions of Beaugard Blvd. and that the Planning Commission needed to make a strong statement of their disdain with the conditions of PHE. Ms. May concurred with Mr. Kane. Mr. Surkamp withdrew his second. Mr. Maxey seconded the motion in order to further discuss the motion. Mr. Dunleavy stated the Planning Commission is not charged with enforcing the covenants of PHE and felt that some of the issues raised at the meeting were of a civil matter. Mr. Dunleavy stated that Ms. Kelly's concerns needed to be addressed before the Planning Commission could make an informed decision. Mr. Maxey stated he believed the proposed project

was in a prime location, allowing for residents of the Sloan Square Apartments to walk to places of employment and shopping instead of driving. Mr. Maxey had concerns about the future maintenance of the development. The Planning Commission asked staff to provide copies of all the platted sections of Patrick Henry Estates for the next meeting. Mr. Dunleavy's motion to postpone the Community Impact Statement until the September 23, 2008 Planning Commission meeting in order for staff to research Ms. Kelly's concerns passed with a vote of 5 for and 2 opposed (Mr. Kane and Ms. May).

5. Site Plan Approval & Issuance of the Improvement Location Permit for the Apple Valley Waste Site Plan. The project is to consist of a 100,600 sq. ft. gravel area, a 12,500 sq. ft. paved area and an additional bay door to the existing structure. Ms. Kelly stated the site plan met the technical requirements of the ordinance and recommended approval of the site plan and issuance of the improvement location permit. Mr. Davis concurred. Kristin Ringstaff with W.H. Gordon Associates was present to answer Planning Commissioners' questions. Mr. Dailey opened the public hearing. There were no comments from the public. The public hearing was closed. Mr. Sidor moved to approve the site plan and issuance of the improvement location permit for Apple Valley Waste. Mr. Kane seconded the motion, which carried unanimously.
6. Request by Jane Stone, Owner – Buckeye Development LLC, Developer for a variance to extend the Community Impact Statement deadline from November 16, 2008, to May 16, 2009, for the Stonecrest Subdivision (PC File #06-35). This item was postponed. (See Item #2.)
7. Director's Report on office activities and questions. Ms. Kelly provided the Planning Commissioners with a handout regarding Road Maintenance Language for Minor Subdivisions. Ms. Kelly stated this handout was for informational purposes only and that Mr. Tony Redman, Director of Planning, would discuss it at the September 23, 2008 Planning Commission meeting.
8. President's Report. None.
9. Planning Commission Exchange. Mr. Maxey called attention to the fact that land was being cleared on the side of the mountain, possibly within Shannondale. Mr. Maxey asked if Section 4.4(h) (Prohibited Uses) of the Zoning Ordinance would prevent clearing for any lot east of the Shenandoah River or which are in natural, undisturbed condition within 1000 feet of the Potomac or Shenandoah Rivers and the Opequon Creek. Ms. Kelly stated she believed the section applied only to lots created after Sept. 13, 1990. Ms. Kelly stated she would research the matter.

Mr. Sidor asked that the agendas be more detailed; for example, to include any previous Planning Commission actions. Mr. Sidor used the Stonecrest variance item on the agenda as an example. Ms. Kelly stated improvements to her staff reports would include the history of projects on the agenda. Mr. Davis stated he was working on a database that

would track information such as approval dates and conditions of approval. Mr. Sidor also stated that he had concerns with the way related items on an agenda were listed. He suggested that related items should be listed consecutively on the agenda. It was mentioned that the President could rearrange the agenda if needed. Mr. Dunleavy stated he believed rearranging the agenda would not be the best course of action because members of the public may come in at a certain time to hear an item on the agenda and if it were moved they would not be made aware of it.

10. Reports from Legal Counsel and legal advice to PC. Mr. Casimiro provided the Planning Commissioners with a handout. Ms. May and Mr. Dunleavy discussed sewer issues with Mr. Casimiro.

11. Actionable Correspondence. None.

Mr. Sidor moved to adjourn at 9:46 PM. Mr. Maxey seconded the motion, which carried unanimously. A detailed transcript of the meeting may be found on CDs #101 & #102. These minutes were prepared by Jennilee Hartman.