

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
SEPTEMBER 23, 2008

The Jefferson County Planning Commission met on Tuesday, September 23, 2008, with Commission members; Robert Reynolds, President; Arnold Daily, Vice president; Lynne Deming, Secretary; Jim Surkamp; Tom Kane; Edward Dunleavy; John Maxey and John Sidor present. Staff members present included Tony Redman, Director of Planning; Sherry Kelly, Deputy Director of Planning; Damien Davis, County Engineer and Shannon Hayden, Planning Clerk.

Ellen May was absent with notification.

Mr. Reynolds called the meeting to order at 7:03 PM.

1. Approval of the minutes. Mr. Reynolds and Ms. Deming abstained and left the room because they were not present at the September 9, 2008 Planning Commission meeting. Mr. Sidor moved to approve the minutes of the September 9, 2008 Planning Commission meeting with the following changes recommended by Commission members:
 - a) Page 1, second sentence, change from, "*Demining*," to "*Deming*."
 - b) Page 1, Item #2, sixth line; insert "*who*" between the words "*Mr. Hankins*" and "*suggested*."

Mr. Dailey seconded the motion, which carried 6 for and 2 abstentions. (Mr. Reynolds and Ms. May)

2. Citizen Communication. Mr. Reynolds asked if any members of the public wished to speak. Fred Blackmer addressed the Planning Commission. Mr. Blackmer, on behalf of Jefferson County Citizens for Economic Preservation and the Panhandle Home Builders Association, asked the Planning Commission to take a closer look at language and the issue of height restrictions that was brought up during the final Zoning Ordinance public hearing.
3. Postponements. There were no requests for postponement.
4. Postponed from the August 26, 2008 Planning Commission meeting. Community Impact Statement (CIS) Hearing for the Wild Goose Farm Subdivision. Annette van Hilst with Dewberry was present to answer Planning Commissioners' questions. Mr. Kane left the room. 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. Dailey moved to grant the variance. Mr. Maxey seconded the motion, which carried 7 for and 0 opposed. Mr. Kane returned to the room.

5. Postponed from the September 9, 2008 Planning Commission meeting. Community Impact Statement Public Hearing for the Sloan Square Apartment Complex. Mr. Reynolds and Ms. Deming recused themselves since they were not present at the September 9, 2008 Planning Commission meeting and left the room. After discussion with Dick Klein with Alpha & Associates, Ms. Kelly modified her recommendation for denial as stated at the September 9, 2008 Planning Commission meeting and recommended acceptance of the CIS with the following conditions:
 - a) The subdivision roads leading to the accesses for Sloan Square (i.e. Patrick Henry Way, Beauregard Street, and Gates Way) be upgraded to meet County standards in accordance with subdivision regulations and Gates Way be widened to meet County standards;
 - b) The applicant either demonstrates that no setback issues will be created for the properties on both sides of Lot C-1 where the other right-of-way is proposed or seeks a variance with the Board of Zoning Appeals; and
 - c) The apartment complex owners' contribute their "fair share" of the costs for road maintenance of the roads in Patrick Henry Estates leading to the apartment complex.

Mr. Redman provided and discussed with the Planning Commission a statement of conditions recommended by him if the Planning Commission decides to grant CIS approval to Sloan Square Apartments. These conditions were stated as follows:

- 1) That perimeter landscaping be provided along Sloan Acres Lane and behind the rear yards of all lots fronting on Beauregard Boulevard.
- 2) That the applicant investigate providing access to Buildings #1,#2 and #3 from Patrick Henry Lane behind Kymco Realty Corp. This will require applicant negotiations with Kymco to determine feasibility.
- 3) That if access to Buildings #1, #2 and #3 is taken from Beauregard via Sloan Acres Lane that buffering be provided at the entrance along the road where adjacent to side property lines of parcels adjacent to the entrance off Beauregard Boulevard. This buffering may be required to include fencing if space is inadequate to accomplish buffering through planting alone.
- 4) That landscape planting be provided between Building #4 and PHA Associates Limited Properties.
- 5) That Patrick Henry Drive be improved in all areas shaded gray on the drawing submitted by the applicant titled "Patrick Henry Way Drainage Restoration."
- 6) That Beauregard Boulevard be constructed or reconstructed to satisfy County specifications for the entire length from its intersection with Patrick Henry Drive to Gates Way as proposed.
- 7) That the applicant secure a variance for construction of Gates Way within a 40' right-of-way if the County Engineering Department determines such a variance is required.

- 8) That the wheelchair accessible walkway between the proposed development and Kymco Corp properties (the shopping center) be constructed.
- 9) That a plan for landscaping of parking area be provided to include plantings adjacent to lands owned by Dr. Nathan Swami.

Mr. Redman discussed two other conditions that he would want to include which would be as follows:

- 10) Investigate the feasibility and, if feasible, complete the sidewalk connecting to Charles Town Plaza along Patrick Henry Way.
- 11) Road maintenance cost be fully born by the owner of Sloan Square Apartments, not existing residents', moreover, each unit shall pay pro rata share for the whole community road maintenance.

Mr. Sidor asked Mr. Redman if access using Beaugard would still be his recommendation if two other options were available. Mr. Redman stated that he would not suggest using Beaugard in order to reduce the volume of traffic through the existing development. Mr. Kane moved to accept the CIS as promulgated by Mr. Redman, but excluding access through Section C Lot 1. Mr. Surkamp seconded the motion, which carried 6 for and 2 abstentions. (Mr. Reynolds and Ms. Deming)

Mr. Reynolds and Ms. Deming returned to the room.

6. Postponed from the September 9, 2008 Planning Commission Meeting. Request by Jane Stone, Owner – Buckeye Development LLC, Developer for a variance to extend the time within which a final plat hearing must be held for the Stonecrest Subdivision. Peter Chakmakian was present to answer Planning Commissioners' questions. Mr. Chakmakian informed the Commissioners that an extension until May 2009 was being requested and that the Conditional Use Permit is valid until 2010. Mr. Maxey asked if there was an agreement with the Public Service District (PSD) to assist in the construction of the water treatment plant. Mr. Chakmakian stated that Joe Hankins with the PSD was present to answer any questions. Ms. Kelly recommended granting the variance. Mr. Davis deferred to the County Planner for recommendation. Mr. Reynolds opened the public hearing. Mr. Hankins with the PSD informed the Planning Commission that their offices would be in support of the requested extension and that the design for the treatment plant was already 95% complete. However, he also stated there was no contract in place between the PSD and the applicant. Mr. Sidor asked Mr. Hankins if he believed the developer would have adequate time to submit the final plat if granted the extension of time. Mr. Hankins stated that he believed it would be a sufficient amount of time. Mr. Surkamp moved to grant the variance to extend the time in which the final plat hearing must be held for Stonecrest Subdivision to May 16, 2009 for the purpose of securing public waste water treatment services. Mr. Kane seconded the motion, which carried 8 for and 0 opposed.

7. Request by Locust Hill Unit Owners Association, Inc. for a variance to waive the requirement to provide a mailbox pavilion. Mr. Kane lives in the Locust Hill Subdivision and therefore, recused himself and left the room. Valerie Hockensmith, Managing Agent for Locust Hill Unit Owners Association (LHUOA) was present to answer Planning Commissioners' questions. Mr. Dunleavy asked Ms. Hockensmith what would be done with the land once the pavilion is removed. Ms. Hockensmith stated the pavilion is located in an easement owned by Locust Hill Golf Course and there was no intention by the LHUOA to replace the pavilion with any other structure. Ms. Kelly recommended granting the variance. Mr. Davis recommended granting the variance. Mr. Reynolds opened the public hearing. Allen Marks, resident of Locust Hill Subdivision, asked if the land will be returned to its original state once the pavilion would be removed. Ms. Hockensmith again stated the pavilion was located in an easement owned by Locust Hill Golf Course and there was no intention by the LHUOA to replace the pavilion with any other structure. Mr. Reynolds closed the public hearing. Mr. Dunleavy moved to grant the variance request by Locust Hill Unit Owners Association, Inc. to waive the requirement to provide a mailbox pavilion. Mr. Sidor seconded the motion, which passed 7 for and 1 abstention. (Mr. Kane)

Mr. Kane returned to the room.

8. Request by Beallair Homes, LLC for Beallair West Subdivision for a variance to reduce a private right-of-way width from 50' to 40' and to allow cut and fill slopes beyond the right-of-way with easements where appropriate for drainage conveyance. Mike Wiley, Vice President of Beallair Homes, LLC, was present to answer Planning Commissioners' questions. Mr. Dunleavy asked what the road width would be. Mr. Wiley stated that the width would be 24', which would meet county standards. Ms. Kelly deferred to the County Engineer for recommendation. Mr. Davis recommended granting the variance. Mr. Reynolds opened the public hearing. There was no comment from the public. Mr. Reynolds closed the public hearing. Mr. Wiley stated that an email was forwarded from the Planning Department to him regarding storm water issues raised by an adjoining property owner. Mr. Wiley stated that storm water management would be submitted at the preliminary plat stage of the project. Mr. Hayward, adjoining property owner, was present to comment on his concerns regarding the storm water management issues. Mr. Surkamp moved to approve the variance request to reduce a private right-of-way width from 50' to 40' and to allow cut and fill slopes beyond the right-of-way with easements, where appropriate, for drainage conveyance. Mr. Dunleavy seconded the motion, which carried 8 for and 0 opposed.
9. Request by Beallair Homes, LLC for Beallair West Subdivision for a variance to allow alternative construction materials for sidewalks; allow the location of sidewalks to vary, including the elimination of redundant (i.e. both side of streets) sidewalks, as well as elimination of sidewalks in courtyards and allow the use of mountable curb and gutter. Mike Wiley, Vice President of Beallair Homes, LLC, was present to answer Planning Commissioners' questions. Mr. Reynolds asked Mr. Wiley how this variance would help

improve the community. Mr. Willey stated that the variance would help aesthetically and with storm water runoff. Ms. Kelly deferred to the County Engineer for recommendation. Mr. Davis recommended granting the variance with the following conditions:

- a) Type of material be subject to staff review and approval; and
- b) The proposed sidewalk be moved to the north side of the street.

Mr. Wiley stated that there was more pedestrian traffic on the south side of the street which was why the sidewalk was proposed on the south side.

Mr. Reynolds called a break at 8:18 P.M. to change the CD. Mr. Reynolds called the meeting back to order at 8:25 P.M.

Mr. Reynolds opened the public hearing. There was no comment from the public. Mr. Reynolds closed the public hearing. Mr. Maxey moved to grant the variance to Beallair West Subdivision allowing alternative materials for sidewalks as approved by the County engineering staff with a preference toward permeable surfaces and to allow the location of sidewalks to vary, the elimination of redundant sidewalks and sidewalks within courtyards, and to allow the use of mountable curb and gutter. Ms. Deming seconded the motion, which carried 8 for and 0 opposed.

10. Request by Beallair Homes, LLC for Beallair West Subdivision for a variance to permit courtyard areas within a varying width easement in the open space, in lieu of a right-of-way, with parking adjacent to the easement; to eliminate the dead-end turn-around standards to permit driveways to end units, and permit courtyard areas with parking adjacent to travel ways within a varying width easement in the open space, in-lieu-of a right-of-way; delete curbs, gutters and sidewalks within courtyards; to permit open-section private courtyards with varying cross-section within easements on Open Space; to delete curbs within courtyards; delete sidewalks within courtyards; permit courtyard areas within a varying width easement in the open space, in lieu of a right-of-way, with parking adjacent to the right-of-way; to eliminate the dead-end street design standards to permit driveways to end units, and permit courtyard areas with parking adjacent to travel ways within a varying width easement in the open space, in-lieu-of a right-of-way; to delete the easement requirement and permit parking spaces within garages and courtyard areas within a varying width easement in the open space, in-lieu-of providing parking spaces with a right-of-way. Mike Wiley, Vice President of Beallair Homes, LLC, was present to answer Planning Commissioners' questions. Ms. Deming asked if the dead-end turn-around was built to county standards and if it existed in the original concept plan. Mr. Wiley answered that all turn-around ratios were studied and the turn-around areas would accommodate large vehicles such as emergency vehicles. Ms. Kelly deferred to the County Engineer for recommendation. Mr. Davis recommended granting the variance with the following conditions:

- a) Courtyards be owned and maintained by the Home Owners Association;
- b) Drainage within the courtyard areas be addressed at the preliminary plat stage;
and
- c) Adequate space be provided for residents backing out of driveways.

Mr. Kane asked Mr. Davis if he felt there was any concern with the turn-around ratios of the dead-end turn-arounds. Mr. Davis stated that the turn-around issue could be addressed at the preliminary plat stage. Mr. Dunleavy moved to grant the group of variances as requested by Beallair Homes, LLC without the conditions recommended by Mr. Davis. Ms. May seconded the motion, which carried 7 for and 1 opposed.
(Mr. Kane)

11. Director's report on office activities and questions. Mr. Redman discussed a handout, Road Maintenance Language for Minor Subdivisions, that was provided to the Planning Commission at the September 9, 2008 Planning Commission meeting by Ms. Kelly. Mr. Dunleavy requested that the text in item #1 of the document be changed from "*the subdivided parcels created*" to "*the lot owners*". Mr. Dunleavy moved to endorse the Road Maintenance Language for Minor Subdivisions as amended. Ms. Deming seconded the motion, which carried 8 for and 0 opposed.
12. Planning Department transition discussion. Mr. Redman and the Commissioners discussed the process that would be followed in evaluating the applicants for the Director of Planning and Zoning position. Mr. Surkamp asked to place salary and budget discussions on the agenda for the October 14, 2008 Planning Commission meeting.
13. Review and recommendation regarding public comments from County Commission Public Hearings held on Saturday, September 13, 2008; Monday, September 15, 2008; and Wednesday, September 17, 2008. Mr. Redman summarized the public comments and specified which items he believed needed to be addressed. Mr. Redman stated that the "Hamlet Transit Access" text found in Table 3.201A should read "Hamlet Rail Transit Access." Mr. Kane moved to endorse Mr. Reynolds, as President of the Planning Commission, to execute the Planning Commission's recommendation to adopt the Zoning Ordinance and that it is forwarded to the County Commission. Mr. Dailey seconded the motion, which carried 8 for 0 opposed.
14. President's Report. Mr. Reynolds stated that, according to James Casimiro, Assistant Prosecuting Attorney, the County Commission attorneys will not be involved in the pursuit of Far Away Farm legal matters. Mr. Reynolds presented to the Planning Commissioners a Request for Outside Counsel directed to the County Commission. This item was discussed between the Planning Commission. Mr. Dunleavy moved that the Jefferson County Planning Commission request that the County Commission of Jefferson County either hire outside counsel for the Planning Commission or authorize the Planning Commission to hire outside counsel. Included in this motion is a recommendation that we send to the County Commission the report that the President of the Planning Commission has prepared outlining the reasons and sequence of events that

has led us to our conclusion. Mr. Kane seconded the motion, which carried 8 for 0 opposed.

Mr. Reynolds called a break at 9:37 PM to change the CD. Mr. Reynolds called the meeting back to order at 9:45 PM.

Mr. Reynolds presented to the Planning Commissioners a letter and summary of events regarding how Far Away Farm was handled addressed to the West Virginia State Bar. Mr. Casimiro stated that he had seen the draft documents and had responded with factual inaccuracies to the Planning Commission. However, Mr. Casimiro stated he had not reviewed the final draft of these documents. These two documents were discussed by the Planning Commissioners. Mr. Kane moved to have the President of the Planning Commission forward the letter as drafted to the West Virginia State Bar Association. Mr. Sidor seconded the motion, which carried 8 for and 0 opposed.

15. Planning Commission Exchange.

16. Reports from Legal Counsel and legal advice to PC. None.

17. Actionable Correspondence. Mr. Redman informed the Planning Commission that John Wilkins, who was present at the July 22, 2008 Planning Commission meeting, sent an apology email to the Planning Department and that it would be forwarded to each Planning Commission member at a later date.

Mr. Sidor moved to adjourn at 9:56 PM. Ms. Deming seconded the motion, which carried unanimously. A detailed transcript of the meeting may be found on CDs #108, 109 & #110. These minutes were prepared by Shannon Hayden.