

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
JUNE 12, 2007

The Jefferson County Planning Commission met on Tuesday, June 12, 2007 with John Sidor, President, as Chair. Arnie Dailey, Lynne Deming, Robert Reynolds, Todd Baldau, Jim Surkamp, Edward Dunleavy were present. Staff members present were Roger Goodwin, Tony Redman, James Casimiro and Jennilee Hartman.

Tom Kane and Ellen May were absent with notification.

Mr. Sidor called the meeting to order at 7:03 p.m.

1. Minutes. Mr. Reynolds motioned to approve the minutes of the May 22, 2007 meeting. Mrs. Deming seconded the motion. Mr. Baldau asked if Mr. Reynolds would accept a friendly amendment to include the following changes:

- 1) Page 2, Item #8, the sentence that begins, 'Mr. Baldau motioned that the maximum number of lots allowed in the Harvest Hills Subdivision is 392 ~~vs. 387.~~'
- 2) Page 2, Item #10, last sentence, 'Mr. Casimiro stated if visuals are presented that the Planning Commissioner **not at the public hearing** should not vote.'

Mr. Reynolds accepted the friendly amendment. The motion to accept the minutes with the aforementioned changes passed unanimously.

2. Requests for postponements. Mr. Michael Cassell was present to represent the Chriswood Subdivision's request for postponement until the June 26, 2007 Planning Commission meeting. Mr. Baldau asked if there were any members of the public who were present regarding this subdivision and if so they should have the opportunity to speak. Mr. Jeff Hertrick, adjacent property owner, stated he wanted to present his information at the same time as the developer and was OK with postponing the request. Mr. Dunleavy stated he wanted the Community Impact Statement to be unified with respect to the new name of the subdivision throughout the document. Mr. Cassell stated he would make every attempt to have that done by the next meeting. Mr. Reynolds motioned to postpone the Chriswood Subdivision until the June 26, 2007 Planning Commission meeting. Mr. Dailey seconded the motion, which carried unanimously.

Mr. Cassell was present to represent the Vinegar Hill Associates Inc. Minor Subdivision's request to postpone until the June 26, 2007 Planning Commission meeting and to waive the 60 day rule until July 1, 2007. No one was present to speak concerning the Final Plat. Mr. Dunleavy motioned to postpone the Final Plat Public Hearing for the Vinegar Hill Associates Inc. Minor Subdivision until the June 26, 2007 Planning Commission meeting. Ms. Deming seconded the motion, which carried unanimously.

3. Final Plat Public Hearing for the Vinegar Hill Associates Inc. Minor Subdivision. Postponed until the June 26, 2007 Planning Commission meeting.

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4. Final Plat Public Hearing for the Donald N. and Catherine K. Cross Minor Subdivision. Mr. Roger Goodwin, Chief County Engineer, gave his staff report stating the final plat appears to meet the requirements of the regulations and recommends approval. Mr. Goodwin also stated Ms. Sherry Kelly, Acting Chief Planner/Zoning Administrator, had previously approved the final plat. Mr. Cassell was present to answer any of the Planning Commissioner's questions. Mr. Sidor opened the public hearing. There was no public comment. The public hearing was closed. Mr. Reynolds motioned to approve the final plat. Mr. Dunleavy seconded the motion, which carried unanimously.

5. Community Impact Statement Public Hearing for the Chriswood Subdivision. Postponed until the June 26, 2007 Planning Commission meeting.

6. Community Impact Statement Public Hearing Review for the Brookstone Ridge Subdivision. Mr. Goodwin stated the applicant appears to have responded to all the issues required for a community impact statement and therefore recommended acceptance. Mr. Goodwin informed the Planning Commission that Ms. Kelly had previously approved Brookstone as well. Mr. Cassell and Mr. Richard Klein with Alpha Associates were present to answer any of the Planning Commissioner's questions. Mr. Baldau asked if there were any additional lots intended to be created. Mr. Cassell stated 2 more parent to child lots were to be created. Mr. Reynolds questioned the use of the old farmhouse, whether or not it could be converted into a dwelling unit. Robert Leonard, property owner, stated the farmhouse was in disrepair and that a lot of work would be necessary to bring the house up to code. Staff stated that if and when a building permit was applied for the Ordinance Compliance Officer would review it and a second dwelling would not be permitted unless the Planning Commission granted a variance. Mr. Sidor opened the public hearing. There was no public comment. The public hearing was closed. Mr. Reynolds motioned to approve the community impact statement. Ms. Deming seconded the motion, which carried unanimously.

7. Community Impact Statement Public Hearing for Burr Industrial Park, Lot 23. Mr. Goodwin stated the applicant appears to have responded to all the issues required for a community impact statement and therefore recommended acceptance. Mr. Goodwin informed the Planning Commission that Ms. Kelly had previously approved Burr Industrial Park, Lot 23 as well. Mr. Richard Dick with Alpha Associates was present to answer any of the Planning Commissioner's questions. It was stated that a sinkhole study had been done on the property and that none were found. Mr. Sidor opened the public hearing. Mr. Bill Chesley with the Jefferson County Development Authority spoke in favor of the project. Mr. Baldau motioned to approve the community impact statement. Ms. Deming seconded the motion, which carried unanimously.

8. Discussion and vote for Old Standard Quarry Rezoning. Mr. Sidor stated he was going to attempt to get Ms. Ellen May, Planning Commissioner, on the phone so that she may participate in discussion and vote. Ms. May was at the June 5, 2007 public hearing to hear all the evidence. Mr. Sidor called Ms. May at 7:32 p.m. Mr. James Campbell, Attorney, wanted to state for the record that he did not believe telephonic voting was legal. Mr. Dailey stated he did not agree with telephonic when the idea was first brought up and still did not agree with it. Mr. Baldau stated all testimony was to be given on June 5, 2007 and that the purpose of this meeting was for

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discussion amongst Planning Commissioner's only. Mr. James Casimiro stated Mr. Campbell could speak in objection to the telephonic voting. Ms. Deming suggested the Commission err on the side of caution and not use the telephone. During the discussion Ms. May's call was dropped and the Planning Commission decided to continue without Ms. May.

Mr. Baldau thanked everyone for his or her cooperation in running a smooth meeting. Mr. Baldau stated he found 20 areas of the Comprehensive Plan, which pertained to the rezoning petition: 17 items were not compatible with the Comprehensive Plan, 2 items were compatible with the Comprehensive Plan and 1 item was questionable.

Mr. Surkamp wanted to mention that some figures were misrepresented at the June 5th hearing and that the actual figures were submitted to the Department of Planning and Zoning to be put in the public file/record. Mr. Surkamp also stated that Mr. Tony Redman was present and that the Planning Commissioners should listen to what his findings were on the Old Standard Rezoning.

Ms. Deming did not think it was appropriate to allow Mr. Redman to speak at this time but to do so later on.

Mr. Dunleavy believed it was appropriate to listen to Staff first.

Mr. Baldau stated the Commission already had Staff's recommendation and report and all the evidence therefore the Planning Commission should restrict the discussion to themselves and vote.

Mr. Sidor agreed to allow Mr. Redman to give an oral recommendation. Mr. Redman stated his recommendation was similar to that of Mr. Baldau's. Mr. Redman also stated that while the County does need a higher job market, the bottleneck this proposed development would create would be a negative impact. Mr. Redman continued with a few other points. Mr. Redman recommended denial of the rezoning but informed the Planning Commission that it was their job to make the determination.

Mr. Baldau mentioned a variety of reasons why the rezoning was inconsistent with the Comprehensive Plan.

Mr. Dunleavy brought out different historic views and also suggested that some form of compromise be agreed upon. Ms. Deming stated the County was in desperate need of commercial development and that West Virginia needs the tax revenue from such a development. Ms. Deming concurred with the idea of a compromise.

Mr. Reynolds stated there was no room for a compromise and that the Planning Commission must act on the proposed use as it was presented. Mr. Reynolds stated he believed the natural features of the land would not be protected if developed and that all other parcels on the Shenandoah River are rural.

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Mr. Baldau motioned to find the petition for rezoning the Old Standard Quarry to be inconsistent with the Comprehensive Plan. Mr. Reynolds seconded the motion, which carried unanimously.

The CD was changed at 8:15 pm and the meeting resumed at 8:25 pm after a short break.

9. Request by Shenandoah North Community Association, Inc. for a variance from the site plan requirement for a 20' x 20' picnic shelter. Mr. Goodwin recommended denial of the variance stating that others have had to comply with site plan requirements in the past. Mr. Goodwin also stated that monetary problems were not a sufficient reason for having the site plan requirements waived. Sam and Karen Gilkenson were present to answer Planning Commissioner's questions. Mr. Gilkeson stated there was an existing building that was torn down due to decay and that the proposed structure would be built on its original foundation. The building was only to be a slab with a roof, no enclosed walls. Ms. Deming motioned to approve the variance. Mr. Dailey seconded the motion. Mr. Reynolds agreed with Mr. Goodwin's interpretation that a variance should not be granted merely because someone cannot afford the expense of a site plan. The motion passed 5 for and 2 opposed (Mr. Reynolds and Mr. Dunleavy).

10. Request by Jason Gerhart/W.H. Gordon Associates, Inc. on behalf of Griffith Energy Services, Inc. for a variance to allow a lot to be less than 10,000 sq. ft. as required in Article 8, Section 8.2.e.1 of the Subdivision Ordinance. Mr. Goodwin stated since the request was based on zoning issues he would defer to the Zoning Administrator for her comments. Mr. Goodwin also stated that if the variance were to be granted that it be contingent upon the applicant demonstrating that the merger does not cause any building setback violations. Kevin Nelson with W.H. Gordon Associates, Inc. was present to answer Planning Commissioner's questions. Mr. Nelson said he had met with Ms. Kelly and was asking for this variance based on their conversations. Bruce Klendeming was also present at the meeting and addressed the Planning Commission on the necessity of the variance. Mr. Reynolds motioned to approve the variance with staff recommendations. Ms. Deming seconded the motion, which carried unanimously.

11. Letter from Jeremy Camp/City of Charles Town – Re: Invitation to appoint a Steering Committee member. Mr. Reynolds stated he believed this would be a good assignment for the Long Range Planner, Mr. Redman. The Planning Commissioners agree with unanimous consent.

12. Chief Planner's report on the office activities and questions. None.

13. Report from Legal Counsel. The proposal by Paul Rosa regarding the rezoning of the Old Standard was sent back to the County Commission for clarification. Mr. Casimiro advised the Planning Commission against visiting the Old Standard site with the applicant. Mr. Casimiro also stated he was prepared to discuss 8A and the rewrite for the June 19, 2007 meeting. Mr. Casimiro stated he would like to discuss the appeal of Benview in executive session.

Mr. Reynolds motioned to refer to staff for direction to draft an amendment to the Ordinances to require public noticing of variance requests and for that to be brought back to the Planning Commission for a public hearing. Mr. Surkamp seconded the motion, which carried unanimously.

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Mr. Surkamp motioned to ask Mr. Redman for his recommendation for a meaningful minimum or format for variances along with additional/better information. Mr. Dunleavy seconded the motion, which carried unanimously.

Mr. Sidor thanked Mr. James Casimiro for his service to the Planning Commission for the last two years.

Mr. Dunleavy motioned to go into executive session 9:30 p.m. regarding pending litigation. Mr. Surkamp seconded the motion, which carried unanimously.

At this point staff left the room and did not return allowing the Planning Commission to adjourn at will.

Ms. Deming, Secretary, provided the following information for the minutes:

Mr. Surkamp left the session at 9:35 p.m. and returned to the session at 9:40 p.m.

Mr. Reynolds motioned to come out of executive session at 10:17 p.m. Mr. Dailey seconded the motion, which carried unanimously.

The meeting adjourned at 10:17 p.m. on June 12, 2007. A detailed transcript of this meeting can be found on CD # 57 & 58. These minutes were prepared by Jennilee Hartman.