

DRAFT MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
AUGUST 14, 2007

The Jefferson County Planning Commission met on Tuesday, August 14, 2007 with John Sidor, President, as Chair. Arnie Dailey, Lynne Deming, Robert Reynolds, Jim Surkamp, Edward Dunleavy, Todd Baldau and Ellen May were present.

Tom Kane was absent with notification.

Staff members present were:

Tony Redman, Director of Planning of Zoning
Sherry Kelly, Deputy Director of Planning and of Zoning,
Roger Goodwin, Director of Engineering
Damien Davis, County Engineer
Mason Carter, Ordinance Compliance Officer
James Casimiro, Assistant Prosecuting Attorney
Jennilee Hartman, Clerical Support.

Mr. Sidor called the meeting to order at 7:00 p.m.

1. Minutes.

Mr. Reynolds moved to approve the minutes of the June 12, 2007 meeting. Mr. Dunleavy seconded the motion, which carried unanimously.

Mr. Reynolds moved to approve the minutes of the July 24, 2007 meeting with the following changes:

- 1) Page 1, last paragraph, first sentence; replace the word "*March*" with "*Marsh*."
- 2) Page 2, third paragraph, second sentence; revise, "Mr. Dunleavy recused himself for being *an officer and director of a corporation that is the owner of a contiguous parcel of land*."
- 3) Page 2, third paragraph, eleventh sentence; replace the name "*Spurgeous*" with "*Spurges*".

Ms. May seconded the motion. Mr. Baldau recused himself because he was not at the July 24, 2007 Planning Commission meeting. The motion passed 7 for and 1 recusal (Mr. Baldau).

2. Postponements. None.

3. Declaration of Violation for Edwin and Kristine Menefee of the Jefferson County Improvement Location Permit Ordinance for no Improvement Location Permit for a pool. Mr. Baldau recused himself and left the room because he is a neighbor of the Menefee's and has hired one of their daughters as a babysitter. Mr. Carter stated Mr. Menefee obtained a building

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permit that afternoon and therefore had brought the property into compliance. No action was necessary. Mr. Baldau returned to the meeting room.

4. Declaration of Violation for Gary D. Frye of the Jefferson County Salvage Yard Ordinance for 3 unlicensed vehicles and debris. Mr. Carter gave his staff report stating this property has been a constant problem for the last two years. Mr. Frye had not contacted the office in reference to this matter nor was he present at the meeting. Mr. Surkamp moved to declare the property in violation of Article 1, Section 1.3 of the Salvage Yard Ordinance in accordance with Article 5, Section 5.1 of the Salvage Yard Ordinance. Mr. Dailey seconded the motion, which carried unanimously.

5. Final Plat Public Hearing for Shepherds Retreat Subdivision. It is to consist of 7 single family lots, 1 multi-family lot with 7 existing apartments on 10.09 acres. Mr. Dunleavy recused himself and left the room stating he was a neighbor of the proposed development. The Planning Commission as a whole agreed that they were not provided a copy of the final plat for review in their mailed packets. Mr. Reynolds moved to postpone the item until the August 28, 2007 meeting because they had no material to review. Mr. Surkamp seconded the motion. Peter Kubic, applicant, asked the Planning Commission to review the plat at the meeting. Mr. Baldau stated he would be OK with taking few moments to review the plat with staff and then to vote. Mr. Reynolds and Mr. Surkamp withdrew their motions. Mr. Surkamp motioned to review the plat and vote on the final plat at the discretion of the President. It was mentioned that this would be after the other items on the agenda. Mr. Baldau seconded the motion, which carried unanimously. Mr. Dunleavy returned to the meeting room.

6. Request by Rocky Marsh, LLC for a variance from Section 6.0 and 6.1 of the Subdivision Ordinance to allow this subdivision to advance directly to the final plat stage. Ms. Kelly recommended approval. Mr. Goodwin stated this was not an engineering issue and therefore he deferred to the County Planner. Dick Klein with Alpha Associates was present to answer Planning Commissioner's questions. There was no public comment. Mr. Reynolds moved to approve the variance. Mr. Surkamp seconded the motion, which carried unanimously.

7. Request by John Webb with W. H. Gordon Associates on behalf of John Kilroy for a variance from the 80 ft. minimum lot width. (Subdivision Ordinance, Section 8.2.e.3). Ms. Kelly recommended approval of the variance contingent upon the minimum lot width being 40'. Mr. Goodwin gave a brief staff report yet deferred the decision to the Planner since it is not an engineering issue due to the location of the lots within the proposed subdivision. John Webb was present to answer Planning Commissioner's questions and mentioned Hartzell Gardens and Samuel Station as two approved developments, which obtained a similar variance in the past. Discussion occurred between staff, Mr. Webb, Mark Dyck with W.H. Gordon Associates and the Planning Commission regarding the intent and/or a possible oversight with regard to townhouse lot widths. There was no public comment. The Planning Commission was concerned that if they approve the variance that they would be required to approve the Community Impact Statement. Mr. Casimiro assured the Commission that it would not. Mr. Reynolds moved to approve the variance to reduce the width of townhouse lots to staff's recommendation of 40' and that the

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granting of such variance does not preclude the Commission's denial of a Community Impact Statement. Ms. May seconded the motion. The vote passed 7 for and 1 opposed (Mr. Baldau).

8. Request by J. Michael Cassell, Esq. on behalf of Philip and Gaye Snyder (Shenandoah School) for a variance from the requirement for a Community Impact Statement. Ms. Kelly read her staff report, which she concluded by stating:

“CONCLUSION: A CIS may not be needed due to the minimal impact of the proposed use to the property and surrounding area, but a limited or full site plan may be needed to address parking requirements, highway entrance permit update if needed, etc. It is staff's recommendation to grant the variance to lift the single-family restriction and CIS requirement with the condition that, if a limited site plan is required by ordinance, that one be submitted within 60 days due to the ongoing violation issue. If a site plan is not submitted within 60 days, an automatic declaration of violation will be issued.”

Mr. Goodwin stated this was a planning issue and therefore deferred to the County Planner. Michael Cassell was present on behalf of the applicant to answer Planning Commissioner's questions. A lengthy discussion took place between the Planning Commission members, staff and the applicant regarding the history of the property, the definition of a school, the existing illegal use of the property and the single-family restriction.

The CD was changed at 8:30 p.m. and the meeting resumed at 8:34 p.m.

Considerable discussion continued with regard to the above referenced issues. Ms. Deming moved to deny the variance and to require the applicant to process a Community Impact Statement. Mr. Dailey seconded the motion. The vote failed 3 for and 5 opposed (Mr. Sidor, Ms. May, Mr. Surkamp, Mr. Baldau and Mr. Reynolds). Mr. Surkamp moved to grant the variance to lift the single-family restriction and the Community Impact Statement requirement contingent upon the submission of a site plan (as determined by staff) to be approved by staff and by the Planning Commission with a publicly noticed meeting that includes adjacent property owners being notified within 60 days. Mr. Reynolds seconded the motion. Mr. Surkamp and Mr. Reynolds then withdrew the motioned after further discussion. Mr. Surkamp motioned to have a revised staff report and to have the report discussed at the next Planning Commission meeting on August 28, 2007. Mr. Reynolds seconded the motion, which passed 7 for and 1 opposed (Mr. Baldau).

9. Request by the Trustees of the Bethesda U.M. Church, Richard Nickell, Sid Jenkins and Bill Knighten for a variance from the site plan process in order to build a handicap ramp. Ms. Kelly stated this was an engineering issue and therefore deferred to the County Engineer. Mr. Goodwin stated a variance is not required. No action was taken.

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10. Request by Linda M. Shirley for a variance to sell a parent to child lot before the five year time restriction. Ms. Kelly recommended approval of the variance. Mr. Goodwin stated this was a planning issue and therefore deferred to the County Planner. Linda Shirley was present to answer Planning Commissioner's questions. Mr. Dunleavy asked if any documentation or proof was taken in. Ms. Shirley stated she could provide a note from her doctor if necessary. There was no public comment. Mr. Dailey moved to grant the variance. Ms. May seconded the motion, which carried unanimously.

11. Request by Nuannit Vasuvat for variances: (a) from upgrading a road to create two more lots from existing Lot 3; (b) advance to the final plat stage; (c) the residue lot not being subject to the single family restriction because of an existing cottage industry. Ms. Kelly recommended approval of all three requests. Mr. Goodwin stated these were planning issues and therefore deferred to the County Planner. Mr. Goodwin did note that two additional lots would not appear to be contrary to the public interest (provided the existing lots owner's are in agreement). Ms. Vasuvat was present to answer Planning Commissioner's questions. Mr. Khana spoke on behalf of Ms. Vasuvat. There was no additional public comment. Ms. Deming asked the current condition of the road. Mr. Baldau mentioned that he had seen the road and did not have a problem granting the variance. Mr. Baldau moved to continue this item until the August 28, 2007 meeting to give staff time to do a site visit and for staff to notify adjacent property owners of the of the variance and it's placement on the August 28, 2007 meeting. Ms. Deming seconded the motion. At 9:48 Mr. Surkamp left the room without giving a reason. At 9:49 the Planning Commission voted unanimously with the member's in the room (excluding Mr. Surkamp).

At this time the Planning Commission took a break in order to review the Shepherd's Retreat final plat having heard all other applicant's requests from the agenda. The CD was changed at this time.

The Planning Commission reconvened.

5. Final Plat Public Hearing for Shepherds Retreat Subdivision. It is to consist of 7 single family lots, 1 multi-family lot with 7 existing apartments on 10.09 acres. Mr. Dunleavy recused himself and left the room stating he was a neighbor of the proposed development. Mr. Reynolds recused himself and left the room because he was unfamiliar with the project since he has not been a Planning Commission member since the project's conception. Ms. Kelly stated the plat appears to meet the technical requirements of the ordinances, and staff recommends approval pending submission of originally signed plats and bonding. Mr. Goodwin concurred. Mr. Redman stated the applicant met all the requirements and special conditions that were outlined at the onset of the proposed subdivision. Peter Kubic, applicant, was present to answer Planning Commissioner's questions. There was no public comment. Mr. Surkamp moved to approve the final plat with staff contingencies. Mr. Dailey seconded the motion, which passed unanimously. Mr. Reynolds and Mr. Dunleavy both returned to the meeting room.

Mr. Surkamp suggested postponing items 18, 19 and 21 until the August 28, 2007 meeting.

12. Chief Planner's report on office activities and questions. Mr. Redman stated Thomas Hall would be hired as the County's new Planner/Landscape Architect. Discussion regarding the subdivision variances, fees and public notice took place.

20. Proposed Amendment to the By-Laws of the Jefferson County Planning Commission. Mr. Redman provided a handout to the Planning Commission with the following changes to the By-Laws:

Article III, MEETINGS, HEARINGS AND INVESTIGATIONS

9. Conduct of Meetings and Hearings-A printed agenda shall be made available prior to the start of a meeting or hearing. This may be waived for meetings where there is only one agenda item to be discussed. At the outset of the meeting, pending minutes, requests for continuances and any pending motions shall be addressed. The President shall then proceed to call agenda items in the order they appear on the printed agenda. The President may deviate from the printed order on the agenda if, in the President's opinion, circumstances warrant. Cases shall be heard ***specifically as may be scheduled on the agenda*** in accordance with Article 3, Section 6, above. After the conclusion of testimony, answers provided to technical and procedural questions directed toward staff shall not reopen the hearing.

11. Request for Staff Analysis- Upon a majority vote, the Commission may direct staff to compile a written technical analysis of a proposal submitted for review. Such technical analysis shall include a description of the proposal, analysis of conformity with applicable ordinances, and a recommendation of action. ***Staff analysis shall be provided four days in advance of the Commission meeting for which deliberation of the proposal has been scheduled. Any staff recommendation for or against a proposal for which the Commission requested analysis shall be non-binding, and the decision of the Commission shall provide the final determination concerning the disposition of the proposal.***

14. Zoning and Subdivision Rewrites. Mr. Redman stated his chart was roughly 3 weeks behind schedule.

13. Streamlining commercial permitting and approval process. Mr. Redman stated he did not see a problem with the way this was done.

15. Subdivision Variances. After some discussion Mr. Reynolds moved to request staff to post the property, to send notification of the variance to adjacent property owners and to implement a \$100 fee per variance request. Mr. Surkamp seconded the motion, which carried unanimously. Mr. Sidor stated he would bring this up before the County Commission at the next available meeting, which would be Thursday, August 23, 2007.

16. Community Impact Statement Review Policy. Nothing noted.

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17. Public Comment Period at PC meetings. Mr. Sidor suggested a topic for discussion for a later time would be to begin having a public comment session at 6:30 on regularly scheduled Planning Commission meetings in order to discuss the rewrite of the Ordinances. This item is to be continued at the August 28, 2007 meeting.

18. Mr. Surkamp did bring up this item and mentioned that "health, safety and welfare" should not be used by the Planning Commission because they do not have a set of standards for this. Mr. Casimiro spoke on this subject stating that the Planning Commission has no clear definition of these terms and therefore should not use them so liberally.

20. Mr. Reynolds moved to amend the By-Laws per Mr. Redman's proposed changes. Ms. Deming seconded the motion, which carried unanimously.

Ms. Deming asked about the Affordable Housing Committee and what progress they have been making. Mr. Redman stated he'd met with members of this committee and knows they are actively pursuing various avenues of affordable housing.

Mr. Surkamp moved to adjourn the meeting. Ms. Deming seconded the motion, which carried unanimously.

The meeting adjourned at 10:58 p.m. on August 14, 2007. A detailed transcript of this meeting can be found on CD # __ & __. These minutes were prepared by Jennilee Hartman.