

DRAFT MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
AUGUST 28, 2007

The Jefferson County Planning Commission met on Tuesday, August 28, 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:

Sherry Kelly, Deputy Director of Planning and of Zoning
Roger Goodwin, Director of Engineering
Damien Davis, County Engineer
James Casimiro, Assistant Prosecuting Attorney
Jennilee Hartman, Clerical Support.

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

1. Minutes.

Mr. Baldau moved to approve the minutes of the August 14, 2007 meeting with the following changes:

- 1) Page 1, last paragraph, second sentence; add the phrase, "*and has hired one of their daughters as a babysitter*" at the end of the sentence.
- 2) Page 4, fifth paragraph, tenth sentence; add the word, "unanimously" and remove the phrase, "*6 for a 2 recusals (Mr. Reynolds and Mr. Dunleavy).*"

Mr. Dunleavy seconded the motion. The motion passed unanimously.

2. Postponements. None.

3. Community Impact Statement (CIS) for SPARC Training Campus Subdivision. Ms. Kelly recommended approval of the CIS. Mr. Goodwin & Associates was present to answer Planning Commissioner's questions and also presented exhibits (see PC File #07-14). Ms. Deming stated she had not received a CIS for review and therefore recused herself and left the room. Information regarding storm water management, campus-like facility and lot dedication to the fire department were discussed. Barbara and Bill Scott were present and spoke to the Planning Commission regarding future occupants of the proposed lots, bus shuttles between the proposed campus and the racetrack, the estimated number of students on campus, dormitory rooms and the possibility of installing right-hand turn lanes. Mr. Sidor opened for public comment. Alisa Ellis provided a proposal to the Planning Commission regarding noise mitigation and possible studies. Ryan Sonders had questions regarding the proposed entrances to the facility. Michael Dick and Jane Peters with the Jefferson County Development Authority spoke in favor of the project. It was mentioned that in the covenants proposed for the facility that noise was to be kept at a

reasonable level and that any and all artillery noise was to be kept inside soundproof buildings. Mr. Baldau moved to approve the Community Impact Statement (CIS) for SPARC Training Campus Subdivision. Mr. Reynolds seconded the motion, which carried unanimously. Ms. Deming returned to the meeting room.

4. Continued from the August 14, 2007 Planning Commission meeting. 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 the following from her staff report:

“CONCLUSION: Staff has determined that a CIS is needed in order to establish a commercial use in a subdivision, especially where a single-family restriction has been established. The applicant is requesting a waiver of the CIS requirement due to the nature of operations of the school. A limited or full site plan will be needed to address parking requirements, highway entrance and health department permits updates, etc. It is staff’s recommendation to deny the variance request and require the CIS. However, if the PC should choose to grant the variance, Staff recommends three conditions: to require submission of a site plan within 60 days, otherwise an automatic violation will be declared; updated health department and highway entrance permits to address the change in use from a single-family residence to a school; restriction of the number of students to no more than 30; adequate parking as determined by staff for employees and parents dropping off students.”

Mr. Goodwin read a lengthy report (see PC file), which concluded follows:

“In the case of the Shenandoah School, it appears that a limited site plan may be applicable. The limited site plan shall include but is not limited to upgrading the access drive and parking to county standards, providing storm water management for the additional impervious area, providing handicapped accessibility, and compliance with the requirements of the Zoning Ordinance.”

Mr. Surkamp confirmed that Ms. Kelly meant 30 children per daily enrollment since the school was in operation during various times of the day. Mr. and Ms. Snyder were present to represent themselves. Discussion regarding health department approval, age of the existing residence, use of the existing residence and any applicable state licensing approval having been obtained.

The CD was changed at 8:16 p.m. and the meeting resumed at 8:19 p.m.

Mr. Baldau asked if the Snyder’s would be agreeable to only having 30 children per daily enrollment. Mr. Snyder stated there were state laws that mandated the size of the house (per square foot) to the number of children and that they would limit the size of the school to 30 children daily enrollment. Mr. Snyder stated he had spoken with an engineering firm that could prepare a limited site plan per the County’s requirements.

Mr. Snyder also stated there had been no construction on the property. Ms. Deming provided a handout to the Planning Commissioner's that was to represent a timeline of events from the Snyder's file (see PC file). Ms. Deming pointed out that the Snyder's purchased the property after being told the requirements and then proceeded to operate without County approval. Caroline Hoover, daughter of Ms. Snyder and teacher at the Shenandoah School, spoke regarding the variance stating the county did not have many other facilities such as the Shenandoah School and that they were in great demand.

Mr. Surkamp moved to grant the variance to waive the CIS contingent upon the following, 1) Snyder's submitting a limited site plan per the engineer's requirements, 2) submission with 60 days, 3) to restrict the school to 30 daily-enrolled children 4) the applicant will provide adjacent property owners a letter notifying them of a public hearing prior to staff approval of the limited site plan, and 5) posting of the property. Mr. Reynolds seconded the motion. Mr. Baldau stated he would accept the motion if Mr. Surkamp would drop the public notice portion of the motion. Mr. Surkamp withdrew the 4th and 5th condition. Mr. Reynolds withdrew his second on the 4th and 5th condition. Ms. Deming and Mr. Sidor stated public notice was important. The vote died 4 for and 4 opposed (Mr. Sidor, Ms. Deming, Mr. Dailey and Mr. Dunleavy).

Mr. Surkamp then moved to grant the variance to waive the CIS contingent upon the previous conditions, including conditions 4 and 5, but requiring that staff provide the notice instead of the applicant. Ms. May seconded the motion. Ms. Deming asked the difference between a limited site plan versus a full site plan. Mr. Goodwin answered her question stating health department approval would be required for a full site plan but not a limited site plan. Ms. Deming and Mr. Dailey found that health department approval should be required. The vote died 4 for and 4 opposed (Mr. Sidor, Ms. Deming, Mr. Dailey and Mr. Dunleavy).

Mark Dyck with W.H. Gordon & Associates offered to provide a limited site plan within 60 days and that they would send certified letters to property owners within 200 feet of the property notifying them of a public hearing prior to staff approval of the limited site plan and that they would post the property. Mr. Surkamp moved to grant the variance to waive the CIS contingent upon staff recommendations and Mr. Dyck's suggestions. Mr. Baldau seconded the motion, which died 4 for and 4 opposed (Mr. Sidor, Ms. Deming, Mr. Dailey and Mr. Dunleavy).

After further discussion, Ms. Deming moved to approve the variance to waive the CIS contingent upon a full blown site plan being submitted within 60 days, to restrict the school to 30 daily-enrolled children and for staff to send letters to property owners within 200 feet of the property notifying them of a public hearing prior to staff approval of the site plan and that staff would also post the property. Mr. Baldau seconded the motion, which passed 6 for and 2 opposed (Mr. Surkamp and Mr. Dunleavy).

Mr. Reynolds suggested that staff sit down with the Snyders and their consultant and discuss the requirements necessary and the have such discussion put into the form of a report for the Planning Commission.

5. Continued from the August 14, 2007 Planning Commission meeting. Request 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 granting all three requested variances. Mr. Goodwin recommended granting it conditioned upon upgrading the gravel roadway section to an 18' gravel width to serve the proposed lots and compliance with all final plat requirements. At the August 14, 2007 Planning Commission meeting a motion was made to require staff to notify adjacent property owners of this meeting regarding Ms. Vasuvat's variance request; said letters were provided. Mr. Sidor opened for public comment. Ann Miller, property owner of Lot 1 in the existing Nuannit Vasuvat Subdivision, spoke regarding the variance. Ms. Miller voiced concerns regarding the maintenance of the road and what types of living units may be allowed on the proposed lots. Richard Jarvis, property owner of Lot 2 in the existing Nuannit Vasuvat Subdivision, spoke regarding the variance. Mr. Jarvis also spoke regarding the variance questioning the maintenance of the road. Mr. Jarvis submitted pictures of a sinkhole he has noticed on one of the proposed lots behind his lot (see PC file). Ms. Deming mentioned that a \$100 per year road maintenance fee would not cover both snow removal and new gravel. Ms. Vasuvat explained that she had plowed the road and also installed new gravel at the entrance of the subdivision with the cost exceeding the yearly fee. Mr. Baldau moved to approve the variance of advancement to final plat stage and for the existence of the cottage industry but to deny the variance from upgrading the road. Mr. Surkamp seconded the motion. Mr. Goodwin stated such a motion would not be effective since staff would not be able to approve the road design without going through the preliminary plat stage. Mr. Baldau and Mr. Surkamp withdrew the motion. Mr. Baldau moved to approve the cottage industry. Ms. Deming seconded the motion, which carried unanimously. Ms. Deming moved to deny the variance from upgrading the road and to deny advancement to the final plat stage because of the road maintenance issues and the sinkhole. Mr. Dailey seconded the motion, which carried unanimously.

6. Request by Robert L. Fox, Sr. and Shirley M. Fox for a variance to advance to the final plat stage. Mr. Sidor recused himself and left the room stating his wife was a friend of Ms. Fox. Mr. Reynolds took chair. Ms. Kelly recommended approval of the variance. Mr. Goodwin stated this was a planning issue and therefore deferred to the County Planner. Ms. Fox was present to answer Planning Commissioner's questions. Mr. Reynolds opened for public comment. Ms. Deming moved to deny the variance because the Planning Commission did not want to approve variances based on financial hardships. Mr. Dunleavy seconded the motion, which failed 3 for and 4 opposed (Mr. Baldau, Mr. Surkamp, Mr. Reynolds and Mr. Dailey). Mr. Baldau moved to approve the variance. Mr. Surkamp seconded the motion, which passed 4 for and 3 opposed (Mr. Dunleavy, Ms. May and Ms. Deming). Mr. Sidor returned to the room and took chair.

7. Request by Annette G. van Hilst/Dewberry on behalf of Dr. James Gibson and Barbara Gibson for a variance from Section 8.2 a. Roads and Rights of Way of the Subdivision Ordinance, to permit the .95 acre residue parcel to retain the two existing entrances off of

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Allstadt's Hill Road, instead of requiring access through the new subdivision. Ms. Kelly recommended approval of the variance. Mr. Goodwin recommended that the developer obtain highway entrance permits from the West Virginia Division of Highways for the existing driveways, as part of the subdivision preliminary plat process. Annette van Hilst with Dewberry was present to answer Planning Commissioner's questions.

The CD was changed at 9:59 and the meeting resumed at 10:01 p.m.

Mr. Baldau asked what the ramifications would be if the variance were denied. Ms. Kelly stated the existing structure would have to be accessed through the proposed subdivision roads. Ms. Van Hilst stated the reason for the request was to maintain the historical character of the existing structure. Mr. Sidor opened for public comment. There was none. Mr. Surkamp moved to approve the variance. Mr. Dailey seconded the motion, which passed 6 for and 2 opposed (Mr. Dunleavy and Mr. Baldau).

The CD was shown to be in error and a new one was started approximately at 10:15 p.m.

8. Site Plan and Issuance of Improvement Location Permit for Meadows Nursery. Ms. Kelly stated the site plan meets the technical requirements of the ordinance and therefore recommended approval of the site plan and issuance of the improvement location permit. Mr. Goodwin concurred. Mark Dyck and Jason Gearhart with W.H. Gordon & Associates were present to answer Planning Commissioner's questions. Mr. Sidor opened for public comment. There was none. Mr. Surkamp moved to approve the site plan and issuance for the improvement location permit. Ms. May seconded the motion, which carried unanimously.

9. Chief Planner's report on office activities and questions. Ms. Kelly mentioned that Mr. Thomas Hall would start work the following Tuesday.

10. Zoning and Subdivision Rewrites (Requested by John Sidor). None.

11. Subdivision Variances. Mr. Sidor stated the County Commission would be discussing this topic at their September 6, 2007 meeting.

12. Community Impact Statement Review Policy. This item is to be removed from the agenda.

13. Public Comment Period at PC meetings. Discussion regarding the rewrite and public comment periods took place.

14. Definition of School. (Requested by Jim Surkamp). This item is to be removed from the agenda.

15. Reports. None.

16. Reports from Legal Counsel. None.

17. Actionable Correspondence. None.

18. Non-Actionable Correspondence. None.

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Mr. Dunleavy moved to adjourn the meeting at 10:30 p.m. Ms. Deming seconded the motion, which carried unanimously.

The meeting adjourned at 10:30 p.m. on August 28, 2007. A detailed transcript of this meeting can be found on CD # __ & __. These minutes were prepared by Jennilee Hartman.