

DRAFT MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
SEPTEMBER 25, 2007

The Jefferson County Planning Commission met on Tuesday, September 25, 2007 with John Sidor, President, as Chair. Robert Reynolds, Arnie Dailey, Lynne Deming, Jim Surkamp, Edward Dunleavy, Todd Baldau, Ellen May and Tom Kane were present.

Staff members present were:

Tony Redman, Director of Planning
Sherry Kelly, Deputy Director of Planning
Damien Davis, County Engineer
James Casimiro, Assistant Prosecuting Attorney
Jennilee Hartman, Clerical Support

Ms. May was absent with notification.

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

1. Minutes.

Mr. Reynolds moved to approve the minutes from the September 11, 2007 Planning Commission meeting. Mr. Dailey seconded the motion. Ms. Deming suggested a friendly amendment, to change the time the meeting ended from 8:45 p.m. to 7:45 p.m. Mr. Reynolds and Mr. Dailey concurred with the change and the motion passed unanimously.

2. Postponements. None.

3. Final Plat Public Hearing for the Bane Farm LLC Minor Subdivision, Lot 1 & 2-Residue. Ms. Kelly stated the plat meets the technical requirements of the Ordinance and therefore recommended approval. Mr. Davis stated the final plat appeared to meet the technical requirements of the regulations and recommended approval. When asked if anyone was present to represent the final plat Glendwell Lloyd's sister stated she would. There was no public comment. Mr. Reynolds moved to approve the final plat. Mr. Kane seconded the motion. Ms. Deming stated she had a concern with Engineering using the word "appears" in their report. Ms. Kelly and Mr. Davis both responded by saying the office has used this term in the past. Mr. Redman stated this word allows staff a bit of leeway in the event that a minor detail is overlooked during review. The motion to approve the final plat passed unanimously. Ms. Deming moved to remove the word 'appears' from Mr. Davis' report. Mr. Dailey seconded the motion. Mr. Kane mentioned he believed this was a term of art and that it gave staff latitude. The question was put aside until legal counsel could be consulted.

4. Request by Steeler Development, LLC (Bardane Community Center) for a variance to allow usage of existing vegetation for screening purposes (Subdivision Ordinance, Article 11, Section 11.2.e.1). Ms. Kelly stated a variance might also have to go before the Board of Zoning Appeals because landscaping is also covered in the Zoning Ordinance. Ms. Kelly mentioned the fact that

the property is currently in violation of the Improvement Location Permit Ordinance. Ms. Kelly asked that the site be inventoried for the specific types of trees found on site. Ms. Kelly stated many of the trees are scrub and are deciduous, which will not provide for adequate screening year-round. There are some trees that are worth saving due to their size and value. Ms. Kelly recommended approving the variance only to allow those trees to be saved while the scrub trees, brush and weeds are removed. Mr. Davis did provide comments though no recommendation because this was a Planning issue and therefore deferred to the County Planner. Randy Litwin with Lavelle and Associates was present to answer Planning Commissioner's questions. Discussion took place regarding the types of trees currently onsite, a possible screening plan and possibly postponing the item until the next Planning Commission meeting to allow time for staff to meet with the applicant to come up with an approved landscaping plan. Mr. Dunleavy moved to deny the request. Mr. Dailey seconded the motion, which carried unanimously. There was no public comment. The motion passed 8 for and 1 opposed (Mr. Surkamp).

5. Request by Greenbrier Investments, LLC for a variance to allow the use and acceptance of alternative wastewater treatment systems or approvals of such systems allowable by West Virginia Department of Environmental Protection, West Virginia Department of Health and Human Resources and Jefferson County Health Department, in addition to a standard septic percolation test approved by Jefferson County Health Department. Ms. Kelly recommended approval of the variance stating that an alternative wastewater treatment system is a viable alternative when traditional septic systems cannot be utilized. Mr. Davis recommended approval with the condition that the applicant provide an approval of the subdivision by the Health Department and/or Health Department permit for the proposed "alternative" wastewater treatment system before the final plat can be recorded. Matthew Powell with Greenbrier Investments/Potomac Professionals was present to answer Planning Commissioner's questions. Mr. Powell opened with a brief history of how the property was acquired. Mr. Powell explained that our Ordinance did not allow for alternative wastewater treatment systems possibly due to the fact that none were available at that time. Although both the West Virginia State Health Department as well as the West Virginia Department of Environmental Protection recommend other forms of wastewater treatment the local Health Department does not. Bob Denton with Potomac explained in further detail the workings of wasteload allocation facilities. The Planning Commission had various questions regarding discharge, neighboring wells, testing of the samples from the discharge areas as well as the product manufacturer. There was no public comment.

Mr. Reynolds moved to approve the variance stating he was not giving an approval of the proposed subdivision merely to allow the applicant to proceed with an alternative system. After discussion Mr. Reynolds motion was withdrawn. Mr. Dunleavy moved to approve the variance for an alternative system with the condition that the applicant provides an approval of the subdivision by the Health Department and/or West Virginia Health Department permit for the proposed "alternative" wastewater treatment system before ownership is transferred or a building permit is issued and that a note be put on the final plat to that effect. Mr. Kane seconded the motion. Mr. Baldaou asked if a note on the plat would be helpful. Mr. Powell explained that these alternative systems are approved at the building permit stage not at the creation of the lot.

DRAFT MINUTES
JEFFERSONCOUNTY PLANNING COMMISSION
SEPTEMBER 25, 2007
PAGE 3 of 3

Mr. Powell stated he would not be able to provide a Health Department approval prior to the recordation of the final plat. Mr. Dunleavy withdrew his motion. Mr. Kane withdrew his second as a result. Considering the high cost of the alternative system the Planning Commission did not want the potential purchaser of a lot to be unaware of this expense. Mr. Dunleavy moved to approve the variance for an alternative system with the condition that the applicant provides an approval of the subdivision by the health department and/or Health Department permit for the proposed “alternative” wastewater treatment system before ownership is transferred or a building permit is issued and that a note be put on the final plat to that effect. Mr. Kane seconded the motion, which carried unanimously.

The CD was changed at 8:27 p.m. and the meeting resumed at 8:30 p.m.

6. Request by Greenbrier Investments, LLC for a variance to advance to final plat stage. If the variance for the alternative wastewater treatment systems is approved it will throw this project out of minor subdivision eligibility and the developer feels that given the simplicity and small scale of the subdivision request it should not require processing as conventional subdivision, which requires a Community Impact Statement and Preliminary Plat. Ms. Kelly stated since the previous variance was approved this project could no longer be considered a minor subdivision and since variances like this have been approved in the past she would recommend approval. Mr. Davis stated this was a Planning issue and therefore deferred to the County Planner. Matthew Powell with Greenbrier Investments was present to answer Planning Commissioner’s questions. There was no public comment. Mr. Reynolds moved to approve the variance. Mr. Dunleavy seconded the motion, which carried unanimously.

7. Planner’s report on office activities and questions. Mr. Redman stated he would be working with Todd Fagan on digital filing. Mr. Fagan is currently working on digital plat and site plan submission requirements.

8. Zoning and Subdivision Rewrites (Requested by John Sidor). Mr. Redman stated he had met with the Charles Town City Planner to discuss urban growth parameters. Mr. Surkamp asked who would have jurisdiction or if both the respective City and the County would be involved in review processes. Mr. Redman stated there would be a clear set of rules that would be established. Ms. May cautioned the outpour of comments that will come from this undertaking.

9. Subdivision Variances. The Planning Commission chose not to adopt the policy merely to allow staff to act on it and to provide a legal notice in the local newspaper. The ‘deadline’ for subdivision variances was discussed at a later time in the meeting. As a result of the discussion, Mr. Baldau moved to change the submission policy from two weeks to three weeks. Ms. May seconded the motion. Mr. Dunleavy had concerns regarding the way the draft policy was written (draft policy attached). Mr. Dunleavy submitted his written comments/suggestions to staff (comments attached). Mr. Kane asked Mr. Baldau’s motion be reworded to empower staff to establish a policy that meets the requirements for public notice. This suggested change was approved unanimously.

DRAFT MINUTES
JEFFERSONCOUNTY PLANNING COMMISSION
SEPTEMBER 25, 2007
PAGE 4 of 4

10. Public Comment Period at PC Meetings. No discussion. Keep item on the agenda for future discussion.

11. Reports. None.

12. Reports from Legal Counsel. None

13. Legal Advice to PC. Discussion regarding the word 'appears' was mentioned and Mr. Casimiro stated he didn't think using the term was detrimental. After some brief discussion it was decided the word would no longer be used in staff reports.

14. Actionable Correspondence.

15. Non-Actionable Correspondence.

Mr. Reynolds moved to adjourn the meeting at 8:55 p.m. Ms. May seconded the motion, which carried unanimously.

The meeting adjourned at 8:55 p.m. on September 25, 2007. A detailed transcript of this meeting can be found on CD # __ & __. These minutes were prepared by Jennilee Hartman.