

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
NOVEMEER 27, 2007

The Jefferson County Planning Commission met on Tuesday, November 27, 2007 with John Sidor as President presiding. Robert Reynolds, Vice President, Lynne Deming, Secretary, Ellen May, Jim Surkamp, Arnold Dailey and Ed Dunleavy were present. Staff members present were Tony Redman, Director of Planning, Sherry Kelly, Deputy Director of Planning, Damien Davis, County Engineer, and Jennilee Hartman, Clerical Support.

Tom Kane and Todd Baldau were absent with notification.

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

1. Approval of Minutes. Ms. May stated she was absent with notification at the November 13, 2007 Planning Commission meeting. Mr. Reynolds moved to approve the minutes of the November 13, 2007 Planning Commission meeting with Ms. May's suggested change. Mr. Dunleavy seconded the motion, which carried unanimously.
2. Requests for postponements. None.
3. Postponed from the November 13, 2007 Planning Commission meeting. Final Plat Public Hearing for the Cambridge Subdivision, Section 4, Phase 3, Lot D124. Ms. Kelly stated there were three outstanding issues as of November 21, 2007, the date which she had written her Staff Report. On November 26, 2007, at the close of the business day, the applicant had resubmitted the final plat addressing the outstanding comments. Ms. Kelly stated she recommended approval of the final plat. Mr. Davis concurred with Ms. Kelly. Gary Frey with Huntley, Nyce and Associates was present to answer Planning Commissioner's questions. Mr. Sidor opened the public hearing. There was no public comment. The public hearing was closed. Mr. Reynolds moved to approve the final plat with staff contingencies. Mr. Dailey seconded the motion, which carried unanimously.
4. Postponed from the November 13, 2007 Planning Commission meeting. Request by Nuannit Vasuvat for a variance from the requirement for a Community Impact Statement for a major subdivision and a variance from storm water management for Preliminary Plat approval. Ms. Kelly briefly reviewed the history of the applicant and stated that due to the size of the proposal she recommends granting the variance from the requirement for a Community Impact Statement. Ms. Kelly deferred to the Engineer regarding the storm water management variance. Mr. Davis recommended denial of the request due to the fact that neighbors had voiced concerns at a previous Planning Commission meeting. Kristin Ringstaff from W. H. Gordon Associates addressed the Planning Commission stating the applicant would like to drop the storm water variance from the agenda. The Planning Commission accepted Ms. Vasuvat's withdrawal of the storm water management variance. Mr. Sidor opened the public hearing. There was no public comment. The public hearing was closed. Mr. Reynolds moved to grant the variance from the Community Impact Statement requirements. Ms. May seconded the motion, which carried unanimously.

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5. Final Plat Public Hearing for the Burr Industrial Park Commercial Subdivision. Mr. Reynolds questioned why the agenda states the subdivision has 45 lots but the final plat states 44 lots. It was decided the number of lots on the agenda was incorrect. Ms. Kelly stated the final plat meets the technical requirements of the ordinances and therefore recommends approval. Mr. Davis also stated the final plat meets the technical requirements of the ordinance and also recommends approval. Mike Shepp with Dewberry was present to answer Planning Commissioner's questions. Mr. Sidor opened the public hearing. There was no public comment. The public hearing was closed. Ms. Deming moved to approve the final plat with staff contingencies. Mr. Dunleavy seconded the motion, which carried unanimously.
6. Final Plat Public Hearing for the Elliot Mason Subdivision, Lot 1, 2 & 3-Residue. The applicant had requested the plat be withdrawn and therefore Mr. Sidor moved on to the next item on the agenda.
7. Final Plat Public Hearing for the Avalon Hills Subdivision. Ms. Kelly stated the final plat meets the technical requirements of the ordinances and therefore recommends approval. Mr. Davis also stated the final plat meets the technical requirements of the ordinance and also recommends approval. Mr. Reynolds had a question regarding the usage of the word "intends" in Note 7 and recommended 'shall' as a substitute. Mike Shepp with Dewberry was present to answer Planning Commissioner's questions. Mr. Reynolds also questioned Note 9 pertaining to Model Homes and suggested removing the word "and" and changing the sentence into two sentences. Mr. Sidor questions Note 15 regarding use of "the Planning and Zoning Commission" realizing it may simply be a note that has also been used. Mr. Sidor opened the public hearing. There was no public comment. The public hearing was closed. Mr. Reynolds moved to approve the final plat with the suggested changes to Notes 7 and 9 and with staff contingencies. Ms. Deming seconded the motion, which carried unanimously.
8. Community Impact Statement (CIS) Public Hearing for the Allemont Subdivision. Ms. Kelly stated all staff issues have been addressed and therefore recommended acceptance of the CIS. Mr. Davis stated the developer has provided the information required in the CIS and therefore recommends acceptance. Ms. May wanted to bring to the Planning Commission's attention that Bloomery Road has a history of flooding. Mr. Dunleavy had questions regarding possible sinkholes on the property. Mr. Sidor had questions regarding the steep slopes and the possibility of the roads washing away during any flooding. Annette van Hilst with Dewberry stated they had flown the property in search of sinkholes and any sinkholes on the property have been properly delineated. The Planning Commission still had concerns about Bloomery Road flooding. Mike Shepp with Dewberry mentioned the possibility of using a helicopter evacuation method as had been proposed in the Rattlesnake Run subdivision. Mr. Shepp also noted that the applicant had gone through the expense of having approved septic systems for every lot. To answer the Planning Commissioner's concerns about hillside preservation Mr. Shepp described a covenant restriction, which would preserve the residue lot. Mr. Sidor opened the public hearing. There was no public comment. The

public hearing was closed. Mr. Reynolds moved to approve the Community Impact Statement contingent upon the applicant looking into the helicopter emergency evacuation plan to be utilized. Mr. Surkamp seconded the motion, which carried unanimously.

9. Community Impact Statement (CIS) Public Hearing for the for the Shepherdstowne Estates Subdivision. Ms. Kelly stated all staff issues have been addressed and therefore recommended acceptance of the CIS. Mr. Davis stated the developer has provided the information required in the CIS and therefore recommends acceptance. Mr. Surkamp stated the family lots indicated on the Concept Plan exceed density permitted. Staff stated family lots do not count towards density. Mr. Redman suggested removing the family lots from the concept plan. Ms. Annette van Hilst stated the family lots were designated on the concept plan for informational purposes only. Mr. Sidor opened the public hearing. There was no public comment. The public hearing was closed. Mr. Surkamp moved to approve the 10 lot subdivision without including the family lots. Mr. Reynolds seconded the motion, which carried unanimously.

Mr. Sidor called for a break at 7:58 p.m. in order to change the CD. The meeting resumes at 8:03 pm.

10. Request by Attorney Michael J. Cassell on behalf of Philip and Gaye Snyder (Shenandoah School) for a variance to allow a limited site plan. Ms. Kelly stated she recommended denial of the request because at the August 28, 2007 Planning Commission meeting the Planning Commission required the applicant to submit a site plan within 60 days of their decision. Ms. Kelly also stated the applicant had been made aware of the site plan requirements over two years ago and that the applicant had been given several extensions from the declaration of violation. Ms. Kelly stated the request is contrary to public interest in that the school had been in operation without the proper permits, including the site plan and the ILP as well as building permits for any required interior work that could negatively affect the surrounding properties as well as the health, safety and welfare of the children at the facility. Mr. Redman made mention of the fact that since the deadline the Planning Commission had imposed had not been met the office filed an injunction in Court. Mr. Davis also recommended denial stating the option of a limited site plan was discussed at the August 28, 2007 Planning Commission and that the Planning Commissioner's choose to enforce the full site plan requirements. In addition, Mr. Davis mentioned that Roger Goodwin, Building Code Official, had previously pointed out that with regard to the structure, the applicant is required to comply with the Jefferson County Building Code Enforcement Ordinance and the International Building Code, due to a change in the use of the property. As of November 21, 2007 the applicant has not submitted an application for a building permit for the school use.

Michael Cassell was present to make a presentation. Philip Snyder also addressed the Planning Commission regarding the cost of a site plan versus a limited site plan. In any event, either choice would impose too many requirements due to the unchanged nature of the house or property. Mr. Cassell suggested some form of a modified site plan, one in which

the Staff and the applicant could sit down and discuss. The Planning Commission asked if such a provision were in the ordinances. Staff stated there were none.

Mr. Sidor opened the public hearing. The following members of the public spoke: Cara McCray, Matt Drabzyk, Susan Richel, Jennifer Crank, Caley Stalubs, Daniel Maramuio, Elizabeth Absher, Erika Patthoff, Michael Dudash, Henry Longerbeam, Pete Petney and Vallery Dudash all spoke highly of the education their children had received while attending the Shenandoah School. Each asked that the school be allowed to remain open. Robert Pittman, a neighbor of the Snyders, stated he did not have a problem with the school only questioned the sewer system and asked that the school not be allowed to grow. Mr. Snyder stated the State Fire Marshal's office restricts the number of students permitted in the building at any one time, which is about 24 students. Ms. Deming asked if any correspondence from the State Fire Marshal's office had been submitted to the Planning office. Mr. Snyder stated it had not been. Mr. Surkamp stated that as much as he realizes such a school is needed, he is thoroughly disappointed in the fact that nothing has been submitted to the Planning office despite numerous extensions. Mr. Sidor closed the public hearing. Ms. Deming did express to the members of the public that the Planning Commission is not questioning the quality of care at the school just that there are other issues at hand. Mr. Redman stated he had met with Kristin Ringstaff with W.H. Gordon Associates about the Snyder's project. Mr. Dunleavy stated he had a problem granting a blanket variance because new owners may not be as "good" as the Snyder's. Mr. Snyder confirmed that he did not want to process even a limited site plan. Mr. Reynolds moved to deny the variance. Mr. Dailey seconded the motion, which passed 5 for and 2 opposed (Mr. Surkamp and Mr. Sidor).

11. Director's Report on office activities and questions. Mr. Redman provided the Planning Commission with the handouts he had intended on using at the upcoming public hearing on the proposed zoning ordinance and map. Mr. Redman thanked the Planning Commission for their feedback on the PowerPoint presentation.

Mr. Redman made mention to the Planning Commission that the newly adopted policy of staff sending letters to adjacent property owners of subdivision applicants has become an issue within the office. The task had proven to be more cumbersome than anticipated and that staff is asking for some relief. The Planning Commission stated that if a change were made it would have to be brought before the County Commission again for their approval. It was decided to continue to have the letters sent out for an additional 6 months to try out the new policy.

The Planning Commission asked Mr. Redman to give a population projection in his proposed build out handout. Mr. Redman stated the cons in doing so, referring to the fact that the economy is an uncontrollable factor in determining total population in a given timeframe.

Mr. Sidor called for a break at 9:23 p.m. in order to change the CD. The meeting resumed at 9:28 pm.

Mr. Redman also mentioned that a member of the Planning Commission had expressed concern over the multiple revisions to the agenda that they received. It was decided that the agenda would be sent to the Planning Commission with their regular packets and on the Friday before their next meeting.

12. Planning Commission Exchange. Ms. May stated that as PSD liaison she had met with Joe Hankins to discuss what role the Planning Commission could have in keeping the PSD informed of upcoming projects. Mr. Redman stated staff sends out Staff Review notices of all upcoming projects.

Fred Blackmer was recognized by the Planning Commission. Mr. Blackmer provided the Planning Commission a copy of the Berkeley County Planning Commission's agenda, pointing out how much information was provided limiting the need for excessive public comment.

At this time discussion between Ms. Kelly and the Planning Commission occurred. At 9:55 Ms. Hartman retreated from the meeting returning at 10:00 p.m.

13. & 14. These items were discussed simultaneously. Discussion took place regarding, Certificate of Completeness, Concept Plans, timeframes with James Casimiro, Assistant Prosecuting Attorney, revisions to Article 5 in conformance with 8A and public hearing needs. It was stated that the Draft Subdivision Ordinance public hearings would be held in January.

14. Discussed under Item #13.

15. Reports from Legal Counsel. Mr. Casimiro stated he did not have anything to address with the Planning Commission. Mr. Casimiro stated Mr. Mason Carter, Ordinance Compliance Officer, is currently dealing with the Snyder's court case. Mr. Dunleavy asked if the Planning Commission had to address variances that had been previously denied but we're back before them again with minor changes to there content. Mr. Casimiro stated they would. It was also asked by the Planning Commission if the term "previously granted" needed to be in the staff reports. Mr. Casimiro stated it would be good for the Planning Commission to have some sort of consistency in their decisions but doing so does not set precedence since each variance is decided on a case by case scenario. It was then asked that Staff provide more detailed staff reports stating specific cases if similar variances had been granted in the past.

16. Legal Advice to PC. Discussed under Item # 15.

17. Actionable Correspondence. None.

18. Non-actionable Correspondence. None.

At this time the Planning Commission recognized Maurine Moore. Ms. Moore stated she wanted Staff to show more respect when the public spoke, making mention of Ms. Kelly speaking during public comment and Mr. Redman resting his head on the table during public comment. Mr. Redman apologized for any disrespect he might have shown to the public stating he meant no disrespect. Ms. Moore thanked Ms. Deming for calling this to Staff's attention. Ms. Moore thanked the Planning Commission for allowing her to speak.

Mr. Dunleavy moved to adjourn the meeting at 10:08 p.m. on November 27, 2007. Mr. Surkamp seconded the motion, which carried unanimously. A detailed transcript of this meeting may be found on CD # __ . These minutes were prepared by Jennilee Hartman.