

MINUTES
JEFFERSON COUNTY PLANNING & ZONING COMMISSION
JANUARY 24, 2006

The Jefferson County Planning & Zoning Commission met on Tuesday, January 24, 2006, with Bill Lewandowski, President, presiding. Other Planning Commission members present were: John Sims, Arnie Dailey, Todd Baldau, Russell Roper, John Sidor, Paul Burke and Tom Kane. Staff members present were Stephanie Grove, Brandy Sims, Sherry Kelly, Kim Shrader and Sherry Cole.

Greg Corliss was absent with notification.

Mr. Lewandowski called the meeting to order as a whole at 6:30 p.m. Stephanie Grove and Brandy Sims, Assistant Prosecuting Attorneys were present on behalf of the Executive Session. Rusty Morgan and Dale Manuel, County Commissioners were present. Mr. Sidor motioned to go into Executive Session at 6:34 p.m. Mr. Dailey seconded the motion. Mr. Burke asked the attorneys which section of the open meetings law is this under. Ms. Sims referred him to Section 9. Mr. Kane arrived at 6:36 p.m. Mr. Lewandowski called to a vote. The motion carried unanimously. For part of the Executive Session Mr. Burke left the meeting room. Sherry Cole left the meeting room.

Stephanie Grove, Brandy Sims, Rusty Morgan and Dale Manuel were not present for the Regular Meeting. Sherry Cole returned to the meeting room for the rest of the meeting. Mr. Kane motioned to go out of Executive Session. Mr. Dailey seconded the motion which carried unanimously.

Planning Commission members, Mr. Sims and Mr. Roper arrived late for the executive session. Staff members, Sherry Kelly and Kim Shrader arrived at 7:00 p.m. for the regular meeting.

Mr. Lewandowski called the regular meeting to order at 7:05 p.m. Mr. Baldau stated that the minutes should be amended as follows: (1) page one in the third paragraph, the third sentence, change Chair to President; (2) page one, paragraph three, the last sentence change Chair person to President; and (3) page four in the first paragraph, the last sentence change Old Standard Quarry to Old Standard Plant. Mr. Burke stated that the minutes should be corrected as follows: (1) on page two, the fifth paragraph, the fifth sentence change council to counsel. Mr. Sidor motioned to amend and approve the minutes of the January 10, 2006 meeting as stated. Mr. Roper seconded the motion which carried unanimously.

1. Declaration of violation for Mr. Dennis Mazaris of the Jefferson County Improvement Location Permit Ordinance for not processing a site plan for a paved parking on lot property designated as Parcel 25 on Tax Map 1 of the Charles Town District as found in Deed Book 1001 at Page 121. Mason Carter presented the violation. Randy Litwin with Lavelle & Associates made a presentation. Mr. Kane motioned to find Dennis Mazaris in violation. Mr. Dailey seconded the motion. Mr. Roper made an amendment to the motion to give Mr. Mazaris until the February 14, 2006 meeting to make arrangements to meet with staff to seek a resolution to this matter. Mr. Sidor seconded the amendment to the original motion which carried with a vote of 7 for and 1 opposed (Mr. Baldau). The main motion passed with a vote of 7 for and 1 opposed (Mr. Burke).

MINUTES - JEFFERSON COUNTY PLANNING & ZONING COMMISSION
JANUARY 24, 2006
PAGE TWO

2. Postponed from the November 8, 2005 and January 10, 2006 meetings. Request by James P. Campbell on behalf of the Sheridan Subdivision to reopen the subdivision file and extend the Community Impact Statement. Mr. Burke recused himself as he spoke in favor of this subdivision at the Community Impact Statement Public Hearing. Attorney James Campbell made a presentation. Mr. Lewandowski asked if any member of the public wished to comment. There was public comment from Vicki Faulkner and William Gregg. Mr. Campbell spoke again. Staff stated that she has no recommendation as this is a policy decision. Mr. Baldau motioned to deny the request. Mr. Sims seconded the motion which failed with a vote of 1 for (Mr. Baldau) and 7 opposed. Mr. Campbell stated that he would be happy to submit supplemental Community Impact Statement information regarding traffic for an April meeting. Mr. Baldau stated that he would like updated information regarding traffic and sewer. Mr. Kane motioned to reopen the Sheridan Subdivision file and extend the Community Impact Statement to the first meeting in April at which time the Planning & Zoning Commission will hear the updated Community Impact Statement data as necessary including updated information regarding traffic and sewer at the Final Plat Public Hearing. Mr. Roper seconded the motion which carried unanimously. Mr. Burke returned to the meeting room.

3. Final Plat Public Hearing for the Sheridan Subdivision, Phase II, Lots 2-25, 27-37, 79-93, 95-108, 110-131, 133-158 & 160-178 (#05-26). Mr. Burke recused himself as he spoke in favor of this subdivision at the Community Impact Statement Public Hearing. Mr. Kane motioned to postpone this item on the agenda until the first meeting in April, which is April 11, 2006. Mr. Sims seconded the motion which carried unanimously. Mr. Burke returned to the meeting room.

Mr. Lewandowski allowed a break at 8:18 p.m. Mr. Lewandowski reconvened the meeting at 8:25 p.m. Mr. Lewandowski called the meeting back to order.

4. Final Plat Public Hearing for the Cambridge Manufactured Home Development, Section 4, Phase 2, Lots 76-79, 100-101 & Residue (#05-44). Staff, Ms. Kelly, stated that staff, Kim Shrader, County Engineer and Roger Goodwin, Chief County Engineer conducted a site visit and plans reviewed and determined that two of the planning/zoning concerns raised by Mr. Burke's email need to be addressed. The two concerns are the covenants not containing language for the siding required in the development, and the buffer along the Bir property. County Engineer, Ms. Shrader stated that a bond can be established for the buffer along the Bir property. Gary Frye with Huntley, Nyce & Associates stated that he would like to save his time to speak at the end of the public hearing for rebuttal. Mr. Lewandowski opened the public hearing. There was no public comment. Dave Leas, Developer, spoke and answered questions regarding parks from Paul Burke. The public hearing was closed. Mr. Sims motioned to approve the Final Plat with staff contingencies and with signage according to the Jefferson County Regulations. Mr. Roper seconded the motion. Mr. Baldau thanked staff for the information and efforts in answering Mr. Burke's questions. Mr. Burke stated that regarding his email/handout that items #1, 5, 6, 8 and 10 still need to be addressed. Attorney Nathan Cochran, attorney for the applicant spoke. Mr. Burke made an amendment to the motion conditioned on (1) planting buffer along the Bir property before recordation; (2) bonding to include solving drainage problem in Avalon Terrace; (3) bonding to include enough additional park acreage to meet the requirement of the ordinance, if needed and we will delegate this to the staff; (4) conditioned on copyright releases to allow all documents submitted by them - past and current, as needed to be copied; and, (5) drainage bonding to include a drainage easement to the stream. Mr. Sims seconded the amendment to the motion. Attorney Nathan Cochran spoke. The amendment to the motion passed with a vote of 5 for and 3 opposed (Mr. Dailey, Mr. Kane and Mr. Roper). Mr. Sims withdrew his main motion. Staff recommended approval of the final plat pending submission of bonding for the buffer that

MINUTES - JEFFERSON COUNTY PLANNING & ZONING COMMISSION
JANUARY 24, 2006
PAGE THREE

is required and submission of a revised set of covenants containing language for the siding requirements on mobile homes. Mr. Sidor motioned to postpone this item until the February 14, 2006 meeting. Mr. Sims seconded the motion which carried unanimously. Mr. Lewandowski stated that the public hearing is still open for the February 14, 2006 meeting.

5. Final Plat Public Hearing for the William H. Martin Minor Subdivision, Lots 3-Residue & Lots 4 & 5(#05-46). Ed Johnson, Professional Surveyor identified himself and stated that he was present if the Planning & Zoning Commission had any questions. Mr. Lewandowski opened the public hearing. There was no public comment. The public hearing was closed. Staff recommended approval conditioned on submitting the necessary originally signed copies and recordation within 90 days. Mr. Dailey motioned to approve the final plat with staff contingencies. Mr. Kane seconded the motion which carried unanimously.

6. Final Plat Public Hearing for the Fieldstone Estates Subdivision (#05-11). Kristen Ringstaff with William H. Gordon & Associates identified herself and stated that she was present to answer any questions that the Planning & Zoning Commission may have. Mr. Burke stated that the plat in the left edge has a copyright 2005 - no reproduction or use is allowed in part or in whole without prior written authorization from William H. Gordon and Associates. Mr. Burke asked Ms. Ringstaff how she squares that with the need of the public to go in and copy documents. Ms. Ringstaff stated that it is her understanding that they are fully aware that when they submit final plats or preliminary plats that copies will be made. Ms. Ringstaff further stated that it is her understanding that copies requested by the public from the Department of Planning, Zoning & Engineering are in compliance with the Fair Use Doctrine. Ms. Ringstaff stated that there is no infringement of the copyright for what Mr. Burke is talking about. Mr. Kane stated that this has been on hundreds of plats, if not more, for decades in this County. Mr. Lewandowski stated that this is something that needs to be addressed. Mr. Lewandowski opened the public hearing. There was no public comment. Ms. Ringstaff had no rebuttal. The public hearing was closed. Staff stated that all issues have been addressed and staff recommended approval conditioned on submitting the necessary originally signed copies, bonding and recordation within 90 days. Mr. Burke motioned to approve the final plat conditioned on the applicant providing a copyright release or getting an opinion from the Planning & Zoning Commission's attorney that Fair Use Doctrine allows reasonable public copying; that the covenants be revised to allow political free speech and staff conditions. Mr. Baldau seconded the motion which failed with a vote of 2 for (Mr. Burke and Mr. Baldau) and 6 opposed. Mr. Dailey made a motion to approve the final plat with staff contingencies. Mr. Kane seconded the motion. Mr. Sims made an amendment to the motion to include signage in accordance with the Jefferson County Ordinance. Mr. Baldau seconded the amendment to the motion. The amendment to the motion passed with a vote of 4 for and 3 opposed (Mr. Dailey, Mr. Kane and Mr. Roper). The main motion passed with a vote of 6 for and 1 opposed (Mr. Burke).

7. Final Plat Public Hearing for the Billy Kenneth Hurd & John T. Gavlas Minor Subdivision, Lots 3A & 3B-Residue (#05-47). Fred Gates with Gates Associated made a presentation. Mr. Lewandowski opened the public hearing. There was no public comment. The public hearing was closed. Staff recommended approval conditioned on submitting the necessary originally signed copies and recordation within 90 days. Mr. Sims motioned to approve the final plat subject to staff contingencies. Mr. Dailey seconded the motion which carried unanimously.

MINUTES - JEFFERSON COUNTY PLANNING & ZONING COMMISSION
JANUARY 24, 2006
PAGE FOUR

8. Final Plat Public Hearing for the Chris Stiles Minor Subdivision, Lots 1, 2 & 3-Residue (#05-49). Mike Shepp with Dewberry spoke. Mr. Lewandowski opened the public hearing. There was no public comment. The public hearing was closed. Staff recommended approval conditioned on submitting the necessary originally signed copies and recordation within 90 days. Mr. Dailey motioned to approve the final plat subject to staff contingencies. Mr. Roper seconded the motion which carried unanimously.

9. Final Plat Public Hearing for the David and Carolyn Kerr Minor Subdivision, Lots 1, 2 & 3-Residue (#05-50). Staff stated that the applicant has requested postponement until the February 14, 2006 meeting and he waived the 60-day rule until March 1, 2006. Staff stated that she concurs with the request for postponement. Mr. Dailey motioned to postpone this item on the agenda until the February 14, 2006 meeting. Mr. Sidor seconded the motion which carried unanimously.

10. Final Plat Public Hearing for the William M. Parker Minor Subdivision, Lots 1, 2 & 3-Residue (#05-51). Mike Shepp with Dewberry spoke. Mr. Lewandowski opened the public hearing. There was no public comment. Mr. Lewandowski closed the public hearing. Staff recommended approval conditioned on submitting the necessary originally signed copies and recordation within 90 days. Mr. Baldau motioned to approve the final plat with staff contingencies. Mr. Dailey seconded the motion which carried unanimously.

11. Final Plat Public Hearing for the Donato J. and Roberta A. Ranelli Minor Subdivision, Lots 1, 2 & 3-Residue (#05-52). Ed Johnson, Professional Surveyor, was present for any questions. Mr. Lewandowski opened the public hearing. There was no public comment. Mr. Lewandowski closed the public hearing. Staff recommended approval of the final plat conditioned on submitting the necessary originally signed copies and recordation within 90 days. Mr. Sims motioned to approve the final plat with staff contingencies. Mr. Roper seconded the motion which carried unanimously.

12. Final Plat Public Hearing for the Patricia M. Sanderson Minor Subdivision, Lots 1, 2 & 3-Residue (#05-53). Matthew Powell, representative for the developer, was present for any questions. Mr. Lewandowski opened the public hearing. There was no public comment. Mr. Lewandowski closed the public hearing. Staff recommended approval of the final plat conditioned on submitting the necessary originally signed copies and recordation within 90 days. Mr. Roper motioned to approve the final plat with staff contingencies. Mr. Dailey seconded the motion which carried unanimously.

13. Final Plat Public Hearing for the Shenandoah Professional Center Subdivision, Lots 1 & 2-Residue (#05-54). Mr. Burke recused himself from this item on the agenda as he spoke in favor of this project in front of the Zoning Board in favor of part and opposed to part at the Planning & Zoning Commission. Patricia Sanderson made a presentation. Mr. Lewandowski opened the public hearing. Vicki Faulkner and William Gregg spoke. Mike Shepp with Dewberry rebutted. Mr. Lewandowski closed the public hearing. Staff stated that the Conditional Use Permit does not place any restrictions on further re-subdivision. Staff further stated that Lot 2 is restricted to a single family dwelling unless the applicant comes back in front of the Planning & Zoning Commission. Staff recommended approval of the final plat conditioned on submitting the necessary originally signed copies and recordation within 90 days. Mr. Roper motioned to approve the final plat with staff contingencies. Mr. Dailey seconded the motion which passed with a vote of 5 for and 2 opposed (Mr. Baldau and Mr. Lewandowski). Mr. Burke returned to the meeting room.

JEFFERSON COUNTY PLANNING & ZONING COMMISSION
JANUARY 24, 2006
PAGE FIVE

Mr. Lewandowski allowed a five minute recess at 9:40 p.m. The meeting reconvened.

14. Request by Donald L. and Phyllis M. Dillow for a variance from the merger provisions to allow a transfer of land to their son (Article 2, Section 2.1a). Paul Burke spoke. Staff, Ms. Kelly answered Mr. Burke's questions. John Kusner presented the request. Mr. Lewandowski opened the meeting up for public comment. There was no public comment. Mr. Lewandowski closed public comment. Staff recommended denial of this variance request due to the language in the deed regarding the purpose of mergers, which the owners should have read since it actually is part of the deed. Mr. Baldau motioned to grant the variance request. Mr. Sims seconded the motion which carried unanimously.

15. Request by Scott A. Morrison on behalf of the Estate of Chester Ross Minor Subdivision (#05-29) to reopen the subdivision file to allow the final plats to be recorded (Article 8, Section 8.1(d)). Scott Morrison presented the request. Mr. Lewandowski opened the meeting up for public comment. There was no public comment. Mr. Lewandowski closed public comment. Mr. Dailey motioned to reopen the subdivision file for an additional 90 days to allow the final plats to be recorded. Mr. Kane seconded the motion which carried unanimously.

16. Request by Annette van Hilst on behalf of the Jefferson County Building Commission for a variance from providing curbs, gutters and sidewalks for the Burr Business Park Subdivision (PC File #04-38) (Article 8, Section 8.2b2). Annette van Hilst presented the variance request. Jane Peters, Executive Director of the Development Authority made a presentation. Mike Shepp with Dewberry also spoke. Mr. Lewandowski opened for public comment. Bill Chesley spoke. Mr. Lewandowski closed public comment. Staff stated that the Subdivision Ordinance states the definition for developer is the same as subdivider. Staff deferred to the County Engineer for recommendations. Kim Shrader, County Engineer, stated that Burr Business Park is located in the Industrial/Commercial Zone and is the completion of the industrial park complex of Bardane Park and Burr Industrial Park. The existing roads are maintained by the West Virginia Department of Highways. If the proposed roads are to be maintained by the WVDOH then the design should conform to their standards. Documentation should be provided supporting this. The County Engineer recommended approval of this request conditioned on above documentation being received and all subdivision ordinance requirements being met at the preliminary plat stage. Mr. Sims motioned to grant the variance subject to staff contingencies and recommendations. Mr. Dailey seconded the motion. Mr. Burke made an amendment to the motion to require at least 24' paved roadway plus 3' each side paved shoulder or more if required by the Highway Department. Mr. Sims seconded the motion which passed with a vote of 4 for and 3 opposed (Mr. Dailey, Mr. Kane and Mr. Roper). The original motion passed with a vote of 7 for and 1 opposed (Mr. Kane).

17. Request by Mike Cassell on behalf of the Sunnyside Industrial/Commercial Subdivision to present further information regarding the exemption set forth in Article 8, Section 8.2b2 of the Jefferson County Subdivision Ordinance for curbs and gutters. Paul Burke abstained as he was not at the previous meetings regarding this item. Attorney Mike Cassell made a presentation. Mr. Lewandowski opened the meeting for public comment. There was no public comment. Mr. Lewandowski closed the public comment. Staff stated that this is a policy decision and defers to the Planning & Zoning Commission. Kim Shrader, County Engineer, stated the variance to eliminate the need for curb and gutter along the industrial park roadway was previously denied. The request is a policy decision to be made by the Planning & Zoning Commission. Ms. Shrader further stated that if the Planning & Zoning Commission is inclined to grant the variance that she recommends maintaining a 24' pavement width for truck maneuverability.

JEFFERSON COUNTY PLANNING & ZONING COMMISSION
JANUARY 24, 2006
PAGE SIX

Mr. Sidor motioned to grant the request for a variance provided the road width be 24' and that there be paved shoulders as determined by the State Highway Department. Mr. Dailey seconded the motion which passed with a vote of 6 for and 1 opposed (Mr. Kane) and 1 abstention (Mr. Burke).

18. Bylaws. Mr. Kane motioned to defer the Bylaws until the February 14, 2006 meeting. Mr. Sidor seconded the motion which carried unanimously.

19. Long Range Planner. Mr. Lewandowski stated because of time constraints the Long Range Planner will not come back before the Planning & Zoning Commission. Mr. Lewandowski stated he thinks that under the circumstances that it was a good call. Mr. Lewandowski stated he intends to formally appoint an executive committee of himself, Mr. Sims and Mr. Sidor, the three officers, for the purpose of coordinating the duties with Paul Raco on this. Mr. Lewandowski stated that he met with Mr. Raco to discuss these issues. Mr. Lewandowski stated that as the Planning & Zoning Commission has discussed and as it is stated in the bylaws when the Planning & Zoning Commission decides as a group to have the Long Range Planner do something the Planning & Zoning Commission as a collective body will vote on that. It will then be the executive committee's responsibility to coordinate that with Mr. Raco and the Long Range Planner. The idea being that this meeting is not the appropriate place to get into the nitty gritty details of ok, we are telling you what to do next and go through the whole coordination thing. Mr. Lewandowski stated that he does not think it is appropriate at this meeting. Mr. Lewandowski stated that whatever the Planning & Zoning Commission decides the Executive Committee will take that back and make the coordination happen. Mr. Lewandowski stated that the idea is to do the coordination/detail stuff off line. Mr. Sims stated that the position was offered, but he didn't know if it was accepted.

20. Contract for new Zoning and Subdivision Ordinances. Mr. Lewandowski stated the process is moving forward slowly. Mr. Lewandowski stated that he presented the Planning & Zoning Commission's resolution that was agreed to at the last meeting to the County Commission. The resolution was that a recommendation be made that the Planning & Zoning Commission would continue the selection committee and then would transform that into part of the management committee with the County Commission. Mr. Lewandowski informed the Planning & Zoning Commission that the County Commission said yes to continuing the committee.

21. Committees and committee reports. Mr. Lewandowski stated that he went to the County Commission and stated that the Planning & Zoning Commission would like to make a recommendation regarding the H.B. 3261 to change 8A. Mr. Lewandowski stated that he asked the County Commission if they would agree to allow the Planning & Zoning Commission to provide a recommendation to them. Mr. Lewandowski informed the Planning & Zoning Commission that a Committee Meeting is scheduled for January 28, 2006, Saturday, at 11:00 a.m. at the Shepherdstown Men's Club. Mr. Lewandowski called for a Special Planning & Zoning Commission Meeting for 7:00 p.m. on January 31, 2006 for the sole purpose of discussing and taking action on the recommendations of the committee to solely talk about H.B. 3261. Paul Burke and Russell Roper are on the H.B. 3261 Committee.

22. Discussion and/or action on Correspondence. Mr. Roper motioned to postpone Item #18, #22, #23(1) and #24 until the February 14, 2006 meeting. Mr. Kane seconded the motion which carried unanimously.

23. Actionable Correspondence.

- 1) Request by Paul Burke to discuss appointment times for major agenda items.
Postponed until the February 14, 2006 meeting.
- 2) Request by Bill Lewandowski to discuss H.B. 3261.

24. Non-actionable Correspondence. Postponed until the February 14, 2006 meeting.

The meeting adjourned at 12:18 a.m. on Wednesday, January 25, 2006. A detailed transcript of this meeting can be found on CD #11, 12, 13, 14, 15, 16 and 17. These minutes were prepared by Sherry Cole.

