

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
MARCH 28, 2006

1. SPECIAL MEETING TIME 6:00 P.M. - LANE KENDIG

The Jefferson County Planning Commission met on Tuesday, March 28, 2006, with the President, William Lewandowski, presiding. Other Planning Commission members present were: John Sidor, John Sims, Arnie Dailey, Paul Burke, Tom Kane and Greg Corliss. Todd Baldau arrived at 6:45 p.m. and Russell Roper arrived at 7:00 p.m. Staff members present were Sherry Kelly, Kim Shrader and Rebecca Burns.

Mr. Lewandowski called the Special Meeting to order at 6:05 p.m. Lane Kendig introduced himself and Mac Burch of Lane Kendig, inc. Mr. Kendig stated they have been contracted by the County Commission to rewrite the Zoning and Subdivision Ordinances. Mr. Kendig stated that they will come for 2 or 3 days at a time; they envision a series of presentations, both during the day and at night; they will wrap up with meetings before the County Commission summarizing their visit; and, they expect to be finished within a years time frame. Mr. Kendig stated with this visit they are listening to ideas on the rewrite and suggested that the Planning Commission and everyone involved in the process “speak now or forever hold their peace”.

Mr. Lewandowski stated that he was not aware that they were gathering information on this visit and suggested that the members also email or fax their thoughts to Lane Kendig individually. Mr. Lewandowski asked each member for their comments at this time.

Mr. Kane stated he would like the following to be considered as part of the process: ordinances written in plain English so all can understand; public comment and hearings at preliminary plat stage; standards for condominiums and commercial; zero (0) lot line for duplexes; 21<sup>st</sup> century parking standards; home businesses; standardizing references between the Zoning and Subdivision Ordinance; standards for self-storage facilities; standards for any other commercial activities that we may anticipate coming to the County; solutions on how to enforce public traffic laws on private streets; electronic and digital filing of submissions; and, assumptions for growth.

Mr. Burke asked that the following be considered: equal treatment to applicants and opponents; incomplete applications being sent to the Planning Commission; at each stage of the process for a project the community be given options by listing the pros and cons; interaction between the Corporations and the County; process should be geared around deadlines outlined in 8A of the State Code; and, tying growth to the capacity of the infrastructure i.e. water, bridge capacity, fire services, etc.

Mr. Sims thoughts were as follows: particular attention to karst topography, perhaps a separate section; groundwater protection and supply; farmland protection; transfer development rights (TDRs); green space and open space; infrastructure concerns; emergency services response times; and, avoidance of unintended circumstances.

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Mr. Dailey echoed Mr. Kane's comments, noting he was particularly interested in TDRs; and, more interaction between the County and the West Virginia Department of Highways.

Mr. Sidor stated he would like to see the following addressed: aesthetic standards as far buffers, tree preservation and view shed; adequate public facilities ordinance; water, waste water and roads not being apart of County government; karst topography, ground water, sink holes and septic and whether they should have separate ordinances; CIS process having standards for infrastructure and services; provisions for more mixed uses within a development; form based zoning and incentive zoning; and, the documents being written in plain English.

Mr. Baldau arrived at 6:45 p.m. Mr. Baldau stated he would like to see public involvement at the preliminary plat stage; and, the ordinances written in such a way that it would alleviate or minimize the need for variances.

Mr. Lewandowski also echoed all of the previous comments and added that he would like to see light pollution addressed; systems perspective mission so the Planning Commission can reach goals without systems failure; projects not being approved if it is going to cause systemic failure in the future in the roads, water, schools, etc.; protection of property rights; will of the majority; reduce subjectivity to objectivity; 8A dictates and it must be clear and specific; maximum public input; project public perception of fairness; and, the process must be fair and balanced.

Mr. Lewandowski asked that the Planning Commission provide their written email or faxed comments to Lane Kendig, inc., by April 18, 2006. Mr. Burch provided his card to Mr. Lewandowski with the necessary information and cautioned that all emails must indicate Jefferson County in the subject line or it may not get passed his protective filters.

Mr. Roper arrived at 7:00 p.m. as Mr. Kendig and Mr. Burch were making their closing remarks.

## 2. SPECIAL MEETING TIME 7:00 P.M. - LEGAL COUNSEL

All Planning Commission members were present for this portion of the meeting. Mr. Lewandowski called this portion of the meeting to order at 7:10 p.m. Brandon Sims and Stephanie Grove, Assistant Prosecuting Attorneys were present for this portion of the meeting. Ms. Sims indicated they need to discuss with the Commission Civil Action File #05-C-372 which is pending litigation, and protected under attorney client privilege. Mr. Sims motioned to go into Executive Session. Mr. Kane seconded the motion which carried unanimously. Mr. Lewandowski and Mr. Burke excused themselves from the meeting room, as did staff members, Ms. Kelly, Ms. Shrader and Ms. Burns. Mr. Sims chaired this portion of the meeting.

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REGULAR SESSION

Mr. Lewandowski called the Regular Session of the Planning Commission to order at 7:40 p.m. with all members being present. Since there was action as a result of the executive session Mr. Lewandowski and Mr. Burke excused themselves from the meeting room. Mr. Burke noted for the record that he was excusing himself because he had given research assistance to the opponents involved in this matter. Mr. Sims chaired this portion of the meeting. Mr. Baldau motioned to authorize the Prosecuting Attorney's office to file the motion to disqualify in Civil Action File #05-C-372 unless it is can be resolved by other means. Mr. Kane seconded the motion which carried unanimously. Mr. Lewandowski and Mr. Burke returned to the meeting room. Mr. Lewandowski chaired the remainder of the meeting.

Mr. Burke motioned to accept the Minutes of the March 14, 2006 meeting as submitted. Mr. Sidor seconded the motion which carried unanimously.

3. Postponed from the March 14, 2006 meeting. Final Plat Public Hearing for the Hartzell Gardens Subdivision (formerly The Village at Piedmont) #05-24. Kristen Ringstaff, Mark Dyck and Mike Glickner presented the project and addressed the Commission's questions. Ms. Ringstaff stated the construction entrance for this project will be from Route 480 as opposed to Lowe Drive. Mr. Dyck confirmed that a variance is not needed to do this. There was no public comment. Ms. Kelly stated the CIS addresses the buffer, screening and open space. The Staff recommended acceptance noting the project meets the technical requirements of the ordinance. The Engineer recommends acceptance contingent upon the word Shepherdstown being spelled correctly on the final plat; and, the buildings shown on the plat which are to be demolished being demolished prior to recordation of the final plat.

Mr. Kane motioned to approve the final plat subject to the Staff's contingencies. Mr. Roper seconded the motion.

Mr. Burke stated he has concerns about the commitments in the CIS not being adequately addressed on the preliminary plat. Mr. Burke read directly from the CIS and asked that language be added to one of the plats (page 10, sentences 11 through 17 of the CIS, copy attached) pertaining to the screening, trees and landscaping for the visual buffer; and, variances not being sought for the construction entrances shown on the subdivision plat.

Ms. Kelly asked that an easement or something should be provided to protect the existing vegetative buffer that is to remain in perpetuity on the property.

Mr. Sidor motioned to amend the motion to preserve and protect the existing vegetation and trees along Lowe Drive and Route 480 and to ensure an appropriate screening is created and sustained along Lowe Drive and Route 480 and the duplexes. Mr. Sims seconded the amendment to the

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motion. Ms. Kelly stated Staff will require easements for existing vegetation, notes added to the final plats to reflect the same, a covenant so that it is also enforceable by the Homeowner's Association and redline revisions to either or both the preliminary plat and final plat to reflect the Planning Commission's action.

The amendment to the motion passed with a vote of 5 for and 4 opposed (Mr. Dailey, Mr. Roper, Mr. Baldau and Mr. Kane).

Mr. Sims motioned that a one time \$5000.00 contribution is made to the Shepherdstown Volunteer Fire Department as offered by the developer and is recorded on the final plat by note. Mr. Sidor seconded the amendment to the motion which carried unanimously.

The original motion as amended passed with a vote of 6 for and 3 opposed (Mr. Sims, Mr. Burke and Mr. Lewandowski).

10. Mr. Lewandowski stated he is rearranging the agenda to allow the Public Service District's Presentation (item #10) to proceed at this time (8:40 p.m.) then the Commission will consider the remaining agenda items. Marty Kable, Chairman of the Jefferson County Public Service District, introduced Susanne Lawton, General Manager and Joe Hankins, Secretary. Mr. Hankins handed out a map of the 2005 Wastewater Facility Plan. Mr. Hankins made a presentation noting there is a proposal for both Evitts Run and Halltown area noting each plant would have a capacity of 3,000 customers each and an assurance fee of \$7,500 per EDU. He stated that an EDU equates to 1 residential unit. Mr. Hankins thanked the Planning Commission for their invitation and hopes for better communication in the future and a closer working relationship.

Mr. Lewandowski called for a 10 minute break at 9:23 p.m. The meeting reconvened at 9:33 p.m.

4. Site Plan approval and issuance of the Improvement Location Permit for the Miller Station Subdivision, Lot 5 (#S04-19). Don Bailey from Resource International and Gerald Miller were present on behalf of the request. There was no public comment. The Staff and Engineer recommended approval noting the plan meets the technical requirements of the ordinance subject to all bonding arrangement being made and in place. Mr. Baldau motioned to approve the site plan and authorize staff to issue the ILP subject to the Staff's contingencies. Mr. Kane seconded the motion which carried unanimously.

5. Request by Potomac Professional Services, LLC for the Beacon Hill II Subdivision (#05-19) for a variance to modify the approved CIS with a slightly modified conceptual plan reflecting a slightly different lot layout and road configuration. Matt Powell presented the request noting that after walking the lot numerous times and acquiring more detailed topography they believe the concept plan allows for more scenic views for the lots and a better entrance from Route 9. There

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was no public comment. Ms. Shrader stated they need to demonstrate how the steep slopes as determined by the County's hillside regulations are to be maintained as undisturbed areas. Mr. Burke motioned to advertise and post the property for a new public hearing for revision of the CIS, following normal CIS notice procedures. Mr. Sidor seconded the motion which carried with a vote of 5 for and 4 opposed (Mr. Dailey, Mr. Kane, Mr. Corliss and Mr. Roper).

6. Request by Mark Colonial Hills, LLC for a variance to replace apartment units which were approved in the CIS (#00-03) with townhomes (Article 7 of the Jefferson County Subdivision Ordinance (#05-38)). The request was withdrawn via fax letter to the office and Mark Dyck who was present confirmed that they wanted withdrawn.

7. Request by Mark Alexander Smith Homes on behalf of the Oakwood Subdivision (formerly known as Oakwood Heights Subdivision #05-56) for a variance to allow the existing residence on the residue parcel to utilize the existing entrance onto Borden Lane (Article 8, Section 8.2.a.1 of the Jefferson County Subdivision Ordinance). Mark Dyck presented the request noting they would like to keep the access to Borden Lane for the residue parcel. Mr. Burke commended Mr. Dyck on addressing the 4 points very well in his variance request. There was no public comment. Ms. Kelly stated she concurs with Mr. Dyck's presentation. Ms. Shrader recommended approval contingent upon receipt of a highway entrance permit or letter from the Department of Highways that one is not needed. Mr. Baldau motioned to approve the variance as requested subject to the Staff's contingencies. Mr. Sidor seconded the motion which carried unanimously.

8. Request by John P. Riddel and Michele A. Jenkins for a variance to un-merge a 2.04 acre lot (Article 2, Section 2.1a of the Jefferson County Subdivision Ordinance). Peter Chakmakian presented the request and referred to the sketch provided to the Commission with the variance request. Mr. Chakmakian stated that as he understands from Staff you cannot merge land into a lot to make it so it can be subdivided, if it was not able to subdivided prior to the merger. Mr. Chakmakian stated they would like to create a child to parent lot. Mr. Burke questioned the self imposed hardship. There was no public comment. Mr. Kane motioned to approve the request. Mr. Corliss seconded the motion which failed with a vote of 4 for (Mr. Dailey, Mr. Roper, Mr. Corliss and Mr. Kane) and 5 opposed.

9. Request by Annette van Hilst with Dewberry for a variance to allow the processing of a site plan for Lot 2 as a commercial site plan for Charles Town Limited Partnership VI for the purposes of access and circulation (commercial site plan requirements fro roads and access); to allow more than one principal building on a single lot (Article 3, Section 3.1 definition of Lot); and, to allow the processing of this proposed affordable multifamily housing development under Article 11-Requirements for Non-Residential Subdivisions as opposed to Article 9-Requirements for Residential Condominiums as found in the Jefferson County Subdivision Ordinance. Ms. Van Hilst presented the requests and referred to the written request she submitted. There was no

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public comment. Ms. Kelly stated that parkland will have to be provided regardless of how they process the project. Ms. Shrader recommended approval noting Article 11 will adequately satisfy all necessary technical and engineering standards for multifamily dwellings. Mr. Sims motioned to grant the variances as requested. Mr. Sidor seconded the motion which carried with a vote of 8 for and 1 opposed (Mr. Burke).

11. Cancellation of May 9, 2006 meeting (election day). Mr. Baldau motioned to cancel the meeting. Mr. Dailey seconded the motion which carried unanimously.

12. Long Range Planner. Mr. Lewandowski stated he was moving this to the end of the agenda.

13. Contract for new Zoning and Subdivision Ordinance. Mr. Lewandowski stated this item can be removed from the agenda for the time being with the presentation from Lane Kendig, inc.

14. Discussion and/or action on copyright information on plats. Mr. Burke asked that this be removed from the agenda until the Planning Commission receives the legal opinion from the Assistant Prosecuting Attorney.

15. Green Infrastructure Study. Mr. Corliss stated that it is currently contracted through the County Commission and is ongoing.

16. Committees and committee reports:

Budget Committee: Mr. Burke stated the proposal was given to the County Commission.

Bylaws Committee: Mr. Sims still waiting for legal counsel to get back with the Commission, it is his understanding that they are extremely busy with other pressing matters on behalf of the Planning Commission and this particular item continues to be bumped. Mr. Lewandowski stated that he is going to ask them if they would be like the Commission to ask for an outside consultant.

PSD Committee: The members of the Commission commended the Committee on doing a good job.

Subdivision and Zoning Ordinance Rewrite Committee: Mr. Lewandowski stated that it is his understanding that the committee members which sat as part of the selection process for a consultant would now act as a management committee for the county to manage the process of the rewrite.

17. Discussion and/or action on Correspondence. There was no correspondence to discuss or take action on.

18. Non-actionable Correspondence.

Mr. Burke asked that the other members review the agenda appointment times he has proposed.

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Mr. Sidor asked that Department of Planning, Zoning & Engineering Reports be placed on the next agenda for discussion and/or possible action by the Commission.

Mr. Sidor asked that options available to frame amendments with conditions for final plats be placed on the next agenda for discussion by the Commission to see if there are better options available for doing so.

Mr. Lewandowski reminded the members to provide him with legal questions that they would like to have addressed by legal counsel for a future session with them; and, they should be in to him by the end of the week.

Mr. Sidor stated that in the future he will discuss with Staff a proposed/draft motion pertaining to having an Annual Report produced; biweekly reports for such things as bonds; CIS's that have been submitted; and, inspections that have been conducted on subdivisions and the findings.

12. Long Range Planner. Mr. Lewandowski asked for a motion to convene in Executive Session to discuss personnel matters. Mr. Blackmer spoke up from the public and stated that he did not think that it was necessary since this was discussed and acted upon by the County Commission totally in open session at the March 23, 2006 meeting. Mr. Lewandowski stated that we are advertising in such a way that would meet the various kinds of visa requirements and that we will start the entire process over again and that anyone can apply to be considered for the position.

Mr. Roper motioned to adjourn the meeting at 10:58 p.m. Mr. Baldau seconded the motion which carried unanimously.

A detailed transcript of this meeting can be found on CD #46, CD #47, CD #48, and CD #49. These Minutes were prepared by Rebecca Burns.