

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
APRIL 25, 2006

The Jefferson County Planning Commission met on Tuesday, April 25, 2006, with John Sims, presiding. Arnie Dailey, John Sidor, Paul Burke, Tom Kane, Todd Baldau, and Greg Corliss were present. Staff members present were Sherry Kelly, Kim Shrader and Jennilee De Pottie.

Lynne Deming was absent with notification.

Mr. Sims called the meeting to order at 7:00 p.m. Mr. Burke motioned to accept the amended minutes of the March 28, 2006 meeting and to amend and approve the minutes of the April 11, 2006 as follows: page1, 4th paragraph, 3rd to last line: change "5 for and 4 opposed" to "5 opposed and 4 in favor"; page 2, item 2, 2nd paragraph: add "Mr. Corliss and" before "Mr. Burke"; page 3, item 3, 3rd paragraph, 2nd to last line: change "because of only one access" to "because of access through an existing subdivision."; page 3, item 3, 3rd paragraph, 2nd to last line: add the following 5 sentences, before "The motion passed..." "There was concern the CIS had no evaluations of service capacity." "There was concern the CIS pages were out of order and hard to follow." "There was concern the CIS was incomplete, for example with outdated school data, reference to non-existent 2003 Census, missing attachments in exhibit 20 (Hamstead letter), no sinkhole map in Community Impact Statement mailed to members." "There was also concern that covenant 5 in exhibit 20 forbids Mr. Borden from granting ROW to the 15 new homebuyers, and that Subdivision Ordinance 13.1 would require the new HOA to own the roads in the old section, which creates a difficult situation." "There was also concern that intersections on River Road would be unsafe, and that 8.2.a.16 would require all of existing Oakwood Drive to be paved, in both directions." "Poor use of and access to natural features." Mr. Baldau's amendments are as follows: The last line on page one, the word "MINUTES" must be deleted; the first line in the fourth paragraph on page two, change "Mr. Burke returned to the meeting..." to "Mr. Burke and Mr. Corliss return to the..."; the first line on page four, change "12:25 p.m." to read "12:25 a.m." The Commission questioned Patricia Sanderson of Potomac Professionals regarding her request for clarification of the March 28, 2006 minutes. Mr. Sidor seconded the motion which carried unanimously.

Mr. Kane motioned to consider Item #15(A) Request from Patricia M. Sanderson with Potomac Services, LLC regarding the minutes of the March 28, 2006 meeting in reference to Beacon Hill Estates, Section II, request to modify the Community Impact Statement. Mr. Burke seconded the motion which carried unanimously.

Ms. Sanderson presented the request. Ms. Sanderson felt the intention of the motion made at the March 28, 2006 meeting was not for Staff to schedule a Staff Review Meeting, but simply to advertise for a public hearing on the Community Impact Statement Review. Mr. Baldau motioned for Staff to advertise a Community Impact Statement Review for the May 23, 2006 meeting and follow through with a Staff Review meeting, contingent upon the applicant being made aware that Staff may have a negative review. Mr. Kane seconded the motion which carried unanimously.

Mr. Sims stated he would now entertain a motion to go into Executive Session pertaining to two items of correspondence that they need to discuss with legal council and to determine what they will do concerning some policies. Mr. Kane motioned to go into Executive Session provided they limited it to 15-20 minutes so as not to inconvenience the public. Mr. Sims stated they will endeavor to keep the session 20 minutes, but it may go as long as 30 minutes. Mr. Baldau seconded the motion. Mr. Burke questioned the intent. Mr. Sims said they would not discuss anything substantive to any particular subdivision. Mr. Burke stated the purpose must be put on record and the session would be concerning pending litigation. Ms. Brandon Sims, Assistant Prosecuting Attorney, agreed and stated the purpose was to ensure the Planning Commission acts in accordance with the Ordinance to avoid any future litigation. Ms. Sims advised the Commission to indicate that it is based on the authority of *Peters verses County Commission of Wood County*. The decision to go into Executive Session was unanimous. The recorder was stopped at 7:20. Mr. Dailey and Mr. Burke left the room for part of the Executive Session.

Mr. Kane motioned to close the Executive Session at 8:02. Mr. Baldau seconded the motion which carried unanimously.

Mr. Burke and Mr. Dailey left the room in order for the Planning Commission to address Items #15(D) and #15(E) regarding the request for reconsideration of the Final Plat for the Sheridan Subdivision. Mr. Sidor motioned to reconsider the vote of the Sheridan Subdivision for the May 23, 2006 meeting of the Planning Commission and ensure that such agenda item is properly noticed and advertised as would a regular hearing on a Final Plat. Mr. Roper seconded the motion. Mr. Baldau requested that Mr. Sidor amend his motion to take out the part regarding the Final Plat. Mr. Corliss reiterated the motion stating the readvertisement and the May 23, 2006 meeting. Sherry Kelly, County Planner, stated the 30 day advertising requirement would not be met by the May 23, 2006 meeting. Mr. Baldau mentioned that is why he request Mr. Sidor to amend the motion regarding the final plat. Mr. Sidor stated he believed that even though this is a reconsideration of a final plat that this project should follow the same requirements as any other final plat. Ms. Kelly questioned whether or not this would be open for public comment and advised the Planning Commission to ask legal counsel what they should do. Mr. Sidor's intent is to have a new public hearing. Mr. Corliss and Mr. Roper were in objection to opening a new public hearing. Ms. Sims cautioned the Planning Commission not to discuss what was discussed in Executive Session. Mr. Sidor withdrew his motion. Mr. Sidor questioned what the advertisement requirement would be if it were not 30 days. Mr. Sims stated that is would not be a Final Plat Public Hearing though at the meeting in which they reconsider the project they would like the public to have the ability to speak. Mr. Sidor made a motion to hold a reconsideration of the public hearing of the Sheridan Subdivision subsequent to an advertisement of 30 days to allow both the applicant and the public to address issues at that public hearing and schedule the meeting for the June 13, 2006 meeting. The motion died for lack of a second. Mr. Corliss stated he did not think 8A required the Planning Commission to readvertise the project though he agrees that they should notify the public. Mr. Sidor questioned whether or not the public would speak. Mr. Corliss stated he didn't think the public would speak because they had already done so. Mr. Sidor questioned whether or not the applicant would speak. Mr. Corliss stated the applicant may have new material that they would want the Planning Commission to reconsider as part of the reconsideration. Mr. Roper stated the public should not speak at the meeting because their concerns were already addressed. Any new information that may be

submitted to the Planning Commission is because the Planning commission requested it. Mr. Baldau motion to adjust the agenda items so as to hear Item #15 (D) Request from James P. Campbell, Attorney, for reconsideration of the Final Plat for the Sheridan Subdivision, Phase II. Mr. Sims mentioned that they already had a commitment to Mr. Dodson to put him first on the agenda. Mr. Baldau amended his motion to hear Item #15 (D) immediately following item number 1. Mr. Corliss seconded the motion which passed with a vote 5 for, 1 opposed (Mr. Sims) and 2 recusals (Mr. Burke and Mr. Dailey). Mr. Burke and Mr. Dailey returned to the meeting room.

Postponed from the April 11, 2006 meeting. Site Plan for Dodson's Septic Service. Mike Shepp with Dewberry made a presentation. Mr. Burke presented a document showing the calculations of square footage of the proposed addition, including the breezeway, the total is greater than 2000 sf. Mr. Burke questioned why the breezeway was not included in the square footage calculations because it does meet the ordinance definition of a building. Mr. Shepp stated the Board of Zoning Appeals did not consider the breezeway to be a building. Mr. Shepp stated this was an issue raised by Mr. Raco at Staff Review and after reviewing the tapes of the Board of Zoning Appeals meeting Mr. Raco concurred with their interpretation. Mr. Burke also questioned the visible manifestation of the garage doors. Mr. Shepp stated they would be visible. Mr. Burke questioned how this met the requirements of the cottage industry. Mr. Kane stated he has seen garage doors of this size in residential neighborhoods and does not view them to be a manifestation of some commercial industry. Mr. Burke then questioned the purpose of the dumpster. Mr. Shepp stated it was a requirement from the staff. Mr. Sims asked for staff recommendations. Mr. Shepp stated the dumpster is existing. Ms. Kelly stated an engineering comment made was that the existing dumpster must be screened. Staff recommends approval and issuance of the Improvement Location Permit. Mr. Dailey motioned to approve the site plan and issuance of the Improvement Location Permit for the Dodson Septic Service. Mr. Roper seconded the motion. Mr. Burke raised the question of the square footage. Kim Shrader, County Engineer, pointed out that she and Paul Raco, Executive Director, did discuss the issue and Mr. Raco assures that the project is consistent with Board of Zoning Appeals decision. Mr. Sidor questioned whether or not the public was notified. Ms. Kelly stated there is no public notice requirement for site plans. Mr. Shepp stated the site was posted with regard to the Board of Zoning Appeals variance. Mr. Sims called for a vote which passed with a vote 7 for and 1 opposed (Mr. Burke).

Mr. Sims stated they would now insert Item #15(D) and read the description of the item. Mr. Burke asked Mr. Sims to consider hearing the postponement first. Mr. Sims agreed to hear the postponements. Mr. Kane stated a motion had been made to hear Item #15 (D) immediately after item 1. Mr. Sims agreed. Mr. Burke and Mr. Dailey recused themselves from Item #15 (D). Mr. Sims asked Mr. Campbell if he had any comments. Mr. Campbell, on behalf of Sheridan LLC presented the request. Mr. Campbell stated they believe the project met all the necessary requirements of the Ordinance. Mr. Campbell submitted copies of 8A-5-8(i) to the Planning Commission which addresses the reconsideration rules. Mr. Baldau stated the information presented does not change his vote and that he has no intention of making a motion for reconsideration. Mr. Corliss asked for Staff and Legal input. Ms. Kelly stated that Staff's opinion is the same as that at the last meeting. The plat meets the requirements of the Ordinance and they recommend approval pending recordation within 90 days and required bonding. Ms.

Sims stated they may act under 8A and that anyone on the Planning Commission can make a motion to reconsider the vote. Mr. Corliss asked Ms. Sims if there was anything else they could discuss under open session. Ms. Sims stated she did not think so. Mr. Sidor stated they ought to table the request for reconsideration until after meeting with their attorney. Mr. Kane motioned to reconsider the Final Plat for the Sheridan Subdivision, Phase II to hear the agenda item. Mr. Roper seconded the motion. Mr. Kane questioned legal counsel as to whether a 30 day advertisement was needed. Ms Sims stated she did not believe so, but would like to look into it. Mr. Roper withdrew his second in order for Mr. Kane to amend his motion. Mr. Kane moved to reconsider the Final Plat for the Sheridan Subdivision at the June 13, 2006 meeting. Mr. Corliss seconded the motion which passed with a vote of 5 for, 1 opposed (Mr. Baldau) and 2 recusals (Mr. Burke and Mr. Dailey). Mr. Burke and Mr. Dailey returned to the meeting room.

Mr. Sims requested a 2 minute break at 9:46 to change the CD.

The meeting reconvened at 9:50. Mr. Sims stated they would take care of postponements.

Item 4, Final Plat Public Hearing for the Maddex Farm Subdivision, Phase IV. Mr. Burke recused himself because he spoke at a meeting regarding this project. Mr. Sims asked for staff comment. Staff stated they received a letter requested postponement and that the applicant waived the 60 day requirement. Mr. Roper motioned to postpone the agenda item. Mr. Dailey seconded the motion which carried with a vote of 6 for and 1 recusal (Mr. Burke). Mr. Burke returned to the meeting room.

Item 5, Postponed from the April 11, 2006 meeting. Request by Paul E. Dailey et al for a variance to allow an exception from the Subdivision Ordinance requiring access to the public road for more than 3 lot minor subdivision via County grade road and right-of-way which serves more than three lots. Mr. Dailey recused himself. Mr. Burke moved to postpone to May 23, 2006 conditioned upon them posting a sign at the property showing the date of the variance and subject to the agenda item next time showing the location. Mr. Baldau seconded the motion which passed with a vote of 6 for and 1 recusal (Mr. Dailey). Mr. Dailey returned to the meeting room.

Item 6, Postponed from the April 11, 2006 meeting. Request by Wolverine Investments, LLC for a variance from the requirement to have deceleration lanes on primary and secondary routes where the operating speed on the State Highway is 45 miles per hour or greater and a variance from the 8 foot wide, WVDOH specification, paved shoulder across the front of the property on a secondary road. Mr. Burke motioned to postpone subject to posting of the property and the agenda item next time showing the location, the postponement would be to the May 23, 2006 meeting. Mr. Sidor seconded the motion which carried unanimously.

Item #2, Final Plat Public Hearing for the Amy Cooley Minor Subdivision. Ed Johnson is present. Mr. Sims opened public hearing. Mr. Sims closed public hearing. Staff recommended approval. Mr. Baldau motioned to approve the Amy Cooley Minor Subdivision subject to staff contingencies. Mr. Sidor seconded the motion which carried unanimously.

Item #3, Final Plat Public Hearing for the Gregory J. and Diane T. Haugh Minor Subdivision. Mr. Haugh is present for questions. Mr. Burke questioned the accuracy of the vicinity map scale. Mr. Burke also asked if Mr. Haugh would give a release to make copies of the plat due to copyright laws. Mr. Sidor questioned the access to Lot A. Mr. Sims opened public hearing. Mr. Sims closed public hearing. Staff recommended approval contingent on correcting the scale. Mr. Baldau motioned to approval for the Gregory J. and Diane T. Haugh Minor Subdivision subject to the vicinity scale being corrected, staff contingencies met and waiver of the copyright law. Mr. Roper seconded the motion which carried unanimously.

Item #7, Request from R. Michael Shepp with Dewberry regarding a proposed change to the Community Impact Statement for the Butler Farm Subdivision. The request is a proposed change from a centralized innovative sewage disposal system using sand filters and drip irrigation fields to connecting into the Jefferson County Public Service District's existing sewage collection system. The developer is considering this request and is exploring both options. Mr. Shepp presented the request. Mr. Shepp passed out a sketch of the concept plan submitted at the Community Impact Statement stage showing that the site would not change regardless of type of disposal system that may be used. Mr. Baldau asked when the decision would be made one way or the other. Mr. Shepp stated he was not sure. Sue Lawton, General Manager of the Public Service District, answered various treatment questions. Mr. Sims opened for public comment. Mr. Sims closed public comment. Staff requests that once the decision has been made that a letter of some type of documentation be submitted for the record. Mr. Shepp stated they would provide a letter. Mr. Burke moved to deny the request. The motion failed for lack of a second. Mr. Kane motioned to approve the request to allow flexibility in deciding which sewage system to use for the Butler Farms Subdivision. Mr. Roper seconded the motion. Mr. Sidor stated that if pipe must be laid up Country Club Road that a note be put on Final Plat to make the public aware of it. Mr. Baldau asked if possible to amend the motion to request the developer to have made the choice by the preliminary plat stage. Ms. Shrader stated Health Department approvals are needed at preliminary plat stage. Mr. Shepp stated they may come in at preliminary plat stage showing one form of sewage disposal then may resubmit with a change. Mr. Burke opposes this request for two reasons 1) 60,000 gallons pumped out per day into the Shenandoah, without recharge; and 2) Pumping raw sewage long distances through leaking pipes. Mr. Burke also questioned whether or not this change could be done to the Community Impact Statement without starting over or presenting a new Community Impact Statement. Mr. Sims called for a vote on the motion which passed with 6 for and 2 opposed (Mr. Burke and Mr. Baldau).

Item #8, Site Plan for Rock Spring Church. Meryl Syvil with Keller Engineer's presented the request. Mr. Burke questioned whether or not they had permission from Explorer Maps to use their copyrighted map as the inset map on the site plan. Mr. Syvil was unsure. Mr. Burke also questioned the Storm Water Management flow. Mr. Syvil stated peak flows have not changed. Staff stated the site plan meets the requirements of the Ordinance. Mr. Dailey asked Staff if this project needed an Improvement Location Permit. Staff stated it did. Mr. Dailey motioned to approve the site plan for Rock Spring Church and issuance of the Improvement Location Permit subject to staff contingencies. Mr. Roper seconded the motion. Mr. Burke stated he was opposed because of the copyright on the vicinity map and because of the excess of water that would be drained on County Commission property without their permission. Mr. Sidor

requested that site plan plats be copied and given to Planning Commissioners. Mr. Sims asked for a vote which passed 7 for and 1 opposed (Mr. Burke).

Item #9, Long Range Planner. Ms. Kelly informed Mr. Sims of the end date of the advertisement, which is May 26, 2006.

Item #10, Green Infrastructure Study. Mr. Corliss stated the contract is moving ahead.

Item #11, Committees and committee reports:

Budget Committee: Mr. Burke asked Ms. Kelly regarding the status of the equipment. Ms. Kelly referred to a document from Mr. Raco which stated that the County Commission is looking into it. Mr. Burke asked Mr. Corliss if there were any time frames regarding webcams. Mr. Corliss stated Leslie Smith, County Administrator, was working on it.

Bylaws Committee: Mr. Sims stated they are waiting to be able to speak to their lawyer regarding her comments.

PSD Committee: No report.

Subdivision & Zoning Ordinance Rewrite Committee: Mr. Sims stated comment should have been sent to Lane Kendig by email and that Mr. Kendig will be coming back with a draft.

Item #12, Discussion of Planning Commission on Department of Planning, Zoning & Engineering reports. Mr. Sidor requested to postpone this item due to the fact that he just received the requested data.

Item #13, Discussion of Planning Commission's approval of final plats with conditions. Mr. Sidor postponed his concerns till the next meeting. Mr. Burke stated he had a concern regarding Hartzell Gardens. Mr. Burke submitted a picture of the site showing cut trees. He stated that a condition of approval on the Final Plat for Hartzell Gardens was that the trees be preserved. Mr. Burke stated he sent an email to the Department of Planning, Zoning & Engineering. Mr. Baldau asked for Staff to go out and conduct some type of investigation before the May 23, 2006 meeting. Ms. Kelly stated Mason Carter, Ordinance Compliance Officer, normally investigates complaints. Mr. Baldau asked for some form of written or verbal update. Mr. Baldau asked what would happen if it is found that the condition of approval are not being met. Ms. Kelly stated she was unsure and would have to research it. Mr. Burke moved to ask Staff not to sign or seal the Hartzell Gardens plats until after they have reported on compliance with this condition and we have given approval. Mr. Sidor seconded the motion which died with 4 for and 4 opposed (Mr. Dailey, Mr. Kane, Mr. Corliss and Mr. Roper). Mr. Kane stated that without legal advice they lack direction. Mr. Corliss stated the Planning Commission members need to meet with legal counsel regarding their authority. Mr. Kane moved to request an update on their legal right on enforcement ability. Mr. Burke seconded the motion which passed unanimously. Mr. Sims stated he would like to schedule a special meeting with Ms. Sims.

Item #14, Appointment Times. Mr. Roper motioned to table this item to the next meeting. Mr. Burke seconded the motion which carried unanimously.

Item #15(B) Staff Report as requested by the Planning Commission on Ryan's Glen Farm Subdivision. Ms. Shrader stated the 3 issues for Ryan's Glen Farm 1) Sinkholes, 2) Ingress and

egress; 3) litigate fire service. Ms. Shrader stated the preliminary plat has come in for its first review and they addressed all of the issues. Mr. Kane moved to accept the Staff Report. Mr. Sidor seconded the motion which carried unanimously.

Item #15(C) Request from Paul Raco – Advice of the Planning Commission on whether or not the County Commission's proposed Zoning Ordinance amendments dated April 13, 2006 are consistent with the Jefferson County Comprehensive Plan. Ms. Kelly stated her understanding of the request was simply to approve typos. Mr. Corliss motioned to postpone this item till the June 13, 2006 meeting. Mr. Burke seconded the motion which carried unanimously.

Item #15(F) Request from John Sidor: Applications for Variances. Mr. Sidor moved to add some form of language which encourages the applicant to post the site. Mr. Burke seconded the motion which failed with a vote 4 for and 4 opposed (Mr. Kane, Mr. Corliss, Mr. Dailey and Mr. Roper).

Item #16, Non-actionable Correspondence. Ms. Shrader mentioned a letter from the Department of Environmental Protection which concurred with Roger Goodwin's opinion. Mr. Baldau requested that the first item on the May 23, 2006 meeting be the election of a new president. Mr. Burke requested that a traffic count map be posted in the meeting room.

Mr. Roper motion to adjourn the meeting. Mr. Corliss seconded the motion which carried unanimously.

The meeting ended at 10:20 p.m. A detailed transcript of this meeting can be found on CD #59, #60 and #61. These minutes were prepared by Jennilee De Pottie.