

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
MAY 23, 2006

The Jefferson County Planning & Zoning Commission met on Tuesday, May 23, 2006, with John Sims, Acting President presiding. Arnie Dailey, Lynne Deming, Todd Baldau, Russell Roper, John Sidor, Paul Burke, Tom Kane and Greg Corliss were present. Staff members present were Paul Raco, Kim Shrader, Mason Carter and Sherry Cole.

Mr. Sims called the meeting to order at 7:01 p.m.

1. Election of Officers. Mr. Sims opened the floor for nominations for President. Mr. Burke nominated Russell Roper. Mr. Roper declined. Mr. Baldau nominated Mr. Sidor. Mr. Sidor declined. Mr. Sims nominated Mr. Burke. Mr. Roper nominated Mr. Dailey. Mr. Baldau nominated Mr. Kane. Mr. Kane declined. Mr. Corliss nominated Mr. Sims. Mr. Sims declined. Mr. Roper motioned to close the nominations for president. Mr. Kane seconded the motion which carried unanimously. Mr. Burke was nominated president with a vote of 5 votes for Mr. Burke and 4 votes for Mr. Dailey. Mr. Burke took the chair as President.

Mr. Baldau motioned to amend and approve the April 25, 2006 minutes as edited by himself and Mr. Burke as follows: Page 2, 1st paragraph. Add sentence saying "Mr. Dailey and Mr. Burke left the room for part of the Executive Session. Page 2, 3rd paragraph. Change Mr. Sidor question what the advertisement requirement to Mr. Sidor questioned what the advertisement requirement would be if it were not 30 days. Page 2, 3rd paragraph delete the second set of words "did not" in the sentence "Mr. Corliss stated he did not think 8A did not required." Page 3, 2nd paragraph change he to Mr. Raco and change is to the so that the sentence reads "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." Page 4, 1st paragraph. Add a "2" in the year so the sentence reads: "Mr. Kane moved to reconsider the Final Plat for the Sheridan Subdivision at the June 13, 2006 meeting." Mr. Burke's corrections are as follows: Page 7, Item #13, lines 3-4, change "fallen trees" to "cut trees". Mr. Sims seconded the motion which carried unanimously.

Mr. Burke asked if there were any postponements.

4. Postponed from the April 11, 2006 meeting. Final Plat Public Hearing for the Harvest Hills Subdivision, Section 1 (#01-42). Mr. Burke and Mr. Corliss left the meeting room for this item as they participated in legal action. Mr. Sims took over as chair. Mr. Baldau motioned to postpone this item until the July 11, 2006 meeting. Mr. Sims seconded the motion which carried unanimously. Mr. Burke and Mr. Corliss returned to the meeting room.

5. Postponed from the April 25, 2006 meeting. Final Plat Public Hearing for the Maddex Farm Subdivision, Phase IV (#06-07). Ms. Deming left the meeting room for this item on the agenda as her ex-husband is part owner. Mr. Burke left the meeting room as he spoke at a meeting regarding this project. Mr. Baldau motioned to postpone this item until the June 13, 2006 meeting. Mr. Kane seconded the motion which carried unanimously. Ms. Deming and Mr. Burke returned to the meeting room. Mr. Burke returned to chair as President.

10. Postponed from the April 11, 2006 meeting and the April 25, 2006 meeting. Request by Wolverine Investments, LLC for a variance. Staff stated that per the Planning Commission's request requiring posting of this item it should be postponed until the June 13, 2006 meeting. Mr. Baldau motioned to postpone this item until the June 13, 2006 meeting. Mr. Kane seconded the motion which carried unanimously.

MINUTES - JEFFERSON COUNTY PLANNING COMMISSION
MAY 23, 2006
PAGE TWO

11. Postponed from the April 11, 2006 meeting and the April 25, 2006 meeting. Request by Paul E. Dailey et al for a variance. Mr. Dailey left the meeting room, as Paul Dailey is his brother. Staff recommended postponement of this item due to the Planning Commission requiring posting of the property. He recommended postponement of this item until the June 13, 2006 meeting. Mr. Baldau motioned to postpone this item until the June 13, 2006 meeting. Mr. Kane seconded the motion which carried unanimously. Mr. Dailey returned to the meeting room for the rest of the meeting.

2. Declaration of violation for Mr. Nancy Morgan of the Jefferson County Zoning Ordinance for property designated as Parcel 76, Tax Map 10A of the Charles Town District as found in Deed Book 217 at Page 213. Mason Carter presented the violation. Paul Raco stated staff is not pursuing the violation at this time and recommended removing the violation from the agenda. Staff further stated that any further activity needs a site plan and a stop work order was placed on the property. Staff stated that the property owner needs to apply for a demolition permit. Charles Howard, Attorney for Ms. Morgan and Mr. Luckingbill with A&M spoke. Mr. Baldau motioned that Item #2 be removed from the docket and any further construction or use on the property will require a site plan. Mr. Roper seconded the motion which carried unanimously.

3. Declaration of violation for Mr. and Mrs. Charles Bittinger of the Jefferson County Zoning Ordinance for property designated as Parcel 15, Tax Map 21 of the Charles Town District as found in Deed Book 578 at Page 236. Mason Carter presented the violation. Staff recommended turning this violation over to the Prosecuting Attorney's Office which is required by ordinance. Michael Novotny, Attorney for Mr. Bittinger spoke. Mr. Baldau motioned that this item be removed from the docket. The motion died for a lack of a second. Mr. Kane motioned to find the property in violation and turn the matter over to the Prosecuting Attorney's Office for action as that office sees fit. Mr. Dailey seconded the motion which passed with a vote of 7 for and 2 opposed (Mr. Baldau and Mr. Burke).

6. Final Plat Public Hearing for the Janet Eldridge Minor Subdivision (#06-08), Lots C2-Residue & C3. Mr. Burke asked if there was anyone present to represent the final plat. Ed Johnson was present. Staff and engineer recommended approval conditioned on submitting the necessary originally signed copies and recordation within 90 days. Mr. Burke opened the public hearing. There was no public comment. Mr. Burke closed the public hearing. Mr. Baldau motioned to approve the final plat with staff contingencies. Mr. Sidor seconded the motion which carried unanimously.

7. Final Plat Public Hearing for the Dawkins/Whelan (Geris Farm) Minor Subdivision (#06-11), Lots A & B-Residue. Mr. Burke opened the public hearing. There was no public comment. Mr. Burke closed the public hearing. Staff and engineer recommended approval conditioned on submitting the necessary originally signed copies and recordation within 90 days. Mr. Sims motioned to approve the final plat with staff contingencies. Ms. Deming seconded the motion which carried unanimously.

8. Revised Community Impact Statement Review and Reconsideration on the Beacon Hill Estates Subdivision (#05-19), Phase II, Lots 21-28 & Lots A, B & C. Matt Powell made a presentation. Jason Azar and Patricia Sanderson spoke. Staff stated they are satisfied with all changes. Mr. Burke opened the public hearing. There was no public comment. Mr. Burke closed the public hearing. Staff recommended acceptance provided they meet undisturbed natural conditions and percentage of land preserved and the park by the river remains open land. Mr. Kane motioned to approve the revised Community Impact Statement subject to staff

MINUTES - JEFFERSON COUNTY PLANNING COMMISSION
MAY 23, 2006
PAGE THREE

contingencies. Mr. Dailey seconded the motion which carried unanimously.

9. Community Impact Statement Review for the Windmill Crossing Subdivision (#S05-20) Lot 1. Don Bailey with Resource International made a presentation. Mr. Burke opened the public hearing. There was no public comment. The public hearing was closed. Staff recommended acceptance of the Community Impact Statement. Mr. Bailey stated the site would have curb and gutter and he would provide copyright releases for all copyrighted items in the Community Impact Statement. Mr. Dailey motioned to accept the Community Impact Statement. Mr. Baldau seconded the motion which carried unanimously.

12. Request by Paul E. Dailey et al for a variance to allow an exception from the requirements of the Subdivision Ordinance, specifically Section 2.1 Subdivision Exemptions. Mr. Dailey left the meeting room as Paul Dailey is his brother. Annette van Hilst with Dewberry made a presentation. Staff stated that this is a farm with heirs. Mr. Burke allowed a 5 minute break to change the CD. Mr. Baldau motioned to approve the variance conditioned on the applicant recording the waivers and the fact that the co-owners will not request Parent to Child transfers of property on Middleway District, Map 24, Parcel 71. Mr. Kane seconded the motion stating this is a unique ownership situation and that is the primary reason for granting the variance. The motion carried unanimously.

13. Request by Herb Snyder (F. B. Snyder Estate) for a variance to replace one of two existing single wide mobile homes with a double wide mobile home. Herb Snyder made a presentation. Staff recommended requiring 16 ft. between the buildings and a front setback of 20 feet. Staff recommended approval with pre-existing conditions. Mr. Baldau motioned to approve the variance requiring at least 16 ft. remain between the two mobile homes and compliance with all other setbacks. Mr. Roper seconded the motion which carried unanimously.

14. Request by THZ Enterprises/John Thomas, Jr. for a variance to allow an exception from the requirements of the Subdivision Ordinance, specifically Section 8.21. Ms. Deming left the meeting room for this item as her ex-husband is part owner. Mr. Burke left the meeting room as he spoke at a meeting regarding this project. Mr. Sims took over as chair person. Annette van Hilst made a presentation. Staff stated this is a provision of the ordinance. Staff recommended approval in this case because the other sections were approved without cluster boxes. There was no comment from the public. Mr. Kane motioned to approve the request. Mr. Sidor seconded the motion which carried unanimously. Ms. Deming and Mr. Burke returned to the meeting room. Mr. Burke took over as president.

15. Staff Issues and Concerns. (Requested by Todd Baldau). Mr. Baldau stated that he put this item on the agenda in order for the staff to voice any concerns. Staff revisited the issue regarding copyrights. Mr. Sims motioned to authorize staff to write a letter to the prosecuting attorney to clarify whether there is a need for a waiver for copyright issues. Mr. Dailey seconded the motion which carried unanimously.

16. Discussion of legal representation. (Requested by John Sidor). Mr. Sidor requested this item put on hold to the next meeting.

17. Set policy for reconsideration of votes. (Requested by John Sims) Mr. Sims motioned to go into a committee as a whole in order to draft a motion for reconsideration of votes. Mr. Sidor seconded the motion. Mr. Kane and Mr. Dailey felt this was unnecessary. The motion failed with a vote of 4 for (Mr. Sims, Mr. Sidor, Mr. Baldau and Mr. Corliss) and 5 opposed. Mr.

MINUTES - JEFFERSON COUNTY PLANNING COMMISSION
MAY 23, 2006
PAGE FOUR

Burke suggested authorizing Mr. Sims, as Vice President, to seek the advice of the attorneys. Mr. Baldau motioned to authorize Mr. Sims to seek the advice of the attorneys by sending questions from the Planning Commission to Ms. Sims. Mr. Sidor seconded the motion which carried unanimously.

18. Long Range Planner. Staff stated the deadline for the Long Range Planner is May 26, 2006. Staff stated he will make sure the Planning Commission all get a copy of the resumes. Staff stated that three people were on the committee last time. The committee was Mr. Dailey, Mr. Roper and Mr. Sims. Mr. Burke stated that the same committee will work on this round of resumes. Mr. Burke, Ms. Deming and Mr. Baldau stated they did not want on the Long Range Planner resume distribution list.

19. Green Infrastructure. Ongoing.

20. Committees and committee reports:

Budget Committee: Staff stated that Leslie Smith, County Administrator, is working on meeting room electronic equipment. Staff stated he would check into archiving and reproduction.

Bylaws Committee: Mr. Sims stated there is a meeting May 24, 2006 at 2:00 p.m. Sarah Birnbach stated that she is doing a Management Study of some of the County Department which include the non-elected officials departments, Parks & Recreation and the Ambulance Authority.

PSD Committee: No report.

Subdivision & Zoning Ordinance Rewrite Committee: No report. Mr. Kane motioned that the Planning Commission abolish all committees and work on projects as a whole. Mr. Dailey seconded the motion which failed with a vote of 4 for and 5 opposed (Mr. Burke, Mr. Sims, Mr. Baldau, Mr. Sidor and Mr. Corliss).

21. Discussion on Department of Planning, Zoning & Engineering Reports (Requested by John Sidor). Mr. Sidor asked that this item be postponed until the June 13, 2006 meeting.

22. Enforcement Report and possible action concerning Hartzell Gardens Subdivision (#05-24). (Requested by Paul Burke) Attorney Peter Chakmakian spoke. Attorney Chakmakian stated that the tree that was cut down is not on the Hartzell Gardens Subdivision property. Attorney Chakmakian stated the tree is in the State Right-Of-Way. Chris Smith with Hartzell Gardens spoke. Mr. Kane motioned to remove the agenda item. Mr. Dailey seconded the motion which passed with a vote of 8 for and 1 opposed (Mr. Burke).

23. Discussion of Planning Commission's approval of final plats with conditions. Postponed until the June 13, 2006 meeting.

24. Appointment Times. Mr. Burke asked that this item be taken off the agenda until further notice.

MINUTES - JEFFERSON COUNTY PLANNING COMMISSION
MAY 23, 2006
PAGE FIVE

25. 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 Plans. Staff stated that the amendments are concerning typos, lot sizes and setbacks and that the item is postponed until the June 13, 2006 meeting.

26. Discussion and/or action on Correspondence. None. Mr. Sims motioned to have staff provide comments on appointment times. Mr. Sidor seconded the motion which passed with a vote of 7 for and 1 opposed (Mr. Dailey) with 1 abstention (Ms. Deming).

27. Non-actionable Correspondence. None.

Mr. Roper motioned to adjourn the meeting. Ms. Deming seconded the motion which carried unanimously.

The meeting adjourned at 10:17 p.m. on May 23, 2006. A detailed transcript of this meeting can be found on CD #69, #70 and #71. These minutes were prepared by Sherry Cole.

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