

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
JUNE 27, 2006

The Jefferson County Planning & Zoning Commission met on Tuesday, June 28, 2006, with Paul Burke, President presiding. Arnie Dailey, Todd Baldau, John Sidor, Lynne Deming, Greg Corliss, Tom Kane and Russell Roper were present. Staff members were Sherry Kelly, Kim Shrader and Jennilee De Pottie.

John Sims was absent with notification.

Mr. Burke called the meeting to order at 7:00. Mr. Baldau made a motion to amend and approve the minutes of the June 13, 2006 Planning Commission meeting as follows: (1) Page 1, Item #11, third line change the word "make" to "made" so the sentence reads "Attorney Michael Cassell made a presentation."; (2) Page 1, Item #6 voters for the motion should include Baldau instead of Burke. (3) Page 2, Item #5, second line add the word "International" so the sentence reads "Sarah Kleckner with Resource International made a presentation."; (4) Page 2, Item #5, ninth line "morrow marsh" should be "marl marsh."; and (5) Page 3, Item #10, second line "gavel parking lot" should be "gravel parking lot." Mr. Sidor seconded the motion which passed unanimously.

Mr. Roper arrived at the meeting at 7:02.

1. Final Plat Public Hearing for the Carl and Patricia Tribble Minor Subdivision (PC File #06-16). Mr. Burke opened the public hearing. There was no public comment. Mr. Burke 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. Baldau motioned to approve the final plat with staff contingencies. Mr. Dailey seconded the motion which passed unanimously.

Tom Kane arrived at the meeting at 7:03.

2. Final Plat Public Hearing for the Old Route 340 Business Center (PC file #04-34). Mr. Baldau made a motion to move up agenda Item #4 to hear it first before proceeding with Items #2 and #3. Motion dies for a lack of a second. Mr. Sidor questioned staff as to whether approving Items #4 and #5 would make Item #2 moot. Ms. Kelly stated that it would. Members of the Planning Commission wanted clarification on the project. Ms. Kelly and Ms. Shrader attempted to explain the project. Mark Dyck with W. H. Gordon and Associated made a presentation to clarify the purpose of Items #2, #4 and #5. Mr. Dyck stated it is his intent to withdraw Item #2 if the others are approved. Mr. Baldau made a motion to move up agenda Item #4 to hear it first before proceeding with Items #2 and #3. Motion dies for a lack of a second. Mr. Sidor motion to withdraw Item #2 from the agenda. Ms. Deming seconded the motion which passed unanimously.

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3. Request by Potomac Professional Services, LLC on behalf of Greenbrier Investments, LLC (Beacon Hill Estates Subdivision, Section II, PC File #05-19) for a variance from the maximum road grade of nine percent when you have more than ten lots. Michael Cassell, Attorney, presented a motion of recusal for Mr. Burke stating the following reasons: (1) Greenbrier Investments, LLC is in opposition to Mr. Burke's position in a pending legal case with the Environmental Quality Board (EQB) and the Department of Environmental Protection (DEP) regarding various Storm Water Management issues (Case 06-09EQB). (2) Mr. Burke claims to have been personally damaged by run off from a neighboring subdivision's storm water run off. Thereby taking the stance that current storm water regulations are not adequate. Mr. Cassell states that the applicant believes Mr. Burke would not be able to uphold the Planning Commission's Bylaws in acting with fairness and partiality, no personal interest in any matter that comes before the Board and to avoid the appearance of impropriety. Mr. Burke questioned why the motion was presented at the meeting and not at an earlier time. Mr. Burke stated he would uphold and enforce the Ordinance as it is written. Mr. Burke stated he would not recuse himself. Jason Azar with Huron Consulting presented the request. Mr. Kane voiced his concerns regarding the slope and the safety of it. Mr. Azar stated the road design would conform with the American Association of State Highway and Transportation Officials (AASHTO) Policy and Geometric Design of Highways and Streets. Mr. Kane voiced his concerns regarding the slope and the safety of it. Matt Powell with Greenbrier Investments, LLC stated Mission Ridge, a neighboring subdivision, obtained a similar variance from this Planning Commission. Mr. Burke questioned if any members of the public would like to speak. There were none. Staff recommended approval. Mr. Kane motioned to approve the variance contingent on the grades not exceeding 12% or exceeding the maximum 9% for a distance of more than 300 feet. Mr. Burke questioned if the motion meant a contiguous 300 feet or for the whole development. Mr. Kane stated it to be contiguous. Mr. Roper seconded the motion which carried unanimously.

4. Request by Mark Alexander Smith Homes on behalf of Old Route 340 Business Center (PC Files #04-34 and #S05-09) for a variance from the final plat process for the Old Route 340 Business Center which consists of several commercial and retail buildings on a single lot. The variance is requested from the definition that a single lot may only contain a single structure. Additionally, requesting subsequent Staff approval of the Site Plan for the proposed development. Kristin Ringstaff with W.H. Gordon and Associates was present to answer questions. Mr. Burke opened the public hearing. There was no public comment. Staff recommended approval of the variance contingent upon the applicant processing a merger. Mr. Baldau motioned to approve the variance request contingent upon the merger of the two existing lots. Mr. Kane seconded the motion which carried unanimously.

5. Site Plan Approval and Issuance of the Improvement Location Permit for Old Route 340 Business Center (PC File #S05-09). Kristen Ringstaff with W.H. Gordon and Associates made a presentation. Mr. Kane had questions regarding the extension of the curb and gutter requirements. Ms. Ringstaff stated the curb would be all throughout the

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retail section (south end) of the project. Mr. Burke questioned whether or not a variance was obtained from 50' to 30' between the buildings. Ms. Shrader stated a variance was obtained on November 9, 2004. Mr. Burke also had landscaping questions which Mark Dyck with W.H. Gordon and Associates answered. Mark Smith the owner and developer of the site stated there might be one tree outside of the 10 feet landscape buffer. Mr. Burke asked if any members of the public wished to speak. There were none. Staff recommended approval of the site plan and issuance of the improvement location permit pending the submission of any required bonding and the merger. Mr. Kane motioned to approve the site plan and the issuance of the improvement location permit contingent on the merger. Mr. Baldau asked that Mr. Kane amend the motion to include the required bonding. Mr. Kane did so. Mr. Roper seconded the motion which carried unanimously.

6. Site Plan Approval and Issuance of the Improvement Location Permit for Charles Town Church of Christ (PC File #S03-14). Staff recommended approval of the site plan and issuance of the improvement location permit pending the submission of any required bonding. Mr. Baldau motioned to approve site plan and issuance of the improvement location permit pending the submission of any required bonding. Mr. Roper seconded the motion which carried unanimously.

7. Site Plan Approval and Issuance of the Improvement Location Permit for Word of Faith Tabernacle (PC File #S05-12). Staff recommended approval of the site plan and issuance of the improvement location permit pending the submission of any required bonding. Mr. Kane motioned to approve site plan and issuance of the improvement location permit pending the submission of any required bonding. Mr. Roper seconded the motion which carried unanimously.

8. Site Plan Approval and Issuance of the Improvement Location Permit for Commercial Building Expansion at Lot 4 – Bittinger Subdivision (PC File #S05-23). Staff recommended approval of the site plan and issuance of the improvement location permit pending the submission of any required bonding. Mr. Baldau motioned to approve site plan and issuance of the improvement location permit pending the submission of any required bonding. Mr. Corliss seconded the motion which carried unanimously.

9. Staff Issues and Concerns (Requested by Todd Baldau). Mr. Dailey motioned to request Mr. Paul Raco, Executive Director of the Department of Planning, Zoning and Engineering (DPZE), staff all Planning Commission meetings until the Subdivision Ordinances are written and in effect. Mr. Dailey stated he believed the Planning Commission needed Mr. Raco's institutional memory to guide them through some of the older projects that will come before them. Mr. Kane seconded the motion which passed with a vote 5 for and 3 opposed (Mr. Baldau, Mr. Burke and Mr. Sidor).

Under Item #9 Mr. Burke wanted to make a request that the agenda show the location of where the variances are. Mr. Sidor questioned whether or not this request should be presented under Item #9.

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CD #1 was changed at 8:13 p.m.

Meeting resumed at 8:24 p.m. without Mr. Baldau & Ms. Kelly. Ms. Kelly did not return for the balance of the meeting. Mr. Burke stated the CD was in error and recapped the events that took place prior to the error. Mr. Burke then stated the request that agendas show the location of variances was open for discussion or motion. There was no comment.

10. Postponed from the May 23, 2006 and June 13, 2006 meetings. Discussion of legal representation (Requested by John Sidor). Mr. Burke stated he had a few concerns that he would like to address in a brief executive session that he proposed to do at the end of the meeting.

11. Postponed from the June 13, 2006 meeting. Set policy for reconsideration of votes (requested by John Sims). Mr. Burke postponed this item until the next meeting.

12. Green Infrastructure Study. Mr. Burke asked if everyone had received their monthly reports. Everyone agreed they had.

13. Committees and committee reports:

- Budget Committee- Mr. Burke stated he spoke with Laura from the County Commission and they are working on web casting but do not have a date yet.
- Bylaws and Procedures Committee- Mr. Burke requested that DPZE Staff review the bylaws and submit comments back to the Planning Commission prior to the July 18, 2006 special meeting. Mr. Sidor motioned to request Staff comments on the draft bylaws and procedures document. Mr. Corliss seconded the motion which carried unanimously. Mr. Kane noticed he would not be present at the July 18, 2006 special meeting.
- PSD Committee- Mr. Sidor has no report at this time.

Mr. Baldau returned to the meeting room at 8:29 p.m.

Mr. Burke asked is anyone felt the need to have a recording secretary at the July 18, 2006 special meeting. Ms. Deming questioned if motions would be made at the meeting. Mr. Kane questioned if there would be public comment and if that were the case, a recorder would be necessary. Mr. Burke stated the intent of the special meeting is simply to come up with a finished document that could be presented at a meeting at which the public can comment. Mr. Kane suggested that at the special meeting the Planning Commission move to go into a committee of the whole in order to uphold Roberts' Rules.

- Subdivision & Zoning Ordinance Rewrite Committee- Mr. Burke stated a first assessment has been created by Lane Kendig and to have copies of this document sent to Mr. Dailey and Mr. Roper. Mr. Burke stated the Planning Commission

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should schedule a special meeting beginning at 6:00 p.m. on July 11, 2006 to meet with Lane Kendig to discuss the assessment.

- Long Range Planner- Mr. Corliss stated he submitted his top ten applicants. Mr. Roper said he would submit his after the meeting.
- TDR- Committee will be meeting with Lane Kendig on July 11, 2006 at 5:00 p.m.

Mr. Sidor made a motion to postpone both Items #14 and # 15 until the last meeting in July. Mr. Roper seconded the motion which carried unanimously.

16. Postponed from the April 25, 2006, May 23, 2006 and June 28, 2006 meetings. 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. Mr. Burke stated the Planning Commission should waive any or all of the 'Standard Procedures for Consideration of Amendments to the Ordinances.' Mr. Sidor motioned to waive the procedures. Mr. Corliss seconded the motion which carried unanimously. Mr. Kane motioned to advise the County Commission that the Planning Commission finds the proposed amendments consistent with the Jefferson County Comprehensive Plan. Mr. Dailey seconded the motion which passed with a vote 6 for and 2 opposed (Mr. Burke and Mr. Baldau).

17. Request by Greg Corliss – Pre-Blast Survey. Mr. Burke stated the Prosecuting Attorney's office has received a request to see what authority anyone in the County may have and they have not determined that.

18. Actionable Correspondence. None.

19. Non-actionable Correspondence. Letter from Russell Roper dated June 19, 2006 concerning Roberts' Rules. Mr. Roper voiced his concerns regarding Roberts' Rules, preferably the section dealing with ruling members out of order.

Mr. Corliss mentioned various council meetings that are taking place between the Jefferson County Planning Commission and the surrounding cities. Mr. Corliss submitted a letter he had written to Mr. David Mills, City Manager of Ranson, regarding the "Urban Growth Boundary."

10. Mr. Burke stated he would like to go into Executive Session to discuss pending litigation. Mr. Dailey asked where the attorney was in order to do so. Mr. Burke stated he would be reporting to the Planning Commission what he had heard from the Attorney. Mr. Corliss motioned that they should go into Executive Session for pending litigation. Mr. Sidor seconded the motion. Mr. Dailey stated they did not have the right to go into Executive Session without the presence of their Attorney. Mr. Burke reviewed the exceptions to the rules regarding the Open Meetings Law. Mr. Burke could not find the

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exception. The motion failed with a vote 1 for and 7 opposed (Mr. Burke, Mr. Dailey, Mr. Baldau, Mr. Sidor, Ms. Deming, Mr. Kane and Mr. Roper.)

Mr. Roper made a motion to adjourn the meeting. Mr. Dailey seconded the motion which passed unanimously. The meeting adjourned at 9:18 on June 27, 2006. A detailed transcript of this meeting can be found on CD # \_\_\_\_, \_\_\_\_ and \_\_\_\_\_. These minutes were prepared by Jennilee De Pottie