

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
AUGUST 8, 2006

The Jefferson County Planning Commission met on Tuesday, August 8, 2006 with Paul Burke, President presiding. John Sidor, Lynne Deming, Russell Roper, Arnie Dailey, Tom Kane and Greg Corliss were present. Staff members present were Sherry Kelly, Kim Shrader and Sherry Cole.

Todd Baldau was absent without notification.

Mr. Burke called the meeting to order at 7:00 p.m.

Mr. Corliss motioned to approve the July 25, 2006 minutes with the following changes: On page 1, the 2<sup>nd</sup> paragraph, change without notification to with notification. Under Item #1, 3<sup>rd</sup> sentence add because he had testified on the project and her ex-husband is an owner. On Page 2 under Item #4 add because they had taken legal action against the project. On Page 4, 1<sup>st</sup> sentence add and the italicized words (draft letter is attached). Mr. Sidor seconded the motion. Mr. Sidor amended the motion to delete the apostrophe in it's on page 3, the 5th paragraph, 1<sup>st</sup> line. Mr. Corliss seconded the motion which passed with a vote of 6 for and 1 abstention (Mr. Roper). The original motion passed with a vote of 6 for and 1 abstention (Mr. Roper).

1. Postponed from the April 25, 2006, May 23, 2006, June 13, 2005, July 11, 2006 and the July 24, 2006 meetings. Final Plat Public Hearing for the Maddex Farm Subdivision, Phase IV (#06-07). Ms. Deming stated she was recusing herself and leaving the meeting room for this item on the agenda since her ex-husband is part owner. Mr. Burke stated he was recusing himself and leaving the meeting room since he spoke at a meeting regarding this project. Mr. Sidor took over as chair. Mike Shepp with Dewberry asked for a postponement until the August 22, 2006 meeting and he also waived the 60 day rule until September 30, 2006. Staff stated that the site is in violation as work begun before the final plat approval and bonding. Staff stated a violation was issued in June. Sherry Kelly stated that Kirk Davis, Kim Shrader and she made an inspection on August 8, 2006 and there appears to be ongoing work on the site with no approvals, therefore, staff recommends denial of the final plat. Kim Shrader, County Engineer, stated that a stop work order was issued on June 9, 2006 and the owner continued working. Attorney Peter Chakmakian, Mike Shepp, John Thomas, Jr. and Bill Hoak spoke. Mike Shepp and John Thomas, Jr. answered questions from the Planning Commission. Mr. Kane motioned to postpone the final plat public hearing until the August 22, 2006 meeting with the following conditions: (1) Staff inspect the site no later than Friday, August 18, 2006 and (2) Staff meet with an authorized representative on site so that an adequate report can be made by staff and developer at the meeting. Mr. Corliss seconded the motion which carried unanimously. Ms. Deming and Mr. Burke returned to the meeting room.

2. Final Plat Public Hearing for the Carl Anderson Minor Subdivision (#06-17). Mr. Burke opened the public hearing. John Kusner spoke. The public hearing was closed. Staff recommended approval conditioned on submitting the necessary originally signed copies and recordation within 90 days. Mr. Sidor motioned to approve the final plat with staff contingencies. Mr. Dailey seconded the motion which carried unanimously.

3. Request by Patricia M. Sanderson of Potomac Professional Services, LLC on behalf of Greenbriar Inv., LLC for a waiver to allow the construction of a model home during the planning and review process for a proposed subdivision (Beacon Hill Estates, Section II, #05-19), (Article 8, Requirements for Conventional Subdivision, Section 8.2, C. Storm Water Drainage and

MINUTES - JEFFERSON COUNTY PLANNING COMMISSION  
AUGUST 8, 2006  
PAGE TWO

Erosion Control, Item 5). Mr. Burke stated that there is a Motion For Recusal regarding him in reference to this item on the agenda. Mr. Burke stated that he will not recuse himself. Attorney Michael Novotny spoke regarding the recusal of Mr. Burke. Patricia Sanderson presented the variance request. Ms. Sanderson and Matt Powell answered questions from the Planning Commission. There was no public comment. Staff recommended denial of the variance since only the Community Impact Statement has been processed so far, no preliminary plat has been submitted. Staff stated that there is no guarantee that the subdivision will receive final approvals. Staff stated that to allow a model home at this stage is premature and would set precedence to allow future projects to follow suit. Mr. Kane motioned to deny the request for a waiver in Beacon Hill Estates, Section II. Mr. Dailey seconded the motion which carried unanimously.

4. Request by Stephen Mitchell of Wolverine Investments, LLC for a reconsideration of the variance from the requirement of a right hand turn lane and shoulder widening at the entrance of the proposed Falcon Ridge Subdivision (#05-09). The variance request was presented at the June 13, 2006 meeting. (Article 8, Section 8.2 a.20 (c) and Article 8, Section 8.2 a.20 (e) (2) of the Jefferson County Subdivision Ordinance). Mr. Burke asked Attorney Peter Chakmakian if he had new information. Mr. Chakmakian made a presentation. Chris Smith with Wolverine Investments answered questions from the Planning Commission. Mr. Burke stated he is going to consider this a new variance request. Mr. Burke asked if there was any public comment. There was no public comment. The county engineer stated that a plan sealed by a WV professional engineer depicting ordinance required improvements has not been submitted to staff. The county engineer recommended denial. Mr. Sidor motioned the Planning Commission instruct the Department of Planning, Zoning & Engineering staff to proceed with review of the preliminary plat application for Falcon Ridge Subdivision without considering the need for a variance for shoulder widening and decel lane, conditioned on receiving a letter dated after June 13, 2006 from the State Highway Department denying the subdivision ordinance requirement for a decel lane and shoulder widening for the subdivision. Mr. Kane seconded the motion which failed with a vote of 3 for and 4 opposed (Ms. Deming, Mr. Roper, Mr. Dailey and Mr. Corliss). Mr. Kane motioned to approve the variance for Falcon Ridge Subdivision as requested. Mr. Roper seconded the motion which failed with a vote of 3 for and 4 opposed (Mr. Sidor, Ms. Deming, Mr. Dailey and Mr. Corliss). Mr. Corliss motioned to ask Staff to send a letter to the State Highway Department about deceleration and shoulder widening warrants. Mr. Sidor seconded the motion which carried unanimously.

5. Harvest Hills Subdivision, Section 1, Phase 1, Lots 28-50 (#01-42). Mr. Burke and Mr. Corliss left the meeting room for this item because they stated that they took legal action against the developer. Mr. Sidor took over as chair. Staff stated that Mr. Raco met with Peter Chakmakian. Staff stated that although two deeds have been drafted, they are not signed and conditions in the deeds are unacceptable. Peter Chakmakian stated that he received an email today from the School Board stating that they will not accept the land. Mr. Chakmakian stated that the land will go to the Jefferson County Parks & Recreation. Mr. Chakmakian stated that the church deed is signed by everyone. Mr. Chakmakian stated that he cannot record the deeds until the plats are recorded. Staff recommended having the signed deed from Jefferson County Parks & Recreation and the email from the School Board submitted to the Department of Planning, Zoning & Engineering. Mr. Kane motioned to extend consideration of Harvest Hills until the September 12, 2006 meeting. Mr. Roper seconded the motion which carried unanimously. Mr. Burke and Mr. Corliss returned to the meeting room.

MINUTES - JEFFERSON COUNTY PLANNING COMMISSION  
AUGUST 8, 2006  
PAGE THREE

Mr. Burke asked if there were any postponements.

9. Actionable Correspondence.

(A) Letter from Attorney Aaron C. Amore dated July 11, 2006 regarding Chuck de Caro. Attorney Amore asked for a postponement until the September 12, 2006 meeting. Mr. Kane motioned to postpone this item until the September 12, 2006 meeting. Mr. Roper seconded the motion which carried unanimously.

6. Zoning Definition Amendment: Private Hunting, Shooting and Fishing Clubs. Request from the County Commission on advice of the Planning Commission on whether or not the County Commission's proposed Zoning Definition Amendment is consistent with the Jefferson County Comprehensive Plan. Attorney Michael Cassell, representing Prospect Hall, made a presentation. Mr. Dailey motioned to waive the procedures that were adopted in 1999. Ms. Deming seconded the motion which passed with a vote of 5 for and 2 opposed (Mr. Burke and Mr. Sidor). Attorney Cassell continued his presentation. There was no other public comment. Sherry Kelly stated she had some concerns about the definition since it is amending the ordinance for the entire Rural District. Staff stated that this is a little broad and limiting the types of events seem to be necessary. Staff stated since the County is currently contracted with Kendig-Keast to rewrite the ordinances, it may be more beneficial to have this type of use incorporated into the revised ordinances instead of having piecemeal amendments being proposed on a continual basis without the benefit of the consultant's review. Staff further stated that if the petitioners of this amendment wish to move forward with their proposal for Prospect Hall, they are able to do so via the Board of Zoning Appeals versus having an amendment that affects the entire Rural district. Staff stated they could file a Conditional Use Permit. Staff stated the Planning Commission and County Commission may also wish to consider a more narrow definition that would strictly limit activities to those that are accessory/subordinate to the hunting club. Mr. Kane motioned to forward a response to the County Commission indicating that the Planning Commission feels the definition for agricultural use 21 is consistent with the Comprehensive Plan provided contiguous parcels of land are under common ownership and the term events are restricted to the use of the club. Mr. Dailey seconded the motion which passed with a vote of 5 for and 2 opposed (Mr. Burke and Mr. Sidor).

7. Staff Issues and Concerns (Requested by Todd Baldau). Mr. Burke stated there was a letter from Attorney McAteer in the mailed packets to the Planning Commission requesting the prosecuting attorney to provide Findings of Fact & Conclusions of Law for Tollhouse Woods Subdivision final plat. Mr. Burke suggested asking the prosecuting attorney to provide Findings of Fact and Conclusions of Law for the Tollhouse Woods Subdivision and the two variance denials on Wolverine Investments for Falcon Ridge Subdivision. Mr. Sidor motioned to ask the attorneys to provide the Findings of Fact and Conclusions of Law on Tollhouse Woods Subdivision and the two variance denials on Wolverine Investments for Falcon Ridge Subdivision. Mr. Dailey seconded the motion which carried unanimously.

8. Committees and Committee reports:

Executive Committee: Mr. Burke advised there is an Executive Committee meeting on Thursday, August 10, 2006 at 6:30 p.m. in the Harpers Ferry Council Chambers.

Budget Committee: Nothing to report.

MINUTES - JEFFERSON COUNTY PLANNING COMMISSION  
AUGUST 8, 2006  
PAGE FOUR

Bylaws and Procedures Committee: Mr. Burke stated that he has an appointment on Thursday, August 10, 2006 at 1:30 as a workshop format. Mr. Burke stated that any and all planning commissioners are welcome to come. Ms. Deming asked why she and the other planning commissioners did not receive a notice about the upcoming Executive Committee Special Meeting. Ms. Deming stated that it would be a lot more effective in any discussion if the whole Planning Commission met once a month in a work session. Mr. Kane asked why this committee meeting is not held at a regular meeting. Questions were also raised concerning content of these meetings. Mr. Burke stated that it is usually too late and the commissioners are tired by that time of night. She stated that if staff is to keep the Planning Commission informed then staff needs to be told to send these notices/ads to the Planning Commission. Mr. Burke asked staff to send all notices to the Planning Commissioners.

Mr. Dailey motioned to have the pending bylaws become a mute issue until after adoption and implementation of the new subdivision and zoning ordinances. Ms. Deming seconded the motion. Ms. Deming made an amendment to the motion that in the interim the current bylaws be brought up to State Code (as minimum as allowed) by the Planning Commission's attorneys. Mr. Dailey seconded the amendment to the motion. Sarah Birnbach spoke. Mr. Corliss motioned to table this item until the next meeting. Mr. Sidor seconded the motion which failed with a vote of 3 for and 4 opposed (Ms. Deming, Mr. Roper, Mr. Dailey and Mr. Kane). The amendment to the motion passed with a vote of 5 for and 2 opposed (Mr. Sidor and Mr. Corliss). The amended motion passed with a vote of 4 for and 3 opposed (Mr. Burke, Mr. Sidor and Mr. Corliss). Mr. Burke stated that he thinks it will be up to the County Commission as to whether they want him to go to the County Commission Work Session on August 10, 2006. Mr. Corliss stated that they would work around it and would cancel it.

PSD Committee: Mr. Corliss stated that the State Infrastructure Jobs & Development Council will be in town on August 28, 2006 to meet with the Public Service District and the City of Charles Town regarding growth. Mr. Corliss stated that Charles Town has expressed concerns about the development of the Flowing Springs and Highland Farms Plants. Mr. Sidor stated that he would contact the PSD and try to obtain more information.

Mr. Burke stated that he passed out a draft letter to the Ethics Commission regarding routing everything through the staff. Mr. Sidor motioned to authorize the president to send the letter regarding open governmental meetings to the Ethics Commission. Mr. Corliss seconded the motion which passed with a vote of 6 for and 1 opposed (Ms. Deming).

Long Range Planner: Mr. Burke stated that he is appointing Todd Baldaou to replace John Sims.

TDR: No report.

10. Non-actionable Correspondence: None.

Ms. Deming inquired as to why a request to meet with the County Commission to discuss bylaws was placed on the County Commission agenda when no action had been taken by the Planning Commission for such a request. Fred Blackmer stated that nothing gets on the County

MINUTES - JEFFERSON COUNTY PLANNING COMMISSION  
AUGUST 8, 2006  
PAGE FIVE

Commission agenda magically. Mr. Blackmer stated that somebody has to request it. Mr. Burke stated that he offered to the County Commission because he had heard that they had gotten the bylaws document and they have questions about them. Mr. Burke stated that he requested Leslie Smith to ask the County Commission if they wanted him to meet with them.

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

The meeting adjourned at 11:19 p.m. on August 8, 2006. A detailed transcript of this meeting can be found on CD # 101, #102, #103 and #104. These minutes were prepared by Sherry Cole.

