

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
NOVEMBER 14, 2006

The Jefferson County Planning Commission met on Tuesday, November 14, 2006 with Paul Burke, President presiding. John Sidor, Lynne Deming, Russell Roper, Arnie Dailey, Tom Kane, Greg Corliss and Ellen May were present. Staff members present were Sherry Kelly, Kim Shrader and Sherry Cole.

Todd Baldau was absent with notification. Mr. Corliss arrived at 7:32 with notification.

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

Mr. Deming motioned to approve the October 10, 2006 minutes with the following changes: (1) under Item #3, should read (3) attempt to move main road to avoid trees; (2) under Item #3 should read (4) review all other environmental recommendations; (3) under Item #7 should read (4) Does the design and construction ensure 1 year run off is released in 24 hours; (4) under Item #8, should read Mr. Sidor motioned the Planning Commission requests the County Commission to no later than the date of the advertisement of the Community Impact Statement Public Hearing post the Community Impact Statement on the web and leave it there until action is taken on the Community Impact Statement and until the Final Plat vote if space allows.

Mr. Burke stated that since there is not a quorum to approve the October 24, 2006 minutes that they will be held at the November 28, 2006 meeting.

5. Final Plat Public Hearing for the Northgate Limited Partnership Two Lot Subdivision, Lot 1-1 single family lot on 1.034 acres and Lot 1A-Residue/Commercial Lot on 4.284 acres (PC File #06-32). Mike Shepp with Dewberry asked (by letter) for a postponement until the December 12, 2006 meeting. Mr. Kane motioned to postpone the final plat public hearing until the December 12, 2006 meeting. Mr. Dailey seconded the motion. Mr. Burke asked if there was any public comment. There was no public comment. The motion carried unanimously.

21. Request by Bolivar Planning Commission for studies on Elk Run watershed flow and contaminants.

22. Request by Bolivar & Harpers Ferry for copies of Elk Run watershed CISs (as provided to School Board) and notices of Final Plats. Elizabeth Blake asked for a postponement of Items #21 and #22 until the November 28, 2006 meeting. Mr. Kane motioned to postpone Item #21 and Item #22 until the November 28, 2006 meeting. Ms. May seconded the motion which carried with a vote of 6 for and 1 opposed (Ms. Deming).

1. Declaration of Violation for Gay Snyder of the Jefferson County Subdivision Ordinance for property designated as Parcel 9.6 on Tax Map 17 of the Shepherdstown District as found in Deed Book 1012 at Page 415. Mason Carter presented the violation. J. Michael Cassell, Attorney, made a presentation. Gay Snyder spoke. Mr. Corliss arrived at 7:32 p.m. Mr. Kane motioned to postpone consideration of the violation until the December 12, 2006 meeting and take any new submissions from the Snyders or their representatives to resolve this issue in the intervening period. Ms. May seconded the motion which passed with a vote of 5 for and 2 opposed (Mr. Burke and Ms. Deming). Mr. Corliss did not vote.

2. Declaration of Violation for Timothy Sites and Amanda Sites of the Jefferson County Zoning and Development Review and Improvement Location Permit Ordinances for property designated as Parcel 9 on Tax Map 24 of the Shepherdstown District as found in Deed Book 914 at Page 734. Mason Carter presented the violation. There was no one present to represent Mr. and Mrs.

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Sites. There was no public comment. Mr. Sidor motioned to find Timothy Sites and Amanda Sites in violation of the Zoning and Development Review Ordinance. Mr. Dailey seconded the motion which passed with a vote of 6 for and 2 opposed (Mr. Burke and Ms. May). Mr. Kane motioned to find Timothy Sites and Amanda Sites in violation of the Improvement Location Permit Ordinance. Ms. May seconded the motion which passed with a vote of 7 for and 1 opposed (Mr. Burke).

3. Declaration of Violation for James Cook of the Jefferson County Salvage Yard Ordinance for property designated as Parcel 134.1 on Tax Map 13A of the Harpers Ferry District as found in Deed Book 615 at Page 450. Mason Carter presented the violation. James Cook asked for a 6 month extension. Mr. Kane motioned to find James Cook in violation of the Jefferson County Salvage Yard Ordinance. Mr. Dailey seconded the motion which carried unanimously.

4. Final Plat Public Hearing for the James L. and Gloria L. Grove Minor Subdivision. Staff stated that the final plat was not returned for further review to the Department of Planning, Zoning and Engineering Office until 4:30 p.m. November 14, 2006. Staff recommended denial of the final plat. John Kusner and James Grove spoke. Mr. Grove stated that he wanted the Planning Commission to review the previous final plat. Mr. Sidor motioned to approve the final plat conditioned that the two items that staff noted are corrected, with staff contingencies and otherwise meets all requirements of the ordinance. Mr. Dailey seconded the motion. The vote was 4 for and 4 opposed (Mr. Burke, Ms. Deming, Mr. Kane and Ms. May). Mr. Dailey motioned to postpone the final plat public hearing until the November 28, 2006 meeting. Mr. Roper seconded the motion. John Kusner stated that Mr. Grove waived the 60 day Rule. The motion carried unanimously.

6. Final Plat Public Hearing for the Colonial Hills Subdivision, Phase III. Mr. Burke left the meeting room for this item on the agenda stating that he contributed to a legal fund opposing the subdivision at a very early stage. Mr. Sidor took over as chair. Staff recommended approval of the final plat conditioned on submitting the necessary originally signed copies, making bonding arrangements and recordation within 90 days. Richard Klein with Alpha Associates made a presentation and answer questions from the Planning Commission. Mr. Sidor opened the public hearing. There was no public comment. Mr. Sidor closed the public hearing. Mr. Kane motioned to approve the final plat with staff contingencies. Mr. Dailey seconded the motion which carried unanimously.

7. Final Plat Public Hearing for the Quail Ridge Subdivision, Section 2, Phase 3, Lots 129-159. Mr. Burke did not return to the meeting room for this item on the agenda as he filed a Zoning Appeal regarding this subdivision. Staff recommended approval of the final plat conditioned on submitting the necessary originally signed copies, making bonding arrangements and recordation within 90 days. Richard Klein with Alpha Associates made a presentation. Mr. Sidor opened the public hearing. There was no public comment. Mr. Sidor closed the public hearing. Mr. Kane motioned to approve the final plat with staff contingencies. Mr. Dailey seconded the motion which carried unanimously.

8. Discussion with attorney(s) and decision on Findings of Fact and Conclusions of Law for Tollhouse Woods Subdivision, and other legal issues. Assistant Prosecuting Attorney James Casimiro passed out a copy of the Findings of Fact and Conclusions of Law for Tollhouse Woods Subdivision to the Planning Commission and staff. Attorney Ellen Capellanti asked to speak and was denied. Mr. Burke submitted changes to the Findings of Fact and Conclusions of Law. Mr. Kane motioned to approve the Findings of Fact and Conclusions of Law for

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Tollhouse Woods Subdivision as submitted by the prosecuting attorney. Mr. Dailey seconded the motion which carried with a vote of 5 for and 3 opposed (Mr. Burke, Ms. May and Mr. Sidor).

Mr. Sidor motioned to go into Executive Session to consult with our attorney under authority of Peter vs. Woods County. Mr. Kane seconded the motion which carried unanimously. The Planning Commission came out of executive session. Mr. Sidor motioned to approve the order on file. Ms. Deming seconded the motion which carried unanimously.

Mr. Burke requested that someone make a motion to authorize the President to sign an order about access to the Planning Commission files for legal council. Mr. Sidor made the motion. Ms. Deming seconded the motion which carried unanimously.

9. Request by Pete Kubic on behalf of Shepherd's Retreat, LLC for a variance to have a hammerhead turnaround 40 ft. wide x 30 ft. long vs. a cul-de-sac of 80 ft. Staff and engineer recommended granting the variance request. Pete Kubic answered questions from the Planning Commission. There was no public comment. Mr. Sidor motioned to approve the variance request provided the applicant places no parking signs in the hammerhead area. Mr. Kane seconded the motion which passed with a vote of 7 for and 1 opposed (Mr. Burke).

10. Request by Robert L. and Katherine Susan Miller for a variance to allow use of an existing road access easement for a parent to child lot. Sherry Kelly, Planner, recommended denial. Kim Shrader, County Engineer, recommended approval of the variance contingent upon obtaining a permit for the existing driveway. There was no public comment. Ms. Miller made a presentation. Ms. Deming motioned to approve the variance contingent upon Ms. Miller obtaining a Highway Entrance Permit for the existing driveway. Mr. Roper seconded the motion which passed with a vote of 7 for and 1 opposed (Mr. Burke).

11. Request by Sandra K. Armstrong and Jerry L. Armstrong for a variance from upgrading a road to Jefferson County Standards for serving more than 3 lots and less than 12 lots and also request to advance to the final plat stage. Sherry Kelly, Planner, recommended denial. Kim Shrader, County Engineer, recommended approval. There was no public comment. Ms. Armstrong made a presentation. Mr. Kane motioned to approve the variance request for up to 11 lots contingent upon a legal mechanism being in place to insure the maintenance of the road, that all existing lots and future lots contribute, and also include on the deed and plat. Mr. Dailey seconded the motion which passed with a vote of 7 for and 1 opposed (Mr. Burke). Staff recommended advancement to the final plat stage. Mr. Kane motioned to advance to final plat stage. Ms. May seconded the motion which carried unanimously.

12. Request by Annette van Hilst with Dewberry on behalf of Tricia Churchey for a variance to allow this proposed subdivision not to submit a Community Impact Statement. Staff and engineer recommended approval. Mike Shepp with Dewberry agreed to post a sign on the property for the final plat public hearing. Ms. Deming motioned to approve the variance request. Mr. Roper seconded the motion which passed with a vote of 7 for and 1 opposed (Mr. Burke).

13. Request by Annette van Hilst with Dewberry on behalf of Tricia Churchey for a variance to allow this proposed subdivision to proceed directly to final plat without submittal of a preliminary plat. Staff recommended approval contingent on posting final plat signage as agreed to by Mike Shepp. Kim Shrader, County Engineer, stated she has concerns regarding storm water management, erosion and sediment control and the road. Ms. Shrader recommended

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denial of the variance request. Ms. Deming motioned to deny the variance request. Mr. Sidor seconded the motion which passed with a vote of 5 for and 3 opposed (Mr. Corliss, Mr. Kane and Mr. Roper).

14. Request by Annette van Hilst with Dewberry on behalf of the Jefferson County Development Authority to allow the application and file for the Burr Business Park to remain open for up to 18 months through June 3, 2008 in order to allow the final plat for the planned Burr Business Park to be submitted and approved by the Planning Commission during that period. Staff and engineer recommended approval. Annette van Hilst made a presentation. There was no public comment. Mr. Sidor motioned to approve the variance request. Mr. Corliss seconded the motion which passed with a vote of 7 for and 1 opposed (Mr. Burke).

15. Request by Annette van Hilst with Dewberry on behalf of Sunnyside, LLC for a variance to allow the application and file for the Sunnyside Industrial Park to remain open for an additional year through December 3, 2007 in order to allow the final plat for the planned industrial park to be submitted and approved by the Planning Commission during that time period. Paul Burke left the meeting room as he stated that he spoke at the Community Impact Statement hearing on this project. Mr. Sidor took over as chair. Staff and engineer recommended approval of the variance. Mike Cassell made a short presentation. Mr. Dailey motioned to approve the variance request. Mr. Corliss seconded the motion which carried unanimously.

16. Request by Annette van Hilst with Dewberry on behalf of the Estate of Henry M. Snyder, Jr., for a variance to allow two existing residence and the outbuildings on the current property plus their accessory structures to remain on one lot. Staff and engineer recommended approval. Annette van Hilst spoke. There was no public comment. Ms. Deming motioned to approve the variance request. Mr. Roper seconded the motion which passed with a vote of 7 for and 1 opposed (Mr. Burke).

17. Request by Annette van Hilst with Dewberry on behalf of the Estate of Henry M. Snyder, Jr., for a variance to allow the existing entrance drive to the Lansdale House to be retained as the entrance to the main house and outbuildings, and to allow the tenant house located along Ridge Road to retain its own existing entrance. Staff and engineer recommended approval. There was no public comment. Mr. Sidor motioned to approve the variance request. Mr. Corliss seconded the motion which carried unanimously.

18. Request by Annette van Hilst with Dewberry on behalf of Uniwest, LLC, Michael D. Collier, President, for a variance to allow the proposed three building office complex for Lot 8 of Jefferson Crossing II to be constructed on one lot. Staff recommended approving the variance request. The engineer stated that a site plan will be submitted for each building. Mike Shepp with Dewberry and Michael Collier spoke. Mr. Sidor motioned to approve the variance request. Mr. Roper seconded the motion which passed with a vote of 7 for and 1 opposed (Mr. Burke).

19. Request by Annette van Hilst with Dewberry for clarification from the Planning Commission with regards to requirements for modification to a Community Impact Statement when the proposed change can be considered minor (Jefferson Crossing II, Lot 8). Staff and Engineer recommended approval of the variance request. Mike Shepp with Dewberry spoke. There was no public comment. Mr. Kane motion to clarify that the Planning Commission regards from commercial to office as minor and does not require modification to the Community Impact Statement. Mr. Roper seconded the motion which passed with a vote of 6 for and 2 opposed (Mr. Burke and Mr. Sidor).

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20. Letter dated October 27, 2006 from Scot M. Faulkner regarding a possible violation of the final plat for the Sheridan Subdivision. Mr. Burke recused himself as he testified at the Community Impact Statement stage. Scot Faulkner was not present at the meeting. Mr. Sidor took over as chair. Mr. Kane motioned to have staff check the Planning Commission minutes to verify the number of homes for pump and haul, get the total number of occupancy permits and report back to the Planning Commission at the November 28, 2006 meeting. Mr. Roper seconded the motion which carried unanimously. Attorney J. Michael Cassell asked if Mr. Burke had any correspondence or communication with Scott Faulkner regarding this since the letter was addressed to him. Mr. Kane motioned to ask staff to check to see where the original letter is. Mr. Dailey seconded the motion which carried unanimously.

23. Mailing of variances to Planning Commissioners. Mr. Burke stated that the Planning Commission could do this item later.

Ms. May passed out subdivision data to each Planning Commissioner.

Mr. Burke stated that there was a letter from Mike Magaha in the mailed packets regarding Ambler Road and asked Mr. Magaha if he would like to speak. Mr. Magaha stated that he has concerns regarding Ambler Road. Mr. Dailey motioned to put Michael Magaha's concerns, Ambler Road and Barleywood on the next agenda and asked for a staff report regarding construction reports and a status report of Ambler Road in accordance with the plans. Mr. Sidor seconded the motion which carried unanimously.

Mr. Roper motioned to postpone Item #23 through Item #28 until the November 28, 2006 meeting. Mr. Dailey seconded the motion which carried unanimously.

Mr. Roper motioned to adjourn at 11:35 p.m. Ms. Deming seconded the motion which carried unanimously.

The meeting adjourned at 11:35 p.m. on November 14, 2006. A detailed transcript of this meeting can be found on CD #144, #145, #146 and #147. These minutes were prepared by Sherry Cole.

