

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
NOVEMBER 28, 2006

The Jefferson County Planning Commission met on Tuesday, November 28, 2006 with Paul Burke, President presiding. John Sidor, Todd Baldau, Russell Roper, Arnie Dailey, Tom Kane, Greg Corliss and Ellen May were present. Staff members present were Sherry Kelly, Kim Shrader, James Casimiro and Jennilee Hartman.

Lynne Deming was absent with notification.

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

1. The election of officers was postponed until all Planning Commissioners are present.

Mr. Sidor motioned to ask staff to check the recording from the November 14, 2006 meeting for a second motion on the Timothy and Amanda Sites declaration of violation. Ms. May seconded the motion, which passed 7 for and one abstention (Mr. Baldau).

Mr. Kane motioned to ask the staff to check the recording from the November 14, 2006 meeting for the motion made to advance to final plat for the Sandra K. and Jerry L. Armstrong variance. Mr. Sidor seconded the motion, which passed 7 for and one abstention (Mr. Baldau).

Mr. Baldau motioned to approve the minutes from the October 24, 2006 meeting with the following changes. (1) Page one, paragraphs one and two from:

“The Jefferson County Planning Commission met on Tuesday, October 24, 2006 for the regular meeting, with Paul Burke, President presiding. Lynne Deming and Greg Corliss were present. Staff members present were Sherry Kelly, Kim Shrader, Roger Goodwin and Jennilee Hartman.

John Sidor, Arnie Dailey, Tom Kane and Ellen May were absent with notification.” ; to,

“The Jefferson County Planning Commission met on Tuesday, October 24, 2006 for a special meeting at 6:30 p.m., followed by its regular meeting at 7:00 pm. with Paul Burke, President presiding. Lynne Deming and Greg Corliss were present. Staff members present were Sherry Kelly, Kim Shrader, Roger Goodwin and Jennilee Hartman.

John Sidor, Arnie Dailey, Tom Kane and Ellen May were absent with notification. Todd Baldau was absent from the special meeting at 6:30 p.m. with notification.”

(2) Page 2, Item #4, replace the word requirements with recommendations. (3) Page 2, Item #5, remove the name Baldau from the last line in the paragraph. Mr. Roper seconded the motion passed 5 for and 3 abstentions (Ms. May, Mr. Dailey and Mr. Burke).

Mr. Burke asked if there were any postponements.

Mr. Dan Riss on the Counsel for Harpers Ferry gave Mr. Burke a letter requesting Items # 8 & 9 be postponed until January 9, 2006 in order to be able to accumulate more data. Mr. Baldau motioned to postpone Items # 8 & 9 until January 9, 2006. Mr. Sidor seconded the motion passed carried unanimously.

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2. Declaration of violation for DiGennaro Electric Contractors, Inc., of the Jefferson County Improvement Location Permit Ordinance for construction of a parking lot and storage building. Mason Carter, Ordinance Compliance Officer, made a presentation. Andrew Skinner, Attorney, was present to represent the property owner. Mr. Skinner requested an extension until April to have enough time to have a surveyor come out to the site and to submit to the Department of Planning, Zoning & Engineering. Mr. Kane motioned to delay the declaration of violation until March 13, 2006 in order for the property owner to submit an Improvement Location Permit and a building permit to the office. Mr. Dailey seconded the motion which passed 7 for and one opposed (Mr. Roper).

3. Declaration of violation for Kenneth and Brenda Conley of the Jefferson County Improvement Location Permit Ordinance for construction of a deck and shed. Mason Carter, Ordinance Compliance Officer, made a presentation. No one was present to represent Mr. Conley. Mr. Baldau motioned to declare the property owners in violation of the Jefferson County Improvement Location Permit Ordinance. Mr. Roper seconded the motion which passed unanimously.

4. Postponed from the November 14, 2006 meeting. Final Plat Public Hearing for the James L. and Gloria L. Grove Minor Subdivision, Lots 1, 2 & 3. John Kusner made a presentation. Mr. Grove was present to answer questions. Mr. Burke had questions regarding Note # 1 and Note # 16. Staff recommend approval contingent upon originally signed plats and recordation within 90 days. Sherry Kelly, Planner, read the definition of both a right of way and an easement. There was no public comment. Mr. Kane motioned to approve the final plat. Mr. Sidor seconded the motion which passed unanimously.

5. Legal discussion and possible action: (A) Legal advice from attorneys. (B) Falcon Ridge road variance and lawsuit. (C) Henry vs. Jefferson County Commission, Jefferson County Planning & Zoning Commission, et al. James Casimiro, Assistant Prosecuting Attorney, was present to address the Planning Commission. Mr. Dailey motioned to go into executive session at 7:39 p.m. to discuss the agenda items listed. Ms. May seconded the motion which passed unanimously.

CD #2 was started. The Planning Commission came out of executive session at 8:52 p.m. Mr. Baldau motioned to issue the Findings of Fact and Conclusions of Law for the Falcon Ridge Subdivision variance decision. Mr. Dailey seconded the motion. Nathan Cochran, Attorney for Wolverine Investments requested to speak on the issue. The motion passes with 5 for and 3 opposed (Mr. Roper, Mr. Corliss and Mr. Kane). Mr. Cochran asked that his objection to the Findings of Fact and Conclusions of Law be noted for the record. Mr. Cochran was permitted to speak and stated the reason Wolverine has not continued with the lawsuit against the Planning Commission is because they were led to believe the variance would be approved and that they could continue on with preliminary plat approval. Mr. Burke read a series of notes to be considered as facts (draft attached). Mr. Baldau motioned to adopt the notes as facts for the Findings of Fact and Conclusions of Law. Mr. Dailey seconded the motion. Mr. Kane stated he must object the motion stating he disagreed with the tactic being used. The motion passed 5 for and 3 opposed (Mr. Roper, Mr. Corliss and Mr. Kane). Mr. Kane motioned to approve the

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draft order provided by the attorney relating to the Falcon Ridge Subdivision. Mr. Corliss seconded the motion. Mr. Sidor motioned to amend the original motion to remove language regarding the granting of the variance. Motion dies for a lack of second. The original motion failed 3 for and 5 opposed (Mr. Dailey, Mr. Burke, Mr. Sidor, Mr. Baldau and Ms. May).

6. Report from Staff regarding Barleywood and Ambler Road construction reports; status of Ambler Road in accordance with approved plans; and, Mike Magaha's letter pertaining to the Barleywood SD (#04-16). Mr. Magaha made a presentation. Mr. Baldau motioned to request the staff to send written notification to the owner of the Barleywood Subdivision stating they appear to be in violation of the road width requirements as approved on the Preliminary and Final Plats for Ambler Road and shall request the violation terminate within 15 days of the notice. The motion carried unanimously.

7. Continued from the 11-14-06 meeting. Letter dated 10-27-06 from Scot M. Faulkner regarding a possible violation of the final plat for the Sheridan SD. Mr. Burke recused himself stating he spoke for or against the subdivision at the Community Impact Statement Hearing. Mr. Sidor chaired the meeting. Sherry Kelly, Planner, informed the Planning Commission of the research she had done in reference to this letter. Ms. Kelly stated she is going to obtain a copy of the permit regarding pump and haul from the Health Department. Mr. Kane motioned to continue the discussion until the December 12, 2006 meeting in order to obtain the Health Department permit. Mr. Baldau seconded the motion which passed unanimously. Mr. Burke returned to the meeting room and took chair.

8. Postponed from the 11-14-06 meeting. Request by Bolivar PC for studies on Elk Run watershed flow & contaminants: (A) Estimate extra water to be taken from watershed in future (homes & businesses proposed using groundwater & sending it to sewers). (B) Estimate future water quality changes (from any more septic, sewer & stormwater pollution). This item was postponed earlier in the meeting.

9. Postponed from the 11-14-06 meeting. Request by Bolivar & Harpers Ferry for copies of Elk Run watershed CISs (as provided to School Board) and notices of Final Plats. This item was postponed earlier in the meeting.

10. Postponed from the 11-14-06 meeting. Mailing of variances to Planning Commissioners. Mr. Sidor motioned to ask staff for pros and cons to having the packets mailed out the Friday after a deadline. Mr. Kane seconded the motion which passed unanimously.

11. Postponed from the 11-14-06 meeting. Future Planning Studies - Report from Staff (Per Todd Baldau's motion at the 09-26-06 JC PC meeting). Ms. Kelly presented a number of study suggestions. The Planning Commission asked if Ms. Kelly would provide them a copy of the Cambridge Study. Ms. Kelly stated she would.

12. Staff Issues and Concerns (Requested by Todd Baldau). Mr. Baldau motioned to ask the staff to mail copies of the Subdivision Review Panel notice to the municipalities of Harpers

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Ferry, Charles Town, Bolivar and Ranson. Mr. Sidor seconded the motion which passed unanimously.

13. Postponed from the 11-14-06 meeting. Committees and reports:

- Executive Committee: None.
- Long Range Planner Committee: None.
- TDR Committee: None.
- Bylaws and Procedures Committee: None.
- PSD Committee: None.
- Budget (At the September 26, 2006 meeting, Paul Burke suggested the Planning Commission start thinking about what they need for the next budget session and asked the members to report back at the November 14, 2006). Mr. Burke submitted a suggestion for the budget to include funds to hire an individual to review the agenda and minutes from each meeting to collect/accumulate data (\$2,500 - \$5000). Ms. Kelly stated the Staff Annual Report should reflect these figures. Ms. Kelly was asked to provide the report to the Planning Commission.

Mr. Corliss stated the County Commission would like to meet with the Planning Commission at some point regarding comments Ms. Deming made at the last County Commission meeting. Mr. Sidor motioned to meet with the County Commission on December 19, 2006 at 7:00 p.m. Ms. May seconded the motion which passed unanimously.

14. Postponed from the 11-14-06 meeting. Actionable Correspondence.

(B) Rezoning Petition for Last Chance Used Cars. The Planning Commission discussed the 60 day deadline requirements as well as the completeness of the petition. Mr. Kane motioned to ask staff to contact the petitioner and have them add the information required from the Ordinance. The motion carried unanimously.

(A) Letter dated September 29, 2006 from the Corporation of Shepherdstown about wastewater service area. Mr. John Matthews, Zoning Officer from Shepherdstown was present to represent the request. Mr. Kane motioned to mail the advance agenda to all the municipalities. Mr. Sidor seconded the motion which passed unanimously. The Planning Commission discussed the wastewater service area but concluded an Ordinance amendment would be necessary. Mr. Corliss stated Kendig-Keist would be in town to meet with the municipalities to discuss their concerns.

15. Postponed from the 11-14-06 meeting. Non-Actionable Correspondence.

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- (A) Letter from Loudoun County Office of Transportation Services regarding a countywide transportation plan update. No action taken.
- (B) Ordinance drafts. Placed on December 12, 2006 agenda.

Mr. Sidor suggested looking into having Planning Commission members go to City Planning Commission meetings. Discussion about state and local laws regarding number of members permitted.

CD #3 was started at 10:46 p.m.

Mr. Sidor's topic was discussed further.

Mr. Corliss questioned the status of the Long Range Planner. Mr. Dailey stated the Committee was waiting on an opinion from legal council. Mr. Fred Blackmer asked if this was the same applicant from the last time. It was indicated that it was.

Mr. Roper motioned to adjourn at 10:52 p.m. Mr. Kane seconded the motion which passed unanimously.

The meeting adjourned at 10:52 p.m. on November 28, 2006. A detailed transcript of this meeting can be found on CD # 151, 152 & 153. These minutes were prepared by Jennilee Hartman.