

MINUTES
JEFFERSON COUNTY PLANNING & ZONING COMMISSION
JANUARY 11, 2005

The Jefferson County Planning & Zoning Commission met on Tuesday, January 11, 2005 with Arnie Dailey, President, presiding. Other Planning Commission members present were: Rosella Kern, Renny Smith, Bill Lewandowski, Russell Roper, Dan Marken, John Sims, Thomas Kane and Greg Corliss. Staff members present were Paul Raco, Roger Goodwin, Mason Carter, Sherry Kelly, Michael Cassell and Sherry Cole.

Mr. Dailey called the Meeting to order at 7:00 p.m. Mr. Dailey welcomed Mr. Corliss as a new member to the Planning Commission. Ms. Smith motioned to accept the Minutes of the December 14, 2004 meeting. Mr. Kane seconded the motion which carried unanimously.

1. Election of Officers. Mr. Roper nominated to elect Mr. Dailey for President. Mr. Kane seconded the nomination. There were no other nominations. Ms. Smith motioned to close the nominations. Mr. Kane seconded the motion which carried unanimously. Mr. Dailey was elected unanimously.

Mr. Lewandowski arrived at 7:03 p.m.

Mr. Lewandowski nominated to elect Mr. Sims as Vice President. Mr. Kane seconded the nomination. There were no other nominations. Mr. Kane motioned to close the nominations. Ms. Smith seconded the motion which carried unanimously. Mr. Sims was elected unanimously.

Ms. Smith nominated Mr. Lewandowski as Secretary. Mr. Marken seconded the nomination. There were no other nominations. Ms. Kern motioned to close the nominations. Mr. Kane seconded the motion which carried unanimously. Mr. Lewandowski was elected unanimously.

2. Declaration of violation for Mr. Cliff Miller of the Jefferson County Salvage Yard Ordinance for property designated as Parcel 71 on Tax Map 7A of the Charles Town District as found in Deed Book 619 at Page 379. Mason Carter presented the violation. Mr. Miller was not present. Mr. Kane motioned to find in violation. Mr. Sims seconded the motion which carried unanimously.

3. Declaration of violation for Mr. Gary Cox of the Jefferson County Salvage Yard Ordinance for property designated as Parcel 46 on Tax Map 13J of the Harpers Ferry District as found in Deed Book 856 at Page 647. Mason Carter presented the violation. Mr. Cox was present and asked for a 30 day extension. Ms. Smith motioned to grant Mr. Cox a 60 day extension. Ms. Kern seconded the motion which passed with a vote of 5 for and 4 opposed (Mr. Lewandowski, Mr. Kane, Mr. Marken and Mr. Sims).

4. Declaration of violation for Mr. Herbert A. Jenkins, Jr. of the Jefferson County Salvage Yard Ordinance for property designated as Parcel 47 on Tax Map 18 of the Middleway District as found in Deed Book 624 at Page 243. Mason Carter presented the violation. Mr. Jenkins asked for a six months extension due to the weather, a kidney transplant and cataract surgery. Mr. Lewandowski motioned to grant a 90 day extension. Mr. Kane seconded the motion which carried unanimously.

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5. Declaration of violation for Mr. Donald Lane of the Jefferson County Improvement Ordinance for construction of a fence over 6 feet in height on property designated as Parcel 14 on Tax Map 4C of the Charles Town District as found in Deed Book 909 at Page 575. Mason Carter presented the violation. Mr. Lane asked for an extension. Mr. Lewandowski motioned to grant an extension conditioned on Mr. Lane getting a variance request in by January 25, 2005 and continue to hold the extension in place until after the Zoning Board of Appeals Meeting. Mr. Kane seconded the motion which carried unanimously.

6. Declaration of violation for Ms. Roberta Bond of the Jefferson County Improvement Location Permit Ordinance for an addition to the home on property designated as Parcel 105 on Tax Map 15 of the Harpers Ferry District as found in deed Book 931 a Page 410. Mason Carter stated that this item on the agenda has been resolved.

7. Final Plat Public Hearing for the Demory Farms Subdivision. Mr. Raco reminded the Commission that this project did not receive Community Impact Statement approval since it was a tie vote. Mr. Cassell stated that a final plat has to be approved if it meets all ordinance requirements. Mr. Cassell cited the Kaufman case and the Singer case. Staff stated that all items of the Subdivision Ordinance have been met so staff and engineer recommended approval of the final plat conditioned on submitting the necessary originally signed copies, making bonding arrangements and recordation within 90 days. There was no public comment. The public hearing was closed. Mr. Roper motioned to approve the final plat with staff contingencies. Mr. Marken seconded the motion which passed with a vote of 6 for and 2 opposed (Mr. Sims and Mr. Lewandowski). Mr. Corliss did not vote.

8. Final Plat Public Hearing for the Windmill Crossing Subdivision. There was public comment from Lyn Widmyer, Richard Ring, Ed Johnson, Dan Gavin and Peter Chakmakian. The public hearing was closed. Staff responded to concerns raised by the public and the Planning Commission. Staff stated that storm water management is provided for all of the lots in several central facilities; the Preliminary and Final Plats were essentially in conformance with the concept plan; the Community Impact Statement was denied twice and the third time it was approved unanimously after it incorporated the Planning Commission and public comments into the third Community impact statement; the 60 unit condominium project or lot 15 has to go through a complete preliminary and separate final plat review; the fact that the realignment of the frontage road makes for a safer intersection; and that the commercial lots along Marlowe Road will not have direct access to Marlow Road. Mr. Raco stated that the subdivision will be served by sewer service from Willow Springs and that the water will be served by the City of Charles Town. Staff stated that all items of the Subdivision Ordinance have been met so staff and engineer recommended approval of the final plat conditioned on submitting the necessary originally signed copies, making bonding arrangements and recordation within 90 days. Mr. Kane motioned to approve the final plat with staff contingencies. Mr. Marken seconded the motion which passed with a vote of 6 for and 2 opposed (Mr. Lewandowski and Mr. Sims). Mr. Corliss did not vote.

Mr. Lewandowski motioned to request guidance from Attorney Cassell on written documentation on cases relating to final plat approval. Mr. Sims seconded the motion which carried unanimously.

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9. Postponed from the November 14, 2004 meeting. Action and discussion by the Board of the Community Impact Statement Review for the Miller Station Subdivision, Lot 5, Tire Center. Ms. Kern left the meeting room for Item #9 as she was not at the last Planning Commission Meeting. Mr. Roper motioned to open for presentation of pictures. Ms. Smith seconded the motion which carried unanimously. Yolanda Hipske presented pictures. Staff recommended the developer submit a plan and site plan to Mr. Dietz with the Department of Highways. Ms. Smith motioned to approve the Community Impact Statement with staff contingencies; and based on the developer fixing the road (Patrick Henry Way) adjacent to the development and following up with the Department of Highways regarding putting the yellow line on the road. Mr. Kane seconded the motion which carried unanimously. Mr. Corliss did not vote.

10. Postponed from the December 14, 2004 meeting. Discussion and possible action on the Conditional Use Permit for Town Run Commons Subdivision. Ms. Kern did not return to the meeting room for this item on the agenda. Ms. Smith and Mr. Lewandowski left the meeting room for this item on the agenda. Attorney Mike Cassell spoke. The Planning Commission discussed all of the unresolved issues. Mr. Kane motioned to approve the Conditional Use Permit contingent upon the following conditions: (1) applying for and receiving a positive ruling from the Zoning Board of Appeals; (2) that the resolved items 1 through 7 are included; and under the unresolved issues: (3) that under the unresolved items that the culverting of the stream (Town Run) not take place; (4) that the 10 ft. fences referred to in items 3 and 7 are replaced with the buffers in accordance to the Standard Details; (5) items 2 and 6 that buffers are in accordance with the Standard Details; (6) that no bond insurance be required (Item #8); (7) the Phase I and Phase II archeological survey not be required; (8) the height of the homes be limited to 20 feet; (9) a professional inventory of the flora, fauna and wildlife on the site not be required; (10) and that the density not exceed 1 unit per 40,000 square feet over the 13.69 acre site. Mr. Sims seconded the motion which passed with a vote of 3 for (Mr. Kane, Mr. Sims and Mr. Marken) and 2 opposed (Mr. Dailey and Mr. Roper). Ms. Smith, Ms. Kern and Mr. Lewandowski returned to the meeting room for the rest of the meeting. Mr. Corliss did not vote.

11. Community Impact Statement Review for the Burr Business Park Commercial Subdivision, Lots 1-45. Annette van Hilst and Jane Peters presented the project. Ms. Peters asked that the Planning Commission not impose as a condition of approval to require an individual Community Impact Statement for each individual lot. Mike Shepp spoke. There was no public comment. The public hearing was closed. Staff stated that the Community Impact Statement meets the general standards and that the Community Impact Statement could be approved as: (1) require the Community Impact Statement at individual lot stage (2) do not require a Community Impact Statement at individual lot stage or (3) require staff approved update as they identify users. Staff made no recommendation with regard to the 3 options. Mr. Marken motioned to approve the Community Impact Statement with no conditions. Ms. Smith seconded the motion which passed with a vote of 8 for and 1 opposed (Mr. Lewandowski).

12. Site plan approval and issuance of the Improvement Location Permit for Premier Bank. Staff stated that the engineer has said that all site plan requirements have been met. Based on that recommendation Staff recommended issuance of the Improvement Location Permit conditioned on finalizing bonding arrangements. Ms. Smith motioned to approve the site plan and issuance of the Improvement Location Permit with staff contingencies. Mr. Marken seconded the motion which carried unanimously.

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13. Request by Murall Limited Partnership for a 90 day extension of time to bond and record the final plats for the Quail Ridge Subdivision, Section II (Article 6, Section 6.3 of the Jefferson County Subdivision Ordinance). Dick Klein presented the request. Mr. Raco explained all of the dates and their meaning. Ms. Smith motioned to grant a 90 day extension. Mr. Kane seconded the motion which carried unanimously.

14. Request by The Kenneth F. Lowe, Jr., Revocable trust for a variance from upgrading a right-of-way to County grade width and road standards for a proposed 2 lot subdivision (Article 5, Section 5.1.a.2.c and Article 8, Section 8.2.a.5 and 8.2.a.6 of the Jefferson County Subdivision Ordinance). Dick Klein presented the variance request. Mr. Raco explained that no new houses would be added to the road since the house already exists. Ms. Kern motioned to grant the variance request. Mr. Marken seconded the motion which carried unanimously.

15. Request Donald and Sandra Thomas to allow their lot their lot setbacks to be amended to the minimum standards allowed by Ordinance. Sandra Thomas presented the request. Staff explained how the ordinance was being interpreted. Staff recommended granting the variance from re-subdivision since the Board of Zoning Appeals granted approval and it meets approval of the Homeowners Association. Mr. Lewandowski motioned to grant the request. Mr. Marken seconded the motion which carried unanimously.

16. Request by Lisa and Hugo Torbidoni to lift the single family restriction note on the final plat for Lot 11 of the Canvasback ridge Subdivision to allow a 2-family dwelling. Hugo Torbidoni presented the request. Staff recommended denial since the Homeowners Association did not send a letter endorsing the removal of the single family restriction. Ms. Kern motioned to grant the request with the condition that it gets the approval of the Homeowners Association. Ms. Smith seconded the motion. Mr. Kane made an amendment to the motion to limit to family only. Mr. Sims seconded the amendment to the motion which carried unanimously. The original motion carried unanimously.

17. Possible presentation of Zoning Amendments by the County Commission. Staff stated that the 3 separate proposals are back to the Planning Commissioners for review and input to the County Commission by January 20, 2005. Mr. Corliss stated that the County Commission wants to know if the 3 proposals are consistent with the current Comprehensive Plan. Staff stated that he was not available January 18, 2005, but was available January 19, 2005. Mr. Raco also stated that the meeting might not meet their by-laws 7 day notice requirement. The Planning Commission stated that they consider this their 7 day notice. Mr. Kane also stated that he was not available January 18, 2005. Mr. Lewandowski motioned to schedule a Special Meeting for Tuesday, January 18, 2005 at 7:00 p.m. to provide guidance on the 3 proposals. Mr. Sims seconded the motion which passed with a vote of 8 to 1 opposed (Mr. Kane).

18. Ordinance revisions.

19. Correspondence. (1) Public Service District Minutes.

The meeting adjourned at 11:00 p.m. on January 11, 2005. A detailed transcript of this meeting can be found on CD # 115, #116 and #117. These minutes were prepared by Sherry Cole.

