

MINUTES
JEFFERSON COUNTY PLANNING & ZONING COMMISSION
APRIL 12, 2005

The Jefferson County Planning & Zoning Commission met on Tuesday, April 12, 2005 with Arnie Dailey, President, presiding. Other Planning Commission members present were: Bill Lewandowski, Todd Baldau, Russell Roper, Rosella Kern, and Greg Corliss. Staff members present were Paul Raco, Roger Goodwin, Sherry Kelly, Mason Carter and Sherry Cole.

John Sims and Tom Kane were absent with notification.

Mr. Dailey called the Meeting to order at 7:03 p.m. Mr. Lewandowski motioned to approve the minutes of the March 22, 2005 meeting. Mr. Roper seconded the motion which carried unanimously.

1. Postponed from the October 12, 2004 meeting. Status report on the Declaration of violation for Mr. Daniel P. Lutz of the Jefferson County Salvage Yard Ordinance for property designated as Parcel 13 on Tax Map 13 of the Kabletown District as found in Deed Book 196 at Page 128. Mason Carter stated that he did an inspection of the property and that Mr. Lutz is in compliance at this time.

2. Declaration of violation for Mr. Dawkins Bradford, Jr. and Mr. Michael Whelan of the Jefferson County Salvage Yard Ordinance for property designated as Parcel 1.1 on Tax Map 19A of the Kabletown District as found in Deed Book 997 at Page 392. Mason Carter stated that he did an inspection of the property on April 12, 2005 and that Mr. Bradford and Mr. Whelan are in compliance.

3. Final Plat Public Hearing for the George and Edna Enos Subdivision, Lot 1-Residue & Lots 2 & 3. Todd Baldau recused himself from this item on the agenda. Staff stated that all items of the Subdivision Ordinance have been met so staff and engineer recommend approval of the final plat conditioned on submitting the necessary originally signed copies, making bonding arrangements and recordation within 90 days. There was public comment from Steve Perkins, David Lloyd, Cheryl Lloyd and Walter Munns. The public hearing was closed. Mr. Raco stated that on July 27, 2004 the Planning Commission granted a variance. The developer relied on the Planning Commission to proceed to Final Plat. Mr. Lewandowski motioned to postpone the discussion on the final plat until the April 26, 2005 meeting and direct staff to facilitate a meeting between the developer and homeowners association in a reasonable attempt to get an agreement regarding the road. Mr. Corliss seconded the motion which passed with a vote of 3 for and 2 opposed (Mr. Dailey and Mr. Roper).

11. Appeal by Braun Hamstead on behalf of Paul L. and Donna K. Ashbaugh of the Staff's determination pertaining to a proposed merger exemption. Mr. Dailey stated that Attorney Hamstead asked for postponement of this item until the April 26, 2005 meeting. Ms. Kern motioned to postpone this item until the April 26, 2005 meeting. Mr. Lewandowski seconded the motion which carried unanimously.

4. William Beaumet, Agent with the U. S. Customs Service will address what their operations entail. Mr. Beaumet gave a presentation. Ronald Crossman was also present with Mr. Beaumet.

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5. Postponed from the March 22, 2005 meeting. Community Impact Statement for Fellowship Bible Church. Gary Frye and Deacon Marty Skelton presented the Community Impact Statement. There was no public comment. The public hearing was closed. Mr. Baldau motioned to postpone this item on the agenda until he has a chance to review and give his full attention to the Community Impact Statement, as he was just appointed as Planning Commissioner and did not receive the Community Impact Statement. Mr. Lewandowski seconded the motion which failed with a vote of 2 for (Baldau and Lewandowski) and 4 opposed. Pastor Van Marsell answered questions from the Planning Commission. Mr. Roper motioned to approve the Community Impact Statement with staff contingencies. Mr. Lewandowski seconded the motion which passed unanimously.

6. Postponed from the March 22, 2005 meeting. Community Impact Statement for Lake Forest Estates Subdivision. Tom Kelly and Mark Lorensen presented the Community Impact Statement and the variances. There was no public comment. The public hearing was closed. Staff recommended approval of the Community Impact Statement subject to review of the Hillside development prior to preliminary plat approval. Steve Bockmiller spoke regarding hillside slope calculations. Mr. Baldau motioned to postpone this item until the next meeting. Mr. Lewandowski seconded the motion which failed with a vote of 2 for (Mr. Baldau and Mr. Lewandowski) and 4 opposed. Mr. Lewandowski motioned to approve the two variance requests and the Community Impact Statement and requested that the developer come back before the Planning Commission at Preliminary Plat stage to present a management plan for timbering and how Article 14 was going to be complied with. Mr. Corliss seconded the motion which passed with a vote of 5 for and 1 opposed (Mr. Baldau).

7. Request by American Acreage, LLC/Lake Forest Estates Subdivision for the following variances from the Jefferson County Subdivision Ordinance:

1. Article 8, Section 8.2.e.3 - 3:1 depth to width ratio for Lot 34-Residue; and,
2. Article 8, Section 8.1.e.3. - Pipestem provision for Lot 34-Residue.

See above #6.

8. Community impact Statement for The Point (formerly The Woodlands at Shepherdstown). Nathan Cochran with the Law Office of Richard Gay asked that Mr. Baldau recuse himself from this item on the agenda. Staff recommended postponement of this item until Mr. Baldau has reviewed the Community Impact Statement. Mr. Cochran withdrew his request. Annette van Hilst presented the Community Impact Statement. There was public comment from Jeff Selzman, Bill Parmesano, and Tom McSwaim. Mike Shepp rebutted. Mr. Baldau motioned to postpone the Community Impact Statement until the April 26, 2005 meeting. Mr. Lewandowski seconded the motion which failed with a vote of 2 for (Mr. Baldau and Mr. Lewandowski) and 4 opposed. Mr. Lewandowski motioned to approve the Community Impact Statement with notice to the developer regarding safety issues to Winebrenner Road, water shed protection and SWM. Mr. Corliss seconded the motion which passed with a vote of 5 for and 1 opposed (Mr. Baldau). Mr. Lewandowski motioned to have staff to ask the Department of Highways to do a traffic impact study at the Shepherdstown 4 way stop and Shepherdstown by-pass. Mr. Corliss seconded the motion which carried unanimously.

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9. Community Impact Statement Review for the King's Crossing Subdivision. Annette van Hilst presented the Community Impact Statement and the variance requests. There was public comment from Kelly Baty. The public hearing was closed. Mike Shepp rebutted. Staff stated that the Zoning Ordinance allows the density stated in this Community Impact Statement. Staff stated that he sent a letter to Jane Arnett with the City of Charles Town with no response. Staff further stated that he felt uncomfortable going forward with this Community Impact Statement because of the latest letter from the Public Service District. Staff stated that his second concern is the Senate Bill 700 regarding PSC approval on waste water service and would like clarification from legal staff. Staff stated that without sewer capacity there will be no Preliminary Plat approval. Staff further stated that the Public Service District has changed their position and he would like clarification from legal counsel. Staff would also like to know how many people are on the waiting list. Peter Chakmakian spoke. Mr. Chakmakian stated that it is a first come first serve basis. Staff recommended a supplement to the Community Impact Statement with a letter from Jane Arnett, Senate Bill 700 and clarification as to what the waiting list means. Mr. Lewandowski motioned to postpone the Community Impact Statement until the May 10, 2005 meeting allowing the developer time to get a letter from Jane Arnett with the City of Charles Town. Mr. Baldau seconded the motion which passed with a vote of 4 for and 2 opposed (Mr. Dailey and Mr. Roper).

10. Request by Annette van Hilst/Dewberry on behalf of the King's Crossing Subdivision for the following variances:

1. Article 8, Section 8.2a(2) - Allow boulevard entrance instead of two separate Entrances; and,
2. Article 8, Section 8.21(14) - T-turnaround at the end of two parking lots as opposed to cul-de-sac within the Townhouse portion of the subdivision.

Mr. Lewandowski motioned to postpone these variances until the May 10, 2005 meeting. Mr. Baldau seconded the motion which carried unanimously.

12. Site plan approval and issuance of the Improvement Location Permit for Charles Town Races & Slots Buffet Addition. Staff and engineer recommended approval of the Site Plan and issuance of the Improvement Location Permit. Mr. Roper motioned to approve the Site Plan and issuance of the Improvement Location Permit. Mr. Corliss seconded the motion which passed unanimously.

13. Request by Elaine Dunlap for a variance to allow the 5 year restriction on parent to child exemption lots be lifted (Article 2, Section 2.1b of the Jefferson County Subdivision Ordinance). Elaine Dunlap and Tracy Kable presented the variance request. Staff stated that they normally recommend denial of this type of variance request except during a divorce. Staff further stated that they do not wish to set a precedent by granting this variance. Staff recommended granting the variance request contingent upon the applicant going through the minor subdivision process. Mr. Raco stated that the property would go back to what existed. He stated that there were two lots then and there would be two lots now. Mr. Lewandowski motioned to provide a one time exemption condition upon having the property combined into two lots total. Mr. Roper seconded the motion which carried unanimously.

14. Request by Matthew Knott for a waiver from the site plan process for a proposed second story addition and 10 x 15 uncovered deck to the existing River Riders building. Staff stated that the applicant withdrew this request.

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15. Request by Alex Rahmi on behalf of Bon Air to advance a 2 lot subdivision to the final plat stage. Staff stated that there was no one present to represent this request. Staff recommended postponement of this item until the April 26, 2005 meeting. Mr. Lewandowski motioned to postpone this item on the agenda until the April 26, 2005 meeting. Ms. Kern seconded the motion which carried unanimously.

16. Planning Commission discussion of the Chief Planner position; whether one is needed, and if the Planning Commission has sufficient staff. Mr. Lewandowski motioned to postpone Item #16 and Item #17 until the April 26, 2005 meeting. Mr. Roper seconded the motion which passed with a vote of 5 for and 1 opposed (Ms. Kern).

17. Request by Greg Corliss to discuss "Planning Commission Work Program". Postponed until the April 26, 2005 meeting. See Item #16.

18. Correspondence. (1) Ethics in Planning Commission. (2) Elaine Cogan's Tip of the Month.

Mr. Lewandowski motioned to get a letter from the prosecuting attorney as to what code applies to Subdivision and Zoning Ordinance. Ms. Kern seconded the motion which carried unanimously.

Mr. Lewandowski motioned for staff to go to the Prosecuting Attorney to see if an open internet forum would qualify as an open meeting work group. Mr. Baldau seconded the motion which carried unanimously.

The meeting adjourned at 10:50 p.m. on April 12, 2005. A detailed transcript of this meeting can be found on CD #50, #51 and #52. These minutes were prepared by Sherry Cole.

