

MINUTES  
JEFFERSON COUNTY PLANNING & ZONING COMMISSION  
MAY 10, 2005

The Jefferson County Planning & Zoning Commission met on Tuesday, May 10, 2005 with Arnie Dailey, President, presiding. Other Planning Commission members present were: John Sims, Todd Baldau, Russell Roper, Tom Kane, and Greg Corliss. Staff members present were Paul Raco, Roger Goodwin, Sherry Kelly, Kim Shrader and Sherry Cole.

Bill Lewandowski and Peter Kubic were absent with notification.

Mr. Dailey called the Meeting to order at 7:03 p.m. Mr. Sims motioned to approve the minutes of the April 26, 2005 meeting. Mr. Roper seconded the motion which carried unanimously

1. Postponed from the April 26, 2005 meeting. Declaration of violation for Ms. Mimi M. Rogers of the Jefferson County Zoning and Development Review Ordinance for the operation of an auto body shop on property designated as Parcel 29 on Tax Map 12A of the Shepherdstown District as found in Deed Book 923 at Page 701. Staff stated that this matter has been resolved.
  2. Declaration of violation for Mr. Timothy Baxter of the Jefferson County Improvement Location Permit Ordinance for placement of a shed/barn on property designated as Parcel 29 on Tax Map 12A of the Shepherdstown District as found in Deed Book 923 at Page 701. Staff stated that this matter has been resolved.
  3. Postponed from the April 26, 2005 meeting. Action on the Final Plat for the George and Edna Enos Subdivision, Lot 1-Residue & Lots 2 & 3. Staff stated that the issue with the road has not been resolved and that something was filed with Circuit Clerk to the Chairman. Staff recommended docketing this item until the May 24, 2005 meeting if we have an answer from the Prosecuting Attorney or the June 14, 2005 meeting if not. Mr. Kane motioned to postpone action on this Final Plat for two weeks or until such time as we get a ruling from the Prosecuting Attorney. Mr. Sims seconded the motion which carried unanimously.
- Mr. Baldau motioned to request that the Planning & Zoning Commission get an opinion from the office of the Prosecuting Attorney whether the planning commissioners that were not present at the April 12, 2005 Enos Subdivision Final Plat Public Hearing can participate in the action on the Final Plat for the Enos Subdivision if they have reviewed the file and heard the CDs from the meeting. Mr. Kane seconded the motion which carried unanimously.
4. Postponed from the April 26, 2005 meeting. Final Plat Public Hearing for the Quarter Farm Subdivision. The developer asked for postponement until the May 24, 2005 meeting. Postponed until the May 24, 2005 meeting. Staff stated that more time is needed for the developer to work out an agreement regarding the road with adjacent property owners. Mr. Baldau motioned to postpone this item until the May 24, 2005 meeting. Mr. Sims seconded the motion which carried unanimously.
  9. Community Impact Statement Review for the Longfield Subdivision. Staff stated that the developer asked to postpone until the May 24, 2005 meeting. Mr. Kane motioned to postpone this item until the June 14, 2005 meeting. Mr. Sims seconded the motion which carried unanimously.

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8. Community Impact Statement Review for the King's Crossing Subdivision. Staff stated that the developer has not provided a letter from Jane Arnett with the City of Charles Town and recommended postponement until the May 24, 2005 meeting. Mr. Chakmakian stated that he has not received a letter from Jane Arnett and was still trying to obtain it. Mr. Baldau motioned to postpone this item until the May 24, 2005 meeting. Mr. Sims seconded the motion which carried unanimously.

5. Postponed from the April 26, 2005 meeting. Final Plat Public Hearing for the Benview Subdivision, Lots 1-42. Staff recommended postponement until the May 24, 2005 meeting. Mr. Baldau motioned to postpone this item until all 9 spots on the Planning & Zoning Commission are filled. Mr. Sims seconded the motion which failed with a vote of 2 for and 5 opposed. Attorney Campbell stated that he would like 30 day advertising. Staff recommended postponement of this item until the June 28, 2005 meeting with any ex parte communication given to staff within 14 days and re-advertisement of the final plat public hearing. Mr. Baldau motioned to postpone this item until the June 28, 2005 meeting with staff contingencies. Mr. Sims seconded the motion which carried unanimously.

6. Postponed from the April 26, 2005 meeting. Final Plat Public Hearing for the John D. Lowe II Subdivision. Mr. Baldau recused himself. There was no public comment. The public hearing was closed. Staff recommended approval conditioned on submitting the necessary originally signed copies and recordation within 90 days. Mr. Roper motioned to approve the final plat with staff contingencies. Mr. Sims seconded the motion which carried unanimously. Mr. Baldau returned to the meeting room for the rest of the meeting.

7. Postponed from the April 26, 2005 meeting. Final Plat Public Hearing for the Haynes-Foltz, L.C. Minor Subdivision, Lot 1 & 2-residue. Postponed until the May 10, 2005 meeting. There was no public comment. The public hearing was closed. Staff recommended approval conditioned on submitting the necessary originally signed copies and recordation within 90 days. Mr. Kane motioned to approve the final plat with staff contingencies. Mr. Roper seconded the motion which carried unanimously.

10. Postponed from the April 12, 2005 and the April 26, 2005 meeting. Appeal by Braun Hamstead on behalf of Paul L. and Donna K. Ashbaugh of the Staff's determination pertaining to a proposed merger exemption. Attorney Braun Hamstead presented the request. Staff stated that the Health Department rejected because of the 20,000 sq. ft. minimum requirement for septic and well. Therefore, the merger would create a residential building right that does not exist. Staff also stated that the access would be adversely affected by the merger exemption by allowing another lot on a very steep and narrow road. Both requirements would place it in violation of Section 2.1(a) of the Subdivision Ordinance. Mr. Sims motioned to deny the appeal. Mr. Baldau seconded the motion which passed with a vote of 5 for and 1 opposed (Mr. Roper).

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11. Request by the Jefferson County Commission for a waiver from the site plan process for the placement of a temporary office trailer no greater than 20' x 60' for relocation of the Jefferson County Parks & Recreation Commission at Sam Michael's Park.. Bill Polk presented the request. Tim Barr answered questions from the Planning & Zoning Commission. Roger Goodwin, Chief County Engineer recommended approval contingent upon the following:

- (1) Adequate employee and customer parking are provided, including a hard-surfaced handicapped parking space in accordance with subdivision regulations.
- (2) Handicapped accessibility from the parking space to the structure's entrance is provided in accordance with Jefferson County Building Code and federal ADA regulations.
- (3) Setting a time limit of 2 years, from the date of variance approval, for the temporary use.
- (4) Obtaining a building permit and installing the temporary office trailer in accordance with applicable build codes.

Mr. Kane motioned to grant the waiver from the site plan process subject to staff contingencies and upon removal of the trailer that the site be returned to its natural state. Mr. Sims seconded the motion which carried unanimously.

12. Request by Chris Smith on behalf of Mark Alexander Smith Homes for advancement to the final plat stage for a proposed 3 lot subdivision (Article 6 of the Jefferson County Subdivision Ordinance). Mark Dyck presented the request. Staff stated that they would typically recommend for advancement to the preliminary plat stage. However, in light of the Enos Subdivision, since the only public hearing would be at the Final Plat the staff was concerned that interested people would show up to the Final Plat Public Hearing after the fact. Mr. Dyck agreed to notify the users and the neighbors about the subdivision. Staff recommended advancement to the preliminary plat with notification to the users and neighbors of the gravel driveway. Mr. Kane motioned to advance the request for Mark Alexander Smith Homes to the preliminary plat stage subject to staff contingencies. Mr. Baldau seconded the motion which carried unanimously.

13. Request by James Campbell on behalf of Sunnyside Industrial Park for either reconsideration of the Commission's motion on April 26, 2005 or clarification of the motion made. Staff stated that a request for reconsideration of a motion needs a motion to reconsider. Mr. Roper motioned to reconsider the Commission's motion regarding Sunnyside Industrial Park. Mr. Kane seconded the motion which passed with a vote of 4 for and 2 opposed (Mr. Baldau and Mr. Sims). Attorney Jim Campbell presented the request. Mr. Kane suggested having a baseline water quality test done on Bullsken Run. Staff stated that under 8.0 that the Planning & Zoning Commission may specify additional information on the Community Impact Statement. Staff also stated that under the Ordinance in Section 8.2C12 that you can require a baseline water study for turbidity. At Preliminary Plat the Ordinance requires a baseline study above and below the site. Staff stated the stream would be monitored as each lot develops. Staff stated that groundwater protection is a requirement of DEP. Roger Goodwin, Chief County Engineer, stated that NPDES requires liners in storm water management ponds. Mr. Goodwin further stated that NPDES issues storm water management permits. Mr. Sims suggested having a dye tracer study done and require a limited Community Impact Statement. Mr. Kane motioned to eliminate the request for a mini Community Impact Statement. Mr. Roper seconded the motion which failed with a vote of 2 for and 4 opposed (Mr. Dailey, Mr. Sims, Mr. Baldau and Mr. Corliss). Mr. Sims motioned to keep the limited Community Impact Statement and have a hydrology study done determining what the underground drainage is at the site. Mr. Baldau seconded the motion with a vote of 3

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for and 3 opposed (Mr. Dailey, Mr. Kane, and Mr. Roper). Staff recommended having a baseline turbidity test before the Preliminary Plat is approved and the site plan is approved.

Mr. Kane motioned to replace a hydrology test with a stream turbidity test. Mr. Roper seconded the motion with a vote of 3 for (Mr. Kane, Mr. Roper and Mr. Dailey) and 3 opposed. Mr. Sims motioned that based on statements from the staff that DEP monitors the quality of the run-off that he will withdraw the requirement for the hydrology study, but the turbidity test stands. Mr. Kane seconded the motion which carried unanimously.

14. Correspondence. Letter dated May 5, 2005 from Greg Jones, Assistant Prosecuting Attorney. Staff stated that Greg Jones was present. Mr. Jones stated that handling issues over the internet that are not advertised and discussing issues is a meeting and not open to all since not everyone has access to a computer. Therefore, it should not be done. Mr. Jones stated that the Planning & Zoning Commission should be using 8-24-30 with the current Subdivision Ordinance. Answer from Greg Jones, Assistant Prosecuting Attorney, submit to Ethics Board.

Mr. Corliss asked that the Green Infrastructure Study and the New MARC Train Transportation Plan be put on the agenda.

The meeting adjourned at 9:55 p.m. on May 10, 2005. A detailed transcript of this meeting can be found on CD #72 and #73. These minutes were prepared by Sherry Cole.

