

MINUTES
JEFFERSON COUNTY PLANNING & ZONING COMMISSION
OCTOBER 11, 2005

SPECIAL MEETING TIME 6:30 P.M.

The Jefferson County Planning & Zoning Commission met on Tuesday, October 11, 2005, with the President, Arnold W. Dailey, Jr., presiding. Other Planning Commission members present were: Greg Corliss, Tom Kane, Bill Lewandowski, Russell Roper, John Sidor, John Sims and Todd Baldau. Staff members present were Sherry Kelly, Roger Goodwin and Rebecca Burns.

Mr. Dailey called the Special Meeting to order at 6:30 p.m. Brandon Sims, Assistant Prosecuting Attorney was present for the Special Meeting which began at 6:30 p.m., to discuss attorney client privilege in relation to the Henry matter. Mr. Lewandowski motioned to go into Executive Session. Mr. Roper seconded the motion which carried unanimously. Mr. Lewandowski questioned the purpose of the depositions of Ms. Sims before the Commission went into executive session and off the record. Mr. Lewandowski excused himself from the meeting room during discussion on the Henry case. Ms. Burns also excused herself from the meeting room during the executive session.

Mr. Sims motioned to adjourn from the executive session. Mr. Roper seconded the motion which carried unanimously. Mr. Dailey asked Mr. Lewandowski to recuse himself so the Commission could take action on what was discussed in the executive session. Mr. Kane motioned that in the forthcoming depositions pertaining to the Henry case that the Commission adopt a policy that attorney client privilege prevail. Mr. Sims seconded the motion which carried unanimously. Mr. Lewandowski returned to the meeting room.

Mr. Dailey called the regular meeting to order at 7:00 p.m. Mr. Baldau recommended the following corrections to the Minutes of the September 27, 2005 meeting as follows:

Item #7, third sentence to read "...didn't receive the final plat back from the engineering firm until 4:30 p.m. on September 27, 2005."

Item #9, first sentence to read "to advance a 2 lot subdivision to the final plat stage..."

Item #6, add "Mr. Baldau stated that he had received an e-mail from Paul Raco saying that because the Conditional Use Permit for Thorn Hill had never been reinstated the 60-day time limit for final plat approval process had not started. Mrs. Burns confirmed this information during the discussion."

Mr. Lewandowski motioned to correct the Minutes as stated by Mr. Baldau. Mr. Sims seconded the motion which carried unanimously.

Mr. Baldau motioned to rearrange the order of the agenda by allowing Item #7 to be moved ahead of Item #3 to obtain any relevant information. Mr. Lewandowski seconded the motion which carried with a vote of 4 for and 3 opposed (Tom Kane, Arnie Dailey and Russell Roper).

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1. Final Plat Public Hearing for the Preserve at Barleywood Subdivision. Frances Magaha addressed concerns about the project. Mark Dyck spoke on behalf of the project. The Staff and Engineer recommended acceptance of the final plat noting it meets the standards of the Ordinance and subject to all bonding arrangements being made and in place and recordation within 90 days.

Mr. Roper motioned to accept the final plat subject to the Staff contingencies. The motion died for a lack of a second. Mr. Kane motioned to disapprove the final plat based on his concerns raised at the CIS stage about the lack of a second entrance onto Darke Lane. Mr. Lewandowski seconded the motion. The vote on the motion was 4 in favor and 4 opposed (Sidor, Roper, Dailey & Baldau).

Mr. Lewandowski motioned to postpone publishing the results of the vote until legal counsel renders an opinion on the meaning of a tie vote on a negative motion. Mr. Sims seconded the motion which carried with a vote of 6 for and 2 opposed (Corliss and Roper).

2. Final Plat Public Hearing for the Rock Ferry Station Subdivision. Bruce Deatley presented the project noting they incorporated the concerns raised at the CIS stage by Doug Rockwell. There were no public comments. The Staff and Engineer recommended acceptance of the final plat noting it meets the standards of the Ordinance and subject to all bonding arrangements being made and in place and recordation within 90 days. Mr. Lewandowski motioned to accept the final plat with the Staff's assurances that the overall density requirements are being met as outlined in the Zoning Ordinance and conditioned on underground water storage tanks being provided for fire fighting purposes. Mr. Kane seconded the motion which carried unanimously.

7. Request by Vicki Faulkner to address the Commission on amending the Conditional Use Permit for Shenandoah Professional Center, LLC to advance a 2-lot subdivision to the final plat stage. Ms. Faulkner presented minutes of the Planning Commission meeting held on January 14, 2003 where action was taken on the CUP for this project. Ms. Faulkner asked the Commission to deny the request.

3. Postponed from the September 27, 2005 meeting. Request by Shenandoah Professional Center LLC to advance a 2-lot subdivision to the final plat stage (Article 8, Section 8.1b and Article 11, Section 11.2.a.2 of the Jefferson County Subdivision Ordinance). Trish Sanderson presented the request and apologized to the Commission for the lack of representation of the request at the September 27, 2005 meeting. Staff and Engineer stated the request is in keeping with the issued CUP and any use beyond a single family residence on the lot being created will require additional processing through the prevailing ordinances at the time. Mr. Sims motioned to advance the 2-lot subdivision to the final plat stage subject to the Staff's recommendations. Mr. Roper seconded the motion which carried with a vote of 7 for and 1 opposed (Baldau).

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4. Request by Gary G. Smith and A. Kathy Kiss for a variance from upgrading an existing right-of-way and road to County standards through the Hermitage Ridge Subdivision and across lot 30 (Article 8, Section 8.2a of the Jefferson County Subdivision Ordinance). Kathie Kiss presented the request. The Staff and Engineer recommended denial of the request. Mr. Lewandowski motioned to postpone action on the request until a legal opinion is received from the Commission's counsel pertaining to the ownership of the road; status of the merged parcel; subdivision rights of the merged parcel; is it a separate lot; and, setting of legal precedent if the variance is approved for other subdivisions in the County. Mr. Sims seconded the motion which carried with a vote of 7 for and 1 opposed (Kane).

5. Request by Louis B. Athey on behalf of the Spruce Hill Subdivision Town Homes (#03-29) to reopen the Community Impact Statement (Article 6, Section 6.3 of the Jefferson County Subdivision Ordinance). Mike Cassell introduce Bill Sprague who presented the request. Mr. Cassell stated the preliminary plat is ready to go. Staff noted the same type of request has been granted in the past and noted there have been no changes to the Ordinances which would directly affect the CIS. Mr. Baldau motioned to deny the request. Mr. Sidor seconded the motion. The vote on the motion was 4 in favor of the motion and 4 opposed (Dailey, Roper, Kane and Corliss). Mr. Roper motioned to reopen the CIS and grant a 6 month extension. Mr. Kane seconded the motion which failed with a vote of 3 for (Roper, Kane and Dailey) and 4 opposed. Thus the request to extend the CIS was denied.

6. Request by Mark Colonial Hills, LLC for a waiver from the staff review meeting for the limited site plan for a temporary sales trailer on Lot S2 of the Colonial Hills Subdivision (Article 4, Section 4.0 of the Jefferson County Improvement Location Permit Ordinance). Kristen Ringstaff presented the request noting the Commission previously granted them permission to submit a limited site plan. Staff recommended approval. Mr. Sims motioned to grant the request subject to the Engineer's recommendation. Mr. Sidor seconded the motion. The vote on the motion was 4 in favor (Dailey, Roper, Sidor and Corliss) and 4 opposed.

8. Request by Todd Baldau to discuss the 60-day provision for the Thorn Hill Final Plat (#02-17) application. Mr. Lewandowski recused himself from this item on the agenda. Mr. Baldau motioned that the Planning Commission formally request the applicant to waive the 60 day provision of the Subdivision Ordinance as it pertains to the final plat approval for this project. Mr. Sims seconded the motion which failed with a vote of 1 (Baldau) for and 6 opposed. Mr. Lewandowski returned to the meeting room.

9. Site plan approval and issuance of the Improvement Location Permit for Charles Town Races & Slots, Phase IV, Area V, West Parking Deck (#S05-10). Randy Kepler was present on behalf of the site plan. Staff stated the site plan meets the requirements of the Ordinance and recommends approval subject to all bonding arrangements being made and in place prior to the issuance of the permits. Mr. Lewandowski motioned to accept the site plan and authorize

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issuance of the ILP subject to the Staff's recommendation. Mr. Roper seconded the motion which carried unanimously.

10. Memorandum of Understanding with the Department of Environmental Protection. Mr. Roper motioned that Staff send a letter to DEP concurring with their letter that the Memorandum of Understanding is no longer valid and in force. Mr. Kane seconded the motion which carried unanimously. Mr. Lewandowski motioned for Staff to send a letter to DEP requesting a representative of their office come to speak to the Planning Commission about their process and address questions the Commission may have. Mr. Sims seconded the motion which carried unanimously.

11. Bylaws. Mr. Lewandowski motioned to docket on the Planning Commission's agenda to solicit comments from the public and developers on the submission of digital/electronic filing of documents in addition to the submission of paper documents. Mr. Sims seconded the motion which carried unanimously.

12. Long Range Planner. Mr. Lewandowski motioned to re-advertise the Long Range Planner position and to expand the scope to include the website of the APA; State Chapters of APA; Monster.com; the Washington Post; and, the Spirit of Jefferson. Mr. Sims seconded the motion which carried unanimously.

Mr. Lewandowski motioned to ask the County Commission to authorize a salary of up to \$70,000.00 per year and authorize the selection committee to work with the County Commission to establish the appropriate starting salary and adjust it as necessary. Mr. Sims seconded the motion. The vote on the motion was 4 in favor and 4 opposed (Roper, Dailey, Kane and Corliss). Mr. Sidor motioned to ask the County Commission to authorize a salary of \$50,000.00 to \$60,000.00 per year. Mr. Sims seconded the motion which carried unanimously.

13. Correspondence: (1) Notice of Depositions on October 13 and 14, 2005. (2) Status and Scheduling Hearing on Benview. (3) Press Release on CIS and Agenda Cut-off. (4) Special meeting date and time for October 25, 2005 at 6:30 p.m. (5) Public Hearing notice for October 27, 2005 at 7:00 p.m.

Mr. Corliss stated the PSC has approved a WWTP that will serve Sheridan and a spread sheet on developments in progress and the necessary capacity.

Mr. Kane stated he would not be present at the October 27, 2005 public hearing.

Mr. Roper motioned to adjourn the meeting at 10:50 p.m. Mr. Sims seconded the motion which carried unanimously. A detailed transcript of this meeting can be found on three Compact Disks dated for this meeting. These Minutes were prepared by Rebecca Burns.