

Jefferson County Planning Commission  
May 1, 2018

The Jefferson County Planning Commission met on May 1, 2018 with the following Commission members present: Donnie Fisher, President; Steve Stolipher, Vice President; Wade Louthan, Secretary; Peter Onoszko, County Commission Liaison; Jack Hefestay, Ron Thomas, Mike Shepp and Ray Bruning. Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Alex Beaulieu, Zoning Administrator; Nathan Cochran, Assistant Prosecuting Attorney; and Rhonda Greenholtz, Planning Clerk. J Ware arrived at 7:23 PM.

Mr. Fisher called the meeting to order at 7:00 PM.

1. The minutes from the April 10, 2018 meetings were approved with no objections.
2. Citizen Communications. None
3. Request for postponement. None
4. A Public Hearing was held for a Final Plat Amendment to the Lots 1 & 2 – Residue June B Mason Minor Subdivision (PC File #04-30) for the purpose of lifting the Single Family restriction from Lot 1 in accordance with Section 24.202.A of the Subdivision Regulations. Owner/Applicant: William (Billy) Madert

Ms. Jennifer Brockman provided an overview of the request. The June B. Mason minor subdivision was created under the 1979 Subdivision Ordinance. The single family restriction note on the plat was a requirement at that time on all Minor Subdivision Plats. Although the “in-law suite” is now a Principal Permitted use under the current Zoning Ordinance, the current Subdivision Regulations state that plats have to be amended in the manner in which it was originally approved. As Final Plats were approved by the Planning Commission under the 1979 Subdivision Ordinance, this request was required to be brought before this body.

Mr. Billy Madert, applicant, stated that the reason for the request is to construct a small residential structure close to the main house for his mother-in-law.

Mr. Donnie Fisher opened the floor to Public Comment

No Public comment was made.

Mr. Fisher closed the floor to Public Comment.

Mr. Steve Stolipher made a motion to approve the application as presented.

Mr. Jack Hefestay seconded the motion. A vote was taken which carried unanimously.

Ms. Brockman made suggestion that with the next set of Subdivision Regulation amendments that a request to lift a single family restriction be permitted to be administratively approved.

A discussion ensued on this matter.

Mr. Steve Stolipher made a suggestion that another roundtable discussion be held regarding the amendment to the Subdivision Regulations

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Ms. Brockman informed the Planning Commission that the next set of amendments have been started. The purpose of this amendment is to clean up any conflicting information and to reorganize the regulations to make them easier to read and understand. A roundtable meeting would be held once the revisions have been made to review any changes and to receive input.

5. A review and discussion was held on the previous approval of the Concept Plan for the proposed Magnolia Springs Major Subdivision at the April 10, 2018 Planning Commission meeting.

Mr. Mike Shepp recused himself from this agenda item as he was not present at the previous meeting.

Ms. Brockman provided an overview of the items included in the packet and then provided details related to those items. These items were:

- Staff Memo regarding new information related to PC File 18-05 Concept Plan.  
The purpose of the memo is to make the Planning Commission members aware of the fact that there were 10 acres included in the Belvedere National Register of Historic Places Nomination Form, not just the house itself. The Planning Commission motion from the April 10<sup>th</sup> meeting is not required to be revisited but can be if desired by the Planning Commission. The Offices of Planning and Zoning determined that the proposed project is still in conformance with the Subdivision Regulations and the Zoning Ordinance. The Staff's role and the role of the Planning Commission as detailed in the Subdivision Regulations were explained by Ms. Brockman. The Planning Commission's direction cannot be more restrictive than the Regulations unless the applicant makes a proffer to the Planning Commission that they are willing to conform to suggestions made.
- Letter to Planning Commission (PC) from the Jefferson County Historic Landmarks Commission (JCHLC), dated 4/13/18 that stated they believe the approval to be in error and that proposed development violates Section 4.4 Prohibited uses of the Zoning Ordinance.
- Letter to PC from Peter Onoszko and Jack Hefestay with a letter attached from the Jefferson County Historic Landmarks Commission date, 4/16/18 asking that this matter be taken up in an expeditious manner.
- Belvedere House National Register Nomination, dated 12/16/93.  
As a result of the two (2) previous letters, staff researched the National Register Nomination further and found the wording to be confusing as 10 acres were referenced but it also stated that the nomination was for a building. Ms. Beaulieu (Zoning Administrator) contacted the State Historic Preservation Officer. An e-mail was received from this agency that confirmed that it was not only the structure but also 10 acres of the property. This information was not previously provided to the Planning Commission

during the Public Workshop held on April 10<sup>th</sup>. It was explicitly stated by the applicant that the building only was on the National Register.

- SHPO e-mail comments regarding the National Register Nomination, dated 4/16/18.
- Zoning Administrator determination related to the applicability of Section 4.4C to Magnolia Springs, dated 4/25/18. It was determined that Section 4.4C of the Ordinance does not apply to the proposed subdivision. Section 4.4C is ambiguous and does not define the criteria for “historical character of a property” nor does it clarify what is meant by “destruction of”.
- Letter to the PC from Gordon/applicant responding to letter from JCHLC, dated 4/25/18. This letter was submitted to explain why they don’t believe the 10 acres included in the National Register nomination should be retained and why the 5 acres that has been proposed to be retained around the house is the more critical part of the property to be preserved.

A graphic was shown to depict the approximate 5 acres. A diagram depicting the 10 acres was not provided.

Mr. Chad Wallen, Gordon, Representative for the applicant, and Mr. Hunter Wilson, applicant/owner spoke. Mr. Wallen stated that any misleading statements made at the previous meeting were not intentional. He stated that the nomination speaks solely to the building. The 10 acres fall under the “Geographic Data” section of the Nomination Form. Mr. Wallen also stated that the Historic Landmarks Commission section of the Zoning Ordinance states that “*Historic preservation is not to infringe on the property owners rights.*” He further explained that all the proposed uses in the Magnolia Springs development are “by right”. The 5 acres chosen to be retained with the historic home were due to the number of large oak trees giving character to the site.

Mr. Hunter Wilson explained that the pictures provided in the packet show the viewshed of the mountains. He further stated that if they were required to retain the 10 acres with the historic home, the redesign of the subdivision with the same number of lots would require the proposed houses to be tighter to the existing historic home. The developer believes that proposed layout will block the view of the new Routes 9 and 340.

A discussion ensued regarding the locations of green space, a small pond and a potential proposed fitness trail to be located on the property.

Mr. Martin Burke and Ms. Sarah Lambert, Jefferson County Historical Landmarks Commission (JCHLC) Chair and Commission member spoke. The JCHLC objected to the approval of the Concept Plan while noting that this application was submitted prior to the approval of the Zoning Ordinance amendment relating to Historic structures and

setbacks/buffer zones. Mr. Burke pointed out, however, that Section 4.4C of the Zoning Ordinance which states *“Any development which would destroy the historical character of a property listed on the West Virginia or National Register of Historic Places shall not be permitted”* is not a new section of the Zoning Ordinance and does apply to this application. The JCHLC is asking for modification in the subdivision design to be more respectful of the main house and to protect the views detailed in the National Park Service National Register Nomination form. Open space and density should be taken into consideration when proposing a new development on a historic site. The JCHLC would be happy to work with the developer to reach a compromise.

Ms. Sarah Lambert explained that the Ordinance cited speaks to protecting the character of the historic property and not just the building. This particular nomination lists the 10 acres as being part of the historic character of not only the building, but of the site. It is felt by the JCHLC that it is inappropriate that the National Register Nomination information be completely ignored as part of this application as the research and application is time consuming. The 5 acres is acceptable as an alternative but they would like to have seen the 10 acres plotted on the plan.

A discussion ensued regarding the location of the 10 acres, setbacks, location of the trees and the 200’ radius as required by the amended Zoning Ordinance. The radius not apply to this application.

Ms. Brockman provided an overview on how a previously approved motion can be amended by the Planning Commission. She further explained that the Planning Commission approval of the Subdivision Regulations may be appealed to the Circuit Court within 30 days of the date the minutes were approved (today) and that the decision of the Zoning Administrator that the Section 4.4C does not apply to the proposed development can be appealed to the Board of Zoning Appeals within 30 days of the date the decision was made. A discussion followed regarding the appeal process.

Mr. Peter Onoszko made a motion to amend the previously approved motion to approve the Concept Plan at the April 10, 2018 PC meeting.

Mr. Jack Hefestay seconded the motion.

Mr. Fisher opened discussion on the amended motion and the determination made by the Zoning Administrator. Further discussion was held between the applicant and the Planning Commission regarding the previously approved motion.

Mr. Hunter Wilson proffered to restrict the lots adjoining the proposed 5 acre lot from Road 2 to Road 8 to single story homes and to keep the building envelope as close to the roads as regulations allow.

Mr. Stolipher respectfully disagrees with amending the motion and believes that the previously approved Concept Plan is in conformance with the Zoning Ordinance and backs the decision made by the Zoning Administrator. He recommends that the JCHLC speak to the owner to see if any proffers can be made.

Mr. Fisher stated that the Planning Commission needs to follow what the Ordinance allows and asked the JCHLC what they would ask the developer for and how receptive they would be to the options provided to protect the viewshed.

A discussion ensued regarding property rights and the protection of historic sites.

Mr. Hunter Wilson responded to the discussion showing the location of the approximate 10 acres. The 5 acres proposed will encompass the house and the oak trees. He also addressed that the viewshed will be protected. He restated that he is willing to keep the proposed houses tight to their front property lines to keep more space between the five acres and restrict the adjoining lots to single story homes.

Further discussion ensued.

Mr. Onoszko made a motion to withdraw the previous motion made. Mr. Jack Hefestay withdrew the second to the motion.

Mr. Stolipher made a motion to accept the proffers made by the developer to restrict adjoining lots between Road 2 and Road 8 to single story homes (to the east, north and south of the historic home) and to keep the building envelope as close to the roads as regulations allow.

Mr. Wade Louthan seconded the motion which passed with a vote of 7-1. Mr. Jack Hefestay abstained from the vote.

Mr. Fisher called for a break at 8:30.

Mr. Fisher reconvened the meeting at 8:37.

Mr. Mike Shepp rejoined the meeting.

6. Reports from Legal Counsel and legal advice to the Planning Commission.

a) Active Litigation:

- None

7. Planners Memo.

Ms. Brockman presented the Planners Memo. The memo included the 3<sup>rd</sup> Quarter quarterly report of Planning Commission, Board of Zoning Appeals and staff activities which has

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already been forwarded to the County Commission. She provided an update of the upcoming amendments.

The amendment to the Zoning Ordinance regarding signs is scheduled to be heard by the County Commission on Thursday, May 3, 2018 at 1:30 PM.

The newly adopted Subdivision Regulations were revised and re-recorded due to a scrivener's error relating to numbering only. A full revision is being started to clean up the Regulations to update and reorganize the document for clarity and ease of use.

Ms. Brockman addressed a letter received from the Corporation of Shepherdstown regarding the proposed WV45 Gateway Design Standards. Direction from the Planning Commission is requested on the priority of the drafting of this document. A draft of the document could be presented to the Planning Commission in November.

Mr. Stolipher stated that he agrees, the priority at this time should focus on the Amendment of the Subdivision Regulations.

The next scheduled Planning Commission meeting will be held on June 12, 2018.

8. President's Report. None
9. Actionable Correspondence. None
10. Non-Actionable Correspondence. None

Mr. Fisher motioned to adjourn the meeting at 9:23 PM with no objections.