

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
MAY 15, 2012

The Jefferson County Planning Commission met on Tuesday, May 15, 2012 with the following Commission members present: Paul Taylor, President; Eric Smith, Vice-President; Morgan Eppers, Secretary; Daniel Hayes, Kelly Baty, Ed Burns, Gene Taylor, Steve Stolipher and Walt Pellish. Staff members present included Seth Rivard, Planner; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Stephanie Grove, Prosecuting Attorney; and Amy Puetz, Planning Clerk.

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

**1. Approval of the minutes for the April 24, 2012 meeting.**

Mr. Stolipher moved to approve the minutes of the April 24, 2012 Planning Commission meeting. Mr. Pellish seconded the motion which carried 5 for and 2 abstentions (Mr. Hayes and Ms. Eppers).

**2. Citizens Communication.**

Ms. Nance Brisco, speaking on behalf of Patrick Henry Estates, discussed a recent legal case in which Patrick Henry Estates was involved. She explained that the time and cost of litigation could have been avoided if the Planning and Zoning Department would review the covenants and restrictions submitted with subdivision final plats. She also requested that the Planning Commission and County Commission pay close attention to efforts taken by the Attorney General to assist homeowners with financial difficulties.

Mr. Ted Schiltz, of the Potomac Terrace Home Owners Association, objected to expanding the US 340 Corridor Study Area to the Potomac River. Mr. P. Taylor reminded the audience that there would be an opportunity to comment on the US 340 East Gateway Plan at the June 12, 2012 Planning Commission meeting.

Mr. Baty entered the room at 7:06 PM.

Mr. David Tabb, resident of Jefferson County, commented that bike paths and walking trails have taken a bigger priority in the US 340 East Gateway Plan than he had anticipated. He stated that transportation issues should have been the priority within the study. He strongly opposed the proposal of an underpass on US 340 by Allstadts Hill Road. He reported that a bridge in that area would be a better option. He urged that the Planning Commission read the document thoroughly before any decisions are made.

Mr. Smith entered the room at 7:08 PM.

Ms. Kathy Knight, President of Carriage Park Homeowners Association, held up a binder of documentation regarding the US 340 East Gateway Plan from a time period dating approximately midway through the study. She then held up a much larger binder depicting the document as she feels it was presented for the meeting. She stated that she understood

the need for some changes within the document although she advised of the benefits of keeping the report simplistic. She reported that on May 5, 2011, the County Commission voted unanimously to move forward with Option 4, which discussed eminent domain of businesses, private homes and common ground, with regards to the US 340 Corridor study. She stated that she has repeatedly requested that vote be rescinded. She related that a rescinding of that vote has not yet taken place. She inquired as to whether or not Option 4 is still being considered with regards to the US 340 Gateway Plan. She requested a cost analysis of improvements to the road. She also asked how the rerouting of traffic during construction would be addressed.

Mr. Burns asked if reviewing the covenants and restrictions of subdivisions was within the purview of the Planning Commission. Ms. Grove explained that the State of West Virginia has not given the Planning Commission or the County Commission any authority to review or enforce the covenants and restrictions of subdivisions.

3. **Request for postponement.** None.
4. **Request by Ken Lowe Management Company for a variance from the Subdivision Ordinance Article 6, Section 6.3 to allow for an extension of time (24 months) to bond and record the Kensington Townhome Subdivision (PC File #06-41). The property is located on the north side of Lowe Drive, approximately 750 feet west of its intersection with Route 480 (Kearneysville Pike), adjacent to the Clarion Hotel & Conference Center and is designated as Tax District: Shepherdstown, Map: 8, Parcel: 10.9.**

Mr. Rivard presented the variance request and location of the property. He read from his staff report and stated that, while the Planning Commission should consider the policy and planning implications of approving the variance, staff did support the request.

Mr. Dick Klein, of Alpha Associates, gave a short presentation and was available for questions. He requested approval and also voiced his support of the proposed amendment to extend Senate Bill 595 to July 1, 2015.

Mr. Baty questioned whether or not the project could be bonded and recorded by the July 1, 2012 deadline. Mr. Klein stated that it was possible for the project to bond and record although it did not make sense financially to do so with the current state of the economy. Mr. Baty stated he felt that it would set a bad precedent to allow projects a time extension past the sunset clause of July 1, 2012 set in Senate Bill 595. There was a discussion between Mr. Baty and Mr. Klein weighing the risks to the County versus the risks to the developer.

Mr. P. Taylor opened the public hearing.

Mr. David Tabb, Jefferson County resident, spoke in support of the variance request.

Mr. Hayes moved to close the public hearing. Mr. Burns seconded the motion which carried unanimously.

Mr. Burns moved to approve the variance request. Mr. Pellish seconded the motion. Mr. Hayes moved to amend the motion to include that the request meets the four criteria necessary in approving a variance. Mr. Burns accepted the amendment. Mr. Pellish voiced his support of the variance request and stated that approving these types of requests makes sense in the current condition of the economy. The motion carried 8 for and 1 opposed (Mr. Baty).

**5. Discussion regarding draft US 340 Gateway Plan edits for the purpose of approving a Draft for Public Input for use at the Public Hearing scheduled for June 12, 2012.**

Mr. Rivard reviewed the changes made in the US 340 Gateway Plan in accordance with previous edit requests. He reported that any comments or edits made at this meeting would be incorporated to a final draft which would be made available within a couple of days.

Mr. Baty discussed the lack of financing ability from the WV Department of Highways and asked why that is not addressed in the US 340 Gateway Plan. Mr. Rivard explained that the US 340 Gateway Plan would forecast improvements that need to be made so that the WV Department of Highways would be able to place those needs in future budgets. Mr. Baty inquired as to whether or not the Planning Commission should approve a plan that details such improvements without having the infrastructure to be able to handle those improvements. Mr. Burns commented that approving the document would allow the WV Department of Highways to place improvements to the corridor on a list of projected projects.

Mr. Pellish clarified that the purpose of any vote at the present time would be to approve the document to move forward to public hearing and not to approve the contents of the document. He also clarified that even after the public hearing is held, the document would still need to be presented to the County Commission for a vote to approve or deny.

Mr. Hayes moved to approve the draft as presented for public hearing on June 12, 2012. Mr. Stolipher seconded the motion which carried unanimously.

**6. Discussion and possible vote regarding the JCCEP proposed text amendment to allow for an extension of Senate Bill 595 until July 1, 2015.**

Mr. Barney explained that the amendment would allow a time extension for projects that fell within the provisions of Senate Bill 595 from July 1, 2012 to July 1, 2015. He clarified that the role of the Planning Commission is to review and provide a recommendation to the County Commission.

Ms. Eters voiced concern of the time it may take to have an amendment go through the process and questioned whether or not a variance request would be a better option for that affected projects. Mr. Rivard stated that if the amendment was not approved that the developers would still have the option of a variance if a request was submitted and a public hearing was held before the July 1, 2012 deadline.

Mr. Hayes voiced his support of the amendment.

Mr. Mike Wiley, Jefferson County Citizens for Economic Preservation (JCCEP), gave a short presentation of the proposed amendment.

Mr. Stolipher moved to recommend to the County Commission to allow time extensions as stated in Senate Bill 595 to July 1, 2015. Mr. Hayes seconded the motion which carried 8 for and 1 opposed (Mr. Baty).

**7. Discussion and vote on holding a special called 2nd Planning Commission meeting on June 26th for potential variances regarding time extensions.**

Mr. Rivard explained that staff suggested tentatively scheduling a June 26, 2012 meeting to allow projects with a July 1, 2012 deadline to submit time extension variance requests. He stated that the meeting would be solely for the purpose of hearing those requests and that no other items would be placed on the agenda.

Mr. P. Taylor called a meeting for June 26, 2012 to hear time extension variance requests.

**8. Reports from Legal Counsel and legal advice to PC.**

**Active Litigation:**

- **Far Away Farms**
- **Cedar Meadows Airpark**

Ms. Grove reported that the Far Away Farms case was continued to August of 2012.

Mr. P. Taylor called for a 5 minute break at 8:21 PM. Mr. P. Taylor called the meeting back to order at 8:26 PM.

**9. Director's Report.**

Mr. Rivard reported that the County Commission had directed staff to move forward on both the 2014 Comprehensive Plan and the US 340 South Corridor Study. He reported that staff would provide a time line for both projects for discussion with the County Commission at a future date.

Mr. Rivard reported that the County Commission approved the Planning and Zoning Department to hire one staff member from a temp agency to help organize electronic data files.

Mr. Rivard reported that there would be a tentative public hearing held in June 7, 2012 by the County Commission regarding the potential rezoning of the Capriotti property.

Mr. Rivard reviewed upcoming agenda items for the June 12, 2012 Planning Commission meeting.

10. **County Commission Liaison Report.** None.

11. **Planning Commission Exchange.**

- **Report from the Health Department Meeting Liaison.** None.
- **Report from the Public Service District Meeting Liaison.**  
Mr. Hayes stated he would be attending the Public Service District meetings.
- **Report from the Parks and Recreation Meeting Liaison.** None.
- **Report from the Jefferson County Development Authority Meeting Liaison.**  
None.
- **Report from the Water Advisory Committee Meeting Liaison.** None.

12. **President's Report.** None.

13. **Actionable Correspondence.** None.

14. **Non-Actionable Correspondence.** Mr. P. Taylor presented a letter from Mr. Earl Jackson, Jr. relaying his comments regarding the US 340 East Gateway Plan.

Mr. Hayes moved to adjourn the meeting at 8:35 PM. Mr. G. Taylor seconded the motion which carried unanimously. An audio recording and/or a video recording of the meeting may be found on our website. These minutes were prepared by Amy Puetz, Planning Clerk.