

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
NOVEMBER 13, 2012

The Jefferson County Planning Commission met on Tuesday, November 13, 2012 with the following Commission members present: Paul Taylor, President; Gene Taylor, J.P. Phillips, Daniel Hayes and Walt Pellish. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; and Amy Puetz, Planning Clerk.

Eric Smith was absent. Steve Stolipher, Morgan Eppers and Kelly Baty were absent with notification.

Mr. P. Taylor called the meeting to order at 7:01 PM.

1. Approval of the minutes for the October 23, 2012 meeting.

Mr. Hayes moved to approve the minutes of the October 23, 2012 Planning Commission meeting. Mr. Pellish seconded the motion which carried unanimously.

2. Citizens Communication. None.

3. Request for postponement. None.

4. Request by Mark Adkins of the Waterfront Group (Rock Ferry Station) (PCV#12-08) for a variance from the Subdivision Ordinance Article 8, Section 8.2.e.3 to waive the requirement that every lot shall have a minimum road frontage of 80 feet along a road right-of-way and that the ratio between lot depth and lot width shall not exceed 3:1. This property is located approximately 6 miles southwest of the Mission Road and Route 9 intersection and is designated as Tax District: Kabletown, Map: 8, Parcel: 19; Tax District: Kabletown, Map: 22, Parcels: 14 and 15; and Tax District: Kabletown, Map: 26, Parcel: 1.4.

Mr. Rivard presented his staff report. He described the location and design of the property. He explained that the applicants were decreasing the density of the property from 20 lots to 4 lots. He stated that staff recommended approval of the variance since granting the variance will allow adequate access to the lots being created. He commented that, due to the larger size of the lots, the 3:1 ratio was less of a concern. He also stated that with the reduction of density, there would be less impervious area.

Mr. Mark Adkins, of the Waterfront Group, reiterated that the 85 acres of land would encompass just 4 lots instead of 20 lots on 85 acres.

Ms. Brockman presented an email from Mr. Roger Goodwin, Chief County Engineer, supporting the variance.

Mr. P. Taylor opened the public hearing.

Mr. Steve McMurray, adjoining property owner, asked for clarification of how the decrease in density would affect surrounding property. He explained that density rights had originally been transferred from his land (a residue to the Rock Ferry Subdivision) to this property. He wondered if he would gain additional density rights by the decrease in density. Mr. Rivard clarified that the applicant had agreed to extinguish existing rights as a part of the process to create the 4 larger lots.

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

Mr. G. Taylor moved to approve the variance from the requirements that the ratio between lot depth and lot width shall not exceed the 3:1 ratio and that there is a minimum 80 feet of road frontage. Mr. Hayes seconded the motion which carried unanimously.

5. **“Interpretive Appeals and Procedure Workshop”. Presentation by Fred Blackmer to discuss procedures that will allow options to appeal a decision or interpretation of staff.**

Ms. Brockman discussed the history of the request. She stated that staff had met with legal staff and both parties had agreed that it was a legal issue. She informed the Planning Commission that, due to unforeseen family issues, legal representation was not present. She stated that legal staff commented that the meeting would be reviewed and addressed at a future meeting.

Ms. Brockman presented a timeline of meetings and consultations offered to the applicant which detailed staff’s effort to resolve some of the applicant’s issues.

Mr. Fred Blackmer stated that he believes that the Planning Commission should be able to make a determination without legal counsel. He stated that he was asking for an administrative decision by the Planning Commission to provide some means for citizens to have an affordable option to have a body to mediate the differences in interpretation of regulations between the staff and the applicant. Mr. Blackmer discussed several examples of issues regarding differences of opinion and interpretation between planning staff and the applicant regarding a prior rezoning request of his property and regarding the current process of Morgan’s Grove Market Concept Plan and Site Plan which included specific conditions of the approved Conditional Use Permit. He stated that the Planning Commission should follow WV State Code and take on the responsibility of being a mediator or to create an appeal board. He reiterated that citizens need a citizen body to appeal to when there are unresolved issues between the staff and the applicant.

Ms. Brockman stated that staff was not prepared to respond to the workshop as they had expected legal counsel to be present to make the formal response. She commented that staff makes every effort to work with every applicant and project to give as much information as early in the process as possible to make the developer aware of regulations and timeframes. She stated that staff and the Planning Commission both have worked diligently to create amendments to current regulations with the purpose of ensuring an easier process when submitting projects.

Mr. P. Taylor inquired as to the relationship between staff and the Board of Zoning Appeals (BZA). Ms. Brockman stated that Mr. Barney was the primary staff member assigned to the Board of Zoning Appeals. She briefly explained the role of the BZA.

Mr. Hayes commented that he would like for staff to be given a proper amount of time to prepare a formal response. He stated that he would like that response in addition to a response from legal counsel.

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Mr. Pellish stated that he did not believe this to be a legal issue. He expressed his support of the project and the jobs that it could provide to the area. He stated that the project should be proactively facilitated instead of having surprise issues frequently occur. He commented that he did not believe another body would be necessary and that issues should be handled through the staff, the applicant and the Planning Commission.

Ms. Brockman stated that, as an example, staff had recently sent a letter to Mr. Blackmer regarding ways to satisfy his Conditional Use Permit (CUP) conditions in an effort to act as a facilitator.

Mr. P. Taylor stated that he would like for staff to be given time to draft a formal response.

Mr. Hayes stated that there must have been some miscommunication between the developer and the staff. He reiterated that staff should have time to draft a response. He suggested that the staff and the applicant meet again to discuss issues in an attempt to resolve issues.

Mr. Rivard stated that the staff report included in the packet outlined efforts made by staff to resolve the issues between staff and the applicant.

Mr. Phillips suggested that a list of issues be created that would make for a starting point of discussion. He stated that a bigger topic may be the underlying issues of the CUP process.

Ms. Brockman stated that staff would consider supporting an amendment to the Subdivision Regulations which would accept the CUP process taking the place of the Concept Plan process. She stated that such an amendment could potentially quicken the process for future projects by a month but would not change the timeline for Morgan's Grove Market.

Mr. Barney stated that he would happily work with the applicant on any specific issues of the CUP conditions. He commented that he was unaware of any issues regarding those conditions until this meeting.

Mr. Blackmer stated that the workshop was not to be about the specific issues of his project. He stated the issue that should be discussed is creating an affordable mechanism in which unresolved issues can be appealed to a third party. He stated that, in his opinion, the Planning Commission could designate themselves as that third party within the Planning Commission Bylaws.

Mr. Hayes requested that staff address the procedural perspective of incorporating into the bylaws that the Planning Commission would act as an appeals board.

Ms. Brockman reiterated that the legal staff would be the proper staff to address these issues.

Mr. Hayes commented that he would like for planning staff, as well as legal staff, to address the potential risks and benefits of having the Planning Commission assume the responsibility of hearing appeals. Mr. Hayes asked that planning staff and legal staff both address this issue at the December 11, 2012 Planning Commission meeting.

6. Reports from Legal Counsel and legal advice to PC.

Active Litigation:

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

Ms. Brockman presented a memorandum from Mr. Stephan Groh and recent order from the WV Supreme Court which determined that the Circuit Court's order of Far Away Farms was not "final and appealable".

7. Director's Report.

Ms. Brockman discussed the website page for Envision Jefferson 2035. She reminded the Planning Commission that to "follow" the page, they would be required to confirm their personal email address.

Ms. Brockman stated that interviews for the 2-year Comprehensive Planner position were held and that staff would be making a recommendation to hire one of the applicants at the November 15th County Commission meeting. She anticipated the start date of the new hire to be December 10, 2012.

Ms. Brockman commented that a Steering Committee had been appointed by the County Commission with a total of 13 members. She stated that a new County Commission member had just been elected and would be given the opportunity to select two additional Steering Committee members in January when she takes office. She reported that the County Commission provided expectations of the committee to members at their November 8, 2012 County Commission meeting.

Ms. Brockman reported that staff would be proposing a contract to hire a facilitator for the Public Input meeting for County Commission approval at the November 15, 2012 County Commission meeting.

Ms. Brockman presented letters received by the County Commission regarding the expansion of US 340 South from two lanes to four lanes. Ms. Brockman reported that the WV Department of Highways may hold another public meeting on this topic in the beginning of 2013.

Ms. Brockman reviewed the upcoming County Commission meetings. She stated that the public hearing for the Bank of Charles Town rezoning request was scheduled for November 29, 2012 at 7 PM. She commented that the public hearings for Lowe Property rezoning request and the Jefferson Asphalt Property rezoning request were tentatively scheduled for January 10, 2013.

Ms. Brockman reported that there would be another rezoning request public hearing heard at the December 11, 2012 Planning Commission meeting regarding the Aitcheson Property.

Ms. Brockman stated that the County Commission had voted to table action on the proposed new zoning categories until after the completion of the 2014 Comprehensive Plan.

Ms. Brockman stated that staff would be presenting a request of approval for the US 340 Corridor East Gateway Plan at the County Commission meeting on November 15, 2012.

Ms. Brockman reported that the public workshop for the Morgan's Grove Market Concept Plan would be heard at the December 11, 2012 Planning Commission meeting. Mr. Hayes asked that the Planning Commission use caution to keep the discussion of the Concept Plan and the discussion of the Interpretive Appeals and Procedure Workshop as separate discussions.

8. Monthly Development Activity Report.

Mr. Rivard presented the October Monthly Development Activity Report.

9. County Commission Liaison Report.

Mr. Pellish stated that he felt positive regarding the composition of the Steering Committee.

Mr. Pellish reported that he felt that the County Commission made an error in deciding to table the discussion of the proposed new zoning categories and that he hoped to find a way to put that topic back on the table for discussion.

10. Planning Commission Exchange.

- **Report from the Health Department Meeting Liaison.**

Ms. Brockman reported that the Planning Department, the GIS Department and the Health Department have been working together to find a document tracking system that will allow shared information between the agencies.

- **Report from the Public Service District Meeting Liaison.** None.

- **Report from the Parks and Recreation Meeting Liaison.**

Mr. G. Taylor reported that the Hite Road Park project is progressing.

- **Report from the Jefferson County Development Authority Meeting Liaison.** None.

- **Report from the Water Advisory Committee Meeting Liaison.** None.

11. President's Report. None.

12. Actionable Correspondence. None.

13. Non-Actionable Correspondence. None.

Mr. Hayes moved to adjourn the meeting at 8:17 PM. Mr. Phillips 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.