

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
JUNE 28, 2011

The Jefferson County Planning Commission met on Tuesday, June 28, 2011, with the following Commission members present: Daniel Hayes, President; Arnold Dailey, Vice-President; Morgan Eppers, Secretary; Gene Taylor, Kelly Baty, Ed Burns, Paul Taylor, Eric Smith, and Walt Pellish. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Stephan Groh, Assistant Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Mr. Dailey called the meeting to order at 7:02 PM.

1. **Guest Speaker: Stephen Groh to discuss motions and Findings of Fact; Ex Parte contact; and provide an ethics overview.**

The Planning Commission allowed this item be discussed under item #12 (Legal Counsel and Legal Advice to the Planning Commission) in the interest of time to allow the public to hear the items for which they were present.

2. **Approval of the minutes for the June 14, 2011 meeting.**

Ms. Eppers requested that on page 3, line 3, that *Mr. Eppers* be changed to *Ms. Eppers*. Mr. G. Taylor moved to approve the minutes as amended. Ms. Eppers seconded the motion which carried 7 for and 1 abstention (Mr. P. Taylor).

3. **Citizens Communication:** None.

4. **Request for postponement.** None.

5. **Postponed from the June 14, 2011 Planning Commission Meeting: Request by Angela and Tim Bell for a waiver from the Subdivision Regulations Section 20.201 (A)(2) requiring upgrades to a 50 foot access easement when there are 6 or more lots. This property is located at 76 Bellview Lane and is designated as Tax District: Kabletown, Map: 28, Parcel: 11.2 and;**

6. **Postponed from the June 14, 2011 Planning Commission Meeting: Request by Angela and Tim Bell for an appeal of a staff determination that a proposed subdivision is classified as a major subdivision, pursuant to Section 20.201 of the Subdivision Regulations. This property is located at 76 Bellview Lane and is designated as Tax District: Kabletown, Map: 28 Parcel: 11.2.**

Mr. Barney presented comments that were emailed to staff from Ms. Elizabeth Mansfield stating that the placard had continued to be posted poorly and had fallen over frequently during the required posting time. The Planning Commission decided that the waiver (item #5) and the appeal (item #6) would still be heard. Mr. Barney read from his staff report regarding both the waiver and the appeal and recommended denial for both items.

Mr. Hayes entered the room at 7:11 PM.

Mr. Tim Bell and Ms. Angela Bell presented their request for both the waiver and the appeal. Mr. Bell gave a history of interactions with staff from the time of the pre-proposal conference in 2009 to present. He stated that they had been preapproved for a 2 acre lot through a pre-proposal conference held with staff and that they had received confirmation via telephone conversations to increase the parcel to a 3.45 acre lot. Ms. Bell asked what process would need to occur to move forward. Discussion ensued to clarify the requests.

Mr. Saunders read from his staff report and also recommended denial.

Mr. Dailey opened the public hearing. Ms. Elizabeth Mansfield, neighbor to the Bells, stated that she was speaking on behalf of several neighbors: herself, the Morris', and Mr. Ronnie Fletcher. She reported that Mr. and Ms. Bell had not contributed to the yearly road maintenance fee that the neighbors, including Ms. Bell, had agreed upon. She explained that the deed for the property states that only a 2 acre subdivision would be allowed while Mr. and Ms. Bell are proposing a 3.45 acre parcel.

Discussion ensued. It was noted that the Planning Commission would not consider the payment/lack of payment in road fees or the 2 acre deed restriction in the decision.

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

Mr. Hayes moved to deny the request for a waiver (item #5) using the staff recommended motion omitting paragraph #3 (attached). Mr. Smith seconded the motion which carried 8 for and 1 opposed (Mr. Burns).

Mr. Hayes moved to deny the appeal (item #6) following the staff recommended motion as written (attached) noting that the Planning Commission finds the staff determination to be correct. Mr. Baty seconded the motion which carried unanimously.

7. Concept Plan Review for Asbury United Methodist Church (PC File #S11-05). This property is located on Kearneysville Pike north of Morgan's Grove Park. This project consists of a 16,239 sq. ft. addition to the existing structure on 4.98 acres located in Tax District: Shepherdstown; Tax Map: 8 Tax Parcel: 7.2.

Ms. Brockman reported that the Jefferson County Public Service District (PSD) was the only reviewing agency to respond stating that the Shepherdstown District would provide public sewer and that a request to the town had not been place. She stated that PSD explained that due to constraints on the wastewater management facilities, a request must be reviewed by Shepherdstown and the State Department of Environmental Protection. Mr. Barney read from his staff report and confirmed that staff finds the concept plan complete and suggested a condition that a note stating that the building permit for the development be withheld until wastewater service could be provided.

Mr. Rudy Brooklyn, Pastor of Asbury United Methodist Church, gave a presentation regarding the details of the plans for the church and how it would benefit Jefferson County.

Mr. Mike Hicks, Engineer for the project, stated that the Department of Highways (DOH) had not provided a letter, however he reported he would forward an email from the DOH to staff stating that no traffic study was needed. Mr. Hicks explained that the property was equipped with well and septic that would not be adequate for the expansion. However, the church would be able to connect to a small pump station within Colonial Hills in order to expand.

Mr. Hayes opened the public workshop. Mr. Dirk Stansbury, Engineer, spoke in support of the project.

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

Mr. Burns moved to use the staff recommended motion (attached) with the condition that the site plan for the development shall not be approved until water/wastewater service is resolved and the Department of Highways permit is provided. Ms. Etters seconded the motion which carried unanimously.

8. Public Hearing for Proposed Text Amendment to Section 20.203 Minor Site Development, Section 20.204 Major Site Development, and Division 26.200 Definition of Terms, regarding the maximum square footage requirements for a Minor Site Plan in each Zoning District.

Mr. Barney reviewed the amendments. Mr. Hayes opened the public hearing.

Mr. David Hartley, representing the Eastern Panhandle Home Builders Association, voiced support of the amendments and suggested further amending Section 20.203.1 to state:

- *7,500 square feet gross floor area (GFA) on any site in the Village District.*
- *10,000 square feet gross floor area (GFA) on any site in the Rural District.*
- *7,500 square feet gross floor area (GFA) on any site in the Residential Growth District.*
- *20,000 square feet gross floor area (GFA) on any site in the Residential/Light Industrial/Commercial District.*
- *50,000 square feet gross floor area (GFA) on any site in the Industrial/Commercial District.*

He also suggested that Section 20.203.4 be further amended to state *apartment or multi-family development of 12 or less dwelling units*. He commented on his support of streamlining the process of a concept plan and discussed the idea of reinstating a staff review meeting.

Mr. Dirk Stansbury, of D A Stansbury Engineering, voiced support of the amendments and suggested that in Section 20.203.3 that buildings existing prior to 1988 be exempt from restrictions and that any existing square footage for those buildings should not be factored.

Mr. Matt Knott, owner of River Riders, stated that the Major Site Plan process is very similar to the Conditional Use Permit process and that it seems like asking for permission to do what

has already been permitted. He reported that the cost difference between a minor and major site plan is significant. He commented that the Residential/Light Industrial/Commercial district be allowed the same square footage as the Industrial/Commercial district and suggested that the wording be changed to whichever is *greater* instead of whichever is *lesser*.

Mr. John Thomas, with Jefferson Asphalt Products, stated that the length of time that it takes to process a Concept Plan is too long. He concurred with Mr. Knott that the language should be changed to state whichever is *greater* instead of whichever is *lesser*.

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

Ms. Brockman presented written comments from Jason Gerhardt, Senior Project Engineer for William H. Gordon Associates, Inc.

Mr. Smith suggested allowing up to 20,000 square feet for all districts except to allow up to 40,000 square feet in the Industrial/Commercial district with the caveat that there is a public process outlined for the Village, Residential Growth, and Residential/Light Industrial/Commercial districts.

Mr. Hayes appointed a subcommittee of Mr. Dailey, Mr. Pellish and Mr. Burns to meet at a date uncertain to edit amendments considering public comment.

Mr. Burns moved to postpone discussion until July 26, 2011. Mr. Pellish seconded the motion which carried unanimously.

Mr. Hayes called for a break at 9:11 PM. Mr. Hayes called the meeting to order at 9:17 PM.

9. Public Hearing for Amendments to Articles 4A and Section 2.2 of the Zoning and Land Development Ordinance and Section 20.203 of the Subdivision and Land Development Regulations, regarding Home Occupations and Cottage Industries.

Mr. Barney reviewed the amendments.

Mr. Hayes opened the public hearing. Ms. Barbara Feldman, home business owner, discussed issues with obtaining a Department of Highway Entrance Permit and also commented that the allowed number of cars should be increased and be more flexible.

Ms. Jennifer Syron, of the Eastern Panhandle Organization of Home Owner Associations (EPOHOA), distributed a booklet regarding the summary and position of the EPOHOA regarding home businesses and cottage industries. She gave a presentation regarding the changes to the amendments which were outlined within the documents. She reported that pressure was being placed on the HOAs and requested that the County require written approval from the HOA of the subdivision and provide public notice instead of restricting home businesses in subdivisions altogether.

Ms. Nancy Briscoe, Home Business owner, reiterated Ms. Syron's comments.

Ms. Joy Bridy, home business owner, supported having a sketch plan when a site plan was not required. She commented that in the Cottage Industry requirements, a 1,500 square foot minimum before triggering a site plan was not large enough and needed to be increased to 3,000 square feet or 5,000 square feet. She requested that a seasonal open house clause be included in the traffic requirements to allow more traffic during an open house. She stated that, regarding 4A.1 (g), outside storage should be allowed. She commented that she would like to see the 25' setback requirement removed. She reported that she was unclear why a Compatibility Assessment Meeting was required when there is a shared driveway and why a Department of Highways entrance permit was required when there were no previous issues.

Ms. Joann Harstead, citizen, agrees with the amendments. She requests that in Article 4A.1 (d) that language be added that states "*No equipment or process shall be used in a Home Occupation or Cottage Industry that poses a safety threat to its neighbors or neighborhood*".

Mr. Gert Harstead, citizen, reiterated Ms. Harstead's comments. He spoke in support of the amendments and asked that the Planning Commission maintain the regulations to ensure safety to individuals and to property.

Mr. Louis Meadows, citizen, stated he was not in favor of the amendments.

Mr. Neal Nilsen, board member of the EPOHOA, stated that the document that had been distributed earlier in the meeting described processes that would involve an HOA in determining approval of a home business.

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

Discussion ensued on possible changes to make to the amendments. Ms. Etters suggested discussing this item further after staff summarizes the public comment that was given.

Mr. Saunders offered to provide State requirements regarding highway entrance permits at the next meeting.

Mr. Baty moved to postpone discussion of this item to July 26, 2011. Mr. Pellish seconded the motion which carried unanimously.

10. Discussion and possible scheduling of Public Hearing for Updated Proposed Text Amendment for Sections of Article 24 of the Jefferson County Subdivision Regulations regarding timeframes and noticing requirements for processing procedures.

Ms. Brockman reviewed the amendments. Mr. Smith moved to hold the public hearing on July 12, 2011. Mr. Pellish seconded the motion which carried unanimously.

11. Discussion and possible scheduling of Public Hearing for proposed Zoning Text Amendment to Article 12 of the Jefferson County Zoning and Land Development Ordinance.

Ms. Brockman reviewed the amendments. Ms. Etters moved to hold the public hearing on July 12, 2011. Mr. Smith seconded the motion which carried unanimously.

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

Mr. Groh read from a proposed settlement stating that an extension would be granted to bond and record the final plat to Alstadt's Corner until July 1, 2012. Mr. Pellish moved to adopt the settlement. Mr. Smith seconded the motion which carried 7 for, 1 opposed (Mr. Baty), and 1 abstention (Mr. P. Taylor).

Mr. Groh distributed educational information regarding ethics and open public governmental procedures. He briefly discussed the Open Meetings Act.

Mr. Groh reported that there had been a hearing regarding Far Away Farms and that he had two weeks to respond to a motion to intervene.

13. Director's Report.

Ms. Brockman stated that the final draft of the Urban Tree Canopy goals was distributed to the cities. She reported that the next step would be for the City Council to review and adopt the document and then the County would review and adopt.

Ms. Brockman reported that there had been a US 340 Eastern Gateway Plan meeting and she reviewed the interactive website that had been created.

Ms. Brockman stated that Dawn Childs had been hired as the new Office Manager for the department. She also stated that Aaron Molinda would be the summer intern until mid-August and that he would be completing research for the Comprehensive Plan.

Ms. Brockman explained that the policy neutral amendments to the Zoning and Land Development Ordinance would be discussed at the July 7th County Commission meeting. She also informed the Planning Commission that the Shenandoah Professional Center rezoning would be heard at the June 30th County Commission meeting.

14. County Commission Liaison Report. None.

15. Planning Commission Exchange. None.

16. President's Report. None.

17. Actionable Correspondence. None.

18. Non-Actionable Correspondence. None.

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Mr. Burns moved to adjourn the meeting at 11:03 PM. Mr. Smith seconded the motion which carried unanimously. An audio recording and a video recording of the meeting may be found on our website. These minutes were prepared by Amy Puetz, Planning Clerk.