

DRAFT MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
FEBRUARY 23, 2010

The Jefferson County Planning Commission met on Tuesday, February 23, 2010, with the following Commission members present: John Maxey, President; Robert Reynolds, Vice President; Frances Morgan, John Sidor, Steve Alemar, Clifford Taylor and Thomas Trumble. Staff members present included Seth Rivard, Planner; Jennifer Snyder, Zoning Administrator; Roger Goodwin, Chief County Engineer; Jonathon Saunders, County Engineer; Stephen Groh, Assistant Prosecuting Attorney; and Jennilee Hartman, Planning Clerk.

Ms. May and Mr. Dailey were absent with notification.

Mr. Maxey called the meeting to order at 7:00 PM. Mr. Taylor was introduced as a new Planning Commissioner.

1. **Election of Planning Commission Secretary.** Mr. Sidor elected Mr. Trumble to serve as Secretary. There were no further elections. Mr. Maxey called for the vote. Mr. Trumble was unanimously voted Secretary.
2. **Approval of minutes for January 26, 2010 meeting.** Mr. Reynolds moved to approve the minutes of January 26, 2010, with the following correction; Page 3, Item #10 c., change, "A was proposed..." to "A *workshop* was proposed...". Mr. Alemar seconded the motion, which carried unanimously.

Approval of minutes for February 16, 2010 workshop. Mr. Alemar moved to approve the minutes of February 16, 2010. Mr. Taylor seconded the motion. Mr. Reynolds and Mr. Sidor abstained from the vote because they did not attend the workshop. Mr. Maxey called for the vote. The motion to approve the minutes passed 5 for and 2 abstentions (Mr. Reynolds & Mr. Sidor).

3. **Citizen Communications.** None.
4. **A call for postponements.** None.
5. **Public Hearing for Zoning Map Amendment (Rezoning) for property designated as Tax District: Harpers Ferry, Map: 9, Parcel: 37 and 37.2.** Matt Powell with Potomac Professional Services, LLC supplied the Commission with a handout and narrated a PowerPoint presentation of his request. Mr. Rivard also provided a PowerPoint presentation to the Commission along with his recommendation for denial of the rezoning request. The Commission asked for a definition of "light industrial." Mr. Rivard explained that the current zoning ordinance did not define the term "light industrial" nor did it define the term "commercial."

Mr. Maxey opened the public hearing.

Paul Rosa provided the Commission with two maps. The first map depicted the area surrounding the parcel approximately 12 years prior as being primarily privately owned land. The second map depicted the same location as being currently owned by the National Park Service. Mr. Rosa argued that the acquisition of this property clearly indicates a movement towards the preservation of land along WV Route 340. Due to the sizeable purchase of the property by the National Park Service, Mr. Rosa stated that he believed there has been a significant change of an economical, physical or social nature, within the area involved, which was not anticipated when the Comprehensive Plan was adopted.

Gary Dungan raised concerns about potential flooding on the site, if it were to be developed.

Vicki Faulkner agreed with Mr. Rosa's position regarding the importance of preservation along the 340 corridor. Ms. Faulkner stated, the citizen's of Jefferson County voted against the once proposed Zoning Ordinance and Map, thus by taking this action they were, in effect, stating that this site should not be commercially zoned.

Mr. Powell rebutted, stating regardless of the outcome of this request, the site would be developed. Additionally, Mr. Powell stated that a commercial zoning would be better suited for the area, as opposed to proposing more single family housing and townhomes. Moreover, Mr. Powell stated a commercial use would have a lesser impact, than an apartment or townhome community. Mr. Powell argued this site would not create commercial sprawl, since the flea market, Cliffside Inn, and various other Charles Town City commercial businesses surround the site. Mr. Powell stated that while he did not know of a specific use for the property, he did not wish to establish a commercial use that would devalue the property. In addition, Potomac Professional Services, LLC owns the smaller parcel and considering the millions of dollars spent in renovating the existing historic building, they would not want a neighboring use to devalue their property.

Trish Sanderson, with Potomac Professional Services, LLC, explained to the Commission that the site was purchased with the intent to develop it. Ms. Sanderson stated they are requesting a rezoning because they feel the County would be better served with additional economic opportunities versus establishing more housing. Ms. Sanderson also stated that no one has approached Potomac Professional Services, LLC regarding purchasing the property for the purpose of preservation.

Mr. Maxey closed the public hearing. Mr. Reynolds moved to approve staff's recommendation to deny the rezoning request by Potomac Professional Services, LLC. Mr. Sidor seconded the motion.

Mr. Maxey called for a break to change the CD at 8:20 PM. The meeting resumed at 8:24 PM.

There was discussion among the Commission members. Mr. Reynolds offered a friendly amendment to strike the sixth "Whereas" statement. Mr. Sidor accepted the friendly

amendment. Mr. Trumble motioned to insert the clause, "Whereas, The Planning Commission further finds that there have not been major changes of an economic, physical or social nature, within the area involved, which were not anticipated when the Comprehensive Plan was adopted that would justify granting the request; and." Mr. Sidor seconded the motion to amend the original motion, which carried unanimously. Mr. Maxey called for a vote on the original motion, as amended, which carried unanimously.

Ms. Morgan stated for the record that she would be voting on this item when it is brought before the County Commission. Mr. Reynolds expressed his concern that the County Commission liaison has the ability to vote on items that come before both Commissions. It was discussed that the Jefferson County Planning Commission By-Laws should be changed. This item is to be added to the next Planning Commission agenda.

Ms. Morgan stated she had child care issues and excused herself from the meeting at 8:40 PM.

6. **Request by Suzanne Walls Trust, for a variance, to decrease the length of the deceleration lane, from the original site plan, for Walls Nursery (PC file #S04-16).** Suzanne Walls presented the request to the Commission. Mr. Rivard deferred to the County Engineer for recommendation. Mr. Saunders recommended approval of the variance request, subject to the Engineering Department receiving a letter from the Department of Highways approving the removal of the deceleration lane. Mr. Goodwin explained the nature of the request to the Commission. Mr. Walls explained the speed limit requirements before and after his property. Mr. Walls also stated the new Route 9 would be open in the summer of 2010, thereby reducing traffic on old Route 9." Mr. Maxey closed the public hearing. Mr. Trumble moved to approve the variance as requested. Mr. Alemar seconded the motion. Discussion ensued among the Commission members. The motion passed 4 for and 2 opposed (Mr. Sidor and Mr. Maxey).

Mr. Maxey called for a break at 9:10 PM. The meeting resumed at 9:17 PM.

7. **Reconsideration of vote on Town Run Commons Variance.** Mr. Trumble moved to go into executive session at 9:18 PM. Mr. Alemar seconded the motion, which carried unanimously.

Mr. Reynolds moved to come out of executive session at 9:23 PM. Mr. Sidor seconded the motion, which carried unanimously.

Ms. Snyder confirmed that the conditional use permit for Town Run Commons had expired, prior to the Planning Commission hearing the variance request for an extension of time for the Community Impact Statement.

Mr. Groh prepared an order dismissing the request for a variance and instructing the staff to return the fee to the applicant due to the expiration of the conditional use permit at the time

the variance request was submitted. Therefore, the Planning Commission should not have heard the request because it would have been approving an unlawful use of the property at that time. Mr. Groh recommended the Planning Commission adopt the order. Mr. Sidor questioned the heading on the order. The Commission requested Mr. Groh change the heading to "Dismissal of a Request for a Variance." Mr. Sidor moved to adopt the order, as presented by Mr. Groh. Mr. Trumble seconded the motion. Mr. Taylor abstained from the vote, because he was not a member of the Commission at the time the variance request was heard. The motion passed 5 for and 1 abstention (Mr. Taylor).

8. **Discussion and possible vote on departmental fees.** Ms. Snyder presented the Commission with the draft proposed fee schedule. The Commission had concerns regarding the proposed fees for a rezoning request versus a conditional use permit. Staff was directed to reevaluate the fees for these items and to bring back a revised fee schedule for consideration by the Commission at the next meeting.

Mr. Maxey called for a break to change the CD at 9:56 PM. The meeting resumed at 9:57 PM.

9. **Blue Ridge Mountain Community Plan.** Discussion ensued regarding the need for a Blue Ridge Mountain Citizen's Committee. The Commission requested that staff prepare a press release, to announce the need for applicants to this committee. Ed Burns, Blue Ridge Mountain resident, stated the committee should be a collection of both mountain and non-mountain residents. Don Orser, Blue Ridge Mountain resident and Lee Snyder, with Jefferson Utilities, also spoke about the issues on the mountain.
10. **Director's Report.** Ms. Brockman was not in attendance at this meeting, due to a Leadership Jefferson trip to Charleston.
11. **Reports from Legal Counsel and legal advice to PC.** None.
12. **County Commission Liaison Report.** None.
13. **Planning Commission Exchange.** Mr. Sidor announced this would be his last Planning Commission meeting.
14. **President's Report.** Discussion and vote on Annual Report. The Commissioner's discussed the need to hire a Comprehensive Planner and that this need is outlined in the Annual Report. Mr. Alemar proposed several edits to the Annual Report and Mr. Maxey offered to revise the report, including Mr. Alemar's proposed edits. Mr. Maxey then stated he would have the document ready by noon on March 5, 2010.
15. **Actionable Correspondence.** None.
16. **Non-Actionable Correspondence.** None.

DRAFT MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
FEBRUARY 23, 2010
PAGE 5 of 5

Mr. Sidor moved to adjourn at 10:32 PM. Mr. Alemar seconded the motion, which carried unanimously. A detailed transcript of the meeting may be found on CD #____. These minutes were prepared by Jennilee Hartman, Planning Clerk.