

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
MAY 18, 2010

The Jefferson County Planning Commission met on Tuesday, May 18, 2010, with the following Commission members present: John Maxey, President; Thomas Trumble, Vice President; Morgan Etters, Secretary; Arnold Dailey, Frances Morgan, Kelly Baty, and Gene Taylor. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Jennifer Snyder, Zoning Administrator; Jonathon Saunders, County Engineer; Stephen Groh, Assistant Prosecuting Attorney; Julie Quodala, Planning and Zoning Office Manager; and Amy Puetz, Office Assistant.

Stephen Alemar and Daniel Hayes were absent with notification.

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

**1. Approval of minutes for the April 27, 2010 meeting:**

Mr. Trumble moved to approve the minutes of the April 27, 2010 Planning Commission meeting with the following correction: on page 4, item 11, 2<sup>nd</sup> line, change “regarding the removal of the stop sign” to “regarding the replacement of a removed stop sign”. Ms. Etters seconded the motion which carried unanimously.

**2. Citizens Communication:** None.

**3. A call for postponements:** None.

**4. Response to the Planning Commission’s request for information related to wireless communication towers in Jefferson County.**

Mr. Rivard presented information collected by staff and provided in the agenda packets. Mr. Groh provided information regarding the process that would be required to be followed and the effects a moratorium could have on the county.

Ms. Morgan entered the room at 7:15 PM.

Mr. Dailey entered the room at 7:17 PM.

There was discussion regarding amending the Zoning Ordinance instead of enacting a moratorium. Mr. Trumble suggested including protection for the C&O Canal and Harpers Ferry National Park in the amendments.

**5. Discussion and vote on the Proposed Subdivision Regulation Amendments to the 2008 Subdivision and Land Development Regulations.**

Ms. Snyder presented an updated comments chart which included new comments from the Historic Landmarks Commission and staff and changes recommended by Attorney Groh.

All new comments were discussed and considered individually.

On the issue of storm water management easements (item #13 on the chart) and public easements (item #35), Ms. Morgan moved to approve staff recommendation of postponing consideration of these two items until further research could be done. Mr. Trumble seconded the motion which carried unanimously.

On the Historic Landmarks Commission (HLC) recommendations:

- Wording change from “historical landmarks” to “historic resources” (item HLC1 on the chart), Major Subdivision Submission Contents regarding Phase I Archaeological Study & Historic Resources Impact Study (item HLC2), and Definition of “Historic Resources” (item HLC3). Mr. Trumble moved to adopt all 3 recommended changes. Mr. Maxey seconded the motion which carried unanimously.
- Disallowance of electronic signage (item HLC4). Mr. Trumble moved to postpone this change and to have it considered during the Zoning Ordinance review. Ms. Morgan seconded the motion. Ms. Morgan offered a friendly amendment to place this item on the first round of considered amendments to the Zoning Ordinance. Mr. Trumble accepted the friendly amendment. The motion passed 6 for and 1 opposed (Mr. Dailey).
- Require a demolition permit for historic structures (item HLC5). Ms. Brockman suggested a meeting with John Allen, Chairman of the Historic Landmarks Commission. Mr. Trumble moved to postpone this item pending a meeting between the Planning Department staff, Engineering staff, and the Historic Landmarks Commission staff with the condition that this amendment have top priority in the Zoning Ordinance review. Mr. Taylor seconded the motion which carried unanimously.

Mr. Groh presented suggestions from the Legal Department of amendments to the Subdivision Regulations:

- To remove the words *Planning Commission* from Subdivision Sections 20.302(F) (Item L7 on the chart), 20.302(K)(2) (item L8), 20.303(E) (item L9), and 20.303(H)(2) (item L10). Mr. Maxey asked for a motion from the commission. No motion was given. Mr. Maxey moved to postpone until after a joint meeting with the Public Service District. Ms. Morgan seconded the motion. Ms. Morgan suggested leaving the language in the Subdivision Regulations “as is”. Ms. Morgan withdrew her second to the motion. Mr. Maxey withdrew his motion.

Mr. Maxey called for a break at 8:22 PM to allow staff to change the CD. Mr. Maxey called the meeting to order at 8:26 PM.

Mr. Baty moved that the words Planning Commission remain in the text and the rest of the language to remain unchanged. Mr. Trumble seconded the motion which carried unanimously.

- Add provision to permit applicant to appeal staff determination in Sections 20.202, 20.203(D)(3), and 21.201(B) (item L1 on chart), to remove *County* and add

- Homeowner's Association in Section 21.402(C)(item L2), and to make Section 21.402(D) inclusive of all easements (item L3). Ms. Morgan moved to approve the suggested changes. Mr. Trumble seconded the motion which carried unanimously.
- To remove the word *County* and add the phrase homeowner's association, business owners association, any of the public service providers. Mr. Maxey moved to approve the suggested changes. Mr. Trumble seconded the motion which carried unanimously.
  - To add the word ownership to Section 22.207 (item 5). Mr. Baty moved to approve the suggested change. Mr. Taylor seconded the motion which carried unanimously.
  - On the percentage of land to be protected chart, Section 22.504 (item L6), Ms. Morgan motioned to retain the chart and the language as it is and as it has been. Mr. Maxey seconded the motion which passed 5 for and 2 opposed (Mr. Baty and Mr. Trumble).
  - To add the words County Commission to Section 21.105(C)(2) (item L11). Mr. Taylor moved to adopt the suggested change. Ms. Eppers seconded the motion which carried unanimously.
  - To remove the word *County* from Section 21.402 (item L12). Mr. Trumble moved to adopt the suggested change. Mr. Taylor seconded the motion which carried unanimously.
  - To remove the word *filed* from Section 24.118 so that it states approval shall be void if not recorded (item L13). Mr. Trumble moved to adopt the suggested change. Ms. Eppers seconded the motion which carried unanimously.

Ms. Brockman presented staff's interpretation of SB 595 and how it applies to Jefferson County Regulations. Ms. Brockman provided the Planning Commission with a memo which included language to be added to the Subdivision Regulations and a sample chart of information that would be provided to the public. Mr. Maxey explained the conference call he had with Ms. Brockman and State Representative, John Doyle. He described the author's intent when drafting SB 595. Mr. Groh agreed with Ms. Brockman and gave legal counsel on the wording of the amendment. Mr. Trumble suggested that the chart be included in the amendments to the Subdivision Regulations.

**6. Blue Ridge Mountain Community Plan.**

Mr. Rivard informed the Planning Commission of a visit with Downstream Strategies scheduled for May 24, 2010 in Morgantown, WV.

**7. Reports from Legal Counsel and legal advice to Planning Commission.**

Mr. Groh explained that the Motion to Dismiss in the Alstadts Corner case is still pending and that 3 judges have recused themselves. Mr. Groh stated that the definition of "contiguous" is unclear. Ms. Brockman informed the Planning Commission that an Urban Growth Boundary meeting, that Mr. Maxey and she had attended, had taken place in Shepherdstown on May 6, 2010. A short discussion ensued on whether parcels could be annexed without border connection and if parcels outside, although abutting the Urban

Growth Boundary line, could be annexed due to the wording in the State Code. Mr. Groh stated that the Urban Growth Boundary would be ready for discussion after more research.

**8. Director's Report:**

- a) Activity Report. A copy of staff's schedule was provided in the agenda packets.
- b) Shenandoah Professional Center Zone Change Request. Ms. Brockman informed the Planning Commission the Zone Change Request had been rescheduled to May 27, 2010.
- c) Land Development Fees - Stakeholders Meeting. Ms. Brockman informed the Planning Commission that a meeting would be held May 19, 2010 from 2 PM to 4 PM.
- d) Urban Growth Boundary Update - this item was discussed under agenda item #7.
- e) Chesapeake Bay TMDL Update - Ms. Brockman described the Regional Water Resources Policy Committee Meeting that was held May 6, 2010 in Strasburg, VA.
- f) Local Implication of SB 595, Vested Property Rights. This was discussed under item #5.

**9. County Commission Liaison Report:** None.

Mr. Maxey called for a break at 9:44 PM to allow staff to change the CD. Mr. Maxey called the meeting to order at 9:47 PM.

**10. Planning Commission Exchange:**

Ms. Eters distributed a draft letter addressed to the District Engineer at the Department of Transportation regarding the traffic issues at the intersection of Shepherdstown Pike and Flowing Springs Road. She asked that the Planning Commission review this draft letter for discussion at the May 25, 2010 Planning Commission meeting.

**11. President's Report:**

- a) Mr. Maxey stated that he had spoken with Attorney Robert Bastress, counsel for the Planning Commission in regards to the Jefferson County Planning Commission v. Far Away Farms, LLC, Case # 3:09-CV-45, and was informed that the District Court had declined to reconsider the case. He stated that a conference call with Professor Bastress would take place at the May 25, 2010 meeting.
- b) Mr. Maxey communicated desire to petition for the rezoning of Federal and parklands to clearly delineate a zone for each area on the zoning map.
- c) Mr. Maxey requested a proposal regarding how staff will proceed with further ordinance amendments and the 340 Corridor Study.
- d) Mr. Maxey expressed interest in placing authorization for a Transfer of Development Rights (TDR) Ordinance on the November general election ballot. Mr. Maxey requested that Mr. Groh review the State Code for the correct process and report back to the Planning Commission at the May 25, 2010 meeting.

**12. Actionable Correspondence:** None.

**13. Non-Actionable Correspondence:** None.

Mr. Taylor moved to adjourn at 10:01 PM. Mr. Trumble seconded the motion, which carried unanimously. A detailed transcript of the meeting may be found on CD #35, #36, and #37. These minutes were prepared by Amy Puetz, Office Assistant.