

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
JUNE 8, 2010

The Jefferson County Planning Commission met on Tuesday, June 8, 2010, with the following Commission members present: John Maxey, President; Frances Morgan, Steve Alemar, Gene Taylor, Morgan Eppers, Daniel Hayes, and Kelly Baty. Staff members present included Seth Rivard, Planner; Jennifer Snyder, Zoning Administrator; Jonathon Saunders, Engineer; Stephen Groh, Assistant Prosecuting Attorney; Julie Quodala, Office Manager; and Amy Puetz, Office Assistant.

Mr. Arnold Dailey and Mr. Thomas Trumble were absent with notification.

Mr. Maxey called the meeting to order at 7:03 PM.

**1. Approval of minutes.**

- a) **Approval of minutes for the May 18, 2010 meeting.** Ms. Morgan moved to approve the minutes of May 18, 2010. Mr. Alemar seconded the motion which carried 5 for and 1 abstention (Mr. Hayes).
- b) **Approval of minutes for the May 25, 2010 meeting.** Ms. Eppers moved to approve the minutes of May 25, 2010. Mr. Taylor seconded the motion which carried unanimously.

**2. Citizen Communications.** None.

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

Mr. Maxey asked that item #6 be heard before item #4.

**6. Discussion via conference call with State Representative, John Doyle regarding Senate Bill 595.**

Mr. Maxey made a phone call to Delegate John Doyle. Joining Delegate Doyle was Delegate Tiffany Lawrence and Delegate Terry Walker. Delegate Doyle explained that the intent of the Senate Bill 595 was to ensure a project had preliminary plat approval in order to be eligible for an extension of vesting rights. Delegate Doyle explained that the terminology found in the bill was drafted in an effort to apply this intent to all counties.

Mr. Maxey asked that this item be continued after legal counsel arrives.

**4. Request by Sheriff Robert Shirley of the Jefferson County Volunteer Firemen's Association, Inc. for a waiver from Subdivision Regulations: Appendix A, Section 1.2 requiring a note on the plat listing permit numbers for water/well and septic/sanitary sewer systems and copies of approved plans and permits. Also a waiver from Subdivision Regulations, Appendix B, Section 3.1.A requiring permits from the Jefferson County Health Department for a well and septic system and all requirements regarding well and septic systems stated in the section.**

Mr. Rivard read from his staff report stating that there is no anticipated change in use with the process of the subdivision plat and he recommended approval.

Mr. Groh entered at 7:18 PM.

Mr. Saunders read from his staff report and voiced that he contacted Bill Zaleski, Jefferson County Sanitarian, who stated he would not require water and sewer approvals for this property at this time. Mr. Saunders recommended approval with the condition that a note be placed on the plat stating, "A site plan shall be processed before any development/structure, even residential, is constructed on site, and at that time, water and sewer permits are to be obtained."

Annette VanHilst, representing the Sherriff's Department, answered questions about future water access if needed. Ms. VanHilst gave a short presentation of the importance of the firing range to the community and the need to subdivide the parcel for insurance purposes.

Mr. Maxey opened the public hearing. Mr. John Provost, a resident of Jefferson County, approached the commission and asked if his property could also be subdivided if the Volunteer Fireman's Association was being allowed to subdivide since the properties were of similar size. Mr. Maxey encouraged Mr. Provost to visit the Planning Department office and speak with staff on his development rights. Mr. Maxey closed the public hearing.

Mr. Hayes moved to adopt the recommended motion as written by staff. Mr. Alemar seconded the motion which passed 6 for, 1 opposed (Mr. Baty).

**5. Request by US Cellular for Approval of the Mitigation of the Visual Impact for a wireless communication tower.**

Ms. Snyder read from her staff report describing the proposal as presented to staff and recommended approval.

Mr. Saunders deferred to the Zoning Administrator.

Mr. Tim Stark gave a short presentation of the proposal and why the existing Shentel tower could not be used. Mr. Stark answered questions regarding the ability of the proposed cell tower to hold co-locators.

Mr. Maxey opened the public hearing. Karen Provost, resident of Wilt Road and adjoining property owner to the subject property, approached the Planning Commission and voiced concern that the project had not been presented to the neighboring residents. She requested a meeting with Mr. Stark prior to Planning Commission giving approval on the mitigation of the project. Mr. Maxey closed the public hearing.

Ms. Morgan moved to postpone voting on the cell tower mitigation to allow time for a meeting between Mr. Stark and residents of the area to occur and to rehear this item again at

the July 13, 2010 Planning Commission meeting. Mr. Maxey seconded the motion which carried unanimously.

**6. Discussion and vote on Planning Commission policy for implementation of new West Virginia State Code provisions regarding subdivision time lines and vesting. (This item was also discussed before agenda item #4).**

Mr. Maxey distributed a draft resolution to establish Jefferson County Planning Commission policy implementing the WV State Legislature's recent amendment to Chapter 8A.

Mr. Maxey summarized the conference call between the Planning Commission and Delegates Doyle, Lawrence, and Walker for Stephen Groh, Prosecuting Attorney. Mr. Groh suggested waiting for Jennifer Brockman, Director of Planning and Zoning, to return from leave so that she could explain her professional opinion and the chart detailing implementation of the law. There was discussion on the Planning Commission's role in establishing policy which influenced the Director's interpretation of the language in the bill and how it interacted with current ordinances.

Ms. Morgan left the room at 8:16 PM.

Mr. Maxey moved to adopt his resolution. Mr. Alemar seconded the motion.

Mr. Maxey called for a break to allow staff to change the CD at 8:24 PM. Ms. Morgan re-entered the room at 8:30 PM. Mr. Maxey called the meeting to order at 8:31 PM.

A friendly amendment to the motion to change the last sentence to "Be it Further Resolved that the Planning Commission considers ~~acceptance of a Community Impact Statement~~ *any action short of Preliminary Plat approval* to be insufficient to meet the requirements intended by the legislature" was given by Ms. Morgan. The friendly amendment was accepted by Mr. Alemar and Mr. Maxey. The motion carried unanimously.

The resolution reads:

*Resolution*  
*Jefferson County Planning Commission*  
*Implementation of SB 595 Provisions*

*During the 2010 Legislative Session the West Virginia State Legislature adopted as Senate Bill 595 an amendment to Chapter 8A of the State Code regarding the extension of vesting rights under certain conditions. This resolution is to establish Jefferson County Planning Commission policy implementing the amendment.*

*Whereas the West Virginia State Legislature has modified provisions of West Virginia State Code Chapter 8A regarding vesting; and*

*Whereas the Jefferson County Planning Commission desires to implement the changes as required by the legislature; and*

*Therefore be it resolved that the Planning Commission considers the requirement under Chapter 8A as amended by Senate Bill 595 for "preliminary approval by the planning commission or county commission prior to March 1, 2010" to require approval of a preliminary plat; and*

*Be it Further Resolved that the Planning Commission considers any action short of Preliminary Plat approval to be insufficient to meet the requirements intended by the legislature.*

**7. Blue Ridge Mountain Community Plan.**

Mr. Rivard presented the Interim Report that was submitted to the National Fish and Wildlife Foundation. He also advised that a Citizen's Advisory Committee meeting would be held June 17, 2010 at 7 PM.

**8. Director's Report.**

- a) The activity report was provided in the agenda packets.
- b) Mr. Rivard reported that The Shenandoah Professional Center had withdrawn their rezoning request.
- c) The Land Development Fees. Mr. Rivard notified the Planning Commission that the County Commission decided to hold a Roundtable Discussion on July 8, 2010. Mr. Maxey asked that members of the Planning Commission attend this meeting.
- d) Subdivision Regulation Amendments. Mr. Rivard notified the commissioners that the Subdivision Regulation Amendments had been presented to the County Commission and a Public Outreach Meeting was scheduled for June 24, 2010.
- e) Zoning Administrator Vacancy. Mr. Rivard stated that about 50 applications had been received and more were expected within the next 7 days. Ms. Morgan asked that the Planning Commission look at if this position could be filled internally given current economic times.

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

Mr. Groh reported that the Supreme Court ordered a retired judge to hear the James Gibson, et al v. The Jefferson County Planning Commission Case No. 09-C-364 due to the number of recusals by other judges.

Ms. Morgan referred to a letter written by Mr. Lee Snyder that was presented to the Planning Commission in the agenda packet. She raised concern that the letter was addressed and sent directly to Mr. Groh and not to the Planning Commission. Mr. Baty suggested writing a

response letter. Mr. Maxey directed staff to write a letter to Mr. Snyder detailing the appropriate manner in which to forward public comment.

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

**11. Planning Commission Exchange.**

Ms. Etters presented a letter, addressed to the Department of Transportation, which she drafted on behalf of the Planning Commission related to the intersection of Shepherd Grade Road and Flowing Springs Road where a stop sign had been removed. There was discussion on asking GIS to provide a three dimensional map as an attachment to the letter. Mr. Alemar proposed an edit to the second line to change “in regards” to “regarding”. Ms. Morgan proposed a change in the second to last line from “that the design of this intersection” to “that this intersection”. Mr. Maxey requested a copy be sent to the citizens that were present at the public hearing for the Pritchard property and to Senator John Unger.

**12. President’s Report.**

Mr. Maxey reported that the County Commission denied additional funding for the appeal of Jefferson County Planning Commission vs Far Away Farms, LLC, Case # 3:09-CV-45 on a vote of 3 to 2. Mr. Maxey instructed staff that the bill for Attorney Robert Bastress be paid, before the end of the month, due to limited funds in the professional services line item in the Planning Department budget.

**13. Actionable Correspondence.** None.

**14. Non-Actionable Correspondence.** None.

Mr. Taylor gave notice that he would be absent for the June 22, 2010 Planning Commission meeting. Mr. Alemar moved to adjourn at 9:12 PM. Mr. Baty seconded the motion, which carried unanimously. A detailed transcript of the meeting may be found on CD #43 and CD #44. These minutes were prepared by Amy Puetz, Office Assistant.