

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
AUGUST 24, 2010

The Jefferson County Planning Commission met on Tuesday, August 24, 2010, with the following Commission members present: John Maxey, President; Thomas Trumble, Vice President; Morgan Eppers, Secretary; Frances Morgan, Daniel Hayes, Arnold Dailey, Kelly Baty, and Gene Taylor. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Stephen Groh, Assistant Prosecuting Attorney; and Julie Quodala, Planning and Zoning Office Manager.

Stephen Alemar was absent with notification.

Mr. Maxey called the meeting to order at 7:01 PM. The Planning Commission was provided with a letter from Mr. Stephen Alemar stating he would be resigning effective August 31, 2010.

1. Approval of minutes for the August 5, 2010 Old Standard FOIA Request Special Meeting, the August 6, 2010 Draft Amendments to Article 4B, Wireless Telecommunications Facilities Workshop, and the August 10, 2010 Planning Commission Meeting:

Mr. Maxey moved to approve all three documents as written. Ms. Morgan seconded the motion. Mr. Hayes offered a friendly amendment to strike, "*Mr. Hayes stated that he would like to have a statement of deed submitted with all applications*", on page 3, section 7 of the August 10, 2010 Planning Commission Meeting. Friendly amendment was accepted and motion carried unanimously.

Mr. Dailey and Mr. Baty entered the room at 7:05 PM.

2. Citizens Communication: None.

3. A call for postponements: None.

4. Presentation by the Jefferson County Organization of Homeowner's Association.

Mr. Peter Appignani, President of the Jefferson County Organization of Homeowners Associations, Inc., introduced Mr. Neal Neilson, Vice-President; Laura Taylor, Secretary; Elliot Simon, Treasurer; Ms. Nance Briscoe, Membership Chairperson; and Suzanne Malesic, member.

Mr. Appignani discussed the purpose of the JCOHOA and its desire to work with the Planning Commission and the County on issues such as Covenants and the coordination of the Subdivision Regulations with WV Statutes. He suggested that a case study of the Chapel View Subdivision issues be completed by a recognized institution to identify concerns and provide suggestions to correct those concerns. Ms. Syron stated that she had been in contact with Kevin Leyden of the WVU Institute for Public Affairs and that he expressed interest in working on the case study which he will confirm with Ms. Syron at a later date.

Mr. Appignani also stated that he believes that the Jefferson County Subdivision Regulations need to be coordinated with the recently revised WV State Code Chapter 36, Estates and Property; Chapter 36A, Condominiums and Unit Property; Chapter 36B, Uniform Common Interest Ownership Act; and Chapter 31E, WV Nonprofit Corporation Act.

Mr. Maxey asked that a report of the cost and feasibility of a case study be presented by staff at an upcoming meeting.

Discussion ensued regarding the processes of approving plats and what additional items need to be reviewed before approval.

Mr. Appignani offered to invite a speaker to a Planning Commission meeting to discuss covenants.

Mr. Neilson proposed that an approval from the HOA be obtained as a requirement to get a building permit.

Mr. Maxey moved to direct staff to work with Ms. Syron to contact WVU Public Affairs to find out the cost of a case study and a time schedule. There was unanimous consent. Ms. Brockman stated that an update would be given at the September 28, 2010 Planning Commission meeting.

- 5. Minor Plat Change Review for Lot 26 of Canvasback Ridge Subdivision. The property is located on Bufflehead Drive, off Engle Switch Road near intersection with Bakerton Road. The purpose of the Minor Plat Change is to move the platted drainfield to allow for a proposed pool. The property is designated as Tax District: Harpers Ferry; Tax Map: 6; Tax Parcel: 7.**

Mr. Rivard read from his staff report detailing the purpose for the plat change and explained that future Minor Plat Changes would be an administrative review.

Mr. Peter Lorenzen, Land Surveyor, confirmed approval by the Health Department.

Mr. Trumble moved to approve the Minor Plat Change. Mr. Baty seconded the motion which carried unanimously.

- 6. Concept Plan Review for Hospice of the Panhandle (Olive Boy Farms)(File #S10-05). The property is located on the north side of WV RT 9 at the Jefferson County/Berkley County line. This project consists of the construction of a 14 bed (expandable to 21 beds) inpatient respite care facility and an office building of approximately 25,000 sqft. (expandable to 32,000 sqft.) on a 16.05 acre parcel located in Tax District: Middleway; Tax Map: 1; Tax Parcel, 1.2.**

Ms. Margaret Cogswell, CEO of Hospice of the Panhandle, presented the details and goals of the project to the Planning Commission.

Mr. Robert Eckels, Architect representing Hospice of the Panhandle, explained the design details of the project such as building structure, stormwater management and parking.

Mr. Rivard read from his staff report and recommended approval. He commented that approvals or letters of intent had been received from the Berkeley County Water District, the Berkeley County Sewer District, the Jefferson County Historic Landmarks Commission, the Berkeley County Health Department and the Highway Department. Mr. Rivard explained that the applicants have been given the option to proceed under the newly amended Subdivision Regulations or to proceed under the Subdivision Regulations without the recent amendments due to the date of their application. Mr. Saunders stated that the Engineering Department had no objection to the project.

Mr. Maxey opened the public hearing. Ms. Jennifer Syron commented in support of the project. Mr. Maxey closed the public hearing.

Questions and discussion ensued on further details of the project. Mr. Maxey closed the public workshop.

Mr. Eckels stated he would submit a letter to the Planning Department with a decision of which process to use (the 2008 Subdivision Regulations or the 2010 Subdivision Regulations) within a few days.

Mr. Hayes moved to approve the Concept Plan without conditions. Mr. Taylor seconded the motion which passed unanimously.

7. Follow-up from Engineering Department regarding Chapel View Subdivision.

Mr. Saunders presented a memorandum to “call-in” the bond written by Roger Goodwin, Chief County Engineer. He stated that Mr. Goodwin had taken the memorandum before the County Commission on August 6, 2010. The document had not been approved and the issues of the subdivision were still being monitored and compaction tests were being reviewed.

Ms. Morgan and Mr. Hayes had reviewed the geotechnical report. Mr. Hayes stated that the report was typical for the area and that damages would have occurred after the road testing. Mr. Dailey asked that Engineering report back to the Planning Commission at the September 14, 2010 meeting, if possible, regarding the compaction tests.

Ms. Barbara Fuller, resident of Chapel View, attested that, after several inches of rain, the roads are in worse conditions. She requested that the Engineering Department perform a site visit to look at the roads.

8. Update on Old Standard Quarry Freedom of Information Act requests.

Mr. Groh stated that he received a call from Mr. John Amores, Deputy Secretary/General Counsel, who reported that there would be more documents presented to the Planning Commission. Mr. Groh asserted that those documents would be in the next packet.

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

Mr. Groh stated that the FOIA request to the WV Legislative Rule Making Review Committee had not been sent since there would be more information coming from Mr. Amores. He suggested waiting to see what information was included from Mr. Amores before sending the second FOIA request.

Mr. Maxey moved that the second FOIA request be sent by Friday, August 27, 2010. Mr. Dailey seconded the motion which carried unanimously.

Mr. Groh reported that there was no information on the James Gibson, et al v. The Jefferson County Planning Commission Case No. 09-C-364.

Ms. Brockman stated a letter had been drafted by the Department of Highways supporting the 340 Corridor Planning effort.

9. Discussion and recommendation on the Draft Amendments to Article 4B, Wireless Telecommunications Facilities.

Mr. Maxey distributed a document regarding removal bonds for cell towers detailing several states that have that bond including four counties in the state of West Virginia. Mr. Maxey moved that the removal bond policy be reinstated in the Draft Amendments to Article 4B, Wireless Telecommunications Facilities. Mr. Taylor seconded the motion which carried unanimously. Mr. Groh voiced concern that WV State Code 8A states that bonds are to be used by the governing body for the completion of infrastructure. Mr. Maxey suggested that Mr. Groh contact the attorneys for the counties listed in the document.

Mr. Barney presented a memorandum on changes to the Draft Amendments to Article 4B, Wireless Telecommunications Facilities. He reminded the Planning Commission that a Stakeholder's Meeting would be held August 31, 2010 at 4 PM. Mr. Barney discussed each of the changes in detail.

Mr. Trumble moved to direct further amendment to state that a tower must be able to support at least two additional providers instead of just one additional provider. Mr. Maxey seconded the motion which carried unanimously.

Mr. Paul Rosa, resident of Charles Town, made comment that tower antennas were not to be concealed but interwoven into the lattice work so that it is not as noticeable. He stated his support of the removal bond policy. Mr. Rosa made suggestions regarding exempting silos from fall zone requirements and allowing greater height restrictions up to 199 feet for cell

towers placed on lands owned by Jefferson County, the Jefferson County Fire and Rescue Training land, and the Jefferson County Development Authority, and up to 120 feet for cell towers placed within silos.

Mr. Maxey moved to incorporate Mr. Rosa's suggested changes into the Draft Amendments to Article 4B, Wireless Telecommunications Facilities. There was no second.

Mr. Barney presented maps to show allowed cell tower coverage provided by the Draft Amendments to Article 4B, Wireless Telecommunications Facilities. Discussion ensued on allowing cell towers in parks as a part of lands owned by Jefferson County.

Mr. Trumble moved to refrain from including in the Draft Amendments to Article 4B, Wireless Telecommunications Facilities, allowing greater height restrictions up to 199 feet for cell towers placed on lands owned by Jefferson County, the Jefferson County Fire and Rescue Training land, and the Jefferson County Development Authority. Mr. Baty seconded the motion. Mr. Hayes offered a friendly amendment to still include allowing greater height restrictions up to 199 feet for cell towers placed on lands owned by Jefferson County and the Jefferson County Fire and Rescue training land but to specify that county owned land does not include county owned parks or the Jefferson County Development Authority. Mr. Trumble and Mr. Baty accepted the friendly amendment. Discussion ensued. The motion passed unanimously.

Ms. Brockman presented a letter drafted by staff to be sent to the municipalities regarding this issue. Mr. Maxey moved to accept the letter as drafted for immediate distribution. Mr. Trumble seconded the motion which carried unanimously.

10. Blue Ridge Mountain Community Plan.

Mr. Rivard reported on the last Citizen's Committee meeting and informed the Planning Commission that the next meeting would be held September 21, 2010 at Saint Andrew's Community Center. Ms. Brockman stated a joint meeting of the Planning Commission and County Commission would need to take place around December or January. Mr. Maxey asked Ms. Brockman to discuss with the consultants the possibility of helping the Planning Commission write a follow up grant proposal of more funds to lead the county up to an EPA Authorized Watershed Plan.

11. Reports from Legal Counsel and legal advice to Planning Commission. None.

12. Director's Report.

Ms. Brockman presented a map of Federal Lands and discussed corrections to the zoning map. She stated that almost all Federal Land in Jefferson County is zoned rural with the exception of the Federal Land along the 340 corridor which was zoned before becoming Federal Land. Discussion ensued on the next steps to be taken. Mr. Maxey asked that Ms. Brockman provide a draft agenda request form to present this issue to the County Commission.

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Ms. Brockman reported that she is working with the comments that were not addressed during the Subdivision Regulation Amendments.

Ms. Brockman discussed the Urban Tree Canopy grant being done with the City of Charles Town and the City of Ranson and the progress regarding that grant.

Ms. Brockman informed the Planning Commission that there would be a Public Hearing regarding the Flowing Springs Sewer project to be held on August 26, 2010.

Mr. Maxey called for a break to allow staff to change the CD at 9:46 PM. Mr. Maxey called the meeting to order at 9:50 PM.

13. **County Commission Liaison Report.** None.

14. **Planning Commission Exchange.** Mr. Trumble suggested that the Planning Commission look at the information provided to them by Mr. Appignani of the JCOHOA, specifically pages 3 and 4 which list issues that were being undertaken.

15. **President's Report.** None.

16. **Actionable Correspondence.** None.

17. **Non-Actionable Correspondence.** None.

Mr. Trumble moved to adjourn at 10:01 PM. Mr. Taylor seconded the motion, which carried unanimously. A detailed transcript of the meeting may be found on CDs #__, #__ and #__ which was recorded by Julie Quodala, Office Manager. These minutes were prepared by Amy Puetz, Planning Clerk.