

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
SEPTEMBER 14, 2010

The Jefferson County Planning Commission met on Tuesday, September 14, 2010, with the following Commission members present: John Maxey, President; Thomas Trumble, Vice President; Frances Morgan, Arnold Dailey, Kelly Baty, and Gene Taylor. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Stephen Groh, Assistant Prosecuting Attorney; and Julie Quodala, Planning and Zoning Office Manager.

Morgan Eppers and Daniel Hayes were absent with notification.

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

1. **Approval of the minutes from the August 24, 2010 meeting.**

Mr. Trumble moved to approve the minutes of the August 24, 2010 Planning Commission meeting. Mr. Taylor seconded the motion which carried unanimously.

2. **Citizens Communication:** None.

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

4. **Request by Alpha Associates, Inc. for a variance from Section 6.3 of the Subdivision Ordinance to allow for the project file to re-open and a variance to allow for an extension of time to complete the subdivision process to July 1, 2012.**

Ms. Brockman read from the staff report and explained that, in early June, a representative from the Sloan Square Apartments project picked up a memorandum from staff stating that the project was allowed an extension due to Senate Bill 595. She continued that the Planning Commission later determined that interpretation was incorrect and no extension was granted. However, a variance could be submitted to request an extension. Ms. Brockman stated that one of the reasons for requesting an extension is because the project has been unable to proceed due to a still pending court case. She explained the history of the project including that there were a number of conditions when the Community Impact Statement was approved.

Mr. Richard Klein, with Alpha and Associates, represented Dr. Gerald Miller, owner of Sloan Square Apartments. He reiterated that the project has not moved forward due to the lawsuit.

Mr. Maxey opened the public hearing. Ms. Barbara Humes approached the Planning Commission and stated concern that granting this project an extension would set a precedent to allow other projects to come forward and request extensions because they do not qualify for Senate Bill 595. Mr. Klein rebutted that the Sloan Square Apartment project meets the criteria for a variance and that they are not trying to set a precedent. Mr. Maxey closed the public hearing.

Mr. Dailey moved to reopen the file. Mr. Taylor seconded the motion which carried unanimously.

Discussion ensued regarding the use of Beauregard Road, which runs through Patrick Henry Estates, as access to Sloan Square Apartments and the effects of the lawsuit in the decision to grant or deny the variance.

Ms. Morgan moved to grant an extension of time to July 1, 2011 instead of July 1, 2012. Mr. Taylor seconded the motion. Mr. Trumble moved to table the current motion until such time as the lawsuit is resolved. There was no second and Mr. Trumble's motion died. Additional discussion ensued regarding whether or not this was a self-imposed hardship. The original motion failed 2 for and 4 against (Mr. Beatty, Mr. Trumble, Mr. Dailey, and Mr. Maxey).

Mr. Trumble moved to grant an extension of time to July 1, 2012. Mr. Dailey seconded the motion. The motion failed to carry with 3 for (Mr. Dailey, Mr. Taylor, and Mr. Trumble) and 3 against (Ms. Morgan, Mr. Beatty, and Mr. Maxey).

Ms. Morgan moved to postpone reconsideration of the application to March 1, 2011. There was no second and the motion died.

Mr. Dailey moved to postpone this item to the September 28, 2010 meeting. Mr. Taylor seconded the motion which carried unanimously.

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

Mr. Groh stated that he had received two emails from the Legislative Rule Making Committee, one containing documents and one stating that the audio file that they have been trying to send to him is too large to send electronically. It was requested that Mr. Groh send out any documents by e-mail. Mr. Maxey asked for unanimous consent to share all information presented to the Planning Commission with the County Commission. There was no objection.

Ms. Morgan left the meeting at 7:58 PM.

Ms. Brockman presented a memorandum detailing the events of the conference called held with Mr. Yogesh Patel, WV DEP Permits Officer, in which Ms. Brockman, Ms. Quodala, and Mr. Trumble participated. Ms. Brockman reported that she and Ms. Quodala had also spoken to Mr. Jay Lazell, Legal Counsel for DEP and the Department of Agriculture, regarding the Brownfield Economic Development Rule becoming Law.

6. Draft request to the County Commission to consider a change in zoning for Federal Lands.

Ms. Brockman presented a draft County Commission agenda request requesting Zoning Map Amendment for Planning Commission approval. Mr. Maxey also presented a draft Resolution to Petition the Jefferson County Commission to amend the zoning map.

Mr. Maxey moved to approve the resolution as drafted. Mr. Trumble seconded the motion which carried unanimously. Staff was directed to amend the agenda request form and attach the approved resolution to submit to the County Commission for the September 23, 2010 meeting. Staff was also directed to notify Ms. Jennifer Mahan, County Clerk of the request.

Mr. Maxey directed Ms. Brockman to set up a meeting with Harvey Heyser, Shepherdstown Zoning Administrator, to discuss the Shepherdstown Urban Growth Boundary.

7. Discussion on the Draft Amendments to Article 4B, Wireless Telecommunications Facilities and review of Stakeholder Meeting.

Mr. Barney described the Stakeholder Meeting that was held August 31, 2010. Mr. Barney relayed that comments from that meeting were provided in the agenda packets. He discussed several comments that were presented at the Stakeholder Meeting. Mr. Maxey suggested that Mr. Barney have a meeting with Mr. Groh to discuss comments addressing legal issues. Mr. Maxey stated that the time schedule should be extended by two weeks and to have Mr. Barney report back at the September 28, 2010 meeting.

Mr. Maxey asked for unanimous consent to remove the County-owned property height benefit from the Draft Amendments to Article 4B, Wireless Telecommunications Facilities. There was no objection.

Mr. Paul Rosa, citizen of Charles Town, presented a mark-up of the amendments relating to the comments received at the Stakeholder's Meeting.

Mr. Maxey asked that information relating to these amendments be posted to the Planning and Zoning website as soon as available.

Ms. Brockman explained staff's intent to review all comments and recommend changes to the draft amendments. Mr. Barney stated those recommended changes would be presented at the next Planning Commission meeting scheduled for September 28, 2010.

Mr. Tim Dennis, of Viewable Tower Partners, commented that the industry supports allowing the public to have a voice in the processing of a cell tower. He asked that the industry be allowed to submit a draft mark-up of the Draft Amendments.

8. Blue Ridge Mountain Community Plan.

Ms. Brockman stated that the consultants have provided a draft vision document constructed from comments made at the Citizen's Committee meetings on the Blue Ridge Mountain. This document is available to be viewed at the Blue Ridge Community Plan website. She explained that the next step would be to finalize the mission statement.

Ms. Brockman notified the Planning Commission that the Water Advisory Committee would be holding a meeting for anyone interested in creating a Watershed Association. Mr. Maxey suggested that Mr. Roger Ethier be notified.

9. Reports from Legal Counsel and legal advice to the Planning Commission.

Mr. Groh stated that he would discuss cell tower issues with Mr. Barney and that he was still reviewing documents regarding Old Standard Quarry. He informed the Planning Commission that the James Gibson, et al v. The Jefferson County Planning Commission Case No. 09-C-364 case was still pending.

Mr. Maxey moved to go into executive session. Mr. Trumble seconded the motion which carried unanimously. The executive session began at 8:56 PM.

Mr. Maxey moved to come out of executive session. Mr. Trumble seconded the motion which carried unanimously. The executive session ended at 9:41 PM.

10. Director's Report.

- Activity Report. These reports were provided in the agenda packets.
- Conferences. Ms. Brockman stated that she would be attending the "Strategic Conservation Using a Green Infrastructure Approach Conference" from September 13th through September 17th and that Mr. Barney would be attending the "Growing Communities on Karst 2010 and the Great Valley Water Resources Science Forum" on September 16th and 17th.
- Urban Tree Canopy Grant. Ms. Brockman stated that they want to give us more money than we asked for and that we are working on ways that we can match the increase. She gave an overview of the goals of the Urban Tree Canopy Grant.

11. County Commission Liaison Report. None.

12. Planning Commission Exchange.

Mr. Trumble moved to make a policy that, anytime a Planning Commissioner is a part of a meeting where there is not a quorum, a report be written and presented to the entire Planning Commission. Mr. Maxey seconded the motion which carried unanimously.

13. President's Report.

Mr. Maxey stated that County Commissioner Lyn Widmyer would be attending a HEPMPO meeting. Ms. Brockman informed the Planning Commission that a SmartCode seminar would be coming up soon and that she planned to have a staff member attend. Mr. Maxey discussed the importance of completing the requested research regarding fees.

14. Actionable Correspondence. None.

15. Non-Actionable Correspondence.

Ms. Brockman presented a letter written by Mr. Paul Rosa which voiced concern that the copying fees charged by the County Commission are too high. Mr. Maxey asked that staff present the letter Mr. Tim Boyde, County Administrator.

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Mr. Maxey moved to adjourn at 10:00 PM. Mr. Trumble seconded the motion, which carried unanimously. A detailed transcript of the meeting, which was recorded by Julie Quodala, Office Manager, may be found on our website. These minutes were prepared by Amy Puetz, Planning Clerk.